

Dáil Éireann debate - Thursday, 5 Nov 2009

Vol. 693 No. 3

National Asset Management Agency Bill 2009: Report Stage (Resumed) and Final Stage.

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Debate resumed on amendment No. 5:

In page 16, between lines 36 and 37, to insert the following:

"(a) to contribute to the sustainable social and economic development of the State,".

—(Deputy Joan Burton).

Deputy Alan Shatter

Yesterday evening I raised an issue with the Minister of State at the Department of Foreign Affairs, Deputy Peter Power, who was taking the Bill in the absence of the Minister for Finance. I wish to raise that important issue again to give the Minister for Finance, who is in the House now, an opportunity to respond to it.

One of the major difficulties of the operation of NAMA will result from the existence of many unfinished housing estates and apartment blocks, some unoccupied,

some semi-occupied, which do not fully comply with planning conditions. Essential facilities have not been provided for those who have taken up residence. NAMA will find that many already occupy properties in these developments where there are several unsold units and have serious difficulties because the estates have not been completed and essential facilities required by the planning authorities have not been provided. This will give rise to problems in two areas, first, where a loan is transferred to NAMA for which a development is security but the developer remains the main individual and may not have the finance to complete the development. What will happen in those circumstances?

Minister for Finance (Deputy Brian Lenihan)

That does not arise from this amendment.

Deputy Alan Shatter

It does. It arises in the context of the social and economic development of the estate. The social dimension requires that, where appropriate, estates are finished and that where people occupy residences they are not left at a substantial disadvantage, locked into what may be partly ghost estates for many years.

Acting Chairman (Deputy Jan O'Sullivan)

I remind Deputy Shatter that he is making his second intervention on this amendment and has only two minutes to speak.

Deputy Alan Shatter

I raise this because the Minister of State, Deputy Peter Power, was only starting to reply yesterday evening and I am conscious that the Minister for Finance was not here. I would not have raised it again were it not for that circumstance. The Minister is about to respond.

How will NAMA deal with an incomplete estate or apartment block and will those residing in those developments be left in Limbo for many years? Second, how is it proposed to deal with a situation in which a vesting order is made and NAMA takes over the property as security but will be bound by the planning conditions which attach to the development not the developer? Many young people, married and single, who have purchased properties in these developments will be left in impossible circumstances for many years. That is the issue I raised yesterday evening.

Deputy Michael D. Higgins

I welcome the fact that the Minister has accepted the principle of including social and economic development. Last evening we discussed the relevance of the word "sustainable". I will not delay too much on that except to say that as we finished our deliberations the definition of sustainable was not the usual one. The Minister was inclined to present it as something permanent. I do not define sustainability in those terms but according to the usage in common parlance of environmental and social development. The acceptance of the word "social", however, changes matters. We attempted to broaden the board to take these issues into account which the Minister also accepts.

There is a reason to include the word "cultural" too because there is a cultural deficit in the infrastructure of so many places where there are elaborate plans that will not proceed. For example, the Minister of State at the Department of Foreign Affairs, Deputy Peter Power, is aware of the vast project lying abandoned in Limerick city.

We are listening to two logics that could collide. There is the beneficial owner who enjoys planning permission and there may be pressure on the special purpose vehicle to sweat the site to yield the maximum commercial result. This is not necessarily compatible with the broader issue that in the present circumstances we should reconfigure our thinking to deliver a social and economic dividend where the word social includes cultural development. That has the immense advantage that it maximises public acceptability. The public is taking the grief of the

guarantee but it has been told that there would be a social dividend. Being able to say that the dividend will be delivered is very important. Examples are useful to demonstrate this. An example arises in the ownership of the commercial arm of CIE where a site can be looked at in one way as having to yield a certain figure. This, however, may be totally incompatible with integrated planning for transport or sustainable development for social and economic urban planning. How does the Minister propose to give security to the concept he has accepted? Does he see it as being privileged where it is necessary even though it may be at the cost of a yield from an asset's value?

Deputy Kieran O'Donnell

I want to raise a point of order. The Government will guillotine this debate tonight. I am making a plea to the Minister not to do so.

Acting Chairman

I am sorry Deputy O'Donnell but that was debated at length on the Order of Business this morning.

Deputy Kieran O'Donnell

The key amendments concerning the windfall tax, the surcharge, the bank levy and the guidelines will not be reached.

Deputy Michael D. Higgins

I think the latter is amendment No. 72 so we will certainly not reach that.

Deputy Kieran O'Donnell

We will never get to them. That is not what this House is about.

Acting Chairman

That was raised on the Order of Business. I ask Deputy O'Donnell to confine himself to the amendments that are being discussed.

Deputy Kieran O'Donnell

Will the Minister go to the Chief Whip to get more time to allow us to debate this legislation at length?

Acting Chairman

Deputy O'Donnell's colleague, Deputy Shatter, raised this matter on the Order of Business this morning, as did other Members, and it has been dealt with.

Deputy Kieran O'Donnell

Why is the Minister guillotining the Bill? This is against democracy. The key amendments have been put to the very end of the list so they will not be debated.

Acting Chairman

Will Deputy O'Donnell address the amendments being discussed?

Deputy Alan Shatter

On a point of order, having been in this House many years I have been party to the type of vote we have seen on the Order of Business in the past. I have also seen Ministers subsequently on Committee or Report Stage—

Acting Chairman

Deputy Shatter must confine himself to the amendments being discussed.

Deputy Alan Shatter

—agreeing across the House to having time extended.

Acting Chairman

Deputy Shatter, this is not a point of order.

Deputy Alan Shatter

If the Acting Chairman would let me conclude, I am simply asking the Minister, in the public interest and in the interest of the credibility of this House, to give some serious consideration to extending this debate by agreement beyond 8 p.m. this evening.

Deputy Kieran O'Donnell

In the interests of democracy.

Deputy Terence Flanagan

In the taxpayers' interests.

Acting Chairman

Deputy Shatter, I will move on to the next speaker. If Deputy O'Donnell does not wish to address this amendment, I am moving on. The Minister can respond if he wishes.

Deputy Alan Shatter

We are doing a disservice to the general public in guillotining this legislation. The Minister knows this is not the way that this House should be run.

Deputy Kieran O'Donnell

The Minister knows that. There should be a proper debate.

Acting Chairman

Deputy Shatter knows well this was raised on the Order of Business this morning.

Deputy Alan Shatter

Yes and I am coming back to it. This legislation is too important to be guillotined.

Acting Chairman

I am ruling that I move to the next speaker. If Deputy O'Donnell wishes to address the amendments, he is free to do so.

Deputy Kieran O'Donnell

It is too important. Why is the Minister guillotining this debate?

Deputy Alan Shatter

It is too important.

Acting Chairman

The Deputies are wasting time. We must deal with the amendments in question. The matter of the guillotine has already been debated on the Order of Business. If Deputy O'Donnell does not wish to address these amendments, I will move to the next speaker, Deputy Rabbitte.

Deputy Kieran O'Donnell

It would be very much in the social and economic interests of the State that we had a proper debate on this legislation. Regarding the amendment, when one defines the economic and social development of the State, we must debate issues such as the windfall tax, the bank levy – which the Minister is calling a surcharge – and the guidelines on lending put forward by the Minister. This legislation will go through without having been properly debated in the House. It was my understanding that the Minister gave a commitment that there would be a proper debate. Instead, he is shirking his responsibility. He could extend the time allocated to have a proper debate on NAMA.

Acting Chairman

I am moving to Deputy Rabbitte if the Deputy will not address the amendments under discussion.

Deputy Kieran O'Donnell

I have addressed the amendment in terms of the social aspect.

Deputy Terence Flanagan

What about the other amendments?

Deputy Pat Rabbitte

The purpose of this section is to fix the banks. That is the overriding reason for the legislation. It would be a large gap in the legislation if there were no commitment, as is proposed in this amendment, to contribute to the sustainable social and economic development of the State. It is important that the NAMA board has the statutory imposition to look to the sustainable, social and economic development of the State.

Along with Deputy Higgins, I welcome the fact that the Minister has committed to this. I hope, however, I took it up correctly because I caused panic among the parliamentary reporters yesterday when I welcomed the Minister's excision of the particular paragraph (b) in sections 56 and 57, the muzzling provisions for the chief executive appearing before Oireachtas committees. I then found I was working off the Bill as initiated rather than amended. When I checked the Bill as amended, I found the Minister had not excised them at all yet he had committed to it in my definite hearing.

Deputy Brian Lenihan

Clause (b) has been excised.

Deputy Pat Rabbitte

Yes, but it has reappeared in the Bill.

Deputy Brian Lenihan

No, there is an amendment on Report Stage excising it.

Deputy Pat Rabbitte

Good.

Deputy Michael D. Higgins

The Minister will appreciate that we saw it.

Deputy Brian Lenihan

It is in the Bill subject to Report Stage.

Deputy Pat Rabbitte

My point is that if the Minister agreed, as he did last week, to excise it, it ought not to be reprinted in the Bill before us on Report Stage.

Deputy Brian Lenihan

We did not formally excise it.

Deputy Pat Rabbitte

I take it then that the Minister's word is equally reliable here and he will take social and economic development on board.

Deputy Brian Lenihan

There is a later amendment to deal with that.

Deputy Pat Rabbitte

Coming back to the point made by Deputy Higgins, we were having this debate last night, during the Minister's enforced absence, with the Minister of State, Deputy Power, about why to excise the word "sustainable". My colleague, Deputy Burton, explained at some length that, apart from any other consideration, we were doing it to foster unity between the Government partners as the minor partner would want "sustainable" included in the amendment. The Minister seemed to be in favour of this last week. Why has it fallen out?

The Minister of State, Deputy Power, advanced a somewhat Jesuitical explanation that the Government would require flexibility in certain circumstances and that the term "sustainable" was equivalent to permanence and some other arguments that were above my head. I thought the word "sustainable" has an understandable meaning. At the time Deputy Gogarty was in the Chamber and he noticeably

perked up when he heard the word. He saw it as a reason for continuing to support the Bill.

Deputy Arthur Morgan

I share the bafflement as to why the Government will not accept the word "sustainable" as it indicated on Committee Stage that it would. Given the short time we have, will the Minister be helpful and advise us if there are other Opposition amendments that he will accept? If he were to indicate what he will accept, it might expedite proceedings because less time would be needed to debate them.

Deputy Brian Lenihan

My amendment seeks to include the phrase "to contribute to the social and economic development of the State" in this section. That formula is identical to the other amendments, apart from the issue of sustainable which I will return to in a moment.

On the merit of the amendment, I agree with Deputy Rabbitte that it is essential that this should be in the purpose of the section. It is worth recalling that it is not just a purpose but defined in terms of addressing compelling need. Social and economic development, therefore, is a compelling need for the purposes of this section. In addition, the section relating to the directions and guidelines the Minister may give, specifically permit the Minister to refer to this compelling need. It is not just an abstract aspirational statement. The power is in the legislation to translate that compelling need into a practical directive in terms of the authority. It is an important issue and I very much welcome the amendment. I am glad to have been able to address it.

Deputy Shatter raised the question of uncompleted estates. Clearly, NAMA will have a commercial mandate. Within that mandate NAMA will have a borrowing capacity, will be able enter arrangements with an alternative developer to finish a particular development or will be able to enter an arrangement with a local

authority if it is in sufficient funds or has the capacity to complete the development. Various options are available to NAMA in regard to the completion of a half-completed estate. As Deputy Shatter postulated on the issue, I assume he is referring to a half-completed estate rather than a—

Deputy Alan Shatter

Or even an estate that is security for a loan where the developer has gone bust and various works such as landscaping and roads have not been completed, but much of the accommodation is occupied. To whom will the residents look to solve their problems in those circumstances?

Deputy Brian Lenihan

Generally a local authority should take such an estate in charge.

Deputy Alan Shatter

The local authority will not do that unless an estate has been properly completed.

Deputy Brian Lenihan

We had spectacular examples of this in the 1970s and 1980s but nowadays there is a bonding system in operation—

Deputy Terence Flanagan

It is insufficient.

Deputy Brian Lenihan

—where there is an insurance bond, which the developer normally must have entered with the local authorities, as an aspect of good local authority practice. If it

is a dereliction on the part of the local authorities, that is a serious matter. From my experience, local authorities have these bonds, which are issued by insurance companies and which assure the completion of these developments.

Deputy Kieran O'Donnell

In many cases in the past they were not in place.

Deputy Alan Shatter

In some cases they have expired because of the time that has passed since they were taken out. In other cases local authorities are unwilling to enter a bond.

Deputy Brian Lenihan

Local authorities have legal, statutory obligations. If there is dereliction on the part of local authorities, the local members will have to hold the officials in those authorities to account for their dereliction of duty. NAMA cannot be used in terms of its commercial mandate to act as a substitute for derelict behaviour on the part of local government.

Deputy Alan Shatter

Guidelines will be needed, otherwise residents will be left in huge difficulty.

Deputy Brian Lenihan

There will be a need for them. I accept that. The Deputy has instanced one difficult area in a conventional type of development, but if a management company will be in place—

Deputy Pat Rabbitte

It will be a nightmare.

Deputy Brian Lenihan

—and NAMA will take the position of a management company, the position will be even more difficult.

Deputy Terence Flanagan

This area is not regulated.

Deputy Pat Rabbitte

We have some examples.

Deputy Brian Lenihan

Yes, we have. Legislation is being introduced but it needs to be expedited.

Deputy Higgins referred to sections 13 and 14. The compelling need that is now inserted in the legislation is supported by the powers of direction and guidelines in sections 13 and 14. The Deputy postulated this conflict between the economic and the social. NAMA clearly has to operate within a commercial mandate, but within that commercial mandate I maintain an amount of social good and gain can be secured. The most obvious example, which I have mentioned previously, is the question of giving public authorities first option on sites and not being held up to ransom demands by developers and owners of land in regard to the use of land for public purposes such as the location of health centres, schools, playgrounds and the like. That is one example of how within the commercial mandate, NAMA can secure a considerable amount of social advantage.

Deputy O'Donnell intervened to raise the question of the time allocation for the debate, but that has been debated already in the House this morning. There is

urgency attaching to this legislation. The OECD said it yesterday and Commissioner Almunia said it a few weeks ago. I am anxious to get on with this. I want to be careful in pointing out that I am not blaming the Opposition for delaying the legislation to date in any respect. That is not the suggestion I am making, but there is an urgency about it.

Deputy Rabbitte raised the question of sustainable development, which was also raised by Deputy Morgan. I am examining an amendment in regard to the issue, which can be submitted before Seanad Éireann for its consideration and would then come back to this House. Social and economic development in that sequence is a correct compelling need for the authority. The introduction of the word "sustainable" to qualify that raises a whole host of other questions about the planning system, which has its own distinct statutory mandate. Deputy Higgins raised questions about sustainable planning as well. The planning authorities have their own integrity under their own legislation. Social and economic development is a valid, objective, legitimate, stand-alone and compelling need. Sustainability, and its precise formulation, has to be in the context of the planning code as well. I am working on a suitable amendment for insertion into the legislation, but I do not want to link sustainability with the other two ideas in the context of a compelling need. Sustainability, ultimately, is secured by the planning authorities. It is not a compelling need of NAMA, it is a statutory obligation in the whole system.

Deputy Rabbitte mentioned the issue of the part I deleted in what he chooses to call the "gagging sections". It is covered in amendments Nos. 71 and 73. We did not move in the House that the words stand deleted. There is an amendment tabled and that provision in this respect is secured in amendments Nos. 71 and 73, lest we do not reach them.

Deputy Pat Rabbitte

We are happy to move on.

Acting Chairman

When replying, I ask Deputy Higgins to indicate whether the amendment is being pressed.

Deputy Michael D. Higgins

No.

Acting Chairman

It is not being pressed. I understand the Deputy is speaking on behalf of Deputy Burton.

Deputy Michael D. Higgins

If the Minister is suggesting that sustainability can be achieved in another way in the legislation, I look forward to that.

Deputy Brian Lenihan

Yes.

Deputy Michael D. Higgins

I look forward to that. It is on that understanding I will not press the amendment. I want to just make one point because I did not speak previously on this matter.

Acting Chairman

The Deputy can make the point in his reply on behalf of Deputy Burton to this amendment.

Deputy Michael D. Higgins

It seems that social and economic is being qualified within the context of the commercial. I am not splitting hairs in this respect. The argument is—

Deputy Brian Lenihan

My amendment provides that it is "the social and economic development of the State".

Deputy Michael D. Higgins

Yes. I want to make a small core point. If one says that the achievement of sustainability is an issue for the local authority and that responsibility for new large derelict sites — perhaps due to the collapse of commercial proposals — is a function of the local authority, this raises a resource issue for the local authority. This may appropriately be a matter for another discussion on the environment and planning. I accept that, but I cannot accept the suggestion that it can be achieved as some kind of residual outcome. Many commercial projects have taken advantage of the strategic infrastructure legislation — some have gone past the local authority planning process and gone directly to An Bord Pleanála. Many of them have a very strong commercial component, which may or may not be present. There may be dereliction on a very large site, one that could be used for transport, cultural or development purposes and so forth. The local authority would not have the capacity to develop it. In such a case, the local authority would have originally heard a flawed proposal that was commercially driven, but it now has neither the capacity nor the scope to develop it and may face many legal obstacles in regard to ownership of the site to enable it to do anything. What we are getting is another commercial version to succeed the previous failed one. I have reservations in this respect. I am not pressing the amendment on the basis that sustainable development will be addressed in another part of the legislation, but I have to confess my unhappiness about the reference in the amendment to only the social and economic development of State. It is a kind of a cop-out because it suggests that this is a bigger issue beyond the scope of all of us and it will always be beyond the scope of the local authority. That thinking has created havoc in terms of good

planning that can be perceived locally, regionally and elsewhere. In many cases if there is social and economic development, one begins with the shortfall in infrastructure, schools, hospitals, cultural and other issues, particularly public transport. I am glad Deputy Fahey is present because he will be as well aware as I am of the distinction between the use of a large site in the ownership of a semi-State body given the statutory responsibility for transport, and the sweating of the site for its commercial yield, with approximately 12% of it being used for public transport. That is a practical example.

We should use the position we are in, and the new structures, to achieve a dividend for the public. My point to the Minister is that he must show, not only on paper, that he would like to see a social dividend and how it can be achieved and not be defeated by the application of a narrow and arcane definition. We have had this before. People would suggest, for example, that one could state because of global insecurity due to climate change, we cannot do anything locally or nationally. That argument does not run.

Amendment, by leave, withdrawn.

Deputy Brian Lenihan

I move amendment No. 6:

In page 17, line 14, to delete "and".

Amendment agreed to.

Deputy Brian Lenihan

I move amendment No. 7:

In page 17, line 17, to delete "sector." and substitute the following:

"sector, and

(viii) to contribute to the social and economic development of the State."

Amendment agreed to.

Amendment No. 8 not moved.

Deputy Kieran O'Donnell

I move amendment No. 9:

In page 17, between lines 17 and 18, to insert the following:

"(viii) to ensure that the measures taken in this Act restore confidence in the banking sector are reciprocated by lending by the participating institutions to members of the public generally in their private capacity and to small and medium enterprise in particular,

(ix) to ensure an orderly property management strategy over a ten year period following the enactment of this Act,

(x) to recover the maximum funds for taxpayers by ensuring that the principal and exclusive purpose of NAMA is to recover the maximum funds possible for the assets acquired by NAMA under this Act, and

(xi) to take all necessary steps to prevent a recurrence of the conditions that brought about the financial crisis."

This is an important amendment that goes to the heart of what NAMA is all about, which is, effectively, to restore the credit supply to the economy by the banking institutions. We have also tabled three other amendments in this regard, amendments Nos. 29, 32, and 78, which are critical in terms of putting down

guidelines. The Minister has tabled amendment No. 127 in that regard which I expect will not be discussed due to the guillotine.

The Minister made reference to delaying on the enactment of this legislation. I suspect that the gain derived from extra time to discuss the Bill would far outweigh the loss. I am very disappointed the likelihood is that of the 133 amendments tabled, the key amendments the Minister stated he would bring forward on Report Stage, namely, the windfall tax, the bank levy and the guidelines on lending, will not be discussed.

Deputy Terence Flanagan

We will not get to them.

Deputy Kieran O'Donnell

I have a major issue with that.

On the key issues the Minister is to bring forward guidelines on getting credit flowing but I must express my severe disappointment that he saw fit not to allow extra time to ensure we improve the quality of this legislation.

Deputy Brian Lenihan

The Dáil saw fit.

Deputy Kieran O'Donnell

No.

Deputy Brian Lenihan

The Government saw fit.

Deputy Kieran O'Donnell

If the Minister wished, he could voice the view that he felt extra time should be given to the Bill and no doubt the Government would acquiesce to that request from him.

The other issue concerns the term, "to ensure an orderly property management strategy over a ten year period". Once again, within the draft business plan we have no idea what exactly the Minister has in mind in terms of the assets because we do not know the length of the loans. We are told that €15 billion of the €77 billion will be the only assets that will be disposed of.

A critical issue we need to debate concerns situations where a person's performing loans have gone into NAMA and where all corresponding security has also been transferred. We need to look at the issue of finding ways, if such loans are performing and there is a viable business project, by which it would be possible to get secondary security on the securities held by NAMA with other financial institutions willing to extend funds. We need to be progressive in that way.

These are key issues. We have an amendment tabled in that regard. The problem is that the devil is always in the detail. There is no doubt we will not have time to debate many of the issues that will arise when NAMA is up and running, namely the issue of getting value for the projects, ensuring orderly property management and getting full value for the taxpayer. The only way the Minister can get value for the taxpayer is to ensure that he does not create a situation where assets are transferred to NAMA with performing loans, for example, a greenfield site, with all of the security going into NAMA but where the site cannot be developed.

I would be interest to hear from the Minister how he intends to prioritise the €5 billion that NAMA has at its disposal in terms of development. What projects will he be dealing with? Will it be exclusively concerned with finishing existing estates? What commercial criteria will the board use? Will the Minister be issuing directions in that regard?

It is for these reasons it is so disappointing that at 8 o'clock this evening we will not have discussed the windfall tax. I also expect we will not have discussed the question of the bank levy. The Minister is bringing in a surcharge on corporation tax which applies only if banks pay corporation tax. Banks may still make profits and pay no corporation tax. I would have thought a more valid measure would be to do it on the basis of operating profit before adjustment for losses forward. If banks are making profits they should pay the levy. If they are not, I can see a case that they should not pay the levy. The problem here is that the Minister has created a situation whereby the banks may still make profits and not pay the levy. That is unacceptable to the public.

We have tabled an amendment on the issue of the subordinated debt, amendment No. 54, which, the purpose of which is, once again, to recover the maximum funds for taxpayers by ensuring to recover the optimum funding for the assets acquired by NAMA. The Minister is giving only €2.7 billion of the €7 billion overpayment by way of subordinated debt. Instead, that subordinated debt should be based on the difference between the price the Minister is paying for the assets and their market value. That is not the case.

Deputy Brian Lenihan

That would definitely make a loss, as I pointed out to the Deputy previously.

Deputy Kieran O'Donnell

The Minister did not.

Deputy Brian Lenihan

We have already rehearsed this debate. Deputy O'Donnell cannot be a one-trick pony now. We must discuss the amendments.

An Leas-Cheann Comhairle

Allow Deputy O'Donnell make his contribution.

Deputy Kieran O'Donnell

We are discussing the amendment. If the Minister reads the amendment,—

Deputy Terence Flanagan

The purpose of the Act.

Deputy Kieran O'Donnell

—he will see that the purpose of the Act is restoring credit, orderly property management strategy,—

Deputy Terence Flanagan

They are basic.

Deputy Kieran O'Donnell

—to recover the maximum funds, to take all necessary steps to prevent a recurrence of the conditions that brought about the financial crisis. The Minister can be glib and state we should not discuss them, but these are key amendments. Some of them are new amendments. The windfall tax is a new amendment, a new section.

An Leas-Cheann Comhairle

Will Deputy O'Donnell focus on amendment No. 9?

Deputy Kieran O'Donnell

The surcharge is a new amendment, creating a new section. It was not tabled on Committee Stage and we will never get the opportunity to discuss it.

An Leas-Cheann Comhairle

If the Deputy focuses on amendment No. 9, we would make progress.

Deputy Kieran O'Donnell

It is critical that we get time to debate the issue of the credit flow. The Minister has tabled amendment No. 78 and the worry is we may not get the opportunity to discuss it. It is critical in terms of the orderly management of property. That is why there would be a need for proper verification of the NAMA business plan. In this regard and on the question of the subordinated debt and the maximum funds for the taxpayer, the Minister must remember that if NAMA makes a loss it is the taxpayer, not the banks, who will pick up the bill, with the exception of the figure of €2.7 billion.

There is promised legislation to reform the regulation system but no date has been given as to when it will come before the House. I would have thought it would be a priority for the Minister. We cannot have a situation where we are enacting the NAMA legislation but have no date for when legislation to reform the regulatory system, in terms of the Central Bank and the Financial Regulator, will come before the House.

Deputy Michael D. Higgins

I will confine myself to amendment No. 9 because amendment No. 10, which is in the name of Deputy Morgan of Sinn Féin, is being taken with amendments Nos. 79 and 80, which are in the name of my colleague, Deputy Burton, and deal with related matters of liquidity to SMEs.

I want to raise a point with regard to amendment No. 9, which suggests the addition of four additional paragraphs, with three of which I have no difficulty. With regard to paragraph (viii), the Minister suggested in what I hope was not just a fit of enthusiasm that he had moved from relying on moral suasion to legal prescription. He suggested that either of three options are available, namely, a change in culture which would happen in the banking sector, in which none of us believes; moral suasion, which is very slight in terms of any result; or legal prescription. We need to see that and I hope we will see it before we finish the Bill.

With regard to paragraph (ix) and having an orderly property management strategy over a ten-year period, this is valuable in terms of the period of time. However, I have a problem with the new paragraph (x), which seeks "to recover the maximum funds for taxpayers by ensuring that the principal and exclusive purpose of NAMA is to recover the maximum funds possible for the assets acquired by NAMA under this Act". I am unhappy to some extent with the use of the term "principal and exclusive" in that paragraph as it takes from what we have agreed in regard to economic and social development. For example, if that paragraph read "to recover the maximum value", it would accommodate not just a cash yield but it would be able to carry the burden of the social and economic development to which the Minister has assented.

Overall, while I have a problem with Deputy Bruton's paragraph (x), I would agree with the general thrust of what is sought to be achieved from the amendment, with that reservation.

Deputy Pat Rabbitte

I agree with my colleague, Deputy Higgins, with regard to paragraph (x), which seeks to install this purpose as the exclusive purpose of NAMA. It is an important purpose but it is not the exclusive one and there others, some of which we have just been discussing. I do not want to go back over the matter.

It causes to arise in my mind the assurance frequently given by the Minister to the House that we are, of course, going to go after the borrowers, we will take them for every penny they owe, we are going to ensure that these moneys are retrieved and so on and so forth. The fact of life is that the Minister, NAMA and the SPV can go after some of the borrowers all they like but they are not going to get very much back in some cases. That is what leads to the different mathematics done by people like Peter Matthews I referred to yesterday in terms of the non-performing loans and what proportion it is reasonable to say can be retrieved in the economic circumstances in which we find ourselves.

The other purpose of this amendment is to give us an opportunity to briefly debate the central purpose of the Bill which, unfortunately, in the time circumstances in which we find ourselves, is unlikely to be reached. It must be underlined again that the entire purpose of this very complex and intricate legislation, and this extraordinary gamble that we are taking on behalf of the taxpayer, and the intricate architecture that is woven here by the Minister, all comes to naught unless it causes money to flow in the economy again. In that sense, the amendment gives us the opportunity to again highlight the importance of restoring confidence in the banking system.

It is not like making widgets or producing concrete blocks. Trust and confidence is at the heart of the banking and financial industry and, where that has been eroded, it is very difficult to address with confidence the other problems in the economy unless we can get that confidence back in the banking system. For the public that means, for example, whether I am more likely as a result of the legislation to have my overdraft extended, to have the normal facilities that are available to my small company or to keep my people in employment. That is critical and central. It is the core purpose of this legislation — it is why we are here. From that point of view, anything that can legislatively impose such an imperative on the management of the implementation of this Act is correct because if that does not happen, it has failed. I accept, of course, that this may mean the covered institutions come back to us for more capitalisation and all that this would mean in terms of our financial and economic situation.

The amendment provides the Minister with another opportunity to say to a sceptical public that credit lines will be unfrozen for prudential lending after this legislation goes through. I do not know. There are conflicting stories. There is no Member of this House who has not had representations from people who are owner-managers or managers of small or medium enterprises who say they are in difficulty because of the tightening credit situation.

Deputy Michael D. Higgins

And the new conditions.

Deputy Pat Rabbitte

Meanwhile, some of the covered institutions are taking advertisements in the newspapers stating it is business as usual. We have heard examples in this House suggesting there is not very much behind those advertisements. People have explained their personal experience during the course of this debate and how that is being manipulated to give the image of business as usual, but that is not what is going on behind the scenes. In that sense, this amendment provides the Minister with the opportunity to again tell us what are the reasons for people being confident that as a result of this elaborate mechanism being put in place — this huge risk to the taxpayer — credit is more likely to be available to small and medium enterprises, to people who want to buy houses and to those who want to engage in the normal activity that makes up such a large part of our economic affairs in this country.

Deputy Arthur Morgan

I want to record my support for the amendment. The thrust of it is completely in accord with the amendment in my name which will be dealt with next.

Deputy Terence Flanagan

I support the amendment and ask the Minister to accept that the changes within it are necessary to reflect the purpose of the Bill, for example, that confidence be restored by proper lending taking place in financial institutions. We have had that debate over various days. It is the central purpose of this legislation and it is critical that it is reflected in the Bill. We want to see property drip-fed onto the property market, which is in bad enough shape at present without all of this property coming immediately on to the market. This is why we want paragraph (ix) of the amendment included in the Bill.

With regard to paragraph (x), we are all here to protect the taxpayer, as is our duty

An Leas-Cheann Comhairle

We are dealing with amendment No. 9.

Deputy Terence Flanagan

I am referring to paragraph (x) of amendment No. 9, not amendment No. 10.

An Leas-Cheann Comhairle

I beg the Deputy's pardon.

Deputy Terence Flanagan

The reason we are here is to protect taxpayers and that should be reflected in the functions of the Bill. Subsection (xi) will ensure that the situation does not occur again, and we all want to ensure that this does not happen.

It is a disappointment that the Bill is being guillotined. Perhaps the Minister might extend the debate. If time is limited, there certainly should be an opportunity for parties to prioritise the most important amendments.

Deputy Brian Lenihan

I agree with Deputy Flanagan and Deputy Rabbitte. We are in your hands, a Leas-Cheann Comhairle, but it struck me that the amendments grouped with amendment No. 29 could be taken at this stage because they deal with the power to issue credit guidelines. I do not want to cut Deputy O'Donnell short. He may wish to go through the material relating to the objectives. I do not know if it is procedurally possible to take amendment No. 29 and group it with this.

An Leas-Cheann Comhairle

The only flexibility the Chair has is with the actual groupings. The Standing Orders of the House require the Bill to be dealt with seriatim. If the two groups of amendments are germane to each other, it is possible to group them together, as long as the House agrees.

Deputy Brian Lenihan

We should merge the two groups. I suggest we take amendments Nos. 29, 32, 78 and 127 together, as they deal with credit supply powers.

Deputy Michael D. Higgins

Amendments Nos. 10, 79 and 80 are grouped together as they all deal with credit flow, so I presume we will be able to deal with the other amendments that deal with credit flow.

An Leas-Cheann Comhairle

Procedurally, the orders of the House state that we deal with the Bill seriatim. My problem is that a Deputy might feel that we have taken something out of sequence to which he or she wished to contribute but was deprived by order of the House. The normal procedure is that the Whips would bring an amending order

forward. Members will have to indicate to their Whips that this is being proposed. I am willing to take a proposal from the Minister to do the groupings.

We must dispose of amendment No. 9 now, then move on to amendment No. 10 and its grouping, as well as amendment No. 29 and its grouping. I now call on the Minister to give his formal response to amendment No. 9.

Deputy Brian Lenihan

Amendment No. 9 proposes a new set of objectives in the Bill. Subsection (viii) is already covered as the purposes are fulfilled in the amendment I have brought forward to set out guidelines relating to lending. The "orderly property management strategy" under subsection (ix) is not the purpose of the Bill. It is something that NAMA may adopt to achieve its functions. Section 11(2) addresses the property markets and states: "In the exercise of its functions NAMA shall have regard to the need to avoid undue concentrations or distortions in the market for development land."

The proposed new subsection (x) is already covered by section 4, which is then translated into NAMA's purposes in section 10(2). That is the objective of achieving the best possible financial return for the State. I agree with Deputy Higgins that subsection (x), as drafted, puts it too far.

The proposed new subsection (xi) is clearly outside the scope of the legislation. That is part of the regulation legislation to which Deputy O'Donnell referred. We have taken a first step by fusing the two boards. The necessary legislation will be before the House in the spring. We have made the necessary appointments and we are progressing with the issue.

Amendment put and declared lost.

An Leas-Cheann Comhairle

Amendment No. 10 is in the formal grouping with amendments Nos. 79 and 80. I understand that the Minister intends to propose a procedural change.

Deputy Brian Lenihan

I propose that we take amendment Nos. 10, 29, 32, 78 to 80, inclusive, and 127 together.

An Leas-Cheann Comhairle

Is that agreed? Agreed.

Deputy Arthur Morgan

I move amendment No. 10:

In page 17, between lines 17 and 18, to insert the following:

"(c) all participating institutions shall be obliged to increase lending to SMEs and first time buyers and shall be obliged to report on lending activity in these areas bi-monthly to the Houses of the Oireachtas,

(d) all participating institutions shall be obliged to cease mortgage repossession for the period of two years, in cases of genuine hardship, following commencement of this Act."

I thank the Leas-Cheann Comhairle for his co-operation as we gingerly sought to find a way to get through these amendments more quickly. The first thing I would like to say as part of this discussion is that I do not trust the banks to lend. They lent too much during the boom and they are lending too little during the recession. That has been an international fact of life for some considerable time. It will take more than moral suasion to ensure the banks lend more money – legal prescription will be needed.

In recent times, there has not been a comfortable relationship between bankers and morality. Therefore, it is important that we put legislation in place. I appreciate that a number of the Minister's amendments propose the introduction of regulations. I will be interested to hear what he has to say in that regard. The scale of what we are dealing with is very substantial. Earlier on Report Stage, somebody asked how the billions of euro we are talking about can be quantified. When I asked a friend of mine, Mr. Séamus Hazlett, who is not an election candidate, to try to work out a quantifiable system of measuring this, he came to me a few days later to say that it takes almost 12 days for a million seconds to pass and almost 32 years for a billion seconds to pass. That is a demonstration of the substantial scale of what we are dealing with. I look forward to hearing what the Minister will say in a few moments.

Deputy Kieran O'Donnell

I thank the Minister for facilitating this discussion on a key element of the NAMA project, which may help to get credit to flow to small businesses. Fine Gael has tabled amendments Nos. 29, 32 and 78. The Minister's amendment No. 127, which is very general in import, states:

(1) The Minister may issue guidelines—

(a) regarding lending practices and procedures to facilitate the availability of credit to classes of borrowers or potential borrowers including small and medium sized enterprises, and

(b) relating to the review of decisions of participating institutions to refuse credit facilities.

(2) A participating institution shall comply with any guidelines issued under subsection (1).

Fine Gael's three amendments, by contrast, more clearly prescribe what the banks should do. One of the weaknesses in the Mazars report was that it did not distinguish between new and existing businesses. Its headline figures suggested that €32 billion was extended to the small business sector at a particular time. A few months later, the same figure was increased. The report did not distinguish between new and existing facilities or take account of the withdrawal of overdraft facilities from existing customers. It did not consider factors like rolled-up interest and interest write-offs. It did not indicate the number of people who present themselves at the banks, as distinct from the number of applications that are processed. The banks normally use substantial screening processes so that by the time applications are registered, the people in question have already been more or less approved. We need the exact detail of what the banks will do.

Amendment No. 29, like the related amendment No. 32, states that the guidelines drawn up under section 13 should have regard to "credit for start-up enterprises". The small business sector has been badly served by the banking establishment. There are almost 250,000 small and medium-sized enterprises in Ireland. Some 800,000 people are employed in the SME sector. Many of them have come to our constituency clinics to tell us about the pressure they are under. I have spoken to people who may have an overdraft facility of €10,000. In some cases, the banks are reducing or withdrawing such overdrafts. As a result, many businesses are unable to continue to function. They are having to let staff go and are struggling to pay their creditors. It is a vicious circle. If a shopkeeper owes money, that can have a domino effect that puts a local garage out of business. We must ensure that credit is flowing. Bank credit is the lubricant of the economy in the sense that it can free up the credit bottlenecks that develop from time to time. If sufficient credit is available, business people will be able to pay each other. That is not happening at present because overdraft facilities have been restricted or removed.

We have made reference in amendment No. 29 to the "frequency of declined cases and the criteria that has been used to decline cases" because it is critical that the guidelines for any reporting structure that is imposed on the banks should deal with the issue of footfall. We need information on the number of people who come

to the banks. It is acceptable for the banks to refuse credit to people for legitimate reasons, as no one wants imprudent lending. The Mazars report was economical in the sense that it did not give us any idea of the number of people who are presenting to the banks. It gave us details of applications that were approved, while mentioning a few nominal cases in which applications were not approved. I reiterate that proper reporting is critical.

It is extremely important that the guidelines should deal with "the renegotiation of existing credit lines and the terms that have been applied". Deputy Fahey has pointed out on a number of occasions that when businesses go to the banks to renegotiate their facilities, the banks often increase the punitive rates of interest they charge. If somebody with an overdraft facility of €10,000 or €15,000 also has a term loan facility, when the latter facility comes up for review the banks often change the conditions of the overdraft facility or the rate of interest. We need to get fair play from the banks when the cash injection of €51.3 billion tumbles in from NAMA. The banks cannot be allowed to cherry-pick premium clients. Everybody knows there is a level of risk in business — no business proposition is risk-free. The banks cannot be allowed to act in an absolutely risk-adverse manner. Given that the banks will be able to close the gates when the €51.3 billion injection has been handed over, the guidelines we are discussing will have to be approved in advance of the negotiations on the loans or the handing over of funds from NAMA to the banks.

I feel strongly that the guidelines should set "limitations on the use of the new liquidity for purposes other than extending credit", as proposed in amendment No. 29. The Minister will be aware that in EUROSTAT's communication to the banks on how they should deal with impaired assets, it suggested that the extension of funds to the banks through NAMA should be accompanied by behavioural constraints which would mean that the banks cannot use those funds in certain ways. I understand that the business plans being prepared by the banks have not yet gone to the European Commission for review. I do not doubt that restructuring will take place as part of those plans. Some €54 billion is to be given to the two main banks, which will be in a position to accept funds and lend them as credit. Anglo Irish

Bank is a black hole, in effect, in terms of the approximately €20 billion that is being provided. The two main banks cannot be allowed to use those funds to buy other assets and thereby create more of a monopoly situation. They cannot be allowed to pay off their debts at much higher rates on the interbank markets. They cannot be allowed to use this money to play on the interbank markets overnight because that is where they will get the best rate of return. They cannot be allowed to pay off bond holders.

We must ensure the €51.3 billion is put to productive use in the economy. It affords the opportunity for a fiscal stimulus by the back door. I have no doubt that the European Commission had this in mind. I suspect it will not be happy if the banks hoard the money for their own devices. It is critical that they do not. Has the Minister received any communication from the Commission requiring the banks, as part of their business planning, to indicate to the Commission and the Government how exactly they propose to use the money?

There is a strong argument for putting protocols in place across various sectors. They should not be too prescriptive but should certainly apply to the areas of green energy and value-added products such that the money will be put to good use, particularly in the creation of jobs. Thus, a balance will be struck.

Subsection (4), as proposed in amendment No. 29, states: "Any guidelines made under this section shall be immediately laid before the Houses of the Oireachtas." This is critical. When does the Minister propose, on foot of amendment No. 127, to issue and obtain agreement on the guidelines? Will he be laying them before the Houses before any formal transfer of assets from the banks to NAMA? Once the assets are transferred and once the money has gone into the banks, the horse will have bolted. The Minister is in a strong negotiating position. He should not only accept his own amendment but our amendments also. Ours provide greater detail and clarify the Minister's, which is very general.

Amendment No. 29 deals with the guidelines and amendment No. 32 deals with directions and the types of conditions that would be laid down. Amendment No.

78 deals with the obligations of participating institutions. It seeks to insert:

(g) report of its success in meeting guidelines which shall be set from time to time by the Minister, in relation to making credit available [. . .],

(h) the guidelines referred to [. . .] shall include but are not limited to:

(i) credit for start-up enterprises,

(ii) the frequency of declined cases [. . .],

(iii) the renegotiation of existing credit lines [. . .], and

(iv) limitations on the use of the new liquidity for purposes other than extending credit,

The cut-off point will clearly be when the assets are transferred to NAMA. If the guidelines are not approved and laid before the House before that date, it will be too late.

We must also consider the reporting structures. We must not get back a report such as the Mazars report. I am not in any way judging Mazars. It had terms of reference determined by the type of information the banks provided to it and it effectively based its report on this information. I do not believe the banking system is unable to distinguish between new and existing loan facilities, as the banks told Mazars when it was completing its report.

It is critical that the Minister obtains details on all applications for loans and on all existing facilities that have been withdrawn. He should obtain details on all existing facilities where the rate of interest has been increased, how often the banks are carrying out reviews, the number of new cases to which credit has been extended and the types of credit facilities in these cases. Furthermore, he should compare the requests for credit facilities by businesspeople with the extent of the facilities

afforded to them. The banks must not provide inadequate facilities such that businesses will not have sufficient working capital. NAMA is facilitating the banking system, giving it time to breathe and come back to life and removing from it its toxic debt. The banks should afford credit facilities to viable businesses.

Enterprises are going out of business at present not because they are not viable but because they are being starved of credit. This is a very real problem. The banks will say they are giving credit but they are not. They are giving credit to businesses that are effectively gold standard. I will not go so far as to refer to Government stock in this regard. Credit is only being given to businesses which in the current environment would be regarded as risk free.

If we are to emerge from recession, the banks must play their part and give loans where there is calculated risk. They must ensure funds flow. I commend our amendments to the House and hope the Minister will take them on board. They are very much consistent with amendment No. 127, which he had committed to tabling on Report Stage and on which I commend him. However, amendment No. 127 requires further clarification. We must not have woolly guidelines that will allow the banks to come back with woolly replies.

Deputy Joan Burton

The purpose of amendments Nos. 79 and 80 is very simple. They are not prescriptive in detail. They simply seek to require the Minister to establish a framework with the participating institutions in receipt of the €54 billion that will provide for a two-year moratorium on house repossessions by those institutions. I am well aware that Bank of Ireland and Allied Irish Banks have stated continuously that they are not eager to rush to repossess houses. This is correct but we do not know what will happen once the NAMA legislation is implemented. The banks may find it necessary to change their policy.

We do not know the breakdown in respect of house mortgages held by Anglo Irish Bank and Irish Nationwide. It may be that these mortgages largely pertain to

houses bought to let or to more expensive homes. All we are saying is that there should be a framework. The Minister and his officials will probably claim the €54 billion is an Irish form of quantitative easing to put more money into the economy but the fact is that we are putting more money into a distressed economy that is deflating probably at a rate not seen since the 1930s. Our level of deflation is worse than that of almost any other economy I know of. Both the extent and speed of deflation genuinely frighten me.

If the €54 billion being invested as a means of quantitative easing does not have a positive impact on people's psychology, the exercise will not succeed. Deputy Michael D. Higgins referred not only to macro-economics and econometrics but also to political economy. Political economy concerns the psychology of consumer spending and consumer and **business** confidence. If €54 billion is to be invested as a means of quantitative easing, the Minister has included no corresponding mechanisms in the Bill to ensure this will work. This is a very difficult task. I do not underestimate the extent to which it would tax the officials of the Department of Finance. It is a challenge they have not faced before. It would need a considerable amount of ingenuity to think through how one does that. I say that as someone who worked in banks. It is extremely difficult to be prescriptive about that. That is why the Labour Party amendment is not prescriptive. It is focused rather on sending a psychological signal, backed up by a reference in the Bill to there being, first, in regard to the quantitative easing, a framework of two years on the home loans. People can scoff at this for technical reasons but they would be very foolish to scoff at it for **business** and psychological, economic reasons. I appreciate this would challenge the officials in the Department of Finance, the staff in the Financial Regulator, and it would particularly challenge staff in the Central Bank to be imaginative about how this would be overseen. Probably the single greatest challenge facing the National Asset Management Agency if it goes ahead, is how one makes the €54 billion effective?

I draw the Minister's attention to the fact that of the €77 billion, as he is aware, €28 billion is for Anglo Irish Bank, and a staggering €8.3 billion is for Irish Nationwide.

Deputy Brian Lenihan

In terms of the book debts.

Deputy Joan Burton

Yes, but the money the Minister is putting in is related to those debts. Can we be honest about it and say there is not a bob for businesses and home owners in the money going into either Anglo Irish Bank or Irish Nationwide? The focus is all on our two main banks, Allied Irish Banks and Bank of Ireland. The Minister is talking about quantitative easing of €54 billion, of which only approximately half is going into the ordinary countrywide mainstream systemic banks into which people put their deposits and that lend to businesses and homeowners. That is the crux of the problem on the NAMA proposal. The NAMA proposal will fail or work to the degree that those two issues are addressed. For homeowners, the psychological signal is that one has a framework agreement for a two-year period. Many will say that two years is not enough and that we should make it three. All I say is that it is a psychological framework. If we can get the balance in our economy right in two years, we can start a recovery. If we are starting recovery in two years, that problem will not exist in exactly the same way.

The second Labour Party amendment, No. 80, is to provide that there will be a framework for increasing lending to SMEs and to first-time buyers. Big multinational companies do not rely on either Allied Irish Banks or Bank of Ireland primarily or exclusively for their borrowing. They are fine. They are getting their credit requirements either internationally in their home country or partially in Ireland so they do not have the kind of problem that small and medium indigenous industry has. Again, this is about psychology and sending out a signal to the person who, for example, has a workshop or other enterprise employing ten or 15 people. In the past year they might have let go seven or eight people and they are back to where they were six or seven years ago. As they face Christmas they are going to have to make a decision on whether they can realistically stay in business. In many cases, unless people can find a way to structure their relationship with

their bank to ensure a flow of credit then many of them, if they are over 50 and have some capacity to retire, will just let it go. One needs to give a psychological indication to such people that we have something to offer them.

Perhaps we could put some civil servants into the banks in Galway, Cork, Waterford and two or three big bank branches in the Dublin region so that they can follow what happens with the credit committee and provide monthly reports about credit flow or whether it is a phony credit flow. That is when existing mortgages are just turned over or existing arrangements about term loans and overdrafts are turned over. It is not new lending, it is the renewal of existing lending.

On the other hand, could the Minister not get some people into the Department, the Financial Regulator's office and the Central Bank who themselves have practical experience of banking and who know how and when to help to get credit going again? All of this is taking place against a background where both Bank of Ireland and Allied Irish Banks have indicated that given the great difficulty of their financial positions, they are going to have to deleverage or shrink their balance sheet.

The Minister was educated by the Jesuits. The Jesuits used to run a college of industrial relations for workers, particularly in the greater Dublin region. Their theory of distribution was about baking a bigger cake, and if we could only bake a bigger cake we could all get a bigger slice of the pie.

Deputy Brian Lenihan

Agreed.

Deputy Joan Burton

The Jesuits are very wise.

Deputy Brian Lenihan

The Marist Brothers taught me maths.

Deputy Michael D. Higgins

Give us the child and we will give you the man.

Deputy Brian Lenihan

The child was with the Marist Brothers.

Deputy Joan Burton

We are now facing a cake that is not growing, we are facing a national cake that is shrinking. How does one ensure, therefore, that first-time buyers and small and medium enterprises continue to get their share of the national cake if we do not put protective mechanisms into the Bill? The fact is that their slice will disappear to a significant extent because they are the easiest point. They lack clout. Someone who is employing 15 people in a workshop might not be experienced in the business of banking. Why should her or she be? Perhaps he or she is making furniture or supplying services. Such people are not able to afford an expensive accountancy advice service any more, so they are back to presenting themselves at the bank manager's door and saying "Please Sir, can I have some credit?" That is an "Oliver" moment for many small and medium enterprises. "Please Sir, can I have some credit?"

The Minister must be able to say to the people in the bank branches that he accepts they have to examine the creditworthiness of clients, which is a high barrier at the moment, but he and his civil servants in the Department of Finance must engage in that exercise with the banks because half of the €54 billion of quantitative easing, the money going to Anglo Irish Bank and Irish Nationwide is dead money and will not do anything in the real economy, it is simply to fill a hole. That is black hole stuff; it will not do much for us. That is the reality. However, the

money going into Bank of Ireland and Allied Irish Banks is different because they are high street operators in every town and county in Ireland.

Related to that is another issue which the people in NAMA will have to consider. The fee package of €240 million a year is largely going to go, inevitably, into the Dublin region. If the Minister is talking about spending that kind of money, it must be spread around the country because, again, if that is stimulating activity it is wrong that it is all sucked into the Dublin area. There are ways and means of doing that without interfering with contracts. It can be a factor that is looked at and examined. There are, for example, very good legal, accountancy and liquidation services operating outside the Dublin region. NAMA and financial services in Ireland are concentrated in the Dublin region and the framework of this proposal and of the banks lacks a regional element. This is really important. The Minister could try to pass it out to the bigger cities.

The other quantitative easing in the NAMA legislation is the €5 billion, and possibly €10 billion if necessary, the NAMA board will have to spend on completing projects and so forth. Again, a fair amount of economic planning is required. The Minister has already agreed to the clause about contributing to the economic and social development of the country, and I thank him for that. The real challenge for people is not just to act as macro economists telling us that we must cut, cut, cut but also to tell us how this €54 billion can be contributed. If the Minister puts no obligations on the banks on these two issues, and that is absent from the Bill, the banks will shock him with their ingratitude.

I accept this is a challenge, but the country is in a position it has never been in previously. It is in a deflationary spiral. Like an aeroplane in the Second World War films we watched years ago, we are going down in a widening gyre until we crash. Unless we produce some serious thinking to address this, we will not get out of it. I urge the Minister to accept the Labour Party amendments or I will accept the Minister proposing his version of those amendments if he has advice from the Attorney General to that effect. They are not prescriptive, they are just a requirement.

Deputy Jim O’Keeffe

I find myself in the most unusual position of being in total agreement with Deputy Morgan as to how we should deal with the banks.

Deputy Frank Fahey

That is unusual.

Deputy Jim O’Keeffe

I refer, of course, to the moral aspect he raised.

Deputy Arthur Morgan

Welcome back.

Deputy Jim O’Keeffe

The issue of morality and banks has been discussed for centuries. By coincidence, the book I am reading at present is The Merchant of Prato, which deals with the formation of banks in Venice, Genoa and other places and the moral issues involved such as usury. St. Thomas Aquinas held with the just demand approach.

However, that is history. Today, we are dealing with the practicality of the banks. The first question is whether we need banks. Unfortunately, as many would say, we do. That leads us to the question of what they should do. We certainly do not need banks that operate like snowploughs in the Sahara; we need banks that have a useful purpose. If they were private institutions operating alone, they would be entitled to carry on in their own merry old way, but they are not. They are operating on the basis of receiving taxpayer-backed funds to the tune of €50 billion. On that basis, we are clearly entitled to prescribe the issues that are important to us on behalf of the people of this country. This money is not there to allow them to carry

on in the same merry old way. This is not fat cat money to allow them to pay bigger bonuses for playing the markets and speculating, as happened in the past.

I referred to banks operating like snowploughs in the Sahara. It is clear that is what they were doing. They went through a phase in which they speculated and lashed out money when they should have been sensible and prudential. Now, they are going through a phase of refusing money to small businesses and others or effectively doing that by renegotiating loans and applying more onerous terms. We cannot and need not tolerate that. What should we do? We are entitled to prescribe clear specific guidelines. For that reason I strongly support these amendments. We are entitled to say, as representatives of the people of this country, that what we are interested in is a restoration of economic growth, the protection of jobs and new jobs and enterprise being encouraged. We are entitled to prescribe for that.

I have seen advertisements in the newspapers recently about the new business loans that are available. I query those advertisements. My experience is that people with small businesses have been called into their banks and had their credit lines cut off or they have been offered new, more onerous terms. There is less credit and more onerous terms for it. Is that a new business loan? In my opinion, it does not qualify. It is a withdrawal of existing facilities. This highlights the point we discussed yesterday, the need for oversight and scrutiny of what the banks are doing. I do not accept any of their claims any more. For too long we accepted what they were doing. We accepted the assurances from them, like others, that the fundamentals were sound. They were not. The banks are not now in a position to get away with that.

With regard to the amendments, while the Minister has gone some way in amendment No. 127, that amendment must be strengthened. It is too loose and not sufficiently prescriptive. I strongly urge the Minister to take on board the points being made in this debate and to consider strengthening his formula relating to guidelines. As Deputy Burton expressed so eloquently, let the message go from this House that there will be a change in the way the banks operate and a change in

attitude and culture. There is no damned way we will put up with the same old game they have played for years, which has landed us in this mess and exposed the taxpayer to such an enormous sum of money. The Minister should take on board the principle of the points being raised and be prepared to revise and strengthen his amendment in this regard.

Deputy Seán Barrett

I do not wish to go over the ground already covered by my colleagues other than to point out that the Minister's amendment should be more prescriptive, in line with what Fine Gael is trying to achieve in this regard. It is unlikely that our amendments will be accepted given the numbers in the House but some slight amendments to the Minister's amendment could be more effective. Amendment No. 127 states that "The Minister may issue guidelines ...". This should be changed to "The Minister will issue guidelines". There is no reason for using the word "may". It would also be worthwhile to insert the words "from time to time" so the Minister need not necessarily issue just one set of guidelines. Circumstances will change over—

Deputy Brian Lenihan

That is the intention, although it would do no harm to clarify it.

Deputy Seán Barrett

I also ask the Minister to insert "will" instead of "may" because it is more definite. The Minister should also provide that such guidelines will be published and laid before both Houses of the Oireachtas. That is important from the point of view of giving the Oireachtas an opportunity to discuss such guidelines from time to time. As colleagues have pointed out, in the very near future the State will own more than 50% of the main institutions as a result of the necessity for further capitalisation. Things will be different.

In a free society institutions should be forced to behave in a responsible fashion. That is why I raised this morning – the Minister was not here – the urgent need for reforming legislation regarding the regulatory role we play in how financial institutions operate. That in conjunction with what we are doing in this legislation will mean things will be different in the future. If the Minister cannot accept our amendments, perhaps he might include in his amendment a stipulation that any guidelines made should be laid before both Houses of the Oireachtas.

Deputy Ciarán Lynch

In the context of amendment No. 79, the Labour Party understands that the National Asset Management Agency Bill is emergency legislation. The mantra the Minister has continually repeated is that this is an issue of systemic importance. Another issue of systemic importance is that of people being in a position to keep a roof over their heads. At present, residential mortgage debt in this country is approximately €300 billion. It is believed that stressed mortgage debt stands at €3.5 billion. Even in the context of the exaggerated figures relating to the legislation before us, €3.5 billion is a significant sum and it is one that is of systemic importance.

Amendment No. 79 proposes that:

It shall be an obligation of a participating institution not to commence or pursue proceedings for repossession of a principal private residence unless the arrears of any mortgage are in excess of 24 months, provided the mortgagor provides reasonable co-operation within his or her means and ability with the participating institution.

In essence, the amendment relates to the owner-occupiers of homes. It does not refer to those who made or tried to make massive incomes in recent years by investing in an overheated property market or to those who bought second homes in the west or in the western part of Cork, the county in which I live. The amendment is concerned with those who go to work each day in order to earn the

money that will allow them to keep a roof over their heads. The amendment sets out a framework whereby the Minister may, either through primary or secondary legislation, provide an apparatus or structure that will allow people to negotiate the next 24 months with some degree of hope that there is light at the end of the tunnel.

It would not be unusual for most Members of the House — I include myself in this — to have been obliged to claim social welfare in the 1980s. I signed on so often during that decade that I know my PPS number off by heart. If one asks a member of my generation his or her PPS number, he or she would be able to recite it quicker than his or her telephone number. The fundamental and significant difference between the 1980s and now is that while people might not have had any money during that decade, they did not accrue the same level of personal debt with which their current counterparts are saddled. In the 1980s, people may have delved into the black economy in order to get money to pay for shoes for their children or to buy something for Christmas. However, they did not carry massive mortgage debt.

During the period to which I refer, the price of one's house would probably only have been three or four times that of one's car. If one's car was worth £9,000, then one's house was probably worth between £27,000 to £36,000. In recent years, if one owned quite a good car valued at €40,000 or €50,000, the value of one's house would have been several times these amounts. That is just one way to highlight how out of kilter the property market became during the past ten years. The latter occurred as a result of a number of factors.

In the first instance, developers had established a relationship with the banks that was a win-win scenario for both. The former were purchasing land at overinflated prices but they were also selling houses at overinflated prices. This meant that the banks were able to take advantage of extremely attractive arrangements when it came to offering loans. In addition, a range of incentives was put in place by the Government and, in particular, by the Minister's predecessor, Charlie McCreevy. In the early part of this decade, Mr. McCreevy facilitated a situation whereby it became

extraordinarily attractive for people to invest in property as a source of obtaining income. This led to the price of houses rising significantly over period of a few months. In April 2006, the former Leader of Fianna Fáil famously stated that certain individuals should commit suicide. At the core of what he was stating was that if people did not buy their houses at that stage, it would cost them more to do so in the future. The Government of the day introduced a plethora of measures which drove house prices upwards.

The key point in respect of this matter is that with any lending practice comes a duty of care. Lending institutions have a duty of care, as does the Government in the context of how it facilitates certain practices. Amendment No. 79 provides for such a duty of care and under its provisions, the State would be obliged to step in and ensure that lending institutions adhere to particular standards in respect of their practices.

The Government has a number of reservations with regard to anyone assuming responsibility for a duty of care in this area. Those reservations were outlined during the debate on mortgage arrears which took place during Private Members' time this week. The Government appears to be of the view that some 20 repossession orders were pursued during the first nine months of this year. The fact is that orders are the final stage of the process and cannot be used as an indicator of what is really happening in the mortgage market. Repossession orders in respect of which a determination is made by the High Court represent only the tip of the iceberg. There is a major crisis on the horizon in this regard and a Government response to it is required.

There are some 16,000 loans in arrears or in distress on the books of the institutions to which amendment No. 79 relates. It is predicted that this number will increase as a result of what will happen in respect of the 14,000 people who are currently in receipt of mortgage interest supplement. Community welfare officers are obliged, after a period of 12 months, to inform those in receipt of the supplement that it will no longer be paid and that they must make alternative arrangements. In such

circumstances, the only option usually open to those who have been in receipt of it for 12 months is to engage with their banks in respect of losing their homes.

The Minister will state that the programme for Government envisages a series of measures that will be put in place in the future. The time for envisaging is long gone. Amendment No. 79 does not envision, it suggests how direct action might be taken in respect of this issue. I look forward to the Minister's reply. However, it is critical that he take on board the fact that he has a duty of care in this area.

The ESRI compiled a report on negative equity, as did my colleague, Deputy Wall. The ESRI report indicates that by the end of the year almost 200,000 homes will be in negative equity. This shows that over a period of 12 to 18 months there has been a complete reversal in people's fortunes.

Deputy Brian Lenihan

I am sure there are many people around the Houses whose homes are in negative equity.

An Leas-Cheann Comhairle

This is an important group of amendments and as the list of speakers is lengthy, we must progress more quickly, if possible.

Deputy Ciarán Lynch

Mortgage interest supplement has doubled since 2007. It has increased by 200%. The Minister for Finance told us on the night he introduced the bank guarantee scheme that the fundamentals were sound, a mantra that has been stated again and again. The same mantra is being applied to the issue of mortgage debt in this country. The fundamentals are far from sound. It may be that one million mortgages have been drawn down, but thousands of people in this country are in

fear of having their homes repossessed. I call on the Minister to accept the Labour Party amendment.

Deputy Joe Costello

As the Leas-Cheann Comhairle stated, the cluster of amendments before us is important. They are reflected in the statement about the function of the NAMA legislation, namely, to stabilise the banking system and to ensure a flow of credit to the institutions of the State, small and medium-size enterprises and citizens, who are the life blood of the economy.

There is not much sense in us propping up the banks, providing a bailout for the lending institutions, unless they do what they are required to do, which is to lend money. The problem is that they have not been lending thus far despite the fact that various moneys and guarantees have been put their way. I refer again to the European Investment Bank that has made money available specifically for this purpose but which has not been drawn down by the banks or financial institutions which have redefined the manner in which they do business with small and medium-size enterprises.

If we do not ensure the banks and financial institutions resume lending to small and medium-size enterprises or ordinary citizens with mortgages, we will not have conducted our business satisfactorily. The problem I have with amendment No. 127 in the Minister's name is that it is extremely tentative. It merely states that the Minister may draw up guidelines in regard to particular matters. We cannot leave this House with only that tentative arrangement in place. The Minister will have to be far more specific. I acknowledge the Minister has indicated that he intends to draw up guidelines but this is not provided for in the legislation. It should be included in the legislation that the Minister will draw up guidelines and he should specify what they will be.

Are guidelines enough? How can the Minister ensure that the banks will adhere to guidelines? This can only be done if provision in this regard is enshrined in the

legislation. The Minister may put in place guidelines and the banks might totally disregard them. Did the banks improve credit flow when the Minister introduced the €500 billion bank guarantee scheme or provided €7 million to Anglo Irish Bank, Bank of Ireland and Allied Irish Bank? They did not. Small and medium-size enterprises continue to be unable to access credit. The danger is that we will commit €54 billion of taxpayers' money without obtaining anything in return. The Minister is the one carrying the ball and must ensure that he does not drop it.

What is required is what comes from the Oireachtas rather than what the banks want. The banks want guidelines and targets; that is all they want. I have no doubt that is what they told the Minister, but what do we in this House want? We represent mortgage holders and the business community. We are elected to ensure that everything works and functions effectively for the Irish people and business community. If we do not do so, we do not represent the people properly. I am concerned, in terms of the tentative nature in which the Minister expresses his commitment to deal with small and medium-size enterprises and mortgage holders, that he will draw up guidelines for the banks and that will be it.

Regarding mortgage holders, Deputy Ciarán Lynch referred to the appalling scenario of 200,000 people in negative equity. This serious negative equity is not of the type being experienced by the Minister or me in terms of the mortgages we may have taken out some time ago. It is negative equity that came about in 2006 and 2007 at the height of the property bubble, when we were building 90,000 houses per annum, almost as many as were being built in England. People are in serious negative equity. There has been an approximate doubling in the number of households in receipt of mortgage interest supplement in the past 12 months. The financial institutions are making no contribution to this. The Department of Social and Family Affairs is paying out this supplement with the remainder of the mortgage being met by the householder.

What are the banks doing? What is the nature of their arrears extension? I would like to see the breakdown in this regard. It would be interesting to learn how many of them have arranged for interest only payments. We need that information. The

key difficulty is that we could leave this Chamber with legislation which incorporates the provision proposed in amendment No. 127 without knowing the content of the regulations which the Minister will draw up or knowing whether he will do so. The Minister has stated that he will draw up guidelines. However, if only guidelines are set down, we will have done a poor day's work in this House. The Minister, following his return from the Seanad debate on this legislation, should commit to amendment No. 127 being jettisoned and to introducing a stronger provision that reflects the views of this House and not those of the financial institutions.

Deputy Seymour Crawford

I welcome the opportunity to speak on this group of amendments which are critical to our situation. Banks have, in recent years, got an extremely bad name. A lack of control and effort on the part of those in charge has left us in this mess.

The availability of credit, as provided for in the amendments, is critical to the future of our country. As stated, we will not tax ourselves out of this mess; we will have to work ourselves out of it. If we do not create and retain jobs, we will get nowhere. I appreciate that one of the amendments we are discussing has been tabled by the Minister. However, like others, I do not believe it is strong enough. Given the amount of capital we are putting into the banks on behalf of the taxpayers of this country, we must be stronger if we are to ensure that those justified in obtaining credit get it, thus ensuring the creation and retention of jobs.

It is not only new borrowers who are encountering problems with the financial institutions. Some of the credit institutions in my area are, unfortunately, outside the NAMA structure, including Ulster Bank, National Irish Bank and ACCBank. Some of the requests being made of people in respect of the restructuring of loans is making the process impossible. The institutions are not refusing loans but are putting in caveats which make it impossible for people to continue with the process or draw down loans. This must stop. That the banks were completely and

utterly careless and totally irresponsible in respect of money lending in the past does not mean they should be allowed to operate this type of structure now.

An Leas-Cheann Comhairle

I am loath to interrupt Deputy Crawford but, by order of the House, the Dáil must suspend now for one hour.

Sitting suspended at 1.30 p.m. and resumed at 2.30 p.m.

Deputy Seymour Crawford

The issue of the availability of finance has been discussed by my colleague, Deputy Richard Bruton, the Minister and many others. This is the nub of the Bill. If we do not ensure finance is made available to small businesses and others, there is no chance of us getting out of the current difficulty. I urge the Minister to strengthen his amendment to the Bill. There is no use in using the word "may" because that means nothing. This must be changed to "will" if it is to mean anything.

I have come across small businesses that are being asked to do the impossible by banks. One business I was in contact with recently wanted to have its loan restructured and had already paid off approximately a quarter of what was owed. The loan related to investment land that the business was walked into purchasing and had missed the opportunity to get out of. The owner of the business told me the banks wanted the money repaid within six months, wherever the money came from. There was no such thing as renegotiation or an extension of time. The banks did not care whether repaying the loan involved the sale of the family home or whatever. When I talked to the senior banker dealing with the issue, I was told that was normal. I do not see anything normal about such situations. This should not be allowed.

I received a telephone call the other day from a person involved in the milling business who supplies meal to pig farmers. He explained the seriousness of the

situation that industry is in to me, simply because business people cannot get their loans extended or revised. He told me pigs would be dying by Christmas if something is not done. This demonstrates how serious the issue of finance is currently. The issue must be addressed.

I participated in the British-Irish Parliamentary Assembly in Swansea the week before last. The junior Minister from the Welsh Assembly with responsibility for skills emphasised the fact that Wales also had a banking problem, but the Welsh Assembly was providing funds to businesses that could show they had a reasonable chance of success so as to ensure that they would not go under. NAMA may be the answer here for the long term, but we must consider some other answer for the short term, particularly for mortgage holders, small businesses and farmers. These are important sectors and should not be ignored. ACC and NIB have been mentioned as being the most difficult to deal with where businesses are concerned. They are not part of NAMA, but they cannot be ignored when it comes to finance and lending. ACC is winding down and getting out of business here, but we must ensure that it does not take other people out with it.

As a Deputy representing a Border county, I appreciate the fact the Minister has taken account of those non-NAMA banks in other parts of the Bill. This is necessary because in many cases non-NAMA banks are part owners of property in which NAMA banks are involved. We must deal with these in a sympathetic way.

During the last crisis in farming, many farmers got out of their difficulties by selling sites. I wish to warn the Minister that he should be very careful that the 80% tax does not affect such situations. If a farmer or business person needed to sell off a site in order to retain liquidity, it would be senseless and pointless to make them pay 80% tax on the sale. The tax is penal and while I understand there may be reasons for it, the issue must be handled carefully. I urge the Minister to make it clear that such people will not be affected by the tax.

Deputy Frank Fahey

I reiterate the important points that have been made by previous speakers with regard to the guidelines. I welcome their introduction and fully understand the constraints on the Minister with regard to telling the banks what to do or how to run their businesses. The Minister cannot do that. We saw an example of this when Permanent TSB raised its interest rates. While this was a cause of great annoyance to many, the Minister could not interfere. I accept this situation and believe the guidelines for which the Minister is now legislating and which will be put in place are of critical importance.

The regulator already has significant regulatory powers over the banks. Will the Minister outline those powers for us? As Minister, he has some discretion with regard to the banks and perhaps he will comment on that. It is critical that the €54 billion to be given to the banks is utilised in the best way and lent to the economy at sustainable interest rates. Sustainable interest rates are equally as important as the lending of the money. As I have said previously, I have information to the effect that AIB has informed its managers that it wants them to lend money for new projects at 4% above the cost of funds. That is unacceptable when AIB is receiving an investment of money from NAMA. If AIB and Bank of Ireland borrow at 1.5% from the ECB, on the basis of the bonds being issued, there should be a range of interest rates in which that money will be lent. None of us wants to dictate what that range should be, but we must ensure the range is at a sustainable level for Irish businesses.

It is important that a provision is included in the guidelines to monitor lending patterns of the main institutions, particularly Bank of Ireland and AIB, on an ongoing or monthly basis. Is it possible for this to be done? It should be broken down to show the regions in which they are lending in Ireland and elsewhere and the interest rates they are charging.

It is equally important that credit policy for existing customers is monitored carefully. There is ample evidence that banks are calling in their best customers and increasing their interest rates from 1.5% to 3%, particularly customers with cash flow difficulties, something that is unacceptable. It is critically important that banks

continue to use the interest-only mechanism. They gave out interest-only loans and mortgages during the good times and it is now vital they do so during these bad times.

There is clearly a policy in Bank of Ireland and AIB to get the money in. I appreciate why but no regard is being shown to customers in that policy. I have evidence of customers who are paying their interest and principal until they are dried up and the bank then telling them to go to hell. That is not acceptable in regard to the regime that existed in the good times. From the beginning of 2003 they increased their lending by €220 billion in the four-year period up to the start of 2007. During the debate last week, I had a call from a manager in one of the two main institutions in Dublin. He told me that he was being pushed to give out money during those four years and was being paid a bonus for doing so. Now he is being pushed to ignore the situation of those customers and simply get it back, irrespective of whether it brings the business to its knees or not. That is not acceptable and the banks must be responsible in the way they treat good customers. It seems they are going after good customers to get their money back as soon as possible.

For that reason the Minister must ensure that when the NAMA money comes into the banks, they lend it responsibly. We are not asking them to increase their risk, we are asking them to go back to the prudent and cautious lending they were famous for before they increased their outstanding credit by €220 billion.

This debate has been very good, with good points made by the Opposition. There has been some criticism, however, of the €240 million that will be paid out in fees per year over the ten years of NAMA. That is the most important €240 million that will be spent in this State in each of those years. My worry about NAMA is that we will not have the best people who are at arm's length from the industry and who are capable of managing this property portfolio to a successful and profitable conclusion. It is therefore vital that we employ the best people who are at arm's length and if that means paying the top people good money to ensure that this portfolio is managed to a profitable conclusion, it is money well spent. I would far

prefer to see €240 million spent that way than €120 million being spent and our missing out on the best expertise available for the work NAMA must do.

Deputy Burton's mentioned the €28 million that is being put into Anglo Irish Bank

Deputy Joan Burton

It is €28 billion.

Deputy Frank Fahey

—and €8 billion into Irish Nationwide.

Deputy Kieran O'Donnell

If only it was €28 million.

Deputy Frank Fahey

In one sense Anglo Irish Bank is a zombie bank, it is an institution we are all disappointed in for what it did, but from now on, Anglo Irish Bank could become critical to the successful recovery of the property sector. NAMA will be the bad bank for it which, when it loses its toxic debt, can become a good bank. I predict that many of the Anglo Irish Bank assets will be among the best that will come into the ownership of NAMA, particularly in the US and Britain. The NAMA assets that will be taken over there will be the first assets that will yield profit for NAMA.

Deputy Kieran O'Donnell

What about the Irish assets?

Deputy Frank Fahey

The Irish assets have the same chance of being successful as assets of Bank of Ireland or AIB.

Deputy Kieran O'Donnell

Why was Anglo Irish Bank nationalised then?

Deputy Frank Fahey

For the simple reason that the bank would have gone under otherwise. I am not trying to score points here, I am making the point that the assets of Anglo Irish Bank could be worked through with NAMA to become profitable again, particularly the assets outside the State.

We have dealt with the master SPV but I would like the Minister to indicate what the other SPVs will do. We have heard a great deal about the Zoe group. Is it possible that the Zoe group would become an SPV so its assets can be worked through to a profitable conclusion? I would assume in that scenario that the owners of those companies would be liquidated immediately.

Deputy Terence Flanagan

I fully support these amendments, particularly amendments Nos. 29, 32 and 78, the Fine Gael amendments that aim to get credit flowing again to businesses and to get the economy moving again. There is, however, an information deficit on this side of the House, particularly on the Minister's thinking on lending for businesses and the guidelines for the banks. We need to know what the reporting structures for the banks will be like and how often they will report to the Oireachtas so we can see clearly that normal lending is taking place again.

The Fine Gael amendments are much more specific than the Government amendments, although they are not fully prescriptive. They set out what the guidelines should cover, such as start-up businesses and credit lines to existing

businesses. We should also know why cases are being declined by the banks and the criteria they are using to assess applications. It is critical that provisions are set in place to ensure the banks use this money to get businesses functioning properly. The last thing we want is for the money to be used for other purposes.

Amendment No. 79, tabled by the Labour Party, seeks a two-year moratorium on repossessions. The Minister's head is in the sand. The Master of the High Court stated that there would be an avalanche of repossessions in the coming years. It does not help that the sub-prime industry is not regulated. A total of 18 applications for repossessions were granted earlier this week. Repossessions are mainly in the sub-prime sector. The Minister is not doing enough to put proper regulations in place to deal with such firms. We are told that 35,000 will be in mortgage arrears next year and some homeowners are working their way through the lump sums they may have received in redundancy packages. That money is not infinite. Over time these people will fall into great difficulty.

The Bill offers significant help to banks, developers and others but there is nothing in it for homeowners. Deputy Bruton tabled an amendment which I am sorry to see was shot down. The Minister must do something to help those in difficulty. Where is the NAMA for those people? Where do they get help and support? I urge the Minister to look sympathetically on Fine Gael's scheme which targets homeowners in difficulty.

Deputy Ulick Burke

I am not sure whether, because of his involvement with this Bill, the Minister is fully aware of what is happening at ground level in the banks which consistently refuse funds to legitimate enterprises. I was saddened approximately five weeks ago by two instances of the many that we all come across. In the first an important, active, reliable, fully-resourced and long-established food industry that had a good credit record won a valuable import contract from an overseas company for the whole of Ireland. It is a small industry that won national recognition. To extend the business and fulfil this contract it required a loan of €25,000 but every institution, local and

national, including the one with which it had a long and favourable association, declined the loan. The company lost that opportunity.

Lack of cash is causing the loss of jobs from small enterprises left, right and centre. The AIB and Bank of Ireland declined this loan. Does the Minister intend to intervene at any level and if so how? He has put a great deal of money from national resources into the banks but they are hoarding it. Few are making resources available but those who are do so at rates that are out of kilter with reality.

I have another example that will give the Minister an insight into what the banks are doing. During the recent fine weather a grain farmer in my locality went out to harvest but after four or five hours his combine harvester seized up. He wanted an instant response from the bank to get a new or second-hand machine. He approached his bank where he had no previous difficulty, and went to every leasing agency and other lending institution but none would provide the money. He asked the bank manager would he allow the cereals to rot in the fields rather than give him the money. It was in his interest to complete the harvest so that he could pay off his loan but the manager said, "Yes. It can rot in the fields". The Minister must intervene in some way to direct those people. Does he or do his officials liaise in any way with the banks to ensure that this will not continue? They are two simple examples of everyday life that is being stifled.

How can the banks justify their current policy of stifling every opportunity presented to them if we hope to generate new jobs when there are 412,000 people unemployed? Many inventive people who want to start up or expand businesses, even in this terrible climate, are being stifled. Whatever the guidelines or directions, if the Minister does not act to get this off the ground he will have to accept that it is a failure. The banks are running riot behind his back. Their local autonomy is gone. Everything, even a statement, has to be presented with an application for funding and assessed in Dublin where faceless individuals say "No" in practically every instance. The Minister has to intervene to some degree to ensure that resources are made available in this kind of situation.

Deputy Michael D. Higgins

I will be brief because there are other groups of amendments that we have yet to discuss. It makes some sense to group related amendments and to be flexible about that to use the time to hit the most serious issues upon which there may be disagreement. This group deals with a few core elements connected with the Minister's strategy for re-funding the banks and the real economy. The banking sector is not meeting the needs of the real economy. The Minister's statement that we need to get NAMA in place to ensure liquidity in the real economy becomes rhetorical unless there are mechanisms in place to ensure that there is a sufficient departure from the recent banking culture as to re-engage or engage for the first time with the real economy.

The Minister's response to the spirit of these amendments is his amendment No. 127 which recognises the importance of the connection but states that the Minister "may" which makes the sponsors of the other amendments perceive it as weak. A further problem arises where the amendment states:

The Minister may issue guidelines—

(a) regarding lending practices and procedures to facilitate the availability of credit to classes of borrowers or potential borrowers including small and medium sized enterprises,

The banks, feeling bound by that, will come to the Minister with the usual plethora of advertisements for new business and issue statements in different parts of the media to the effect that they are open for business.

The Minister's amendment continues:

(b) relating to the review of decisions of participating institutions to refuse credit facilities.

(2) A participating institution shall comply with any guidelines issued under subsection (1).”.

The group of Fine Gael amendments, of which there are four in number, has considerable merit because they require publication of what happens with the guidelines. That kind of transparency is absolutely essential. Not only is general transparency required, there must also be measures that can call people to account. There are no sanctions and no procedures to ensure compliance. How will compliance be managed?

There is the keep-the-racket-on-the-road argument. If the Minister's wording were any stronger in his amendment, he would encourage the banks to take on a whole series of bad ventures which would in turn lead to a renewal of the problem. I do not accept that for a second. The Minister has gone some way. However, his rhetorical acceptance of the argument has to be translated into what he seemed to have accepted on Committee Stage — that is the importance of legal prescription. The argument about amendment No. 127 is about its sufficiency to achieve what appeared to be consensus.

The Labour Party's amendments Nos. 10, 79 and 80 deal with the important issue of repossession. Some significant social benefit of the NAMA model must be shown as a reassurance to those who are finding themselves in mortgage difficulties. Such a move would be a significant benchmark to establishing some kind of principle that people could accept the NAMA measures. Regarding the behaviour being investigated by the Financial Regulator and even the Garda Síochána, there is no point in saying that we all are in this. We all were not in that. There is a definite group of people who destroyed the reputation of the country and brought the credibility of the banking system into disrepute. None of them is representative of general Irish society.

The legislation will benefit from reassurance that there will be breaks in repossessions that will allow people to enjoy the certainty of their homes. The home is not a simple asset, collateral or a gambling debt, like many of these debts in

Anglo Irish Bank or other niche banks. All of this means — a significant concession — a straightening of the principle accepted in amendment No. 127.

Amendment No. 80 concerns itself with the supply of credit to small businesses. There is a huge gap between what is printed and what is said publicly on this matter. Deputies on all sides of the House have had the experience of outrageous examples being offered every day of people borrowing from family members to keep a small business payroll going. I repeat again for the record the cases of transferring illegally from other accounts to maintain term loans. Outrageous surcharges meanwhile are being introduced by the banks and many business people, believing they had a contractual relationship for their short-term needs, suddenly discovering it has all changed.

If the Minister wants public acceptance of this legislation, he must be able to say to the public that it will not be more of the same. He must say we will ensure those who were lured into having mortgages that they cannot sustain, those desperately trying to keep people in employment while facing credit flow problems and those being driven out of employment will have something to gain from it.

That was the importance behind the earlier group of amendments dealing with the concept of economic and social development and value. The Minister has an opportunity in accepting these amendments to put down benchmarks that will be of assistance to him even beyond the remit of this legislation. While the general public will take the burden of this and other matters, it must be able to perceive the clear dividends in an identifiable way.

How can we ensure the guidelines, which everyone accepts as necessary, will be complied with? With the State guarantee in place and when the bonds are issued, there is not a single jot of empirical evidence to suggest the banks will do anything else but use it to make their international trading environment better. Some may say they got such a fright, they will not try it again. However, there is no evidence that they will not do that. We need assurance on this issue.

Why are we making these points in the Parliament? Why do we not read more about it from IBEC and Chambers of Commerce meetings? The answer is that it is because of the disproportionate representation of bankers on IBEC and the Chambers of Commerce. They come up to you late at night and say we will probably be driven back to the old days. It is as if we were going back to a time when the bank manager would buy the pink pages of the Financial Times to show he was an intellectual who understood the stock market. No one is suggesting this; people just want them to be responsible. IBEC and the Chambers of Commerce are staying quiet as mice while all around them small businesses, employing three to 20 employees, are being bled dry by bankers who in turn will say they have no control over this. That is why Government action is necessary with the social guarantee across these dimensions that these amendments represent.

Deputy Frank Fahey

Hear, hear.

Deputy Richard Bruton

I welcome the Minister's amendment and the tenor of all the amendments being discussed. Initially the Minister resisted them but did come around to the view that the legislation would be enhanced if it had solid guidelines.

It is important as to how the Minister will handle the reporting arrangements in respect of these commitments. After recapitalisation occurred there was a great deal of spin rather than actual hard evidence from the financial institutions as to the extent to which they made commitments to the SME sector. One would expect the Central Bank to provide good evidence of what is happening in SME lending but it does not provide reliable statistics that we can judge independently. The Mazars report was superficial in its dealing with the real situation on the ground.

An important element is not just the guidelines but the reporting arrangements introduced in respect of them. Fine Gael's proposed Oireachtas scrutiny committee,

if accepted, would have received the reports from the financial institutions as to their commitments. The Minister is taking a greater step beyond where he was with recapitalisation. He now has a legitimate expectation that the banks will show cause. The Minister needs to not only publish his guidelines for us to have sight of them – ideally before this Bill is completed – but to spell out the reporting arrangements. We should not only be exposed to PR spin. Deputies have told the Minister endless stories of cases that appear to be genuine. There can be instances where people, who may be unbankable, as it were, will put forward a strong case for funding for a proposal that does not have a strong case. If we are not to have endless disputes and people caught in the middle and exposed, we need something authoritative.

We discussed the homeowner's code, which was introduced after the first guarantee was given, but we have gone an awful long way further since then. The only change was an extension from six to 12 months in respect of the recapitalised institutions. That is not sufficient when we are dealing with a crisis, which the ESRI indicates could involve 35,000 repossessions. The Minister has the authority of the Dáil to demand of the institutions, and to insert in his guidelines, something that is more credible and more fully addresses the problem in respect of homes under threat of repossession and the conduct of institutions in that regard. Admittedly, people must make genuine efforts, but if they do that, we expect, as Deputy Morgan's amendment suggests, that the financial institutions must give something in return. The Minister needs to firm up on that.

The cost of funding the banks will decrease considerably as a result of the flow of €54 billion to them. They will have funds of €54 billion at an interest rate of 1.5%. Their average cost of funds now is 3% or 3.5%. There should be scope and an expectation that there would be reduced mark-ups, that the cost of funds would be reduced and that there would be fewer instances of the terrible renegotiation fees applying to people with mortgages. If the Minister is facilitating the banks with a lower cost of funds, there is an expectation that such reductions would be passed on to the customers as well.

I will not go through our amendment in detail as it speaks for itself. One area the Minister needs to examine is the purposes for which these funds will be used other than for extending credit. The potential exists for funds to be used to acquire other businesses, to do things that are all about strengthening the shareholder position and not about providing greater credit in the economy. Banks are already involved in overseas initiatives which they are currently funding. While no one is saying that banks cannot consider profitable enterprises elsewhere, we must ensure that this is not done to the disadvantage of home credit availability.

I welcome the Minister's move in this respect, but I would like to see it amplified. I would like to see detail of it and the reporting arrangements set out.

Deputy Brian Lenihan

The time has come for me speak to my amendment and then I will respond to the various comments made in what was a very useful debate.

I indicated during the Committee Stage debate last week that I would amend the Bill to provide the Minister with a power to issue guidelines to the participating institutions on lending practices and procedures to improve the flow of credit to small and medium-sized enterprises and, if necessary, to other sectors. The power is a wide-ranging one. It will allow for a response adapted to the particular circumstances of different industries, sectors and institutions. The approach recognises that this is a complex situation and allows for a flexible response to changing credit needs. That is one of the reason the word "may" was used rather "shall" because the word "may" gives the Minister more permissive powers to intervene than the word "shall", which imposes a solitary obligation. This is an ongoing responsibility which will be vested in the Minister. The imperative character of the section can be seen in subsection (2) which provides that "a participating institutional shall comply with any guidelines issued" under the subsection. That is the important imperative mood in the amendment.

I consider that the banks are generally in the best position to make the commercial decision on whether to make credit available for a particular business proposition. They are familiar with their existing customer base. They have considerable expertise in analysing these propositions, including the terms and conditions under which they are prepared to lend. That all assumes a well-funded banking sector. However, there is a danger that the banks have become too risk averse and are refusing credit when the business would be in a position to repay the loan. There is also a danger that, starved of cash, the banks, in any event, are not in position to afford adequate credit.

It is clearly in the interests of the banks to lend to small and medium-sized enterprises which will be able to repay the loans. That is the business of the banks and they derive their income by charging interest on the credit provided. We need to be clear that it is not in the interests of the banks or the economy for the banks to lend to businesses that cannot repay the loans. This is the cause of some of the difficulties in which we currently find ourselves.

However, when the banks become too risk averse and refuse to lend to viable businesses, a self-fulfilling prophecy can develop whereby businesses become less viable because they cannot get finance for much needed working capital and cash flow. If one listened, as I have with great care, to many debates, one will note that the essence of the problem is the availability of much needed working capital and cash flow for businesses that are already operating in the State.

The demand survey conducted by Mazars found that the most common reasons for requests for new credit were for working capital and cash flow reasons, to address declines in business revenues and to support a slowdown in debtor collection. These are areas which I will have to consider in the guidelines to participating institutions.

I have always made it clear that the agency will make it possible for banks to lend to the real economy on a greater scale than would otherwise be the case. The purpose of this amendment is to provide the power to make sure that the NAMA

benefits can be translated into a freer flow of credit to viable businesses and, if necessary, to other sectors.

As well as guidelines on the lending practices and procedures – this is an important issue arising out of the reservations Deputy Higgins expressed about the form of the amendment – the amendment permits the issuing of guidelines relating to the review of decisions of participating institutions to refuse credit facilities. It would be possible, for example, under this section to designate a pool of lending which would be available to an appeal body to directly provide credit in the event of a refusal by a participating institution. Deputy Higgins was rightly exercised about the question of how one would enforce the guidelines in the absence of compliance. That is why I have provided a separate paragraph (b) in subsection (1) relating to the review of decisions of participating institutions to refuse credit facilities. I agree that the mere issuing of guidelines and the submission of a report of compliance with guidelines will not meet the type of case, which all of us have encountered and many Members have mentioned in the course of this debate.

We are all familiar with the complaints of those who cannot get credit. The banks will rightly say that some businesses are not capable of supporting the level of credit sought, and that it would not be appropriate to make certain loans. However, we know that banks are imperfect institutions, capable of mistakes, and business men and women are entitled to be sure that their applications have had a proper hearing. It is clear, therefore, that there is a need for an appeal mechanism to review decisions of the banks in this area. This is a complex area and it needs to be teased out with the banks. I reject utterly the suggestion Deputy Costello mentioned that the form of this section in some sense originated with the banking sector. The banks have not been consulted about the formulation of this section. My officials have worked on this section and prepared it for me, having listened to the debate in this House. This is a complex area and it needs to be teased out now with the relevant institutions. If the House adopts the amendment I propose, I believe it will strengthen my hand in my discussions with banking institutions. My objective is to ensure there are mechanisms in place, with a strong input from

outside the institutions, to allow potential borrowers a right of review where credit is refused. Discussions are ongoing on how this can best be achieved.

I would like to go through the contributions that were made to the debate, which were very useful but require fairly detailed examination. Deputy Morgan rightly made the point that we have moved from a position where there was too much credit to one where we now have too little credit. There is a balance here. It is clear from changing the regulatory system that banks will be far more risk averse in the next decade than they were in the past decade. That was a crucial element in arriving at a final figure for the valuation of assets which NAMA is acquiring.

Deputy O'Donnell also raised the question of credit. I should have said to the House that another Mazars report will be forthcoming at the end of the month. The Deputies were dissatisfied with the original Mazars report. In fairness to Mazars, that was its first bite.

Deputy Kieran O'Donnell

I have no criticism of Mazars.

Deputy Brian Lenihan

Good.

Deputy Kieran O'Donnell

It was curtailed by the information available from the banks.

Deputy Brian Lenihan

Exactly. That is why we must dig deeper and there is another report due at the end of the month covering the quarterly period to the end of September. That type of exercise is important.

One of the big difficulties in accessing the information in the course of an exercise like Mazars — I went through the report in great detail and was briefed on it — is that it does not track informal refusal. The bank has a formal record of applications and refusals, but if the bank manager says to Deputy Higgins, as a customer, not to bother filling out that form because he will not get a loan anyway, that will not emerge in a Mazars-type exercise.

Deputy Michael D. Higgins

It is quite usual.

Acting Chairman (Deputy Seán Ardagh)

Does it happen often to Deputy Higgins?

Deputy Brian Lenihan

That is one of the difficulties with that type of analysis.

Deputy Michael D. Higgins

I have such a strong credit rating.

Deputy Kieran O'Donnell

On the target report, unless the banks give a breakdown between new and existing business, the report will fail again. Effectively, apart from the fact that it did not give any proper indication of refusals, it gave no breakdown between new and existing business, no breakdown of overdraft facilities withdrawn and no breakdown of new overdraft facilities given.

Deputy Terence Flanagan

And of full draw down.

Deputy Brian Lenihan

That is a crucial question, but I am in possession and I want to complete the point. However, I agree with Deputy O'Donnell on that.

Deputy Burton then made an interesting speech which touched on the economy generally. Of course she is correct to state psychology is crucial here, but to generate the consumer confidence to spend she seeks is not simply a matter of Government intervention or Government stimulus. It is interesting that the hoarding of money by customers who can save began before any retrenchment measures in the autumn of 2008. The period where it started was in the summer of 2008, when depositors started increasing the size of their deposits quite dramatically and curtailing their expenditure.

Deputy Joan Burton

They knew when the Regulator, the Central Bank and the Department did not.

Deputy Brian Lenihan

Yes. In other words, bank customers can smell the breeze as well. Indeed, several weeks before the guarantee was agreed upon by the Government, the chief executives of the two main banks advised me that there was clear evidence of a decline in consumer spending and of excess saving by customers. That pattern had emerged that summer and we saw it in our indirect tax receipts.

Deputy Burton is inclined to speak much of deflation — she raised this during Question Time earlier in the week. It is important to remember that the components of deflation in Ireland are somewhat different from other countries. There are, in fact, three distinct components in it. One is the general deflation that we are seeing worldwide caused by the international recession. One can see, with

countries such as the Federal Republic of Germany and the United Kingdom now envisaging declines in the order of -5% or -6%, how close they are coming to the Irish experience.

What brings our deflation figure somewhat higher? There is a budgetary contribution. We did not have any option in beginning the process of bringing the public finances under control and stabilising them. That was not an optional matter for the State. We tried to balance that with the danger of economic decline. Figures were given in the emergency or supplementary budget in April covering that figure and it did not exceed 2% — it was 1.5% or 2%, to the best of my recollection.

There is a third component in Irish deflation which is almost unique to Ireland. It is caused by the depreciation of sterling and the fact that Ireland's trade balance with the United Kingdom is favourable so that as sterling goods are priced down, the price of purchase — the cost of living in Ireland — falls accordingly. That has been very evident. A neat illustration of it is the fact that, for example, the price of clothing in Ireland declined by 14% up to September last whereas the price of food declined but by 6%. Clearly, a substantial amount of the clothing originated in Ireland is traded into the sterling zone before it is sold in Ireland.

I agree with Deputy Burton that NAMA in a sense can have two functions, one of which is that of the fiscal quantitative mechanism or a wall of cash coming into the economy through the banking system lending money on. However, it also operates, in effect, as a funding mechanism to set up a bad bank for the institutions, which I will not mention but which she mentions frequently here in this House irrespective of what section of the Bill is under consideration.

On the question of the shrinking national cake, Deputy Burton is correct. It has shrunk. We must stabilise it.

Deputy Joan Burton

Not to mention the Jesuits.

Deputy Brian Lenihan

Not to mention which?

Deputy Joan Burton

Not to mention the Jesuits, the bakers of the cake.

Deputy Brian Lenihan

Deputy Burton did not hear me earlier. I made the point it was the Marist Brothers who taught me to add well. I had a good master in arithmetic at primary school.

Deputy Michael D. Higgins

The Jesuit effect was in the rhetoric.

Deputy Brian Lenihan

Correct. There was a considerable native household dimension in that as well, as I am sure Deputy Higgins would agree.

In general, Deputy Burton then turned to the question of household security and home security. She has tabled an amendment on lending to small business. Much of what is provided here, the obligation to increase lending, can be secured through the type of mechanism I outline in my amendment.

Her other amendment relates to the question of repossession, which is a serious issue. I agree with Deputy Rabbitte when he stated that if we are to secure social peace in this era, some tangible reassurance about the roof over a person's head must be a vital aspect of that. However, the mechanism that Deputy Burton advanced on behalf of the Labour Party, and which was mentioned also by several of the Fine Gael Deputies in the course of their contributions here this afternoon, is that there

be a 24 month moratorium. We imposed a 12 month moratorium on Allied Irish Banks and Bank of Ireland as a condition of the recapitalisation. Even that length of moratorium sent alarm bells ringing in rating agencies throughout the world, and we were questioned at length about it. Why should those alarm bells ring?

Deputy Joan Burton

It is because the banks did not like the condition and they pulled the bell. That is the real world of banking, to be honest.

Deputy Brian Lenihan

I do not accept that.

Deputy Joan Burton

I have worked in it. I think I know how these operate.

Deputy Brian Lenihan

They agreed the condition and signed up for it. It was in the capitalisation agreement and, therefore, it was put into the public domain before any rating agency saw it.

The reality of it is that given the range of default in the United Kingdom and the United States where many of these rating agencies originate, and given that the traditional borrower in these countries has been far less reliable than the Irish borrower, there is a cultural read-through being made by the rating agencies on this issue which is unjustified. That is my personal assessment of the position.

The power of the rating agencies is another issue. It is not for today's debate.

Deputy Michael D. Higgins

An unaccountable power.

Deputy Brian Lenihan

It is an unaccountable power, and a serious power in the condign way in which it can be exercised to affect the choices of sovereign governments who are democratically accountable.

Deputy Pat Rabbitte

The other factor is that we do not have anything like the same degree of sub-prime mortgages as there would be in the United States or elsewhere, and applying the same rating criteria—

Deputy Brian Lenihan

I can introduce Deputy Rabbitte to officials from rating agencies and he can be blue in the face explaining this. It has been explained by my officials, I can assure him.

Deputy Joan Burton

Yet the agemcoes got everything wrong in the run-up to the crash.

Deputy Brian Lenihan

Yes.

Deputy Joan Burton

They gave triple "A" ratings to stuff that was from Mars.

Deputy Brian Lenihan

I am not in disagreement on that. We are now on AA-minus — on stable, mind you. The patient has finally stabilised in intensive care, but that is where we are in terms of the rating agencies.

I want to return to the topic because it is an important one. The programme for Government contains clear commitments on it. The Labour Party had a motion yesterday evening debated and decided on in that regard. It is an issue on which we will engage with the banks to see how one can have part-equity arrangements, how one can have interest-only payments and how different mechanisms can be devised to ensure that such basic security remains.

I cannot accept the form of Deputy Burton's amendment. She presented it as enabling me to give a framework. The guideline section, which has been drafted by my officials and which I am submitting here this afternoon, is wide enough to cover this issue as well. The position is that we cannot suggest there will be a two-year moratorium.

I have dealt with most of Deputy Burton's points. Deputy Barrett wanted the word "may" replaced by "shall". The word "may" empowers a Minister to do far more than "shall", which simply imposes an obligation on a Minister. When an obligation is imposed, the terms of the power can often be invoked far more easily in a judicial review proceeding against a Minister. From time to time, I was attracted by it, but I have consulted with the Attorney General over lunch and he assures me and is very insistent that that phrase could raise an issue in regard to other powers in the Bill which are not predicated on an assumption that the Minister will exercise them from time to time. The reality is that once the word "may" is used, the Minister can exercise the power at any time.

Deputy Barrett also suggested these guidelines should be submitted to the Oireachtas. In so far as they are guidelines, I agree that there should be disclosure of them to the Oireachtas and we will make an appropriate provision for that by way of Seanad amendment.

Deputy Ciarán Lynch dealt with the issue of the roof over people's heads and residential mortgage debt. I want to repeat to Deputy Costello that the financial institutions were not consulted about this section. These are guidelines but they are backed up by an appeal mechanism. Deputy Crawford also expressed concern about the credit squeeze.

Deputy Fahey was concerned about the powers of the regulator, which are very extensive under the legislation. Of course, the power of the regulator is to regulate. This power is being conferred upon the Minister because it is a power connected with the whole economic and social development of the State and it is a power directed with the arrangement that is being entered into by the agency, but it is a power that must rest with the Minister. With regard to lending patterns, monitoring regions and external as against home customers, which were issues raised by Deputy Fahey, I will ask my officials to take them up with Mazars for its next report.

Deputy Terence Flanagan also raised questions concerning homeowners and referred to the code of practice on mortgage arrears. This does apply to the sub-prime lenders as I extended it to such lenders earlier this year, so it binds all lenders. The regulator's code of practice is a good one and it applies to these lenders.

Deputy Ulick Burke referred to the question of facilities. It is important for Deputy Burke to note that the appeal mechanism provided for in my amendment will allow such an issue to be considered outside that formal banking structure. It is an important issue and I agree with the Deputy that we need to be in a position to do that.

Deputy Michael D. Higgins again returned to the question of "may", which I have dealt with already. The Deputy also made a number of points, with which I agree, although I am not quite sure I can add much at this stage to the points he raised because I have summarised my own proposal.

Deputy Richard Bruton was anxious about the whole issue of homeowners, as was Deputy Higgins. In a sense, this is a separate issue. Many Deputies have argued that homeowners should be brought within the scope of NAMA. It is entirely understandable that citizens will say to one on the street: "Why can't I have a NAMA?" In fact, in canvassing on the Lisbon referendum in Deputy Terence Flanagan's constituency, a citizen working in one of the shopping centres approached me and asked: "Can I have a NAMA as well, Minister?" He meant it in all sincerity and good faith, and we had a very amiable conversation about it. His point was that somehow the builders were being bailed out and that homeowners should be bailed out as well.

NAMA is not, as I must repeat, a bailout for builders. Were one to transfer a mortgage into NAMA, and were NAMA to buy the mortgage books of the banks, to be commercial NAMA would have to enforce the loans and repossess the properties, and the borrower would be fully liable for whatever sum was owed. That is what would happen if the NAMA model was applied in this context. It is because we are dealing with commercial loans that the full rigour of a NAMA loan can be applied. We all know our approach to, say, developers, and we know the parlous position of some homeowners, though not as many as is being suggested. However, many of those in negative equity are paying their loans, although clearly there has been an increase and there will be a further increase in the degree of default. That will require a structured approach and I do not rule out any measures. However, any measures have to be consistent with maintaining the solvency of the banking system itself.

Deputy Arthur Morgan

I confess to being very worried at this point. The Minister has more or less clapped everybody on the back on this side of the House. Deputy Fahey even thinks it a good debate at this stage. With all those references to religious orders, if I regarded myself as a Catholic, I would be examining my conscience at this stage. I am sure it would come out as positive.

The Minister in his final few words really brought this whole NAMA business back to basics. I am sure the person in Deputy Terence Flanagan's constituency was deadly sincere when he asked for a NAMA for ordinary people. That is what is missing in this Bill, and it is why some of the amendments seek to pull it over the line. While we would still be absolutely opposed to the Bill, we would then at least see something in it for ordinary people and some level of accountability. We could all agree on changing procedures slightly to be able to deal with this debate constructively.

The Minister said the guidelines would be made available to the House. Does he mean at some future point or before this Bill is disposed of? When will his guidelines be made available? His contribution was positive in regard to these matters but not emphatic enough. Perhaps he could give us some indication now as to what he is minded to do with regard to these guidelines. While it would not be worth the paper it is written on, it would at least be on the record. The Minister's amendment will give him a significant opportunity to bring forward what I would regard as fairly enabling guidelines, but I would like to hear more about them.

Deputy Richard Bruton

I welcome the Minister's indication that his guidelines will cover declined cases. We would like to know a little more about the guidelines. He spoke at considerable length about many interesting topics but few of them dealt with the credit guidelines. We need to see some firm indication of the character of the guidelines he is proposing. Specifically, I would like information on the reporting arrangements. Will Mazars be reporting to a format that the Minister specifies and that the banks comply with to provide the information in accordance with the specification that he lays out in order to get accurate information?

The Minister repeatedly says that homeowners are a different matter. However, here he takes a position that he believes that those who go to receive credit from the banks should be subject to the guidelines he sets out. I do not for the life of me see why he should not also state that homeowners who are in certain difficulties with

the banks should have a certain manner of support and that this should develop from the one—

Deputy Brian Lenihan

It could be done. That is correct.

Deputy Richard Bruton

The Minister gave the impression in his response that the matter of homeowners was entirely different, and if homeowners came anywhere near this, they would be swallowed up. That is not fair. The Minister has the scope to do something more constructive for homeowners. Other jurisdictions are doing the sort of things that have been suggested, over a longer period and perhaps with some separate support. While I do not know whether that would be involved, the banks should certainly be contributing significantly towards this.

I welcome the Minister's position but I would like to see the terms of the guidelines pinned down a little. Does the Minister intend that they be made available in the House at an early date? Does he intend to make the reporting available in advance so that experienced people, like the accountants we have here, could examine the type of reporting arrangement the Minister is hoping to impose and consult with small business and other interests so we could have something robust?

Deputy Joan Burton

I thank the Minister for his comments. I still believe the Minister is foolish not to be tougher with the banks. He has a once-off chance, although there is likely to be another opportunity when he is to put large capital injections into both banks. He is foolish not to show that he has legitimate demands on the banks to improve their act in favour of ordinary customers, small and medium enterprises, first-time buyers and pressed home owners.

Senator Ross's book has a chapter about the people who are the "spoofers" of the boom. These are the people who puffed up the boom. A significant number of these people were employed as banking economists. I remember Dr. Dan. Dr. Dan was the man who used to appear on "Morning Ireland" and we would not be able to contain the graph inside the globe, such was the ever upward trajectory.

Deputy Paul Gogarty

We have not heard much from him these days.

Deputy Joan Burton

I do not know what Dr. Dan the man does now.

Deputy Michael D. Higgins

He was the super optimist.

Deputy Joan Burton

He was. He was such an optimist that I often wondered what did he take for his breakfast, because it could not just have been porridge. It must have had something extra special in it. The Minister needs to look at the totality and the composition of the banks' behaviour. They boosted the markets, but that is in the past and they have crashed. Equally, they are not necessarily being entirely forthcoming at the moment about what is happening. They are not telling us about rolled-over debt, overdrafts, term loans and so on. The conditionality and the charges for these loans change, and that gets qualified as something new, rather than as a roll-over. The Minister needs to be very tough with them, and unless he finds some ingenious and inventive ways of following this up, we will all be fooled by them. I think the Minister is foolish not to be much tougher with them in a situation where his capacity to influence them is relatively limited.

He needs a big leap of the imagination to get these guys moving on these issues, because they have no intention of moving. They can produce all the fancy documents they like on instructions to lend a certain amount to the SME sector. These are nothing but fancy documents. In private conversation, they will cheerfully acknowledge that fact, saying that credit risks are bad and so on. There needs to be fresh thinking from the Financial Regulator, the Central Bank and the Department.

I used to have a part-time job when I was a student doing phone collections for one of the big companies in Ireland in those days. So much banking and business is inter-personal. One does not send somebody a guideline and have no follow up. It is a bit like getting the vote. If only leaflets were sent, there would not be many of us here. The Minister needs to go out and talk to people. The people from the Financial Regulator, the Central Bank and the Department need to get real on all of this. This is business. How many people just throw leaflets in the bin? Such leaflets would hit approximately 20% of the target audience. I doubt that people in the banks are desperately anxious to read leaflets from the Department of Finance which contain guidelines to lend more. It will stretch the ingenuity of the Minister and his senior officials, but it must be done if we are going to move on this.

Cash savings are going down at the moment. People seem to be paying off things like credit card debt, and are possibly putting money back in the mattress like they did before the guarantee. We do not know for sure why these savings are going down, but the fact is that they are going down, as we know from Central Bank reports. Just being a nice guy to the banks is not good enough. Fifty four billion is a hell of a lot of niceness. It will be difficult for the banks, but it is desperate for the rest of us if we do not force them to do this.

Deputy Paul Gogarty

Deputy Burton would know much more than I would about being tough, but to be tough we must have the legislation and the regulations in place. Part of the problem we had over the years was that even though we had a lax regulator, we also had very lax regulations. The only way to enforce this is either to nationalise the

institutions in question, or to become the de facto owner. The Minister will time the announcement in accordance with market sensitivities, but even the taxi drivers know the story and they would say that the State is going to have a majority shareholding by the State. In that case, there will exist what Deputy Burton called “the second chance”, because we will be the de facto master of these banks and will have much more input.

I agree with Deputy Burton in one respect. The perception is out there that we are not being tough enough with the banks. I have no doubt that behind closed doors, the Minister has scared the living daylights out of some of the individuals in question, and there will be completely different management at the top over the next two years.

I welcome the fact that the Minister has had some discussion on guidelines for supporting homeowners. I am glad in this instance that he has not decided to enshrine any measures for homeowners in the Bill, because it is totally inappropriate. It is not about that. The terms of reference for the Bill do not specifically mention that. They mention the availability of credit in the economy, protecting taxpayers, and resolving the problems created by the financial crisis. One could argue that the banks are liable to get a little bit tougher with homeowners than before and the small people will be hammered. However, the facts on the ground on repossessions do not indicate that so far, but there is always a risk.

The other remit deals with restoring confidence in the banking sector and contributing to the social and economic development of the State. One thing will lead to the other. If the banks are recapitalised and are able to operate more efficiently without having debt hanging over them in the future, it is in their interests to lend as much as possible as interest rates rise again, and to ensure that people are making whatever repayments they can. The programme for Government has a few commitments in this respect. One of them is about banking reform, and states that the Government and the Financial Regulator will develop new rules on the governance of major financial institutions and a new code of

conduct for the treatment of non-performing loans for small and medium businesses, and that a percentage of lending will be guaranteed to SMEs. There is also a firm commitment to introduce new measures to protect families having difficulties with their home mortgage payments. That is something the Green Party would have pushed for in negotiations, and I am glad it is in there. There is also a commitment to reform debt enforcement in light of the recommendations of the Law Reform Commission, and the related issue of debt collection agencies.

It is clear it is not in the interests of the banking sector to go heavy on the those people who are suffering due to the State's obligations to recapitalise the banks. However, I do not believe this can be let go too far. Given that the Minister responsible for NAMA is also the Minister responsible for the instruments that will ensure mortgage holders are protected, I would be grateful if he could indicate a timeframe on whether any legislation separate to the creation of NAMA will be introduced to protect mortgage holders. Will it be done before next February? We need to have related legislation alongside NAMA implemented as quickly as possible.

No matter what version of NAMA has been touted by Fine Gael or the Labour Party or anyone else, an asset management agency will always be risky. This legislation has inherent risks for the State. Those who are suffering because of negative equity, for example, do not have one iota of belief in what is going on in this House. They need to be reassured. A suggestion has been made that would assist home owners who are in negative equity and in serious danger of falling behind with their payments. It has been suggested that rather than being the sole possessor of that equity, the banks could become shareholders in that equity. People could be allowed to pay their mortgages at normal rates and repay the banks at the end of that process. I am sure such a proposal will be brought before the Oireachtas quickly. The Minister should reassure the House that the Department of Finance is working on such a plan, in parallel to the finalisation of the NAMA process.

Deputy Kieran O'Donnell

I would like to make one or two critical points and get some clarification. Is the Minister using amendment No. 127 as a means of threatening the banks? Rather than issuing guidelines, is he threatening to issue guidelines? Is the Minister committed to issuing guidelines, or is he merely threatening the banks that he may issue guidelines? It is a subtle point, but it is a very important one. Can the Minister clarify when the Mazars report will be completed? Who is paying for it? The point about the distinction between new and existing loans is critical, as is the need for proper disclosure from the banks. What happened with the last Mazars report cannot happen again. Deputy Fahey spoke about what the €240 million fund will be used for, but I would like the Minister to clarify what the €100 million in the SPV will be used for. The Minister has yet to explain what the €49 million of taxpayers' money will be used for. On the need to pay market value for the assets, would it not be better to put €7 billion of taxpayers' money into the banks by way of capital, thereby increasing their tier 1 ratios and taking pressure off the banks' capital ratio requirements? That might make it easier for the banks to lend to small businesses and home owners. It would be a better use of taxpayers' money.

Deputy Paul Gogarty

It might lead to higher interest rates.

Deputy Kieran O'Donnell

It is likely that €47 billion will be paid by way of market value and the rest will be put into the banks. If we owned 51% or more of the banks, we would control their loan books and lending policies without interfering too much with their commercial activities. I am talking about the nationalisation of the banks and the use of taxpayers' money. The Minister's current NAMA mechanism will put much more pressure on the banks' core tier 1 capital than an alternative system would. I suggest that such a system – using market value and putting extra money in by way of ordinary shares in the banks – would have a better effect on NAMA itself, as a vehicle that would acquire assets at market value. It would improve the banks'

core tier 1 capital ratios and thereby ensure they are not under as much pressure to lend.

Deputy Brian Lenihan

I fear that we have returned to Second Stage. I have examined Deputy Morgan's proposal. I do not mean to be critical when I say that the other amendments do not provide for an appeals mechanism. I know the amendments are motivated by the best reasons. The Labour Party amendment is restricted to small and medium sized enterprises and small businesses. There is quite a problem in providing car loans in the State at present. It is important that the Minister is given the flexibility to deal with credit problems as they arise, rather than merely with a particular defined problem that exists now. The nature and scale of the crisis in the institutions is such that it is essential for the Minister to be equipped to deal with any credit problems that affect that economy. That is the purpose of this section of the Bill, as drafted.

Deputy Kieran O'Donnell

I remind the Minister—

Deputy Brian Lenihan

I will deal with the Deputy's questions. Deputy Bruton was concerned to know when we will see the codes of practice and the appeals mechanisms. The codes of practice will be binding on the participating institutions. We will not have participating institutions until this legislation has been adopted and the various institutions have complied with their internal formalities with regard to their participation. The impression is sometimes given in this debate that I will roll €47 billion or €54 billion straight into the banking system next week. While it might be desirable to do that, from one point of view, that is not what will happen under this legislation. As Deputies are aware, it is not likely that there will be a substantial transfer until later this year or early in the new year. It is clear that a code of practice

covering the present problems will have to be in place before that can happen. That will be an essential part of the appeals mechanism. The banks will not receive the money this week, or the week after the commencement of the legislation. Deputy Burton said that we should be tougher with the banks. We are tough. We are giving ourselves the power to regulate the banks' lending and to put in place an appeals mechanism. I find it difficult to see how much further than that we could go at this stage, in this Bill, while maintaining a flexible approach.

Deputy Joan Burton

If the banks owned the Minister, he would come up with many ideas about toughness.

Deputy Brian Lenihan

We know the banks can be very tough with debtors. I assure the Deputy that Ministers can be tough with banks as well. However, we cannot engage in pointless rhetoric in the House. That is not a substitute for policy. Policy requires decisions. Decisions have been taken on this country's banking sector and will continue to be taken. The question of support for the economy is crucial. Deputy O'Donnell asked whether the power that has been conferred on the Minister is intended to be used as a threat, or whether it will actually happen. It is intended for both purposes. It will be used as a threat, but there will—

Deputy Kieran O'Donnell

The Minister is hedging his bets.

Deputy Brian Lenihan

No, I am not. There will also be codes of practice.

Deputy Kieran O'Donnell

When will we see them?

Deputy Brian Lenihan

It is fundamental to recognise that the credit problem we see today might not be the credit problem we will see early next year. It is important that all of the different credit problems are addressed.

Deputy Kieran O'Donnell

Nobody disagrees with that.

Deputy Brian Lenihan

In so far as the credit problems that exist here and now are concerned, my intention is to make an initial informal announcement, in advance of the codes, in approximately six weeks time. However, I do not want to be tied down on the code before we have participation by the institutions.

Deputy Kieran O'Donnell

The Minister expects to produce a code in the next six weeks.

Deputy Brian Lenihan

I expect to make an informal announcement about what is envisaged within six weeks. The actual code will have to await the decision of the institutions to participate in the scheme. The imposition of the code is linked to the participation of the institutions. There is a timescale for the implementation of the legislation.

Deputy Kieran O'Donnell

The Minister is not issuing guidelines.

Deputy Brian Lenihan

I am sorry. I am not a witness under cross-examination. I am in Parliament and I am entitled to speak at this stage.

Deputy Kieran O'Donnell

With respect, the questions I asked were valid.

Deputy Terence Flanagan

They were not answered.

Deputy Kieran O'Donnell

They were valid questions.

Deputy Brian Lenihan

I answered the Deputy's questions.

Deputy Kieran O'Donnell

We are entitled to a response.

Deputy Terence Flanagan

Absolutely.

Deputy Kieran O'Donnell

The Minister is not issuing guidelines.

Deputy Arthur Morgan

These amendments have been tabled to address the concerns of the Opposition — I do not speak for the Opposition as a whole — and the real and genuine concerns of the people. When I speak about home owners, I refer not only to those who hold mortgages, but to their family members. When I speak about small and medium sized enterprises, I refer not only to managers and owners, but also to employees. I am trying to address the genuine and real concerns of working teams that comprise a considerable number of people. I acknowledge that the Minister's amendment, which allows him to intervene, is great. We do not know whether he will intervene, which is the real question. We do not know the extent to which he will or may intervene. We have not had sight of a **draft** of the Minister's guidelines or code, which makes it very difficult for us. To be truthful, I regard the passage of this Bill to date as having taken a rather crooked path. I refer particularly to the introduction of the SPV. The Minister will not be surprised to learn that I feel, to borrow a phrase used by Deputy Bruton earlier in this debate, that if we are to believe what he is saying, we need to put our fingers into the holes in his hands and our fists into the holes in his sides. Deputy Rabbitte said earlier that many examples of absolutely viable enterprises have been given. Deputy Rabbitte stated that many examples have been given. Every Member of the House will have had representations from affected **businesspeople** in recent months. They are desperate to hold on to extremely viable **businesses** but cannot do so because of the lack of funding. That is how serious circumstances are for them. They and their families face unemployment and all the associated hardship and torment.

The group of amendments attempts to deal with the issues that arise for homeowners. Unfortunately the Minister is telling us again he has concerns about these issues and that he acknowledges them. However, I do not see any practical step in the legislation to do anything about home repossession, which is unfair.

The Minister gave the example of a member of the public in Deputy Flanagan's constituency talking to him about what we have been calling "NAMA for ordinary people". There still is no NAMA for ordinary people in the legislation, nor is there any

prospect of it. Therefore, I will press my amendment. It is the only dependable way to try to deal with these matters.

An Ceann Comhairle

The Deputy anticipated my question.

Amendment put.

The Dáil divided: Tá, 68; Níl, 79.

Tá

- Allen, Bernard.
- Bannon, James.
- Barrett, Seán.
- Behan, Joe.
- Breen, Pat.
- Broughan, Thomas P.
- Bruton, Richard.
- Burke, Ulick.
- Burton, Joan.
- Byrne, Catherine.
- Clune, Deirdre.
- Connaughton, Paul.
- Coonan, Noel J.
- Costello, Joe.
- Coveney, Simon.
- Crawford, Seymour.
- Creed, Michael.
- Creighton, Lucinda.
- D'Arcy, Michael.
- Deasy, John.

- Durkan, Bernard J.
- English, Damien.
- Feighan, Frank.
- Ferris, Martin.
- Flanagan, Charles.
- Flanagan, Terence.
- Gilmore, Eamon.
- Hayes, Brian.
- Hayes, Tom.
- Higgins, Michael D.
- Hogan, Phil.
- Howlin, Brendan.
- Kehoe, Paul.
- Lee, George.
- Lynch, Ciarán.
- Lynch, Kathleen.
- McCormack, Pádraic.
- McEntee, Shane.
- McGinley, Dinny.
- McManus, Liz.
- Morgan, Arthur.
- Naughten, Denis.
- Neville, Dan.
- Noonan, Michael.
- Ó Caoláin, Caoimhghín.
- Ó Snodaigh, Aengus.
- O'Donnell, Kieran.
- O'Dowd, Fergus.
- O'Keeffe, Jim.
- O'Mahony, John.
- O'Sullivan, Jan.
- Penrose, Willie.
- Perry, John.

- Quinn, Ruairí.
- Rabbitte, Pat.
- Reilly, James.
- Ring, Michael.
- Shatter, Alan.
- Sheahan, Tom.
- Sherlock, Seán.
- Shortall, Róisín.
- Stagg, Emmet.
- Stanton, David.
- Timmins, Billy.
- Tuffy, Joanna.
- Upton, Mary.
- Varadkar, Leo.
- Wall, Jack.

Níl

- Ahern, Dermot.
- Ahern, Michael.
- Ahern, Noel.
- Andrews, Barry.
- Andrews, Chris.
- Ardagh, Seán.
- Aylward, Bobby.
- Blaney, Niall.
- Brady, Áine.
- Brady, Cyprian.
- Brady, Johnny.
- Browne, John.
- Byrne, Thomas.
- Calleary, Dara.
- Carey, Pat.

- Collins, Niall.
- Conlon, Margaret.
- Connick, Seán.
- Coughlan, Mary.
- Cowen, Brian.
- Cregan, John.
- Cuffe, Ciarán.
- Curran, John.
- Dempsey, Noel.
- Devins, Jimmy.
- Dooley, Timmy.
- Fahey, Frank.
- Finneran, Michael.
- Fitzpatrick, Michael.
- Fleming, Seán.
- Flynn, Beverley.
- Gogarty, Paul.
- Gormley, John.
- Grealish, Noel.
- Hanafin, Mary.
- Harney, Mary.
- Haughey, Seán.
- Hoctor, Máire.
- Kelleher, Billy.
- Kelly, Peter.
- Kenneally, Brendan.
- Kennedy, Michael.
- Killeen, Tony.
- Kitt, Michael P.
- Kitt, Tom.
- Lenihan, Brian.
- Lenihan, Conor.
- Lowry, Michael.

- McEllistrim, Thomas.
- McGrath, Mattie.
- McGrath, Michael.
- McGuinness, John.
- Mansergh, Martin.
- Moloney, John.
- Moynihan, Michael.
- Mulcahy, Michael.
- Nolan, M. J.
- Ó Cuív, Éamon.
- Ó Fearghaíl, Seán.
- O'Brien, Darragh.
- O'Connor, Charlie.
- O'Dea, Willie.
- O'Flynn, Noel.
- O'Hanlon, Rory.
- O'Keeffe, Batt.
- O'Keeffe, Edward.
- O'Rourke, Mary.
- O'Sullivan, Christy.
- Power, Peter.
- Power, Seán.
- Roche, Dick.
- Ryan, Eamon.
- Sargent, Trevor.
- Scanlon, Eamon.
- Smith, Brendan.
- Treacy, Noel.
- Wallace, Mary.
- White, Mary Alexandra.
- Woods, Michael.

Tellers: Tá, Deputies Aengus Ó Snodaigh and Emmet Stagg; Níl, Deputies Pat Carey and John Cregan.

Amendment declared lost.

Amendment No. 11 not moved.

Deputy Joan Burton

I move amendment No.12:

In page 17, between lines 17 and 18, to insert the following:

"3.—Every 30 days NAMA shall report to Dáil Éireann setting out details of its operation including the identities of the owners of, and particulars (including value) of, any assets acquired by it during the period in question valued at over €100,000."

As we know, NAMA is taking over loans, good and bad, but mainly distressed loans with a smaller proportion of some good loans that we do not quite know the context of just yet. In turn, those are loans that were mainly given to people in the property development business. The purpose of the amendment is to ensure that every 30 days NAMA would report to the Dáil setting out details of its operations. We have several other amendments seeking that as well, including the oversight reporting. We also want "the identities of the owners of, and particulars (including value) of, any assets acquired by NAMA during the period in question valued at over €100,000". I seek this in the interest of transparency.

People in the streets and shops of every town and village in Ireland are asking how the banks came to this and who are the people involved. We know there are a top 100 developers and that the top ten to 15 are likely to be dealt with before Christmas. Given the vast amounts of money involved, it is not unreasonable that we should know the identities. If there are legal disputes, and there have been a

number already, the court cases give the full details. It appears to be proving particularly difficult for the Government and the Irish public service to concede the notion that where the State is offering a bailout of €54 billion, with more being provided in the future in terms of cash injections into the banks, the fundamental rules of democratic transparency require that information should be available on who are the beneficiaries and the connected parties.

These are troubled loans which the banks gave to the developers. We are told there are up to 2,000 such loans. It is quite easy to categorise them and to provide summary details. One of the reasons people have so little trust in the Government is that they know it did everything it could to remain in denial for a long period about Anglo Irish Bank and Irish Nationwide being in trouble. That caused the ultimate crash to be far worse, mainly because the former Taoiseach operated in a particular way and Deputy Brian Cowen, as Minister for Finance, could not bring himself to believe that Anglo Irish Bank was going to crash. However, the dogs on the street knew that Anglo Irish Bank's business model was bust. That bank was basically a developers' bank as was clear from the draft report the Department sent to Brussels, which was released to me under the Freedom of Information Act after I spent approximately six months tiptoeing around the Department of Finance. This report showed that as late as 8 January, and the bank was nationalised a couple of days later, the Department of Finance was telling Brussels that this was a niche bank and that it was fundamentally sound.

If we are to get out of this situation, that is, reach the bottom and start upwards again, there must be a great deal of honesty and transparency. The Minister will say there is a sacred bond of confidentiality between a banker and clients, but this is not an ordinary situation. This is an economic emergency, caused by incredibly bad, rash, stupid and greedy behaviour on the part of the bankers and developers. The bankers ought to have exercised caution and said to some of the developers: "Look, €400 million for that site is mad." However, they were getting the fees and the bonuses, so they continued as they were. The amendment aims to provide some level of understanding to citizens about what is involved in this. Again, if the Government envisages having some type of national contract for recovery in which

it is asking people on very modest incomes to take very savage hits, it must show that the harsh medicine Fianna Fáil is anxious to dole out to the little people is somehow balanced by the fact that it will be fearless in disclosing what happened and who owed what, where the amounts are significant.

People regularly ask me why the situation is different in the United States. The case of Bernie Madoff is the most famous but there are others, such as Marc Dreier in New York who defrauded the hedge funds of \$5 billion or \$6 billion and was sentenced to 20 years in jail. It did not merit much coverage in Ireland. In the American system the crash was awful but there was a great deal of transparency about what caused it. It was a similar situation in Sweden. Transparency to the citizens is the beginning of the rebuilding of trust, because people then understand what happened and how awful it was. They can then start to build up again. The approach of the Minister and the Department of Finance arises from a culture where the banks could do no wrong and, therefore, little or nothing in terms of conditionality could be imposed on them. If we are to be rescued from our current position, that culture must change.

On Committee Stage, the Minister said he was not inclined to accept this amendment, although I asked him if he had a better way of framing it while adhering to its principle. Why should somebody get €54 billion, as will happen between that group of banks that are entering this scheme, when, as every Member knows, the local GAA, soccer or tiddlywinks club that receives €100,000 is subject to information disclosure and publication, and rightly so? We take it for granted that the disbursement of public moneys is subject to public information. There is nothing wrong with that. If we learn the names of the various developers, the banking crisis will not worsen. It will simply enable us to come to terms with the situation.

In some ways grief has invaded the country. People are asking where our prosperity went. A total of €66 billion was made from land rezoning in this country in a very short period of time. It is legitimate to ask who was involved and where the money went, and to give citizens that information. Perhaps it will become a tale people

will tell their grandchildren. On the other hand, there are people who will start a business, as people often do in the depths of a recession, and, although this might be a negative role model, if they are in the development business it might encourage them to say: "I will not do that. I will build up my business and put capital into it. I will not be seduced by every bank that keeps upping the ante." This is an essential part of the recovery process for this country.

The Minister might have an alternative way of addressing this. I urge him not to hide behind the veil of the banker-client relationship having the seal of the confessional. Of course that is true with regard to one's daily dealings with the bank and the Revenue Commissioners, and nobody wishes to be prurient about those. However, that is different from the principle of disclosing. In the United States one can go on-line and discover every detail relating to the troubled asset recovery programme, what has happened in the programme, if and when assets have been seized, the Resolution Trust Corporation and so forth. The consequences of some of the information are not always pleasant but at least it makes citizens feel their government has some sense of what took place.

I suspect that, at present, some Government Ministers do not even know to whom this €54 billion relates. We know it is going to the banks, but the banks gave these loans to people in the development business. The bankers and developers behaved in an unbelievably greedy, reckless and mad way. They did not necessarily bring ruin on themselves, although some have, but they have certainly brought a great deal of ruin to a great many ordinary people in this country.

Let us consider the position of small businesses which are currently encountering difficulties in the context of renewing their overdrafts. When the owners of these concerns are obliged to put "Closed" signs in the front window of their premises, everyone in the towns and villages where those businesses are located will discover what is the story in the local pub. If we then consider the case of the so-called maple ten who took on the shares in Anglo Irish Bank when the members of the Quinn family, having spent €1.5 billion, ran out of money – which is understandable

— and could not meet the calls being made on them, then it is obvious that information must be placed in the public domain.

Such information can already be placed in the public domain by journalists. What is wrong, however, with the Government publishing it? At present, at least five investigations are ongoing into the activities of Anglo Irish Bank. It is some 12 months after the difficulties with that institution emerged and we are as wise now as we were then with regard to its activities. When public concern was at its height approximately seven or eight months ago, the Garda raided the offices of Anglo Irish Bank. Since then, there has been nothing but silence. One would think that those making the inquiries had joined the Carmelites and taken a vow of silence. That is not the way to engender a sense of justice, fairness or balance or to allow people to come to terms with their rage and grief regarding the fact that the economy has been ruined and they must start again.

I commend the amendment to the House.

Deputy Paul Gogarty

I note the use of the word "symbolic" by Deputy Burton. In that context, I hope she will not press the amendment and that it is merely a symbolic gesture aimed at trying to—

Deputy Joan Burton

It is not a symbolic gesture.

Deputy Paul Gogarty

In such circumstances, the net effect of the amendment would be shambolic. If one tries to tease out the exact meaning of what the Deputy is suggesting, she is trying to make provision for the micromanagement of a system. That is not to say

that people on this side of the House and elsewhere would not agree with her assertion that there is a need for transparency.

Deputy Burton's amendment refers to any assets valued at over €100,000. That covers virtually everything that comes within NAMA's remit and would result in a huge level of deliberation every 30 days in respect of a large amount of lands and assets. I would argue that it would not be possible to utilise the resources of the State in an effective manner in respect of such a level of micromanagement. Amendment No. 18, which was tabled by my party and on which Deputy Mary Alexandra White will be elaborating in due course should we reach it in time, suggests the introduction of quarterly as opposed to six-monthly reports. I am of the view that quarterly reports would be sufficient, but I am of the view that even this is not the correct route to take in the context of setting out the details of the identities of the owners of the assets to which amendment No. 12 refers.

Perhaps information might be issued on a once-off basis so that people might know the identify of these owners of these assets and the value thereof at a certain point in time. If there were a need to report every 30 days, this would interfere with one of the key provisions of the legislation, namely, that relating to restoring "confidence in the banking sector and to underpin the effect of Government support measures in relation to that sector". NAMA is supposed to break even, and possibly even make a profit, over a provisional ten-year period. In that context, we should not be examining the value of the assets each month to discover whether they are rising in value, particularly as the attendant media speculation would have an impact on the economic well-being of the country. There would be value in considering the position on a year-by-year basis to discover how matters are proceeding. However, doing it every month would be overkill.

Amendment No. 12 also refers to the "identities of the owners of, and particulars (including value) of, any assets acquired by it during the period". It would be good if, at some stage, an exercise were carried out in this regard because it would make matters more transparent for those who are concerned with regard to NAMA and who are extremely angry about what has happened. However, I would like matters

to go further and for legislation to be passed to ensure that all donations given by developers to politicians who, legitimately or otherwise, rezoned land throughout the country might be identified. People would then be in a position to see clearly the link between developers and politicians. It was not just developers who screwed up, it was also those involved in the body politic – not just Members of the Oireachtas but also members of local councils. I would like to see complete rather than partial transparency.

A 30-day reporting process such as that outlined in amendment No. 12 would be both unworkable and undesirable. If, however, Deputy Burton is trying to communicate a symbolic message to the Minister in the hope that he will make provision in this regard at some stage, I would then be in agreement with the general thrust of her amendment. I am of the view that information relating to the identities of the owners of the assets and the particulars relating thereto should be provided at some point. In addition, information should be provided on the relationships these individuals have with politicians. This must be done in the interests of encouraging both transparency and recovery. However, it would not be possible to provide such information every 30 days.

Deputy Arthur Morgan

For a number of reasons, I support the sentiment behind the amendment. The Minister referred to reporting on a quarterly basis. In the ordinary scheme of things, a quarterly report would be sufficient. However, we are not dealing with the ordinary scheme of things. We are dealing with senior bank executives who have continually demonstrated in recent years that they are not worthy of trust. The only way to hold these people to account is to ensure that, at least in the early days of NAMA, they report on a monthly basis. This would ensure beyond a doubt that their practices are reasonable and come within the realms of what might be termed "normal transactions", in so far as anything relating to NAMA might be referred to in that way.

The Minister's offer of a quarterly report represents a genuine effort on his part to meet our concerns. However, a quarterly report is insufficient and that is why I support the amendment.

Deputy Richard Bruton

I support the principle underpinning the amendment, which is slightly different from amendment No. 90 in my name. This is an exceptional situation where the normal rules of confidentiality cannot be applied with an iron fist. We are of the view that a register should be kept. In the first instance, the Comptroller and Auditor General, on behalf of an Oireachtas committee, should have sight of this register. However, where someone defaults, his or her records should be placed in the public domain. We disagree with the Minister's assertion that this should only occur in the event of proceedings being taken by NAMA against an individual.

Amendment No. 90 suggests that where a person fails to meet the terms relating to a credit facility paid for by the taxpayer, it would be in the public interest to publish and make available information in that regard.

It is extraordinary that taxpayers are being obliged to purchase these loans, which were entered into recklessly by those in the banking sector and which have brought the economy to its knees and people to the brink of misery as a result of being made unemployed or the threat that their homes may be repossessed. It is not acceptable, particularly when taxpayers have been obliged to purchase these loans, to adopt the view that these transactions should proceed under a veil of confidentiality or that relationships involved between bankers and clients are commercial in nature.

The Minister is trying to take the principle of confidentiality far too far. The public interest must be defended and, in that context, a proper register must be put in place. This register must be overseen in the correct manner, there must be no sweetheart deals and the money involved must be pursued in a proper way.

We are aware, from information made available by the IMF, that bureaucratic asset recovery systems in other countries have not been successful in recovering moneys on behalf of taxpayers. We are going down the route of putting in place a bureaucratic structure and we must, therefore, try to introduce the transparent incentives that will promote the creation of an effective asset recovery mechanism.

The principle which underpins the public's right to know is important. Amendment No. 90 is slightly different from amendment No. 12 in that it identifies default as being the trigger, particularly as it appears that people who are in entirely good standing with their banks will have their assets transferred to NAMA. These individuals should have a legitimate hope that they might continue to have their projects banked, even though those projects might be transferred to NAMA under the broad terms set down by the Minister. Transparency and the public's right to know must be at the heart of this where a loan is not fully performing and all the obligations are being met by the borrower. That important principle is reflected in the amendment we are now discussing and in amendment No. 90 in my name and that of Deputy O'Donnell.

Deputy Mary Alexandra White

While I agree in principle that more transparency and regulation is what we need, I believe, coming from a business background, that having a forensic audit every 30 days would not be practical. It would put a huge onus on a vast volume of financial transactions taking place within any 30-day working period. I agree that there must be an end to light touch regulation. We now have a new regulator in place and directors on the boards of banks will change during the next couple of years.

I am happy to say that the Green Party sought strong amendment to the Bill, namely, that there be quarterly rather than biannual reporting and that such reports would be laid before the House, which is good. This matter is addressed further in amendment No. 18.

What got us into this appalling mess was a lack of tough regulation and scrutiny. Were I to run my small business in that manner I would be bankrupt. We must ensure there is in place good, tough regulation and the most stringent oversight of what is happening in our financial markets. While I support the thrust of Deputy Burton's amendment I believe that over-regulation and the burden of scrutinising the volume of work going through NAMA in any 30-day working period is simply untenable. I believe the requirement for quarterly reporting should be sufficient.

An Leas-Cheann Comhairle

I ask Members to ensure their mobile phones are switched off.

Deputy Michael Ring

While, in principle, I support the amendment I do not believe we have had over-regulation for the past number of years. We had regulators but no regulation. We paid them big salaries and gave them many staff with whom one wonders what they were doing. They were doing nothing. The Central Bank, Minister for Finance or officials of his Department did not cry "stop".

I tabled a parliamentary question yesterday in regard to the national debt. By 2010, this Government will have trebled the national debt. Whatever little money we have to run our services is going to be put into NAMA. I would like to know – Deputy Gogarty spoke about this issue – if any Member of this House, his or her family or friends have any involvement in any company that will come within the remit of NAMA. If so, he or she should declare it. If the public find out after this legislation is passed that it was rushed through to save a Member of this House, his or her family or anyone associated with them or the builders who brought down this country to such a state that poor people are now having to pay for NAMA, they will not be happy.

I have not contributed much to this debate because I am concerned I will get so angry I will say something to upset people and I do not want to do that.

Deputy Paul Gogarty

The Deputy should speak freely.

Deputy Michael Ring

If I start I will not stop.

An Leas-Cheann Comhairle

I ask Members not to encourage Deputy Ring.

Deputy Kieran O'Donnell

Go on Deputy Ring.

Deputy Michael Ring

Deputy Gogarty was never in the tent in Galway and neither was I. I once went to Galway to see the tent and was kept away from it.

Deputy Paul Gogarty

On the way to Connemara I stayed in a tent but it was my own.

Deputy Michael Ring

I am not a racing man. I went to see the tent. Many of the builders who gave money to Fianna Fáil and other political parties will be looking for their money back given the state they are in. However, they may promise to return it to them at a later stage. I would not like to be trying to get that money from Fianna Fáil. Fianna Fáil is like the bees, one sees them but never the honey.

I hope that we are putting in place tough regulation and not "yes" men and women, the like of which we had before and that once and for all, when we give people a job to do they will do it. I hope that the board of NAMA will do the job it will be paid to do. I believe the Financial Regulator should have been sacked, that the Central Bank and other banks should have been closed and that we should have started at the beginning again. While many economists would not agree with me in this regard the people on the ground would. Any person running a company on a small budget would, if he or she overspent, be imprisoned. What did we do with the people regulating the banks and the country? We paid them off and gave them big pensions and are now giving them further jobs. At the end of the day there are only a few people in the country who can regulate NAMA. It will be more jam and more money for the boys and girls who support political parties in this country.

Deputy Pat Rabbitte

I will not repeat the argument advanced by my colleague, Deputy Burton. We are in exceptional times and this is an exceptional measure. These are more exceptional circumstances than any of us has ever lived through.

The amendment does not seek that an audit be undertaken. It relates to straightforward reporting. The 30-day period has been already agreed for the reasons outlined. The obstacles cited by the Green Party do not exist.

The Green Party said it agrees with the sentiment of the proposal but that it is too onerous, which it is not. There is a touch of St. Augustine about Deputy Gogarty, "Make me holy, but not yet", "Give me regulation and transparency but not too much of it now." Yesterday he embraced an Opposition motion and said it was just what the doctor ordered from the Green Party point of view and that he would be embracing it unless the Minister talked him out of it.

Deputy Michael Ring

He did not want the injection.

Deputy Pat Rabbitte

What is amazing is that he must have been talked out of it because the Minister never addressed the issue at all. He paid no attention to him. It is like clubbing a baby seal from Fianna Fáil's point of view, which is not fair. I do not doubt the integrity or bona fides of the Green Party on this issue. If, as Deputies White and Gogarty say, they approve of the sentiment, given all that has happened, as described by Deputy Ring, they should support the amendment.

Deputy Paul Gogarty

If Deputy Burton were to amend it to read "quarterly", I might.

Minister of State at the Department of Foreign Affairs (Deputy Peter Power)

I am glad that Deputy Ring did not work himself up into a state of anger. God forbid what that might look like. I agree with many of the points Deputy Ring made regarding regulation, a separate issue in terms of this amendment.

We all share the multiple objectives of wanting to have appropriate oversight and scrutiny, which will be the objective of the committee to which these reports will be sent. We also want to ensure NAMA will be an effective operating mechanism and this is a key objective of the legislation. Again and again, we must make the distinction between this House as a Parliament setting down policy and NAMA as an instrument and creation of this House carrying out the aims, objectives and policies of this legislation. Neither this House, nor a committee of this House, will be NAMA. That is another objective. Transparency is the third objective we seek.

The issue that arises in the context of the amendment before us is how we balance those three competing objectives and give appropriate weight to them? The issue is the effectiveness of NAMA versus the scrutiny of the House.

I thank Deputy Burton for her amendment, but the Government is clear in the view that the proposed Labour Party amendment whereby NAMA would report to the Dáil every 30 days of its existence for ten years, setting out details on all assets acquired over €100,000, would result in an enormous administration burden on NAMA that would have the potential to seriously impede its ability to operate and perform the functions provided for. That sort of obligation would make it impossible for NAMA to carry out its functions. A 30-day reporting period was debated at some length on Committee Stage. Such a limit for the duration of a ten-year period would impose a substantial burden, not only on the agency but on the relevant Dáil committee appointed to examine it every 30 days. Having taken account of the debate on Committee Stage, the Minister has agreed to introduce a Report Stage amendment increasing NAMA reports to quarterly rather than biannual reports. I accept the point made by Deputy Morgan, and this is a genuine attempt by the Minister to reflect the debate which took place on Committee Stage. I will speak on the amendment shortly.

The second aspect of the Labour Party amendment relates to the quality of information that would be supplied were the amendment to be accepted. NAMA's commercial mandate, which is enshrined in the legislation, would be undermined if it were required to report on the identity of owners or the value of individual assets. That would hinder efforts to receive a commercial return on behalf of the taxpayer. We must keep the taxpayer in mind. Our sole objective is to get a return for the taxpayer.

Deputy Burton rightly introduced the issue of confidentiality between banking institutions and customers. Deputies Burton, Rabbitte and Bruton are right to say this is an extraordinary measure. However, that is no excuse to trample on the rights of people who are engaged in contractual relationships, such as loan and mortgage agreements, with banks and institutions, where their rights are enshrined in those contractual relationships. Where there are performing loans, the agreements are explicit that if customers perform their side of the bargain and carry out their side without any cost to the taxpayer or State, they are entitled to confidentiality. I would draw a parallel. In existing banking institutions where loans are not transferred over

to NAMA, is there any difference between those loans and the performing loans transferred to NAMA?

Deputy Joan Burton

The taxpayer is not taking them on, that is the difference.

Deputy Peter Power

To quote words of the Minister, the taxpayer is already deeply embedded in the banking system through our shareholding, but does that mean that because we have an interest in those banks the taxpayer, through freedom of information arrangements, by some other amendment or under this particular arrangement and Members of the Oireachtas would have access to the individual accounts or performing loans of members of the public? That is a proposition a bit too far and does not create the balance we mentioned at the outset.

There are extensive provisions in the Bill for reports, including annual forecast statements, annual accounts and quarterly reports from NAMA to be presented to the Oireachtas. Furthermore, regular oversight by the Comptroller and Auditor General and Oireachtas oversight through the Committee of Public Accounts and the proposed Oireachtas committee to be set up at the invitation of the Minister will be provided for in the Bill. Deputy Rabbitte made an important point with regard to the distinction between auditing and scrutiny. It is important to have proper auditing post the event in the normal way by the Comptroller and Auditor General and for this to be subsequently scrutinised by the Committee of Public Accounts. However, this is not auditing. This is oversight and scrutiny, which would be done on a monthly basis if this amendment was accepted. I ask Deputy Rabbitte to accept that distinction.

Deputy Pat Rabbitte

I accept it. It was the Minister of State's colleagues who did not understand the point. They introduced the audit point. I accept it does not involve auditing.

Deputy Peter Power

There is a significant practical reason, if the amendment were to be accepted and enshrined in the legislation, that this would not serve the interest of the State or taxpayers. Clearly, if this sort of information on performing loans that were not causing any loss to the State were to be made available to Members of the Houses of the Oireachtas, and by extension to the public, this would create an immediate competitive disadvantage between that institution and institutions which are not part of the scheme of arrangement proposed by the Bill. People would prefer to deal with institutions that would not be obliged to disclose this information were this provision to be in the Act.

With regard to the point made by Deputy Gogarty, we obviously need transparency in the context of political accountability and funding for the political process from people who might be involved in this. I cannot disagree. However, this is not an issue that should be addressed in this legislation, but rather under other ethical legislation. The basic point is that under arrangements freely entered into by the financial institutions, citizens and corporate entities here, those entities that are performing and operating in a normal way and contributing and honouring their commitments under their loan agreements are entitled to confidentiality. Not only here but throughout the world, that confidentiality is at the core of the banking system where agreed arrangements are made between bankers and borrowers. If both sides of the arrangement are fulfilled, those involved are entitled to confidentiality.

Deputy Joan Burton

To set the record straight, the NAMA draft business plan is constructed around the notion of significant tranches of loans being transferred from the banks to NAMA in 30-day periods, so that by the end of July, it is anticipated that the €54 billion in

loans or the bonds will be issued. Therefore, it is the structure of the Minister's proposals that gives rise to the response of a 30-day framework, because that is the way NAMA proposes to work. In the context of the framework, the draft plan and the other documents given to us about NAMA, there is significant emphasis on the schedules making up the content of the loans. That is the fundamental way in which the NAMA work is to be done by those working in NAMA.

The professional approach they will take is that they will schedule the loans and then have indicative values across the schedule or spreadsheet. In that context, that is how one gets long-term economic value, because one has the book value of each asset, the market value and then the uplift that has been foolishly provided for the long-term economic value. If one reads the documentation and the Bill, those actions, which will be carried out on a 30-day basis, are intrinsic to the structure of how NAMA will operate.

The proposal I made involves almost no extra cost. It is a reporting proposal, not an auditing requirement, and is modelled on what is happening in the United States, where the critical requirement is to get the information out. I said to the Minister that if he accepted this principle of disclosure to citizens, I would be prepared to accept his advice and that of his officials on how to word the amendment better. I accept Deputy Bruton's point that people who are not in default are in a somewhat different category. We debated this in the middle of the night when the Green Party was not around and the Minister conceded in the course of the debate that some summary information will be given every three months, but only three months in arrears. Six months after the initial period, we will get the information. At the end of the first six months, according to the draft business plan, at least 70% of the loans will already be dealt with. That is why the 30-day period is significant.

There are other sections of the Bill, such as section 207, that concern court proceedings arising from NAMA, and these proceedings will all be commercial, civil proceedings. There is a provision, however, that the judge can decide to hold those hearings in camera. I am not a lawyer, although I know the Minister of State is another lawyer; the Government is stuffed with them.

Deputy Peter Power

A part-time lawyer.

Deputy Richard Bruton

A part-time politician.

Deputy Peter Power

I keep my hand in.

Deputy Joan Burton

There are not many accountants or business people but there are an awful lot of lawyers in the Government. I do not recall commercial hearings in this country being held in camera, except for family law cases so this is a massive restriction on information. If the Government does not want people to riot in the streets, something none of us wants, it must be willing to explain to people who are the beneficiaries of this process. I do not have to tell the Minister of State that people are caught between rage and despair over what has been done to the economy.

Deputy Richard Bruton

I thought the Minister of State was building up to accepting our amendment when he drew a firm distinction between those who are in default and those who are not.

Deputy Peter Power

I also failed to address the Deputy's point, although it was my intention to do so.

Deputy Richard Bruton

I can obviously look forward to amendment No. 90 being accepted later on.

This is the core point. I can accept a certain protection of confidentiality for those who have met all their obligations but I do not see how that applies for people who have not met their obligations and where, in this extraordinary situation, the taxpayer has had to acquire those obligations and pay more than the market value for them. To be denied the identity of those who are defaulting in respect of an obligation the taxpayer owns is inconsistent with the idea of fair play. The public has a right to know.

Deputy Paul Cogharty

Deputy Rabbitte quoted St. Augustine, saying let me be chaste but not yet. The actual quotation relates to chastity and continence. My St. Augustine is not that good but I know that he said that where a person makes a genuine effort to do something, what matters most is the fact he genuinely made the effort, not whether he succeeded.

Deputy Rabbitte also made some remarks about the Green Party saying one thing about the Minister's position, the Minister not answering, then agreeing with the Minister anyway. I made a genuine comment yesterday where I supported the thrust of a Fine Gael idea. The Minister, to my satisfaction, responded that he would deal with the issue. It might not have been 100% satisfactory but it was satisfactory. We have explained why if a party is in government it must vote with the Government unless it chooses to leave.

Deputy Burton has made many valid points on the need for accountability but my fear is not that the committee would be overwhelmed by having to deal with the reports every 30 days, or that developers and their donations would not be included, but that the media will take out the sensational and report it. We have seen how reports in the Irish media were picked up by outlets elsewhere, which had an impact on the Irish marketplace and confidence in our economy. In terms of the evolution of economic value, 30 days is too close. It will be commented on

ad infinitum and there will be no real progress from one month to the next. I take Deputy Burton's point about the arrears of the quarterly report but it is still reported every quarter and there will be an opportunity to look at things in detail. That strikes a balance, although I agree that where it is legally possible and appropriate, at some stage in the future, once and once only the names of the individuals should be put in the public domain for the damage caused to this economy.

Deputy Peter Power

We should examine the Minister's proposal and stress test it against the proposal before the House. Deputy Bruton's point is that there is a distinction to be drawn between default on a loan and proceedings being instituted. There are probably very few people in the House who, at some stage, perhaps in their youth, have not fulfilled all their obligations on all their loans at all times. I certainly cannot say that I have. Does that mean all of people's confidential details with a financial institution, if they have never had proceedings instituted against them, ought to have their details disclosed in public? It is a step too far that the public would not support.

I agree that if proceedings are initiated against a particular developer or other person subject to the Bill, his name might be included. In that respect I draw Members' attention to amendment No. 59 that will introduce a new section 53 on the quarterly report, a concession arising from Committee Stage. It states that the quarterly reports shall include the following information for the relevant quarter: the number of all loans outstanding, the condition of those loans categorised between performing and non-performing, with non-performing loans categorised to the degree of default, distinguishing between where the default occurred on capital payments or interest repayments, the number of loans foreclosed and the number of cases where liquidators and receivers are appointed.

The vital information does not relate necessarily to the individual names and details, and I refer to Deputy Burton's point on the prurient examination of these details, it relates to the quality of the information so this House and the committee

will be able to make an informed judgment on whether NAMA is working effectively. The question of names being attached to the information does not alter the quality of the information or the ability of this House, or a committee of the House, to make an informed judgment on whether the information shows if NAMA is working effectively. That is the key issue – we must balance the obvious desire for appropriate transparency and scrutiny with the ability of NAMA to carry out its aims and functions, principles and policies in an effective way. Having listened to the Committee Stage debate the Minister brought forward a genuine attempt to introduce quarterly reports with substantial information which will allow a committee of this House to make quality decisions and policies in respect of NAMA's operation.

Deputy Joan Burton

Will the Minister of State comment briefly on the in camera court provisions in the Bill? What is the reason for that in the commercial court?

An Leas-Cheann Comhairle

The Minister of State has concluded his contribution.

Deputy Joan Burton

I asked that specific question.

Deputy Peter Power

With respect to the Deputy we are concerned here with Oireachtas oversight. We will deal with that amendment when we come to it. This amendment concerns the quality of the information that comes before the Oireachtas, not whether the court proceedings are held in camera.

Deputy Joan Burton

This is connected because we had a useful discussion about default as opposed to compliance. If, for instance, people in default are the subject of court proceedings, which they might well be, the Bill has several provisions such as section 207 making it possible for institutions that are not compliant to have their cases heard in camera, with the agreement of the judge. I am not a lawyer but where would we be if we did not have the information from the judges in the High and Supreme Courts about the Zoe hearings? I do not understand the thinking behind the in camera hearings. I told the Minister for Finance that his concession last Thursday night on Committee Stage to address the question of quarterly reports is a significant improvement on his previous position. If the Green Party was involved in persuading him of that it is to be congratulated.

If the hearing for a defaulter is held in camera we will never know about it. Family law proceedings are held in camera for good reason and we do not receive much generalised information on those proceedings. That is a difficult issue for many people.

An Leas-Cheann Comhairle

Procedurally speaking, the Minister of State is not allowed to reply but we will be flexible.

Deputy Peter Power

Of course we will be flexible but this point is not relevant to the amendment under discussion.

An Leas-Cheann Comhairle

I was about to make that point but we will reach it if we move expeditiously.

Deputy Peter Power

As Deputy Burton has spoken about the point in detail I wish to respond briefly. This relates to amendment No. 89, which we are far from reaching. The Deputy seeks there to delete the provision which gives the court discretion, where it sees fit, to provide for in camera hearings. The issue was raised on Committee Stage. Since then the Minister sought the advice of the Attorney General on this issue who indicated that this type of provision is standard and necessary as there needs to be express statutory provision for the exception to court public hearings. The provision is necessary to respect commercial confidence which inevitably arises when dealing with information on bank assets, which are otherwise covered by customer confidentiality. That was an aspect of the Zoe case and we all know the outcome of that. The court made its decision based on the facts before it but certain information was withheld.

Providing for in camera hearings has been, and is, recognised as a permissible exception under Article 34.1 of the Constitution.

Deputy Joan Burton

While it is allowed under the Constitution it is not our tradition in civil court proceedings.

An Leas-Cheann Comhairle

We cannot spend any more time dealing with an amendment that we have not reached.

Deputy Peter Power

I do not want to dwell on this point again.

An Leas-Cheann Comhairle

We cannot dwell on it.

Deputy Peter Power

It has nothing to do with whether the Oireachtas is able to carry out its functions of scrutiny and oversight effectively on the basis of the reports that will come before it. The quality of the information set out in section 51(3) will provide that information.

Amendment put and declared lost.

Deputy Joan Burton

I move amendment No. 13:

In page 17, between lines 17 and 18, to insert the following:

"3.—Notwithstanding any provision of this Act, no person may participate in acquiring any benefit or advantage under this Act unless such person is tax resident within the State and has complied with his or her tax liabilities to the State."

This is another fundamental amendment and because it was also much discussed on Committee Stage I will summarise the point. I am willing to concede that technically it is not perfect and I offered the Minister the opportunity to bring forward amendments that reflect its principal purpose. It would be outrageous if people who benefit from the chain of actions arising from NAMA, taking over loans, pursuing guarantees, acquiring land development interests, could avail of Ireland's generous tax exile laws and relocate out of the jurisdiction. The Minister answered that there are requirements for tax compliance certificates but these are limited documents, as Members who receive them before or after elections know.

Section 210, under which NAMA is not to make payments in certain circumstances, states in subsection (3):

(a) the relevant person delivers to NAMA, or to a person authorised by NAMA, a valid tax clearance certificate issued to the relevant person by the Collector-General, or

(b) the Collector-General has confirmed to NAMA, following a request from NAMA, that it has no objection to the making of a payment to the relevant person.

Former employees of the Revenue Commissioners and tax inspectors whom I know have expressed the gravest concern that this gives the Collector-General powers to authorise NAMA to make payments to persons who are not tax compliant. That is another extraordinary development because the payments in the context of NAMA will total €56 billion and the beneficiaries of those payments will include those in the chain in the bank relating to "namafied" assets and loans. I am not aware it has been a principle in our legislation that the Collector-General is empowered to allow another agency to make payments from the State. That cuts across the requirement that where a person receives a payment under section 210 he or she must be in possession of a tax clearance certificate unless the Collector-General says that is not required. In this jurisdiction it is difficult not to be able to get a tax clearance certificate. One can be in all sorts of discussions with the Revenue about one's tax liabilities but a tax clearance certificate does not mean, as the name implies, that these have all been cleared. It simply means one is up-to-date with whatever interaction one is involved in with the Revenue.

The purpose of this amendment is to stress that those involved in the NAMA process be tax compliant. The Minister's objection to this amendment was based on the hope that many of the buyers of the NAMA assets held in other countries would come from overseas. That is easily addressed and the Minister can bring it forward.

Again, we have a situation where Irish tax exiles may be significant beneficiaries of the whole NAMA process. People can go offshore for five years for the purposes of avoiding capital gains tax – head for their homes in the south of France or on the Spanish Costa – until the storm blows over. There was a famous case in this country involving large amounts of money lost to the Revenue Commissioners who had legitimate expectations that tax would be paid on a particular transaction.

I want to hear from Fianna Fáil some level of determination that the ordinary worker will be protected. For example, civil servants working in Leinster House have had a 7% pension levy imposed on them in addition to other levies while paying the top rate of income tax. Some accept it while some do not. However, a certain set of people, because of tax breaks that Charlie McCreevy and Deputy Bertie Ahern stoked, have marginal tax rates which are laughable. The last report by the Revenue Commissioners on the top 400 taxpayers showed that 20 people with an annual income of over €2 million had a marginal rate of income tax of under 9%.

This amendment seeks an undertaking from Fianna Fáil – I presume the Green Party would be in agreement with it – that it will ensure all its friends in the building and development industry benefiting from the NAMA process - those who made so much money on the backs of ordinary workers – will be in the frame for paying moderate taxes.

Deputy Arthur Morgan

I support this amendment. It is reasonable that people who are in any way going to benefit from this NAMA legislation should be tax compliant. It is the simplest most straightforward request in the world. I cannot understand why the Government will not accept it.

As for the Greens broadly supporting it, they may be in favour of tough regulation but when it comes to dealing with the Government, they are extremely light-touch. This is an opportunity—

Deputy Paul Cogarty

Deputy Arthur Morgan does not realise how close we were to an election two weeks ago.

Deputy Arthur Morgan

I am ready for an election any time. Belt away because we are all waiting on it.
Bring it on.

Deputy Aengus Ó Snodaigh

Plodding on more like.

Deputy Paul Gogarty

The reason we did not have an election is because a good programme for Government was drawn up.

Deputy Arthur Morgan

Yesterday Deputy Gogarty supported an Opposition amendment and then stood up 15 minutes later—

An Leas-Cheann Comhairle

May I remind Deputies to address their remarks through the Chair and to focus on amendment No. 13.

Deputy Arthur Morgan

This is on amendment No. 13. Yesterday, Deputy Gogarty told us he was supporting an Opposition amendment and 15 minutes later he voted against it.

Deputy Paul Gogarty

I did so because the Minister said he would introduce his own amendment on the matter.

Deputy Arthur Morgan

A Fianna Fáil Minister for Finance says he is going to introduce an amendment and Deputy Paul Gogarty believes him. Did the Deputy not hear the discussion half an hour earlier about an amendment Deputy Joan Burton had proposed on Committee Stage which the Minister said he would accept later on Report Stage but then changed his mind? Then again Deputy Gogarty will probably learn as he goes along.

I cannot understand why the Government will not accept this straightforward and reasonable amendment. What is the Government afraid of? The worst case scenario is that someone who is not tax compliant cannot avail of the benefits of NAMA. Big deal; hard luck.

Deputy Peter Power

I have listened carefully to Deputy Burton's points on tax policy and non-residents. It, however, misses the fundamental point of what is good for the taxpayer and the State and what makes NAMA more effective. If this amendment were accepted it would undermine that important objective.

Whether someone who benefits under NAMA is an Irish citizen or not ought not to be relevant. Take the scenario of several years time from now with NAMA seeking to dispose of a significant asset under its control. Say a bid came from someone who was not an Irish citizen or tax resident in Ireland which was far higher than that from an Irish citizen. This amendment, if accepted, would ensure NAMA could not deal with the higher bidder no matter how advantageous that was to NAMA, the Irish taxpayer or the State.

I know the point Deputy Joan Burton makes about our general tax policy, one which she raises consistently to her credit, and the contribution Irish citizens as non-tax residents could make to the Exchequer, particularly in these difficult times. With respect, however, I suggest that is a separate issue to the one we are dealing with in this amendment.

Under Article 12 of the EC Treaty, which relates to the free movement of persons, services and capital, the inclusion of a tax residency requirement might well amount to an unlawful discrimination against persons or undertakings from other EU member states. The Minister has also stated the use of the word "benefit" or "advantage" in this amendment is imprecise with no real meaning in legislative form. It is not clear to what they would refer and it easily could be interpreted as somebody who acquires an asset who is not an Irish citizen or who is not a tax resident in Ireland. They may very well benefit by acquiring an asset from NAMA that might well be to the advantage and benefit of NAMA, the Irish taxpayer and the Irish State.

NAMA, as a commercial entity, will enter into arrangements which are of benefit to it. Whoever the contract is with ought to be immaterial. That is a matter for the tax authorities and a separate issue with which I will deal shortly.

I repeat that were assets to be acquired by non-resident Irish citizens or non-resident non-national citizens, the logical conclusion of Deputy Burton's point is that she would invite them to become either Irish citizens or perhaps to become domiciled in Ireland for tax purposes. That is a logical conclusion as to the intent of her amendment.

In regard to the issue of tax compliance, I take Deputy Burton's point about the requirement for tax clearance certificates. The fact is that is a requirement. There may be some confusion between sections 210 and 201. Section 201 makes clear reference to that fact that "Where NAMA has reason to suspect . . . [tax non-compliance, that] NAMA shall report the information that leads it to form that suspicion to— (i) the Garda Síochána, (ii) the Revenue Commissioners, (iii) the Director of Corporate Enforcement, (iv) the Competition Authority, (v) the Regulatory Authority [or] (vi) any other body responsible for the detection or investigation of criminal offences . . ." That is a serious obligation on NAMA in regard to tax matters.

I draw Deputy Bruton's attention to the following section, section 202(2) which states, "Notwithstanding any provision of this Act or any other enactment— [in Irish legislation] (a) the Revenue Commissioners may, for the purposes of the performance of their functions under Part 42 of the Taxes Consolidation Act . . . and any regulations made under that Part, seek from NAMA information in the possession of NAMA, or which NAMA has knowledge of, in relation to a named relevant person, and (b) where NAMA is in possession of, or has ... information referred to in paragraph (a), NAMA shall provide it to the Revenue Commissioners". Therefore, there is substantial obligations on NAMA in regard to the tax compliance area but I repeat that is a completely separate issue from the central question, which is, how NAMA will achieve the best value for money for the Irish taxpayer arising out of its assets. The question of whether that person is or is not tax resident in Ireland is immaterial to that central point.

Deputy Paul Gogarty

Deputy Rabbitte missed my indirect quotation of St. Augustine. I have the direct quotation in front of me but I will not cite it. On matters religious, I would like to remind the House of the parable of the vineyard—

Deputy Michael D. Higgins

I never liked that one.

Deputy Paul Gogarty

—where the vineyard workers were paid the equivalent of ducat or drachma to start work at 9 a.m., toil all day in the vineyard and they were happy enough with that. Those who were offered the same amount of money at a later stage to come in the evening and work for a few hours—

An Leas-Cheann Comhairle

I am sure this is relevant to amendment No. 13.

Deputy Paul Gogarty

It is very relevant. They were quite happy as well.

Deputy Pat Rabbitte

Jack O'Connor was not around then.

Deputy Paul Gogarty

In regard to this amendment, if NAMA decides in the interests of the State to divest itself of an asset at a profit, I argue it would be quite happy to do that. If an overseas investor makes a killing on the asset at a later stage when it appreciates further, so be it. We cannot crib over what NAMA should have done. Should NAMA hold on to every asset until the end of a ten-year period and then indicate whether the value of each asset has increased or should it try to make a killing where it can in the interests of the taxpayer? That is the point I am making.

Deputy Michael D. Higgins

That is not what the gospel says.

Deputy Paul Gogarty

The gospel probably says that materialism is less important than the spiritual element, with which I would agree, but, unfortunately, we are stuck here materially —

Deputy Pat Rabbitte

We sure are.

Deputy Mary Alexandra White

And physically.

Deputy Paul Gogarty

—and we have to try to materially benefit the taxpayer. In that context—

Deputy Joan Burton

We could be coming to incorporeal meetings pretty soon.

Deputy Paul Gogarty

Hopefully, we will all be blessed at the end of this process, but at present the electorate are cursing successive Governments for what has happened. In terms of the motion—

Deputy Joan Burton

Was the Minister, Deputy Gormley, not in bed but present incorporeally at the meeting at which the guarantee was decided?

Deputy Paul Gogarty

The Minister, Deputy Gormley, seems to possess trilocation capabilities in many instances such is the work he carries out, but I will not go into that.

Deputy Pat Rabbitte

The domestic habits of the Green Party leader should not be brought into the House.

Deputy Paul Gogarty

I was trying to parabolise to make a point, but we can talk about metaphorical and spiritual issues outside the Chamber.

If a person from overseas — who is not and does not want to be an Irish citizen and is not going to be offered €1 million to become an Irish citizen — wants to try to make a killing and NAMA is happy for him or her to do so, I do not see why there should be any restriction put on him or her doing that.

I agree with what the Minister of State, Deputy Power said, namely, that there are enough provisions within the NAMA legislation and existing legislation to make sure that if people who are not tax compliant profit from a deal, resources of the State are in place to pursue them. It is in NAMA's interests for it to try to make a profit, speaking metaphorically, within the realm of NAMA. NAMA has the right to try to make a profit for the taxpayer and we should leave it to the tax office and the collector general to pursue those people who are not tax compliant. Such provision should not be tied into the legislation to the extent Deputy Burton would wish.

An Leas-Cheann Comhairle

Is the amendment being pressed?

Deputy Joan Burton

Yes.

Amendment put and declared lost.

An Leas-Cheann Comhairle

Amendments Nos. 18, 40 and 59 are related to amendment No. 14, while amendment No. 60 is an alternative to amendment No. 59. Therefore,

amendments Nos. 14, 18 40, 59 and 60 may be discussed together.

Deputy Peter Power

I move amendment No. 14:

In page 18, to delete line 10.

We already had a discussion on this amendment. The Minister agreed on Committee Stage to provide that NAMA would report on a quarterly rather than a biannual basis. This amendment proposes to delete the previous definition of biannual report and to replace it with a reference to quarterly reports to provide for the making available of timely information for the Oireachtas.

The amendments are of a minor technical nature and for clarification purposes only. The substantive discussion on the nature and quality of the information which would be contained in those reports has already taken place.

An Leas-Cheann Comhairle

Is the amendment agreed?

Deputy Joan Burton

Yes, but I would like to respond briefly. I thanked the Minister already but I want to formally record my thanks to him for moving to the quarterly reporting basis in respect of NAMA. It is very helpful. It is wrong, however, to delay the publication of the quarterly information for another three months. That is regrettable. The public service has to get used to real time. Such delay is not acceptable. Essentially, this is a public service issue. Once a quarterly report is provided there should be no delay in its publication. This is done all the time in private business. This is not an audited but a summary report. It would have to be examined to check it is okay. I do not know why it is necessary to wait up to six weeks for the report to be published. I

accept the amendment and thank the Minister for bringing it forward. It is an improvement.

Deputy Mary Alexandra White

I welcome the amendment. We had sought this earlier in the process of this legislation. I also welcome amendments Nos. 18 and 59, particularly in the light of what other speakers have said about the need for scrutiny and oversight. One of the amendments provides that the quarterly report shall include information on the number of loans outstanding, the number of legal proceedings listed, the sums recovered from property sales, which is very relevant when we are talking about this in the relevant quarter, and other income from interest bearing loans owned by NAMA and each NAMA group entity.

Also significant in this quarterly reporting will be a complete schedule of income and expenditure of NAMA and each NAMA group entity in the relevant quarter, and I welcome this.

Deputy Kieran O'Donnell

I welcome the fact that there will be quarterly reports. I would suggest that three months is too long a period to wait for a set of accounts that do not appear to be audited. These are accounts which in the normal business world would be produced probably within two or three weeks of the end of the accounting period. One is looking at a three-month lag period from the end of the accounting period, and they are not audited. What is the delay in these accounts being produced?

The Government speaks of reporting every three months, that the first quarterly report shall be submitted to the Minister on or before 30 June, and subsequent reports within three months, and the Minister shall cause a copy to be laid before each House and shall send a copy to the committee. I would expect that in the normal course of events those accounts should be ready within two or three weeks of the quarter end and should be laid before the House within a four to six week

period. What is the reason for the delay in these reports, first, being given to the Minister and, second, being laid before the House?

Deputy Peter Power

On a point of information, did Deputy O'Donnell refer to the quarterly reports as—

Deputy Kieran O'Donnell

We are discussing amendment No. 59 in the context of this group of amendments.

Deputy Peter Power

Did he mention audited accounts as distinct from quarterly reports?

Deputy Kieran O'Donnell

No, I mentioned quarterly reports.

Deputy Peter Power

We are discussing just the quarterly reports, fine.

Deputy Kieran O'Donnell

By way of clarification, that they are not audited accounts is all the more reason they should be able to be provided to the Minister within a far shorter period than three months. In fact, in the business world a company of comparable size to NAMA would have its audit completed within a month of the year end and would have the accounts published within two to three months of the accounting year end. Here we have accounts that are unaudited which, effectively, take the form of management accounts, which will be produced by NAMA itself, and we must wait a three-month period.

Deputy Terence Flanagan

It is historical information by that stage.

Deputy Kieran O'Donnell

It is historical by that stage.

Deputy Peter Power

On the last point where the Deputy spoke of them being historical at that stage, there is no obligation on any public body or statutory body to produce reports every 90 days. We all agree in this House that this is an exceptional situation.

I would agree with Deputy O'Donnell's distinction between audited accounts and, effectively, management accounts, and it is a fair distinction to draw, but perhaps it would be best to go through the various items which would be covered by the relevant amendment by the Minister.

The new section 23, should it be passed, would require NAMA to submit reports to the Minister on its activities in a form directed by the Minister. This amendment is being made following the Committee Stage in which the Minister undertook to look into the frequency of such reports. It is not the frequency of the reports that matter, but rather what is contained in those reports.

The Minister has now decided to amend the frequency from two reports a year to four reports a year to afford the appropriate oversight and scrutiny and to provide the Oireachtas and the Minister with more regular and detailed information. Each quarterly report will be laid before both Houses of the Oireachtas and a copy will be sent to the relevant Oireachtas committee or sub-committee tasked with examining NAMA matters.

The revised section has been also amended to ensure the information requirements placed on NAMA by this section apply equally to each NAMA group entity. That is an important reporting requirement as well, especially in light of the discussion on the SPVs and group entities which took place earlier today and yesterday.

Subsection (6) provides a comprehensive list of the information which is to be provided in the quarterly reports. The information, which is set out, is the most important aspect here. I made the point earlier that it is not a case of us wanting the monthly bank accounts of borrowers, irrespective of whether they are more than €100,000. What the Oireachtas requires is appropriate information to be able to question the relevant officers of NAMA and the chief executive under its powers as to the type of loans they have brought over, the number and condition of loans which are outstanding and to categorise them as between non-performing and performing. Non-performing loans should be categorised as to the degree—

An Leas-Cheann Comhairle

I am loath to interrupt the Minister of State. He will be aware this is a two-minute contribution but we may well be able to conclude it by agreement and allow the Minister of State to regard this as his final contribution.

Deputy Joan Burton

Agreed.

Deputy Peter Power

I was just making the point that what is needed by the Oireachtas is not the names of the individuals, although there is an understandable desire, I suppose, among everybody for that. The Oireachtas needs to establish on an ongoing basis whether NAMA is doing its job correctly and carrying out its aims and objectives in accordance with the principles and policies as set out in the earlier sections of the

Act. In order to make that commentary by the Oireachtas, or a committee of the Oireachtas, it is the information that is required.

I will go through that information again. The information will set out the loans outstanding and the condition of these loans, their quality, the extent to which they are impaired, partially or fully, and to what extent they are performing at any given time, and distinguish between the degree of default and whether the degree of default would relate to capital payments or to outstanding interest repayments. Much of the discussion on Second Stage related to whether the Government was buying loans which had rolled-up interest on them or which dealt with the outstanding capital amount. That sort of information is important for the Oireachtas to see the work being carried out by NAMA.

The other information that would be relevant is the number of loans which have been foreclosed and the loans which are being enforced, in other words, the loans which are owned by NAMA and in respect of which it is invoking the relevant provisions of those loan agreements and those mortgages to apply the recovery mechanisms on those loans, such as foreclosure, the appointment of an examiner, the appointment of a receiver, the application to the court to appoint a liquidator, etc.

The crucial piece of information, which relates to the point Deputy Bruton made earlier which I neglected to address, is the list of all legal proceedings commenced by NAMA and each NAMA group entity on bank assets during the quarter, setting out, for each of those proceedings, the title of the proceedings, which would include the parties and the borrowers, as Deputy Bruton would know, the reliefs which were sought by NAMA and the group entity concerned and a schedule of any finance raised by NAMA or group entity in that relevant quarter, the sums recovered from property sales in the relevant quarter, income on interest-bearing loans, an abridged balance sheet of the assets and liabilities of NAMA and each NAMA group entity, a complete schedule of the income and expenditure of NAMA and each group entity and an updated schedule of all information referred to in

subsections (2) and (3) of section 52, and any other information required by the Minister.

I am setting out in detail that it is the information that is the important aspect of this. It is the information, and the various categories of information, that allows the Oireachtas to make its decision and its commentary ultimately.

Amendment agreed to.

Deputy Peter Power

I move amendment No. 15:

In page 18, line 27, after "35" to insert "or 38(3)".

Amendment agreed to.

An Leas-Cheann Comhairle

We move to amendment No. 16 in the name of Deputy Morgan.

Deputy Joan Burton

On a point of order, in the course of the discussion on Committee Stage we were asked by the Minister and the Bills Office to move our amendment, which was the same as the Sinn Féin amendment No. 85 in the valuation section. I suggest that amendments Nos. 82 to 87, inclusive, be taken now along with amendment No. 16 so that we deal with the valuation issues relating to market value and long-term economic value. All of the amendments deal with these issues and they include amendments from all of the Opposition parties.

An Leas-Cheann Comhairle

That is a procedural amendment I can only make if there is agreement in the House. Again, it is not normal to regroup once the order of the House is made. If there was consensus in the House, I would be willing to accept that.

Deputy Peter Power

We would like to have consensus on these issues with a view to progressing.

An Leas-Cheann Comhairle

This is to take amendment No. 16 in the name of Deputy Morgan but which Deputy Burton has indicated was tabled on Committee Stage in exactly the same form. At the request—

Deputy Joan Burton

At the request of the Minister and the Bills Office—

An Leas-Cheann Comhairle

—it was replaced in a different section and is now amendment No. 82. Therefore, the group would be amendments Nos. 16 and 82 to 87, inclusive.

Deputy Joan Burton

It is to deal with market value and long-term economic value.

An Leas-Cheann Comhairle

I want to see whether we have consensus.

Deputy Arthur Morgan

To be helpful, we need to have sympathy with the Bills Office for letting this one slip through because it came from me. I was not aware of that request or, clearly, I would have agreed to it. In any event, my amendment No. 85 is part of that group.

An Leas-Cheann Comhairle

Yes, it is amendments Nos. 16 and 82 to 87, inclusive. What says the Minister of State on that?

Deputy Peter Power

I say that the Minister is very anxious to comment on this because it goes to the heart of matters.

Deputies

Where is he?

Deputy Peter Power

We would be agreeable to taking these matters with the later amendments but not with this amendment because this is a separate matter. It is not agreed.

An Leas-Cheann Comhairle

There is no agreement. We will proceed with amendmentNo. 16.

Deputy Arthur Morgan

This means we will have two substantive debates on this matter.

Deputy Joan Burton

Where is the Minister? There are only two hours left.

An Leas-Cheann Comhairle

The House has no control over which Minister is present. All Ministers share collective responsibility in presenting a Bill to the House.

Deputy Joan Burton

We are trying to speed up matters to get to the really important issues.

An Leas-Cheann Comhairle

I call Deputy Morgan.

Deputy Arthur Morgan

I regard this as one of the crunch amendments.

Deputy Pat Rabbitte

Will we be able to crunch some food?

An Leas-Cheann Comhairle

I am afraid not.

Deputy Joan Burton

He means we cannot have a sos.

Deputy Michael D. Higgins

We could take a sos at 6 p.m.

An Leas-Cheann Comhairle

I am afraid the order of the House is not to take one. There are only two hours left as we need to take the full question at 8 p.m.

Deputy Arthur Morgan

This amendment refers to—

Deputy Michael D. Higgins

On a point of order, we should thank Deputy Morgan for being willing to do what we have done already today, which was to use the time effectively in such a way that we will touch off the major issues that can be grouped. I suggest that, should the Minister appear in the next hour, before 7 p.m., we will return to this issue and repeat our proposal. I understood there was a consensus in the House earlier today that we should do as much as possible to try to utilise the time available to us.

An Leas-Cheann Comhairle

There is no consensus on this proposal, so I am obliged to proceed.

Deputy Michael D. Higgins

I appreciate that. I just wanted to make the point.

An Leas-Cheann Comhairle

I call Deputy Morgan.

Deputy Arthur Morgan

My concern is that if we do not avail of this opportunity now, we will not have an opportunity to vet this issue. Perhaps we need to filibuster until the Minister returns.

An Leas-Cheann Comhairle

I sincerely hope not.

Deputy Joan Burton

Can the Minister of State give an indicative time for the return of the principal Minister?

An Leas-Cheann Comhairle

That is not a reasonable question.

Deputy Arthur Morgan

In that case, I will move amendment No. 16. In doing so, if the Minister of State would like to give us some advice in regard to when his senior colleague may return, that would be very much appreciated. I will bow to the Minister of State for the couple of seconds it would take to give that information to us, if he has any idea when the Minister will return.

Deputy Joan Burton

The Minister of State should text him.

Deputy Peter Power

I make the point that irrespective of whether the Minister for Finance or any other Minister is present, each amendment will have to be taken in its own right, in the

order in which it is listed on the Order Paper. The longer we have this debate, the likelihood that we will reach those amendments diminishes every minute.

Deputy Joan Burton

Please do not lecture us. We have attended faithfully and stayed here for many hours, so do not lecture us.

An Leas-Cheann Comhairle

To assist the Minister of State, it is possible to group amendments and have a general discussion on groups. All that happens is that they are voted on seriatim but not re-debated. That is the procedure of the House.

Deputy Pat Rabbitte

We did it already today.

Deputy Peter Power

Let us deal with this amendment now.

An Leas-Cheann Comhairle

In that case, we will deal only with amendment No. 16.

Deputy Arthur Morgan

I move amendment No. 16:

In page 20, between lines 21 and 22, to insert the following:

"Market Value" relates to the current market value of an asset;".

The amendment seeks to introduce a definition to suggest that the term "market value" represents just that. I had this amendment linked, sensibly I believe, with amendment No. 85, which is in the group alluded to earlier.

An Leas-Cheann Comhairle

The Deputy should deal with amendment No. 16.

Deputy Arthur Morgan

I am doing that. However, I must point this out to contextualise it. Otherwise, people will not understand what we are talking about, which would be unfortunate – not new, but unfortunate.

Amendment No. 16 is linked to amendment No. 85. What we need to do in this regard is deal with the issue of long-term economic value. I had to try to define this nonsense of long-term economic value because I was pestered about it last Friday afternoon when I tried to walk up the street in Dundalk. People stop me for all sorts of reasons but this instance was unusual because three people referred to this carry-on about long-term economic value. They did not call it long-term economic value because they are perhaps not sure of the term and cannot recall it all the time, but they certainly know what the concept is. A number of people made the point that it is as if somebody came to buy my car, which was priced at €3,000, but the person offered to give me €4,000. As one person said, "I am still waiting for the Government to buy a car off me for the extra money."

The ordinary people have a fair grasp of what is going on in terms of this long-term economic value. It is about the Government, through NAMA and the master SPV – the daddy SPV with all the babies in tow – giving these speculators who were caught out by their sheer greed a value for their investments way above what they are worth. This is why the issue of current market value is important – it refers to the market value of here and now. There is always a market value. It might be 5 cent but there is a market value, and that is what it should be. We are told we

cannot do this, that or the other, and that we have to work with the market. Then all of this economic turmoil happens, and guess what? The market value is not really that important after all, and we can set it aside and introduce this new concept of long-term economic value. I looked for a definition of long-term economic value but I could not find it. Perhaps we can get some help with that later.

One of the ways of looking at the market value concept emerged in the High Court and Supreme Court when the banks moved against the Carroll-Zoe group. Documents submitted to the High Court and Supreme Court, and accepted by both, placed the value of the properties of that group of companies at approximately 20% to 25% of their bubble value. That gives us an indication of the current market value about which we are talking when dealing with these toxic NAMA loans. Yet, the Government has decided it will pay €47 billion for them.

Just in case that is not enough, let us give it a top-up of another €7 billion. I can understand why the public are exasperated at the concept of long-term economic value and the bail out for the bankers and the speculators. Make no mistake about it, that is what this is all about. The Government keeps telling us that this is not a bail out for the bankers and the speculators, but of course it is. All that money is being shovelled into the banks, even though many of the senior executives in those banks demonstrated themselves to be significantly less than trustworthy. It also provides for the whole notion of working with developers to finish off their enterprises, even though they over-reached and got caught out. Is it any wonder that market value versus long-term economic value is of the utmost importance in this Bill? Along with four or five others, it is one of the sections in the Bill that exposes the absolute lunacy of this NAMA enterprise.

The whole thing was turned into farce when we heard about the SPV, which will make sure that NAMA will not be properly accountable to this House in the first place. It is important the Government provides an explanation as to why it is dealing with long-term economic value, instead of dealing properly with the concept of current market value. That is where we should be.

Deputy Richard Bruton

Although it is only definitional, this amendment really raises the fundamental issue on which the whole debate in this Bill has hinged. What ought the State be paying for the acquisition of these loans? We now have three definitions of value on the table. Deputy Morgan's definition is some kind of competitive bidding situation. These loans are available now, so let us put them out to tender and see what we get. The second definition is that given by the Minister which is about willing buyers and willing sellers in an arm's length transaction without compulsion acting knowledgeably and prudently. That is clearly not the sort of situation in which many of the banks find themselves at the moment, but it is clearly a definition of market value that is substantially higher than the competitive bid model Deputy Morgan is suggesting. The third market definition of value is this long-term economic value, which deals with reasonable expectations having regard to the historical long-term average. In other words, a big survey of prices over time will project that they will head into the stratosphere along the same curve on which they had been proceeding.

We are being asked in here to decide on these definitions. While there is much to commend in Deputy Morgan's definition, as it is a value, the case could be made that it would lead to extremely stressed sales. Then we would go back to the willing buyer and willing seller scenario. That seems to be something we can estimate reasonably accurately. It is a better deal for those who are forced to sell loans than simply putting it out there to see what vulture fund might bid for it. It is also the limit to which the taxpayer should be asked to go, but the Government is asking us to go a further step, which is to pay €7 billion over the market value as defined. Not only that, we were told there is to be risk sharing, but there is no risk sharing. The maximum of the subordinated debt is not the €7 billion, but only a tiny fraction of that.

We will be coming back to this later, but Deputy Morgan raised the fundamental question as to which definition we should favour in the Oireachtas. I believe firmly that we should not be paying anything other than a market value. We are going to

give more than €7 billion too much and forego the right to have shares in the bank, even though we could have used that €7 billion to acquire the shares because the banks would be drained of some capital and could have more interest in the upside of the banks and be rewarded for their recovery. In return, we could have shared risk with the banks so that they could benefit if NAMA did exceptionally well, having paid only what was a market value. That was available to us and there was broad consensus that this would be accepted on the Opposition side. Many Deputies from the Government side recognised the merit of our proposals, but when it came to the vote, they were not to be found.

I have much sympathy with the fundamental issue that is being raised here. It is a pity to remove the concept of long-term economic value entirely from the Bill. Although I do not believe Deputy Morgan's idea is the best, because we should be simply paying a market value as determined by the definition in the Bill, he is still raising a debate that we all want to have before Report Stage ends. It is a pity that the Minister is not willing to allow a more free flowing discussion of the issue, instead of trying to constrain us to a debate about a definition, rather than the use of the definition itself.

Deputy Joan Burton

I regret that the Minister has constrained the debate. On Committee Stage, the debate by agreement was moved to section 70, where the concept of value is explained at some length to allow a comprehensive debate on the issue. It is unfortunate that the Minister made the decision he made when the rest of the House was willing to debate it. It is an attempt to move the debate on and to get to the core sections of this terribly important Bill, because we are not going to reach those sections by 8 p.m.

The format of this Bill is rooted in one proposition, which is a decision by the Government to overpay by at least €7 billion for the distressed assets and loans, as well as for the good loans of the banks. In all probability, it will overpay by €11 billion to €12 billion. Independent commentators such as Professors Whelan, Gurdgiev

and Lucey, have all done detailed analyses of the problem with the long-term economic value and the overpayment of the assets. Mr. Peter Matthews, an accountant, has also done some detailed analysis which he has made available to every Member of the House. He has experience in compiling valuations and schedules of valuations, which is the system that NAMA proposes to use.

The decision to overpay for the assets is fundamentally flawed for a number of reasons. From a democratic point of view, it is really unacceptable to people, whether they are on Anne Street in Dundalk or Clonsilla Road in Dublin 15. When something goes completely against the grain of everybody's common sense, whether they have had the benefit of becoming a doctor or the benefit of doing their leaving certificate, the Government should pause and think.

I will remind the House of what judge after judge said about the valuations and the schedule of recoveries that were laid out in the appeals in the Zoe case. Mr. Justice Clarke, who has a background in mathematics, basically said at one stage that the expected work-out values were nonsensical. He said that as the assets did not have the necessary capacities, the business survival plan was not meaningful and did not meet the required tests. We are asking the State to do what the judges, in their wisdom, did in the Zoe case. We are asking it to operate from the perspective of judges who informed themselves of the specific elements of the cases before them and decided they made little sense.

This legislation proposes a move from "current market value", which is the value that is arrived at between a willing buyer and a willing seller, whose knowledge of the market is as perfect as possible. Any expert will say that "current market value" implies a recognition of the increase in value that is expected over the period of time in question. If one believes that the book value of a premises is €500,000, one might decide to pay €1 million for it if one expects it to yield far more than would otherwise be the case for a similar piece of land, property or building. According to the Minister, this crude device has been introduced into the Bill with the blessing of the European Central Bank and other agencies to allow for the overpayment and overvaluation of assets. At a time when the Government is looking for €4 billion in

cuts from the poorest people in this country, the public is enraged that the Government is proposing to pay an extra €7 billion in value to the banks. The banks will not have to fully acknowledge and recognise, in equity terms, the amount of money the State is putting into the banking system. It is an artificial device.

Almost all international reporters and observers, including the European Central Bank, the IMF and various other organisations have said that if one departs very far from market value, one does so at one's peril. They have emphasised that it is wrong to depart significantly from market value. The ECB is changing its approach now that the Lisbon treaty has been passed, the German elections are over and a number of European countries are poised, we hope, to enter a slow but sustained recovery period. I do not doubt that the European Central Bank will slowly but surely exert more influence as it seeks payback for the overpayment. Deputies are familiar with a decision made by the EU Commissioner for Competition, Dr. Neelie Kroes, to whom the Minister referred extensively on Committee Stage. She told the ING bank to take action to recognise the various arrangements, such as the state investment, that were put in place to rescue it and bring it back to an appropriate market level. She dealt with the issue of what was, in effect, the provision of state assistance to the bank.

We are in very dangerous territory. The Minister has spoken about the consequences of the overpayment and the issuing of the bonds. When the banks go to the ECB window, they use the bonds as collateral for their capital requirements and for other borrowings. The interest rate on the bonds is likely to be 1% for the first six months. When he spoke at a conference on international financial services in Ireland, which I attended this morning, the Minister was at pains to point out that the 1% interest rate will last six months only. Thereafter, it will be renewable on the same terms. The 1% interest rate is unlikely to remain in place for very long. We need to consider what will happen as the ECB toughens its stance. It is clear that sometime next year, the banks will be forced to sell the bonds for cash into the markets. As a consequence, the debt will be put out there at the same time as the Irish State, with its current deficit, tries to raise €20 billion in

monthly or other instalments to try to bridge the gap between revenue and expenditure in its budget.

The consequences of the proposed overpayment have not been thought through by the Department of Finance or by the Minister. The Minister keeps saying that Mr. John Hurley and Mr. Patrick Honohan have given a sort of benediction to the process. I suggest that their form of wording will be found to have been pretty circumscribed, when it comes to be examined in an historical context. The Minister accepted it, as he is wont to do. He tends to think that if someone smiles at him, that person is agreeing with everything he has to say. He has suggested that the comments of the ECB and the IMF about Ireland have entirely endorsed the Government's line. He did not read the small print of all of these opinions, which contained a severe warning to Ireland that paying over the market price and departing significantly from market value is not the right thing to do. These statements are the subject of much discussion between the Department of Finance, the Central Bank and various other institutions. They came about partly through a process of negotiation. Many people do not understand the process, in which various opinions are put forward, examinations are made, drafts are given to the Government and a statement is finally agreed.

The decision to overpay is wrong. It will not necessarily rescue the banks, in the context of what is happening to bank shares. When bank shares went up after the decision was announced, it was seen as some kind of validation of the Government's position. The increase in bank shares resulted partly from the actions of groups of people who were betting €10,000 or €100,000. Hedge funds may have placed larger bets on increases in share values. There was nothing organic, relating to banking performance, in the increase in share prices. Three weeks later, when things did not look so good for bank shares any more, they came down. That was to be expected. We are fooling and coddling ourselves if we think overpayment and the use of long-term economic value will make the banks return to profitability and lending, etc., more rapidly than would be the case if there was an honest use of market value and an honest recognition of the State's investment in the bank.

The Minister seems ideologically fixated on not taking the alternative path, which involves taking the banks into temporary public ownership and reprivatising them when they have been cleaned up. He would not do it in the case of the two most notorious banks, Anglo Irish Bank and Irish Nationwide, when it should have been done 15 or 18 months ago. He put the two institutions at the centre of the bank guarantee scheme, even though their business model was bust, instead of dealing separately with them. We are spending all our time catching up. At some future stage, the Minister will have to take a majority stake in one of the institutions, or nationalise it, in the worst possible circumstances. We nationalised Anglo Irish Bank in the worst way possible. In this case, it is a question of temporary public ownership—

Acting Chairman (Deputy Joe Costello)

The Deputy is wandering somewhat from the amendment. This is Report Stage.

Deputy Joan Burton

The purpose of this amendment is to recognise the primacy of market value and the fact that the market value should be used. However, the Minister is relying on the long-term economic value, thus overpaying the banks for the assets by at least €7 billion and up to €14 billion. That is a fundamentally flawed decision on the part of the Minister and Fianna Fáil, and history will show this to be the case.

Deputy Aengus Ó Snodaigh

Ba mhaith liom labhairt ar an leasú ríthábhachtach seo. Measaim go bhfuil sé truamhéalach nach dtuigeann an Rialtas cad go díreach atá i gceist anseo. Bhí mé ag argóint inné gur cheart dúinn an tainm Gaeilge, GNuBS, a úsáid in ionad NAMA. Tá luachaíocht á thabhairt don chaimiléireacht a tharla sa Stát seo le 20 nó 30 bliain. Seachas luach an margaidh fad-téarmach a íoc, ba chóir go mbeadh an luach reatha á íoc. Níl aon chinnteacht ann. Má dhéanfaimid aon staidéar ar stair na hÉireann nó stair an domhain, is léir nach bhfuil aon chinnteacht ann. Níl a fhios

againn cathain a thiocfaidh an margadh ar ais arís. Sa deireadh thiar, níl á dhéanamh ag an Rialtas ach dul isteach go dtí Paddy Power nó geallghlacadóir ar bith eile agus a rá "seo é an t-airgead — cuir é ar aon chapall sa chéad rás eile agus feicfimid an mbuaifimid". N'fheadar an 10/1, 16/1 nó 1/2 atá i gceist. Ní thuigim geallghlacadóireacht in aon chor. Is é sin go díreach an méid atá á dhéanamh anseo. Nuair atá a leithéid á dhéanamh ag gnáthdhaoine, tá mí-ádh nó hard luck ar éinne a chailleann. An rud a bhí i gceist ag na daoine a bhí ag ceannach na suíomhanna seo, ag tógáil na tithe seo agus ag cothú an uasluach sa mhargadh ná dul isteach i siopa geallghlacadóireachta chun airgead a chur síos.

If one gambles, as speculators did for many years, and loses, it is hard luck in most cases. For the hundreds of thousands of people, including me, who gambled by purchasing Eircom shares and suffered the consequences, it was a case of hard luck. I did not cry out for the Government to bail me out at the current market value, which was worth fuck-all at the time.

Deputy Arthur Morgan

The long-term economic value.

Deputy Aengus Ó Snodaigh

However, the long term economic value—

Deputy Paul Gogarty

An "focal ar bith" a dúirt an Teachta?

Deputy Aengus Ó Snodaigh

Tá brón orm. D'úsáid mé téarma parlaiminte mícheart.

Deputy Arthur Morgan

The heat of battle.

Deputy Terence Flanagan

Aon fhocal.

Deputy Aengus Ó Snodaigh

Aon fhocal eile. Tá sé agam, alright. Táim ag lorg ón Rialtas go mbeadh long-term economic value i gceist. B'fhéidir go mbeinn in ann a rá, "Tá shares agam anois. Caithfidh tú an t-airgead a thabhairt dom i gceann fiche bliain."

The danger with the concept of long-term economic value is that it is not predictable. The Sinn Féin amendment is key in this regard given that we are not likely to have time to discuss some of the related amendments we were trying to have discussed at this key point. I have sat through much of the Report Stage debate and noted it was very valuable to have got to the crux of some of the problems. The problem at this juncture concerns the dichotomy between the current market value and the long-term economic value.

We often look to the courts to define our laws. The courts have recently defined the market value or worth of the properties in question. In the recent case involving Liam Carroll, controller of Zoe Developments, the court decided the market value is 25% of the loan value, yet the Government is saying the taxpayer will pay €54 billion for something worth, according to them, €87 billion. There is confusion as to why speculators would have paid over the odds in the first place. This means the taxpayer is paying €32 billion more than the current market value, as set out by the court. Deputy Mulcahy, as a former officer of the courts, might understand that.

The court went into detail when deciding on the Liam Carroll case. All the properties on which he and his group speculated were worth only 25% of the loan value. If one calculates 25% of €87 billion, one will arrive at a figure of just under €22 billion. This means the Government is paying over the odds. It is using

taxpayers' money to bail out the speculators and give them something to which they are not entitled. They gambled and lost and this is how it should be. The Government is putting its hand in people's back pockets, taking out money and transferring it to the back pocket of the speculator. This is something like brown-envelope syndrome.

What could we do with the €32 billion by which the Government is willing to make the taxpayer indebted? There are many investments that could be made at the current market value and they would be much more beneficial to the economy than wasting money by bailing out speculators. The State could invest in schools, road and rail projects and other capital projects that would put the unemployed back to work. The State could bail out some of the small to medium enterprises, which have been starved of cash because the banks are screwing them. It could put together a proper job-creation programme over the next 20 years and invest in putting in place broadband of the highest possible standard for every home in the country. This would cost very little by comparison with the cost of bailing out the speculators and banks. The State could even invest in energy security for the next 50 to 100 years. This would involve adopting the quite radical proposal by Spirit of Ireland. It would cost but a fraction of the €32 billion with which the Government is gambling and which is to benefit speculators.

When the Minister is rejecting our amendment, as I believe he will, I urge him to consider the exact consequences of his doing so. If he rejects the amendment, he is signing over €32 billion, which sum he will be paying over the odds.

Deputy Terence Flanagan

I thank Deputy Morgan for tabling this very important amendment, which goes to the heart of the Bill. It is disappointing the Minister is not here. I hope he will join us in the House fairly soon.

Deputy Edward O'Keeffe

He is well represented.

Deputy Terence Flanagan

He is well represented, absolutely.

With regard to the issue of long-term economic value, there is clearly no justification for paying €7 billion over the odds considering the current economic crisis. Making provision in this regard is the major flaw at the heart of this Bill, to which Fine Gael is completely opposed. Deputies referred to the fact that €4 billion is to be found in the budget in December. Clearly the money being invested through NAMA could be used much more wisely.

No provision has been made for a financial stimulus package to get the economy moving again. Clearly, some of the money could be used to achieve this. It is wrong to be overpaying by €7 billion. I support the amendment.

Deputy Jim O'Keeffe

Let me outline Fine Gael's central concern about NAMA. I have not said "NAMA, no way" but believe NAMA, as presented by the Government, is exposing the taxpayer far too much. At all times my efforts have been to try to convince the Government on that central issue, namely the value. There are two aspects to the value, the question of what is current market value and the new airy fairy concept that has been introduced of the long-term economic value, the over the rainbow value. It is clear that there are problems in getting true market value on those assets.

I question the methodology employed in reaching the estimated figure of €47 billion that has been mooted. On previous occasions I have questioned values that have been presented by the Government. The Minister of State, Deputy Peter Power, will recall the views I expressed on Thornton Hall. At that time I was asked to accept a valuation of €200,000 an acre by the then Minister for Justice, Equality and Law Reform, a senior counsel and man of high standing, but one who did not

have a clue about market values. My view at the time was that the market value was approximately €25,000 an acre. That view was independently confirmed at perhaps not quite as low as €25,000 an acre but almost as low.

I do not accept the methodology nor the approach that is being adopted on the figures that are being presented. Even on the basis of the methodology that is being presented the taxpayer is overexposed and essentially overpaying. Reference has been made to the prospective rental incomes as forming a basis for the methodology, but in a lot of properties there will be no rental income. I question that approach. Even on the basis of market value there are questions to be asked.

In a commentary on NAMA The Economist states it will still be paying approximately €7 billion more than the assets are worth, that is, even accepting the Government approach. On that basis, we are out by €7 billion already. Having questioned that, we then come to the airy fairy notion of the long-term economic value. I do not accept it. I have practised law for longer than the Minister of State, Deputy Peter Power, dealing with market values for farms, houses, pubs and properties over many years. The market value is what a willing buyer is prepared to give to a willing seller. What we have devised here is an artificial construct, added on with a superstructure of long-term economic value, which is pure hope value. It is the wrong approach, as it overexposes the taxpayer.

The Minister, directly or indirectly, accepts there is an overpayment but his position is that if we do not overpay, we will ultimately pay more because the money we will have put into the banks to capitalise them will cost us more. In other words, according to the Minister, the taxpayer will be paying 4% at current rates for money that will be used for capitalisation as opposed to 1.5% currently for the NAMA money. That is a wrong approach on the part of the Minister from two points of view. He is comparing short-term money, three-month money, which will undoubtedly go up, to three to five-year money, which costs 4%. He is comparing financial apples to financial oranges. It is not a proper comparison.

The Minister might well ask what is the alternative. Again, I have consistently held the view that there is one. I do not accept the approach of immediate nationalisation. That would be a disaster. However, there is an approach that could provide the answer, namely, to force the banks to capitalise themselves at a low figure, let us say a 50 cent a share and let the State underwrite that. Two things will happen if the banks were forced to get in their rights issue at 50 cent a share. There would be a very big take-up but it would do nothing for the existing share price. Tough luck. I am sorry if people have been speculating on the price of the banks since they went up from 13 cent to 15 cent. That is their tough luck. The second thing that would happen is that if the State had to take up its underwriting obligation at 50 cent a share, the taxpayer would ultimately gain substantially when the banks' share price went up. That is the answer. I am not presenting that off the top of my head. I have discussed it with many people involved in the banking and business sectors and they tell me it is a realistic approach. There is no guarantee the Minister will accept that option even though I have pressed it with him on a few occasions.

The current approach that is being adopted is the wrong one from the point of view of money, as it is overexposing the taxpayer. As a consequence, the taxpayer will have cause to rue the day that the Minister completed the approach to NAMA as currently presented. There is still time to pull back from the brink. That is the last appeal I will make on the issue, publicly at any rate, to follow something along the lines I have been suggesting, but not to continue with the crazy approach of overpayment, which is still central to the Government approach on the Bill.

Deputy Michael D. Higgins

I wish to make a few small points about this amendment. I deeply regret that we are not taking amendments Nos. 16 and 82 to 87, inclusive, together. Amendment No. 16, which has been proposed by Deputy Morgan, inserts a definition of market value into section 4. Amendments Nos. 82 to 87 relate to section 70. The difficulty with the Bill as drafted is that section 4 regularly refers onwards to sections that follow and, equally, section 70 refers back to section 4.

Deputy Morgan wishes to place his amendment in section 4 between lines 21 and 22 on page 20. In the course of that section several references are made to valuation. For example, on page 21, line 38 the terms "valuation methodology" is defined as "the valuation methodology set out in Part 5.". There are definitions set in Part 5, section. Section 70(2)(a) states that in this Part "a reference to the market value for property is a reference to the estimated amount that would be paid by a willing buyer to a willing seller in an arm's-length transaction after proper marketing (where appropriate) where both parties act knowledgeably, prudently and without compulsion". The difficulty arises when this definition of market value is applied in section 70(2)(b) in regard to a bank asset in the same way as I have outlined for the market value for property.

All that might be fine in a way, but it is very difficult not to get the impression from this that the valuation methodology is an exercise in abstraction. I made a point on Committee Stage that the usual understanding of market value, for example, which is the term used in Deputy Morgan's amendment, includes an estimation of future economic value. We have had a useful distinction between what Deputy Bruton has said and what Deputy Morgan said in moving his amendment. The former drew a distinction between what the market would yield at any particular time and an estimation of the market, putting different conditions in place. The difficulty about this is that one might ask why we have Part 5, section 70. It is difficult not to conclude that the reason we do not have clear, explicit definitions in section 4, an issue to which Deputy Morgan's amendment is addressed, is because of the unusual usage of the term "long-term economic value".

The Minister suggests it is coming into popular usage in the United States and is already in use generally in Europe. I respectfully repeat what I said on Committee Stage — this is not so. Market value has a connotation of an estimate of what is the fundamental value of the asset.

There are difficulties in section 4 that go beyond this and I wish the Minister was here to clarify these. There is even difficulty with the definition of an asset. We can discuss it when discussing the section, if we even get that far. My concern relates to

what is securing a loan that is linked to an asset and whether that asset can be anything, for example, a piece of art, which would at least be tangible to a certain degree, or—

Deputy Peter Power

There are some of those there too.

Deputy Michael D. Higgins

—it could be an unsecured instrument or derivative that is without real value. Why are we in this difficulty? Why is there an absence of definitional exactitude in section 4 and a type of metaphysical chapter in section 70? I believe it is to cover the fact that €7 billion over the achievable value, regardless of what way one dances around it, is being transferred for assets to the banks. There were alternatives to that. Given the position of the agency being in place and purchasing loans and so forth, why is it not doing so at market value? If we had given what is an estimated market value and decided that the banks, in order to come on board in the context of liquidity, needed something extra and given them €7 billion, we would have got equity for it. It would thereby have been possible to have some form of control over the decision-making culture of the bank. I could see the intention in that situation.

The €47 billion plus €7 billion gives a total of €54 billion. It is crucial that the Minister clarify another fundamental point about the bonds that are related to this before we conclude this debate at 8 p.m. Who exactly will issue these? This must be clarified. Will NAMA or the SPV issue these bonds? If it is the SPV, there are huge implications with regard to the 51:49 ratio of participation and the yield which might flow to the private investors, whoever they may be.

A number of Members have referred to how the public views this scheme. Those of us who have a particular political position are regularly lectured about our inability to accept the disciplines of the market. In this case, however, banks and particularly

their bondholders and shareholders are not asked to accept the disciplines of the market. Instead, the taxpayers are confronted with a curious proposition, that we must socialise the losses. If all these assets had been performing, there would not have been a socialising of the profits. One gets the idea that this is the old game of socialising the loss and privatising the profit. When we have finally understood the relationship of the SPV to NAMA and the bondholders, we will know precisely what the attractive yield is to the private component. It is crucial for us to know that.

I wish we were discussing all of these matters. The valuation chapter, which is section 70, should have been taken along with this. It is not entirely innocent that there is an absence of definitions in section 4 and a later chapter. We will not reach that chapter now, which is the point. It is not the Members who have sat on these benches for all of this debate who are delaying this Stage. We wanted all of these issues grouped so, for example, the two fundamental big issues that remain could be discussed in the amount of time available. One is the valuation chapter and the second is transparency and the appearance of the chairman and the chief executive before whatever type of committee that will be established. The likelihood is that we will not reach those, and I regret that. I hope the Minister will take the opportunity of replying on amendment No. 16 to anticipate the questions we will not reach in chapter 70.

Deputy Edward O’Keeffe

The Government is the winner in this deal. There is a substantial discount from the institutions. The taxpayer will be the beneficiary and it is not far down the road because the world economy is moving forward. That means Ireland's very open economy will move in the same direction. Listening to the doom and gloom about what is happening and will happen is rather alarming.

It takes two people to make a sale. That will happen here. I hope my party and the party in office with us will reap the rewards of this great success. I have no doubt that it will be a success. Many of the properties are outside this country; 6% are in Northern Ireland and approximately 24% in other countries. I am rather

disappointed with Sinn Féin's attitude to this scheme. It has done well out of the banks. The banks were always generous to Sinn Féin, but the party is knocking them heavily now.

Deputy Peter Power

It does not need a share price increase in the stock market rally.

Deputy Arthur Morgan

The Government is certainly engaging now, anyway. It is robbing the taxpayer to pay the banks.

Deputy Edward O'Keeffe

The example of Liam Carroll does nothing for me. There was a court decision and arguments took place about values and so forth. We are dealing with the real business in here.

Deputy Aengus Ó Snodaigh

Liam Carroll's?

Deputy Edward O'Keeffe

I listened to Deputy Joan Burton, who is a very good friend of mine. I admire much of what she says. However, she quoted experts such as Professor Lucey. Where was Professor Lucey five or six years ago when all this started, and the 15 with him and the 40 that forgot about him? They were not around then. Then there is the famous man, Peter Mathews, who is a banking expert. The fact is that if one walked down the street and met 1,000 people, one would find 900 experts, each with a different view. Peter Mathews is no example for me.

Talk of bank nationalisation in this scenario is yesterday's business. The world is moving out of recession and the option of bank nationalisation is behind us. Consider what happened in the UK with Royal Bank of Scotland, Lloyds and Halifax. They are trying to get out of difficulty and are getting support from the British Government. There is no bank nationalisation in Britain despite it having a Labour Party government, which always believed in nationalisation. It has no intention of nationalising those banks.

Deputy Jim O'Keeffe made a good point, although it would be very generous to the shareholders if it got approval. Our banks need an injection of capital but it would be better if that capital came from their existing shareholders and the institutions, rather than the State. We live in a free market economy and for that reason it is important that they secure their independence. I would like to see our two banks in a position to repay the capital the State has given them, return to full private ownership and have the freedom to do the business they wish.

It was not, by and large, the people of this country who got the banks into difficulty. This House had a role in that, when we let the economy run wild for development. My colleagues in the Green Party made the point today, that it started with the local authorities and planners, but we did not correct it. We could have benefited enormously if we had watched that.

Deputy Aengus Ó Snodaigh

Enormously?

Deputy Edward O'Keeffe

Of course, we could have benefited. Deputy Ó Snodaigh's party slept soundly too, like Rip Van Winkle.

Deputy Aengus Ó Snodaigh

No, we did not.

Deputy Edward O’Keeffe

We could have put a capital gains tax on property development in a scaled way.

Deputy Aengus Ó Snodaigh

The Government cut the capital gains tax.

Deputy Edward O’Keeffe

Why did Sinn Féin not suggest this?

Deputy Aengus Ó Snodaigh

We did. We called for a capital gains tax.

Deputy Edward O’Keeffe

The Deputy's party suggested nothing. It did nothing but complain every week.

Deputy Aengus Ó Snodaigh

Any suggestions we put forward were shot down by the Deputy's party.

Deputy Edward O’Keeffe

My party never did that.

Deputy Aengus Ó Snodaigh

Yes, it did.

Deputy Edward O’Keeffe

I congratulate the Minister of State, Deputy Peter Power, on the very able way in which he has dealt with the debate on several amendments. There are many experts on the Fianna Fáil benches who could, quite competently, handle the finance portfolio and the Minister of State is one such individual.

The legislation is being ridiculed by the Opposition. However, the Minister has achieved what is an excellent deal for the State. Evidence of the success of NAMA will not be apparent in the immediate future but it will emerge during the next couple of years. Not all of the properties involved are located in Ireland. In addition, Dublin and Cork will not be closed down as a result of what is going to happen. Small rural villages may experience difficulties, particularly in the context of land banks adjacent to them which may come within the remit of NAMA.

People should not dismiss NAMA. It will be a success. The attitude of the Opposition is frightening. All it seems to want to do is continually knock everything. We should adopt a more buoyant attitude and try to move ahead.

Deputy Paul Gogarty

I welcome the opportunity to comment on amendment No. 16, which encapsulates the entire debate on this matter. As indicated previously, I have an issue with regard to the question of market value. Deputy Burton believes that it might be better to temporarily nationalise the banks. That is a fair argument but I disagree with it because the cost to the State would be much higher and non-Irish investors would be driven out of the banking sector. I may be accused of sounding an apocalyptic note but temporarily nationalising the banks could—

Deputy Joan Burton

The Deputy is listening too much to Fianna Fáil.

Deputy Paul Gogarty

I am probably listening too much to David McWilliams.

Deputy Michael Kennedy

The Deputy is listening too much to the facts.

Deputy Paul Gogarty

In Russia in the 1990s, there were queues for food and public sector workers were not paid. That is the kind of appalling vista we must contemplate in respect of our own country. In that context and in light of the cost of recapitalising the banks for the full amount, the risks posed by nationalisation are not worth contemplating.

I have a great deal of respect for David McWilliams, who has been extensively quoted in the media and whose knowledge of ministerial eating habits is well known throughout the country at this stage. Mr. McWilliams is also known as the person who predicted the advent and eventual collapse of the property bubble. He made predictions in this regard in 1997, 2000 and 2004. Eventually, he was proven right. I was with him on the first occasion on which he predicted what would happen. He could see that the policies that were being put in place would lead to the creation of a property bubble and that any stamp duty revenues that would accrue would be temporary in nature and would need to be managed carefully because they would not be available for ever.

I do, however, disagree with Mr. McWilliams in respect of the valuation of property. He is of the view that we should allow the banking system to collapse and that a new natural order will arise in the aftermath. He also believes — by his use of a US method to calculate a variable on annual incomes — that property values will be halved. If what Mr. McWilliams believes were to come true, we would soon be living in a different environment. Ireland is a member of the EMS and is obliged to operate within a number of constraints. Unless we pull out of the euro, we do not

have the freedom to employ too many measures to assist us in dealing with the economic crisis. As a result of the constraints to which I refer, I believe that the effect on house prices will not be as apocalyptic as Mr. McWilliams fears.

House prices may fall. In light of his contribution, Deputy Ó Snodaigh is obviously a fan of placing bets on the gee gees.

Deputy Aengus Ó Snodaigh

I do not have a clue how it should be done.

Deputy Paul Gogarty

I was referring to people's practice of sticking a pin in a list of horses to decide which one to back. If one is trying to obtain a long-term economic value from this, in some ways what one is doing is similar to what will happen with NAMA.

Deputy Aengus Ó Snodaigh

That is what I said.

Deputy Kieran O'Donnell

It is exactly like NAMA.

Deputy Paul Gogarty

A potential for risk accompanies any asset management agency. However, at least such an agency can attempt to make some money back. It is one thing spinning the roulette wheel and hoping that the ball lands in the black and not in the red. It is another thing to overturn the roulette table completely, which is what Mr. McWilliams advocates and which is what is contemplated under the Labour Party's plan for nationalisation.

I wish to focus on the issue of long-term economic value. Regardless of whether we like those who are in charge of the banks or we think they got away with it and regardless of the fact that the citizenry is apoplectic with regard to this matter, if one acknowledges that the banks must be recapitalised in the economic interests of the country, the only question that arises is what is the least expensive means by which to achieve this goal. In that context, we do not know what will be the long-term economic value of the assets that will be transferred to NAMA. The Minister made a guesstimate in this regard, based on information available to him at the time. However, we do not know what will be the estimated actual value when the line in the sand is eventually drawn. In addition, we do not know what will be the amount above that market value. This is the gamble we are taking in respect of whether the value of the assets will rise over a ten-year period.

Unlike some Deputies, I am of the view that the question as to whether they will rise in value is completely irrelevant. I say this because if one accepts that the banks must be recapitalised, then one must also accept that, one way or another, the money must be paid. If there was no asset management agency and if we recapitalised the banks, it would still cost X amount of money. If, as with NAMA, the banks are recapitalised through an asset management system, it may be possible to recoup some money, break even or perhaps make a profit.

Deputy Joan Burton

They are two different things.

Deputy Paul Gogarty

Not really.

Deputy Joan Burton

They are different. Buying the assets at an overinflated price and selling them subsequently and making a profit is entirely different to overpaying for the assets. In

circumstances where one would pay market value, that is all one would pay. If future moneys were invested in the bank, this would be on the basis of equity from which another return would be obtained. They are two connected but separate things.

Deputy Richard Bruton

There would be a bigger return.

Deputy Paul Gogarty

I am referring to the cost of recapitalising the banks. At present, the European Central Bank, ECB, rate is 1.5%. If we were to recapitalise the banks through external borrowings rather than through the ECB, it might not be possible to obtain the relevant moneys in the first instance. If one were successful in obtaining such moneys, one would be obliged to pay a higher interest rate. That is why making a reasonable estimate with regard to the profits one might make – which is acceptable within the relevant parameters – means that one can obtain the money at a lower rate than if one sought it on the financial markets. Within these parameters, it is a reasonable risk to take because, one way or another, the money must be invested in the banks.

Earlier, I referred to taxi drivers and Deputy Burton referred to the dogs in the street. Both taxi drivers and the dogs in the street would be of the opinion that the State is going to be a majority shareholder in one if not both of the main banks. In that context, we will be sharing some of the risk if the banks make a profit and the State does not. However, if the banks do not make a profit and the State does, we will still be obliged to put up the money to recapitalise the banks in order to ensure that they work properly.

I accept that others disagree with the argument I am putting forward. Some people propose temporary nationalisation, Fine Gael proposes the establishment of

a good bank and David McWilliams proposes that we adopt a let-them-all-be-damned approach. These are all valid approaches but some are riskier than others.

On amendment No. 16, if one chooses a market value that relates to the current market value of an asset, one is ignoring the realistic prospect that said asset may actually increase in value. People are always warned in the small print that the value of their shares may fall as well as rise. That could happen in this instance. During the next three to four years, as property prices in Ireland fall — depending on global circumstances, the value of assets in the UK, Northern Ireland and other jurisdictions may also decrease — people may well be in a position to say "We told you so" and inform us that what is happening is terrible. However, in recent years, even if there have been sharp falls, the ultimate trend in respect of values has always been upwards. The Green Party has strongly emphasised the damage that peak oil could do to the global economic system. I do not know how the advent of peak oil will affect what we are attempting to do. I hope the Minister will take cognisance of this aspect in the context of valuations.

It may well be that the threat from peak oil to the global economic system will push up the value of properties as the cost of raw materials pushes up construction costs. This is not an exact science. We do know that it is as wrong to take current market value as the ad infinitum bottom line as it is to predict that the market value will increase or decrease. The Government will make its line in the sand at the appointed time, based on a realistic possibility that the value of the assets will rise to a certain degree. I believe this is a realistic risk. It is a 50-50 risk which is counter-balanced by the equity that has to be taken in the banking system in any event.

There is too much emphasis on the minutiae of the exact economic value. The €7 billion over-payment based on the current guesstimate is not so much of an increase above the current market value estimate as to be preposterously off target. There is a strong possibility that the market value will, over ten years, reach or exceed that point and, therefore, this is a reasonable and balanced approach to take. The banking system must be recapitalised regardless. The risk in terms of that

recapitalisation versus the €7 billion over-payment on current market value versus the long term economic value is not too much of a risk.

Deputy Ó Snodaigh mentioned other areas where money could be spent, including the Spirit of Ireland project. I understand that Spirit of Ireland is seeking private as well as State capital and may in the six months come up with some concrete proposals. This year, on any particular day, 40% of our energy came from renewable sources. Under the renewed programme for Government and, through the Minister for Communications, Energy and Natural Resources, Deputy Eamon Ryan, this target is increasing all the time. I agree there needs to be more State investment in this area. However, money must be put into the banking system. Sinn Féin may believe it is better to put money into energy projects rather than into the banks. However, I am a convert to the fact that, begrudgingly and with a sad and heavy heart, the money must be put into the banking system. We have no choice.

Deputy Joan Burton

At least that way we will not burn it and create extra CO2 emissions.

Deputy Paul Gogarty

That is a good point. I am all for that and will take the Deputy's point on board.

Deputy Higgins spoke about abstraction, which is what we dealing in if we get into the minutiae. Section 82(5) provides a concrete counter-balance to the abstract in terms of whether economic value will increase. It states:

Where NAMA determines that the long-term economic value of the property comprised in the security for a credit facility that is an eligible bank asset is less than the market value of the property, NAMA shall not acquire the bank asset.

That is akin to Deputy Ó Snodaigh not backing a horse with a broken leg but a horse that has a chance even though he may not know whether it will win.

An Ceann Comhairle

I call Deputy Kieran O'Donnell.

Deputy Michael D. Higgins

On a point of order, as the Minister is now in the House, we had almost achieved consensus that amendments Nos. 82 to 87, which deal with valuation, would be taken with amendment No. 16. This would provide the Minister with an opportunity to reply on the strategy in respect of valuation. I make this proposal to be of assistance and to ensure that we have the maximum amount of information. If we do not do so, it is highly unlikely we will reach those amendments between now and 8 p.m. I believe the original proposal was good and had the support of the House.

Deputy Arthur Morgan

I support that proposal.

Deputy Brian Lenihan

We are back on the merry-go-round of long-term economic value, which was discussed by an Oireachtas committee in late August and on Second Stage in this House. I do not believe this requires further grouping of amendments. This issue has been discussed endlessly. I have heard no new arguments so far on Report Stage.

Deputy Aengus Ó Snodaigh

The Minister was not in the House to hear my argument.

Deputy Brian Lenihan

The Commission guidance note is clear on this subject, namely, it is an entirely legitimate procedure and there is nothing strange about it. There are many other provisions in the Bill that are more worthy of consideration. However, I am in the hands of the House. I will not object if the House agrees to group these amendments.

An Ceann Comhairle

Some eight or nine speakers have already spoken on amendment No. 16 and a number of other Deputies are waiting to speak on it.

Deputy Michael D. Higgins

I can assure the Ceann Comhairle that it is not my intention to delay the House. If it assists the Ceann Comhairle, I will withdraw my proposal. If the Minister is adopting that attitude towards the valuation chapter and believes he cannot waste time on it, he might want to spend a great deal of time on the transparency sections, in other words, the gagging section. Perhaps we can group the amendments to those sections. We have less than an hour to complete Report Stage.

I can assure the Minister that none of us are interested in repeating ourselves. However, some of us have spent a great deal of time in this House and did so with genuine commitment.

Deputy Brian Lenihan

I accept that.

Deputy Michael D. Higgins

We were not interested in stringing out the debate. We knew what we were doing. There remains one big group of amendments that deal with attempts to gag those appearing before any committee.

An Ceann Comhairle

It is now 7.05 p.m.

Deputy Michael D. Higgins

We can proceed.

An Ceann Comhairle

If Members decide to co-operate, we can work through the amendments.

Deputy Michael D. Higgins

If the Minister does not agree with my proposal we cannot deal with them.

Deputy Brian Lenihan

I will not object to the grouping of any amendments.

Deputy Michael D. Higgins

That is not the point.

Deputy Paul Cogarty

Let us not be petty.

An Ceann Comhairle

We are wasting time. It is now 7.06 p.m. and we are due to vote on the Bill at 8 p.m.

Deputy Michael D. Higgins

If that is the Minister's attitude to the proposal, that is fine.

An Ceann Comhairle

We will proceed. Perhaps Members will restrict the amount of time they spend on amendments.

Deputy Michael D. Higgins

The House has just listened to a very lengthy contribution, which did my head in.

Deputy Kieran O'Donnell

It is a case of Animal Farm in terms of the Green Party.

Deputy Brian Lenihan

I had better recover my sense of humour.

Deputy Michael D. Higgins

Yes.

Deputy Kieran O'Donnell

I will speak to amendment No. 16. Fine Gael's amendment No. 83 is related. The Minister said he has heard no new arguments in regard to long term economic value. Before he left the House approximately two hours ago the Minister said he was not open to cross-examination but he is answerable to this House.

Deputy Brian Lenihan

Yes.

Deputy Kieran O'Donnell

There are, therefore, questions the Minister needs to answer and has not answered. Deputy Gogarty misinterpreted the difference between NAMA buying the assets, which is not recapitalisation—

Deputy Paul Gogarty

I know that.

Deputy Kieran O'Donnell

It does nothing in terms of adding to the core tier 1 ratio. A businessman looking at this would purchase the assets at market value. In that context, NAMA would have some chance of making a return. It is paying €7 billion over value. The taxpayer is taking all the risk but €2.7 billion. If the Minister were to take the €7 billion by way of ordinary shares in the institutions, he would probably have more than a 51% shareholding and an element of control over NAMA in terms of proper disclosure in respect of the loan book.

Deputy Paul Gogarty

We would still have the loans.

Deputy Kieran O'Donnell

There would be an upside for the taxpayer if the banks' balance sheets were cleaned up. Ordinary shares would be valuable and the Minister would have some influence over lending. The Minister gave no commitment to issue guidelines.

Deputy Brian Lenihan

I did.

Deputy Kieran O'Donnell

The Minister said he "may" issue them.

Deputy Brian Lenihan

I said I "will" issue guidelines. I said it was a threat and an exercise.

Deputy Kieran O'Donnell

When will they be issued and laid before the House? We need to see the guidelines.

Deputy Brian Lenihan

I answered the question.

An Ceann Comhairle

The Minister will deal with these issues when he is replying.

Deputy Kieran O'Donnell

The problem with NAMA, in terms of market value, is that it is paying €7 billion over market value. The taxpayer is taking the majority of risk in terms of market value and the €7 billion. The banks are only taking a risk in respect of the €2.7 billion. Taking account of both factors, if the Minister goes with market value for NAMA and puts the €7 billion in by way of ordinary share capital, this would provide a better risk sharing mechanism in terms of the upturn and the banks. The banks' balance sheets would also be cleaned up. The problem with what the Minister is doing is that we effectively come in with an excessive hope value. This makes it less likely the taxpayer will earn a return.

I put two questions to the Minister previously, which he did not answer. I asked when the Mazars report would be issued and who would pay for it. I also asked about the €49 million taxpayers would put into the SPV and asked what exactly that money would be used for.

Deputy Michael Mulcahy

As we approach the end of what has been a fruitful debate, we must acknowledge that we all come to the issue from different perspectives. The different parties have different policies on whether we should create a good or bad bank or whether we should nationalise the banks. However, it is important to realise that we all have the same primary interest. We understand there has been a severe economic crisis here and in other countries in the major western economies and that we need to get out of that in a relatively orderly fashion.

The Government has come up with this proposal, which despite the best efforts of some people stands up to serious scrutiny. People may have different points of view and argue for those, but the NAMA plan is a serious considered proposal. In my knowledge of parliamentary affairs, this Bill is unique as it and the draft business plan were put out for consultation. Therefore, people of a different point of view have had the opportunity to review and scrutinise the documents and prepare their arguments.

In approaching this debate people should be obliged to be clear, straightforward and completely honest. I found a remark made by the Sinn Féin representative, Deputy Morgan, not as accurate as the debate merits. He said NAMA amounted to a bailout for builders. When NAMA acquires these bank loans or assets, the liability of every builder and developer remains for every cent.

Deputy Paul Gogarty

Hear, hear.

Deputy Michael Mulcahy

Not one cent will be written off by the State, NAMA or anyone else.

Deputy Kieran O'Donnell

Has Deputy Mulcahy read the business plan?

Deputy Richard Bruton

Has his contribution anything to do with the amendment under discussion?

An Ceann Comhairle

I have shown considerable latitude in this debate. I do not want to interfere at this stage or restrict individual Members on either side of the House.

Deputy Michael Mulcahy

I am getting to that.

Deputy Richard Bruton

On a point of order, when I contributed on this amendment, I stuck rigidly to what was involved with the amendment. It is unfair to those of us who try to play by the rules to find that others can then come in and effectively give a Second Stage speech.

Deputy Michael Mulcahy

In fairness, what was said in this context was said by Deputy Arthur Morgan when addressing amendment No. 16. I was not prepared for that comment to lie on the record of the House without challenge. In proposing his amendment, he made the

erroneous statement that this was a bailout for builders. If he was going to make that proposition—

Deputy Arthur Morgan

I did not make an erroneous statement. I referred to developers, not builders.

Deputy Michael Mulcahy

If the Deputy was going to make that proposition, he should have substantiated it. I want the record to be absolutely clear that builders or developers are liable to the banks for every cent of their loans once those loans are transferred to NAMA. If that is not the case, perhaps the Minister or someone else will tell us. I have been proceeding in this debate on the basis that the full liability of people who borrowed money from banks and whose assets are transferred to NAMA remains. The public should know this and any attempt to deceive the public in this debate is beneath the Members of this Dáil.

Market value relates to the current market value of an asset. I will not go fully into the area of economic value because the Minister will deal with that. However the question as to the gap between market value and the amount that will be paid for the loans is a fair question. On the business plan we received, that amount is €7 billion. It is a fair question to ask why that overpayment above market value is being made. As I and others asked previously, what would be the point of NAMA if it was just going to pay market value? Why would the banks need NAMA if all it was going to do was pay market value. There would be nothing to stop the banks ringing up an auctioneer and putting those assets on the market.

Deputy Joan Burton

Their assets are turkeys.

Deputy Michael Mulcahy

Precisely, that point is accepted.

An Ceann Comhairle

I ask the Deputy to refer his remarks through the Chair. We will have more tranquility in the House as a result.

Deputy Michael Mulcahy

I accept that. I accept that the gap between what NAMA will pay and the market value is a genuine matter of concern. However, as the Minister pointed out on Committee Stage, it must be borne in mind that the State owns Anglo Irish Bank, which holds the largest tranche of loans being transferred and has warrants of 25% in Bank of Ireland and AIB. Therefore, five sixths of that €7 billion is already in public ownership. The Minister has also included provisions to deal with the building societies.

All I ask is that we are balanced and accurate in our debate, and there has been genuine debate. I was very impressed with the point made by Deputy Higgins about the socialisation of losses and the non-socialisation of profits.

Deputy Joan Burton

It was about nationalising the losses and privatising the profits.

An Ceann Comhairle

I ask Deputy Burton to allow the Deputy continue. We should have one Deputy at a time.

Deputy Michael Mulcahy

However, he should also acknowledge that this system allows for a social dividend to be paid out of the process. Deputy Higgins should be generous enough to acknowledge that and not just say that this amounts to a socialisation of loss, because—

Deputy Michael D. Higgins

I spent all day trying to see where it is in the Minister's guarantee.

Deputy Michael Mulcahy

We had a very good discussion on that. I will not go into the issue of full economic value. However, we must accept that there would be no point in having NAMA if all it would do was pay market value. It makes sense, in the context of our ownership of Anglo Irish Bank and our warrants in other banks, to get money into the banks. Were it otherwise, we would be borrowing money not at 1.5%, but at 4.5% or 5.5%, which would be much more expensive. I appeal to Opposition Members on this. We voted on Second Stage to have NAMA. Let us now get together in a positive and constructive way to see how we can work together to improve and polish the Bill as best we can.

Deputy Richard Bruton

How many amendments have been accepted over the 86 hours? The answer gives us a measure of the Government's sincerity.

Deputy Pat Rabbitte

I took note of what various speakers have said so far and Deputy Gogarty seems to sum it up. He said things go up as well as go down and seemed to conclude we do not know whether we are coming or going and that in those circumstances all we can do is make a guess at it. The guess he has made is that things will get better.

Deputy Paul Gogarty

It is an educated guess.

Deputy Pat Rabbitte

The Deputy is right. There is not much science behind his position, but it summarises his view. He says his view is apocalyptic when it comes to nationalisation.

I cannot agree with his outline of what nationalisation would mean. I would ask Deputy Gogarty this question. We know the least worst position is the Minister's guesstimate that it will cost the taxpayer €7 billion, although outside commentators say it will cost more. The Minister owns 25% preference shares in the two banks already. Would we not be better putting the €7 billion in for additional shares?

Deputy Michael D. Higgins

We could buy a whole bank.

Deputy Pat Rabbitte

If he is concerned about nationalisation, why not put the €7 billion in for shares? That is why the Minister is correct when he states that there is no point extending the debate on valuation, we have been round the houses and we are not going to agree. He has fixed his position and he is not for moving.

Deputy Paul Gogarty

It would cost him more to do that.

Deputy Pat Rabbitte

No, it would not.

Deputy Brian Lenihan

The Deputy is talking about a straight conversion of preference shares into ordinary shares.

Deputy Pat Rabbitte

I will turn the clock back a little and put some specific questions to the Minister. Has the Minister been assured and has he negotiated clearance that down the road there will not be a state aid repercussion as a result of this decision? This is state aid, there is no doubt about it. The Minister claims it is a state aid, saying if there was not an uplift there would be no merit in the exercise because the banks would have to come back for proportionately the same in recapitalisation.

My memory of the last night was that the Minister did not reply to Deputy Bruton's point where he dealt with the question of the total value of the loan book in respect of land, which was €28 billion. The mark down on that was more than the standard 47% and Deputy Bruton posited that it would be 50%, €14 billion. Therefore, €7 billion is 50% of €14 billion and I thought the Minister said there was a ceiling on what the uplift could be on land of approximately 25%. I would appreciate if the Minister would address that when replying because I did not get the response on that either.

Deputy Burton made the point that when the Minister produces in support of his position reputable international agencies such as the ECB, he never adverts to the fact that whether it is the ECB or any of the others, including EUROSTAT, they draw attention to the fact that this support comes with a heavy warning about paying more for the assets than market value. Each of them has underlined that and even EUROSTAT said it is not in a position to judge if the condition is plausible. It states that the current market value is 15% lower than the LTEV but the Irish authorities

believe that under current conditions, the market value for properties is artificially low.

We are going to have to live with this for the rest of our political lives. The Minister is not for turning, and is prepared to pay a hope value to avoid the acquisition of more shares and a higher degree of public ownership or nationalisation. I would say to Deputy Gogarty, however, that the Minister for Finance has been far more cautious than he has in pouring cold water on nationalisation because the Minister knows that at the end of the day that may be where we end up, albeit by the scenic route and at greater expense than if we had made a temporary decision, had done the clean up and prepared the banks for refloating as soon as possible.

We should not deal in apocalyptic terms because there are a number of approaches to the issue. The Minister has embarked on one, and my view is that his approach is conditioned by a number of factors but it stems from the fateful decision of the all-encompassing guarantee on the night of 29 September. No doubt it is fair for him to draw attention to the disposition of the Commission in the sense that there is a view that it would be preferable to avoid nationalisation. I accept that is the view but, as Deputy Burton pointed out, even in the document the Minister quoted, there are reasons to stop and take stock when looking at the European template for where we are now.

The long and the short of it is that Deputy Fahey asserted that we are in this hole because people were paying market value rather than the long-term economic value, but whatever else is the cause of the hole we are in, that is not the cause of it. The Minister is placing a hell of a burden on the shoulders of the taxpayer because of the route he has taken so I would appreciate if he would answer those questions.

Deputy Michael Kennedy

The Government's proposal is reasonable. I would be cautiously optimistic that NAMA will make a profit over the ten years. I do not have any special knowledge,

but the knowledge I have equals that of anyone in the House because no one here has expertise in banking.

I spent 30 years in the insurance business and every six months, insurance investment managers would come into my office to show me graphs over a five year period where the stock market would go up, taper off, then go up again. The same is true for property funds. Those facts exist. The same people tell me now that they are optimistic that property values will rise again. I am not suggesting they might not go down in the next month or six months, but I would be optimistic that over a ten-year period values will increase.

It amazes me that at the 11th hour we are still debating the bad bank, the good bank, the fantasy bank and bank nationalisation. While Deputy Bruton was out, his colleague Deputy Jim O'Keeffe came up with a new proposal whereby the banks would recapitalise at a new 50 cent share. I do not know if this is Fine Gael policy. Is he suggesting those investors in the banks that have lost substantially, the pension funds, building societies, credit unions and trustee funds, in addition to taking the 90% hit they have been stuck with, now take another 300% hit? That is what he is saying going by today's share values. He is kicking those people when they are down, the ordinary people, those who invest their money in credit unions or insurance investment products. Is that Fine Gael policy now?

It is bad enough listening to the good bank, bad bank idea, where we throw in €2 billion and reinflate business overnight. Suddenly €70 billion worth of property loans miraculously disappear off the balance sheets and do not need any capitalisation.

Deputy Terence Flanagan

No one is saying that.

Deputy Kieran O'Donnell

It is good to hear Deputy Kennedy. We have not heard him in this debate for a while.

Deputy Michael Kennedy

We still hear the Labour Party talk about nationalisation.

Deputy Kieran O'Donnell

Deputy Kennedy might explain the special purpose vehicle for us while he is here.

Deputy Richard Bruton

Is the Deputy speaking to the amendment?

Deputy Michael Kennedy

I wish Deputy Bruton's colleagues had spoken to the amendment.

I wish to talk to the Labour Party about nationalisation. This week, for the second time, the Labour Party British Government has chosen not to nationalise. It has pumped more British pounds into its two bad banks.

Deputy Pat Rabbitte

It owns 80% of them.

Deputy Michael Kennedy

Perhaps, but it has not gone the route of nationalisation which one would expect a socialist party in Britain to do.

Deputy Willie Penrose

Who says they are socialists? They are Tories.

Deputy Michael Kennedy

That will go down well with the Deputy's colleagues at the next meeting of the British-Irish Inter-parliamentary Body, when he tells those on the Labour side that they are Tories.

Deputy Willie Penrose

I am proud of Ken Livingstone.

Deputy Michael Kennedy

Irrespective of whether it is New Labour, Tory Labour or the ordinary Labour British Government, it has not gone the route of nationalisation.

Deputy Joan Burton

What about Northern Rock?

Deputy Michael Kennedy

It is similar to Anglo Irish Bank on the day the government—

Deputy Brian Lenihan

Yes, and the Labour Party did not want me to nationalise that.

Deputy Joan Burton

The Deputy is not in a position to lecture us.

Deputy Michael Kennedy

I am not lecturing the Deputies. I am just giving them facts. They lecture us.

Deputy Joan Burton

The Deputy says there has been no nationalisation but what about Bradford and Bingley? The Deputy's facts are incorrect.

Deputy Michael Kennedy

We in this Chamber pontificate as experts, but why do the International Monetary Fund and the European Central Bank back NAMA?

Deputy Kieran O'Donnell

They do not.

Deputy George Lee

They do not.

Deputy Michael Kennedy

Why did the OECD yesterday fully endorse the Minister for Finance and the Government's proposals? Are they fools? They advised the Government to proceed and to do so quickly.

Deputy Kieran O'Donnell

The Deputy might speak to the amendment now.

Deputy Michael Kennedy

I am trying to speak to the amendment.

Deputy Peter Power

Deputy O'Donnell is like the pot calling the kettle black.

Deputy Michael Kennedy

Deputy Jim O'Keeffe spoke about land values and he mentioned Thornton Hall in North Dublin, Deputy Burton's constituency.

Deputy Pat Rabbitte

There is long-term economic value if ever I heard of it.

Deputy Michael Kennedy

He talked about the value of the land being €25,000 an acre. If he knew anything about land there he would have known that builders could not even buy class 1 open space for less than €1 million at the time. It was an inflated price but the realism that existed then—

Deputy Joan Burton

Realism?

Deputy Michael Kennedy

The value of Thornton Hall was not €25,000 an acre as Deputy Jim O'Keeffe from Cork seems to think it was.

Deputy Richard Bruton

Is this based on sound economic fundamentals?

Deputy Pat Rabbitte

Not since the Yukon has there been—

Deputy Michael Kennedy

The Deputies on the other side of the House know where the loyalties of the sellers of the land lie.

Deputy Joan Burton

What does "the sellers of the land" mean?

Deputy Michael Kennedy

The point is being missed on the other side that the builders will own 100% of the debt, today, tomorrow and until NAMA is finished.

Deputy Paul Connaughton

Till debt do us part.

Deputy Michael Kennedy

That should not be forgotten.

Deputy Richard Bruton

What about the rolled-up interest?

An Ceann Comhairle

Deputies should allow Deputy Kennedy to speak without interruption.

Deputy Michael Kennedy

I thank the Ceann Comhairle.

An Ceann Comhairle

The Deputy should stop replying to them because it encourages them.

Deputy Michael Kennedy

I am doing my best but the Deputies on the other side of the House do not like to hear the truth or to deal with the facts.

Deputies

Deputy Kennedy can bring it on.

Deputy Michael Kennedy

I will remain optimistic on the basis of the international professional advice that NAMA will be a good deal for the taxpayer.

Deputy Joe Costello

The one point on which we can all agree is that the Minister will pay over the odds for the assets. The Minister has acknowledged that.

Deputy Brian Lenihan

No, he has not acknowledged that.

Deputy Joe Costello

No matter how the Minister adds up the figures they have to mean that he will pay over the odds. Otherwise he will be paying the current market value, but he is not doing that, which would be a realistic price. He must pay the long-term economic value whatever that may be. It may go up but Deputy Gogarty is not so sure whether it will go up or down. I am not sure about the Minister's confidence in that respect.

Deputy Seán Sherlock

They are a bunch of tulips.

Deputy Joe Costello

As Deputy Rabbitte says, the Minister is probably taking this approach to avoid nationalisation. The other reason, which is not unrelated, is that if the Minister does not pay over the odds for the assets or the loans on the properties, he will not have enough money to recapitalise the banks so he could fail in that respect and find that he is back to square one because the legal guarantees and the recapitalisation of AIB and Bank of Ireland did not work.

Deputy Brian Lenihan

I will not go back to square one.

Deputy Joe Costello

Not so long ago those banks said they had loads of capital. When they got €7 billion, they continued to say they were adequately recapitalised but we know they were not. They were and are telling lies. That is why we are reluctant to give them only targets and guidelines on credit facilities for small and medium-size enterprises because there is no guarantee they will provide that credit.

If it was the real market value where would the Minister be? One need only look at the market value of Liam Carroll's properties which stand at 25% of their value two years ago, or at the Irish Glass Bottle Company site which cost €412 million two years ago and is now worth barely €60 million. That is not a 25% mark down. That is almost a colossal 90% mark down. The Anglo Irish Bank flagship headquarters is a derelict site in my constituency. Nobody seems to know who owns it or what will happen to it. It is worthless. When I get a chance I will ask the local authority to put it on the derelict sites register and find out eventually who owns or will own it. I presume it will fall to NAMA in due course.

NAMA will value approximately 21,000 loans and 50,000 properties using the Minister's hybrid valuation, a so-called market value, a so-called long-term economic value, with various people and agencies intervening to give the benefit of their wisdom on the value. What will the benchmark be? Does the Minister have an idea as to what money is required for the adequate recapitalisation of the banks in Ireland so that they can continue to do meaningful business? Will that influence NAMA's guesstimate of the figure it will impose? Will it fall on the side of the long-term or the existing, market value? Does the Minister have a formula for NAMA's target?

Does the Minister have a formula for determining the actual target that these properties will realise? I know a ballpark figure has been stated but more than 70,000 units will have to be assessed. We will have to sieve through these using the complex methodology of valuation to ensure that there will be enough money for the Minister to put into bonds and for them to be cashed by the European Central Bank. It is very much up in the air, largely because there is no clear valuation mechanism. The provisions in Part 5 do not clarify the situation. It is a long way from the amendments put forward by Deputies Joan Burton and Arthur Morgan of where the market value relates to the current market value of an asset. We will have to wait months just to know how far away from it we are.

Deputy Paul Connaughton

This is crazy economics. In my mind's eye I can picture a development of 40 houses in the west, half of them built—

Deputy Michael D. Higgins

Townhouses.

Deputy Paul Connaughton

—with the other half not. I find it difficult to understand how any valuer could put a valuation on such a property over the next five years. The person who owned the land — before he or she got planning permission — could at least have got an agricultural value for it and sold it on. Now it cannot even be given away and will remain a blight on the environment. If that is the type of a property to make up the Minister's €5 billion profit from NAMA in 20 years time, I fail to see how it will happen.

As the Minister well knows, a building, business, a house or a farm is worth on the day what people are prepared to pay for it at market value.

A Deputy

Just like a bullock.

Deputy Paul Connaughton

No matter how much money a person may have or the banks would give them, they certainly would not want to get involved at that level.

Now that we are coming to the end of this marathon, I have several questions for the Minister on the windfall gains tax. Will anyone be subject to a compulsory purchase order form part of the 80% windfall tax?

Deputy Brian Lenihan

No.

Deputy Paul Connaughton

Will single sites that have planning permission for rural houses be part of it? Will the inter-familial transfer of land be exempt no matter how large the holding is?

Deputy Pat Rabbitte

It is a bit like a visit to Knock. The third question is where will it apply.

Deputy Brian Lenihan

I suppose the Deputy wants me to rezone Knock too.

Deputy George Lee

The troubles of our banks, caused by poor regulation, came upon us quite suddenly because we were being reassured by the Financial Regulator that everything was all right. We were assured all sorts of stress tests were done on our banks and that they were the most capitalised banks in the world. When we discovered the wool had been pulled over our eyes and the banking system was on the verge of collapse, we realised some big and difficult decisions would have to be taken.

I have been impressed by the amount of effort, work and time the Minister for Finance has put into this legislation and tackling the banking problems. Since last September he has been working flat out. I acknowledge the herculean effort he has put into it and it should not be under estimated. The amount of pressure and stress in dealing with these banks, which did not give him the full picture, must be acknowledged. The Minister has already been left in difficult situations to answer difficult questions with very significant implications, particularly with the public so

distrusting of these banks. They have left him to hang out to dry on more than one occasion.

However, a big mistake was made with the NAMA legislation. The Minister has taken upon himself a very significant amount of responsibility. A decision has been taken which has implications for everybody in the country for a long time. There is still the potential that a very substantial bill could be lumbered on us at the end of this. We really hope it works out but we very much doubt it.

I have many problems with pushing ahead with this legislation, the first of which goes back to the beginning. When it became clear that something big had to be done, the Minister got an economic consultant to research the operation of an asset management company to rescue the banks. It has been a common solution applied to many banking collapses across the world and was one option to be explored.

What was most disappointing, however, was that when it came to announcing to the public that the Minister would go down this route during his April budget, he produced a summary of the consultant's report. It was like a *fait accompli*, the way forward. The Minister had not consulted any Member on this side of the House, people who have been given a mandate to represent the people. In turn this meant the people were not consulted. It was not announced fairly because he pulled it like a rabbit out of a hat.

When it came to the publication of the document, the Minister gave a short summary of the consultant's work as to how this model would operate. Once he set himself up to do that, he would hear no other debate on the matter. There are many options about how one goes about rescuing the banks. There may be sequences in which various actions can be implemented. It is still not beyond the bounds of possibility that in the end a bank may have to be nationalised. It is a sequence of events and no one has a monopoly of wisdom in it.

What bothers me most is that the Minister took it on his shoulders to consult the Department of Finance and the Department of the Taoiseach, the Financial Regulator and the bankers on the NAMA model. Many people feel these are the agents responsible for very poor decisions through the years. The collapse happened on their watch and for that reason many people have difficulty in believing that their advice is key to leading us out of this without a proper debate and analysis from the rest of the House.

I understand we have had many hours of debate but the Minister has been closed to all of the amendments tabled. He has been determined to push ahead with this with more items pulled like rabbits out of a hat. We did not get a proper debate about the alternatives because of the manner in which this legislation was published and the Minister intended to go ahead with it from his April budget. In April, we did not hear anything about long-term economic value. Once announced we have been informed it is an ordinary concept and the Minister resorted to European documents on the matter. The argument is that if one wants to rescue banks, one has to pay above the odds, otherwise, as the Minister described it himself, one does not get that effect. However, it is a difficult concept for people to grapple with. It came like a rabbit out of a hat. So too did the SPV.

Deputy Pat Rabbitte

Could Deputy George Lee refrain from using my name all the time?

Deputy George Lee

SPV is for the spiv organisation. Obviously, the Minister was working on it in the background but there was not a debate with the other public representatives – who have a right and a mandate to protect the public interest – until he announced it. The Minister did not announce it until he got the clarification from EUROSTAT that it would do this trick. For the public and for the rest of us here, it is nothing but a trick. At the heart of our concerns about this is the belief that there is a great deal of trickery about it.

The issue of risk sharing was pulled like a rabbit out of a hat. Even prior to being elected to the Dáil, I observed how the Minister dismissed any suggestion from Fine Gael that subordinated bondholders should have to carry the can for some of the investments they had made and take some responsibility for the taking on those losses. The Minister presented the case that it would be catastrophic for the country if the subordinated bondholders had to face some kind of a loss in regard to their investment. At the centrepiece of the Minister's risk sharing element are subordinated bondholders who would not get their money back and there would be nothing wrong with that. The Minister has twisted and turned and has made it up as he went along. It was suggested that the risk sharing element would be a ratio of 50:50, but what we have got is a 5% provision.

It is a very difficult process to do what the Minister has done and he has to make very difficult decisions and has worked hard at them, but at each stage he did not consult other people apart from the people who led us into this. Everybody on this side of the House has very significant difficulties—

An Ceann Comhairle

I intend to call the Minister or Minister of State before 8 p.m. because a number of points were raised to which one or other would wish to reply.

Deputy George Lee

I understand that.

Deputy Emmet Stagg

We are prepared to extend the time allocated for the debate if the Chair wishes.

Deputy Terence Flanagan

We will sit until midnight.

An Ceann Comhairle

I am following the order of the House and—

Deputy Emmet Stagg

We can change the order.

An Ceann Comhairle

—I have to respect the wishes of majority of Members.

Deputy George Lee

It was never clear what were the Minister's proposals for getting credit flowing or for matters such as that. Each time he came back with a response based on whatever he does behind the scenes with the people he engages with about matters which are of significant public interest and concern. Essentially, the Minister is asking the public to trust him. I have no reason that I would not trust him, but I do not trust the advice he has received in many cases. There is good reason to be sceptical about much of the advice and the people who gave it to him. We hope that he is right because if he is not, we will all be up the swanee.

The reality is that the economy has to deliver economic growth which would pay back the €54 billion that the banks and NAMA will owe. The economy also has to deliver €100 billion by the end of next year, which we will have to pay back in terms of the national debt. It has to deliver the economic growth which would pay off €149 billion of mortgages. If one puts those three factors together, never mind the public sector pension bill, we have to deliver €300 billion of economic growth — the benefits of which have already been consumed and allocated — and still live ourselves. For every person who is in the labour force, that is the equivalent of €150,000, which has already been consumed. For a person to pay €150,000, he or she has to earn €300,000.

This is a very significant commitment that the Minister has entered into without proper analysis, open debate or an open mind in regard to what other people have to say.

An Ceann Comhairle

I remind the Deputy of the time.

Deputy George Lee

I will conclude on this point.

Deputy Emmet Stagg

On a point of order, there is no requirement for the Ceann Comhairle to make space for the Minister to reply. There will be no space for many other speakers, including the Minister, to speak on all the other amendments that will not be reached.

An Ceann Comhairle

I note the Deputy's point. However, he is delaying proceedings.

Deputy Emmet Stagg

The Chair does not have to call the Minister.

An Ceann Comhairle

I wish to advise the Deputy that quite a number of Members raised particular points and they would expect the Minister to respond to them.

Deputy Emmet Stagg

We can extend the time.

Deputy Kieran O'Donnell

Extend the time for the debate.

An Ceann Comhairle

Allow Deputy Lee to continue without interruption.

Deputy George Lee

Everybody will have a different view on the decisions the Minister has taken and I understand he took them in good faith. I have no reason to doubt his bona fides, but I have a big problem with the kind of advice he may have received.

Deputy Joan Burton

Particularly after the Minister chewed a lot of garlic.

Deputy George Lee

I am sure that advice was given with the best of intentions, but I do not trust the advice, having regard to the institutions from which it has come. They have been found to be wanting in the past. In regard to this rescue package, most of us on this side of the House would have thought that the Minister had the banks over a barrel in terms of the public interest—

Deputy Terence Flanagan

He did.

Deputy George Lee

—but he behaved in one sense as if the banks has us over a barrel because it is so important in his view and in the mindset of many of the people who advised him to have the banks back working again because that is how we will achieve prosperity again. Therefore, there is a difference of opinion there. The banks were over a barrel to us and they had the Minister over a barrel. That is a major difference in regard to how we all perceive these matters. We have to fix them.

The final difficulty I wish to raise is that we must deliver economic growth in terms of the commitments that are now entered into. This legislation was a great opportunity to get something of significance from the banking system in terms of an injection into the economy. We do not have any guarantee or anything positive out of this which suggests that we are going to get the best injection out of the banking system. That is a great shame. We have a very significant responsibility and now the Minister has a similar responsibility on his shoulders. I am not saying that he deserves it. It is the responsibility that he took on his shoulders to go down this route without bringing everybody with him.

We must deliver on the economy. We must deliver economic growth. This legislation presented a great opportunity for us to get more out of the banking system than I believe we will get. That is a great shame. In view of that it is a dreadful pity that we are at the point where we will guillotine the debate and not consider all the remaining amendments which could significantly add to the potency of this Bill.

Deputy Brian Lenihan

I am offering to speak on the amendment.

Deputy Joan Burton

Is it possible to propose that the time allocated for this debate be extended to 10 p.m. because there are many Members who wish to contribute?

An Ceann Comhairle

No, it is not. There is an order of the House and I am bound by it.

Deputy Seán Barrett

It is possible. Can the Whips not agree to do that?

Deputy Michael D. Higgins

We can amend the order.

(Interruptions).

Deputy Emmet Stagg

On a point of order, the House can at any time it wishes, by agreement, change the order to extend the time.

Deputy Michael D. Higgins

We have done it before.

Deputy Kieran O'Donnell

We can do it again.

An Ceann Comhairle

The order of the House was agreed this morning and I am bound by it.

Deputy Emmet Stagg

If the Minister gives extra time, we will take it.

Deputy Brian Lenihan

There are three minutes left. The debate on this amendment has ranged far and wide.

Deputy Michael D. Higgins

The Minister was not here for most of it.

Deputy Brian Lenihan

This debate began last April when the Government published the initial proposal
—

Deputy Terence Flanagan

Three weeks ago.

Deputy Brian Lenihan

—and has progressed ever since. The question of credit is something that all of us are concerned about. Apart from that, the one aspect, on which the Opposition parties have repeatedly focused since the publication of the draft Bill last August, is the issue of long-term economic value.

A Deputy

And openness

Deputy Michael D. Higgins

And transparency and accountability.

An Ceann Comhairle

Allow the Minister to continue without interruption.

Deputy Brian Lenihan

Clearly, in the guidance note by the Commission, and as acknowledged I am glad to say by Deputy George Lee at the conclusion of the debate, in asset relief schemes, one must give something to the banks in order to achieve their desired effect. While I am on this subject, I wish to say it is extraordinary that Opposition parties, who devote so much time to the exposure of the taxpayer and of the future generations in this context — a contingency that might or might not materialise in ten years' time — do not contemplate the fact that this year we are borrowing €22 billion to fund the voted expenditure of this State.

Deputy Kieran O'Donnell

We do.

Deputy Joan Burton

We are well aware of that.

(Interruptions).

Deputy Brian Lenihan

—and that there are no proposals forthcoming to address that issue.

An Ceann Comhairle

Allow the Minister to continue without interruption.

Deputy Michael D. Higgins

Why does the Minister not answer the questions?

An Ceann Comhairle

Will the Deputy allow him to do so? He cannot be heard.

Deputy Brian Lenihan

That is a far greater burden on my shoulders and it is a burden I will also discharge.

Deputy Michael D. Higgins

The Minister said he would answer all the questions in three minutes – that was his calculation, not mine.

Deputy Brian Lenihan

How can one answer all the questions in three minutes? Deputy Rabbite raised a very interesting question about capitalisation. He made the point that it surely would have been possible to take the banks into temporary nationalisation, but once one would nationalise the banks one would be responsible for providing the banks with capital.

(Interruptions).

An Ceann Comhairle

Allow the Minister to continue without interruption.

Deputy Brian Lenihan

It is not just a matter of shunting a few shareholders out of the way and paying them compensation. The entire funding of that bank is then assimilated to the sovereign State of Ireland and added to the national debt with all of the consequences that entails.

Deputy Michael D. Higgins

We have heard that before.

Deputy Joan Burton

Yes, and the Minister did it so badly for Anglo Ireland Bank that we are stuck with a vast amount of waste in regard to it. That is the way he did it.

Deputy Brian Lenihan

With regard to this debate, history will record the fact that despite two and half months of debate, the Opposition parties still cannot distinguish between €50 billion at 1.5% and €50 billion at 4%.

Deputy Joan Burton

We have a toxic dump, toxic banks.

Deputy Brian Lenihan

That is a simple arithmetical matter to which the Opposition parties—

(Interruptions).

Deputy Brian Lenihan

—are incapable of addressing themselves.

An Ceann Comhairle

We have reached 8 o'clock. Before I put the question I wish to ascertain the status of ministerial amendment No. 42. Is the Minister withdrawing amendment No. 42?

Deputy Brian Lenihan

I am withdrawing amendment No. 42.

Amendment, by leave, withdrawn.

Deputy Emmet Stagg

It is time to put the question.

Deputy Pat Rabbitte

We should hear the Minister. The Ceann Comhairle should allow us hear the Minister.

An Ceann Comhairle

As it is now 8 o'clock, I am required to put the following question in accordance with an order of the Dáil of this day: "That the amendments set down by the Minister for Finance and not disposed of, with the exception of amendment No. 42, including those in respect of which recommittal would in the normal course be required, are hereby made to the Bill, Fourth Stage is hereby completed, and the Bill is hereby passed."

Question put.

The Dáil divided by electronic means.

Deputy Paul Kehoe

A Cheann Comhairle, now that the Government has firmly put the country in jeopardy, I would like to call a vote other than by electronic means to ask the members of the Government to question their conscience as they walk up the steps.

An Ceann Comhairle

Let the vote proceed.

Question: "That the amendments set down by the Minister for Finance and not disposed of, with the exception of amendment No. 42, including those in respect of which recommittal would in the normal course be required, are hereby made to the Bill, Fourth Stage is hereby completed, and the Bill is hereby passed", again put.

The Dáil divided: Tá, 77; Níl, 73.

Tá

- Ahern, Dermot.
- Ahern, Michael.
- Ahern, Noel.
- Andrews, Chris.
- Ardagh, Seán.
- Aylward, Bobby.
- Blaney, Niall.
- Brady, Áine.
- Brady, Cyprian.

- Brady, Johnny.
- Browne, John.
- Byrne, Thomas.
- Calleary, Dara.
- Carey, Pat.
- Collins, Niall.
- Conlon, Margaret.
- Connick, Seán.
- Coughlan, Mary.
- Cowen, Brian.
- Cregan, John.
- Cuffe, Ciarán.
- Curran, John.
- Dempsey, Noel.
- Devins, Jimmy.
- Dooley, Timmy.
- Fahey, Frank.
- Finneran, Michael.
- Fitzpatrick, Michael.
- Fleming, Seán.
- Flynn, Beverley.
- Gogarty, Paul.
- Gormley, John.
- Grealish, Noel.
- Hanafin, Mary.
- Haughey, Seán.
- Hoctor, Máire.
- Kelleher, Billy.
- Kelly, Peter.
- Kenneally, Brendan.
- Kennedy, Michael.
- Killeen, Tony.
- Kitt, Michael P.

- Kitt, Tom.
- Lenihan, Brian.
- Lenihan, Conor.
- Lowry, Michael.
- McEllistrim, Thomas.
- McGrath, Mattie.
- McGrath, Michael.
- McGuinness, John.
- Mansergh, Martin.
- Moloney, John.
- Moynihan, Michael.
- Mulcahy, Michael.
- Nolan, M. J.
- Ó Cuív, Éamon.
- Ó Fearghaíl, Seán.
- O'Brien, Darragh.
- O'Connor, Charlie.
- O'Dea, Willie.
- O'Flynn, Noel.
- O'Hanlon, Rory.
- O'Keeffe, Batt.
- O'Keeffe, Edward.
- O'Rourke, Mary.
- O'Sullivan, Christy.
- Power, Peter.
- Power, Seán.
- Roche, Dick.
- Ryan, Eamon.
- Sargent, Trevor.
- Scanlon, Eamon.
- Smith, Brendan.
- Treacy, Noel.
- Wallace, Mary.

- White, Mary Alexandra.
- Woods, Michael.

Níl

- Allen, Bernard.
- Bannon, James.
- Barrett, Seán.
- Behan, Joe.
- Breen, Pat.
- Broughan, Thomas P.
- Burke, Ulick.
- Burton, Joan.
- Byrne, Catherine.
- Carey, Joe.
- Clune, Deirdre.
- Connaughton, Paul.
- Coonan, Noel J.
- Costello, Joe.
- Coveney, Simon.
- Crawford, Seymour.
- Creed, Michael.
- Creighton, Lucinda.
- D’Arcy, Michael.
- Deasy, John.
- Doyle, Andrew.
- Durkan, Bernard J.
- English, Damien.
- Feighan, Frank.
- Ferris, Martin.
- Flanagan, Charles.
- Flanagan, Terence.
- Gilmore, Eamon.

- Hayes, Brian.
- Hayes, Tom.
- Higgins, Michael D.
- Hogan, Phil.
- Howlin, Brendan.
- Kehoe, Paul.
- Kenny, Enda.
- Lee, George.
- Lynch, Ciarán.
- Lynch, Kathleen.
- McCormack, Pádraic.
- McEntee, Shane.
- McGinley, Dinny.
- McHugh, Joe.
- McManus, Liz.
- Mitchell, Olivia.
- Morgan, Arthur.
- Naughten, Denis.
- Neville, Dan.
- Noonan, Michael.
- Ó Caoláin, Caoimhghín.
- Ó Snodaigh, Aengus.
- O'Donnell, Kieran.
- O'Dowd, Fergus.
- O'Keeffe, Jim.
- O'Mahony, John.
- O'Sullivan, Jan.
- O'Sullivan, Maureen.
- Penrose, Willie.
- Perry, John.
- Quinn, Ruairí.
- Rabbitte, Pat.
- Reilly, James.

- Ring, Michael.
- Shatter, Alan.
- Sheahan, Tom.
- Sherlock, Seán.
- Shortall, Róisín.
- Stagg, Emmet.
- Stanton, David.
- Timmins, Billy.
- Tuffy, Joanna.
- Upton, Mary.
- Varadkar, Leo.
- Wall, Jack.

Tellers: Tá, Deputies Pat Carey and John Cregan; Níl, Deputies Paul Kehoe and Emmet Stagg.

Question declared carried.

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