

DÁIL ÉIREANN

*Dé hAoine, 16 Nollaig 2011.
Friday, 16 December 2011.*

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

Paidir.

Prayer.

Order of Business

The Tánaiste: It is proposed to take No. 11a, motion re Standing Order 27A; No. 12, motion re proposed approval by Dáil Éireann of the Double Taxation Relief (Taxes on Income and Capital) (Federal Republic of Germany) Order 2011 - back from committee; No. 13, motion re proposed approval by Dáil Éireann of the Double Taxation Relief (Taxes on Income) (Kingdom of Saudi Arabia) Order 2011 - back from committee; No. 14, motion re proposed approval by Dáil Éireann of the Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of Armenia) Order 2011 - back from committee; No. 15, motion re proposed approval by Dáil Éireann of the Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of Panama) Order 2011 - back from committee; No. 16, motion re proposed approval by Dáil Éireann of the Exchange of Information Relating to Tax Matters (Republic of Vanuatu) Order 2011 - back from committee; No. 17, motion re proposed approval by Dáil Éireann of the Exchange of Information Relating to Tax Matters (Grenada) Order 2011 - back from committee; No. 6, Bretton Woods Agreements (Amendment) (No. 2) Bill 2011 - Second Stage (resumed); and No. 8, Legal Services Regulation Bill 2011 - Order for Second Stage and Second Stage.

It is proposed, notwithstanding anything in Standing Orders, that (1) Nos. 11a and Nos. 12 to 17, inclusive, shall be decided without debate and in the case of Nos. 12 to 17, inclusive, they shall be moved together and decided by one question which shall be put from the Chair; (2) the Dáil on its rising today shall adjourn until 2.30 p.m. on Wednesday, 11 January 2012.

An Ceann Comhairle: There are two proposals to be put to the House. Is the proposal for dealing with Nos. 11a and Nos. 12 to 17, inclusive, agreed? Agreed. Is the proposal that the Dáil on its rising today shall adjourn until 2.30 p.m. on Wednesday, 11 January 2012, agreed?

Deputy Éamon Ó Cuív: It is agreed.

Deputy Jerry Buttimer: Deputy Mary Lou McDonald is very quiet.

(Interruptions).

An Ceann Comhairle: I was afraid for a moment that Deputy Ó Cuív wished to extend the period.

Deputy Éamon Ó Cuív: Ag an am seo den bhliain tá nós againn gach dea-ghuí a ghuidhe, agus ba mhaith liom gach uile rath a ghuidhe ar gach uile dhuine sa Teach. Tá mé cinnte go dtuigeann na Teachtaí Dála nua an obair atá á dhéanamh ag Teachtaí Dála agus go bhfuil an saoire tuilte go maith acu. I am sure all the new Deputies now fully realise something they might not have realised this time last year, that public representatives have a heavy workload. The little break is more than well deserved and there is a lot of work to be done back home in the meantime.

Deputy Peter Mathews: A lot done, more to do.

Deputy Éamon Ó Cuív: I hope that Deputies will have an opportunity to spend some time with their families as well as looking after their constituencies.

I wish to record thanks to all the staff of the House who give us very good advice and assistance during the year. On a sadder note, there has been one death of a Member of this Dáil, the sad death during the year of Brian Lenihan, whom I know we all remember at this time.

Duitse, a Cheann Comhairle, agus don Leas-Cheann Comhairle, guím séan agus sonas don Nollaig. Tá súil agam nach mbeidh samhail an chloigín bheag sin atá agat ag cur rian i do chloigeann i gcaitheamh na Nollag.

I hope when the Ceann Comhairle is at home over Christmas that the sound of that bell will not be putting a spin in his head and that during Christmas he will not be visualising all of the obstreperous Deputies.

Deputy James Reilly: A particular case of tinnitus.

The Tánaiste: I join with Deputy Ó Cuív and with other Members in wishing a happy Christmas and new year to the Ceann Comhairle, to all the Members of the House, to the staff of the House and of our respective offices and political parties, and to the press who cover the events here in the House. This has been a long session, probably the longest session of any Dáil. We returned in early September and we will resume in early January. Much work has been done here over the course of the past session.

I join with Deputy Ó Cuív in remembering the late Brian Lenihan and in particular remembering that it was at this time just two short years ago that we heard the sad news of his illness. It is appropriate that we remember him on this day.

Guím Nollaig shona ort, a Cheann Comhairle, ar gach Teachta, orthu-san atá ag obair anseo i dTeach Laighean, ar lucht an phreas agus ar gach uile dhuine a bhfuil baint aige le hobair Theach Laighean. Tá súil agam go mbeimid go léir ar ais anseo ar an aonú lá déag d'Eanáir.

Deputy Billy Kelleher: We will be playing soccer in no-man's-land soon.

Deputy Mary Lou McDonald: Peace has broken out. There is quiet acquiescence on this side of the House as regards the Christmas break. We have all certainly earned a couple of weeks' rest and I join Deputy Ó Cuív and the Tánaiste in wishing everyone a happy Christmas. I hope they will enjoy the break and time at home with their families. I also thank staff, the ushers and everyone else associated with this institution, who make our jobs easier to do. The late Brian Lenihan has been mentioned and I am sure this Christmas he and his family will be in all our thoughts. We will go away, have our Christmas break and return in January when I look forward to the resumption of normal play.

Deputy Joe Higgins: I wish everybody a happy period of rest over Christmas. I also thank staff and all those who have helped us in the House.

Unfortunately, this will be a very difficult Christmas for hundreds of thousands of our fellow citizens, for example, those in enforced unemployment and those in negative equity or unsustainable mortgages, and for all those who are struggling with the effects of the crisis in the chaotic capitalist system of our time, the dictatorship of the financial markets and the disastrous austerity and bailout policies continued by the Government.

On legislation, it was flagged in one or two media outlets today that the Government may have in mind the introduction of legislation next year to pinch directly from the incomes of workers or social welfare recipients fines or charges they may not have paid or against the payment of which they are protesting, for example, the insidious home tax. Is the Government calculating such legislation for the new year?

What is the Labour Party's take, a few days before Christmas, on hammering low paid EBS workers for €2,000 by denying them their 13th wage instalment? I refer to workers with gross incomes of €26,000 and €27,000 per annum.

An Ceann Comhairle: I am afraid that is not a matter for the Order of Business.

Deputy Joe Higgins: Will the Tánaiste intervene for justice in this regard?

Deputy Thomas Pringle: Hear, hear.

An Ceann Comhairle: Is legislation promised on the matter?

The Tánaiste: The only legislation promised in this area is a fines Bill in respect of fines that are imposed by the courts. In respect of the issue of bonuses, the Government has made it very clear that bonuses should not be paid in our banking system.

Deputy Thomas Pringle: The payment is not a bonus.

Deputy Alan Shatter: Deputy Higgins is now against property taxes and in favour of bankers' bonuses. He has done a U-turn.

Deputy Richard Boyd Barrett: As with previous speakers, I wish everybody here a happy Christmas and thank the ushers and other staff of the Houses for being of such assistance, particularly to new Deputies in our first term. This is appreciated and I hope they will enjoy a deserved rest.

As the Dáil session concludes, it is important to consider the people for whom Christmas will be an extremely difficult period due to unemployment, reductions in wages and incomes, cuts in public services, difficulties in paying bills and mortgages and other circumstances arising from the extremely grave economic situation we face as a result of relentless austerity. It is important to state this because however hard Members believe they have worked, and notwithstanding my differences with other Deputies I accept they have worked hard, other people are suffering considerably more difficulties than anyone in this Chamber as they try to survive and sustain themselves.

I will raise two issues on legislation. I was contacted yesterday by wheelchair users and the Irish Wheelchair Association who appealed to me to ask whether a legislative provision has been introduced to change the disabled driver and passenger tax relief scheme to provide that disabled drivers will no longer benefit from the scheme if they buy or own cars with an engine size exceeding 2,000 cc. Wheelchair users tell me this measure will cause extreme problems because they often need larger cars. I understand the proposed change is due to take effect on

[Deputy Richard Boyd Barrett.]

1 January 2012. Will the Tánaiste indicate whether it is a budget or legislative change and, if not, where it comes from?

An Ceann Comhairle: I am a little confused. The contribution started with good wishes but has become mixed up with promised legislation.

Deputy Richard Boyd Barrett: Is the fiscal responsibility Bill not an appropriate place to distinguish, in terms of the banks, between ordinary workers such as EBS staff who have had €2,500 robbed from them by management and——

An Ceann Comhairle: The Deputy is out of order.

Deputy Paul Kehoe: He is abusing the goodwill of the Ceann Comhairle.

An Ceann Comhairle: I call Deputy Ó Caoláin.

Deputy Caoimhghín Ó Caoláin: I will be very brief.

An Ceann Comhairle: The Deputy may only ask about promised legislation.

Deputy Richard Boyd Barrett: I asked a question about legislation, on which I would like a response.

An Ceann Comhairle: I will get to the Deputy's question in a minute. Deputy Ó Caoláin has a question on the same legislation.

Deputy Caoimhghín Ó Caoláin: The Government has already reversed changes in the budget book on entitlements for young disabled people. Will the Tánaiste indicate that the measures that have just been highlighted in relation to disabled drivers will also be reversed? Many disabled drivers have electric wheelchairs and require two litre vehicles to gain access because other vehicles will not sustain collapsible, foldable wheelchairs.

An Ceann Comhairle: The matter is more appropriate for a parliamentary question.

Deputy Caoimhghín Ó Caoláin: The proposed measure will not work. Many of the individuals in question will be severely financially disadvantaged. On this last sitting day before Christmas, I appeal to the Government, in the spirit of Christmas and reflecting on what it has already done in respect of the entitlement of young disabled people, to withdraw this lousy measure which is affecting a raft of people and the Irish Wheelchair Association's invaluable service to people with disabilities. I ask that the status quo that has applied heretofore continue in respect of VAT, VRT and excise duty rebates.

An Ceann Comhairle: Is there legislation involved in all of this?

The Tánaiste: Two questions were asked. The issue raised in respect of motor taxation should be addressed to the Minister for the Environment, Community and Local Government. As the appropriate Minister, I will ask him to respond to the Deputies who raised the issue.

The fiscal responsibility Bill is being prepared and it is intended to have it in the House in the next session.

Deputy Dessie Ellis: Today at 1.30 p.m. EBS workers will protest outside the House.

An Ceann Comhairle: The Deputy is out of order. I ask him please to resume his seat.

Deputy Dessie Ellis: I wish to discuss promised legislation.

An Ceann Comhairle: I have ruled the Deputy out of order. This matter was dealt with yesterday as a topical issue.

Deputy Dessie Ellis: Many of the individuals in question are on low pay and will not have a Christmas.

An Ceann Comhairle: Please do not jump on bandwagons, Deputy.

Deputy Dessie Ellis: I just want to——

An Ceann Comhairle: Resume your seat.

Deputy Dessie Ellis: Does the programme for Government promise legislation——

An Ceann Comhairle: Resume your seat.

Deputy Dessie Ellis: The Tánaiste stated that the people in question are on bonuses. He is misleading the House. The money is pay related and due to the workers in question.

An Ceann Comhairle: Please resume your seat.

Deputy Dessie Ellis: Managers in the company got the money.

An Ceann Comhairle: The matter was dealt with yesterday.

Deputy Dessie Ellis: This is a State run company. The EBS is ours.

An Ceann Comhairle: I ask the Deputy to leave the House.

Deputy Dessie Ellis: I ask the Tánaiste to intervene in the matter.

An Ceann Comhairle: The Deputy must leave the House.

Deputy Dessie Ellis withdrew from the Chamber.

Deputy Caoimhghín Ó Caoláin: The Ceann Comhairle has been very harsh.

An Ceann Comhairle: This is absolutely ridiculous.

Deputy Caoimhghín Ó Caoláin: It is very harsh.

An Ceann Comhairle: That may be the case but I must put a stop to such behaviour.

Deputy Caoimhghín Ó Caoláin: Perhaps the Ceann Comhairle could choose better examples.

Deputy Aengus Ó Snodaigh: I would like to ask the Tánaiste about two pieces of information that have emerged. It is intended to amend the environmental legislation relating to the plastic bag tax on foot of a recent High Court ruling. The court found that “pinch and pull” bags, which are used for meat, vegetables, meat and bread, should be subject to the tax. That would add a substantial cost to people’s shopping. Is the Government planning to amend the primary legislation to make such bags exempt from the tax?

In 2006, the House passed legislation amending the Firearms Acts. The legislation in question, which relates to firing ranges, was commenced in 2009. It was suggested in a recent affidavit that firing ranges do not have to comply with the legislation because the relevant

[Deputy Aengus Ó Snodaigh.]

standards have not been set. Is it intended to set those standards so that firing clubs throughout the country have to comply with the legislation that was passed by this House?

The Tánaiste: The High Court judgment on plastic bags is being considered by the Minister for the Environment, Community and Local Government. If he decides legislative change is required, he will bring proposals to the Government.

Deputy Ó Snodaigh also expressed concern about the legalisation of firing ranges.

Deputy Aengus Ó Snodaigh: They are already legal. The Minister has to sign the range standards to ensure the ranges comply with legislation.

The Tánaiste: I will ask the Minister to respond directly to the Deputy. I understand the Deputy's concern about the legal status of firing ranges.

Deputy Finian McGrath: I wish the Ceann Comhairle and his family a happy Christmas. I hope all of my colleagues in the Chamber enjoy the Christmas break. I join the Tánaiste in remembering people like Brian Lenihan. We should not forget Michael Fitzpatrick either. Their deaths were sad losses for both of their families. We should offer our sympathies and let them know we are thinking about them this Christmas.

On a lighter note, if people want to enjoy some music over Christmas, they might support Pieta House by buying our CD, which is on release at the moment.

Deputy Timmy Dooley: The charity is fine, but “enjoy” is not the word.

Deputy Billy Kelleher: Perhaps there is some way of supporting Pieta House without having to buy the CD.

Deputy Finian McGrath: It is at No. 69 in the charts. It is a very worthy cause.

Deputy Joe Higgins: If the Deputy had told us in time, we would have paid him not to record it.

Deputy Finian McGrath: Thank you, comrade Joe. I remind him that our record is at No. 69 in the charts, which is not too bad.

Deputy Timmy Dooley: It is falling slowly.

Deputy Finian McGrath: On a serious note, is legislation proposed to establish a truth and reconciliation forum in 2012? When I met survivors of the Miami Showband massacre the other day, I was very impressed by their dignity and sincerity, and by the way they dealt with the crisis. I believe some kind of forum should be established to allow the victims of the conflict in the North to come forward. Truth and reconciliation are needed so we can all get on with our lives on this island.

The Tánaiste: No legislation is promised in this regard. The grief that continues to be suffered by the survivors of the atrocities in Northern Ireland is the subject of discussion between the Irish and British Governments and the Executive in Northern Ireland. We are trying to find a framework that would enable everyone who suffered loss during the Troubles in Northern Ireland to have that loss recognised.

An Ceann Comhairle: The next speaker in Deputy Durkan. I am afraid time has expired.

Deputy Bernard J. Durkan: All my life it has been that way, a Cheann Comhairle.

An Ceann Comhairle: I know.

Deputy Barry Cowen: Bah, humbug.

Deputy Bernard J. Durkan: I merely wish to extend season's greetings to the Chair.

An Ceann Comhairle: Thank you very much.

Deputy Bernard J. Durkan: I promise I will not raise any issue on the Order of Business for the next two and a half weeks.

Deputy Billy Kelleher: The Taoiseach promised earlier in the year to make a scorecard available for every Minister.

An Ceann Comhairle: No, do not start the messing.

Deputy Billy Kelleher: I am just wondering whether legislation is required for that.

An Ceann Comhairle: No, it is not.

Deputy Mattie McGrath: I would also like to wish the Ceann Comhairle a happy Christmas and a very peaceful new year.

An Ceann Comhairle: Thank you very much.

Deputy Mattie McGrath: I mean it.

An Ceann Comhairle: Thank you very much.

Deputy Mattie McGrath: I am not finished. I want to raise a very serious case. I am a bit uneasy about the comrade stuff that has been taking place behind me this morning. Perhaps I need to move to a different seat. I am not a comrade anyway. I want to ask the Minister for Health—

An Ceann Comhairle: No, you can ask the Tánaiste.

Deputy Mattie McGrath: —whether legislation is promised to deal with the very sad case of the Ryan family in County Tipperary. The Minister is well aware of the case. A sick child in the family was being looked after by the Jack and Jill Children's Foundation. The HSE has refused to give the child the eight hours of care per week that he needs. It is a very sad situation. It was discussed in the Seanad yesterday.

An Ceann Comhairle: There is existing legislation.

Deputy Mattie McGrath: It is not working. The child has fallen through the system.

An Ceann Comhairle: I suggest the Deputy should table a parliamentary question.

Deputy Mattie McGrath: I have. The Minister for Health should have some compassion, especially at this time of year. It is a very sad case.

An Ceann Comhairle: Is legislation promised that could solve this problem?

The Tánaiste: No, there is no promised legislation.

An Ceann Comhairle: Thank you. Before I bring the Order of Business to a conclusion, I would like to thank those who have offered good wishes to myself and to other Members of the House. I want to join them in thanking the staff, the ushers and the press for their co-operation during the year. I would like to wish all my colleagues every happiness for them and their families. I look forward to working with them in the new year.

I join Deputies in remembering our colleagues from this Dáil and previous Dáileanna who died during the year. We should remember their widows, in particular.

Standing Order 27A: Motion

Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe): I move:

That, notwithstanding anything in Standing Orders or the Resolution of the Dáil of 21st July, 2011, the following amendments be made to Standing Order 27A of the Standing Orders of Dáil Éireann relative to Public Business until further notice in the 31st Dáil:

(a) in paragraph (1), after ‘topical issue’, the insertion of ‘and which may include matters of a national or international nature’, and

(b) in paragraph (4) —

(i) after subparagraph (d), the insertion of the following proviso—

‘: Provided that where the Ceann Comhairle has selected a matter of which valid notice has been given by more than one member he may aggregate the time that would ordinarily be assigned to two topical issues and consideration shall consist of —

(e) a statement by each of the members who have given notice which shall not exceed 10 minutes in the aggregate,

(f) a statement in reply by a member of the Government or Minister of State which shall not exceed 4 minutes,

(g) a further statement by each of the members who have given notice which shall not exceed 5 minutes in the aggregate, and

(h) a concluding statement by the member of the Government or Minister of State concerned which shall not exceed 2 minutes:’, and

(ii) after ‘Provided’, the insertion of ‘further.’”

Question put and agreed to.

Taxation Agreements: Motions

Minister for Finance (Deputy Michael Noonan): I move the following motions:

That Dáil Éireann approves the following Order in draft:

Double Taxation Relief (Taxes on Income and Capital) (Federal Republic of Germany) Order 2011,

a copy of which was laid before Dáil Éireann on 25th November, 2011.

That Dáil Éireann approves the following Order in draft:

Double Taxation Relief (Taxes on Income) (Kingdom of Saudi Arabia) Order 2011,
a copy of which was laid before Dáil Éireann on 25th November, 2011.

That Dáil Éireann approves the following Order in draft:

Double Taxation Relief (Taxes on Income and on Capital) (Republic of Armenia) Order 2011,

a copy of which was laid before Dáil Éireann on 25th November, 2011.

That Dáil Éireann approves the following Order in draft:

Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of Panama) Order 2011,

a copy of which was laid before Dáil Éireann on 30th November, 2011.

That Dáil Éireann approves the following Order in draft:

Exchange of Information relating to Tax Matters (The Republic of Vanuatu) Order 2011,
a copy of which was laid before Dáil Éireann on 25th November, 2011.

That Dáil Éireann approves the following Order in draft:

Exchange of Information Relating to Tax Matters (Grenada) Order 2011,
a copy of which was laid before Dáil Éireann on 25th November, 2011.

Question put and agreed to.

Council of Europe: Irish Representation at Parliamentary Assembly

Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe): I wish to inform the House that the following people have been selected and nominated as representatives and alternates from Ireland to the Parliamentary Assembly of the Council of Europe until the end of 2012: Deputy Joe O'Reilly, who is the leader of the delegation, Deputy Michael McNamara, Senator Deirdre Clune and Senator Terry Leyden. The alternates are Deputies Maureen O'Sullivan, Deputy Terence Flanagan, Deputy John Paul Phelan and Senator Kathryn Reilly.

An Ceann Comhairle: I thank the Minister of State for making that announcement for the information of the House.

Message from Seanad

An Ceann Comhairle: Seanad Éireann has accepted the Appropriation Bill 2010 without recommendation. Seanad Éireann has passed the Social Welfare Bill 2011 without amendment.

Bretton Woods Agreements (Amendment) (No. 2) Bill 2011: Second Stage (Resumed)

Question again proposed:

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

Deputy Finian McGrath: I thank the Ceann Comhairle for giving me an opportunity to continue to discuss the important role of the IMF in what is going on in this country. This debate is taking place in the context of the international economic crisis and, particularly in recent weeks, the euro crisis across the European Union. Many people in the IMF share our concerns and our differences of opinion with the ECB on the debt issue. The discussion on this matter should be developed further.

International economic commentators constantly remind us that if we are going to resolve our financial crisis, we still have the debt issue hanging around our necks and austerity programmes will not work. It is important when the Minister goes on the international and European stage that he raises this issue about our debt before it screws the country and wipes us all out. We need to get away from the myth that austerity will solve our economic crisis. Job creation and assisting small businesses, principles supported by most international economic commentators, are what will solve the crisis.

The Bretton Woods Agreement was first drawn up in 1944 during the Second World War between 44 countries and named after the US town in which it was signed. Its aim was to create stability between countries by creating an international basis for exchanging one currency for another. It also led to the creation of the International Bank for Reconstruction and Development, the World Bank and the International Monetary Fund. In an effort to free international trade and fund post-war reconstruction, the Bretton Woods Agreement member states agreed to fix their exchange rates by tying their currencies to the US dollar which was linked to gold at that time. Nations also agreed to buy and sell US dollars to keep their currencies within 1% of the fixed rate. The architects of the system wanted a set of monetary arrangements that would combine the advantage of the classical fixed-exchange rate gold standard with the advantage of floating exchange rates while avoiding their defects.

11 o'clock
The terms “reconstruction”, “stability” and “development” are now apt in any debate about our economy. To reconstruct our economy, we cannot penalise the poorer sections of society. Every Member must face up to the fact that those with the most money and most resources must take the most hits.

During my earlier contribution yesterday, the Minister for Finance, Deputy Noonan, agreed with me about the recent well-costed and thought-out proposals for regenerating the sugar industry which could create up to 5,000 jobs. This country needs to restructure and reorganise itself.

The 2010 reform package of the Bretton Woods Agreement builds on the 2008 reform package. The 2008 reforms strengthened the representation of growing economies, many of which are emerging market countries, and enhanced the voice and participation of low-income countries through a near-tripling of basic votes. The 2010 reform also means an increase in Ireland’s quota. It is about making the IMF more democratic and open.

It is important the views of all Members are listened to when discussing the governance of the IMF. Many want it to be more democratic and inclusive. While we are faced with an international economic crisis, we need to end the policy of austerity and start creating jobs and developing the economy.

Deputy Seamus Healy: From listening to some of the contributions from the Government side and this, one would believe the IMF was some kind of charitable Good Samaritan organisation helping out countries in economic trouble for the good of its health. It is very far from that. The IMF has created havoc across the world and has never acted with fairness. It is not even a democratic organisation. The claim this Bill will change the governance structures of

the IMF to be more democratic is a fig leaf and laughable. Five or six big countries will control this organisation. For instance, Chinas' voting strength will rise from 3.66 to the larger quota of 3.81.

Deputy Brian Hayes: Yet that is more socialism.

Deputy Seamus Healy: The fiction that this amending legislation will make the IMF more democratic has no foundation.

It is suggested this organisation is neutral which, again, could not be further from the truth. It is certainly not neutral in the policies which it pursues which discriminate against middle and lower income people and poor countries while supporting wealthy nations and sectors of society such as bondholders, speculators, developers and their like.

The IMF, with its partnership with the former Fianna Fáil-Green Party Government and the current Labour-Fine Gael coalition Government, pursues an austerity programme in Ireland. This austerity programme has led to almost 500,000 people unemployed. This Government came to power on the promise of job creation. Everyone now agrees it was elected on a falsehood and is now implementing the same programme as its predecessor's. Central Statistics Office figures from this week show this Government's policies, in partnership with the IMF and the EU, are destroying jobs. In the first quarter of the Government's tenure, 4,100 jobs were destroyed; in the second quarter, 20,000 jobs. Up to the third quarter of this year, we had the horrendous situation where 25,000 jobs were destroyed by the policies pursued by the Government.

An Ceann Comhairle: I am sorry to interrupt but the Deputy is obliged to stick to the content of the Bill, which is purely technical.

Deputy Seamus Healy: I do not agree that it is technical.

An Ceann Comhairle: Whether the Deputy agrees or not, it is technical.

Deputy Seamus Healy: I do not agree and previous speakers have ranged widely in their contributions.

An Ceann Comhairle: The Bill deals with a technical matter regarding the appointment of directors to the IMF.

Deputy Seamus Healy: It is more than a technical matter; it is a matter of the policy being pursued by the IMF and the Government. Speakers on both sides ranged far and wide in their contributions to the debate yesterday.

Austerity is destroying jobs and the policies being pursued into the first quarter of next year are horrendous. Increasing VAT by 2% will take more money out of the economy and will result in the closure of more small businesses and the destruction of more jobs while even more people will be made unemployed or will emigrate.

The Bill has nothing to do with being fair, neutral, democratic or charitable. It will put in place a structure in the IMF that will continue its current policies, which are leading to huge difficulties for the country. These policies should be reversed.

Deputy Billy Timmins: According to the ESRI report, one of the great untold stories of the Government is the creation of jobs. It has created approximately 125,000 jobs in the past year.

Deputy Seamus Healy: A total of 25,000 have been lost.

Deputy Billy Timmins: I look forward to the Deputy consulting the report and returning to the House to commend the Government on its approach.

Deputy Seamus Healy: I referred to independent statistics from the CSO.

Deputy Billy Timmins: I agree with the Deputy that latitude has been given to refer to other issues in this debate, notwithstanding the fact that the Ceann Comhairle rightly pointed out that this is a technical Bill amending the IMF articles of agreement to adjust the quota shares of fund members to better reflect their economic weight in the global economy. The fund will give approximately €23 billion to Ireland under the EU-IMF programme of assistance. So far, we have received €13 billion and today €3.9 billion will be released. The IMF contribution represents more than one third of our external funding. Total funding of €63 billion will go to the recapitalisation of the banks, with €21 billion being provided by the National Pensions Reserve Fund.

Deputy Healy referred to austerity, which nobody likes.

Deputy Seamus Healy: The Deputy should stick to the technical aspects of the Bill.

Deputy Richard Boyd Barrett: It is a political Bill, not a technical Bill.

Deputy Billy Timmins: However, I am weary of Members, including Deputies Healy and Boyd Barrett, coming forward with spending proposals but without proposals to generate money to pay for them.

Deputy Richard Boyd Barrett: We have.

Deputy Billy Timmins: We have hamstrung ourselves and the issue of personal taxation needs to be examined in the new year. When we had high rates of personal taxation in the late 1990s and early noughties, jobs were created and we lived in a progressive society. The tax system was not deemed to be regressive at the time. We do not need to hamstring ourselves with commitments to previous policies if, in the common good, alternative policies can be shown to improve things. The same applies to the Croke Park agreement and welfare rates.

An Ceann Comhairle: The Deputy should not stray.

Deputy Billy Timmins: I take on board the Ceann Comhairle's point and I will be subservient and compliant. I will move on to banking.

Deputy Brian Hayes: From Croke Park to Wall Street.

Deputy Billy Timmins: When I contributed on this issue in the past, I used the term "misaligned interests in banking". That is what got us into this difficulty. People were intrinsically motivated by greed and all that mattered was their bonus and their turnover, not whether they were operating for the common good. The function of banks is to assist the economy and to assist in the creation of a better society. They are not there to create profit for themselves or their shareholders. That is what we need to examine.

We can think of all the errors of the past. My main concern, on the basis of confidential information I have received from a trader in Dublin, is that there is an increasing concern that Anglo Irish Bank and AIB, in particular, may be selling off loans books for lower prices than they should be getting. I would like the Minister for Finance to carry out an investigation into whether an incentive scheme is still in place for traders, particularly in those two banks, to sell off their loan books. My understanding is the motivation is to sell them off and they are not

obtaining value for money. Some of the organisations and banks buying the loans books have buyers lined up and they sell them on at a higher price the next day.

I would like to see a comparison of the sale of loan books between Bank of Ireland and the Anglo Irish Bank-AIB. My understanding is Bank of Ireland is undertaking this process in the correct manner and it is achieving value for money. When one is making a subjective argument, it is difficult to prove. It behoves the Minister to come into the House in the new year to outline the sale of loan books by Anglo Irish Bank and AIB and what percentage they are achieving and to give us a comparison with what Bank of Ireland has done. I do not know whether the Financial Regulator can track the resale of the loan books. It may be difficult to do so. This is a subjective argument and there will be a counterargument. It is difficult to prove this without empirical evidence. Our country is being ravaged by wolves that are treating us like a carcass. It is happening in front of our eyes and the banks are so happy to move these loan books on that we do not realise what is happening.

The same concern applies to NAMA. I spoke to a trader I know in the US and he referred to a common refrain he hears, which is “Let’s move to Ireland. There’s a killing to be had there”. Is there any way to analyse the sale of NAMA properties? Is value for money being achieved? I am not sure and my concern is the motivation is also to move the properties on and value for money is not being achieved. There is evidence that this is the case.

This comes down to the concept of a risks agency. Do we need to consider the establishment through the Financial Regulator of an agency that will examine the conduct of sales of loans books in our banks to ascertain whether they are being conducted in the correct manner? We do not have the expertise or knowledge and we may even not have access to the information, ultimately, to establish whether we are getting value for money. However, my clear understanding, on the basis of information I received confidentially, is that bank loan books are being undersold. Can it be established whether that is the case? If so, what system is in place in Anglo Irish Bank and AIB for the sale of loan books? Is a bonus, commission or merit system still in place for staff who move the loan books on? I cannot overemphasise the importance of this issue. If so, what does it entail? If not, is there a system in place to prove we are getting value for money from the sale of loan books? My information is no mechanism is in place and the motivation is to move the loan books on. That is really important. If I were to make only one point today, it would be that we must ensure the country is not being ravaged by ourselves internally. The motivation is to move loan books on. We are not getting value for money. Have we a mechanism to determine what happens to the loan book once it is sold on? I do not expect the Minister of State, Deputy Brian Hayes, to be able to respond today on this. While Anglo Irish Bank and Allied Irish Banks can say they are getting value for money on the grounds that they are getting the market price, let us ascertain the percentage they are getting of the original loan book, and the percentage Bank of Ireland is getting from its original loan book. It is really important that we do so. It is not too late to stop the rot. I would like to see action in this regard on the part of the Minister for Finance.

Deputy Richard Boyd Barrett: The Deputy is quite right.

Deputy Billy Timmins: I will be quite satisfied if I have managed to convert a few heathens.

Minister of State at the Department of Finance (Deputy Brian Hayes): I thank Deputy Timmins for his observations. His fundamental question is on whether undervalued loan books are being sold on. It is a question of what constitutes market value at present. With regard to Anglo Irish Bank and Allied Irish Banks, which are in or close to full public ownership, these are matters that we can consider.

[Deputy Brian Hayes.]

The responsibility of NAMA is to ascertain the best possible market price for assets under its jurisdiction. NAMA representatives have appeared before committees of this House to answer questions from Deputies in this regard. I will raise the matter with the Minister for Finance to determine whether further information can be given to Deputy Timmins. He makes the point that this is a subjective view. People have obviously spoken to him about this.

The fundamental issue for banks in full private ownership is their responsibility to their shareholders. With regard to the two banks Deputy Timmins mentioned, which are effectively in public ownership, there are public interest directors whose responsibility is to safeguard the interests of the taxpayer. I will ascertain whether the Minister for Finance can make a statement in connection with the information just given to the House.

Deputy Seamus Healy: To whom are they sold on and where do they end up?

Deputy Brian Hayes: I thank the Deputy for his most interesting contribution to this debate.

I thank Deputies for their contribution to and support for this Bill. I would like to address some of the points made. The Bill comprises short, technical enabling legislation whose purpose is to allow Ireland accept an amendment to the articles of agreement of the IMF, agreed by the fund's board of governors in December 2010 in conjunction with the then Minister for Finance. The amendment provides that, in future, the executive board of the IMF will be an all-elected body. At present, the five largest members are entitled to appoint their own executive directors. The removal of the category of appointed executive directors is intended to modernise the process of establishing the board. A relative shift in voting power in this direction is a key component of IMF reform and is designed to allow the fund better reflect global economic realities.

The Bill is also important because it assists the process of ratification of the 2010 quota and governance reforms at the IMF. As the Minister for Finance indicated in his introduction, when the requisite majority of IMF members, constituting 85% of the voting power, have accepted the amendment to the fund's articles of agreement, it will come into force. The related increases in members' quotas will also become effective. The target date is October 2012 in regard to the annual IMF meeting. Ireland has a direct interest in this because the increase in our quota will result in a reduction in the interest rate on our IMF borrowings.

A number of Deputies commented on the role of the IMF. Since the onset of the global financial crisis, the fund has played a key role in helping to restore global financial stability. We are particularly aware of this in the context of the EU-IMF programme for Ireland. The recent G20 summit emphasised the importance of the fund and its global symmetric role in helping to reboot the international economy, particularly the Irish economy.

Some Deputies raised the question of democratic representation in the IMF. The IMF is committed to a process of ongoing reform designed specifically to increase the representation of emerging-market and developing countries. The perception of the IMF as some kind of international financial bogeyman in the 1960s and 1970s changed dramatically in recent years because of the IMF's involvement in programme countries and because of its very firm view that the way to surmount the difficulties countries face is not only through modernisation and regulatory reform in the relevant countries but also through the stimulation of growth therein to ensure they can get out of a very difficult financial bind.

Despite some commentators' view of the IMF, this country is being held together not only by the funds that we can obtain through the European Union and European Central Bank but also by the funds that can be drawn down from the IMF. If we did not have these funds, the country would be facing an adjustment next year of approximately €14 billion or €15 billion

rather than €3.8 billion. The knock-on effect on our health service, education system and communities would introduce a kind of nuclear winter for the country that no one could even contemplate.

While people may like to be polemical and present the IMF and other international funders as malign forces, the truth is that Ireland is being held together by international agencies, not only on the structural deficit side but also in respect of the funding liquidity open to our banking system, which we are slowly bringing out of the accident and emergency ward. These are the facts regardless of how one presents the matter. Our objective, as stated by the Taoiseach, Tánaiste and Minister for Finance repeatedly on entering government, is to get out of the programme as soon as we possibly can and to restore the country to full independence and sovereignty through being able to access funds on the international markets. It was interesting that voices in Europe alluded this week to the possibility that Ireland could “dip its toe” in the financial markets again later this year by obtaining some funds from external funders. This would be a sign of enormous confidence in the country considering its circumstances since the start of this crisis in late 2008.

The 2010 quota reforms, when effective, will result in important increases in the voting shares of certain parties, including China, India and Brazil, for example. The guiding principle is that the distribution of quota shares should reflect the relative weights of the fund’s members in the world economy. The adjusted quotas also aim to protect the voting share of the poorest countries. The quota and governance reforms go together as a package agreed by the board of governors. The interest rate savings which will increase for Ireland when the amendment has been accepted by the relevant threshold of IMF members are a function of existing fund arrangements under which, as a country’s quota increases, a larger portion of the IMF borrowing qualifies for a relatively lower rate of interest. In this regard, bearing in mind the effect of a reduction of the order of 100 basis points in anticipation of the cost of our IMF borrowing, when account is taken of both the 2008 and 2012 quota increases, the bulk of the improvement relates to the 2010 reforms, which will deliver by far the greatest part of the overall quota increase.

The Bill is particularly significant in this regard. It is necessary to enable the Government to support quota and governance reforms in the IMF. This is in the interest not only of Ireland, by virtue of the prospective reduction in the cost of our IMF loans, but also the wider membership of the IMF and that organisation’s remit for getting the world economy out of its current perilous condition. I commend the Bill to the House.

Question put:

The Dáil divided: Tá, 81; Níl, 12.

Tá

Broughan, Thomas P.
Bruton, Richard.
Butler, Ray.
Buttimer, Jerry.
Byrne, Catherine.
Calleary, Dara.
Carey, Joe.
Coffey, Paudie.
Conlan, Seán.
Connaughton, Paul J.
Coonan, Noel.
Corcoran Kennedy, Marcella.
Cowen, Barry.
Creed, Michael.

Daly, Jim.
Deasy, John.
Deering, Pat.
Doherty, Regina.
Donohoe, Paschal.
Dooley, Timmy.
Dowds, Robert.
Doyle, Andrew.
Durkan, Bernard J.
English, Damien.
Farrell, Alan.
Feighan, Frank.
Ferris, Anne.
Flanagan, Terence.

Tá—*continued*

Gilmore, Eamon.
 Hannigan, Dominic.
 Harrington, Noel.
 Harris, Simon.
 Hayes, Brian.
 Hogan, Phil.
 Humphreys, Heather.
 Humphreys, Kevin.
 Keating, Derek.
 Keaveney, Colm.
 Kehoe, Paul.
 Kelleher, Billy.
 Kitt, Michael P..
 Kyne, Seán.
 Lawlor, Anthony.
 Lynch, Ciarán.
 Maloney, Eamonn.
 Mathews, Peter.
 McCarthy, Michael.
 McEntee, Shane.
 McFadden, Nicky.
 McHugh, Joe.
 McLoughlin, Tony.
 Mitchell, Olivia.
 Mitchell O'Connor, Mary.
 Mulherin, Michelle.
 Murphy, Dara.

Murphy, Eoghan.
 Nash, Gerald.
 Neville, Dan.
 Nolan, Derek.
 Ó Cuív, Éamon.
 Ó Fearghaíl, Seán.
 Ó Ríordáin, Aodhán.
 O'Dea, Willie.
 O'Donnell, Kieran.
 O'Donovan, Patrick.
 O'Mahony, John.
 O'Reilly, Joe.
 O'Sullivan, Jan.
 Perry, John.
 Phelan, Ann.
 Rabbitte, Pat.
 Reilly, James.
 Ryan, Brendan.
 Shatter, Alan.
 Shortall, Róisín.
 Smith, Brendan.
 Stanton, David.
 Timmins, Billy.
 Tuffy, Joanna.
 Wall, Jack.
 White, Alex.

Níl

Boyd Barrett, Richard.
 Collins, Joan.
 Flanagan, Luke 'Ming'.
 Fleming, Tom.
 Healy, Seamus.
 Higgins, Joe.

McGrath, Mattie.
 Murphy, Catherine.
 O'Sullivan, Maureen.
 Pringle, Thomas.
 Ross, Shane.
 Wallace, Mick.

Tellers: Tá, Deputies Kevin Humphreys and Paul Kehoe; Níl, Deputies Richard Boyd Barrett and Seamus Healy.

Question declared carried.

Personal Explanation by Minister

An Leas-Cheann Comhairle: Before we move on to the Legal Services Regulation Bill 2011, I call on the Minister for Health to make a statement.

Minister for Health (Deputy James Reilly): I thank the Ceann Comhairle for providing me with this opportunity to update the House on the nursing homes support scheme.

When I updated the House in June, I stated that there were 22,277 people in receipt of financial support under the scheme and that my Department had estimated that almost 24,000 people should be in receipt of financial support by the end of the year. These figures were provided to me by the HSE at the time. However, it now transpires that the figure provided by the HSE included all public beds, as opposed to bed occupants, and was therefore overstated.

Since that time, the HSE has fully implemented a new ICT system across all nursing home support offices. This has been fully operational since the end of October and means that more detailed and timely management information is now available. I can now advise the House that at the end of October, there were 21,474 people in receipt of financial support towards the cost

of long-term nursing home care. This figure includes people in receipt of financial support under the nursing homes support scheme, people in receipt of subvention, people in contract beds and people paying inpatient charges in public nursing homes. It is important to note that the number of people in receipt of financial support has not decreased since June; rather, more accurate information has become available in the intervening period.

I apologise to the House for any confusion about this matter. I am now correcting the record at the earliest possible opportunity.

Legal Services Regulation Bill 2011: Order for Second Stage

Bill entitled an Act to provide for the regulation of the provision of legal services, to provide for the establishment of the Legal Services Regulatory Authority, to provide for the establishment of the Legal Practitioners Disciplinary Tribunal to make determinations as to misconduct by legal practitioners, to provide for new structures in which legal practitioners may provide services together or with others, to provide for the establishment of a roll of practising barristers, to provide for reform of the law relating to the charging of costs by legal practitioners and the system of the assessment of costs relating to the provision of legal services, to provide for the manner of appointment of persons to be Senior Counsel, and to provide for related matters.

Minister for Justice and Equality (Deputy Alan Shatter): I move: “That Second Stage be taken now.”

Question put and agreed to.

Legal Services Regulation Bill 2011: Second Stage

Minister for Justice and Equality (Deputy Alan Shatter): I move: “That the Bill be now read a Second Time.”

The programme for Government undertakes to “establish independent regulation of the legal professions to improve access and competition, make legal costs more transparent and ensure adequate procedures for addressing consumer complaints”. The Legal Services Regulation Bill 2011, presented to the House on 10 October, provides the statutory framework for delivering these commitments. As things stand, these matters are either not legislated for at all or are entombed in a labyrinth of legislation, regulations, rules of court and practice directions that are not only outdated but of great mystery to practitioners and clients alike.

The Bill supports the urgent objectives of structural reform, national competitiveness and economic recovery contained in the EU-IMF-ECB Memorandum of Understanding on Specific Economic Policy Conditionality of 28 November 2010, building on the relevant recommendations made by the legal costs working group in 2005 and by the Competition Authority in 2006. Reflecting the gravity of the current economic crisis which we face, there was an EU-IMF deadline for the publication of this Bill for the end of the third quarter of 2011 which, despite the obvious challenges this presented, was met. The EU-IMF-ECB troika, whose members I briefed on the Bill on 17 October, considers the Bill to have met both the spirit and the letter of the Government’s undertakings. The National Competitiveness Council considers the Bill’s measures to be “welcome and overdue”. The Competition Authority, in keeping with its 2006 report on the legal professions, has welcomed the Bill and its benefits for consumers.

The regulation of a more open legal profession, greater transparency in the charging of legal costs and the removal of restrictive practices in the provision of legal services have been matters of persistent policy concern. There is a plethora of reports relating to various aspects of proposed change in these areas spanning the last 30 years. Along the way, there have been a number of responses to matters raised in these reports in legislation, including the Civil Law

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(Miscellaneous Provisions) Act 2008 which contained provisions to strengthen the powers of the Solicitors Disciplinary Tribunal and to increase its lay membership. There have also been some changes in the codes of the legal professional bodies which have reflected elements of these reports.

However, a process of sectoral change and reform that has traversed so long a period and spawned so many reports and faltering initiatives has to have been one of grudging incrementalism. The sectoral reform initiatives of the past three decades have, in the main, been met by patchy or passive compliance.

In 2001, the OECD report, *Regulatory Reform in Ireland*, again recommended that control of legal education should be removed from the “self-governing bodies”. It also identified areas for further reform including the removal of remaining impediments to competition among solicitors; opening up the provision of conveyancing services; direct access to barristers and allowing barristers and solicitors to practise in other business forms. In 2010, the Law Reform Commission published its report, *Consolidation and Reform of the Courts Acts*, which contained a number of proposals relating to legal costs which naturally augment the work of the legal costs working group in 2006. The commission’s report has, therefore, also informed the more transparent and accountable legal costs regime contained in Part 9 of today’s Bill.

As Deputies will be aware, the previous Government introduced the Legal Services Ombudsman Act 2009 under a model which would simply have overseen, respectively, the complaints systems operated by both the Law Society and the Bar Council and assessed, on an ongoing basis, the adequacy of their admissions policies. This model would obviously not meet the Government’s commitment to independent regulation and our intervening EU-IMF-ECB undertakings and it was decided in May not to proceed with the appointment of an ombudsman. The 2009 Act left the duality of regulatory and representational functions to persist in the hands of the professional bodies concerned - with all of the working conflicts and tensions inherent in this duality.

The starting point for our deliberations is, therefore, the model of independent regulation being provided under the Legal Services Regulation Bill 2011. The EU-IMF-ECB memorandum of understanding clearly identifies the remaining barriers to structural reform, growth and competitiveness in the provision of legal services to be a burden that the country cannot afford to carry anymore.

There are continuing pressures for the introduction of independent regulation of the legal sector. In 2010, there were 8,335 holders of solicitors’ practising certificates issued by the Law Society, which had a total of 9,774 members. The Law Society considers there to be upwards of 1,100 solicitors unemployed at this time. Over the last three years there have been a total of 7,600 complaints made to the Law Society, with nearly 6,500 deemed to be admissible. During 2009-10, 724 complaints, or 34%, of the total intake investigated, were made by solicitors against their colleagues. The complaints and client relations section of the Law Society has experienced an unprecedented number of complaints about outstanding undertakings given by solicitors in the course of conveyancing transactions over the past two years. There were 1,647 received during 2009-10, representing over 60% of all those received. A total of 253 High Court orders were issued under the Solicitors Acts in 2010, with 117 applications to the Solicitors Disciplinary Tribunal.

During 2008-10, claims amounting to almost €37 million were made against the solicitors’ compensation fund, €17 million of it on the crest of the economic boom in 2008. Almost €14 million was paid out in the same period, €8.5 million of it in 2008. The net assets of the fund have more than halved between 2006 and 2011 while the annual contribution for each solicitor

has increased by 75% up to €700 in the same period. The Solicitors' Mutual Defence Fund is in the process of an orderly winding down due to what is described by the Law Society as "an unprecedented and extraordinary increase in the number and size of claims against solicitors" in its 2010 annual report. An additional annual levy of €200 per year has had to be imposed on each solicitor of the society for the next ten years.

As of October 2010 there were 2,311 members of the Law Library, of which 1,989 were practising junior counsel and 296 were senior counsel. Most barristers practise in Dublin but approximately 114 practise in Cork and 179 in the rest of the country. The Barristers' Professional Conduct Tribunal considered 43 complaints during 2009-10, 11 of which were carried over from the previous year. A total of 23 were dismissed, three withdrawn, two proved and 15 continue to be investigated. The tribunal has power to recommend that a barrister be disbarred. One such recommendation - the first ever - was made during that period although it remains unclear as to the practical effect, if any, this measure may have.

It would appear the Bar Council has no real power to prevent a barrister from practising as no statutory provision exists to enable it to exercise such power, nor am I aware of the Bar Council ever seeking such power. Certainly this issue has never been raised with me by the Bar Council. This reinforces the case for independent regulation. The majority of complaints about barristers concerned undue pressure to settle or compromise, not following instructions and conflict of interest. The relevant appeals board heard 11 appeals, of which one was allowed.

The Bill is a detailed and complex one comprising 12 Parts and 123 sections. Part 1 contains general technical provisions such as the Short Title and commencement provisions, interpretation, regulation-making powers and repeals. Part 2 makes provision for the establishment of the legal services regulatory authority, for the purposes of regulating the legal profession. Parts 3 and 4 relate to client accounts and clients' moneys held by legal practitioners and to indemnity cover, respectively. These essentially replicate existing regulatory functions of the Law Society under the Solicitors Acts 1954 to 2011.

At the core of the Legal Services Regulation Bill are three pillars of reform. The new, independent legal services regulatory authority will have responsibility for oversight of both solicitors and barristers. The authority will have a lay majority and a lay chair; the new authority's establishment and functions are covered by Part 2 of the Bill.

An independent complaints system will deal with complaints about professional misconduct. This will provide a first point-of-call for the public, independent of the professional bodies. There will also be an independent legal practitioners' disciplinary tribunal to deal with both professions which will be independent of both the new regulatory authority and the professional bodies. Part 5 of the Bill, which is divided into two Chapters, deals with the new complaints architecture. I expect to bring forward amendments on the structural and perhaps other aspects of this Part of the Bill on Committee Stage.

There will be an office of the legal costs adjudicator that will assume the role of the existing Office of the Taxing-Master which will be conferred with enhanced transparency in its functions. The new legal costs regime is covered by Part 9 of the Bill which has 5 Chapters. The determination of disputed legal costs by the adjudicator is bolstered by new legal costs principles to be found in Schedule 1.

Part 10 is a restatement of some basic principles in regard to the awarding of costs in civil proceedings, namely, the court's power to award legal costs is restated along with the general proposition that costs are to follow the event. These provisions are based on recommendations in the Law Reform Commission's report on the consolidation and reform of the Courts Acts.

The Legal Services Regulation Bill will provide a necessary and vastly improved balance of professional and client interests in the regulation of legal services. It cites, in Part 2, section

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9(4), six objectives to which the new legal services regulatory authority must have regard in performing its functions. Three of these are in the public and consumer interest: protecting and promoting the public interest, protecting and promoting the interests of consumers relating to the provision of legal services and promoting competition in the provision of legal services in the State. Three support high standards in the provision of legal services: supporting the proper and effective administration of justice; encouraging an independent, strong and effective legal profession; and promoting and maintaining adherence to the professional principles.

Further, section 9(5)(a) of the Bill gives clear statutory expression to the core professional principles. Thus, legal practitioners must act with independence and integrity, act in the best interests of their clients and maintain proper standards of work. Moreover, under section 9(5)(b), they must comply with the duties that are rightfully owed to the court. Under section 9(5)(c), they must, subject to professional obligations, keep the affairs of their clients confidential.

Under the new Bill, there will be independent regulation of solicitors and barristers for the first time. At the current time only solicitors have a statutory governance framework. Hence, the Bill provides in Parts 8 and 11 for a roll of practising barristers and patents of precedence respectively. An award of patent of precedence confers the title of senior counsel. It is an award by Government, being a power originally exercised by the Crown and inherited from our colonial past. No provision for the making of the award is contained in any statute or Act of the Oireachtas.

Since the foundation of the State the award has been made at the Government's discretion on the recommendation of an advisory committee consisting of four people, the Chief Justice, the President of the High Court, the Attorney General and the chairperson of the Bar Council. While there is nothing in law which excludes such appointments being conferred on solicitors, in practice in this State such awards are confined to barristers and the Bar has stridently opposed the awards being extended to members of the solicitors profession. This exclusion of solicitors for some years has not applied in neighbouring jurisdictions. For example, the recently appointed Director of Public Prosecutions in Northern Ireland is both a solicitor and a Queen's counsel.

As evident from Part 2 and other elements of the Bill, the new legal services regulatory authority will have the structures, functions and powers consistent with an effective and independent regulatory body. It will be a body corporate with perpetual succession and seal. It will have 11 members with a lay majority and a lay chair. The professional bodies will have minority representation on the board, comprising two from the Law Society and Bar Council respectively. It will be accountable to the Dáil, including the Committee of Public Accounts and the relevant policy committee, in its own right. It will operate under the standards of transparency, good governance and audit applicable under international best practice to public bodies.

The authority will have an array of functions and powers that will enable it to engage in comprehensive regulation of the legal profession and the legal-services market. Thus, it will have power to prepare or approve codes of practice to ensure high standards of legal practice; to propose regulations on key matters including the keeping of accounts, advertising, professional indemnity provision, the protection of clients' moneys and so forth; to monitor admission policies in respect of the legal profession and education or training services for would-be lawyers; to review the structure of the legal profession and how legal services are provided; to provide information on the legal services market; to conduct research into important issues relating to legal services; to help with the coordination and development of policy in regard to legal services; and to inspect legal practices and independently supervise the accounts of legal practitioners.

12 o'clock

The independence of the new legal services regulatory authority will be assured by the provisions made in the Bill with the authority itself being democratically accountable including, in its own right, to the Houses and committees of the Oireachtas. I do not, therefore, accept the view that the independence of the new authority will be fettered, ministerially or otherwise. The Bill specifically provides, based on precedent elsewhere in legislation, that the authority “Shall be independent in the performance of its functions”.

There is no hidden agenda in regard to ministerial functions or appointments under the Bill. That said, I am happy to invite any constructive suggestions that might enhance the Bill’s regulatory framework in this regard within the Government’s stated policy objective of independent regulation. Indeed, I am already considering some relevant amendments for Committee Stage, such as removing the requirement for the Minister’s consent being obtained for any code of practice the regulatory authority proposes be observed by the legal profession.

The Bill will create independent complaints and disciplinary procedures under the provisions of Part 5. The first point-of-call in making a complaint about either of the legal professions will be the legal services regulatory authority, through its complaints committee. The committee, which will also have a majority of lay persons, will assess the admissibility of the complaint. To save consumers time and money, an agreed or alternative dispute resolution such as mediation can be availed of at an early stage.

For complaints that need to go the route of a hearing, there will be a new legal practitioners disciplinary tribunal. Neither the professional bodies nor the authority will run the tribunal: it will be independent of them all. There will be a range of powers to discipline lawyers found guilty of professional misconduct and the ultimate sanction of striking off a lawyer will remain with the High Court. The overall effect of the Bill will be to enhance the independence of the legal professions in the public interest.

In July 2010, the then Taxing Master, Mr. Charles Moran, ruled that a €2.14 million bill for legal services provided in regard to a workplace injury case be reduced by 82%. In the end only €393,000 of the original costs sought were allowed. The Taxing Master considered that the costs before him were “Devoid of all reality, bear no relationship to the issues involved or the nature or extent of the work undertaken or fees allowed in cases where a similar amount of work was required”. The Legal Services Regulation Bill, mainly in Part 9, makes provision against this kind of exorbitant costs scenario. It further sets out, for the first time in legislation, a series of legal costs principles. These are contained in Schedule 1 and enumerate the various matters that may be taken into account if disputed costs are submitted for adjudication. For the first time, these cost transparency measures will apply to barristers as well as to solicitors. These measures will also be responsive to any significant developments during a case that may have cost implications for the client or indeed the practitioner involved.

Under the Bill the following provisions will apply: it will no longer be permissible to set fees as a specified percentage or proportion of damages payable to a client from contentious business, it will no longer be permissible to charge junior counsel fees as a specified percentage or proportion of senior counsel fees and legal practitioners will now be obliged to provide more detailed information about legal costs from the outset of their dealings with clients. This will be in the form of a notice which must be provided when a legal practitioner takes instructions. Among other things, it must disclose the costs involved or, where this is not practicable, the basis upon which costs are to be calculated.

Such a notice also has to be issued if a practitioner becomes aware of any factor which may give rise to a significant increase in costs. It should also outline the costs of any litigation that may arise or the costs of withdrawing from litigation, as may be appropriate. Clients will have a cooling-off period within which to consider the notice of costs and whether to proceed with

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instructing the practitioner to provide the services involved. When finished providing legal services a practitioner must prepare a bill of costs including a summary of the services provided with an itemised statement of the services and costs involved.

A legal practitioner must also provide a client with an explanation of the procedure available should he or she wish to dispute any aspect of the bill of costs, for example, by mediation, and a practitioner must take all appropriate steps to attempt to resolve such a dispute. Failure to include a charge in a notice of costs to a client can lead to its disallowance under a legal costs adjudication.

The Bill also provides for a legal practitioner and client to enter a written agreement concerning the amount and manner of payment of all or part of the costs of legal services provided. No other amount shall be chargeable except to the extent covered by the agreement. These legal cost provisions will also be to the benefit of the professions as they will reduce the possibility of disagreements over legal fees and charges occurring between them and their clients.

As part of its enhancement of the legal costs regime the Bill provides, in Part 9, Chapter 2, that a new office of the legal costs adjudicator will deal with disputes about legal costs. At the current time these are dealt with by the Office of the Taxing Master. The new office, headed by a chief legal costs adjudicator, will modernise the way disputed legal costs are adjudicated.

The office of the legal costs adjudicator can prepare legal costs guidelines for the guidance of legal costs adjudicators, legal practitioners and the public and these will be published. It must establish and maintain a register of determinations which will include the outcomes and reasons for its determinations about disputed legal costs. Contrary to misinformed comment, public access to such decisions will include costs adjudications in regard to family law cases. The Bill simply preserves the anonymity of the family members concerned but does not grant anonymity to solicitors or barristers whose fees are disputed.

In the Civil Law (Miscellaneous Provisions) Act 2011 new legal costs adjudicator recruitment criteria were introduced under which an open competition has taken place, as a result of which a new appointment to that position has been made this week with a further appointment likely to follow the retirement of the remaining Taxing Master later this month.

For the first time in 85 years the vacant position of Taxing Master was publicly advertised by the Public Appointments Service, which independently assessed the 21 applications received and, having done so, interviewed six applicants and thereafter nominated three names to Government for possible appointment. The person appointed by the Government on Tuesday has outstanding qualifications for the position and his appointment has been widely welcomed by those familiar with his work and expertise. I wish him well in his position.

Alarmist commentary about the potential cost of the measures being introduced under this Bill ignores several key facts. First, the new legal costs adjudicator will, on the basis of a significantly more transparent and accessible infrastructure, replace the role of the existing Taxing Master's office, which itself generates substantial income. In 2010 it collected a total of €2.8 million in fees. Second, both the barrister and solicitor professions already pay enormous regulatory fees to their respective professional bodies. It is anticipated that a proportion of the existing levies borne by the professions should transfer with those regulatory functions of the professional bodies that are to be taken over by the new legal services regulatory authority. The Bill, in Part 6, proposes a formula for this purpose and the cost impact of the transition on practitioners or consumers should be minimal.

It is expected that this redirection of levies will substantially, if not fully, support the running of the new legal services regulatory authority and legal professions disciplinary tribunal. These are among the matters we will work to clarify further in the ongoing consultative process. The

establishment of an independent regulator supported by a dedicated levy on the professions will clearly differentiate regulation costs from others such as those arising from representational functions. Not only is it in the interests of the consumer that there be a clear separation of regulatory and representational functions but it is also in the interests of both solicitors and barristers that there be no grey areas between the two and that they have confidence that there are bodies in place which can properly represent their interests.

The Bill includes several measures aimed at opening up the provision of legal services in a way that takes account of new business models and the significant advances that have been made in business technology. These are found mainly in section 30 of Part 2, Part 7 and Part 12. The Bill provides a framework for key structural reforms, building upon a series of public consultations. These will be used to address issues such as partnerships between barristers, between barristers and solicitors, and between lawyers and non-lawyers, also known as multi-disciplinary practices, to be completed within 18 months of the establishment of the authority. The Bill also provides for direct access to barristers on contentious business, to be completed within 18 months of establishment. The possible unification of the two legal professions is also envisaged, to be provided within 24 months of establishment of the authority. In addition, there is provision for the education and training of legal practitioners, to be provided within 12 months of establishment.

The Bill also contains other modernisation provisions which provide new opportunities for legal practitioners. For example, it will be possible to establish multidisciplinary practices; solicitors and barristers will be allowed to act jointly as advocates in court and other proceedings; clients will be able to nominate who should lead their case where members of both legal professions are involved and cannot agree; procedures will be put in place to ease switching between the two legal professions of barrister and solicitor; legal practitioners working for private or State entities will be allowed to act as advocates in court proceedings for their employers; the new legal services regulatory authority may make regulations in regard to the advertising of legal services; practising barristers who share premises and costs as a group are to be allowed to advertise themselves as such; solicitors will be able to employ barristers in their practice if they so wish; and a whistleblowers provision will protect employees who report professional misconduct. While providing for new business structures to deliver legal services, members of both professions will continue to be entitled to deliver legal services under the current structures of solicitors' practices and through the Law Library.

It is understandable that those involved in the provision of legal services will wish to be sure of their ground and continued professional standing under the Bill. As such, I take this opportunity to encourage practitioners to embrace the Bill. It presents a watershed opportunity to modernise at the professional, business and transactional levels. Across common law jurisdictions, new legal business models are being rolled out under new law, providing additional commercial opportunities and legal career options. In a globalised world, clients can be expected to follow those developments offshore or to outsource their business accordingly. We can no longer afford to indulge a cabal of legal practitioners who want to stay in the 19th century at the expense of sectoral growth and a viable future for their colleagues.

I wish to put to bed the histrionics and the scaremongering claims that no other civilised country is taking, has taken or may soon take similar steps to those outlined in this Bill towards the independent regulation of the legal professions, including where they interface with a ministerial role. The issue here is not one of a First World versus Third World polemic but rather that an old guard wants to stay in its own world. The truth is that the regulatory regimes of comparator jurisdictions are a mixed bag which not only do not rule out independent regulation as a matter of principle but actually embrace elements of it. The Scottish Legal Complaints Commission, for example, must include a majority of lay people, and appointments to it are

[Deputy Alan Shatter.]

made by Government Ministers in consultation with the Lord President of the Court of Session. The Legal Complaints Review Officer in New Zealand is appointed by the Minister for Justice there and has extensive powers to review complaints made in the first instance to the New Zealand Law Society, which regulates both solicitors and barristers. Australia is currently in the process of huge reform in this area and is moving towards the creation of a single national legal profession.

I note that on Monday, 5 December, a conference was held in the Law Society at which representatives of both the society and the Bar Council spoke of the alleged threat the Bill presents to the independence of the legal profession. There is nothing of any nature contained in the Bill which prevents a lawyer from independently representing and advising a client or acts as a barrier to the initiating of any necessary or appropriate court proceedings, including proceedings against the State or against any State agency. There is nothing contained in the Bill which enables any Minister for Justice and Equality or the Government of the day to intervene improperly in legal proceedings. Nor is there anything which enables the legal services regulatory authority to do so.

It is unfortunate that both the Law Society and the Bar Council are using the Trojan horse of a bogus threat to the independence of the professions to oppose the replacement of self-regulation by independent regulation and to raise false fears of State oppression. The approach to the Bill taken by each body to date is neither in the public interest nor in the interest of solicitors and barristers generally. While the many reforming provisions contained in the Bill are clearly in the interests of consumers, it also contains provisions which are to the benefit of members of each profession, some of which will end restrictive practices that are to the detriment of either or both.

Some of the restrictive practices that are to end will be welcomed by members of one profession but not the other. For instance, some solicitors are unhappy at the prospect of members of the public having direct access to barristers for advice. Some solicitors and barristers are unhappy at the prospect of barrister partnerships, while other barristers welcome the business opportunity and greater financial security that practising in partnership can offer. Within both professions there are some who support the creation of solicitor-barrister partnerships, while others are unhappy at the prospect. In both professions there are differing views on the opportunity being given to create multidisciplinary partnerships. Some members of the Bar are unhappy at the prospect of solicitors being conferred with the title of senior counsel, while in past years the Law Society has criticised the title of senior counsel being confined to members of the Bar.

The new business structures for the delivery of legal services envisaged under the Bill will provide not only for increased competition, which is in the public interest, but also for new opportunities to deliver legal services for members of the profession. In doing so, however, the Bill erects no barrier to solicitors and barristers continuing to provide legal services as they do at present. It is a pity the Law Society and the Bar Council have, to date, remained silent on the benefits and opportunities the Bill extends to their members and has instead been intent on persuading both barristers and solicitors that its provisions should be opposed in order to maintain the privilege of self-regulation.

The difficulty for both bodies is that their threat to independence argument is entirely bogus. Since the foundation of the State, it has been the Government which appoints the Judiciary. There is no allegation made by either the Law Society or the Bar Council that the Judiciary is anything other than independent in its determination of cases that come before it. If Government appointment of judges does not undermine their independence, how can it credibly be alleged that appointment of members to the legal services regulatory authority by Government

will undermine its independence, particularly since the Bill clearly prescribes that it must act as an independent authority?

At no stage has the Law Society or the Bar Council alleged that the State or State agencies seeking legal advice or representation from solicitors or barristers undermines the independence of the professions. Nor is it alleged that substantial sums of money being paid by the State to lawyers under the criminal legal aid scheme, or the employment of lawyers by the State under that scheme, undermines the independence of the profession. It has not been suggested that major State agencies such as NAMA, the largest of them all, undermine the independence of lawyers by recruiting solicitor firms and barristers to undertake work on their behalf. The State is also a consumer of legal services and spends millions of euro of taxpayers' money annually on the provision of such services.

It is not only in the interest of individual consumers but also in the interest of the State and indeed, in the interest of taxpayers that there be truly independent regulation of the legal profession. For example, regulatory failures and solicitor negligence has resulted in substantial legal fees having to be paid by NAMA to address conveyancing deficiencies disclosed in the process of the transfer of title securities to NAMA on foot of which many millions of euro were loaned through our banking and financial institutions. A better regulatory system in place could have prevented much of the difficulty which arose in this area and the expense incurred. While the leadership of the Law Society and the Bar Council has been vocal in its opposition to the Bill, many solicitors and barristers have privately communicated to me their support for this measure.

I do not think it useful for any of us to create a false impasse or zero-sum-game between the principles of professional independence and of independent regulation as these are not, of necessity, mutually exclusive. Taken together, the provisions of the Bill can make the independence of the two legal professions and the independence of their regulation, mutually reinforcing. It is also disingenuous to cite international standards for lawyers to that effect as none supports the premise that professional independence means being beyond the laws of the land. I am at pains to understand those of the legal professions, of which I too am a member, who declare their superiority and imperviousness to the very standards of accountability vested in this Bill which they simultaneously proclaim to uphold. Their collective response to date has been more characterised by histrionics and misinformed opposition to the new Bill than to early engagement in its constructive development and such a response questions the very right of Government to have determined policy. On publication of the Bill I wrote to the Law Society and the Bar Council inviting and seeking their observations. I met with the Bar Council on 24 November last. I have had a helpful response from the Law Society to a series of queries raised on legal education and we will be meeting in mid-January. Yesterday afternoon I received the Bar Council's initial detailed submission on the Bill and I will give it careful consideration. By way of initial reaction, I acknowledge that it contains some constructive content but I am disappointed to note the continuing opposition to reforms which are clearly both in the public interest and in the interests of consumers.

In conclusion, I urge all stakeholders, particularly the legal professions, to embrace the opportunity provided by the Bill to bring about meaningful reform building on the Bill's balance of principles and objectives. I encourage the Law Society and the Bar Council to engage constructively with us in perfecting the Bill and its mutual accommodation of the relevant independence principles. I am confident that, along with other stakeholders, we can bring the Bill to satisfactory enactment. We have within our grasp a unique opportunity to bring the provision of legal services in the State out of the 19th century and into the 21st century while meeting the underlying and pressing challenges of structural reform, national competitiveness and early economic recovery which we face at this time.

[Deputy Alan Shatter.]

I welcome the opportunity to debate the Bill in the House and I look forward to hearing the views of Deputies on all sides. Like any Bill of this size and complexity, I anticipate there will be technical, transitional and other amendments such as those I have signalled and which I will be bringing forward on Committee Stage. I commend the Bill to the House.

Deputy Dara Calleary: I am in agreement with the Minister that the sector requires reform. The central problem is that of costs and this was included in last year's agreement with the IMF and the troika. It is unacceptable that citizens who wish to have their rights vindicated or supported are prevented from doing so because of an appalling financial consequence they may face should they lose in proceedings. For too long this profession has been shielded from effective competition in services offered to ordinary citizens. As a result, costs associated with the legal sector have continuously been well above those of our European competitors. As the Minister said, at a time of economic disadvantage this cannot continue.

I agree a new regulatory structure is needed for the legal sector to ensure that all citizens can have full access to legal services as they require them and which is their constitutional right. It is vital that the independent regulation of the sector is of the highest standard and is above reproach. For these reasons the Minister's action to reform the sector is to be welcomed. I had some hope the Minister would ensure the independence of the legal sector under an independent regulator and that the Bill would provide for reducing the costs of the legal sector and allow for access by all citizens. However, the Bill fails on those objectives and this is very disappointing.

The Minister has a golden opportunity over the next few months to influence the direction of the legal sector for many decades which I hope he will do in a positive and constructive manner. If he is intent on tabling amendments on Committee Stage, I ask if it would be possible to supply amendments to the committee in draft form so we can study them and consult with the various bodies as to their impact on the legislation. This would make for more effective scrutiny of the legislation by the committee.

We will support many of the provisions of the Bill. I welcome the provisions of the Bill which will make it easier for younger people and new entrants to qualify as either barrister or solicitor. I welcome the provision to bring more transparency to the costs involved in legal representation. I hope this will make it easier for clients to challenge costs which they regard as unfair or unjustifiable by means of the new office of the legal costs adjudicator. These are progressive steps which will open up this area and may remove some of the fear associated with the defence of rights. However, many elements of this Bill are distasteful. My party intends to oppose these elements and to table many amendments on Committee Stage. I am particularly concerned about the selection process and the appointments procedure for this new legal services regulatory authority. It should be noted that the Minister and his colleagues campaigned prior to the election against the establishment of quangos and this is a new quango. My party has no issue in principle with the establishment of an authority and we welcome an independent authority to oversee the legal profession. However, the selection and the process of appointment to the body, its budget and the manner in which the cost of the authority will eventually be levied on the consumer, despite what the Minister stated in his contribution, are serious concerns.

This body will, in essence, control and regulate the legal profession. Given the extent of the powers outlined by the Minister and the importance of the legal system in the running of the country, this body will require scrutiny more than most. That the Minister will be responsible for the appointment of seven out of 11 members of a so-called independent regulatory authority is a cause for concern as to its independence. The board appointees - seven of whom will be ministerial appointments - will be responsible for the appointment of the chief executive officer

and the staff. No fixed term limits are provided for and neither can the board comment in public on the policy of the Government of the day. In my view, the Minister cannot proceed on this basis. The Minister of the day and the Department will appoint and remove members of the authority. The Minister will determine various terms and conditions of the authority and he or she will be kept informed of all authority developments as to the provision of legal services by lawyers. The Minister and the Department are now central to every activity of the legal sector in this country. This presents many challenges that do not become apparent in other sectors. For instance, the State is often a litigant or a defendant in cases. This presents a conflict of interest. A Minister may at any time decide to challenge the authority or to change the powers of the authority by means of the seven ministerial appointees. This is not a truly independent authority. If the Minister disagrees on this point then we are not using the same standards of independence. The Government has a policy of public advertisement of appointments but the Minister in this case is choosing to maintain the traditional model of establishment of a body. I ask why the Bill does not provide for the Oireachtas committee system to be employed to examine these appointments. Given its importance and the importance of the legal system, something completely different would have been preferable, to remove the appointment of members of the authority out of the hands of the Government of the day.

This new authority will approve the code of practice for the legal profession. That code of practice must be submitted to the Department before being made public. The consent of the Minister and the Department is required in order to implement the proposal and the Minister may make changes and impose qualifications. This is standard practice in the case of many State bodies but this new body is being invested with significant power and authority and the legal system controls every aspect of life in this country. We have to change the rules and challenge the standards in place. The legislation, as it stands, will hand responsibility for regulating the legal profession to the Department and Minister of the day. In such circumstances, the new body cannot be said to be independent.

My party wants to engage constructively on this matter and I hope the Minister also wishes to do so. Some weeks ago in Ballina the Taoiseach indicated he would engage constructively on the issue. Let us agree to get the kicking of the various agencies out of the way today and try to sit down with them and work through their concerns. Let us try to do this constructively in the next few months.

The Minister must also listen to the concerns raised by the business community on the independence of the proposed new authority. Business does not have any self-interest in this issue. Its concerns do not equate to barristers or solicitors representing their interests. It is the commercial sector raising legitimate concerns about the lack of independence of the proposed body and how this will influence investment decisions. The president of the American Bar Association, Bill Robinson, spoke frankly on this issue on 11 October when he stated that a truly independent legal profession is an essential bulwark in a democratic society. Referring to the Bill, he stated what was really at stake for the people of Ireland is constitutional democracy. Clearly, Mr. Robinson has an interest in the issue. Rather than rolling his eyes to heaven, perhaps the Minister will address the specific issues he raised. I had hoped he had learned the lesson of the referendum result but clearly he has not done so. Let us deal with the issues rather than tackling the man. Let us ascertain if the Bill can be amended to address the issue of independence. In five or ten years, the Minister will no longer be in office and other Ministers and officials will enjoy the enormous power being handed over on the regulation of the legal system.

While the idea of having multidisciplinary practices sounds good in theory, it gives rise to several concerns. I draw the Minister's attention to an article written by Mr. Peter Ward of the free legal advice centres during the week. I am also concerned about the ability of those who

[Deputy Dara Calleary.]

do not live in the capital to access the best legal services, as they can do both in practice and theory at present. Large Dublin based legal firms with significant budgets will certainly embrace the multidisciplinary practice concept but will those of us who do not live in Dublin continue to have access to the best barristers given that they may be tied to specific firms through the multidisciplinary practices? Will we be forced to go through specific firms?

One must examine whether it is a good idea to allow a number of professions to practice under one roof. I refer not only to barristers and solicitors but also financial experts because it has been intimated that they will be able to operate under the roof of a multidisciplinary practice. Combining the legal and commercial sectors under one roof could potentially influence legal advice being given. Surely the lesson we have learned in recent years is that we need to establish rigorous safeguards. The difficulty with the manner in which multidisciplinary practices are construed in the Bill is that the model proposed will reduce accountability among various professions and conflicts of interest will undoubtedly arise.

The Minister's approach to the legal services regulatory authority is one of, "It will be all right on the night". Barristers and solicitors pay substantial levies and the Minister has indicated it is simply a case of transferring these levies to the new authority. The authority will cost a substantial amount. The proposal to pass this cost to the Law Society, while fine in theory, fails the test of seeking to reduce costs for consumers. As sure as night follows day, the cost will be passed on to consumers, notwithstanding the models constructed in the legislation. This new quango, if it is fulfil the functions envisaged by the Minister, will need a substantial, highly skilled staff who will expect to be paid well. Currently, 71 people are involved in regulation in the Law Society. One assumes, therefore, that the model required will be similar to the Competition Authority or Medical Council. What budget does the Minister envisage will be needed for the new authority? I ask him not to give a vague answer.

Deputies have not been provided with a regulatory impact assessment on how the legislation will work and impact on businesses and consumers. While the legislation details how the transfer of the current powers of the Law Society and Bar Council to the new authority will take place, it is not immediately clear how the Bill will impact on consumers. I estimate an annual budget of between €5 million and €6 million will be required for the new body. Given the cuts the Minister has made to a range of services in his Department, is the proposed model the most effective solution?

The size and duties of the new quango are extensive. Its role could be performed differently and we will propose a number of amendments. We propose that the Minister's power of appointment to the legal services regulatory authority be transferred. The Minister could consider transferring it to the Oireachtas Committee on Justice, Defence and Equality but the committee is political and the exercise of this power would leave it open to making political appointments. For this reason, I ask him to consider giving the power of appointment to the Chief Justice. Thereafter, the Chief Justice would not be involved in the day to day running of the authority. The position would be similar to that which obtains in the United Kingdom where the Lord Chancellor appoints members of the relevant authority. Such a move would guarantee the full independence of the new body. As the Minister stated, the Judiciary in this country has consistently been above politics.

The scale, cost and power of the new quango are too extensive. Given the lack of detail and absence of a regulatory impact assessment, it is not possible for the Fianna Fáil Party to support the transfer to the new authority of the disciplinary and regulatory functions of the Bar Council and Law Society. We are being asked to buy a pig in a poke because we do not know what will be the impact of the proposal. Is it the Minister's intention to publish a regulatory impact assessment? If not, we propose that the new authority assume a supervisory role over the Bar

Council and Law Society with a view to ensuring they implement their regulatory functions in a fair manner and all firms are subject to regulation and discipline. Pending the publication of the regulatory impact assessment, I will not comment further on that issue.

I do not agree with the Minister's proposition that the Legal Services Ombudsman Act is insufficiently strong. I ask him to explain the reason he adopted that position last May. The ombudsman model is leaner and potentially much more effective than the model proposed in the Bill. If changes are required to the Legal Services Ombudsman legislation, we should make them.

Regulation on multidisciplinary practices is too vague and indicates a lack of understanding of where people are at in terms of commercial issues and what has happened not only here but across the world in the area of multidisciplinary practices in the past ten years.

The Fianna Fáil Party welcomes provisions on costs and the measure precluding costs being added without the client being notified. The language in section 82 needs to be tightened to ensure no exceptions can be made to the requirement to publish costs. Notwithstanding the issue of identifying the client, the costs of all cases should be published, especially in the area of family law. Unfortunately, this area of law is the one most people using the Courts Service avail of and seek information on.

I ask the Minister to take a constructive approach in the coming three months. If, as has been suggested, a large number of amendments will be tabled on Committee Stage, I ask the Minister to provide a draft copy in order that Deputies have an opportunity to examine them before making a decision on their merits. I also ask him to put aside his distaste for and displeasure with the various representative associations in the interests of consumers and the profession of which he is a member and work with them to identify areas in which improvements can be made. It would make for a far more positive legislative engagement than that currently being pursued. This is not about lawyers or about people settling personal scores. It is about the regulation of the legal system in Ireland and the manner in which the rights and laws we implement in this House are protected, defended and challenged. Over the next few months, we will write a roadmap for the legal services sector that will be in place for many decades to come. People want decreased costs and increased access. They want to respect the independence of the legal sector. The Bill, as currently designed and construed, fails on the cost issue, on the independence issue and on many other things. I ask the Minister to follow the guidance of the Taoiseach by engaging constructively and openly on changes to this legislation.

Deputy Jonathan O'Brien: I would like to record my appreciation of the useful briefing the Department of Justice and Equality made available to Opposition spokespersons last week. I hope we can replicate it when other complex Bills are being considered in the next few years. This is one of the Bills the IMF insisted be published as soon as possible. As a result of those time constraints, we did not have an opportunity to publish the heads of the Bill. It is unfortunate that the IMF diktat about the publication of this legislation meant the joint committee was unable to listen to the queries, complaints and questions that various organisations have raised in this respect. The consideration that has been given to the national vetting bureau Bill and the legislation dealing with the withholding of information on crimes against children and vulnerable adults has proven that this process is well thought-out and worthwhile. In the case of the vetting bureau Bill, the Minister has taken on board a number of recommendations that were made by the committee. We welcome that.

I understand that after we have considered this Bill on Second Stage, we will have an opportunity to examine the amendments to be tabled by the Minister in advance of Committee Stage. I am sure the Opposition parties will table amendments as well. I ask the Minister to consider the possibility of publishing the amendments in draft format so we can have a dialogue with

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the relevant groups and organisations. It would make for a better and more informed Committee Stage. If we can speak to the groups in advance of the full Committee Stage debate, the legislation will be much better.

This Bill has divided public opinion in many ways. It is a difficult challenge to strike a balance between safeguarding the independence of the Judiciary and the legal system, and upholding the democratic right of the people to access our legal system and get a fair hearing in an affordable manner. The Bill proposes the establishment of a legal services regulatory authority, a legal practitioners disciplinary tribunal and an office of legal costs adjudicator. The organisation of the legal profession and the costs associated with the legal profession have developed over many years. There has been a great deal of debate on such questions down through the years. This Bill is the culmination or fruition of the various reports that have been commissioned on these matters, including reports by the Fair Trade Commission, the Competition Authority and the advisory group on legal costs. This Bill proposes to deal with seven of the nine outstanding recommendations from the report of the Competition Authority.

This Minister said in his speech that there has been criticism of the Bill as drafted. Not all of it has come from solicitors and barristers. Many people in the media argue that solicitors and barristers have a vested interest in this process. Advocacy groups like the Free Legal Advice Centres have also raised concerns about this legislation. We need to take all such commentary on board, regardless of its source. We need to examine the concerns to see if there is merit in them and move forward from there. People are entitled to fairness and justice in the court rooms and from those who represent them in the legal system. I do not suggest - far from it - that everyone involved in the legal profession engages in unscrupulous behaviour. Like all sections of society, a small minority of those involved in this sector engage in such behaviour. The concern that the Bill, in its current format, may have a negative impact on the ability of some people to access fair justice needs to be examined more closely.

I firmly believe we must always take a rights-based approach to the reform of the legal system. I found it useful to read a research document that was produced by the Law Library. It examined the international human rights standards of relevance to the independence of the legal system in the context of the reforms that are proposed in this Bill. It set out the main democratic principles that underpin the role of legal practitioners in a democratic society. It covered issues like access to lawyers, legal services, qualifications, training, duties, responsibilities and freedom of expression.

The Bill proposes to establish a new authority. As the Minister said, the authority will ensure legal practitioners “act with independence and integrity”, “act in the best interests of their clients”, “maintain proper standards of work”, “comply with the duties that are rightfully owed to the court” and “keep the affairs of their clients confidential”. There is an overlap between what the Minister is proposing and the basic principles that have been set out by the UN. That is welcome. The UN principles are a little broader, however. Perhaps we can examine the possibility of dealing with certain areas that are not expressly stated in this Bill. It would be useful to come up with a form of words that could be included in the legislation. Many people in the legal profession would welcome that.

I would like to focus on two areas of concern - complaints procedures and legal costs. It is natural that more complaints are made against solicitors than against barristers because there are more solicitors than barristers. That is just the way it is. Ordinary people often find it difficult to navigate the legal system. They might not know how to make complaints, or to whom they should make them. Rightly or wrongly, the ordinary Joe Soap has a perception that a substantial proportion of solicitors and barristers run a closed shop. I am not saying that perception is right or wrong, but it exists among the general public. There is a perception that

legal practitioners are an elite group of people who oppose outside regulation and want to regulate their own professions. Some people would argue that many legal practitioners feel they are untouchable. I will not comment on the reality of such a perception. While the actions of a small minority lend credence to such a view, in general it is not the case. Solicitors and barristers need to take responsibility for the perception that may exist. Many solicitors and barristers, it is fair to say, have a social conscience and social responsibility. One only has to look at the number of them who do voluntary work with FLAC, the free legal advice centres, to see they are not an elite group who are only in it to make money at the expense of the ordinary person.

When one considers the legal profession's self-regulation and procedures, it is not difficult to see how an ordinary person could arrive at the conclusion it is a closed shop. Some solicitors themselves are concerned about this perception and the damage it is doing to the profession. Sinn Féin has also raised concerns about other justice system complaints mechanisms such as how prison complaints are dealt with and the Garda Síochána Ombudsman Commission. The latter is meant to be independent but many perceive it as not, believing it is just gardaí investigating gardaí. A truly independent complaints procedure must be just that.

That is why we have similar concerns to Deputy Calleary's about the proposed legal services regulatory authority. Will this authority satisfy the public's demand for a truly independent process? At the same time, it is important we do not go to the other extreme in which solicitors and barristers believe they will not get a fair hearing from the authority.

As set out in the Bill, four nominations for the proposed authority will come from the Law Society and the Bar Council while seven will be appointed by the Government. In the case of the proposed disciplinary tribunal, a maximum of 16 nominees and a minimum of six can be appointed from the Law Society and the Bar Council with the rest nominated by the Minister. There is a perception that politics is all about jobs for the boys. It is important we deal with this head on. Some of the recent appointments made by the Minister for Justice and Equality have been focused on by the media as benefiting his personal friends and political donors. That takes away from the qualifications and abilities of the persons appointed. It neither does them or the board to which they have been appointed any justice. We must ensure this is not replicated with the proposed bodies in this legislation.

The legislation expressly states the Minister will be responsible for the appointment of laypeople to the disciplinary tribunal. Given the perception that these appointments are jobs for the boys, will the Minister examine putting these appointments before the Joint Oireachtas Committee on Justice, Defence and Equality or even another mechanism? It would not be a bad idea if we came up with some procedure that could take the Minister and the Department out of the appointments process. It would remove the potential for any aspersions to be cast on the individuals appointed. Sinn Féin is considering tabling an amendment to this section on Committee Stage to ensure those on the disciplinary tribunal will be seen to be appointed on merit and for no other reason.

This is not just important for the public but also for members of the legal profession. The current complaints resolution mechanism is seen as biased towards the legal profession. We cannot, however, go to the other extreme with the new disciplinary tribunal seen as biased against the legal profession. We as politicians should know there is a tendency to tar everyone with the same brush. Politicising the new authority and tribunal runs such risks.

All Members agree with the independence of the Judiciary and the need to ensure it is free from political interference which is vital to the public's confidence in it. Any disciplinary tribunal which sits in judgment over a member of the legal profession who has allegedly breached codes of conduct has to be seen as truly independent. On Committee Stage, will the Minister

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take into account his role in the appointment of a tribunal and the need to ensure full public confidence in the authority?

This Bill represents an opportunity to address the long-running controversial issue of legal costs. There is evidence to suggest legal costs are actually going down. While this may be a reflection of economic circumstances, it might not always be the case. Part 9 proposes the establishment of a chief legal costs adjudicator to take over the role of the Taxing Master. Any provision which will introduce an element of transparency as to how legal costs are formulated is welcome. From speaking to many in the legal profession, I know they are also open to this idea and welcome it. It is as much in their interest as it is in the public's to have a system that sets out legal costs exactly. It should have happened as a matter of course but it may be down to miscommunication or old practices. This provision will address this issue.

The Bill's proposal for a levy, a fee to be set in conjunction with the Minister for Public Expenditure and Reform, on the professional bodies to cover the expenses of the authority and the disciplinary tribunal needs to be reconsidered. The purpose behind the levy is to reduce the annual fees paid by solicitors and barristers to their respective organisations. It is expected that a portion of those fees will be transferred by these organisations to the new authority. I do not believe this will happen. For it to happen one is relying on the goodwill of the organisations involved to reduce their fees. There is no provision in the Bill preventing the levy being passed on to clients. This area needs to be examined closely on Committee Stage.

There is also a perception that barristers are milking it and much of that comes from the tribunals of inquiry.

I know people who paid their way through college. They qualified but they are saddled with huge debts and they do not earn huge money. Allowing this perception to exist does a disservice to them.

I am concerned about the provisions relating to business structures in the Bill. The Minister stated they will enhance competition but I have doubts about that. The arguments in regard to the proposals for forming multidisciplinary practices and legal partnerships will damage competition and accessibility to the legal system. There is no doubt there is room for improvement but the way the Government is approaching this seems like a knee-jerk reaction. The Government parties felt they had to tackle this and this was how to do that. I do not know how much thought went into the process. I am concerned that changing the current arrangements could prevent people from accessing specialists legal advice such as that relating to conveyancing and tax matters. While I acknowledge that the Bill does not compel a barrister or solicitor to form a partnership or be part of a multidisciplinary practice, anything that creates a situation where barristers, in particular, feel they are being herded into specialist areas is a retrograde step. If this happens, it will have knock-on consequences for solicitors.

The Government would do well to remember that this legislation is not about creating giant practices similar to supermarket chains. We have witnessed the damage that has done. I have no interest in supporting a Bill or a proposal that will create the legal services equivalent of a giant Tesco, Dunnes Stores or Sainsbury's a mile out of town which puts the local greengrocer out of business. This has to be the potential to do that. A person may not be able to engage the practitioner of his or her choice because the practitioner may be contractually obliged not to provide services for anyone outside the partnership.

I welcome some provisions in the Bill but there are others I cannot support. Sinn Féin will not support it in its current form. Many issues need clarification and amendment and other provisions need to be inserted in the legislation before we get to the stage where we feel

comfortable giving it our support. We have an opportunity before Committee Stage to address many of these issues and I hope the Minister is sincere about being open to listening to concerns and taking on board constructive amendments to see if we can arrive at a position where we can all agree that what is proposed in the legislation to reduce legal costs and making the legal service authority more independent can be achieved by consensus.

I am only in the House nine months and up to 90% of the legislation put through the House has been guillotined. I have tabled amendments to Bills and when Committee Stage was taken, I did not have the opportunity to debate them in full. If I then tabled them on Report Stage, I did not have an opportunity to debate or vote on them. With a Bill of this nature, which will have far-reaching consequences and which is so important, will the Minister ensure no guillotine is applied to the Bill on any Stage of its passage through the Dáil or the Seanad? If a guillotine is put on it, it will only add credibility to the argument the Minister is on a personal crusade to pass the legislation for his own reasons, although I do not believe that to be the case. I ask him to ensure in his discussion with the Chief Whip that this legislation is not guillotined and that every Member who wants to contribute, or to table amendments and have them discussed, has the opportunity to do so. I look forward to Committee Stage.

Deputy Mattie McGrath: I am pleased to have the opportunity to comment on the Bill's proposals. I welcome the Minister and I thank his officials for the briefing they afforded the different groups, including the Technical Group. He stated:

The Programme for Government undertakes to “establish independent regulation of the legal professions to improve access and competition, make legal costs more transparent and ensure adequate procedures for addressing consumer complaints”. The Legal Services Regulation Bill 2011, presented to the House on 10 October, provides the statutory framework for delivering these commitments. As things stand, these matters are either not legislated for at all or entombed in a labyrinth of legislation, regulations, rules of court and practice directions that are not only outdated but of great mystery to practitioners and clients alike.

I am glad the Minister has been enlightened in this regard because he is a practitioner of some renown for a long number of years and he has much more experience than I have to comment on this area. There is mystique around the legal profession and the courts system whether one is renewing a licence or has been charged with an offence. It can be a daunting experience. The courts system is a little outdated and “a great mystery to practitioners and clients alike”.

The Bill is intended to reduce legal costs and make the system more transparent and independent. Above all, it must be independent. The Minister is more aware of legal costs than me but I have been at the other end of the system a few times. The legal system is exclusive and expensive and some people cannot afford to avail of it. The free legal aid system is clogged up and there are major delays, although there have been many abuses of that system, which should also be examined.

The Minister also stated, “The Bill supports the urgent objectives of structural reform, national competitiveness and economic recovery contained in the EU-IMF-ECB memorandum of understanding on specific economic policy conditionality...”. I do not know whether any document can be printed now without mentioning these three bodies. We cannot go to sleep without thinking about them. They are in the back of our minds all the time.

We were also briefed by the legal services and the Bar Council and they are genuinely concerned about this legislation and not for selfish reasons. The Government made a point of getting rid of quangos but as soon as the Taoiseach has started abolishing them, the Minister is setting up two or three under this Bill, if not more. I am worried about all the appointments. There are 16 members on one body and 11 on another. I know it is Christmas but the Minister

[Deputy Mattie McGrath.]

will be playing Santa Claus to a lot of people. How will costs be reduced and reformed if all these appointments are made by the Minister? The quango train is still running well. Perhaps it is an electric train that does not go as fast. That industry still continues to flourish in spite of commitments in the programme for Government and many promises that lots of quangos would be abolished.

The legal services regulatory authority will comprise 11 members appointed by the Government. It will have a chief executive officer but we have no idea what cap will be on his or her salary. If somebody is not happy with the salary, will he be able to return to the Minister for Finance and have it increased?

The authority will have a significant staff, the details on which have not been disclosed by the Minister or his Department, as it is intended that it will take on regulatory functions of the Law Society and Bar Council in respect of all solicitors and barristers in the State. That is a big job. While there are to be many staff, we have no idea how many. There are 470,000 people unemployed and the Minister is making a great effort to reduce the number. Will any college graduates, young men and women who have spent a fortune on legal training, have a chance to have their talents used and to be employed?

The complaints committee will consist of up to 16 members who will be appointed by the authority with the approval of the Minister. They are to be appointed by the Minister. We all know how the system works; it works by a wink and a nod. This practice is occurring again and the system is not transparent or independent by any stretch of the imagination.

The legal practitioners disciplinary tribunal is to consist of up to 16 members, again appointed by the Government on the nomination of the Minister. The Minister will be telephoning a lot of friends over Christmas and the new year to determine how many he can find to oblige him. He appointed one already during the week, but there are many more. Like Santa Claus, the State car will be busy this Christmas driving around to all these clients.

The document implies at least three of the bodies to be established under the Bill will have up to 43 appointed members. God almighty, it is like the rugby panel going out to play rugby. A panel of 43 is a fine panel. In the case of the legal services regulatory authority, there is to be a chief executive and a substantial staff. This is a growth industry. There is no growth in the economy but the Minister is certainly growing it with whatever kind of stimulation he is using. He is showing leadership and saying he will create jobs, but they are jobs for the boys and girls. It stinks.

Deputy Alan Shatter: The Deputy would know a lot about that. He was with a party who gave jobs to the boys and girls for about 15 years.

Deputy Mattie McGrath: I was and I left it.

Deputy Alan Shatter: He got a few jobs for his own pals also.

Deputy Mattie McGrath: The Minister learned fairly fast. He clearly observed Fianna Fáil very closely because——

An Ceann Comhairle: Deputy McGrath, please.

Deputy Dara Calleary: The Minister made more appointments in nine months than we made in 15 years.

Deputy Mattie McGrath: Forty-five in a week.

Deputy Bernard J. Durkan: Deputy McGrath is a good teacher.

Deputy Mattie McGrath: I am not a teacher; I am a learner.

An Ceann Comhairle: Could we get back to the debate, please? There are 15 minutes remaining.

Deputy Mattie McGrath: Good man, a Cheann Comhairle. I am thankful the Christmas spirit is still alive.

I am returning to the debate but this is phenomenal, crazy stuff. I do not know how so many could be appointed. Although the Minister was a long time in opposition and is here a lot longer than I am, he is a fast learner. He should talk to the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton. If he could create jobs like the Minister for Justice and Equality, the recession would be over and we could say goodbye to the IMF and European Union and send them home.

I am outlining my concerns. It is stated legal costs will decrease but there is no evidence of that whatsoever. Who will pay for all the jobs for the boys and girls? They do not come cheap. I am worried about that.

We have heard anecdotal evidence on various radio programmes about legal fees, etc., but at least the Taxing Master we had was independent. The Minister has now appointed Mr. Declan O'Neill — more power to him. I do not know him at all but the Minister obviously does. I am sure he knocked on a good few doors with him. When people make appeals and people approach the Taxing Master, will he be making telephone calls to the Minister or will it depend on——

An Ceann Comhairle: We cannot be suggesting impropriety.

Deputy Mattie McGrath: No, I would not.

An Ceann Comhairle: I hope not.

Deputy Mattie McGrath: I am just trying to expand on the openness and transparency of the appointment. While there is public procurement policy, the nod had to come from——

An Ceann Comhairle: The Deputy is quite entitled to question that but he should not suggest the existence of practices of which we have no evidence.

Deputy Mattie McGrath: I would not but I am just concerned about——

An Ceann Comhairle: Please proceed.

Deputy Mattie McGrath: While I do not know the legal costs adjudicator, Mr. Declan O'Neill, at all, I wish him well. I believe he appeared on some list of political donations quite recently.

An Ceann Comhairle: The Deputy should not suggest impropriety unless he——

Deputy Mattie McGrath: I am not; I am just stating a fact that was published quite recently.

An Ceann Comhairle: I thank the Deputy.

Deputy Mattie McGrath: It was not me, the Technical Group or Fianna Fáil that got it. Anyway, that is another matter.

[Deputy Mattie McGrath.]

I have concerns over the selection and appointment of members of the authority. There are numerous instances in which ministerial approval or consent is required, or in which ministerial involvement is provided for. It is all about the Minister. I wish him well in his office and wish him good health and longevity. What is being put in place is very serious. This type of model is unprecedented in any other country in so far as we have been able to ascertain. Why is this the case? This problem has been researched by the Bar Council, not me. Why are we so different from other countries? While we all accept there must be job creation, this is staggering.

The comparison with the appointment of judges by the Government is misplaced. This point was made by legal people, not me. There are concerns over the number of staff who will be employed, salaries, pensions and expenses that members of the profession will have to pay. Who will pay the staff? I do not know whether they will come under the Croke Park agreement, the Minister's agreement or otherwise. Regardless, they will have to be paid salaries and pensions, and PRSI contributions will have to be paid also.

The powers and functions of the authority give rise to fundamental concerns, including in respect of the authority's obligation to come up with proposals to advance issues such as the unification of the two branches of the profession. I refer to how and whether that should happen. I question the position on partnerships, including multidisciplinary partnerships, as referred to by my colleague from Sinn Féin. I have an excellent relationship with my solicitor, whom I know and trust. Most people have this experience. I compliment the vast majority of solicitors, who are beyond reproach. One can make an appointment with a solicitor locally but this could be very difficult if all legal practitioners were in big conglomerates. Will the legislation prevent people from gaining access to a solicitor rather than make it easier?

The document refers to direct access to barristers regarding contentious issues and the question of whether and how this could happen. The authors state they do not believe it would be in the interest of clients or in the public interest. We must all have recourse to barristers uaireanta. One's solicitor will give one a list of two or three and give advice, and that is how it should be. Irrespective of whether the issues concerned are contentious or straightforward, the provision will make the system very unhelpful for clients. Rather than going through one's solicitor, one will have to approach a bigger group and take who one is offered. The client may not be happy with this arrangement as he would normally take the solicitor's word on who is best to deal with the case in question, as the Minister knows. On being recommended a barrister by one's solicitor, one has an initial consultation and proceeds from there. One does one's best with the advice available. It is costly advice but it is worth it in the long run. Most of the practitioners are good.

The document states that notwithstanding the recommendations of the Competition Authority, no regulatory impact assessment appears to have been carried out which might demonstrate the cost benefit of the proposed new system. This is very telling. Why the undue haste? While the Minister made a commitment in the programme for Government, he made many more that never saw the light of day and probably never well. The abolition of the Seanad was one such commitment but I believe there have been changes of opinion in this regard in recent days.

Deputy Bernard J. Durkan: It is only ten months since the change of Government, Mattie.

Deputy Mattie McGrath: I know that.

Deputy Bernard J. Durkan: Be patient.

Deputy Mattie McGrath: I am being patient; I am just wondering about the indecent haste.

An Ceann Comhairle: Could the Deputy speak through the Chair, please?

Deputy Mattie McGrath: Go raibh maith agat.

An Ceann Comhairle: I am sorry for the interruptions, Deputy.

Deputy Mattie McGrath: That is no problem. Ná habair é. I am used to it.

There is no assessment or briefing as to the costs, independence or means of operation of the new system. As colleagues stated, we need much time to consider this legislation. I hope there will be no guillotine because we need to study it carefully. We need to proceed slowly and be able to table amendments and discuss them at the Select Committee on Justice, Equality and Defence. However, the Government has a huge majority on the committees.

Costs are likely to increase considerably. The cost of practising at the bar will amount to an obstacle to entering the profession, as if matters were not bad enough. I know young men and women who are finding studying for the bar extremely expensive and difficult. They are hanging on but the new legislation will make finding employment more difficult when they are qualified. While fees will be taken from solicitors and barristers, the clients will ultimately pick up the cost. Costs are likely to increase for clients because of the bureaucratic structures and quangos being created even though the provisions appear to be in the public interest.

Will legal studies be restricted to an elite? We are ruled by an elite that does not understand what is happening on the ground. That can also apply to judges, for whom refresher courses should be provided. Will there be refresher courses for the bodies created in the Bill? Will their work and value for money be assessed?

The Competition Authority did not recommend direct access to barristers on contentious matters. I have been critical of the Competition Authority but clearly it has studied these matters. The Minister is introducing reforms in areas it did not even examine. I hope he will consult further with the Bar Council, which is concerned about the proposal on direct access. A study conducted by a regulatory authority argued that direct access for advice would destroy the system of independent referral, which is in the public interest and promotes access to justice. Direct access will squeeze out the smaller practitioners. Even small solicitors' businesses employ two or three staff in their offices. Direct access on contentious matters is not permitted in Northern Ireland, Scotland, England, Wales, Australia or New Zealand. I accept the need for reform in this area but I do not know why we have to be so different.

In regard to the unification of two branches of the profession, we have spent a long time trying to unite different issues and parts of the country. This will not be an easy task. Do legal practitioners want their profession to be united? One can bring a horse to water but one cannot make it drink. There will be a lot of bucking and jumping before this is sorted out.

The Bar Council does not oppose peripheral measures in the Bill, such as making wigs and gowns optional. That is a light hearted but badly needed measure. However, it is concerned about more fundamental aspects of the Bill, not least the establishment of quangos. The Government promised to get rid of them.

We want to preserve local solicitors' offices because they pay rates, VAT, wages, light and heat and insurance. They are small businesses but they get recognition for what they do. We need them in our towns. I do not want to see more offices close or large companies intimidating people. The client-solicitor relationship is very important. Trust and ease of access are at the heart of this relationship. If solicitors are forced to amalgamate, the relationship will become

[Deputy Mattie McGrath.]

more difficult for clients. There is no benefit to ordinary taxpayers who are at their limits in trying to survive.

I advise the Minister to make haste slowly on this Bill because serious issues arise. I know he is a wise man. It will not be easy and we need time to discuss the amendments to the Bill. We do not want to confine the system to the elites. Ordinary people who had to work their way through college should be allowed to join local practices to get experience before moving on to bigger firms. We do not have to throw out the baby with the bath water. The Bill makes sweeping changes that are not welcome and do not stand up to scrutiny.

There is no point in employing a CEO and staff in an organisation if it is not functional or does not benefit the public and the taxpayer. The Minister stated that the system carries a sense of mystique. We do not want any more mystique. We want transparency rather than three or four different bodies which meet behind closed doors. We have no clue what the new authority will cost or what it will be expected to do.

We need to go back to the drawing board and engage in further consultation. We should learn from the mistakes of the past rather than establish more quangos which have limited functions. I fear that we will be coming back to undo this legislation. That seldom happens. Commitments given in election manifestos can be changed but Acts are normally left on the Statute Book. We should listen to the Bar Council and practitioners around the country who have given a good service.

Litigation is a costly business. If one wants to take on a newspaper, as I did when I was a victim, it is prohibitive in the extreme. I could not believe the cost. When I inquired about it, the only answer I got was that it was a very difficult and serious area and was therefore very costly. In my case, I wanted an apology to restore my good name, but I also wanted the newspaper to make a donation to a charitable organisation. But no - all the money went one way. I did not see any of it. It went over my head, although, thankfully, the paper had to pay the costs. The amount the whole thing cost was phenomenal. Something could have been done for the public good; as well as clearing a person's name, the public interest should also be satisfied. I had demanded that a donation be made, but that was left outside the door. It was just the newspaper's own costs and boy, were they strong. There were no meetings, only phone calls and e-mails. The apology appeared in the newspaper, at huge expense to the paper - and rightly so - but the public interest would have been better served if it had made some kind of donation to charity in recognition of the grave miscarriage of justice that was the error that it printed.

This area needs to be examined as well, but I do not see any mention of it in the Bill. I know the Bill covers the wider brief of all law, but the specific area of defamation law is particularly costly and it is difficult to obtain justice. At present, one can get the barrister of one's choice, but this option will be taken away from people. Instead, there will be a list system, and a person may have to accept somebody he does not have a relationship with or is not easy with.

I wish the Ceann Comhairle a happy Christmas.

An Ceann Comhairle: I wish you all a very happy Christmas and prosperous new year.

Debate adjourned.

The Dáil adjourned at 1.30 p.m. until 2.30 p.m. on Wednesday, 11 January 2012.