

DÁIL ÉIREANN

AN COMHCHOISTE UM CHOMHSHAOL, CULTÚR AGUS GAELTACHT

JOINT COMMITTEE ON ENVIRONMENT, CULTURE AND THE GAELTACHT

Dé Máirt, 23 Aibreán 2013

Tuesday, 23 April 2013

The Joint Committee met at 2.10 p.m.

MEMBERS PRESENT:

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| Deputy James Bannon, | Senator Fiach Mac Conghail, |
| Deputy Marcella Corcoran Kennedy, | Senator Labhrás Ó Murchú. |
| Deputy Barry Cowen, | |
| Deputy Dessie Ellis,* | |
| Deputy Anne Ferris,* | |
| Deputy Luke 'Ming' Flanagan, | |
| Deputy Tony McLoughlin, | |
| Deputy Catherine Murphy, | |
| Deputy Gerald Nash, | |
| Deputy Brian Stanley, | |

* In the absence of Deputies Peadar Tóibín and Michael McCarthy, respectively.

DEPUTY NOEL COONAN IN THE CHAIR.

BUSINESS OF JOINT COMMITTEE

Business of Joint Committee

Vice Chairman: As we have a quorum we will commence the meeting.

I advise members that they must turn off their mobile telephones when attending committee meetings. Active mobile telephones interfere with the sound system and RTE has informed us that it will not broadcast any part of a meeting where interference from mobile telephones has occurred. I remind members that we are in public session. Apologies have been received from Deputy Michael McCarthy and Senator Cáit Keane. I thank members for their co-operation with the change in schedule for today. We will hear the witnesses from the Office of Public Works first, followed by Mr. Bill O’Herlihy from the Irish Film Board. After that we will go into private session. Is that agreed? Agreed.

Property Insurance: Discussion (Resumed) with Office of Public Works

Vice Chairman: We will now discuss the difficulties in obtaining home insurance for properties in areas that have experienced extreme weather events with representatives from the Office of Public Works. I welcome Mr. Tony Smyth, director of engineering services, and Mr. Liam Basquille, principal officer in engineering services in the OPW, and thank them for attending.

I draw attention to the fact that, by virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the joint committee. However, if you are directed by the committee to cease giving evidence on a particular matter and continue to do so, you are entitled thereafter only to qualified privilege in respect of your evidence. You are directed that only evidence connected with the subject matter of these proceedings is to be given and you are asked to respect the parliamentary practice to the effect that, where possible, you should not criticise or make charges against a person, persons or an entity by name or in such a way as to make him, her or it identifiable. I advise you that the opening statement and any other documents you have submitted to the committee will be published on the committee’s website after this meeting. Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official by name or in such a way as to make him or her identifiable.

The committee has considered the issue of flooding for several weeks and as this is our final public session with witnesses on the topic, it is appropriate that we should finish with the Office of Public Works. I am very interested in hearing the witnesses’ views on the problem of flooding in Ireland and how best it can be tackled. I hope they will address the issues that have been raised by previous witnesses and, primarily, by the Irish Insurance Federation. The federation’s submission stated:

It is also important that the OPW communicates reliable information on flood defences to insurers...[I]nsurers need to have confidence in OPW’s review of standards and commitment to maintenance of flood defences once completed as well as...access to comprehensive information on all areas vulnerable to flooding showing the status of remedial works... details of the design standards to which flood defences have been constructed, expressed as the return period of an event which the defence is designed to withstand. The minimum

standard required is a return period of 1 in 100 years...maps in GIS [Geographic Information System] format for all vulnerable areas showing likely flood extent...maps showing the protections offered by any remedial works; and...regular updates of all information.

I ask the officials from the OPW to deal with these issues in their presentation. We need to consider the issues in their full complexity and take cognisance of all aspects. I invite Mr. Smyth to make his opening remarks.

Mr. Tony Smyth: I welcome the opportunity to address the joint committee on the important issue of obtaining insurance in areas that have experienced the impacts of flooding from extreme weather events. I thank members for rearranging their schedule to facilitate our attendance at the Joint Committee on Finance, Public Expenditure and Reform shortly. OPW has a specific role in the transfer of information to the insurance industry on flood risk and flood defences. We have no responsibility for oversight or regulation of the insurance industry or to insurance matters generally.

It may be useful if I briefly outline the role and responsibilities of the OPW in relation to flood risk management. Following a strategic review of flood risk policy in 2004, the Office of Public Works was assigned the lead co-ordinating role for flood risk management in Ireland. We deliver services in the following key areas: strategic planning to manage flood risk into the future under the catchment flood risk assessment and management, CFRAM, programme in compliance with the EU floods directive and under the Irish coastal protection strategic studies; a programme of capital investment to address existing flood risks to properties and infrastructure through major and minor flood relief projects, in partnership with local authorities; and programmed maintenance of those arterial drainage and urban flood relief schemes completed under the Arterial Drainage Acts. To support these activities we engage in a number of important information gathering exercises, including in particular collection of hydrometric data to improve the estimation of water level flow and to enhance the quality and reliability of flood relief design and mitigation measures. We also developed awareness programmes among the public and businesses of the risks of flooding and provided information on how to plan, prepare and protect against flood risk. We also commission research into areas related to flood risk management activities.

In carrying out its functions the OPW works in close co-operation with other State bodies, principally the local authorities who are the other main players with key responsibilities in relation to flood risk management in the country. In this context it is important to stress that while the OPW and the local authorities work in partnership in many areas, the local authorities are responsible for distinct areas of work in relation to flood risk such as leading the emergency response to flooding, the urban drainage infrastructure and the maintenance of certain water courses and channels.

At the core of the OPW's work is the objective of reducing to the greatest extent possible the level of flood risk to people, property, infrastructure and the environment. At a strategic level it is overseeing the most comprehensive national initiative to systematically identify, assess, document and report on the most significant flood risks throughout the country. These assessments, known as the CFRAM programme, will generate detailed flood maps showing flood extents and other flood parameters such as depth and velocity. They will recommend an integrated management plan and prioritised measures to address flood problems in areas of significant risk in each major catchment in the country. The CFRAM programme will inform the long-term planning of flood risk management measures throughout the country, including structural and constructed flood defences and non-structural measures. Both the flood maps and the identification

and outline design of flood risk management measures under CFRAM will consider a range of potential future scenarios, including the potential impacts of climate change, to ensure capacity for adaptation is built into the flood risk management strategy and measures. The output from the CFRAM programme in a recent pilot project included the production of 1,100 maps showing flood extents, depths and velocities. Approximately 250 km of channels were surveyed and more than 275 sq. km. of detailed flood plain modelling was carried out. This project required the development of nine hydraulic models of the river and its tributaries and the production of various reports, including an inception report, a strategic environmental assessment at scoping level and final report stage, a hydrology report and hydraulic reports. Ultimately a catchment flood risk management plan was drawn up.

In more immediate terms the OPW is addressing flood risk in critical areas through its capital investment programme for both major and minor alleviation works. Witnesses at the committee's previous meetings made comments which suggest that the OPW is not spending enough on flood relief works. The figures will show this is not the case. Under the Government's infrastructure and capital investment medium term Exchequer framework 2012-16, a total of €225 million has been allocated for capital flood relief measures over the five-year period of the framework. This allocation, when combined with the amount spent by the OPW on flood relief measures since the introduction of the Arterial Drainage (Amendment) Act 1995 of €320 million, will result in total expenditure of almost €500 million on flood relief up to 2016. This is a substantial investment by any standard, especially in the current difficult economic environment, and expenditure to date on flood relief works has brought significant benefits to communities and towns throughout the country. The OPW estimates that over 5,000 properties have benefited from this investment, with the estimated benefit in terms of damage and loss avoided amounting to almost €900 million. The insurance industry has also benefited from this investment as its large claims payment costs for flooding, which amounted to almost €700 million since 2000, would have been much higher but for the remedial and defence works undertaken by the OPW on behalf of the State and taxpayers.

Under its major capital works programme, the OPW currently has nine major flood relief schemes at construction stage. It is expected that a further five schemes will commence construction before the end of 2013, subject to completion of procurement and other preparatory formalities and the availability of funding. A further 26 schemes are at various stages of design and planning. Approximately €30 million is expected to be expended on all these schemes during the year. Under the minor works and coastal protection scheme, OPW provides funding to local authorities for smaller scale, more localised mitigation measures they wish to undertake in their areas. It is open to any local authority to submit an application to OPW for funding under this administrative scheme. Total funding of €21.6 million has been provided since 2009 in respect of 400 projects. While it is difficult to know exactly how many properties were protected, we reckon more than 2,400 properties in addition to the ones I mentioned earlier have varying levels of protection from this expenditure.

Under the arterial drainage maintenance programme, the OPW will continue in 2013 to undertake ongoing maintenance of completed arterial drainage and flood relief measures. At some of the previous meetings of the committee on this matter some contributors commented on the delays in getting major flood relief projects off the ground and completed. The OPW appreciates that, especially in the wake of a severe flood event, there can be an expectation that flood mitigation measures can be implemented quickly. It is important to point out however, that major flood relief schemes involve complex engineering and construction operations that can impact on people's living, built and natural environment and therefore require lengthy plan-

ning and decision lead-in times.

The process, defined by legislation, requires that OPW follow a number of stages from feasibility through procurement and public consultation to construction. It is important that the work is done correctly and achieves its objectives. Detailed technical analysis is required to establish the most appropriate solution, technically and environmentally, from a range of possible mitigation options. Extensive public consultation is required at various stages to ensure that those affected by a scheme have the opportunity to input into its design and implementation. Ecological and archaeological issues often require in-depth analysis to inform the technical solution and to enable the necessary statutory consents to be obtained. Finally, the process and time scales for procuring consultants and contractors, which is governed by EU law, is onerous and has a prescribed methodology. The OPW at all times strives to expedite and progress capital flood relief works with the minimum delay within the resources available to it.

I mentioned earlier that there may be a need to clarify the nature of the OPW's current engagement with the insurance industry regarding the difficulties some people are experiencing in obtaining flood risk insurance. As I indicated, the OPW has no role or responsibility regarding the oversight or regulation of the insurance industry. The discussions which are taking place between the OPW and the Irish Insurance Federation, IIF, have a specific focus and are concerned purely with agreeing a basis on which information can be provided to the insurance industry on flood relief schemes completed by the OPW and the standard of protection offered by those schemes. The discussions are taking place in the context of a joint OPW-IIF working group which also includes representatives of the main insurance companies operating in the Irish market.

Good progress is being made in the discussions and while there have been many technical details and issues to work through, the group is nearing agreement on the basis for providing information in an acceptable format which will enable the insurance companies to take this information into account when assessing flood risk to property. The information being provided is in a readily accessible geographical information system, GIS, format which will show in digital map files the areas benefiting from completed flood defence works. The initial focus is to provide information on schemes which provide protection for the one in 100 year flood event.

The OPW is satisfied that the insurance industry is engaging constructively and positively in this process and that there is a strong willingness to co-operate to reach agreement on a sustainable system of information exchange. Ultimately, it is a matter for the insurance companies themselves to decide how they will use the information provided on completed flood defence works. As part of the process they are committed to taking the information into account in their assessment of risk and it is hoped that this will facilitate the provision of flood cover in areas that are protected by completed schemes.

Looking beyond the current process, the comprehensive catchment flood risk assessment and management, CFRAM programme to identify and assess flood risk nationally will, in time, provide a level of information which will enable the insurance industry to take decisions on the provision of cover based on the fullest possible assessment of that risk. In conclusion, the OPW is committed to doing all it can within available resources to identify the measures necessary to manage the risks from flood events, through the CFRAM programme to identify those risks and through capital works to reduce the existing level of risk to properties, infrastructure and the environment. I am happy to take any questions.

Vice Chairman: I ask spokespersons to limit their remarks to five minutes at the outset and

other members to three minutes so everybody gets an opportunity to speak before the OPW officials leave for their next meeting.

Deputy Barry Cowen: I want to deal solely with the Shannon Callows flooding. This time last year, on foot of peak flooding at that time, it was agreed that a committee be put in place to make recommendations to the OPW as the lead agency in the management of that issue. That was agreed and put before the House but has not happened. Notwithstanding that, I am sure Mr. Smyth has seen the report. Can he respond to it? We are all frustrated, to say the least, that no progress has been made and no protocol has been put in place to deal with the issue, which arises on a regular basis at this time of year on foot of heavy rainfall. There is no protocol in place for the management of the levels associated with the Shannon, leading to the callows being flooded, which is expected in winter but not at this time or into the summer.

The fodder crisis in agriculture is exacerbated many-fold for those who live in this region. I ask Mr. Smyth to make a detailed response to the recommendations, which an all-party committee put in place. If difficulties arise from it, what are they and how can they be resolved? If there are funding difficulties, how much is it and how can it be resolved? The report has not been placed on the record of the House and the Minister with responsibility has yet to respond in that forum, despite the fact that this report was published last August. Can Mr. Smyth inform this committee as to how its recommendations can be adhered to, or if they cannot be adhered to, why not?

We are very disappointed, annoyed and frustrated that no progress has been made on this despite the OPW's being given authority as the lead agency in this area to formulate a response and put in place the protocols that can gain the respect and agreement of the stakeholders. Of all the stakeholders, those who suffer most and consistently, with their livelihoods being threatened to such an extent, are those callow farmers who live along the water's edge. This is an opportunity that has not arisen in the recent past, despite the fact that we have met the Minister of State at the Department of Public Expenditure and Reform, Deputy Brian Hayes and discussed this at length. There is unanimity on the part of the members here regarding the recommendations in that report.

Deputy Brian Stanley: I welcome this opportunity to consider this issue. The previous speaker has raised one of the issues I was going to raise and I will be happy to hear the answer to that. I want to raise the issue of the National Parks and Wildlife Service, NPWS. Sometimes very minor works need to be carried out to alleviate flooding on farmland or dwellings, and the NPWS will impose its requirements and set out what it needs in terms of bird surveys, etc. I have seen it being a problem for local authorities. How much of a problem is it for the OPW? Is it delaying any significant OPW schemes? I have seen it hold up very minor works by local authorities.

While the OPW is the lead agency it seems to be under major restrictions. The River Shannon was mentioned and there is an issue with the ESB and other bodies there. Would the OPW be happy to have the final say on everything relating to flood relief? In other words, the OPW could trump anyone else who had reasons for delaying works.

Mr. Smyth mentioned the list of rivers for which the OPW is responsible. Could he circulate the list on a constituency basis in order that I can determine which are the responsibility of the OPW and local authorities? At one time, they all came under the old Board of Works. What way are they divvied up?

Every year, flooding causing significant problems but in reply to a parliamentary question I tabled, I was informed there was a €7.6 million under spend in 2012 on flood relief works. I was curious about this given the works needed throughout the State. It is great that €225 million will be available over five years and I welcome that but could Mr. Smyth comment on this? Is there a ceiling on the amount a local authority can apply for?

Deputy Luke 'Ming' Flanagan: The two speakers have asked the main questions. I refer to funding which is given to county councils on a certain basis. Roscommon County Council was given €270,000 to deal with the flooding problem in Athleague. When it received the money, officials went off and worked out what they were going to spend it on. Do they not get the money on the basis that they spend it on specific projects rather than subsequently deciding what they will spend it on?

Mr. Tony Smyth: We responded to the committee's report on the River Shannon shortly after it was circulated to us through the Minister. The main points we raised were that much of the work to be done would require the outputs from the CFRAM modelling and understanding of the river flows on the Shannon before some of those issues could be addressed. There is a protocol in place between the ESB and Waterways Ireland for the operation. I understand from all stakeholders such as the IFA and so on that this is not acceptable to them but that is there at the moment and, pending the outputs from CFRAM when we will have a proper model of the river and a proper understanding of the water levels and how the water levels in the lake and the callows are interconnected and so on, we will not be in a position to make any recommendations for changes on those levels. We reported on that and we responded to the committee's report. We appeared before the committee late last year on that and another issue.

We also have frequent meetings with Waterways Ireland and the ESB. The board has agreed to aim to reduce the starting water levels in Lough Ree by 100 mm. at the start of the summer and to have that as its target but that will be dependent on hydraulic conditions, rainfall, what happens on the river and so on. We are not always in control of that because there is a limited level of control. There are only a number of gates in Athlone that can be opened and, therefore, at a certain point the inputs into Lough Ree overwhelm the output and one is not control of the level but we understand the difficulties and our response in a sense is through the CFRAM for that, as it is for other rivers around the country to develop proper warning-----

Deputy Barry Cowen: There did not appear to be a protocol in place in the event of a weather warning being issued and there does not appear to have been any resolution should a similar warning issue now. Met Éireann had issued a five-day outlook and the response was poor. The OPW must abide by the protocol in place - I acknowledge the organisation may be hamstrung - and that is why we wanted that clarified in order that the committee could bring political pressure to bear to rectify that. However, the ESB and other stakeholders are satisfied that the *status quo* is as good as it gets and the only amendment that can occur is subject to the completion of the CFRAM study. In the meantime, the stakeholders we represent such as the farmers and those who derive their livelihoods from these lands are the only ones left out in the cold with no solution to their problems. They do not agree but they are in the minority and, therefore, they do not have a say.

Mr. Tony Smyth: We deal with all the stakeholders and we have dealt with the farmers, ESB and Waterways Ireland as stakeholders in the CFRAM process. That work is our examination of the flood risks on each river in the country and their concerns will be inputted into that and we will have to see what comes out.

With regard to the Met Éireann warnings, I do not know why they would have changed if they had been issuing those. ESB issues water level warnings to local authorities and, again, I do not know if that has changed over the past few months. I have not heard that it has.

Mr. Liam Basquille: My understanding is Met Éireann operates a text alert system in conjunction with the IFA.

Deputy Barry Cowen: We heard it on the radio. The farmers and everybody else bar the people who lift the sluice gates heard it.

Mr. Liam Basquille: They have weather forecasts and warnings but they operate the sluice gates within their own protocols.

Deputy Barry Cowen: Yes, they do, to suit themselves at the expense of those who-----

Mr. Tony Smyth: The protocol is based on water levels rather than on forecasts of rainfall and they respond in a particular way to that. However, that is within the remit of the ESB and Waterways Ireland and until we have other evidence to say that it should be done differently, we are not in a position to make other suggestions.

Deputy Luke 'Ming' Flanagan: Is there not a connection between rainfall and water levels?

Mr. Tony Smyth: The protocol is that they respond to a water level rise rather than to a rainfall forecast. Of course they are connected.

Mr. Liam Basquille: It is important to acknowledge that the ESB has shown a willingness to move by agreeing to a trial reduction of 100 mm. It does not sound like an awful lot but its representatives have shown a willingness to engage positively and to move on that.

Deputy Luke 'Ming' Flanagan: They are left with no choice. The problem is they seem to be the bosses here and think they are doing us a favour. They are not doing anyone any favours; they are doing what they should do.

Mr. Liam Basquille: They have their own view which may not be full agreement-----

Deputy Barry Cowen: Their view is not in line with that of many others. If the OPW is hamstrung in so far as the protocol in place is not for turning, what mechanisms are available to us as public representatives-----

Vice Chairman: That is a matter the committee should pursue further with the ESB and Met Éireann.

Deputy Barry Cowen: We are 12 months down the line and the same problem is fast approaching again on the basis of conversations I had with people in that locality only last weekend. We have not advanced this. A fine report was prepared, which made eight or nine recommendations that we feel would address the issue, resolve the problem in so far as they can and appease the stakeholders we represent but, unfortunately, it has not been discussed on the floor of the House. Responsibility for this straddles different Departments and Ministers have not had an opportunity to respond. I hope the Whips will engage to bring that to bear. If Mr. Smyth is telling the committee that the existing protocol is as good it gets, our responsibility is to seek to amend it to meet the demands of those we represent whose livelihoods have been destroyed by the dominance of ESB and others.

Mr. Tony Smyth: Deputy Stanley asked about the National Parks and Wildlife Service. To be fair to the National Parks and Wildlife Service, there is a body of European and national legislation governing what can and cannot be done on environmental studies. As part of our major flood relief programmes we will always carry out a full environmental impact assessment. Environmental consultants would be engaged at the same time as the engineering consultants in order to examine the possible environmental constraints on the various flood mitigation options and as far as possible building those into the design. I am not aware of any significant delays on major works. I am aware that on minor works, certainly in the Shannon area, it has caused delays because there was no economic way to do what locals had requested, which was to move silt and distribute it on the land. There were concerns about damage to the environment and we were unable to proceed with some of those minor works. That tends to be more of a problem with minor works rather than with the major ones where we have the resources to do all the various environmental studies and influence the design of schemes in that way.

I can certainly provide a list of rivers for which we have responsibility. We will issue that to the committee.

Last year's outturn was €7.5 million ahead of the allocation. The allocation was €45 million and we spent €52 million. So it was more than and not less than. We found savings from other things.

Deputy Brian Stanley: I have information that shows differently. I would be happy to share it with Mr. Smyth.

Mr. Tony Smyth: Those are the numbers.

Deputy Brian Stanley: I am happy with that.

Mr. Tony Smyth: It is a plus rather than a minus so it was not under. There was another question on restriction.

Vice Chairman: It was on the maximum spend for a small local authority schemes.

Mr. Tony Smyth: We set the limit at €500,000 because we believe engineering works costing more than that would certainly have environmental impact and should have proper environmental and cost-benefit studies carried out. The benefit of the minor works is that we have developed simplified criteria for the cost-benefit analysis to ensure we are getting benefit for the cost but without having to go to the rigours and expense of a full cost-benefit analysis as we do for the major schemes. It might run to €10,000, €20,000 or €30,000 to complete a full cost-benefit analysis. In cases where the works will cost €50,000, it does not make sense to spend that kind of money on studies.

Deputy Brian Stanley: Local authorities also go through a strict tendering process.

Mr. Tony Smyth: This is not tendering, but just to see whether the benefit accruing from the expenditure is bigger than the expenditure.

Deputy Brian Stanley: On the question of whether the OPW has the final say, I believe Mr. Smyth mentioned that it is seeking permission from the ESB to reduce the river level by 10 cm, which is 4 inches.

Vice Chairman: Is the Deputy asking if the OPW is happy to have the final say?

Deputy Brian Stanley: I seek a response on that. Someone needs to have the final say and the OPW, as the statutory agency, should have the final say. In other words it should be able to trump others. Deputy Corcoran Kennedy chaired a committee that produced a very good report on the Shannon with good recommendations. The problem is that the ESB and everybody else seem to be able to call it, with the OPW left merely as bystanders witnessing this. Deputy Cowen outlined the problems for the farmers.

Vice Chairman: The Deputy should allow Mr. Smyth to reply.

Deputy Brian Stanley: Would the OPW be happy to have the final say?

Mr. Tony Smyth: There is a range of legal and policy issues in that question. When we make a proposal to do that, we bring forward the technical solutions built in with the environmental solution within a particular legal framework. I do not believe anybody can trump us and I do not know that it is appropriate to have a flood-risk management agency having a greater say in some of those other issues. The Deputy is getting into a range of policy issues that I would not be comfortable speaking about. There are policy issues but there are also legal things. There is environmental legislation with which we have to comply when we are bringing forward proposals on those things.

Deputy Brian Stanley: Is Mr. Smyth saying there are legal issues relating to the ESB?

Vice Chairman: I will allow the Deputy to ask a supplementary question later.

Deputy Brian Stanley: That is the crux of the issue.

Vice Chairman: The Deputy has had a good run on it.

Deputy Brian Stanley: If there are legal issues regarding the ESB-----.

Vice Chairman: I want to be fair to the other members who wish to contribute.

Mr. Tony Smyth: It has a legal remit regarding the water levels on the Shannon at present, but we do not have any evidence and have not completed proper models of the river - and will not have until the CFRAM is completed - to make other arguments as to what else might work. Until we get to that point, we are certainly weak on grounds of any logic, evidence or argument we might make.

Vice Chairman: Deputy Flanagan asked about funding for the local authorities for specific projects.

Mr. Tony Smyth: We have a set of criteria outlining the benefits. The local authorities apply for funding for a particular project and work out for us what the benefit and costs of that would be, and we approve that project for that funding. I think in a particular case-----

Deputy Luke 'Ming' Flanagan: Do they get the money first and then engage engineers and consultants afterwards?

Mr. Tony Smyth: No. They get approval to draw down the funding and then on completion of the project or at stages through the project we might pay them interim payments through it. I believe the Deputy is talking about one where some difficulties arose about the particular proposed solution. I would have to refresh my memory on the details of that. Perhaps Mr. Basquille would be comfortable answering it.

Mr. Liam Basquille: When we became aware of the issue we raised it with the council.

Deputy Luke 'Ming' Flanagan: What issue?

Mr. Liam Basquille: In Athleague. I think is that the weir-----

Deputy Luke 'Ming' Flanagan: Was that the flooding issue or issue that it got money and went off and worked out how it would spend it?

Mr. Liam Basquille: Yes.

Deputy Luke 'Ming' Flanagan: It is an interesting system, is it not?

Mr. Liam Basquille: We took it up with the council and we pursued the matter with it. The council provided us with an explanation as to why it did what it did. It was able to satisfy us that what was initially proposed on further study was not a viable solution. It then explained to us the basis on which it-----

Deputy Luke 'Ming' Flanagan: Could it not have explained that to you before it went and spent the money?

Vice Chairman: The Deputy should speak through the Chair. I do not want to have any one to ones.

Deputy Luke 'Ming' Flanagan: I am sorry.

Mr. Liam Basquille: It should have.

Deputy Luke 'Ming' Flanagan: What sort of sanction is imposed on it for doing what it did?

Mr. Liam Basquille: We will follow up with it on the matter. We will keep a very close watch on how the money is being spent. The alternative solution it proposed was acceptable and satisfied OPW requirements in terms of its technical viability.

Deputy Luke 'Ming' Flanagan: With respect, it is not working. People are very unhappy about it and it is their money.

Vice Chairman: The Deputy will need to take up the individual case later.

Deputy Luke 'Ming' Flanagan: Okay.

Deputy James Bannon: I thank Mr. Smyth and Mr. Basquille for attending. Last year the committee made a number of recommendations that would not have cost much money. The witnesses are tiptoeing around the issue. There were simple solutions that would alleviate considerable hardship for people living in the Shannon catchment area. A simple one was removing the man-made structure in Clondara. The OPW cut what was over the water rather than what was under the water. I know the Minister is frustrated over the lack of joined-up thinking between officials at the top and the personnel on the ground who do not seem to be in line with that thinking.

What efforts have been made to keep the water level 2 ft. below the weir wall in Athlone? Very little effort has been made on the maintenance of the Shannon and its tributaries. The witnesses said that removing silt and preventing it building up were minor works. They are major

works for the people in the midlands, because they cause considerable hardship. Removing the debris, including tree branches and leaves that builds up in the river, from the Shannon and its tributaries would prevent a serious amount of flooding in the Shannon basin area. Simple solutions are not being acted upon and I believe the OPW should have senior personnel down there looking at what is happening on the ground. The reports coming back to the OPW do not tally with the reality on the ground. I would really appreciate more effort from OPW senior management and the people working on the ground. It is a joke to see the man-made structure in the Shannon at Clondara Tarmonbarry still not removed. I know the Minister has been in contact with the farmers, and he is as frustrated as I am that this issue has not been dealt with. Very little effort is being made to remove silt from the tributaries and waters feeding into the Shannon. Some old bridges on these tributaries were closed by local authorities for health and safety reasons and the arches are still blocked off. These bridges were constructed two centuries ago. The possibility of opening them up to allow water flow through has never been considered. The view which came across at every public meeting on this issue which I have attended over the past six months is that not enough engagement or local consultation takes place. The National Parks and Wildlife Service still seems to have more power than the OPW. People are afraid to take it on but it must be taken on. A common sense approach should be taken to dealing with this issue. This is what people want to see. I would appreciate if the witnesses comment on this.

Deputy Anne Ferris: I am not a member of the committee and I thank the Vice Chairman for allowing me raise a question on this very important topic.

Vice Chairman: The Deputy is more than welcome, particularly as she is the Labour Party spokesperson today.

Deputy Anne Ferris: I do not want the Vice Chairman to feel I am gatecrashing the meeting.

Vice Chairman: We welcome everybody.

Deputy Anne Ferris: I thank the Vice Chairman.

I represent the people of County Wicklow and I am here to raise an issue with regard to Bray. Flood defence works are being constructed along the River Dargle. I live by the river myself and our house suffered great damage during Hurricane Charlie 27 years ago.

Vice Chairman: Which Charlie is the Deputy speaking about?

Deputy Anne Ferris: Hurricane Charlie and not the other Charlie. We have been calling for good flood defence works since then and I pay tribute to the OPW and the Minister of State, Deputy Brian Hayes, for providing the money last year following our representations.

My concern is with regard to the insurance aspect. I fully understand the OPW has a limited role with regard to insurance, but it is in talks with the Irish Insurance Federation. For the 26 or 27 years after Hurricane Charlie, which was a one in 30 year storm, houses and businesses along the River Dargle had no problem obtaining flood insurance or home insurance. Flood defence works started along the river last year, and it is only in the past year that the insurance companies have stated to people renewing their flood or house insurance that they will not insure homes along the River Dargle. This is ludicrous, because there was no problem obtaining such insurance after the hurricane. During the construction of flood defence works the insurance companies are stating they are not prepared to insure. They state if Bray Town Council or the

OPW can come up with an outline of the work being done it might satisfy them. I understand the works being done are to deal with one in 100 year diluvial events or one in 200 year tidal events, which gives us greater protection. One would imagine the insurance companies would state that as this work is being done there will be no problem. I do not have a problem, but my neighbours and people in Little Bray have told me they have been taking out insurance with the same company for years and suddenly they are being told they need to supply this information.

I fully understand the OPW has stated it is looking to draw up plans which can be given to the Irish Insurance Federation once schemes are completed. The work along the River Dargle is in process, and the paperwork has not been done for completed schemes. The people of Bray are desperate to get something from the OPW to describe the works being carried out and what is intended and to state we have not been flooded since Hurricane Charlie. The OPW should tell the Irish Insurance Federation it has a responsibility to provide insurance and just cannot stop doing so. We are very concerned about this. I welcome this opportunity to hear a response.

Deputy Marcella Corcoran Kennedy: I thank the witnesses for coming before the committee. Most of my colleagues from the Shannon basin and others have covered much of the ground already. I chaired a committee and presented a report calling for the OPW to be given management powers with regard to the Shannon. What is the opinion of the witnesses on this? While the OPW is the lead agency, it does not appear to have sufficient powers to compel people to take action. While I respect agencies have their own agendas, we felt very strongly there should be one overarching body which should have the power to invite people to discuss on a formal basis future plans for the River Shannon, particularly when bad weather is forecast.

I welcome the fact that the ESB has agreed to let off water at Athlone. People experienced in examining rising water levels felt strongly about this given they were not falling sufficiently there. How will this happen? Who will make the decision on it? Will it be left to the ESB?

How prescriptive will the catchment flood risk assessment and management, CFRAM, report be? We have received numerous suggestions for solutions, including ideas such as using boglands to hold excess water, abatement works and building up rock armour in particular places along the Shannon. Who will have the power to decide what to do?

The issue with regard to silt has been raised time and again. I understand restrictions exist with regard to transporting silt, but Bord na Móna's railway network has huge potential in this regard. How much consultation has been done with it to see what role it can play? Of course we must bear in mind the big difference between wet and dry silt.

Vice Chairman: I ask Mr. Smyth to deal with these questions, beginning with the recommendations made last year in the Shannon report which have not been acted upon.

Mr. Tony Smyth: Our main response to the report on the Shannon was that many of its recommendations would be addressed through the CFRAM and until it was completed we would not have a full understanding of the water levels, interconnectivity and the impacts of what changes might be proposed in this regard. It is important to understand that at present the OPW has powers for maintenance on completed schemes under the Arterial Drainage Acts. To get these maintenance powers we need to carry out a scheme under the Act, which means putting it on public exhibition after proper engineering, design, cost benefit and environmental assessments, having it confirmed by the Minister and then constructed. After this, we maintain it. We do not have the legislative power to do the kind of work in question, namely, take silt or branches out of the river.

Deputy Marcella Corcoran Kennedy: Would the Office of Public Works, OPW, be happy to have them?

Mr. Tony Smyth: It would be difficult, as there is other constricting legislation. One cannot just remove silt. We must comply with the body of environmental legislation that has been put in place by the Oireachtas and the EU. Being given powers over one aspect means that we would need to comply with the other Acts of the Oireachtas. A process would then need to be put in place to comply with the various constraints, for example, public expenditure, environmental law and procurement law.

Deputy James Bannon: The OPW cannot take-----

Vice Chairman: To qualify, we are asking for information. Mr. Smyth has stated that laws are in place, but equally laws and an onus apply to the farming community and everyone else to keep the river channel free so that someone else is not hindered. Does the OPW turn a blind eye to that fact?

Mr. Tony Smyth: We do not have enforcement powers. That is the landowners' responsibility.

Vice Chairman: Surely if the OPW is specific in one area, it should be equally specific in another area. Other people have rights as well.

Mr. Tony Smyth: I appreciate that.

Deputy Luke 'Ming' Flanagan: If I may, I will make a helpful point. Mr. Michael Silke, a representative of the Irish Farmers Association, IFA, appeared before the committee a couple of months ago. Mr. Smyth's statement that people must keep the channels clear makes sense. As Mr. Silke informed us, though, when a channel near his farm was not cleared for a certain amount of time, a little island developed and became protected despite not having existed 30 years beforehand. It seems that the National Parks and Wildlife Service, NPWS, are adopting what would be called in the US a wilderness strategy. That is fine in the US, which has massive tracts of land where there are no people, but we cannot live in a wilderness. This is the problem.

Vice Chairman: I thank the Deputy for his intervention.

Deputy Luke 'Ming' Flanagan: I am sorry, but it is an important point.

Mr. Tony Smyth: Under Acts of the Oireachtas and European law, the NPWS has responsibility for maintaining the environment. I am not in a position to comment.

Deputy Bannon mentioned Clondra, but I am fairly sure that construction is a Waterways Ireland issue, not an OPW one. The matter has been raised with Waterways Ireland.

Deputy James Bannon: The OPW committed to removing an obsolete structure.

Mr. Tony Smyth: No.

Deputy James Bannon: It did.

Mr. Tony Smyth: The OPW committed to raising the issue with Waterways Ireland, which we did.

Deputy James Bannon: The OPW cut what was over the river, not what was blocking

water in the river.

Mr. Tony Smyth: I am unsure about what Waterways Ireland cut, but we raised the issue with it.

Deputy James Bannon: I would appreciate it if an could engineer take a look to determine what was done.

Vice Chairman: The Deputy can discuss this matter with Mr. Smyth after the meeting.

Deputy James Bannon: The Minister, who has seen the structure, believes that it should be removed.

Vice Chairman: We will not get involved in specific cases.

Mr. Tony Smyth: I am grateful for the comments on the Bray scheme. We are delighted to be there. I do not know why the insurance industry would take that opinion. We can raise the matter when we meet it.

Mr. Liam Basquille: What is happening in Bray is similar to what has been happening in many locations throughout the country. This situation does not necessarily have anything to do with the Bray scheme commencing. When we go through the process with the insurance industry and provide it with information on the scheme, it will have the full details. Information can be provided to residents by way of a letter or directly to the Irish Insurance Federation, IIF, but a letter in and of itself would not be of help. In other cases in which letters were given via local authorities or the OPW, the industry asserted that it needed full, robust information, including all of the technical details, if it was to assess risk properly. An outline of what is being done, even one that includes a reference to a 100-year level of protection, may not carry enough weight with the industry. However, Bray Town Council or we can provide a letter.

Deputy Anne Ferris: That would be good. The council has a good environmental monitoring committee for the flood protection works. Representatives of residents, Inland Fisheries Ireland and the OPW are involved in that committee. The OPW's representative is co-operative and doing a good job.

The insurance companies will eventually be given details on the works, but what will people do in the meantime? It is a difficult situation, but there could be another flood during construction. Contractors have been taken on and cannot worsen the current situation, but there could be an act of God like a hurricane. Some of us who have been living alongside the river for a long time and have been insured. I have lived there for 28 years and have not experienced a problem with insurance yet, as it is not due for renewal. People have been waiting for flood defence works since Hurricane Charlie, yet they are now being told that they cannot be insured. It is ludicrous.

Vice Chairman: That is more of a question for the IIF.

Deputy Anne Ferris: The IIF is pushing the matter back to the OPW and looking for information from same. I have been told that one of the insurance companies operating in Bray is refusing to provide insurance near Superquinn, one of the sites flooded during Hurricane Charlie. People are worried. Many lost a great deal in Hurricane Charlie and it cost those who did not have insurance at the time a significant amount of money. I ask our guests to do what they can and to impress upon the IIF the severity of the problem in Bray and elsewhere. People

desperately want to know what they can do.

Mr. Tony Smyth: The IIF has an appeals mechanism for people experiencing difficulties. The refusals are by insurance companies, but the IIF may be able to do something if the Deputy gives the same explanation.

Deputy Anne Ferris: Failing that, the Financial Services Ombudsman, but let us hope that we do not need to go that far.

Mr. Liam Basquille: The general issue was raised at the committee's previous meetings with the IIF.

Vice Chairman: The Deputy's specific point was not discussed, that is, insurers are seeking but not receiving information from the OPW.

Deputy Anne Ferris: The insurers claim that it would be helpful. There is no problem, but could the OPW speed the matter along and, at its next meeting with the IIF, mention that the issue of Bray was raised at this meeting? We all must fight for our own areas.

Deputy James Bannon: The question on opening the gates and keeping water levels 2 ft. below Athlone's weir wall was not answered. This issue has arisen time and again and commitments were given, yet it has not been addressed.

Mr. Tony Smyth: Regarding Lough Ree, the ESB has agreed to try to for a water level that is 100 mm lower than its target would otherwise have been. However, this is contingent upon rainfall and inputs from the upper part of the River Shannon and the tributaries north of the lake. The ESB does not have complete control of water levels. It can open a number of gates to reduce water levels somewhat, but more enters the lake at certain times than can be released through the gates or over the weir, leading to a rise in water levels that overwhelms the ESB's efforts.

Vice Chairman: Will Mr. Smyth please respond to the issues raised by Deputy Corcoran Kennedy?

Mr. Tony Smyth: A range of policy issues affect management powers on the Shannon. Many agencies and local authorities that have a remit over planning, tourism, boating and so forth are involved. When we identify a scheme of works, we generally put the plans on public exhibition, giving others an opportunity to comment. We have powers to implement a scheme. Once it is shown to be technically sound, passes its cost benefit analysis and meets environmental criteria, we recommend it for construction.

The catchment flood risk assessment and management, CFRAM, process examines flood risk on a river catchment basis and identifies a number of measures, some of which may be constructed flood defences or structural measures and some of which may be non-structural measures. It will identify a lead body to bring each of those measures forward. If members take a look at *leecframs.ie* they will see what a catchment flood management plan might look like. It includes a range of measures for particular areas, including works that might be done and who might undertake them. In some cases, a scheme will be led by the OPW and in others it will be led by a local authority. That is the process from plan to outline design stage.

Silt remains an issue. Without a scheme that is cost beneficial and can make all of the pieces stack up, it is difficult to invoke powers to do these things. We have not engaged with Bord na

Móna in regard to transporting the silt on the network.

Deputy Marcella Corcoran Kennedy: Would the OPW be open to having a conversation about the matter? It strikes me as a great opportunity. Bord na Móna has networks all across the midlands and down to the banks of the Shannon.

Mr. Tony Smyth: There are issues around the environmental impact of removing the silt, such as the disturbance of various plants, flora and fauna, which matters are regulated under the habitats directive and its ensuing legislation.

Deputy Luke ‘Ming’ Flanagan: On the habitats directive and the NPWS having a remit to protect it, the farming organisations made clear at a previous committee meeting that the corn-crake has been wiped out as a result of silt. Who encourages the NPWS to care for this? There are see-saw affects in this regard in that when one affects one thing it proves life for another. The same applies in respect of turf cutting. A particular breed of butterfly will only survive if turf cutting is allowed to continue on some of the SACs. Who makes these decisions? What did the butterfly and bird do?

Mr. Tony Smyth: The NPWS enforces the habitats legislation.

Deputy Luke ‘Ming’ Flanagan: Ultimately, the CFRAM study is limited by what the NPWS allows the OPW to do, which, in turn, is limited by legislation.

Mr. Liam Basquille: CFRAM includes environmental assessments. In bringing forward a plan, consideration is given to environmental affects.

Vice Chairman: I thank the delegates for their responses. I have two final questions, the second of which will be dependent on the response to the first question. It was stated that there are nine major flood relief schemes at construction stage and that it is expected that a further five schemes will commence construction before the end of 2013. Perhaps Mr. Smyth would identify those schemes for us?

Mr. Tony Smyth: The nine on site are in Clonmel, Mallow-----

Vice Chairman: We are familiar with the nine schemes already under construction. Perhaps Mr. Smyth would identify the other five schemes.

Mr. Tony Smyth: Bandon, Ennis, Claregalway, a further phase at the Dodder and, possibly, Templemore.

Vice Chairman: Reference was made earlier to attempts since 1966 at flood relief management in Templemore. The issue of insurance was also discussed. Lest the people of Templemore think they have been forgotten, we will not allow that to happen. People are annoyed because they cannot obtain insurance. The OPW and Minister announced that the Templemore flood relief management scheme would commence in 2011 but that did not happen. Meanwhile, people still cannot get insurance cover. This demands an explanation from somebody.

Can Mr. Smyth set out the reason for the delay of the Templemore scheme and say if it will commence this year? I hope not to hear the words “possible” or “possibility” in his response.

Mr. Tony Smyth: Elements of that scheme are very costly. We are trying to find a more cost effective way of delivering the same solution.

Vice Chairman: Why was commencement of the scheme announced in 2011? An engineer from the OPW, Mr. Michael Collins, appeared before the committee and answered questions on the matter. There was then a public consultation process and the scheme was developed and announced. Mr. Collins stated that the scheme would be commenced and would be done by direct labour. Surely, the OPW knew at that stage about the elements to which Mr. Smyth refers.

Mr. Tony Smyth: Certain elements proved more complex when we got into the detailed design, including land ownership, purchase of land and site and moving of petrol tanks and so on.

Vice Chairman: They were all issues at that time?

Mr. Tony Smyth: Yes. We did not get the full impact of some of the complexities and difficulties that were arising until we get into the detailed design of the process. We are considering a slightly different route now, which has other ramifications for us, including issues of cost. We are working to resolve those issues.

Vice Chairman: When does Mr. Smyth expect matters to be concluded?

Mr. Tony Smyth: I do not have a date in my mind to do that. We are working on a solution.

Vice Chairman: Would Mr. Smyth accept as an appalling situation the Templemore community being told in 2011 that the scheme will commence at the end of that year and his now saying that no definite start-up date can be provided?

Mr. Tony Smyth: Issues such as purchase of site and so on are not within the control of the OPW. As such, I cannot give a definite date for start-up of the development.

Vice Chairman: I do not understand. Why was that not an issue in 2011?

Mr. Tony Smyth: There were difficulties with the exhibited route and associated risks with that route for the construction process which did not fully emerge until the detailed design stage was examined in greater detail. With the benefit of hindsight, we were premature in going to exhibition. The complexities arose after that.

Vice Chairman: Members will have to table questions to the Minister to find out why people have been let down in this way. The people of Templemore and surrounding areas are upset at the manner in which they have been treated. They accepted for years that nothing was being done about the problem and were then happy to hear it was going to be addressed. As stated by Mr. Smyth, at that stage there had been a consultation process with landowners and so on, following which the people of Templemore were told in the town chamber by the Minister and an engineer from the OPW that direct labour on the scheme would commence at the end of 2011. The situation is unsatisfactory. We will leave it at that.

Deputy James Bannon: What efforts have been made to clear the block between Lough Ree and Lough Derg?

Mr. Tony Smyth: Sorry?

Mr. Liam Basquille: Is it a block that is obstructing the channel?

Deputy James Bannon: It is a blockage. It is causing severe flooding. Deputy Flanagan referred to the island that is developing in close proximity to a particular man's farm. It is being caused by that blockage.

Mr. Tony Smyth: Is the block located at Meelick weir?

Deputy James Bannon: Yes, between Lough Ree and Lough Derg.

Mr. Tony Smyth: I am not aware of it.

Vice Chairman: The Deputy can discuss the matter with Mr. Smyth following the meeting. Mr. Smyth might then inquire into the matter and issue him with a response.

Mr. Tony Smyth: Yes. I will make inquiries into the matter.

Deputy James Bannon: Thank you.

Vice Chairman: That concludes our discussion. I thank Mr. Smyth and Mr. Basquille for attending today's meeting and for the information they have given the committee.

Sitting suspended at 3.30 p.m. and resumed at 3.35 p.m.

Irish Film Board: Discussion with Chairman Designate

Vice Chairman: We will resume the meeting in public session to hear from Mr. Bill O'Herlihy on his designation as chairperson of the Irish Film Board, Bord Scannán na hÉireann. I welcome Mr. O'Herlihy and thank him for his attendance.

I draw attention to the fact that, by virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the joint committee. However, if you are directed by the committee to cease giving evidence on a particular matter and continue to do so, you are entitled thereafter only to qualified privilege in respect of your evidence. You are directed that only evidence connected with the subject matter of these proceedings is to be given and you are asked to respect the parliamentary practice to the effect that, where possible, you should not criticise or make charges against a person, persons or an entity by name or in such a way as to make him, her or it identifiable. I advise you that the opening statement and any other documents you have submitted to the committee will be published on the committee's website after this meeting. Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official by name or in such a way as to make him or her identifiable.

Before the commencement of the presentation, I should say that the Irish film industry is one of our most important, providing investments and jobs directly through its own activities and indirectly through its promotion of Ireland and Irish things. Therefore, I am particularly glad to have the opportunity today to discuss Mr. O'Herlihy's future role as chairperson of a board in this important sector. I ask the witness to begin by providing some details of his professional career to date and how this will assist him in his new role. I am also interested in hearing plans for the future and how the witness sees his role as chairperson contributing to the success of the Irish Film Board.

Mr. Bill O'Herlihy: I take this opportunity to thank the committee for giving me the opportunity to address it and outline my vision for the Irish Film Board, the strategies to realise this vision and the challenges and priorities I have identified in this regard. I am happy to answer any questions the committee might ask.

I was greatly honoured when the Minister for Arts, Heritage and the Gaeltacht, Deputy Jimmy Deenihan, approached me about taking up the position of chairman of such a well-respected organisation. It was something that I thought about for a little while before accepting because I wished to be clear in my own mind that I would have the time and energy to ensure that I would be able to deliver in a positive and constructive manner on the strategies. I believe I can do this. I also very much welcome the appointment by the Minister of the six other members of the board, all of whom bring a breadth of expertise and experience in film and film production to the table, and I look forward to working with them and with the very experienced executive staff of the board.

The Irish Film Board was established under the Irish Film Board Act with a dual mandate of assisting and encouraging the making of film in Ireland and assisting and encouraging the development of an industry in Ireland for the making of films. This mandate was most recently elaborated and expanded on in the Creative Capital report published by the Minister in July 2011 and the implementation for the recommendations in the Creative Capital report is part of the recently published Action Plan for Jobs 2013.

The core business of the Irish Film Board is the development of indigenous Irish film making and the majority of funding is dedicated to this objective. The Irish Film Board supports Irish screenwriters, film directors, actors and crew in realising Irish creatively driven films. Recent examples include: “The Guard”, directed by John Michael McDonagh and featuring Brendan Gleeson; “What Richard Did”, directed by Lenny Abrahamson and featuring Jack Rayner; “Pilgrim Hill”, directed by Gerard Barrett; and the soon to be released animation feature film, “Song of the Sea”, directed by Tomm Moore and produced by the team that produced the Academy Award nominated “The Secret of Kells”. Irish creative talent is the lifeblood of the industry and I will be working with my colleagues on the Irish Film Board, as well as with the executive of the Irish Film Board, in helping to promote that talent both in Ireland and internationally.

I joined at an exciting time in the industry. In 2012 two films which were made possible through the support of the IFB received four Oscar nominations between them. “Albert Nobbs”, set in Ireland and completely filmed on location in Ireland, was nominated in the categories of best actress, best supporting actress and best make-up. “Pentecost”, also set and filmed in Ireland with a full Irish cast and crew, was nominated for best short film. This followed on from 2010, which saw Irish talent picking up awards and nominations and some of the industry’s highest accolades. Highlights included the Irish film industry receiving five Academy Award nominations, three of which were for films supported by the Irish Film Board - “The Secret of Kells”, “Granny O’Grimm’s Sleeping Beauty” and “The Door” - while Irish animator Richard Baneham and his team picked up the Oscar for best visual effects for their work on “Avatar”. Back in 2008, there was the Oscar for best original song for “Once”, which was made for only €300,000 with support from the IFB. Also in 2008, there was the Caméra d’Or award at the Cannes Film Festival for “Hunger”, and in 2007 “Garage” won an award at Cannes as well. These awards helped to give confidence and increased profile to Irish creative talent and are significant evidence that Irish film and talent emanating from Ireland have achieved recognition on the world stage.

Irish short films funded by the IFB have received eight Academy Award nominations since 2002. The IFB-funded comedy thriller “The Guard”, starring Brendan Gleeson and Don Cheadle, has become the most successful independent Irish film in Irish box office history, grossing more than €4.3 million at the Irish box office and more than \$5 million in the United States.

The first Bollywood blockbuster to be shot in Ireland, “Ek Tha Tiger”, starred two of Bollywood’s biggest stars and was filmed on location in Dublin over five weeks. The film used an abundance of Dublin locations for spectacular dance sequences and stunts. It was distributed in more than 20 countries, which meant that images of Ireland and Dublin were projected on the big screen across the globe. All of this provided promotional opportunities for Tourism Ireland to exploit Ireland as a tourist destination. According to Fáilte Ireland figures, 20% of all tourists that visited Ireland in 2010 did so because of images of Ireland they saw on film.

Film is not just about the creative aspects of what is on the screen. It is also an industry and a business. It is an industry that raises finances, provides employment and pays for goods, facilities and services. It creates works that are distributed and promoted in Ireland and elsewhere, are seen by local and international audiences, convey a visual image of Ireland to a wider world, generate exports and revenue from abroad and encourage international tourists to visit Ireland. All of these activities require financial and business skills.

The Creative Capital report was commissioned by the Minister for Arts, Heritage and the Gaeltacht and was compiled by a group of industry professionals under the chairmanship of Brendan Tuohy, the former Secretary General of the Department of Communications, Energy and Natural Resources. It was completed in April 2011 and was published by the Minister in July 2011. It was included as part of the Action Plan for Jobs 2012 and its continued implementation was also included in the recently published Action Plan for Jobs 2013, in which the implementation measure is stated as follows: “Continue to implement actions set out in the Creative Capital Report to double employment in the film and audiovisual sector by 2016.”

The Creative Capital report envisages that if its recommendations are implemented, turnover in audiovisual production, which is already at €500 million, could be increased to more than €1 billion over a five-year period, and the number of full-time equivalent jobs - already more than 5,000 - could be increased to more than 10,000. The headings in the Creative Capital report are as follows: develop an industry and build strong companies; build exports; develop skills and talents; a strong domestic industry; mobilisation of the industry and the whole of the Government; and unlocking its potential. There are 42 recommendations in the report. Some have already been implemented in full, including the extension of the section 481 film tax incentive to 2020, and many are part of a concerted work in progress. I can contribute to that work and look forward to working with the various industry stakeholders as well as the Irish Film Board and its executive.

The particular matters I will focus on will include building strong companies in the sector and supporting a drive for exports of audiovisual works across all platforms. I will also focus on the development of training for those both behind and in front of the camera. I am familiar with the broadcasting environment in particular, and can bring my knowledge and experience to the table in addition to my behind-the-scenes experience through my many years working in public relations. I will also promote the development of the domestic audiovisual industry in all media and look forward to working with the industry in helping to mobilise creative talent in conjunction with the Government and its agencies.

Section 481 has now been extended until the end of 2020, which will assist in giving the sector continuity and certainty for the future and allow projects to proceed in the knowledge that this important underpinning of the industry will be there for the next seven years. This demonstrates the commitment and proactive approach of the Government to the future of the Irish film and television production sector.

With the knowledge and experience I have of both the public and the private sectors in Ireland, I believe I can contribute in a constructive way to the implementation of the Creative Capital report. The stakeholders in this industry include the IFB itself, the Department of Arts, Heritage and the Gaeltacht, the Department of Jobs, Enterprise and Innovation, the Department of Finance, the IDA, Enterprise Ireland, public and private sector broadcasters including RTE, TV3 and TG4, cinema distributors and exhibitors, DVD distributors and retailers, and online video-on-demand and other film services. There is a rapidly increasing variety of ways in which audiences now access content. All of these elements contribute to a cultural industry which is all about creativity and talent, jobs and exports, international revenues and tourists, but it is ultimately about the audience, whether in a cinema or in front of a television or computer screen wanting to be entertained or uplifted, to laugh or cry and ultimately to be engaged in a life-enhancing experience. It also contributes to jobs created and the exports and revenues achieved, whether at the cinema box office, through television or online subscriptions or through DVD rentals and sales, which, in turn, create further opportunities for Irish talent in what is hopefully a virtuous circle of cultural and economic activity.

I believe my experience, qualifications and achievements will enable me, as chair of the board, to bring together the diversity of skills and talents on the board and in the executive, to bring a knowledge of business as well as promotion and marketing to that mix, to provide the benefit of what knowledge I have of the ways of government to what is an area of activity much affected by legislation and regulation and, hopefully, to supply some wit and wisdom to what has been described as the most powerful form of cultural and artistic expression in the modern age.

The Vice Chairman asked me about my background. I have been in broadcasting for almost 50 years and I am very familiar with, and have a full understanding of, the television and radio environments. Through working in news features initially, I think it is fair to say I had a major impact on the development of regional broadcasting in Ireland. In fact, I was RTE's first regional broadcaster, based in Cork. As a consequence of working on the programme on which I worked with Frank Hall, the whole culture of filming Ireland outside Dublin changed.

I covered current affairs for RTE television at a time of immense importance in establishing the relationship between the Government and public service broadcasting. I was public relations director to the Cork Film Festival and advised the director Dermot Breen to change the focus of the festival to the promotion of Irish films in order to ensure its long-term development, which was done. I worked with Seamus Smith, who was managing director of the National Film Studios of Ireland, to promote film-making in Ireland and, along with him, took part in promotional campaigns to Hollywood and the Cannes Film Festival, which successfully brought film projects to Ireland. I produced and financed independently a series of 13 programmes under the title "Distant Drum", a ground-breaking film about the diaspora which was filmed in the United States, South America, Australia, the Far East and Europe and was transmitted and bought by RTE over two seasons. I also produced a documentary on Seán Lemass. I acted as unit publicist on "The Purple Taxi" and "Excalibur", two major motion pictures made in Ireland. I have worked for more than 40 years in the communications industry. I thank the committee for listening to me.

Vice Chairman: That was very impressive. Will Mr. O'Herlihy either give credit to or deny the rumour that Dunphy and Giles will be advising him? I know it is traditional for Opposition members to contribute first, but on this occasion I ask that the committee agree to allow Deputy Marcella Corcoran Kennedy to address the meeting first, as she has to leave soon owing

to genuine family commitments. Is that agreed? Agreed.

Deputy Marcella Corcoran Kennedy: I thank the Vice Chairman.

I welcome Mr. O’Herlihy and congratulate him on his appointment as chairperson designate of the Irish Film Board. His curriculum vitae shows that it is very fitting for him to hold the position. He is well known in many sectors and will make a very fine chairperson. I am very keen on the regional aspect of his expertise. Ireland has great potential in the film industry. Such is my support for the development of this sector that I proposed the setting up of a film commission in County Offaly when I was a county councillor and I persuaded Offaly County Council to do so. It is known as Film Offaly and is very active. An offshoot was the organisation of a film festival, the only one in the county and it is an unusual one in that it targets young film makers. The regional aspect of encouraging film making is very important. The handy option is to focus activity on counties Wicklow and Dublin, which was the case in the film industry for a long time, mainly because of the availability of Ardmore Studios, but we have so much more to offer across the country. I ask Mr. O’Herlihy to outline his views on developing the scheme that was in place previously to fund filming outside the Dublin area. Is it possible to fund people to film in the regions?

Mr. Bill O’Herlihy: I cannot give chapter and verse on much of what the Deputy has said because I have not yet taken up the job.

Deputy Marcella Corcoran Kennedy: I understand that, but I would like to hear Mr. O’Herlihy’s views on what he would like to see happening in the regions.

Mr. Bill O’Herlihy: For a start, as a tribal Cork man, I certainly want to see the sector developed outside Dublin. I know, for instance, that there is a very fine film maker in County Kerry and that work has been done in that county. Certainly, as chairman, I will be looking to develop opportunities outside Dublin. I will be speaking to board members and the executive of the Irish Film Board about ways to exploit such opportunities.

Deputy Luke ‘Ming’ Flanagan: I thank Mr. O’Herlihy for his very interesting presentation. He has had an interesting life so far, with more to come by the looks of things.

I wish to address the issue of the ability of people around Ireland to see films. In the town I come from there used to be two cinemas. Then we progressed and developed and ended up with none. In County Roscommon as a whole there is one cinema. There was one cinema in Roscommon town, but it has closed down. What can the Irish Film Board or Mr. O’Herlihy do to make film viewing more accessible? When I say “more accessible”, I mean the distributors of films should make it viable for community centres or town halls in remote areas to screen films. Where I come from, one has to make a two-hour round trip to see a film and the experience is ruined as a result. Does Mr. O’Herlihy envisage the Irish Film Board being able to do anything to address this issue? The promotion of Irish films is part of the board’s remit, but many people do not have access to them. What does Mr. O’Herlihy believe the board could do to encourage our public service broadcaster to show Irish films in order that we do not have to watch another re-run of “Are You Being Served?” or something equally not up-to date?

Mr. Bill O’Herlihy: To answer the latter question first, RTE recently showed a series of Irish films. The relationship between RTE and the Irish Film Board is very good. The chief executive, Mr. James Hickey, works closely with RTE to develop that relationship further and ensure greater access to Irish films.

To respond to the first question, the Deputy is reflecting the huge change that has taken place in the communications sector. The cinema is no longer the dominant feature. RTE recently screened a documentary about the cinema and the influence it had in the past, but that influence has waned enormously. The Deputy raised a very interesting point about distribution. My understanding is the executive is looking very closely at furthering its relationship with the distribution companies in order to ensure Irish films receive the projection they deserve. That issue is very much on the agenda of the Irish Film Board.

Senator Fiach Mac Conghail: I congratulate Mr. O’Herlihy on his appointment as chairman designate. In my past life I produced a number of films in which the Irish Film Board invested, lest it comes back to haunt me at a future date.

I am aware that Mr. O’Herlihy is chairman designate and, therefore, may not be able to answer some of my questions. In that context, perhaps we might invite him to address the committee again in a year or so.

Vice Chairman: I am sure the committee will facilitate that request.

Senator Fiach Mac Conghail: Broadly, I see several challenges for the Irish Film Board. One is the continuing tension between developing an Irish film industry and attracting film productions to Ireland. There may be a conflict between developing a culture of film making and film makers in Ireland and attracting major Hollywood productions to our shores. I ask Mr. O’Herlihy to outline his thoughts on that aspect.

When Mr. O’Herlihy accepted the appointment from the Minister, Deputy Jimmy Deenihan, an enlightened appointment, was he able to elicit any commitment from him on capital funding in the next few years? As we know, it is capital rather than current funding that the Irish Film Board requires. I note that in 2013 the figure is €11.8 million, compared to €13.1 million in 2012. Given that the budget will be announced earlier this year, in October, and that we know there is a set budget within the Department for three years, has Mr. O’Herlihy been given any indication of what the capital budget for the board might be for 2014?

I ask Mr. O’Herlihy for his general view on the commitments made in the recently published report, Creative Capital: Building Ireland’s Audiovisual Creative Economy, which referred to a doubling of turnover and creating 5,000 jobs between now and 2016. These targets are very ambitious, given the current economic climate. I ask for Mr. O’Herlihy’s views on whether they are too optimistic, given the challenging environment to which he has alluded.

Again with the caveat of allowing Mr. O’Herlihy to return later in the year-----

Mr. Bill O’Herlihy: The Senator should ask easy questions.

Senator Fiach Mac Conghail: While it has been confirmed the section 481 tax relief scheme will run to at least 2020, changes have been made recently to the financial and tax regime in the United Kingdom *vis-à-vis* film making. Does Mr. O’Herlihy believe these changes will have a negative impact on film making in Ireland?

Mr. Bill O’Herlihy: The environment is very difficult and there is no point in pretending otherwise. The position in Ireland is that we have improved the position on tax in the sense that qualifying Irish expenditure has increased from 28% to 32%, while the cost to the Government has been reduced, which is a positive step. However, there is no doubt that we face enormous competition from Northern Ireland and Britain because of the benefits to be gained there. To

achieve the level of growth in Ireland that is being discussed, there must be a very strong selling of Ireland, in terms of creativity, the strength of our personnel, the attractiveness of locations here and so forth. That will be of major importance for the board, me as chairman, the chief executive and his team. There is no doubt, however, that it will not be easy.

To be honest, I have forgotten the other questions posed by the Senator. I have no idea about the capital funding; I have not a clue, because I have not discussed that with the chief executive or the Minister. The first board meeting, if I am appointed, will take place on Thursday and I have no doubt it will exercise the board members greatly.

We must bear in mind that I do not pretend to be a film maker, even though I have a background to some extent in the sector. I understand the environment.

Senator Fiach Mac Conghail: I consider that an advantage.

Mr. Bill O’Herlihy: I will be completely objective.

Senator Fiach Mac Conghail: That is exactly what should happen.

Vice Chairman: Mr. O’Herlihy had good mentors.

Mr. Bill O’Herlihy: Exactly. When I worked in news features and current affairs and then in sport, I was used to asking forensic questions. I tried to find out exactly what the score was because I have never been an expert in any of those areas, but I survived. My job will be to put myself into the shoes of the audience as much as possible, to determine the taxpayer is getting value for money, which is critical in my opinion, and to ensure the remit of the Irish Film Board is followed through.

If we look at the appointments that have been made by the Minister, there is a terrific range of expertise on the board. This board has the capacity to be very strong because it encompasses production, education and acting, all skills that are fundamental to the development of the industry. I look forward to working with the other board members immensely, and with the very experienced executive staff, because we have big problems and these are the sort of people who are able to solve them.

Deputy Catherine Murphy: Mr. O’Herlihy said earlier that when he was asked about taking up this position, he had to think about it. What was there to think about?

Mr. Bill O’Herlihy: I asked myself if I was the right person for the job. More importantly, I asked myself if I have the expertise to chair meetings that will deliver on the vision of a board like this. The board is hugely important, not just in developing jobs but in promoting Ireland. One in five people who come to Ireland come because of the images they see on the silver screen. Apart from the cost of the board, this is an immensely important aspect of the job. I thought about that and wondered if I was good enough to do this. I also asked if I had the time to do it. I came to the conclusion that this is a particularly interesting project and that I should give it a lash, in the immortal traditions of poor old Mick Doyle.

Deputy Catherine Murphy: I presume this will involve a certain number of meetings and familiarity with the work of the board and its strategy. There will be a relationship with the Minister as well. That is where topics like capital funding arise. The idea we could double numbers in full-time employment in the sector from 5,000 to 10,000 over such a short period of time sounds slightly fanciful. Some of this, however, would be about commitment on areas

such as section 481 relief and real money. There are tangible benefits to this if 20% of visitors come as a result of films they see. That means a much greater return than simple box office numbers. Will there be a focus on the capital investment? That would be critical in the delivery of such numbers.

Has Mr. O’Herlihy identified anything that is not in the Creative Capital report that should be in it or does he have any doubts about elements of it? Would that question perhaps be better answered in a few months?

Mr. Bill O’Herlihy: That question would be better answered in due course. From the word go, I will be looking at what exactly must be delivered in the short term. In talking to the chief executive, and responding to the Creative Capital report, the figure for 100% growth from 5,000 to 10,000 jobs is not apparently unreasonable. The question is whether it can be done within five years. It might take a year or two longer but the feeling is that it can be done. It means certain things must be put in place. There must be coordination between the universities and institutes of learning and a member of the IADT sits on the board, which is hugely important for the development of the industry. There are many things that must happen to achieve that but there is no reason to think they will not happen.

As far as the capital budget is concerned, we must look at the facts. The capital budget has fallen over the years and I suspect in the current climate there is no question of it increasing. I do not know that; the Minister is better placed to answer that than I am.

Deputy Gerald Nash: I congratulate Mr. O’Herlihy again on his impending, I hope, appointment as chairman of the Irish Film Board. He is eminently qualified for the role and I wish him every success. Like Senator Mac Conghail, I am declaring my interest in that I am a director of a film company. I am not entirely sure and cannot recall the level of funding we might have received in the past from the IFB but that is probably because the amount was so small.

Following on from Deputy Corcoran Kennedy’s remarks, there is a vital film sector in the regions, it is not exclusive to Dublin, Cork and Galway, as I can verify. The organisation I am involved with managed to access very important PEACE funding to do North-South projects with marginalised young people. Every summer an assumption is made by parents that young people want to get involved in sports camps but that is not everyone’s cup of tea. We organise projects like “So You Wanna Make a Movie?”, where we extend the film production experience to people who would not ordinarily do that, giving them access to that sort of opportunity. Having engaged young people at that level, some of them have gone on to work in the industry, which is a credit to that approach.

We have a burgeoning film industry at present, much of the credit for which must go to President Higgins and the measures he introduced in the 1990s. The industry, however, is notoriously difficult to get a foothold in for a variety of reasons. If we are to continue to succeed on the international scene and to build the indigenous film industry Senator Mac Conghail referred to, we must prioritise young people coming through the industry, whether they be on the creative or technical sides. Has Mr. O’Herlihy had any chance to consider how the Irish Film Board might go about that critical aspect of the business over the next few years, where it encourages and retains young talent, ensuring we have an indigenous industry for young people coming through the system?

Mr. Bill O’Herlihy: What is of major importance on the agenda of the Irish Film Board is training. Training people so that they develop through the industry. There is a much greater re-

quirement to develop the educational resources for career building and the realities of working in that marketplace. I cannot give members the complete answer to the question, for obvious reasons, because I do not really know. I know that training, education and the creation of a viable industry base in the coming years is a priority for the film board executive.

Deputy Barry Cowen: I congratulate Mr. Bill O’Herlihy and wish him every success. I have no doubt that he is eminently qualified and a willing partner in furthering the film sector.

Has he set specific targets in conjunction with the chief executive and the board of the Irish Film Board against which his success might be measured in the future? Has he envisaged a process to bring the work of the Irish Film Board to the regions? The local authorities have sought to instigate such an industry in the regions and County Offaly is a case a point. The members of the local authorities and to a greater extent the young population could benefit from such a roadshow as this would encourage creativity in our young people and prepare them for openings that might emerge in the sector in the future. Those in the film sector can be more than successful and a great benefit can accrue to the State by virtue of those who come here. Visitor numbers can always grow and expand. The regions are the gems of the country and I hope that Mr. O’Herlihy can lead a campaign to expose them so that we will all benefit.

Mr. Bill O’Herlihy: That is a very interesting concept. I have not met the board as such yet, but I know some of the members individually. My intention is that the board, as a group, would define our objectives for the coming year and be measured against those objectives.

I think the Deputy’s suggestion of bringing the Irish Film Board to the country is a terrific idea but it might not necessarily be practical from the point of view of the board, but certainly not from the point of view of the executive. One must bear in mind there is a major workload involved for a small number of people on the executive. Even in my marginal involvement so far, it is very obvious to me that they have a huge workload and the international and national travel is significant. The executive is imaginative and I will discuss this suggestion with the chief executive and if it is practical, I am sure it will be done.

Vice Chairman: We will finish on those comments. As has been suggested already, perhaps Mr. O’Herlihy will return and appear before the committee in 12 months time.

Mr. Bill O’Herlihy: I would prefer not, but if I have to I will.

Senator Fiach Mac Conghail: We have already given Mr. O’Herlihy the questions.

Vice Chairman: That concludes our consideration of the topic and I thank Mr. O’Herlihy for coming before us and giving us the benefit of his wisdom. I propose we notify the Minister for Arts, Heritage and the Gaeltacht, Deputy Deenihan, that we have completed our discussion with the chairperson designate of the Irish Film Board, Mr. Bill O’Herlihy. Is this agreed? Agreed.

I will conclude with the words of a well known-television sports commentator, “Okey dokey”.

Mr. Bill O’Herlihy: I thank the Vice Chairman and members of the joint committee. I am honoured.

The joint committee went into private session at 4.15 p.m. and resumed in public session at 4.50 p.m.

Scrutiny of EU Legislative Proposals

Chairman: We are in public session. Is it agreed to continue our scrutiny of EU proposals - COM (2012) 416, COM (2012) 710, COM (2012) 576 and COM (2013) 55? Agreed. It is proposed that the proposals in Schedule B do not warrant further scrutiny. Is that agreed? Agreed.

COM (2012) 416 is a proposal for a decision of the European Parliament and of the Council amending Directive 2003/87/EC clarifying provisions on the timing of auctions of greenhouse gas allowances. Do members wish to comment? No. I propose that this proposal warrants further scrutiny by way of a letter to the Secretary General of the Department of the Environment, Community and Local Government stating:

The Committee is keeping a close watching brief on all developments relating to COM (2012) 416 on the timing of auctions of greenhouse gas allowances. The Committee asks to be kept informed of all developments regarding this Proposal and specifically those in relation to the planned intervention in the EU emissions trading scheme to strengthen the price of carbon allowances traded within the scheme.

Is that agreed? Agreed.

COM (2012) 576 is a proposal for a regulation of the European Parliament and of the Council on access to genetic resources and the fair and equitable sharing of benefits arising from their utilisation in the Union. Do members wish to comment? No. I propose that this proposal does not warrant further scrutiny. Is that agreed? Agreed.

COM (2012) 710 is a proposal for a decision of the European Parliament and of the Council on the general Union environment action programme to 2020, entitled “Living Well, Within the Limits of our Planet”. Do members wish to comment? No. I propose that this proposal warrants further scrutiny and that we request officials from the Department of Environment, Community and Local Government to address us on it. This will facilitate us in our scrutiny and in deciding whether further action on it is required. Is that agreed? Agreed.

That concludes our business for today.

The joint committee adjourned at 4.55 p.m. until 2.15 p.m. on Tuesday, 30 April 2013.