



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

Business of Seanad	861
Order of Business	862
Alcohol Consumption: Statements	878
Business of Seanad	896
Alcohol Consumption: Statements (Resumed).	896
Ombudsman (Amendment) Bill 2008: Committee Stage (Resumed) and Remaining Stages	904
Mortgage Credit (Loans and Bonds) Bill 2012: Order for Second Stage.	936
Mortgage Credit (Loans and Bonds) Bill 2012: Second Stage.	937
Adjournment Matters.	961
Hospital Services	961
Third Level Grant Eligibility	966
Local Authority Offices	968

SEANAD ÉIREANN

Dé Céadaoin, 17 Deireadh Fómhair 2012

Wednesday, 17 October 2012

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

*Machnamh agus Paidir.
Reflection and Prayer.*

Business of Seanad

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

The need for the Minister for Health to outline his plans for the establishment of the new hospital groups, in particular, the possibility of consequent reconfiguration of the hospital services network in the south east, and to make a statement on the future services at and functions of Waterford Regional Hospital.

I have also received notice from Senator John Kelly of the following matter:

The need for the Minister for Health to clarify the interpretation being applied by the PCRS in the assessing of medical cards.

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

The need for the Minister for Education and Skills to clarify the regulation on grants for third level students when the grant applicant is the child of a new Irish citizen who has paid tax over a period of time but where the child has still not yet obtained Irish citizenship or where he or she obtains citizenship during the second or third year of his or her course.

I have also received notice from Senator Terry Leyden of the following matter:

The need for the Minister for the Environment, Community and Local Government to confirm the approval of a loan to Roscommon County Council for the development of new civic offices in Roscommon town, to verify the date when the original application was made for this loan, the amount sought and when this application was previously approved, and to further confirm when the approval of the loan was made by him, as Minister, the amount sought, the terms and conditions and date it was sanctioned.

I regard the matters raised by the Senators as suitable for discussion on the Adjournment and

they will be taken at the conclusion of business.

Order of Business

Senator Maurice Cummins: The Order of Business is No. 1, statements on alcohol consumption, to be taken at the conclusion of the Order of Business and conclude not later than 1.45 p.m., with the contributions of group spokespersons not to exceed eight minutes and those of all other Senators not to exceed five minutes and the Minister to be called on to reply to the debate not later than 1.35 p.m.; No. 2, Ombudsman (Amendment) Bill 2008 - Committee Stage (resumed) and Remaining Stages, to be taken at 2.30 p.m. and conclude not later than 4.15 p.m., if not previously concluded; and No. 3, Private Members' business, Mortgage Credit (Loans and Bonds) Bill 2012 — Order for Second Stage and Second Stage, to be taken at 4.15 p.m., with the debate on Second Stage to conclude not later than 6.15 p.m.

Senator Darragh O'Brien: The statements on alcohol consumption are being taken by the Minister of State at the Department of Health with responsibility for primary care, Deputy Alex White. Will the Leader confirm that the powers in this regard have been devolved from the Minister for Health to the Minister of State in advance of him coming into the House?

On the Order of Business yesterday and on numerous occasions in the past year, with other colleagues on both sides of the House, I raised issues in the banking sector, specifically mortgage arrears. The matter was put as stark as it could be yesterday at the Irish Bankers Federation conference when Ms Fiona Muldoon, head of banking supervision in the Central Bank, lambasted the banks for their inaction on it. According to her, there are 167,000 mortgages, to a value of €35 billion, in arrears. She states a culture of leadership is missing in Irish banks. We know this, as does the Leader. It is as plain as the nose on his face. The mortgage arrears figures are 50% worse than they were this time last year and they are getting progressively worse every day. When the Minister for Finance, Deputy Michael Noonan, and the Minister of State at the Department of Finance, Deputy Brian Hayes, were here earlier this term, they both confirmed that by 30 September the Central Bank would be in receipt of mortgage solutions from the mortgage lenders to the problem of distressed mortgages. I am not talking about the Personal Insolvency Bill which is the nuclear button for people in moving towards bankruptcy; rather, I am talking about those who are struggling. The Minister for Finance and the Minister of State both said the banks should submit their solutions for mortgage holders not yet in severe mortgage difficulty but who will be in the future to the Central Bank by 30 September. Will the Leader confirm that the deadline was met and that the Government is examining the proposed solutions for distressed mortgage holders? It is very important that we know the stage the process has reached to provide some light at the end of the tunnel for mortgage holders. Was the deadline of 30 September missed?

Yesterday a number of Senators on both sides of the House asked for a debate on the issue of mortgage arrears. It behoves us to have such a debate very quickly. I am not going to propose an amendment to the Order of Business, but I ask the Leader to ensure that in the next two weeks there will be a specific debate on the problem and solutions to it. This must happen because if the head of banking supervision in the Central Bank is saying to the Irish Banking Federation what other colleagues and I have been saying for over one year now, there is no reason we cannot allow time in the House to have a proper discussion on how we can help

thousands of Irish people. The Leader must arrange a specific debate on this matter in the next two weeks, not by way of another Bill or an overall discussion on finance issues. It must be specifically about mortgage arrears and solutions. Two weeks ago many Senators were outraged at the increase of 0.5% in the variable mortgage interest rate charged to AIB customers, but last week we had confirmation from the Taoiseach that he would do nothing about it. He said the primary goal of the Government was to make AIB viable again. There are thousands of mortgage holders who have found they are not viable and cannot continue to repay mortgages at inflated rates. I, therefore, ask the Leader to arrange in the next two weeks a specific debate on the issue of mortgage arrears and solutions to the problem.

Senator Ivana Bacik: I know the Leader will respond to Senator Darragh O'Brien's request, but I point out that we will be discussing Senator Sean D. Barrett's Bill on mortgage credit during Private Member's time this evening, which will give us an opportunity to discuss this very important issue. I agree with Senator Darragh O'Brien regarding the comments of Ms Fiona Muldoon, to which other colleagues referred in the House yesterday, including Senator Aideen Hayden.

I call for a debate on prison conditions. We have sought such a debate in this House before and I know the Joint Committee on Justice, Defence and Equality is examining the issue. A debate is called for in the light of the very disturbing report published yesterday on St. Patrick's Institution. The report by the Inspector of Prisons, Judge Michael Reilly, is an appalling indictment of the conditions and regime in place for young offenders in that institution. Some of the most worrying and disturbing findings concern serious allegations of intimidation and bullying, serious incidents when young men were stripped and cut by prison officers and situations where children were held in 24-hour lock-up for several months at a time. It is absolutely appalling, although it comes as no surprise to many of us who have been aware for a long time, following the presentation of other reports, that conditions in St. Patrick's Institution are dreadful. The Government has already committed to ending the detention in that institution of children, that is, those under 18 years, but I am really glad that the Minister for Justice and Equality, Deputy Alan Shatter, and the Minister for Children and Youth Affairs, Deputy Frances Fitzgerald, have now said they will close the institution as a place of detention for those under 21. That is a very important commitment to make. The Director General of the Irish Prison Service, Mr. Michael Donnellan, has said that since the report was prepared, action has been taken and a new governor appointed. That is all hugely important, but when members of the Joint Committee on Justice, Defence and Equality visited the prison recently, it was an anodyne and cleaned-up version of the institution that was presented to us. In that context, I am concerned to ensure the abuse of young people in the institution is not continuing. The point is made in the report that of the 190 prison officers in the institution, only a small number were involved in the aforementioned practices and Mr. Donnellan has said action has been taken against them. However, it is important that we are assured that the appalling practices in the prison are at an end. I am very glad that St. Patrick's Institution is finally going to be closed. It should have been closed a long time ago.

I look forward to a debate, after the referendum, on children's rights more generally, for which the Leader has committed to having the Minister for Children and Youth Affairs present. We have just come from the launch of the Labour Party referendum campaign, at which we heard articulate and eloquent presentations by two children, both aged around 15 years, who made a very strong case for supporting the referendum proposal. It is important that those of us on the "Yes" side are not complacent and that we are conscious of the fact that a "No" campaign

will be launched. It will actually be quite helpful in generating debate and ensuring plenty of discussion on the airwaves and in public fora because it will be crucial to have a high turnout on 10 November.

Senator David Norris: Sometimes the Seanad is accused of being a talking shop, but this can be very valuable. I ask for a general debate on the state of the nation and, indeed, the planet. It seems there is a significant and worrying lack of vision. In this country we are becoming a divided community. There is also division among the nations of Europe and globally and there do not seem to be many with an encompassing global vision. I am worried because several years ago in this House I said I believed financial and climatic problems were going to produce circumstances where catastrophic events would become more frequent, occur closer together and be more disastrous. Regrettably, these words are coming true, both in the world of finance and in terms of climate change, as today's weather conditions show, although mercifully the threat to Cork has not materialised.

When I speak of a lack of vision, I am thinking of the tragic replication of the problems faced by the country during the Famine when needless suffering and tragedy was caused by the imposition of economic theories from the centre. These theories were mistaken and caused disaster. We have the same situation, with the IMF admitting that it was wrong. It is like the 18th century when doctors bled their aristocratic patients by applying leeches to them because they thought it would cure their sickness, but it actually killed them. We have the same situation where economic theories are applied and it is then admitted that they are mistaken. What is being done to rectify this? The consequences are not negligible but real, in human terms. As an Irishman, let alone as an elected representative, I am horrified and ashamed to find food poverty is at a level of 10% in this country. I am horrified that a professional man has to steal €58 worth of groceries to feed his children; that a garda sergeant's wife says she does not have enough money to feed her children properly and that they have cornflakes days. This is shocking in the 21st century, especially when there is so much money and wealth. It is a question of having the vision to put people first, to look at and reorganise financial structures in the interests of the people in order that we will no longer feel shame at the level of food poverty in this country.

I agree with Senator Ivana Bacik in her comments on the report on St. Patrick's Institution. The Ombudsman for Children, Ms Emily Logan, a wonderful civil servant who has done us proud in standing up for the rights of children, was mocked and derided by officials, right up to the level of Secretary General in the Department of Justice and Equality. That is frightful and the matter must be examined thoroughly. We must all work together to protect the rights of children.

We will have an opportunity to speak on the issue of mortgages later. If the Seanad ever wished to show it has relevance, it will be able to do so today when a new Senator with a brilliant academic record brings forward legislation. I know from experience how difficult it is to formulate legislation. He is doing what many other colleagues have done in the past, including Senators Ronán Mullen and Fergal Quinn and former Senator Joe O'Toole, and providing a wonderful opportunity for the House. He is adapting ideas from elsewhere in Europe and history in the interests of the people to alleviate a crippling problem. We can be proud of this. Let us make ourselves proud by having a global debate and showing that in this House we can give a lead and show vision.

Senator Pat O'Neill: Senator Darragh O'Brien has made most of the points I wished to make on the banking conference held in Dublin yesterday. One of the bankers said in his open-

ing address that the banks have been humbled. I compliment Fiona Muldoon, the new director of banking supervision, for saying that she has not found humility in her dealings with banks. I wish her the best of luck in her new job.

An Cathaoirleach: The Senator should not mention individuals by name.

Senator Pat O'Neill: I am about to ask the Leader to do something.

An Cathaoirleach: We do not mention individuals in this House.

Senator Pat O'Neill: I apologise. Senator Darragh O'Brien asked for a debate on mortgage arrears. I would not tie the Leader to a timeframe of two weeks because he will arrange the debate for a time when the appropriate Ministers are available. I ask the Leader to consider inviting Ms Muldoon to address the Seanad. She has radical new ideas on the regulation of banks in this country and I hope we will no longer have light regulation.

Senator Mary M. White: Let us get real and relevant regulation.

An Cathaoirleach: The Senator should raise the issue with his representatives on the Committee on Procedure and Privileges.

Senator David Norris: We should also hear from the public interest directors of the bank.

Senator Terry Leyden: I remind Senator Norris that I introduced a Bill in the previous Seanad.

Senator David Norris: I recall that it dealt with wills and testaments.

Senator Terry Leyden: I thank the Senator for his generosity. I ask the Leader to arrange a discussion of the report by the Inspector of Prisons and Places of Detention, Judge Michael Reilly, on St. Patrick's Institution. The report was delayed for three months before being released on the night of a soccer match alongside reports on other prisons. It was a significant report but it was unfair to those prison officers who do an excellent job in difficult circumstances without giving them a right to reply.

On "Morning Ireland" the Minister for Justice and Equality was given plenty of time to reply but he failed to acknowledge the difficult work carried out by the majority of prison officers. The officers in Oberstown have received no training in dealing with juvenile offenders. There is a lack of balance both in the presentation of the issues and the Minister's defence of his own staff. He seems to have no regard for their position and they are being condemned without proper recourse to law. It is difficult to manage one's defence when the Minister can speak on the radio. The report is worthwhile, however, and Judge Reilly has been efficient in visiting the prison without advance notice. I commend the Ombudsman for Children on the position she has taken on the issue and welcome that the Minister for Children and Youth Affairs has given her powers to meet young offenders.

Fr. Flanagan from Ballymoe on the border of counties Galway and Roscommon founded Boys Town in the USA. He would turn in his grave if these allegations prove to be truthful. Bullying and intimidation should not be allowed in any prison in a developed country like Ireland. A solution will be found, however. St. Patrick's should be closed but alternatives will need to be put in place beforehand.

Senator Aileen Hayden: I support the call by Senator Darragh O'Brien for a debate on debt and the role of the banking sector. When I made a similar call yesterday I mentioned the comments by Fiona Muldoon at the Irish Banking Federation conference, which had the odd title "Restoring Confidence, Rebuilding Trust" but did not include a single speaker who might have represented distressed mortgage holders or organisations like New Beginning. If the federation really wants to build trust it must consult the people most affected by this disaster.

I join other Senators in calling for further discussion on the report on St. Patrick's Institution. I am reminded of the comments by Dr. Eoin O'Sullivan in regard to the Magdalene laundries. He pointed out that the people of Ireland knew about the laundries because every family in this country knew somebody who was affected by them. The first report calling for the closure of St. Patrick's was written in 1985. Emily Logan stated that she was patronised and made fun of when she reported on the conditions in the institution and that officials of the Department of Justice and Equality treated the matter with an attitude of indifference because it related to young people who had broken the law. In a day and age when we are about to hold a referendum on the rights of children, this is not good enough. The retraining of 60% of the prison officers in St. Patrick's does not - no disrespect intended - go far enough. We need a full judicial investigation into what happened. How has 28 years elapsed with collusion by the Department of Justice and Equality - I do not think I can put it any other way - in what happened in St. Patrick's? It is not good enough and we need to draw a line in the sand before this becomes another Magdalene laundry.

Senator Trevor Ó Clochartaigh: Tugaim faoi deara go raibh díospóireacht an-mhaith ins an Seomra seo Dé hAoine seo chaite ar chúrsaí Thuaidh-Theas, agus fáiltím roimhe sin. Is maith an rud é. On a number of occasions since entering the Seanad I have called for an invitation to be extended to the First Minister and Deputy First Minister in the North to address the House. The Leader has indicated that he is amenable to sending such an invitation. I ask for an update on the current position of the discussion, which would be useful in the context of the statements that are made from time to time on the economy in the Six Counties. We could raise these questions directly with the First Minister and the Deputy First Minister.

I call for a debate with the Minister for Communications, Energy and Natural Resources on renewable energy and the exploitation of natural resources. International experts have estimated that 20% of Ireland's energy needs could be met by renewable energy by 2020, a proportion which increases to 80% by 2050, and that 20% of our GDP could be derived from exports of clean energy. Investment in tidal energy and renewables could lead to a renewables revolution and create thousands of green jobs throughout the country. Sinn Féin receives the occasional jibe about what we do in the North but we have delivered on this agenda in the Northern Executive in co-operation with the other parties. We recently published the offshore renewable energy strategic action plan and attracted significant investment in this area, including an announcement last week of a project in which Bord Gáis and OpenHydro will develop a 100 MW tidal array off Tor Head on the north coast in County Antrim. Stormont is delivering on renewable energy and our target is to provide 40% of electricity supplies from renewable sources by 2020.

The report by the Joint Committee on Communications, Natural Resources and Agriculture on our oil and gas licensing regime does not appear to have gone anywhere. It is imperative that the Minister tells us how he intends to progress the report. Our licensing regime is more amenable to oil and gas companies than most of the western world and a plethora of wind farms are planned for the west coast, despite extensive local objections. Senator Kelly brought for-

ward a Bill on wind turbines. The Leader might indicate when we will take Committee Stage of that Bill. It appears to be stuck in a departmental quagmire at present. A debate on these issues would be very useful.

Senator Deirdre Clune: Last night Cork experienced heavy rain and flooding and a further 50 mm of rainfall is forecast for today. This highlights the vulnerability of individuals, homes and businesses in flood prone areas. We recently had a discussion with the Minister of State at the Department of Finance, Deputy Brian Hayes, on the issue of insurance companies. I have called for an engagement with insurance companies to ensure that the OPW's work on flood prevention measures is communicated so that businesses and homes are not left without essential flood cover.

11 o'clock

The forecasts for yesterday and today certainly raise tensions, concerns and worry among those who have been flooded previously. It is a very important issue and we should keep it to the fore in this House and keep up the level of communications with the Minister and the OPW to put pressure on insurance companies to work with individuals who are their clients.

Senator Mark Daly: Like others, I ask the Leader to organise a real debate in regard to the mortgage issue and the disturbing case reported in the *The Irish Times* today of a Garda sergeant and his wife who, as Senator Norris pointed out, have cornflakes days because that is all they can afford to eat. These are the new vulnerable in Irish society. Former President Bill Clinton said in October 2011 that we must solve our mortgage problem in Ireland and that it was the key to ensuring the economy gets going again. Yet, 12 months on, there has been no action by the Government.

I also ask the Leader to organise a debate about the survivors of child sex abuse, particularly the disturbing cases of those who were offered compensation by the Christian Brothers and other organisations, where they had secured criminal convictions against the perpetrators. In one case, however, a person who is terminally ill had that offer withdrawn by the Christian Brothers. That man suffered abuse and succeeded in a criminal conviction yet, when asked by the judge whether he wanted a custodial sentence bestowed on the perpetrator of that awful crime against him, he asked the judge not to do so. Now, the Christian Brothers have withdrawn their offer and, knowing that he is dying, hope that John Allen passes away before his case ever gets to court.

An Cathaoirleach: Senator, you cannot name people like that on the record of the House. You know that quite well.

Senator Mark Daly: John Allen asked me to name him on the record of the House. I ask the Leader to organise that-----

An Cathaoirleach: I have already explained on numerous occasions that Members cannot name people like that and use the privilege of the House to do so.

Senator Mark Daly: I think that is what the privilege of the House is for.

An Cathaoirleach: It is not what the privilege of the House is for. I ask you to refrain from mentioning people's names in the House.

Senator Mark Daly: If a person asks me to bring his or her case before the House, I will

bring it before the House. If he asks me to name him-----

An Cathaoirleach: I ask the Senator to respect the privilege of the House and not abuse it.

Senator Mark Daly: I am respecting it. It is for that reason I am using it. I thank the Cathaoirleach. I have asked the Leader to organise a debate in regard to those cases and so many other serious cases.

An Cathaoirleach: The Senator is over time. I call Senator Keane.

Senator Cáit Keane: I agree with all those who spoke about St. Patrick's Institution and called for a debate in the House. It is being closed down and something is being done about it. We have been years and years listening to issues concerning St. Patrick's Institution. I pay tribute to Judge Michael Reilly who, night time, day time and every hour of the day, went into the prison when he was not expected. We know of his inspection reports.

A point was made about the delay in the report. The report was available but the Minister had said, and repeated on radio this morning, that he was ill himself, which was one of the reasons, and we have to take such matters into consideration. There was another glitch in that the computer system broke down at the time the report was due. Fair is fair. It was mentioned on the radio, so I am not telling any secrets of State or anything like that. While I did not stand up to raise that issue, it is very important and we should raise it because many of the residents of St. Patrick's Institution deserve that.

I stood up to raise the issue of the report on local government, Putting People First. I was not present in the House yesterday because, as spokesperson on local government, I was at the launch of this important report. The Minister for the Environment, Community and Local Government must be commended for ensuring we have, for the first time in history, a real overhaul of local government which is going to put the people first. It does and we will. I hope I will be able to come back in a few years and say it did what it said on the tin and put the people first.

I have two questions.

An Cathaoirleach: Is the Senator supporting the call yesterday for a debate?

Senator Cáit Keane: Yes, but some issues were not mentioned. As it was such an important issue and I wanted to see what was said, I listened to the debate on playback. It was not mentioned that there is a new facility in the report that provides for a citizens' assembly and participative community-----

An Cathaoirleach: We are not discussing the report today.

Senator Cáit Keane: I ask the Leader-----

An Cathaoirleach: Senators sought a debate. Are you supporting that call?

Senator Cáit Keane: Yes; I call for an early debate. I also ask that we have a date for the announcement of the citizens' assembly, as this is not mentioned in the report.

Senator Rónán Mullen: I also support the call for further discussion and a debate about Judge Michael Reilly's very damning report. We see in this report the revisiting of some of the tragic themes from the story of the abuse of young people in Ireland. We hear about institutional defensiveness in terms of the State's response and its claims that these reports were

not to be believed, the general non-belief and attitude of disbelief towards young people who make claims, the further victimisation of young people who have already been abused, which is something we have heard before, and, in particular, the targeting of children who are already vulnerable.

It seems very hard to credit that a State institution could be responsible for such neglect and such blatant cynicism about the welfare of young people, and that this could go on in the 21st century. It is hard to credit that a judge preparing a report did not believe in the integrity of the statistics about the provision of education and schooling in terms of teacher and prisoner attendances for schooling and, therefore, brought in his own experts to test that.

How can it be that we have a State institution where prison gangs are running riot, where a drug problem is rife and where there is not a basic duty of care or an attitude of care, more importantly, being shown towards young people? It can only be because there is a cultural lack of sympathy towards these children, these young people, because they are offenders. That is precisely when we must have high standards. It is precisely when the people in one's care are hard to love or make life difficult for themselves that we have to have high standards and that we should not be allowed to drop our standards in the way people are treated. It is important that we get a chance to ask some very hard questions in this House and I hope we can have a debate on this report.

Senator Paul Coghlan: Senator Darragh O'Brien is right to draw attention to the growing mortgage arrears crisis. In fairness and in light of the remarks of the Secretary General of the Department of Finance, where he called for the banks to provide workable solutions and to show more forbearance, particularly for families suffering unemployment, we can now expect action. In addition, of course, the Central Bank has pointed out that the banks have done little or nothing in this regard. It is as though they are in denial about the scale of the problem. We should have a debate on this matter when that can be arranged but, in any event, we can expect action in light of those remarks.

I commend Judge Michael Reilly for his serious work in regard to St. Patrick's Institution. Slightly contrary to what Senator Leyden said, he did praise the great majority of officers and he made it clear it was only a small minority of officers who offended and who violated the human rights of the children in care there. Again, we commend Judge Reilly. Perhaps we could have a debate on this in due course.

Senator Diarmuid Wilson: I join with other colleagues in calling for a debate on the Prison Service. That debate should not just be about prison buildings but about the culture of what goes on in those prisons. I commend Judge Reilly for his persistence in undertaking his task of exposing what was going on in St. Patrick's Institution. It is a disgrace that in 2012 these types of horrific incidents should be occurring to vulnerable young people in State institutions, for that is what St. Patrick's Institution is. I welcome the fact that St. Patrick's Institution is to close by 2012 and I also welcome the new facilities being provided in Oberstown.

In light of the announcements yesterday by the Minister for the Environment, Community and Local Government, Deputy Hogan, in the so-called document, Putting People First, I took Senator Landy's advice and read the 200 page document last night. It is very impressive-----

An Cathaoirleach: Is Senator Wilson calling for a debate?

Senator Diarmuid Wilson: -----and glossy. I wish to say two things, with your indul-

gence, a Chathaoirligh.

An Cathaoirleach: We are not having a debate on the issue today.

Senator Diarmuid Wilson: No, we are not. It is a big document. Putting People First will mean 32 fewer councillors in Munster, 22 fewer councillors in Connacht-Ulster, seven fewer in Leinster and 53 extra in Dublin city.

An Cathaoirleach: We are not discussing the matter today.

Senator Cáit Keane: We are having a debate.

Senator Diarmuid Wilson: I call for an urgent debate on the document.

An Cathaoirleach: Is Senator Wilson seeking a debate?

Senator Diarmuid Wilson: With respect, instead of being called, Putting People First, it should be called “Putting Labour First”.

Senator Ivana Bacik: That is nonsense.

An Cathaoirleach: I call Senator Mullins.

Senator Darragh O’Brien: Gerrymandering will not save you.

Senator Cáit Keane: Giving power to the people is not putting Labour first.

An Cathaoirleach: I call Senator Mullins.

Senator Terry Leyden: James Tully is alive and well.

Senator Darragh O’Brien: You would need an extra 100 seats to be safe in Dublin.

Senator Terry Leyden: The Tully gerrymander. We heard it before.

Senator Michael Mullins: I thank-----

An Cathaoirleach: Senator Mullins should be allowed to speak without interruption.

Senator Terry Leyden: One never forgets.

Senator Michael Mullins: I join with previous speakers in complimenting and congratulating Judge Reilly on his report. I also congratulate the Minister, Deputy Shatter, for taking swift and serious action on the shortcomings in the Prison Service since he came to office. I understand that in his first week in office he visited St. Patrick’s Institution. We were all horrified at the level of shortcomings that were highlighted in the report such as the weak management structures and the culture of bullying among a minority of prison officers.

As previous speakers have said, we should not lose sight of the difficult working conditions in the prison system in which prison officers operate. We cannot under any circumstances accept a culture of bullying among staff within the system. What is most worrying is that there appears to have been a culture of indifference within the Department of Justice and Equality. The comments this morning by Emily Logan on how she was treated in respect of the issue are worrying and deserving of debate. I support the strong call by Senator Hayden for an inquiry

into the conditions in St. Patrick's Institution.

I very much welcome the fact that the Minister for Transport, Tourism and Sport, Deputy Varadkar, plans in the near future to introduce roadside testing of drivers for drugs. There is growing evidence that a large number of people are driving under the influence of cannabis and other illegal substances. It seems ludicrous not to have a facility in place to test drivers for illegal substances at the roadside in the same way as they can be tested for alcohol.

Senator Fidelma Healy Eames: Hear, hear.

Senator Michael Mullins: I understand that it will be next year before a system will be in place to test drivers for drugs at the roadside. I urge the Minister, if at all possible, to bring forward the date for the introduction of the system. Many lives are being lost as a result of people driving under the influence of drugs. It is a serious situation and one that cannot be allowed to continue for much longer.

Senator Jim Walsh: Will the Leader arrange debates in the House on alternate weeks on the fiscal position in the run-up to the budget, which is crucial if we want to restore consumer confidence, investor confidence and job creation? The settling of the fiscal situation is the one issue that is under our control. I am a critic of the Minister, Deputy Howlin, for his serious failures in that regard. We should have a debate to focus on the issue.

The second issue which we should debate on alternate weeks is the banking situation. I agree with Senators who have called for such debates. Banks are not lending. I do not share Senator Paul Coghlan's confidence that the comments of the Secretary General of the Department of Finance, which I welcome, will in any way change the *modus operandi* or attitude of the banks. Unfortunately, we have a situation in the country where banks are not functioning. There are no flows of credit. The situation is serious.

We are four years into the crisis. We have an insolvency Bill that is still sitting in the Department of Justice and Equality. Recently, I had occasion to try to ascertain information for a solicitor who made a representation to me on whether a person made bankrupt this year would benefit from the provisions of the new insolvency Bill. After some time I got confirmation that this person would not benefit. I was told by an official in the Department that they were too busy to engage with me due to the work on the Bill. I have never come across that in my 15 to 16 years in this House. It reflects the attitude of the people from the HSE and the Department of Health who went before the Committee of Public Accounts. They appeared to be under political duress not to co-operate with the democratic process. That is appalling.

When we were in government, those in opposition, in particular the Labour Party, shouted about greater transparency and more freedom of information. I have never seen a situation closed down to the extent that it is under this Government. Nothing is transparent and as a consequence we are paying a price for that. I call for a debate on those issues and the insolvency Bill. The proposals on the latter are highly deficient. To have three years when neighbouring jurisdictions have one year will lead to a situation where many people who have been made bankrupt, many of whom will want to get back into business, recreate their wealth and create jobs, will do it to the benefit of other countries not this one. The manner in which the situation is being approached is lunacy. The pedantic way in which the matter is being pursued is appalling.

Senator Jim D'Arcy: I welcome the statement of the Minister, Deputy Alan Shatter, that

all young offenders will be moved from St. Patrick's Institution by 2014 on foot of the Reilly report. The young people in St. Patrick's Institution have been humiliated, suffered sensory deprivation and worse. Is it any wonder that children who go there as young offenders sometimes come out badly damaged mentally with cold hearts and that they are hardened against the world?

Some speakers were ungenerous to the Minister this morning in their comments. Emily Logan said that Alan Shatter was the first Minister of any party in many years who listened to her on the issue when she was being sneered at, laughed at and made fun of by senior officials. I agree with Senator Leyden that the full blame should not fall on prison officers. That is like blaming the prison guards in Dachau, Auschwitz or Belsen for the Holocaust. What has been exposed was institutionalised abuse sanctioned or treated with indifference at a high level and it does need to be discussed in this House. I support the call made by other speakers for a debate on the issue.

Senator Paul Bradford: I agree with my colleagues who have spoken on the prison issue, in particular the comments of the previous speaker. One of the structures which has traditionally been in place to monitor, observe and make recommendations in each place of detention, is the prison visiting committee. Traditionally, such committees were unfortunately seen by many as beneficiaries of political patronage and their full value was not obtained. When we have a discussion on the broad issue of our prisons we should reflect on the role of the prison visiting committees. Perhaps we should also recommend to the Oireachtas Joint Committee on Justice, Defence and Equality, of which I am a member, that each prison visiting committee should attend every year to give a report on its activities and monitoring of the prison in question.

I had intended to raise No. 19, whereby the Seanad is being asked to note a report of the finance committee on the principles of acceptance by public bodies of recommendations of the Ombudsman. I trust the Seanad is noting that report rather than debating it. Keeping in mind this issue of acceptance by public bodies of recommendations by the Ombudsman, will the Leader make efforts to inquire what is happening to the Lost at Sea report? That report was debated in this and the other House, and there was a special report to the Oireachtas committee by the Ombudsman, one of only three such reports made since the foundation of the Office of the Ombudsman in the 1980s. We would be very remiss in our duty if we did not put maximum pressure on all concerned to ensure the Ombudsman's special report is enacted. If we are to treat with respect the Office of the Ombudsman we must take note of that special report. Will the Leader make further inquiries of the relevant Department in this regard? We are duty bound because of what all of us in this House said previously. That we have changed where we sit in the Chamber does not change the issue. We are duty bound to act positively in response to the special report of the Ombudsman.

Senator Martin Conway: I support calls made this morning asking for a further analysis of the banking sector in this country. We are in a battle with our banks, unfortunately, and it is a battle we have to win. Very recently, I spoke to a gentleman who had had a meeting about his distressed mortgage. He came out of the meeting feeling shaken, chastened, depressed, disturbed and utterly humiliated. He said he would have been treated better by the worst moneylenders in operation - that was how badly he felt he was treated.

We need a code of ethical conduct to be established as a matter of urgency as to how banks engage with and speak to people who try to get their mortgage situation addressed. This gentleman at least engaged with the bank; many people do not because they are too frightened. This

is becoming a national crisis and we need to deal with it in those terms. It is both a crisis and a battle. We, as a State, must win that battle, not the banks. We owe it to our people.

Like other members of the Oireachtas Joint Committee on Justice, Defence and Equality, I visited St. Patrick's Institution a number of months ago. I commend the report and fully support its proposals. It is absolutely necessary that we have a full judicial inquiry into the appalling circumstances and behaviour mentioned, not only of former staff of St. Patrick's Institution but also of the Department of Justice and Equality which, it would appear, was totally involved in this sad and sorry situation. What went on is appalling and we owe it to the young people who went through that institution to establish some kind of truth commission.

Senator Mary M. White: It took a woman, Ms Fiona Muldoon, in the lions' den of the bankers' conference yesterday to spell out to the bankers how incompetent they are in dealing with the crisis in mortgage lending. She also drew an analogy between the treatment by the banks of their customers who are small and medium sized business owners and those who have mortgage difficulties, pointing out that the treatment of both was identical. She noted the Central Bank found there was a lack of experience in Irish banking:

Clearly, we were in uncharted territory and we found that the banks' teams were generally too small and insufficiently resourced with the appropriately experienced people. We pushed on this with all the major institutions: asking for an increased skill set, a bigger shop, a better operational platform and earlier intervention on "pre-arrears". Old-fashioned credit collection techniques were largely absent.

Yesterday, at the same conference, Mr. John Moran, the new supremo in the Department of Finance, was critical of the banks along the same lines. This week is Enterprise Week for small and medium enterprises. Mr. Moran stated that banks have to get their act together because small and medium enterprises are needed in this country to curb the scourge of unemployment. In time, we are going to be looking back at this. The banks failed us, the regulators failed us. The banks are again failing to deal with the issues in the economy. Increasingly, I wonder if we in this country are able to solve our problems in any way. As Ms Muldoon observed, why do we not solve each problem and each mortgage in a business way, one by one, in an American way? The failure of our banks means they are the cause of the economic crisis we are in - there is absolutely no doubt about that. What is the Minister for Finance going to do about this?

Senator Terry Leyden: Hear, hear. Well done, Mary.

Senator Fidelma Healy Eames: I wish to be associated with the comments on St. Patrick's Institution. It was a very wise move by the Minister for Children and Youth Affairs, Deputy Frances Fitzgerald, to state earlier this year that the institution was no longer a suitable place for 16 year olds and 17 year olds.

I refer in particular to the report in *The Irish Times* about a Garda sergeant's wife who spoke anonymously and very bravely about the burden on her family arising from a mortgage repayment that has become unsustainable. It is now clear, as I have known for some time, that we need to have these stories told on the record. Middle-income families are now a new poor but they are not on social welfare. We need to find a way to assist these families because there is no doubt that it is on them that the charges such as the property tax, water charges, etc, will fall, as they are owners of homes.

On Thursday we will have a debate with the Minister for Social Protection, Deputy Joan

Burton and we must work out a way to assist these families.

Senator Trevor Ó Clochartaigh: Hear, hear.

Senator Fidelma Healy Eames: This all points to the need for this country to grasp every opportunity for growth. Yesterday I attended an EU meeting which, in my view, brought hope. It showed that if this country moves quickly to implement the EU services directive we will increase our growth by 2.4% GDP. Let us do it. In addition to the Minister, Deputy Burton, we must ask the Minister of State at the Department of Foreign Affairs, Deputy Lucinda Creighton, to attend to look at our progress in this regard and what it will achieve. It will achieve the easier establishment of business both here and across borders, in other countries, without the need for actual set-up. It will provide for single points of contact, electronically speaking, with e-signatures and e-invoicing.

Let us be fair. If we can do this and increase our growth surely we will reduce the burden on families who are to the pin of their collar trying to put food on the table - they are eating cornflakes. Let us have some joined-up thinking here.

Senator Susan O’Keeffe: I join others in asking the Leader for a debate on prisons, in light of the report on St. Patrick’s Institution and ask, in particular, that it be a debate about young people and about how we treat them and take care of them when they break the law. Do we treat them, as it appears from the statement by the Ombudsman for Children, as people who have broken the law, or as people who need assistance, care and attention to be rehabilitated so that they can come back into the world and make their own way there rather than end up on a pathway to crime? That pathway is often laid out at the beginning and if it is ignored the situation is exacerbated.

I thank the Inspector of Prisons and Places of Detention for his perseverance in regard to St. Patrick’s Institution and for his efforts, especially in going in there at times when he was not expected and in the middle of the night in order to make sure that what he reported would be accurate. He has done a good service.

I have another question for the Leader which also relates to young people and is linked to those children. We have talked before about bullying, particularly cyberbullying. I ask the Leader to write to the Minister for Education and Skills asking for education centres to be brought into the loop, with the rest of the school community, in order to deal with the issue. Last weekend I attended an event run by the Sligo Education Centre. It was attended by parents and teachers who were desperate for information on how young people were treated, cyberbullying and how social networks were used in that regard. I ask the Leader to arrange a debate on the issue. At 5 p.m. there will be a brief meeting in the AV room to discuss it. As a member of the cross-party committee on mental health, I urge Senators to attend.

Senator Colm Burke: Many Senators have spoken about the report compiled by Judge Michael Reilly on St. Patrick’s Institution. It is time for us to examine the structure of prisons and what they provide. In 1996 I was involved in a project in Cork where 20 prisoners undertook an education programme. The approach resulted in 12 of them returning to full-time education after they had left prison. There has been no innovative change in how we deal with people who have been involved in crime once they enter prison. We have provided for the same mechanisms that have changed very little in the past 20 years. Now that we have this report it is time to examine what occurred in St. Patrick’s Institution and find a way forward. We must

adopt a different approach for the next 25 to 30 years. Now is the time to have such a debate.

Senator Labhrás Ó Murchú: I support the comments made on St. Patrick's Institution. Wherever young offenders are held - I do not intend to cast aspersions on prison staff in St. Patrick's Institutions - there may have been a lack of training and people may not have known how to deal with young offenders. Perhaps it is a knee-jerk reaction that the young people concerned got what they deserved because they may have inflicted pain on people on the outside. We must bear in mind that, by and large, prisoners are the most damaged in our society. Very often they had no opportunities where they lived and did not receive a proper education. If we inflict inhumane punishment on them, all we are doing is continuing a vicious cycle. When prisoners return to their communities, it will simply be a question of their getting their own back on people all over again. I am glad that the topic of prisons was raised in the Chamber because politicians have shied away from it because there are no votes to be gained. We must adopt a humane approach to the young people concerned. I am glad the report has been published and we should avail of the opportunity to debate it as such a debate would prove helpful.

Senator Michael D'Arcy: I wish to raise the issue that I raised last week when the Leader was not here, the standard of responses given by Ministers. I take the opportunity to bring this House into line with the Dáil. When a Senator tables a question to a Minister and he or she is dissatisfied with the answer, we should be able to appeal to the Cathaoirleach and have the question immediately asked again. Such a measure would prove helpful to Senators. The days of Ministers of State coming here to read a script handed to them should end because that was what happened during the term of office of the last Government. Unfortunately, the same is happening during the term of this Government and it should quickly come to an end.

I have raised the following matter on a number of occasions. In the last budget the Minister for Education and Skills, Deputy Ruairí Quinn, made a bad decision about DEIS schools. He subsequently reversed it, which was the correct move. Because of a legacy issue, a number of schools that have met all of the DEIS programme requirements are still not considered to be in that category. Not alone do they not benefit from DEIS school pupil-teacher ratios and other benefits, but they are also being forced to accept the same reductions as standard schools. It means such schools have been abandoned twice, which is a mistake. I call on the Minister to do what is required when it comes to the arithmetic for the budget. Not many schools are involved, certainly not hundreds. Unless we take steps now, we will have to commence regeneration schemes such as those undertaken in certain areas of Limerick. I hope the Minister will do as I ask.

Senator Jillian van Turnhout: I echo everything said in the Chamber this morning about St. Patrick's Institution. There is a need for greater urgency because, as has been said, there are still 17 to 21 year olds detained at the institution. Therefore, the problem has not gone away. I ask for an update on the development of a detention school at a site located at Oberstown-Lusk. We need to ensure that when children are transferred, it is to a good location, as we do not repeat past mistakes. I listened to the debate. Several colleagues talked about the culture of those in charge at St. Patrick's Institution and my comments made here last December were brought into sharp focus. I will not break privilege, but I am concerned. Why did we make the appointment to the committee on the prevention of torture? I am greatly concerned about who Ireland appointed to the committee and express my concern again today.

I support Senator Mark Daly's call for a debate on the plight of the survivors of child abuse. I know the details of the case to which he referred. It involves an appalling injustice and is

unacceptable. I have met the person mentioned for several years and can vouch for the fact that he is dying. When we bring him to Dublin to meet colleagues, I ask that Senators attend to demonstrate greater compassion.

Senator David Norris: There are other cases.

Senator Jillian van Turnhout: Yes.

Senator Maurice Cummins: The Leader of the Opposition, Senator Darragh O'Brien, asked a question on the devolvement of powers for primary care services to the Minister of State, Deputy Alex White. The Senator will recall that he was appointed by the Cabinet last week. A statutory instrument to delegate certain functions to him has been drafted and the formalities will be completed shortly.

Senator Darragh O'Brien: That is good to hear.

Senator Maurice Cummins: I am glad that the Senator is happy with my news.

Senator Darragh O'Brien: I am very happy.

Senator Maurice Cummins: We have had three debates on the issue of mortgage arrears with the Minister for Finance, Deputy Michael Noonan, and the Minister of State, Deputy Brian Hayes. We will have another opportunity this afternoon to discuss the matter when we debate Senator Sean D. Barrett's Bill. I agree that we should have a further debate on the issue which I will try to arrange. As many Senators have stated, the leadership structures in the banking sector must be changed. I am not aware if proposals on the issue of mortgage arrears have been submitted to the Central Bank. However, as Senator Paul Coghlan mentioned, workable solutions are required. There is no doubt that the banks need to cop themselves on and change their culture drastically in order to meet the needs of small businesses and individuals in mortgage arrears. The Government will press them on the matter, as we need action sooner rather than later.

The vast majority of Members rightly raised the issue of St. Patrick's Institution. The findings of the report on what happened in the institution are shocking. The Inspector of Prisons, Mr. Justice Reilly, should be complimented on his report, as many Members said. He visited the prisons at night and when he was not expected. He acted above and beyond the call of duty in our interests and those of the public and should be complimented on his efforts. He was critical of some prison staff in terms of their interaction with prisoners. He also identified a culture of bullying that involved a minority of prison officers. He is also satisfied that a minority of other prison officers engage in bullying and intimidation of other prison officers and staff and refers to the potential to corrupt good prison officers. These are damning findings. I agree that a debate is needed on Judge Reilly's report on St. Patrick's Institution and the wider issue of prisons.

The Minister has acted quickly in this matter and new guidelines have already been introduced. Another matter which cannot be brushed aside is the actions of senior officials in the Department of Justice and Equality and the attitudes they have shown towards the Ombudsman for Children and, as we have heard over the years, many other individuals. This issue will have to be tackled and I am sure it is one on which the Minister will act. I was pleased to note the Ombudsman for Children's comment that the current Minister is the first Minister for Justice to listen to what she had to say about senior officials in the Department.

17 October 2012

The report addresses a serious issue and must be acted on. The Government and Minister are treating it very seriously and I assure Senators that we will debate it at the earliest opportunity. Members should be given an opportunity to comment on this serious report, which was raised by the vast majority of speakers.

On the matter raised concerning the First Minister and Deputy First Minister of Northern Ireland, I will renew inquiries in this regard. Representatives of the Orange Order appeared before us when they were supposed to come. Certain protocols are involved in such matters and the Seanad cannot issue invitations until we know the individuals in question are willing to come before us. I will raise these matters again to reactivate the issue.

Senator Ó Clochartaigh asked that the Minister for Communications, Energy and Natural Resources come before the House to discuss energy issues. I will make the necessary arrangements.

Senator Clune asked that local authorities and the Office of Public Works liaise with the insurance industry on flooding and inform it of any improvements in this regard. The Minister of State, Deputy Brian Hayes, gave an undertaking that this would be done and I do not have any reason to believe otherwise.

Senator Mullins asked that the introduction of drug testing for drivers be expedited by the Minister for Transport, Tourism and Sport, Deputy Leo Varadkar. I will inquire from the Minister as to the position in this regard.

Requests were made for a debate on mortgage arrears and banking. We have had three debates on banking issues and, as Senator Walsh noted, we will also have a comprehensive debate on the Personal Insolvency Bill when it comes before the House. The Senator also asked that the Minister for Public Enterprise and Reform, Deputy Brendan Howlin, come before the House. Senators will have an opportunity to raise issues with the Minister when he comes to the House on Thursday, 8 November, to take part in the pre-budget process.

The issue of local government was raised. As I stated yesterday, the Minister for the Environment, Community and Local Government will come before the House. Legislation must be introduced to implement the announcements made yesterday. The Minister indicated he is prepared to come to the Seanad to debate his report. Senator Diarmuid Wilson referred to a democratic deficit. The Manchester metropolitan area, with a population of almost 3 million, has approximately 500 councillors. Under the new system of local government published yesterday, the number of councillors will be reduced from more than 1,600 to 950. For a country of this size, we will have-----

Senator Diarmuid Wilson: Ireland's system is different from the British system. People here will be under-represented.

Senator Maurice Cummins: That is not the case. The Senator should consider the example I gave.

Senator Mary M. White: I am surprised at the Leader.

Senator Maurice Cummins: Senator Bradford referred to the special report of the Ombudsman on the lost at sea scheme. We must ascertain the current position in this regard and I will try to obtain an update for the Senator. The lost at sea report should not be gathering dust

on the Minister's desk. The Ombudsman produced a comprehensive report and the actions she proposed should be acted upon.

Senator Healy Eames asked that the Minister for Social Protection, Deputy Burton, and Minister of State with responsibility for European affairs, Deputy Creighton, deal with the issue of the services directive. The Minister will come before the House tomorrow, while the Minister of State will come to the House next week.

I apologise if I have not addressed any specific issues raised by Senators.

Order of Business agreed to.

Alcohol Consumption: Statements

Acting Chairman (Senator Pat O'Neill): I welcome the Minister of State at the Department of Health, Deputy Alex White.

Minister of State at the Department of Health (Deputy Alex White): I am pleased to be back in the Seanad and welcome this opportunity to discuss the difficult and challenging issue of alcohol misuse in our country. The national substance misuse strategy steering group identified the following four key harms of alcohol. First, 88 people died every month in 2008 from alcohol. Second, in 2007 the total estimated cost of alcohol misuse to the health care and justice systems, the economy and from alcohol-related road accidents was €3.4 billion. Third, alcohol is a contributory factor in half of all suicides, which means it was a contributory factor in the suicides of 245 people in 2010. Fourth, the group noted that alcohol was consumed in four in every ten episodes of self-harm in Ireland in 2010 and was a factor in 4,764 episodes of deliberate self-harm in 2011. In addition, the 2011 Annual Report of the National Registry of Deliberate Self Harm Ireland declared the following: "In line with previous years, misuse or abuse of alcohol is one of the factors associated with the higher rate of self-harm presentations on Sundays, Mondays and public holidays around the hours of midnight."

I am sure that these kinds of figures on deaths, self-harm and monetary costs register with every Member of this House and make us wonder about the reason we are letting alcohol do that and the reason our legal regime governing the direct and indirect sale of alcohol - in the form of advertising - is a factor in all of this harm. If those four harms were not enough there is another series of problems that alcohol is causing according to the National Substance Misuse Strategy Steering Group. One in four deaths in young men was estimated to be due to alcohol; alcohol increases the risk of more than 60 medical conditions, including many cancers; it is associated with 2,000 beds being occupied every night in Irish acute hospitals; it is associated with a quarter of injuries presenting to emergency departments; it is estimated to be associated with 16% of child abuse cases; it has been reported that alcohol was a trigger in one third of domestic abuse cases in 2005; and it is associated with harms to infants as a result of mothers drinking during pregnancy, and a range of disorders known as foetal alcohol spectrum disorders are caused by mothers drinking alcohol in pregnancy. This series of harm patterns for alcohol would therefore seem to represent an insurmountable wall of harm, as it were, for a huge number of Irish people.

We cannot deny that alcohol is associated with many aspects of our social and cultural life;

that is self-evident. It is part of our custom for sociability, relaxation and enjoyment. The pub often plays an important role in community life and it is also an attraction for tourists. The paradox of alcohol, however, is that its consumption for pleasure and hospitality, along with its economic benefits, is overshadowed by the harm and health problems it causes when it is misused or consumed in a harmful and hazardous way.

Worryingly, Irish adults binge drink more than any other European country; 25% of Irish adults have reported that they binge drink every week. Irish children are also drinking from a younger age, and drinking more than ever before. Over half of Irish 16 year old children have been drunk, and one in five is a weekly drinker according to studies that have been prepared. Ultimately, 1.5 million Irish adults drink in a harmful pattern according to the steering group.

Senators will be aware that there has been a proliferation of outlets and stores that sell alcohol, and not just in urban areas. Supermarkets, convenience stores and petrol stations now sell alcohol. I suggest it is not unreasonable to link elevated levels of alcohol consumption by the Irish population with this proliferation of availability. We must do something about that because if we do not, we risk ignoring the body of evidence that is plain for all to see.

The normalisation of alcohol in Irish society has been achieved partly at least by the manner in which it is promoted through various media. It is almost as if alcohol has become a basic everyday grocery product to be purchased with everyday consumables such as bread, milk and butter. On the contrary, alcohol is no ordinary commodity, to borrow the title of the World Health Organisation-sponsored study by Babor and others some years ago. It has major public health implications, and the State has a responsibility to preserve and protect public health and the general well-being of society. Furthermore, alcohol is a psychoactive substance that can impair motor skills and judgment, and its effects on the individual can occur at various points across a spectrum. It is a drug of dependence and can act as a gateway to the use of illicit drugs for some people.

It is imperative that we reduce the overall level of alcohol consumed in our society and tackle the problems of alcohol misuse. As Senators are aware, the report of the National Substance Misuse Strategy Steering Group was published last February. The steering group's objective was to set out an evidence-based framework which identifies effective policies and actions to tackle the harm caused to individuals and society by alcohol use and misuse.

The report made a range of recommendations that focused on key issues in the area of the misuse of alcohol. These issues include the supply, pricing, availability and marketing of alcohol along with preventive strategies including treatment, rehabilitation, alcohol and substance dependency research and information.

Some of the key recommendations within the report include the following - increase the price of alcohol so that it becomes less affordable; introduce a legislative basis for minimum pricing, along with a social responsibility levy on the drinks industry; commence section 9 of the Intoxicating Liquor Act 2008, which deals with structural separation of alcohol from other products in supermarkets and other outlets; introduce legislation and statutory codes to provide for a 9 p.m. watershed for alcohol advertising on television and radio; there could not be that type of advertising prior to 9 p.m.; alcohol advertising in cinemas to be associated with films classified as being suitable for those over 18 only; prohibition of all outdoor advertising of alcohol; all alcohol advertising in the print media to be subject to stringent codes, enshrined in legislation and independently monitored; phase out drinks industry sponsorship of sport and

other large public events by 2016; develop a system to monitor the enforcement of the provisions of intoxicating liquor legislation; establish a clinical directorate to develop the clinical and organisational governance framework in order to underpin treatment and rehabilitation services; and develop early intervention guidelines for alcohol and substance use across all relevant sectors of the health and social care system. This will include a national screening and brief intervention protocol for early identification of problem alcohol use.

As stated earlier, the steering group noted that children are drinking sooner and drinking more than ever before. The group was wholly cognisant of children when framing its recommendations, as Senators will see from the document. These recommendations are generic and apply to all cohorts of the population, including children.

Members will see from the recommendations that there was a strong public health dimension to the steering group's work in dealing with alcohol misuse. Our agenda now is to protect and improve the health of Irish people on foot of the recommendations that have been made. The steering group's report was stark as to public health and protection given that it reported that potentially 1.5 million people in Ireland are drinking in a harmful way.

The burden of alcohol on our society and systems is overwhelming. This is an evidence-based statement based on what the National Substance Misuse Strategy Steering Group found and reported. These problems are patently obvious - the burden of hazards and pain that alcohol misuse causes; the trauma it is responsible for; the waste it provokes in the case of lost economic output, absenteeism and more; the adverse effects it has on families and children as a result of a family member misusing alcohol. It has been estimated that adult alcohol problems are associated with 16% of child abuse and neglect cases, and alcohol has been found to be a trigger in one third of domestic abuse cases.

The steering group covered issues pertinent to children and families where it addressed the treatment and rehabilitation of people due to the misuse of alcohol. These include addressing gaps in child and adolescent service provision, and developing multi-disciplinary child and adolescent teams, along with developing an approach to addressing the needs of children and families experiencing alcohol dependency problems.

The extent of alcohol misuse warrants strong and effective policies that can address this pervasive threat to Irish public health. One such policy recommended by the steering group is a regime of minimum pricing. Minimum pricing is ultimately a mechanism of imposing a statutory floor in price levels for alcohol products that must be legally observed by retailers. The primary function of this measure is to reduce at risk levels of alcohol consumption, especially by those who drink in a harmful and hazardous way.

12 o'clock

It also would have a greater impact on discouraging children to drink. In turn, this could then diminish the effect the misuse of alcohol and over-consumption would have on a range of social areas, including public services, crimes and public health, together of course with productivity in the economy. One cannot be ambivalent when it comes to the pattern of alcohol consumption and the harms for which alcohol is responsible. Ambivalence on alcohol is now inexcusable and the report of the steering group has made sure of that. The national substance misuse strategy points the way for the future direction of policy to deal with the use and misuse of alcohol. There are challenges with some of these recommendations and this is both clear and

perhaps inevitable. Nonetheless, my Department is preparing a concrete set of proposals on the basis of the national substance misuse strategy report to which I have alluded. The intention is to submit these proposals to the Government for consideration and approval as soon as possible.

Senator Labhrás Ó Murchú: I welcome the Minister of State to the House and wish him well in his new office. This is not the first time Members of this House have had a debate on the misuse of alcohol. In fact, such a debate has been held in virtually all the years I have been a Member. Over those years, it was usually a knee-jerk reaction to some incident or report after which it seems to have been left at that. I wonder whether any other Parliament in the world also is discussing the misuse of alcohol. I doubt it and therefore there are two questions to be asked. Is it the case that they do not have misuse of alcohol or is it because we are more concerned here to try to do something about the effects of the misuse of alcohol? At the outset, I compliment the Minister of State because this was an absolute breath of fresh air. On previous occasions when Members debated the misuse of alcohol, the contributions made in this Chamber contained too many “ifs” and “buts”. Even though everyone on the street knew the truth, Members kept adding riders to their points for various reasons. Perhaps they were looking over their shoulders at the drinks industry or perhaps they did so out of a fear they might offend people who simply have a social drink every day. However, this report is an absolute wake-up call. I will not reiterate the statistics, which are all readily available but it is not simply a matter of drinking to excess. All the other issues that arise therefrom, including suicides, deaths and child abuse are connected. Members are aware that whenever the issue of drugs has been discussed in this House in the past, they get very excited about it and rightly so. They work on legislation and seek more severe action to ensure there will be a clampdown. However, alcohol is every bit as much a drug and the statistics leave no doubt but there is widespread harm and damage being inflicted.

This morning, Members discussed the issue of St. Patrick’s Institution on the Order of Business. The point again was made, not simply about alcohol, that many of the young people concerned have been damaged by the misuse of alcohol. For every issue of concern raised in this House, in some way there is a connection back to alcohol itself. The sad thing is Members are in a position to control the alcohol issue much more easily than is the case with the illegal sale of drugs because an industry exists in respect of the former and it should be possible to interact with that industry. I do not mean merely with a cosmetic exercise. We do not even have a health warning in respect of alcohol in the same way as we do in respect of smoking. There is a certain similarity in that when restrictions were introduced on smoking in public places, there was an outcry but it only lasted a short time. This was because when the debate took place, it became quite evident that cigarette and tobacco smoking was injurious to health. Once that message got across, people were prepared to accept highly restrictive measures in respect of smoking. People do not question it any more and it now is the norm in their lives. However, if one looks back a few years, it seemed like an immense hurdle to overcome at that time.

At present, drink is freely advertised on television and no matter what one might say, it is not done in a subtle manner. I note that half of 16-year-olds have admitted to being drunk at some point, which is a frightening statistic. However, if they are looking at television and the consumption of alcohol is associated with manliness, having a good time or whatever else in some way, the young mind undoubtedly will absorb a certain amount of that. For instance, I always have been disappointed after games in which a team won a cup that the first thing done was to fill the cup with alcohol and to pass it around to young people. Hopefully, in years to come when this is corrected, we will look back with horror on the fact we allowed this to happen with

young people in local communities and that no one shouted, “Stop”. Where does most of the action take place in the television programmes “Fair City” and “Coronation Street”? In the pub. It must be influencing the viewer when one sees famous actors and actresses on television and sees that drink is part of their lifestyle. Moreover, this is going out as a message. One can also look back to the time when the cigarette was in fashion. When one was being trained in drama groups, the big difficulty one had as an actor was what to do with one’s hands on the stage. The prop that people generally were given was a cigarette. Even if one looks back at the films of those days, with professional actors and actresses such as Humphrey Bogart or whoever else, one may observe how often a cigarette was used. This is no longer the case and it gradually is being phased out. There must be some way to do something similar. I do not blame RTE, the BBC or anyone else as this is the culture that exists at present. This is the reason I call this a breath of fresh air. Members can promulgate this message strongly to the public in respect of the statistics they have not quantified but which they knew were there. For instance, they could suggest to RTE, in respect of “Fair City”, that it would be wonderful for the station to take the first opportunity in that particular industry to ask whether it would be possible to phase out that type of glamorisation of drink. This would be absolutely vital.

As I noted, Members have had this debate several times previously but each time I see anti-social behaviour on the streets, I do not get angry towards the young people concerned. Instead, I feel absolutely sad and sorry for them because they never had the opportunity of developing in the way young people did years ago. What is happening is that before they are even sufficiently responsible to know what drink is doing, they become absolutely immersed. I acknowledge it may be peer pressure as well. I note 16-year-olds are mentioned and refer to a survey conducted five or six years ago that children of 13 years of age were not necessarily becoming drunk but were imbibing hard spirits. Therefore, is it any wonder that later on in life, they find themselves in difficulties and troubles? Incidentally, Members should not be criticising the young people but should be criticising themselves, as they had the opportunity to legislate, to put pressure on the drinks industry and to ban advertising. The big question in respect of this document, the statistics and the report of the steering group will be whether Members have the sense of responsibility to act on it. If they do, it will be the greatest contribution they will have made, particularly to young people and to families in which there is abuse and in respect of depression and suicide because that is what this is all about. It all is embraced within that and as far as that is concerned, I can only say, “Well done” to the Minister of State. I hope Members stick by it and have the courage to follow it to a successful conclusion.

Senator Colm Burke: I welcome the Minister of State to the House and I thank him for his comprehensive speech on the issue. The Minister of State provided many figures but one interesting comparison was that in 1960 Irish people were consuming 5 litres of alcohol per adult on average. I understand this has increased to 11.9 litres per adult per annum, a remarkable increase. This equates to 482 pints of lager, 125 bottles of wine or 45 bottles of vodka per annum. This is where we stand now. During the past 20 years because of the economic progress we have made we have allowed this problem to develop without putting any restrictions in place or without examining the long-term policy in this area. We have not considered the real net cost. The Minister of State referred to this in his speech. There is a frightening cost of more than €3 billion in real terms associated with health care, loss of time at work, car accidents and all the attendant issues. We have allowed this to drift and now we must face this problem, deal with it and look to see what we can do. We should consider where we want to see ourselves in 20 years time.

17 October 2012

I am not criticising anyone in particular but I was in Washington Street in Cork on Arthur's day at 10.30 p.m. and it was frightening. I do not understand why people cannot go out for a night without this behaviour. As I walked along one of the streets several people were getting physically sick in front of me. They were on the street and leaning up against office doors. They were mainly students who thought this was part of the norm because they were in college. It is frightening that we have come into this culture. It reached such an extent that I rang the Garda and asked whether the force would consider closing off Washington Street at 10.30 p.m. or 11 p.m. for health and safety reasons. It is frightening that we have reached this stage. I realise people had a good night but we should consider the effects such behaviour has on people's health.

The Minister of State referred to the effects alcohol abuse can have on family life. It is interesting to consider the figures. According to the ESRI, alcohol is a factor in one third of physical abuse cases. According to the Alcohol Forum in 2011 alcohol abuse was mentioned in 36% of cases as the reason for child protection.

Earlier I referred to education and early school leaving. I am involved in a project that is attempting to get 30 people back into the education system. These people dropped out of school, in some cases when they were as young as 12 years of age. We are trying to get them back in and we are trying to help them. They dropped out at an early stage and ended up with literacy and numeracy problems. It is an uphill battle to try to get the necessary support because they do not fit into the normal education system. Many of them do not fit in because they started off with alcohol abuse and then proceeded to drug abuse.

The Department of Health has not addressed the harmful impact of parental drinking, especially during pregnancy. Recently, I spoke to a nurse about this issue. She said that one can see the effects on a newborn baby as a direct result of foetal alcohol syndrome. Symptoms may include distinctive facial features, slow physical growth, before and after birth, vision or hearing problems, poor co-ordination, delayed mental development, abnormal behaviour and heart defects. These are some of the knock-on effects of a mother drinking while pregnant. We have not done enough with regard to education in this area and we need to do more.

Recently in the House I referred to the Rotunda Hospital in Dublin, where on average 40 babies are born who suffer from *delirium tremens* or cold turkey after being born. Much of this is drug related but there are some cases related to excessive drinking. It occurs because the supply is suddenly cut off once they are born and they suffer from *delirium tremens* immediately after being born. There are 20 such cases per annum in the other two hospitals in Dublin. These are the knock-on effects and we need to produce an education programme in this area as well.

How do we move forward? There have been several reports from the Joint Committee on Health and Children and the national substance misuse strategy steering group, which reported on 7 February 2012. They have set out clear guidelines with regard to the road we should go down. We need to take certain decisions. They will not be popular. An increase in price is one option and the introduction of minimum pricing is another. We must take certain actions and we cannot put them on the long finger anymore.

Let us consider the numbers of people in hospital as we speak. Some 2,000 people are occupying beds in Irish hospitals as a direct result of excessive drinking over several years. We need to ensure that the problems we have now are dealt and we must plan for the future and for 20 years time. However, we must make the right decisions now. The Minister of State may

not be popular as a result of some of the decisions he must make but they will be in the best interests of the country. This is about providing leadership. Yesterday, we saw leadership with the announcement of the reform of local government. That area was untouched for 100 years and in real terms this issue has not been touched for 100 years either. Now is the time to do it. The Minister of State has my full support with regard to the decisions he intends to make on this matter and I encourage him to arrive at them at an early date.

Acting Chairman (Senator Pat O'Neill): Some 16 Senators have indicated that they wish to speak. We have one hour and 15 minutes before the Minister of State will be asked to reply. We must be strict on time. The speaker is Senator van Turnhout. She has eight minutes.

Senator Jillian van Turnhout: I will try to be succinct. I have five specific questions to ask the Minister of State but first I wish to comment briefly on the issue. I am speaking as a Senator, as a children's rights activist and as a proud Irish citizen. My first concern relates to the social and cultural acceptability of our excessive alcohol usage. It disturbs me how frequently and casually excessive drinking and being hungover are spoken about on the national airwaves, in the media and in discourse following sports events and other everyday conversations. For example, we use such expressions as "How's the head?", "I'm dying" and "It is the Irish 'flu'". This is acceptable discourse for us. We use these references and they are bandied about all the time. I am not trying to sound in any way pious and it is not that I have not misused alcohol myself but it is about the way we use these terms in common parlance. They are acceptable and tolerated. This is where I have a difficulty. We are sending mixed messages in our discourse on drinking. On the one hand there are drink awareness campaigns, especially those targeting young people. During the debate today I imagine we will refer to the scourge of binge drinking among young people and we will highlight the dangers of excessive drinking. On the other hand as adults we laugh it off. We are sending mixed messages.

Our international reputation as a nation of drinkers is seriously undesirable and is becoming increasingly so. It is something that we should be working hard to overcome. While on holiday in the United States over the summer, I was shocked to see a T-shirt being sold in a tourist shop, among a number of T-shirts of a similar vein, depicting Irish yoga as a series of images of an extremely intoxicated man. I have a fairly healthy sense of humour but I did not find it funny. In fact, I was extremely embarrassed that this is the depiction, on several different types of T-shirt, of Ireland. There was nothing positive about that message.

There is an intrinsic link between excessive alcohol consumption and alcohol-related harm in Ireland. The negative impact, as has been testified to by the Minister of State, Deputy Alex White, and by my colleagues before me, on individuals, on families and on the Exchequer and society at large can no longer be justified in terms of the revenue the alcohol sector generates in and for Ireland, or how our pub and craic culture attracts tourism. I grew up with a definition of the idea of craic culture being about music, friendship and great fun, but we seem to have redefined what it means and this is something that we must seriously question.

Alcohol has been identified as a contributory factor in 97% of public order offences and, according to international research, there is a link between increased alcohol consumption and increased levels of public order crime. Alcohol related crime will cost us €1.2 billion this year. All of us here could make a long list of what we would like to spend that €1.2 billion on, and that figure relates only to crime and not the associated health costs.

I had the honour to write two European reports as a rapporteur for the European Economic

and Social Committee on the harmful effects of alcohol. Often the employers' organisations would row in on the side of the drinks industry but, luckily, I was able to persuade many of my colleagues from the employers' organisations to support me in my work. The figures, for example, for increased absenteeism, show it costs Ireland €1.5 billion a year, according to a recent survey by IBEC, the very organisation that supports the drinks manufacturing industry of Ireland. Employers need to wake up to the cost alcohol imposes. Alcohol is the primary reason for 4% of short-term absences from work by male employees and 1% by female employees. On the impact on health, every seven hours someone in Ireland dies from an alcohol-related disease and alcohol is a factor in up to one third of all deaths of unnatural causes. The figures are quite startling.

The Minister of State mentioned the indirect effects on children. Between 61,000 and 104,000 children aged under 15 in Ireland were estimated to be living with parents who misuse alcohol, one in 11 children is impacted negatively by parental alcohol problems and one in six cases of child abuse is attributed to alcohol. We really must wake up. I am glad the Minister of State said that he will bring back the proposals as soon as possible but there really is need for greater urgency.

I have the following five concluding points. First, the Minister of State mentioned the national substance misuse strategy. I draw his attention to the report on the misuse of alcohol and other drugs, which Senator Colm Burke mentioned, published in January last by the Joint Committee on Health and Children. We came up with 13 recommendations. They were debated heavily at the committee but the meeting was one of those good days in the Houses where all members were on the same side in trying to work out the best recommendations. There is cross-party consensus on those recommendations and I would bring the report to the Minister of State's attention.

Second, there have been significant delays in the publication of both the alcohol action plan and the sale of alcohol Bill. They were expected in September and before the end of 2012, respectively. Can the Minister of State clarify when these will be published?

Third, the Minister for Justice and Equality, Deputy Shatter, was due to bring forward the recommendations of the RRAI voluntary code of conduct but he was also supposed to come back, prior to the summer recess, on section 9 of the Intoxicating Liquor Act 2008, which the Minister of State mentioned and which deals with the structural separation of alcohol from other products. The legislation is in place. It is a bizarre piece of legislation because the Minister has a choice when it comes to implementing it. I have never seen legislation that gives the Minister the choice. I think the Minister of State will find this interesting. I had to reread the legislation several times. I raised it here in the House with the Minister for Justice and Equality under an Adjournment matter. It is something that could be put into place now. We all talk about alcohol products straying into other parts of the supermarket but there is legislation to which we can give effect.

Fourth, given the legal challenge against minimum pricing being put to the Scottish Government, can the Minister of State clarify what changes in alcohol pricing will be introduced in Ireland and if minimum pricing cannot be introduced, will consideration be given to introducing a ban on below-cost selling?

Finally, a significant amount of work has been undertaken in Northern Ireland on alcohol advertising and price promotion. By the end of 2012, Northern Ireland will introduce additional

regulations to ban certain irresponsible drink promotions that encourage excessive drinking and specified pricing practices. Further restrictions have also been proposed in Northern Ireland and are included in Scotland's licensing law which are intended to prevent supermarkets and off-sale premises advertising school offers anywhere other than within a licensed area of their premises. The restrictions would also apply to other advertising material, such as newspapers, in-store magazines and leaflets. Will the Minister of State give consideration to introduce similar measures? It is my understanding that the legislation currently exists in the form of section 16 of the Intoxicating Liquor Act 2008 and these changes could be brought forward fairly quickly.

Acting Chairman (Senator Pat O'Neill): Well timed, with one second to spare. The next speaker is Senator Gilroy, who has eight minutes.

Senator John Gilroy: I welcome the Minister of State, Deputy Alex White, to the Chamber. I will start by welcoming that he put into the arena here the figure that will give the lie to information that is always being quoted by those who are not in favour of reform around alcohol consumption in Ireland, that is, that €3.4 billion is the economic alcohol-related cost to the economy. When one says so, the argument is always that the Government raises more in taxes from selling alcohol than it costs the economy and there is somehow an implication that the Government is complicit in the promotion of alcohol as well. Our relationship with alcohol consumption is difficult and I do not think anyone here will disagree with that. Even though the aggregate amount of alcohol has been falling, and has fallen approximately 17% since 2001, drinking patterns have changed as well.

My chief concern relates to alcohol consumption and young people. It is easy for someone of my age to say that young people drink too much. Every generation laments and despairs for the generation coming immediately behind it. It seems that the current generation has developed a different consumption pattern but for a middle-aged man like me to stand up and start finger wagging at young people requires me to put up some information that will corroborate what I am saying.

Some 44% of those who drink alcohol in Ireland consume more than five drinks at any one time, which is classified as binge drinking. This dangerous intake level, especially among young people, is linked to severe long-term physical and psychological damage. It is not only physically hazardous and socially damaging, but is also the cause of much personal distress. We need to know that family, school and social obligations are sometimes neglected and risk-taking behaviour increases as the decision-making process is diminished under the effects of alcohol. We have seen that in some of the figures the Minister of State quoted for public order crime, in self-harm and in suicide, and we also know that one death in four among young men is attributable to alcohol misuse. Those are the facts. We could list out any number of statistics to make the point but the one point we know is that alcohol misuse generally is damaging, and particularly so among young people.

The patterns of behaviour that are laid down when we are young tend to stay with us for the rest of our days and it need be no surprise for us to hear that age is significant when we talk about when people start drinking. The lifetime alcohol dependence rate for those who start drinking before the age of 14 is four times higher than that for those who do not start drinking until they are 20.

The challenge facing society is significant and needs to be approached in a strategic and

multi-stranded manner. We need to take steps to have immediate impact on drinking patterns but we also need to keep a close eye on those initiatives which will do something that will work in the long term.

There is no immediate magic bullet. Minimum pricing has been shown to reduce alcohol consumption and sales, at least in other jurisdictions, and the abolition of alcohol advertising associated with sports events will make some difference, but we need to be conscious of the big-picture issues. Although politically expedient and, therefore, attractive to us as policy makers, they will not, on their own, change our unhealthy relationship with alcohol. The report of the steering committee and its recommendations are very welcome but we must try to achieve a cultural change in our behaviour and this will not be done by finger wagging at young people. It will only be done by hard work and by people taking personal responsibility for their own drinking habits. We must stop normalising heavy drinking by using alcohol to celebrate, commiserate or commemorate at virtually every social occasion or event that comes our way. One thing that is particularly insidious and perplexingly foolish is the way that we celebrated “Arthur’s Day” recently. It was a triumph of marketing over common sense, which enticed people to participate in a contrived celebration for the gullible. The insidiousness of this was portrayed by its promoters saying that it was only a bit of craic or a bit of harmless fun and indeed, for many people, that is what it was. However, the harmless fun was visible in the accident and emergency departments of our hospitals that night, to the gardaí, who were called to the scene of multiple public order offences on the streets and to business and home owners who had to sweep away the detritus the following morning. It was not harmless fun for a great number of people and the data provided earlier by the Minister of State concerning alcohol-related harm confirms that fact.

The visits of both President Obama and the Queen of England were hosted around the marketing of alcohol. We saw the President in a pub, holding up a pint and the Queen was brought to a well-known landmark in Dublin, closely associated with alcohol. As Senator van Turnhout pointed out, our cultural identity and reputation is closely bound up with the promotion of alcohol. We are confronted, of course, with a very powerful drinks industry in this country, which is forever dismissing those who raise concerns about the dangerous levels of drinking here as cranks or kill-joys. Representatives of the drinks industry appeared before the Joint Committee on Health and Children recently and put forward a most reasonable and benign case for the industry, which presented drinking in Ireland as fairly harmless. The representatives acknowledged that in a small number of cases, there were problems but argued that these problems primarily affected individuals and required interventions only at an individual level. The argument was plausible at first sight and was presented in a slick and professional manner and could lead to a certain level of forbearance in this area. There was no recognition at all by the drinks industry of the societal harm and the damage to the social fabric caused by heavy drinking. Nor was there a recognition of the fact that one person’s drinking has effects outside the orbit of that individual or of the cost to society in economic and social terms.

We seem, as a society, to have lost our way in relation to drink but this is not a new phenomenon. Social commentators from pre-Famine times were preoccupied with the heavy level of drinking here and described Ireland as a society in despair. Of course, society cannot be the best judge of its own position on the historic continuum but I wonder, in the context of the consumption of 11.5 litres of alcohol per adult, whether at some time in the future today’s society will be looked at as one that lost its way regarding alcohol and one that is in despair.

Drinks industry representatives tell us that alcohol advertising is not aimed at increasing

alcohol sales and that the main aim is to capture market share from rival brands. However, I do not see advertisements with images of men sitting in a public park, slobbering over a bottle of wine. That is not the way alcohol is portrayed. It is portrayed as a product for cool young people in the company of other cool young people, having great fun and the message is very clear. Alcohol advertising targets young people.

I am glad the Minister for State is continuing the work of his predecessor on alcohol and his address to the House today was very good. I have worked in the mental health services for many years and have seen the harm that alcohol does. It is one of the most significant challenges facing our society and one that the Government must prioritise, without being paternalistic. An enormous level of personal responsibility is also required but the Government, and the Department of Health in particular, can devise the roadmap by which we can find our way in tackling the enormous challenge facing us. I look forward to supporting the initiatives of the Minister of State and congratulate him on them.

Senator Sean D. Barrett: I will try to be brief as I know many Senators wish to speak on this issue. I welcome the Minister of State to the House.

There are certain dangers inherent in this debate and we must be careful in our use of data. The Minister of State made reference to certain data but I drew the attention of the House to data last November which indicate that drink consumption is falling in Ireland, not rising. Our three friends trying to balance the books, namely, the Minister of Finance, Deputy Noonan, Minister of State, Deputy Hayes, and the Minister for Public Expenditure and Reform, Deputy Howlin, will confirm that to the Minister of State. I am sensing an air of panic around this issue.

By international standards, drink consumption in Ireland is actually low. It is lower than in several countries referred to here today. According to the *The Economist* index, we are not in the top 22 countries for beer drinking, while for wine, we consume 41% of that consumed in Switzerland, but I do not recall the Swiss being pilloried for being drunk and falling about the place. In terms of alcohol consumption as a whole, we consume 64% of the amount consumed in Germany, so there are quite prosperous and thriving countries which seem to cope with alcohol much better than we do.

The price of alcohol is not falling. All consumer prices have fallen in Ireland but the belief that the country is drowning in a sea of cheap drink is not backed up by the CSO, which is in charge of measuring such transactions. While there is evidence in Garda reports of drink-fuelled crime by adolescents, it is important to state that probably 99% of youngsters do not get involved in alcohol related crime.

The danger in what we are engaged in here is that some parts of the drinks industry will use it to increase their income through minimum pricing. It is fantastic, really. They are saying, "I would like to sell my product for X but I will persuade the Minister of State and his colleagues to set a minimum price of 2X". That happened before when, in 1903, a Liberal Party Government was convinced by publicans to limit the number of people who could sell alcohol on the basis that it would make the Irish more sober but all it did was make the publicans a lot richer. All that has happened in recent times is that by around 2003, approximately 100 years later, young people began to buy their drink in places other than public houses. The overall level of consumption is falling. I do not believe that we can say, "Person X was drunk but because he bought his alcohol in an expensive hotel or in a golf club bar, that is okay, so let's pick on the teenagers because they paid less for their drink."

17 October 2012

I welcome the fact that drink consumption is falling in Ireland. If we need to intervene, it should be through increasing tax on alcohol and I am sure the three gentlemen I mentioned earlier would be delighted with that. We should not introduce minimum pricing. If we do that, we enrich the industry and that is not something with which I want to be associated. I wonder whether the publicising of a view of Ireland as a drunken country, when the figures internationally do not support that, is part of a campaign by some parts of the drinks industry, who do not like losing market share to others, to get the Department of Health to intervene on their behalf. That is the kind of contest in which one should not get involved.

We must check the data. If the Departments of Finance and Public Expenditure and Reform need the money, then let us increase the tax on alcohol in the budget. I urge the Minister of State to beware of some parts of the industry campaigning against other parts on the basis that those other parts are, in some mysterious way, serving seriously cheap drink that causes riots in the streets. If they were allowed, they would only serve expensive drink and keep the money themselves, enjoying an increase in profits brought about by a Government intervention which never started out with the intention of enriching the drinks trade. I do not share that objective either.

Senator Imelda Henry: I take this opportunity to congratulate the Minister of State on his appointment and wish him well in his post.

We know about the serious problem of alcohol abuse in this country. Approximately 60% of alcohol sales are off-trade now, and gone are the days when people drank in a controlled environment, that is, the pub. If one entered a pub having had too much to drink, one was not served. If one had too much to drink in a pub, one was asked to leave. Generally speaking publicans, and I am one myself, run very good houses. The problem now with alcohol abuse is the availability and the price.

Alcohol is available in too many places, including supermarkets, small shops and petrol stations. I do not know, however, if we can change this. Every week, particularly on Sunday, advertisements in the newspapers promote cheap alcohol. We all know that a bottle of beer is cheaper than a bottle of water. In January the Joint Committee on Health and Children was shown pictures of selection boxes sitting on top of slabs of beer in a certain supermarket. I recall a campaign which promoted cheap alcohol for First Holy Communion celebrations. Some young people purchase alcohol in the local supermarket and get tanked up at home before going to the pub. This often leads to anti-social behaviour and, in some cases, publicans are wrongly blamed. The joint committee spent several months investigating this issue and our report has been submitted to the Minister of State. I ask him to ensure it is not allowed to gather dust on the shelf, which is the fate of too many reports.

I have spoken previously about educating young people about the harmful effects of alcohol. The north-west alcohol forum runs a very good education programme in counties Sligo, Donegal and Leitrim. I would love to see this programme being expanded throughout the country. Earlier this week I heard an individual who lives in Denmark speak on radio. He stated that even though alcohol was more widely available and cheaper in Denmark, it did not give rise to the problems experienced in Ireland. We need to educate our young people while they are in national school.

I have spoken on many occasions about minimum prices. The reality is that such policies will not work. Scotland has run into difficulties with European competition law in trying to implement a policy on minimum pricing and had to delay its plans by up to three years. We are

in the same position.

The code of practice is not adhered to and section 9 of the legislation should have been implemented a long time ago. Alcohol should be stored in a segregated area with a separate cash register manned by a mature person. Senators have argued that small shops cannot afford to implement such changes, but when the smoking ban was introduced, publicans made the case that it would be too expensive to provide a proper smoking area. That was a health issue and this is the same.

We recently discussed the gathering with the Minister for Transport, Tourism and Sport. He wants pubs to get involved. Pubs provide good food and are places where visitors can hear traditional music. However, our trade has almost died. Senators may think I am biased, but I feel strongly about the issue of alcohol abuse. I hope the Minister of State will deal with the issue urgently.

Senator Mary M. White: I wish the Minister of State luck in his responsibility for primary care services. It was interesting to hear about Senator Imelda Henry's personal experience of operating a licensed premises. Senator Sean D. Barrett's views were also interesting. Alcohol consumption is decreasing in Ireland according to CSO figures, but people must be responsible for themselves. I like a glass of wine, but I take personal responsibility for my behaviour because otherwise I would not be able to come into work or could feel depressed. There is something radically wrong in the Irish character if people let themselves go to hell by overindulging.

In 2008 I wrote a policy paper on what we could do in dealing with the issue of suicide. I identified three ways by which it was possible to reduce the suicide rate. One suggestion was cutting alcohol consumption, which had been internationally proved to be a factor in reducing suicide rates. The Intoxicating Liquor Act 2008 was debated in this House while the Minister of State was still a Senator. Has that Act been implemented? We fail to implement many of the laws we introduce. My policy paper recommended that the Garda vigorously use the powers granted under the 2008 Act to carry out test purchases of alcohol by under-age youths in off-licence premises. We need a national conversation on why Irish people overindulge.

Fianna Fáil is constantly criticised in this Chamber for everything that went wrong.

Senator Catherine Noone: For obvious reasons.

Senator Mary M. White: The leader of Fianna Fáil, Deputy Micheál Martin, introduced the ban on smoking in public places, about which there was a hue and cry. The former Minister for Justice, Equality and Law Reform, Dermot Ahern, introduced a code of practice for the display and sale of alcohol which now applies to nearly 2,500 supermarkets in every part of Ireland. Supermarkets no longer display or advertise alcohol in their windows and newspaper advertisements for alcohol products are restricted to a maximum of 25% of the space used. Alcohol is now usually located towards the rear of shops, although issues continue to arise for convenience stores and garages. I can see by my colleagues' faces that they do not believe this.

Senator Imelda Henry: It is not true.

Senator Mary M. White: A 24-hour hotline has been established for customers to register complaints about breaches. Fianna Fáil put in place a transparent and politically accountable process to check compliance with the code. A national audit of compliance is conducted every year and the independent chairperson, Mr. Padraic White, who happens to be my husband sub-

mits annual compliance reports for publication by the Minister for Justice and Equality.

The responsible retailing of alcohol organisation wants to make the code more effective by putting it on a statutory basis. This would offer a stronger legal basis for taking action against any store or group which persistently breached the code. I hope the Minister of State will support that proposal.

Senator Aideen Hayden: I propose to share time with Senator Marie Moloney.

Acting Chairman (Senator Paschal Mooney): Is that agreed? Agreed.

Senator Aideen Hayden: A recent UK report which suggests the cost to the health system of alcohol consumption among older people far exceeds that for younger people offers a balance in this debate. My own generation and the one before us were more likely to drink and drive in a way that young people of today would not dream about. We must have some perspective on this.

That said, I do not disagree with Senator Barrett with regard to the cost of alcohol. I remember when I started university, £1 would get a person two and a half pints or 50 cigarettes. At the time, I would get £2.50 for a night's baby-sitting. Therefore, it is not necessarily true to say that drink has become as cheap as chips. The fact is that nowadays our children have a lot more money than we had when we were growing up. We need to accept this calmly. The reality for our children is that they can buy and consume alcohol at pocket money prices. We must deal with this. Consider, for example, the cost of the average weekly risk free consumption limit for a woman or a man, €7 for a woman and €10 for a man. Price, therefore, is a problem, whether we consider the individual price of what is being purchased or whether wider issues in society do not simply relate to the price of alcohol.

As Labour Party spokesperson for children and youth affairs, it is important for me to reiterate the cost to society, and to young people in particular, due to the use of alcohol. Apart from the psychological impact, depression in particular - which is almost a national epidemic - there is neuro-scientific evidence of long-term damage to children and their health, in particular with regard to brain chemistry and to establishing addictive patterns at a young age. This is an issue we need to take seriously.

I would like to address a particular issue to which Senator Henry alluded, namely, the issue of product placement. From a very young age, children are sitting in shopping trolleys surrounded by milk, juice, water and wine. I understand what Senator Henry said, but in my local supermarket, which used confine alcohol to a side aisle, alcohol is now part of the mainstream area in the middle of the store. Therefore, I believe the only way we can get around this is to limit the availability of alcohol. I ask the Minister of State to consider that.

Senator David Norris: I would like to raise a point of order. This is a very important debate and a number of us have been told it is unlikely we will get the opportunity to speak. I had an arrangement to share time with Senator Barrett, but due to a series of briefings and a pre-arranged interview, it was not possible to contribute at that time. I know my colleagues Senators Mullen, Crown and Quinn all want to contribute and I am sure Members from other parties want to contribute also. Is it possible to ask the Leader to continue this debate on another day rather than finish it today?

Acting Chairman (Senator Paschal Mooney): That would be a matter for the Leader. I

am sure he is aware of the Senator's request and we will report accordingly.

Senator David Norris: It would be wonderful if the Minister of State could be here if the debate is allowed continue on another day. If not, we could send him the report of what is said. I know he would be meticulous about reading it.

Acting Chairman (Senator Paschal Mooney): We will attempt to establish whether the Senator's request can be acceded to.

Senator David Norris: I would be very grateful for that.

Acting Chairman (Senator Paschal Mooney): So many Senators wish to contribute that it is unlikely they will all get in on this session. Senator Hayden has exceeded her time. Does she wish to hand over now?

Senator Aideen Hayden: I ask the Chair to be indulgent and allow Senator Moloney contribute.

Acting Chairman (Senator Paschal Mooney): Senator Hayden took well over three minutes out of the five available. There is less time available now for Senator Moloney.

Senator Marie Moloney: I welcome the Minister of State to the House and am glad to see him take up the position vacated by Deputy Shortall.

We in this country can guarantee that this issue will always be a topic of conversation here. People talk about the weather, they talk about football and they talk about how much they had to drink at the weekend or the night before. We are currently campaigning for a "Yes" vote in the referendum on the rights of children, but we have a duty of care to children who cry themselves to sleep at night. We have a duty of care to women who are used as punchbags by drunks and we have a duty of care to men who consider ending their lives following alcohol abuse. It is important we continue to consider the issues along these lines.

I do not agree that drink has not got any cheaper. It has. One can now buy a bottle of beer for the price of a bar of chocolate. I know as a non-drinker that if one buys a pint of beer in pubs, it is cheaper than buying a mineral. What does this say to young people going out to pubs or night clubs? It says that it is cheaper to drink beer than to drink a mineral. Therefore, we are not doing anything to discourage our young people from drinking. We must look at this. People are drinking a lot more at home and we cannot blame them. The drink driving laws and the price of drink in pubs mean it is easier for people to drink at home. Therefore, it is natural for people to buy alcohol in supermarkets and local shops.

We must keep a watch on the price of alcohol, because we are making it very easy for people to drink. Perhaps I should not mention it, but one can buy a whole slab of 25 large cans for €25. This is exceptionally cheap. One day when I went into the supermarket I saw a man with a trolley full to the top with alcohol and wondered whether it was for his own consumption or whether he was buying it cheap to sell it in a pub. These are all issues we must address. We could speak about this topic all day, but I have no more time. I thank the Chair for his indulgence.

Senator Mary Ann O'Brien: I welcome the Minister of State to the House and wish him good fortune in his new ministerial position. Previous speakers have made many of the points I wished to make so I will go straight to a point that has not been made which I would like ev-

erybody here to consider seriously.

We have all become very exacting consumers. We like to know what we are going to eat and value our health above anything else in this world. Thus the food industry has become very transparent and food labelling has become an onerous task for food manufacturers. I am a manufacturer and I welcome this, because my product is a natural one. However, I am amazed that in 2012, no food labelling is required for whiskey, cider, beer or wine. EU regulations do not force our alcohol producers to label their products.

I would like to read some items of interest. EU regulations allow for more than 50 different flavourings, additives, preservatives and agents to be added to wine. Only sulphites, which are used as preservatives and have a possible causal link to asthma, must be listed on wine labels. I cannot pronounce the names of half the additives and flavourings, etc., allowed - which sound terrifying - but I believe that if I read them out, the Minister of State will never touch wine again.

Isinglass is something that comes from the bladder of a fish. Others include copper sulphate, diammonium phosphate, thiamine hydrochloride, lysozyme, dimethyl dicarbonate, bentonite and potassium ferrocyanide. I did not make this up. Why are we not asking the drinks industry to put labels on wine. I bet that one of us in here is coeliac. There are 12,000 coeliacs in Ireland. God help those who are coeliacs, because people who are coeliac cannot drink beer, lager, stout or ale, because they all contain various amounts of gluten. However, if one is obese or overweight, one can have cider, wine, sherry, spirits, port and liqueurs. How many calories are in a bottle of wine? I do not have a clue and I am sure the Minister of State does not know either.

Deputy Martin made a profound statement with regard to stopping us smoking. Please let us be the first country in Europe to put labelling on alcohol. This might add something to the costs for suppliers, but it will certainly provide a much better choice to consumers, because some very unhealthy additives are being added to many products.

I o'clock

I apologise for being so unprofessional and standing up again, but I would like to make a quick final point that is of relevance in the run-up to the children's referendum. We know the children's allowance is going to be changed. I implore the Minister, Deputy Burton, to turn the children's allowance into food and clothes stamps. Some children's allowance moneys are being spent as if they were alcohol stamps. We all know that is happening. I ask the Minister of State to write that one down. It is an easy win. We need to make sure our children's money is being spent on food and clothes for them.

Senator Deirdre Clune: I would like to make two points. I have made them before. I welcome the Minister of State's speech. I was interested in a point he made about the "proliferation of outlets and stores that sell alcohol". We know that, as he said, "supermarkets, convenience stores and petrol stations now sell alcohol". I agree with him entirely that "it is not unreasonable to link elevated levels of alcohol consumption by the Irish population" with this phenomenon.

I would like the Minister of State to examine something I have encountered on a number of occasions in Cork. I know it is happening around the country. When local communities, with the support of local gardaí, object to the provision of an off-licence, their objection might be

upheld at local District Court level, but that decision is usually overturned at a higher court or by An Bord Pleanála. I agree with what has been said about examining the number of outlets. This issue was raised time and again during the years I spent as a member of a local authority. Many reports called for a reduction in the number of outlets. However, we are powerless to do that when the planning process gets under way. We need to consider this matter. I have direct experience of three operations. I take this issue very seriously. Over the summer, local gardaí went to court to object to a new outlet on the basis of the number of existing outlets in the local area and the level of anti-social behaviour they have to deal with, for example, by arresting minors for over-consumption of alcohol. If the gardaí who are dealing with this issue on the ground do not want an additional outlet in an area, we should take that seriously and help them with the job they are doing. It is fine to make provision in this area, but it needs to be translated into planning laws.

The National Off-Licence Association has proposed the mandatory training of all those who sell alcohol in off-licences. We know that publicans and those working with them are trained well in judging how much alcohol to sell and serve. I am sure many off-licences have a similar approach. It is important for those working in off-licences, including younger members of staff and those from other jurisdictions who might not be familiar with the impact of the sale of large volumes of alcohol, to have the confidence to ask for ID when dealing with young people. There are many factors to be considered. The National Off-Licence Association has made an important recommendation. I urge the Government to examine this simple idea and to take it up. Such a move would be welcomed by the association. It would go a long way to reduce irresponsible behaviour. If one sees persons of 18 or 20 years of age trying to buy a large volume of alcohol, one should ask what they are planning to do with it. I suggest that in many cases, they are intending to sell it on to under age drinkers. These two practical suggestions will go a long way in helping the Minister of State to do the job he has to do.

Senator John Crown: I welcome the Minister of State. I look forward to working with him in the years to come. I have a particular interest in health issues. I do not think the Government's thinking, as set out in its strategy, goes far enough. It is time for a little radicalism in its approach. Like most people in this Chamber, I am speaking with the internal conflict of someone who culturally grandfathered himself into the drinking culture of which he is a member. We would all like to think things could be done differently.

I remind Senators that alcohol is an addictive, cancer-causing toxin. That is what it is. I ask them to imagine what would happen if everyone in Ireland stopped drinking alcohol completely tomorrow. It would be a better place. We would have a colossal decrease in the prevalence of cancer of the head, neck, oesophagus, stomach, pancreas, breast, colorectum and the liver. Chronic liver disease would become rather uncommon. Obesity and diabetes, and all the complications associated with them, would decline dramatically. We would have a colossal decrease in violent crime, domestic violence, violence against women and rape. We would have a colossal decrease in road traffic accidents and some decrease in traffic deaths. We would have a major decrease in the use of our accident and emergency departments. We would have a major shortening of the waiting lists for our health facilities. There would be a decrease in absenteeism at work.

Another side of this issue that is not often commented on is the opportunity cost of alcohol consumption. The opportunity cost to society of alcohol consumption is colossal. The money spent by families on alcohol could be spent on food, clothes and education for their children. If the amount of time parents spend drinking were spent parenting, it would have a beneficial

impact on educational outcomes and on many of the indices of social decay in our society. There is a colossal opportunity cost for our health service. If we were spending less money on alcohol-related ill-health, we would not have to discuss whether we can afford expensive cancer drugs and expensive drugs for multiple sclerosis.

Several of my colleagues have seemed to suggest that we are somehow in a healthy place in the international alcohol consumption league table.

Senator Catherine Noone: Ridiculous.

Senator John Crown: I must correct Senator Barrett, who is normally very numerate and statistically astute. He is incorrect in this regard. The reality is that Ireland is placed approximately third in the global league table for the documented consumption of raw alcohol, as measured in terms of litres consumed per head of population. The figures referred to by Senator Barrett related to litres of alcoholic drink. In that league table, a litre of beer, which might be 4% alcohol, would count the same as a litre of whiskey. That is the problem we have there.

The reality is that Ireland's consumption of pure alcohol, per head of population, increased from approximately three or four litres in the 1960s to approximately 17 or 18 litres at the height of the Celtic tiger before dropping slightly to approximately 14 litres in recent years due to recessionary pressures and, perhaps, some issues relating to health consciousness. If one tries to convince the few citizens who are aware of what is discussed in this Chamber that we are somehow in a healthy place in the international alcohol league table, or if one tries to make that point outside this Chamber, one will be incorrect.

I would like to make it clear, with deference to my colleagues, that publicans are not social workers. It has been suggested in this House and at the Joint Committee on Health and Children that alcohol is somehow healthier when it is supervised and administered by friendly apron-wearing publicans who care for one when one enters the premises, who make sure one does not over-consume and who see one safely home. That is not the case. I am sure there are individual publicans who are deeply dug into their communities and are highly responsible people. The alcohol industry collectively exists for the sole purpose of selling alcohol. The governmental public health process is diametrically opposed to the entire apparatus of the alcohol industry, from the friendly local publican to the member of the board of a major international drinks conglomerate. We are adversaries. We are trying to do different things. They want more people to drink more alcohol. We want fewer people to drink less alcohol. This is the exact reality. We should not engage with them other than to rein them in and discipline them. It is insane to see them as partners in a process of reducing alcohol consumption.

A comparison can be made with the new codes of practice that are developing around the issue of tobacco. There is a worldwide movement to have no contact between politicians and those representing the tobacco industry. The same thing should happen in the case of the alcohol industry. We should be trying to rein in its activities. We should set our noses into the wind as we strive to accomplish our goal of decreasing this country's alcohol consumption dramatically - perhaps to a level one half, one quarter or one third of what it is now. On the way to that nirvana, we should set a goal of having zero advertising of alcohol. I remind the House again that it is an addictive, cancer-causing toxin. Who should be allowed to advertise the sale of an addictive, cancer-causing toxin? I suggest that this prohibition should extend beyond the classic paid or for-profit advertising that is administered by the advertising sector. We should have no more pictures of Taoisigh, Presidents or Ministers using wine, beer or other types of alcohol

as the centrepiece of their welcome to dignitaries who are visiting Ireland. It is no longer appropriate. I am sure they can be socially photographed with a glass of wine in front of them if they are at a dinner.

I wish the Minister of State well. He has taken on a tough job in a big tough macro-health-economic situation. I believe we can afford to make changes in this area. We cannot afford not to make them. I would say to him to be bold, brave and revolutionary.

Business of Seanad

Senator Colm Burke: I have a note from the Leader's office that we would adjourn at 1.45 p.m and resume the debate at a time suitable to the Minister of State. Subject to his approval, I propose that amendment to the Order of Business.

Acting Chairman (Senator Paschal Mooney): Is that agreed? Agreed.

Alcohol Consumption: Statements (Resumed)

Senator Mary Moran: I wish to share time with Senator O'Keeffe.

Acting Chairman (Senator Paschal Mooney): Is that agreed? Agreed.

Senator Mary Moran: I welcome the Minister of State to the House and wish him every success in his new role. Many of my colleagues have made reference to the national substance misuse strategy report and I will not go through all of that again. However, one cannot read it without being shocked and horrified at some of the statistics it contains. In particular, I wish to refer to the statistics relating to young people, whereby more than half of 16 year olds have been drunk and one in five drink weekly. As a mother of a 16 year old and as a former teacher, having had four children go through leaving certificate and also having gone to collect them after junior certificate teenage discos, I have been absolutely horrified to see students, who I would know as being fantastic and well behaved in class, out of it from the effects of drink at 16 years of age. It is horrific and would be horrific to their parents if they knew it was going on.

I have been a teetotaller all my life. Very often, having spoken afterwards to students in class, they would ask me "Oh, but do you not drink?", as if there was something radically wrong with a person if they do not drink. Even at 18, they can be remorseful for drinking and for having started to drink at 16.

This is an area where we need to be more forceful. We have alcohol strategies in schools and alcohol projects and so on. Perhaps we could go one step further and highlight the ill health that is associated with alcohol. Another suggestion I would throw out is to perhaps raise the legal age for drinking from 18 to 21, when people are more adult and can make better decisions for themselves. Perhaps that would do something and I would certainly be in favour of it.

We need to be more forceful in highlighting just how much a young person's life can be ad-

versely affected by alcohol. What the World Health Organization considers to be risky or binge drinking is taking 75 g of alcohol on a single drinking occasion, at least once a month, which is four pints of beer, seven pub measures of spirits or a bottle of wine. I know there are many young people who would be shocked to hear they are being classed as binge drinkers every time they go out, or even stay in.

The teenage years are considered to be a time when lifestyle patterns are established. Starting to drink at an early age increases the person's chance of developing problems with alcohol use in later life. This is again where I would like to call into question Senator Barrett's statistics. According to the European school project on alcohol and drugs, Irish children report being drunk more often than those in most other European countries - some 26% in the last month in Ireland in comparison to a European average of 18%.

The question of targeting the marketing of alcohol is another huge area.

Acting Chairman (Senator Paschal Mooney): I must ask the Senator to conclude.

Senator John Crown: Excuse me, will the Minister of State reply today or in the next session?

Acting Chairman (Senator Paschal Mooney): The Minister of State will respond to the contributions that have been made today in the time allotted to him, rather than in a closing statement.

Senator Maurice Cummins: The Minister of State will come in again and he will reply again on the day we resume this debate.

Acting Chairman (Senator Paschal Mooney): Thank you. I call Senator O'Keeffe.

Senator Susan O'Keeffe: I propose, given the Minister of State is coming back, that Senator Moran might have her time back. I would be happy to wait until the Minister of State returns.

Acting Chairman (Senator Paschal Mooney): Agreed.

Senator Mary Moran: I wished to say more about the marketing and advertising of alcohol. Children and young people are bombarded with positive images of alcohol through marketing of the product, as was referred to earlier. In effect, the alcohol industry is the child's primary educator on alcohol. A recent report by a leading youth organisation in Ireland revealed that young people were highly aware of alcohol marketing and had noticed marketing on television, in magazines, on the Internet and in on-street flyers. Senator Leyden referred to television, and "Coronation Street" and even Irish soaps such as "Fair City" suggest everything takes place in the pub - I sometimes think they drink, eat and sleep in the pub.

To say that children and young people are not influenced by alcohol marketing is equivalent to saying that they suddenly wake up and begin to see and hear on their 18th birthday. They are constantly absorbing information and are the primary users of new media. In Ireland, there is no statutory regulation of alcohol marketing, just a voluntary code, and this code does not include the marketing of alcohol through digital media.

Besides advertising, children are target-marketed through sponsorship of sporting and music events, promotions and offers of alcohol brand-related merchandise and product placement

in popular entertainment. Perhaps this would be a good place to start. There has already been plenty of reaction from the drinks industry to the calls from the national substance misuse strategy report for an extensive range of prohibitions and restrictions on the advertising of alcohol products.

I highly commend the recommendations within the report and I fully support the Minister of State in his work in this area.

Senator David Cullinane: I welcome the Minister of State to the House. I was a member of the sub-group of the Joint Committee on Health that put together the report which the former Minister of State, Deputy Shortall, worked on with the joint committee. One of the things that struck me about the work not just of the sub-committee but of the committee itself, which signed off on the report, was that there was cross-party support for initiatives which we all want to see the Government take. Across most of the areas, with the exception of minimum pricing but including the areas of advertising, the presentation of alcohol and in terms of the hierarchy of wanting to ensure that prevention, intervention and education are the No. 1 priority, this cross-party support was important, although, of course, the other issues are also important.

One of the areas where there was not cross-party support and where my party was not in a position to give consent in terms of the document was in regard to minimum pricing because we do not believe it will work. If pricing is to be used as an instrument to reduce consumption, we need to look at what is the best way to do that. I believe the best way is to increase taxes and excise duty on alcohol, where the money raised comes back to the Exchequer and any extra revenue is ring-fenced for the prevention, intervention and education options which we all want to see happen. While I would want the Minister of State to tease out whether the Government is considering how to make this work in practice, if this was to be the case, we would simply enrich the profits of the people who sell the alcohol, whereas the intention behind the initiative is to prevent and reduce consumption. I have a very real concern about minimum pricing, although we maintain the whole area of below-cost selling should be dealt with.

What was very interesting was that part of the committee's work was to have all of the so-called players, including the drinks industry, come before the committee. Like Senator Crown, the phrase "lies, damned lies and statistics" comes to mind, as conflicting reports came from different people who represent different sectors of the industry. The reality is that the people who produce and sell alcohol had a very real vested interest in making sure that alcohol consumption was not reduced, and we have to be very clear about and conscious of that. Our responsibility is to protect people's health and well-being and reduce consumption. The drinks industry should not be partners in the process. We must be clear about that. We have to take decisions based on reduction. The advertising of alcohol should be banned completely. The distribution of flyers by some of the leading multiples advertising cheap alcohol must end. It is wrong also to allow flyers advertising ringing one's local off-licence to get alcohol delivered to one's door. We must be adult and mature in what we do. I agree with a watershed of 9 p.m. for radio and television advertising. We are not seeking to ban alcohol. Some might see that as an option but I do not.

No reference was made to advertising in the Minister of State's speech but much reference was made in the committee to social media and the fact that Diageo, for example, and some of the big alcohol companies use Facebook and social media to target young people. It is a difficult area given that social media are global but we must be conscious that when we look at the advertising of alcohol it is not sufficient to focus on the traditional methods of advertising such

as radio, television and the print media as social media now exist, which are hugely important and much more difficult to regulate. One of the recommendations made by the joint committee was that we would also examine the regulation of social media.

I wish the Minister of State, Deputy Alex White, the best of luck in his efforts to reduce the abuse of alcohol. I hope he is bold and radical but at the same time sensible and pragmatic about what is possible. We would all like to arrive at the utopia outlined by Senator Crown, but we must do it in stages. We must be bold in the initial steps we take on the basis of the reports before the Minister of State currently that were commissioned by the previous Minister of State.

Senator Catherine Noone: I wish to share my time with Senator Healy Eames, four minutes and one minute.

Acting Chairman (Senator Marie Moloney): Is that agreed? Agreed.

Senator Catherine Noone: Lundbeck, which is a pharmaceutical company that specialises in psychiatric drugs, had a conference recently in Dublin which was very interesting. Alastair Campbell spoke at it. The conference was an eyeopener for many who attended. The statistic that alcohol is involved in half of all suicides is shocking. When one hears it first it can easily pass one by as a statistic but if one were to replace it with practically any other substance then one could be guaranteed that we would make a greater effort to curb its use and influence on society. It seems that there is an endemic acceptance of alcohol and its effect on the way we behave in this country.

I welcome the work of the steering group and the recommendations. Its report is a roadmap for future policy direction on the use and misuse of alcohol. I agree with Senator Crown that we must take a radical, holistic approach to the issue. Alcohol encompasses many strands of society and education is fundamental. The point was made that young people do not drink and drive now, which is fantastic, but it has come about through education and cultural change. The issue must be tackled from the top down and the bottom up - from every angle - in order that we realise how unusual our relationship with alcohol is in this country. The key recommendations of the group have been discussed and are worthy of debate but I do not propose to go into them as other speakers have dealt extensively with them. Any measure, such as minimum pricing, that could help to reduce the overall consumption of alcohol is to be welcomed.

The commencement of section 9, in addition to further advertising restrictions, is vital and must be enacted in parallel with minimum pricing legislation. I disagree with Senator Mary White's proclamations about Fianna Fáil's great success in this area. I accept a code of conduct was put in place but it called for certain measures to be introduced "as far as possible" but they are not being introduced and the code is not being adhered to or policed. Section 9 was never enacted. The previous Government was lobbied heavily by the big supermarkets, which is why the section was not enacted. Let us call it as it is. I hope we as a Government will have the strength and courage to stand up to such lobbying and to implement the provisions of the legislation.

Pubs are a fundamental part of Irish culture and, but for the excesses, it would be a perfectly acceptable culture. We must come up with creative ways to get people into pubs who do not want to drink. I do not want to drink all the time when I am in a pub. I rarely do so. I asked for peppermint tea recently in a pub and the look I got suggested I had not ten but 20 heads. We must come up with creative ways across the board to deal with alcohol. Publicans and those

who are trying to survive in a market concerned with the sale of alcohol must come up with creative ways to deal with the problems. I had a million other things to say but, unfortunately, the time is short. I thank the Minister of State, Deputy Alex White, for his presence.

Senator Fidelma Healy Eames: I thank Senator Noone for the one minute of her speaking time. I appreciate it. I have one main point to make to the Minister of State, who is most welcome. He is a former Member of this House. We sat together in the Chamber. I congratulate him on his Ministry. We are expecting great things.

Deputy Alex White: No pressure.

Senator Fidelma Healy Eames: I know he can deliver them. There is no pressure whatsoever. As a nation we have a dangerous relationship with alcohol. It is a culture – the word should not be misunderstood. If something is part of the culture then it is accepted. One of the most shocking things I learned recently was from the child deaths report. A total of 196 children died in care in the past ten years, and 68 of them died in their own homes. They were in and out of care. The single biggest influencing factor in the home was alcohol abuse by parents. Senator Noone related that alcohol is a contributory factor in 50% of suicides. It is also contributing to child deaths.

Acting Chairman (Senator Marie Moloney): Senator Healy Eames's time is up.

Senator Fidelma Healy Eames: It is a difficult job to be a parent, not to mind being under the influence of alcohol as well. Many of those concerned became parents sooner than they planned because they got pregnant as a result of being under the influence of alcohol. We must tackle the issue. The Minister of State is now in charge of primary health care. He has a key resource in public health nurses.

Acting Chairman (Senator Marie Moloney): Senator Healy Eames is eating into somebody else's time. I ask her to finish.

Senator Fidelma Healy Eames: I will finish. I apologise but I wish to make this point. Public health nurses knock on 10,000 doors a day. I am the patron of the association and they tell me about it every day. They can detect where child welfare issues relating to alcohol arise. I urge the Minister of State to please involve them in the solution-----

Acting Chairman (Senator Marie Moloney): I ask Senator Healy Eames to conclude. It is not fair on other Senators.

Senator Fidelma Healy Eames: -----and to involve also the Child and Family Support Agency.

Senator Susan O'Keeffe: I thank the Minister of State, Deputy Alex White, for being present and in particular for his pledge to bring a concrete set of proposals to Government in the near future. That is very welcome. I also welcome the work done by the steering group, in particular the work done by the former Minister of State, Deputy Shortall.

In his summary the Minister of State said that ambivalence is now inexcusable. I agree with that. Reference was made to the prospect of increasing the price of alcohol and perhaps reducing advertising. They are the two big picture issues. A brand of vodka is now spending millions on advertising. It is making it look really attractive. It has beautiful colouring and what looks like balloons on the bottles. It looks like something one wants to have. I do not even drink

vodka but I cannot help but be struck by the beauty of the advertising. I do not know what the proposals are on smoking but it is clear that branding and packaging considerations must also apply to alcohol because there is a big advertising campaign afoot, as was the case with alcopops, the sweetened alcoholic drink. That is one area to which I wish to draw the Minister of State's attention.

The Minister of State is aware that young people now engage in a habit known as pre-drinking. That is what happens when we start to lower or increase the age for the consumption of alcohol. One drives them indoors. They buy cheaper and cheaper alcohol. It is gut-rot stuff. They are having four or five very stiff drinks before they even leave the house because drink is so expensive. I appreciate the dilemma we and the Minister of State are in as we try to work out which bit to correct. If we correct one bit, we will upset another. People bring cheap drink to weddings and other social occasions in their bags because they cannot afford to buy it at the bar. They drink it from under the table. I appreciate the pricing mechanism issue is not that simple, as one cannot just raise prices because there is a knock-on effect further down the line.

I draw the Minister of State's attention to the fact that when the Seanad Public Consultation Committee met in June, one of the many speakers was Dr. Trina McCarthy of the National Cancer Control Programme. She mentioned specifically that 1,200 cases of cancer diagnosed each year were caused by alcohol and that 25% of all alcohol-related deaths were due to alcohol-associated cancers, a very high figure.

Representatives of the North West Alcohol Forum also spoke at the committee. Mr. Eamon O'Kane is the man in charge of the forum which is trying hard to bring about the change in society about which several Senators spoke. Senator Catherine Noone mentioned the problem of drink driving. We have obviously done some good in persuading young people to become more interested in how their parents behave. They can be very good at telling their parents to stop smoking. We have done a lot in tackling the problem of smoking, although we have not won the battle. However, we really need to look at how we can address the issue among much younger children. Can we be brave and admit we must start this conversation much earlier? Clearly, 15 and 16 year olds are drinking. I know of others aged 12 and 13 years and if we do not engage with them until much later in the debate, the damage will have been done and the patterns set at a much younger age.

The North West Alcohol Forum is holding a major conference on the issue in November and specifically seeking to find ways by which it can engage with local leaders in voluntary and community groups, the Garda, the HSE, psychology services, public representatives and so on. There must be something to be said for that model which is different from banning or taxing in that it deals with the much wider challenge we face. As every speaker has noted, this is about Irish society which has always had a warped relationship with alcohol. Part of our responsibility is to try to change this by raising the issues to do with alcohol with children at an earlier age. That is a brave thing to say because it will be said we cannot talk to children about drink. However, if we do not talk to them about it, they will talk to each other. They know which drinks to mix, which plastic bag will hold alcohol without breaking and how to smuggle it into discos. They know what they are doing and are leaving us to one side because we are not part of the conversation with them. I urge the Minister of State to find a way to start such a conversation, perhaps in tandem with the Minister for Education and Skills.

Acting Chairman (Senator Marie Moloney): Senator Michael Mullins has only two minutes. Does he wish to avail of them now or would he prefer to wait until the next day?

Senator Michael Mullins: I will take them now.

I congratulate the Minister of State, welcome him to the Chamber and wish him well, as he has a major challenge on his hands. I am very pleased to hear he is to bring a set of proposals to the Government in the near future.

Many issues have been covered, notably the devastation caused by alcohol to health and in families through domestic violence and child abuse. There are a number of points the Minister of State may need to keep in mind when he submits the report. We must start to educate young people at a much earlier age, perhaps in primary school, on the harm caused by alcohol. I am old enough to remember the time when the primary schoolteacher really hammered into us the dangers of abusing alcohol.

There is the issue of the availability of cheap drink. The Minister of State should be brave and tax alcohol heavily. There is an opportunity for the Government to raise revenue and help in reducing consumption. The easy availability of alcohol was mentioned by many speakers. It should be difficult to purchase it in every large supermarket and off-licence premises. It should be sold in a segregate area within stores.

I have a major concern that was raised with me by a number of people. The large multiples are manipulating the VAT system in a way that leaves them in a position to sell alcohol cheaply. The Minister of State and the Department of Finance should look at the VAT returns of the large multiples. There is a major issue in this regard, about which many are concerned.

The advertising and marketing of alcohol-----

Acting Chairman (Senator Marie Moloney): I hate to interrupt the Senator, but I am obliged to call the Minister of State.

Senator Michael Mullins: I would appreciate being given a few extra minutes on a future occasion.

Acting Chairman (Senator Marie Moloney): Certainly.

Senator Michael Mullins: I just wanted to tell the Minister of State that the people, certainly their public representatives, are with him on this issue. We very much welcome the set of proposals he will bring to the Government. However, I urge him to look at the VAT system as it pertains to the sale of alcohol by the multiples.

Acting Chairman (Senator Marie Moloney): We have noted the Senator's name for the next debate.

Minister of State at the Department of Health (Deputy Alex White): This has been an excellent debate. It was very interesting to listen to the various views expressed and insights given by every speaker. The great value of a debate such as this lies in the numbers who come to listen and respond to others, which is always important in a debate.

The issue is not as clear-cut as we would like it to be, as serving politicians, as we observe the problem. I speak not only as a public representative but also as a parent who can see on a weekly, if not daily, basis what is happening in the country and the suburbs I know best. There has definitely been a change in the pattern of drinking, in how and where people drink and how often they do so. I agree with those who say we should rely to a large extent on evidence in

what we do as politicians, but particularly as a Government. We should look to see what the evidence is for the policy proposals we intend to bring forward because there is always a risk in a debate such as this that we can be drawn along not only by anecdotal evidence but also by the evidence of what we see and feel. We observe terrible things happening as a consequence of the use and misuse of alcohol, but we should only bring forward a proposal if we think it will have an impact. Sometimes that may be difficult for us to accept.

I have been considering this issue for a few weeks. Senator John Crown in a very striking intervention in the debate gave a list of the consequences if no alcohol was consumed in the country. He was being realistic, as he always is, and not carrying his point through to advocate a ban on alcohol. None of us believes that would be possible to achieve and many of us think it might not necessarily be desirable to have a ban on alcohol. There are many examples where it was banned, not only here but also elsewhere and there can be unintended consequences of such a policy approach. I do not make this point as an excuse for not doing as much we should. We should do the maximum we can achieve in this round of policy making, but we should also be realistic. We should be able to defend the policy proposals we bring forward and point to their likely impact. Neither do I believe we should see the set of proposals we will introduce and implement as being the end of the road but as an important part of what we want to achieve. It is not necessarily the first step. In fairness, this is not the first Government to address the issue. It is true that there were inadequacies in some of the policy responses in the past, something that was shown as much by experience as much as anything else. That may have been the case because of certain influences and vested interests in bringing to bear their viewpoints. On occasion, in some cases, their power was inordinate. We must contend with this fact. However, let us not see this set of proposals as the end of the road but as the next step, one which I hope will prove very robust in addressing the misuse and abuse of alcohol. I thank all of the Senators for their comments which were full of insight and experience. We had a very good debate.

One or two things have occurred to me following comments made by various colleagues. Senator Gilroy, and his sentiments have been echoed by others, talked about us looking to ourselves. He suggested that we should not take this as an opportunity to engage in finger wagging at young people and Senator Hayden made the same point. His comments are true. Every one of us must look at our own behaviour and conduct. Some people do not drink which is admirable but people make that choice for their own reasons. Most of us consume alcohol. Many of us are parents and we are concerned about what the next generation is doing. As Senator Gilroy has said, let us examine the pattern of our own behaviour and ask those questions to give us perspective but do not use it as an excuse for inaction.

Various Senators referred to the report by the Oireachtas Joint Committee on Health and Children. I have seen it but I have not had an opportunity to read it in great depth. I will consider it as part of deliberations that will take place in the coming weeks.

Other colleagues asked about proposals but I cannot indicate exactly when they will be brought forward. I see it in terms of weeks, not months. I hope that it will be a short period of weeks.

I know that we are tight for time so I cannot respond to each contribution individually. I shall make an attempt to do so on the next occasion that I close the debate.

Senator Barrett made a point about patterns and changes in alcohol consumption. Senator Crown, in his response, was right about the trajectory of the consumption pattern in the past few

years. He correctly pointed out that there was a huge increase in consumption. Senator Colm Burke stated some figures which were right. Recently there has been a small decrease for the precise reasons outlined by Senator Crown but that is not the end of the story. So what? The number has decreased a little but the issue still needs to be addressed. Even if it is not a question about the quantity of alcohol being consumed there is definitely an issue when it comes to the pattern, location, type and in what circumstances people drink.

A Senator made the point that it is hard to predict the impact and effects of concentrated alcohol products and there is a lot of education needed. Senator O’Keeffe touched on the need for responsibility when it comes to the marketing and packaging of such products. She wondered if people knew what they are buying and drinking.

Senator Barrett, as the good and insightful economist he is, asked for us to be careful not to make policy decisions that will favour a particular economic unit and interest in society. It is inevitable that some areas of society or interests will be favoured by a policy change but one does not make a policy change to favour them.

Let us take the point made by Senator Henry and others that wherever drink is found it is still harmful. A compelling argument was made for people to drink in a controlled environment. Without sounding overly nannyish, a case can be made for a controlled environment that allows people to gather together at a particular time. I hope that they look after one another afterwards and have an interest in how and where they are going and how they get home. There is a case to be made for policy instruments that favour that approach to drinking rather than the chaos that is often associated with drinking, particularly by young people.

Acting Chairman (Senator Marie Moloney): The Minister of State has one minute remaining.

Deputy Alex White: I agree with the point made by Senator Mary Ann O’Brien that there is a complete absence of labelling on alcohol products. Most products have some labelling but alcohol products do not carry health warnings or interventions. I shall give myself away slightly by saying the following. In order to read the alcohol content on a label that is on a bottle of wine I need more than a pair of glasses. The writing is so small that a microscope would be more appropriate. That makes it difficult to find out whether a product has a low alcohol content. At a minimum the level of alcohol should be prominently displayed. I agree with the Senator that the information on the label should be broader.

An enormous amount of issues have been raised by the Senators and there is much for me to reflect on. The information will be of assistance to me when I draft proposals and I look forward to returning for the second bout of the debate. I can assure the Senators that their comments shall make a large contribution to my deliberations, and that of the Government, on the issue.

Acting Chairman (Senator Marie Moloney): I thank the Minister of State. The House now stands adjourned until 2.30 p.m.

Sitting suspended at 1.45 p.m. and resumed at 2.30 p.m.

17 October 2012

Ombudsman (Amendment) Bill 2008: Committee Stage (Resumed) and Remaining Stages

SECTION 6

Amendment No. 17 not moved.

Government amendment No. 18:

In page 6, line 25, to delete “an exempt agency” and substitute the following:

“an exempt agency, or an action taken by or on behalf of a reviewable agency excluded from review under this Act”.

Amendment agreed to.

Government amendment No. 19:

In page 7, line 17, to delete paragraph (c) and substitute the following:

“(c) by substituting for subsections (9) and (10) the following:

“(9A) Without prejudice to section 6(7), the Minister may designate a committee of the Houses of the Oireachtas to receive periodic reports from the Ombudsman and make recommendations to the Ombudsman regarding the exercise of his or her functions under this Act.

(10) (a) The Minister, after consultation with the Ombudsman, the Ombudsman for Children and such committee of the Houses of the Oireachtas as he or she considers appropriate, and with the consent of such other Minister (if any) as appears to the Minister to have responsibility for that entity, and having regard to the public interest and the need to ensure a balance between—

(i) appropriate accountability and oversight of entities subject to this Act, and

(ii) the ability of those entities to conduct adequately their affairs, may by order declare an entity—

(I) to be an exempt agency (including an entity that immediately before the making of the order was a reviewable agency),

(II) specified in the Second Schedule to be a reviewable entity, or

(III) specified in Part II of the First Schedule to be a reviewable agency on the basis of different elements of that agency’s functions to those specified in that Part.

(b) An order made under paragraph (a) may specify the inclusion or exclusion of elements of an entity.

(c) Where an order is proposed to be made under paragraph (a), a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

(d) The Minister shall consult such committee of the Houses of the Oireachtas as he

or she considers appropriate prior to taking any action under paragraph (c).

(11) Where a dispute arises between an entity and the Ombudsman as to whether an entity is a reviewable agency, the question shall be submitted to the Minister whose determination shall be binding.””.

An Cathaoirleach: This is a substituted amendment for the original amendment No. 19, which was discussed with amendment No. 13. I invite the Minister to discuss the substituted amendment.

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): I have made a small change to the amendment we discussed on 4 October. While the whole text of amendment No. 19 has been substituted, the only change made in the new amendment No. 19 concerns the new subsection (11). I will explain the amendment in full. There are three parts to the amendment, the first of which provides for regular reporting between the Ombudsman and Oireachtas, with the relevant committee being the Joint Committee on Public Service Oversight and Petitions. It is envisaged that the joint committee will be a formal channel of consultation and collaboration between the Oireachtas and Ombudsman for receiving and debating her annual reports and special reports to ensure her criticisms, observations and recommendations are acted on speedily. It is also envisaged that the committee may propose possible topics for the Ombudsman to examine in future, consistent with her statutory remit.

The second part of the amendment provides for the retention, in amendment form, of the power to make a ministerial order to make a public entity, including a reviewable agency, exempt in whole or in part. It provides a new power to make, by ministerial order, an exempt public entity reviewable and, where a public entity is reviewable in part, the power to amend those elements of the entity that are reviewable. A positive resolution of both Houses of the Oireachtas approving the draft orders will be required for the order to be made. The amendment also provides for consultation with the Ombudsman, Ombudsman for Children and Oireachtas committee as well as the consent of the relevant Minister and a positive resolution of both Houses of the Oireachtas in respect of such orders.

In considering whether to exclude or include a public entity within the Ombudsman’s remit, which was a matter for considerable debate when I last appeared in the House, the amendment provides that regard will be taken of the public interest, the need to ensure a balance between appropriate accountability and oversight and the need for an entity to conduct its affairs.

The third part provides that, in the event of a dispute arising between the Ombudsman and any particular entity as to the factual position of whether the entity is reviewable in terms of coming under the generic definition of public bodies and, therefore, within the scope of the Ombudsman’s remit, the question should be put to the Minister whose decision shall be binding.

Senator Trevor Ó Clochartaigh: Sinn Féin broadly welcomes the amendment. As a member of the Joint Committee on Public Service Oversight and Petitions, I had the good fortune to be present for meetings with the Ombudsman. It is important to have clarification on the role of the joint committee. My party welcomes the establishment of the committee. I had hoped the amendment would go a little further by providing that the Minister “shall” rather than “may” designate a committee. Notwithstanding this, I appreciate the general tone of the amendment and my party will work with the Minister on this issue. The role of the joint committee will be vital in giving credibility to the Houses of the Oireachtas in its dealings with matters of this

nature. I will raise a number of other related issues later.

Senator Thomas Byrne: While I do not object to the amendment, I am concerned about the power to designate a committee of the Houses. The legislation should provide that the Oireachtas shall engage in a specific activity rather than allowing a Minister based in Merrion Street to retain the power to tell the Oireachtas what it should do. This goes against the grain of the stated intentions of the Government, as set out in programme for Government. It would be preferable if the relevant committee were provided for in statute and the Minister was not given powers of discretion in this matter.

Senator Sean D. Barrett: As with Senator Ó Clochartaigh, I welcome the tenor of the Minister's remarks. We are all on the same side and agree that more scrutiny, checks, balances and reform of governance are required. This is the reason we have been elected to the Oireachtas and I wish the Minister well in that regard.

Deputy Brendan Howlin: I thank Senators for their contributions. I was keen to ensure the establishment of the Joint Committee on Public Service Oversight and Petitions. During the negotiations on the programme for Government, it was my view that the committee should have much greater powers than is currently the case and would, if one likes, act as a clearing house for formal Oireachtas inquiries. Unfortunately, the people hesitated in giving this power to the Oireachtas and we must accept their decision in that regard.

I commend the joint committee on undertaking a careful examination of what it could do effectively. A petitions committee of these Houses, analogous to the committee of petitions of the European Parliament, will give citizens a direct input into policymaking.

I fully appreciate the comments made by Senator Ó Clochartaigh on the role of the Ombudsman. In the previous Oireachtas, there was a public dispute about the action taken by the previous Administration on foot of the Ombudsman's report. We need to ensure there is a clear vehicle to deal with recommendations from the Ombudsman. The new Joint Committee on Public Service Oversight and Petitions will assume this role.

I understand the Ombudsman, Ms Emily O'Reilly, came before the committee last week and engaged in a good exchange with members. I look forward to the development of this role not only in respect of the Ombudsman but also the other ombudsmen, including the Ombudsman for Children. This legislation will also broaden the scope of the Ombudsman for Children legislation on foot of a request from the Ombudsman for Children and Minister for Children and Youth Affairs. That is on foot of a request both from the Ombudsman for Children and from the Minister for children, but we will deal with those amendments when we get them. I thank the Senator for his support.

Senator Tom Sheahan: As the Minister brought up this subject, we are giving more powers to the Ombudsman's office yet the Ombudsman's decisions or recommendations are neither binding nor legally enforceable. Would the Minister consider that recommendations and findings by the Ombudsman's office should be binding? I refer to the point he raised in the previous Administration in 2009 about the lost at sea scheme. On that scheme the Ombudsman stated:

I have also found that the design of the Scheme and the manner in which it was advertised was contrary to fair and sound administration. Based on my analysis of all the evidence available to me I am satisfied that these shortcomings were factors in the Byrne family not qualifying for assistance under the Scheme and that they should be granted a remedy

for the adverse affect they have suffered as a result of these shortcomings in the Scheme.

I was a member of the committee that investigated this and we went through the Ombudsman's report. The Ombudsman's findings-----

An Cathaoirleach: We are not dealing with the role of the Ombudsman.

Senator Tom Sheahan: I ask the Cathaoirleach to bear with me because it was the Minister who made reference to it. The Ombudsman's findings came back before the House but the previous Government, in protecting one of its own, voted down the Ombudsman's recommendation.

An Cathaoirleach: We are not dealing with that report.

Senator Tom Sheahan: Why are we giving more power to the Ombudsman when her recommendations can be thrown out with the bath water, so to speak, and not taken on board when they come before these Houses? In 1984, John Boland, who was then Minister for the Public Service, said that he would not provide legislation for the Ombudsman's recommendations to be legally binding or legally enforceable because he found it unthinkable that a public body or any Department would not accept the Ombudsman's recommendations.

An Cathaoirleach: The Senator is straying from the amendment.

Senator Tom Sheahan: Would the Minister consider reopening the lost at sea scheme?

An Cathaoirleach: I call Senator Conway and ask him to speak to the amendment.

Senator Martin Conway: I welcome the amendment. It is a sound amendment and the role of the committee is being formally recognised.

On the point my colleague, Senator Sheahan, raised, we have come a long way in terms of this legislation and the number of bodies that will now be recognised by the Ombudsman. When I spoke here previously on this issue I said that the State Examinations Commission will now be governed by the Ombudsman, which will make a huge difference to people in terms of decisions that are made by the State examinations body. At least they will have the remedy of the Ombudsman.

Senator Sheahan has a fair point and if it is not possible to do what he suggests in this legislation, when we review the success of this Bill we might examine creating a situation where decisions of the Ombudsman are binding.

Deputy Brendan Howlin: I thank Senators for the contributions. On the suggestion that recommendations of the Ombudsman should have statutory effect and should be binding, that is something the Department has discussed with the Ombudsman and it is her view that they should not be. There is an excellent record of compliance with the Ombudsman's recommendations. I understand that since the Ombudsman's office was established, refusals by public bodies to implement recommendations have been a very rare exception. A decision of a public body to reject a recommendation has happened only twice, believe it or not, since the Ombudsman's office was established and those refusals are reported to the Oireachtas in the annual report.

The reasoning behind the view I have taken and the view that is supported by the Ombuds-

17 October 2012

man is that currently public bodies engage with the Ombudsman's office in an open and transparent way. If her recommendations had legal impact immediately the view is that they would be much more defensive in the way they deal with her office and would be much more likely to resort to litigation in defence of a position. Since it is almost inevitable that her recommendations are acted upon it was not felt necessary or appropriate that they would have mandatory effect.

We have completely reorganised the way the Ombudsman's reports will be dealt with. If there were only two refusals to carry out her recommendations since the office was established there is a likelihood that there will be even fewer exceptions in the future because there would be the full scrutiny of an Oireachtas committee as a matter of course, and the power of the Oireachtas to haul the entity in question before it to give an account of itself would be powerful.

On the specific issue the Senator referenced, the lost at sea case, I did make passing reference to it. I am on public record regarding my view on that matter but I do not propose to rake over that particular coal today.

Amendment agreed to.

Question proposed: "That section 6, as amended, be agreed to."

Senator Trevor Ó Clochartaigh: On the section, they tell us a week is a long time in politics and that is certainly the case because it is nearly a week since we were here discussing some of the amendments on this section. New information has come to light in the past week. The Minister alluded to meeting the Ombudsman at the Joint Committee on Public Service Oversight and Petitions, which was excellent, at which she was very clear in her view. To paraphrase her, she said that this Bill is a long time coming and that she very much welcomes it, as we would. She said it was 25 years in the offing. There was a sense of exasperation, to put it mildly, on her behalf.

I again raised the issue, and the Ombudsman had raised it, of the exemptions being included in this Bill which relate to the Irish Prison Service, the Reception and Integration Agency, RIA, the Irish Naturalisation and Immigration Service, INIS, and any agencies under the Department of Justice and Equality. My understanding from listening to the Ombudsman is that she is still very much of the opinion she held in 2008 when this Bill lapsed, namely, that those agencies should be included in this legislation and that they should be under her remit. She had grave concerns about some of the issues relating to those agencies that have come to light over the years but she does not want this Bill delayed in the future. She wants it to be enacted as quickly as possible and she believes that if she were to push for those agencies to be included at this stage it might delay it further. My understanding is that she will try to take what she can get at this stage and go back to the drawing board on those other issues. She was very clear, however, that she wants to keep that on the agenda and that she wants them included. That is important. I believe the Minister would like to have those agencies included also. I know from statements he has made previously that he would wish to have them included.

A week is a long time in politics and that was outlined this morning with the publication of the report on St. Patrick's Institution. It is important to relate to the Minister some of the points made this morning on the Order of Business. Senator after Senator rose to their feet this morning-----

An Cathaoirleach: There is no need for us to repeat what was said on the Order of Busi-

ness.

Senator Trevor Ó Clochartaigh: It is relevant to this debate. On prison conditions, Senator Bacik said that based on the prisons report, which relates to the powers of the Ombudsman which are being exempted under this section, we have been aware of these issues for a long time. Senator Leyden expressed his concern also. Senator Hayden said that she felt there was collusion in the Department of Justice and Equality. Concern was expressed by Senators Keane, Mullen, Paul Coghlan, Wilson and Michael Mullins who-----

An Cathaoirleach: The Senator should speak to the section.

Senator Trevor Ó Clochartaigh: This is relevant because it relates to the powers of one of the agencies we spoke about in the section. Senator Michael Mullins referred to the culture of indifference in the Department of Justice and Equality, as mentioned by Emily Logan, the Ombudsman for Children. Senator Jim D'Arcy referred to the mention of institutionalised abuse-----

An Cathaoirleach: Those statements are on the record of the House. There is no need for the Senator to repeat them.

Senator Trevor Ó Clochartaigh: The Minister was not present when this was discussed this morning.

An Cathaoirleach: I am sure his officials will bring it to his attention.

Senator Trevor Ó Clochartaigh: In addition to Senators Bradford and van Turnhout, Senator Conway, who is present, also stated he supported the proposals and that this was a sad and sorry situation. Senators Healy Eames, O'Keeffe, Colm Burke and Ó Murchú also spoke. That is a cross-section of all Members, which shows there was serious concern regarding this agency and system under the present system. What came across strongly was there was a grave sense of a lack of trust, there was a sense of collusion with the Department of Justice and Equality, that there appeared to be a sense of cover-up and that were it not for the work of Judge Michael Reilly, who took great steps to go above and beyond the call of duty to enter this institution and to check it by day and by night and to call in unannounced, etc.,-----

An Cathaoirleach: We cannot have a Second Stage speech on Committee Stage.

Senator Trevor Ó Clochartaigh: This is what I have been calling for. This matter came to light this morning since Members discussed the amendments I tabled. It is relevant and I believe the Minister will accept that. This gives greater credence to the argument that these agencies and any other agency under the remit of the Department of Justice and Equality also should be included. It should not be exempted from this legislation, as is envisaged in this section. Members must review that amendment, as this Bill would be totally flawed, were such an exemption to be included. It would be blatant hypocrisy for such agencies to be left out and were Government Senators to vote to have them excluded, having jumped up and down this morning while expressing their concern about this issue in the Prison Service. There is a serious issue in this regard.

I mentioned the Irish Refugee Council report and there have been other reports on the prison services. I again call on the Minister as even the Leader of the House, Senator Cummins, stated what went on was absolutely shocking----

An Cathaoirleach: The question is whether this Senator agrees or not with this section, as amended.

Senator Trevor Ó Clochartaigh: ----- and referred to the culture of bullying among a minority of staff. I again call on the Minister to re-address this issue. I believe the Minister wants to have these institutions included and that the Department of Justice and Equality has been applying pressure to keep them off the list and to have them exempted. What do these institutions have to hide? If they have nothing to hide, they should have no fears about being on the list. This was quite obvious from the comments of the Ombudsman when she spoke to the Joint Committee on Public Service Oversight and Petitions last Wednesday. She stated she is not investigating anyone but is looking at whether investigations have been completed properly and is reviewing all the information that has been put forward to make sure that everyone has had a fair crack of the whip and that it has been done properly. Consequently, I again call on the Minister. I believe he is on the same wavelength as me but his hands might have been tied. While I believe the pressure has come from the Department of Justice and Equality, he must stand up to it and do the right thing on this issue.

Deputy Brendan Howlin: As is my normal style, I will address the issue directly. First, the Senator puts the position of the Ombudsman very fairly. We have had dialogue and in our discussions and communications, she would prefer to have every public body under her remit. This is groundbreaking legislation and the Ombudsman is very supportive of it and wants it to be enacted. It encompasses a huge swathe of new authorities and agencies that would come within her remit. It will be highly demanding for her and for her staff and as the Senator is aware, rationalisations are also being made in respect of back-office support in the Office of the Ombudsman by agreement with her. This is important legislation that goes a long way. Consequently, the net issue is whether the Prison Service should be part of the Ombudsman's remit. We debated that issue fairly last week. I would need to hear a compelling reason to exclude anyone from it and for that reason, my Department has been in dialogue with the Department of Justice and Equality, as well as every other line Departments in respect of each agency that either has been brought in or excluded and I note there are very few exclusions. On the last occasion, I explained the reason the Prison Service and the prisons are excluded and I will do so again briefly. However, I also wish to mention the report because I am as shocked as I believe was everyone else regarding the report on St. Patrick's Institution. It is quite shocking but is a testament to the effectiveness of the prisons inspectorate.

Senator Thomas Byrne: He is a good man.

Deputy Brendan Howlin: Judge Reilly is a superb inspector. His perseverance ensured that this report was made and that these shocking wrongdoings were brought into the public light of day. As I explained, the Minister for Justice and Equality intends having a much more robust inspectorate system. As I also listened to "Morning Ireland" with shock this morning, I rang him immediately to discuss this particular matter. As the Senator is aware, the Minister has extended the remit of the Ombudsman for Children to include St. Patrick's Institution in respect of children. That is one of the steps he took last July. Consequently, in respect of children, the Ombudsman for Children is capable of and does review St Patrick's Institution.

The logical question then is why the prisons in general would not come under the remit of the State Ombudsman and it is a fair question to ask. As I explained on the last occasion, the Minister for Justice and Equality has asked that he be allowed to put in place a robust complaints system by way of statute and he is working on that legislation, which will be brought

before this House before too long. Not only will it require detailed reports but I note some of the visiting committee reports have been suppressed in the past and never saw the light of day. This no longer will be allowable under the new legislation, nor will it be possible to bury the full reports of the Inspector of Prisons and Places of Detention. The Minister intends that such reports will be brought to the Houses of the Oireachtas at the latest three months after they are submitted to the Minister for Justice and Equality. Obviously, they must go to the Government and so on before that but at a maximum, three months after their submission. That will be a robust mechanism.

No one would deny the current prisons inspectorate, that is, Judge Michael Reilly, is anything but an excellent Inspector of Prisons and Places of Detention. However, as I indicated on the last occasion, notwithstanding having a robust complaints mechanism, if it is felt that it ultimately proves to be insufficiently robust, I have stated it would be a matter for the joint committee of which Senator Ó Clochartaigh is a member to make recommendations. Notwithstanding this mechanism, it can bring in and examine the Prison Service and if the aforementioned joint committee makes recommendations to that effect, I would be very minded to accept any such recommendations. This is what I am saying to the Senator now.

As for doing this immediately, one job I have is to avoid duplication. For example, a state of affairs in which someone like Judge Reilly is investigating a complaint, calling in the prison staff and demanding the paperwork and access to the data, while at the same time, the Ombudsman is conducting an inquiry into the very same matter, gathering the same documentation, interviewing the same people, is a duplication and a potential clash. Consequently, we must bed down an effective system first and then ascertain whether another layer must be added on top of that. However, my honest belief is that the system that is envisaged, as I understand it from the Minister for Justice and Equality, will prove to be highly robust. I hope the Senator will accept my bona fides in this regard.

Senator Trevor Ó Clochartaigh: I accept the Minister's bona fides and that he is doing his utmost on this issue. However, I also note that the United Nations committee against torture has recommended that an independent and effective complaints body, such as a prison ombudsman, should be established.

Deputy Brendan Howlin: There will be.

Senator Trevor Ó Clochartaigh: Moreover, the Irish Penal Reform Trust also believes that an independent prison ombudsman should be established.

Deputy Brendan Howlin: Does the Senator not consider Judge Reilly to be independent?

Senator Trevor Ó Clochartaigh: I do but my point is that what has come across from the report and what was stated clearly this morning was a sense that there might be a culture of collusion within the Department of Justice and Equality on these issues. The report stated that 28 complaints were made by prisoners over the course of a year, of which 13 related to alleged assaults by prison officers. The investigations carried out-----

An Cathaoirleach: Senator, we are not discussing the report today.

Senator Trevor Ó Clochartaigh: ----- by the prison authorities were flawed, incomplete and could not be said to concur with best practice.

An Cathaoirleach: Senator, we are on section 6. We are not discussing the inspector's report.

Senator Trevor Ó Clochartaigh: I am speaking directly to the section. I am discussing the proposed organisation that will be carrying out a review of the prison system and the inspector's report is telling Members there is a sense there could be a culture of collusion within the Department of Justice and Equality. Consequently, even if this system has been set up under the Department of Justice and Equality, my point is the independent viewpoint of the likes of the Ombudsman is needed as the last bastion of transparency and to ensure that people get their rights. It is important to note the report stated:

In a significant number of cases, having made a complaint, prisoners then signed a form stating that they did not wish to proceed further with the complaint. I am satisfied from my investigations that threats are made to prisoners and inducements are offered in order that they would not make complaints in the first instance or, if having made them, in order that such complaints would be withdrawn.

3 o'clock

I am satisfied from my investigations that threats are made to prisoners and that inducements are offered in order that they would not make complaints in the first instance or, having made complaints, in order that such complaints would be withdrawn. If that has occurred in St. Patrick's Institution, can we be certain that is not happening in other institutions? I am arguing vehemently because I agree that the creation of an independent prisons complaints service would be a good and positive move to deal with day-to-day issues, as the Minister noted last week. However, there may be cases in which people are not happy with the redress they receive through that service. This is the type of role the Ombudsman plays in our broader society. I do not understand how it could be a duplication because the Ombudsman would only review the process gone through by the service. It would represent another stop-gap to ensure transparency and fair play and to ensure everyone gets their rights. I hold strong views on this issue. If the Ombudsman were given the choice, she would have these agencies included in the legislation and it is remiss of us not to include them at this stage. I have referred to the prisons but it applies to direct provision scenarios as well. I have said it before but I will say it again, a State scandal is happening on our watch and we must do something about it.

Deputy Brendan Howlin: The Senator is obviously passionate but he is undermining his own case. He is quoting from the inspector's report which highlights the things he claims are being suppressed. The report and the actions of the Office of the inspector of prisons have ventilated the problems. The system is working. It will be strengthened and it will be put on a structured, statutory basis with timelines such that nothing can be suppressed.

We have a different Minister for Justice and Equality now who has acted by empowering the Ombudsman for Children in respect of St. Patrick's Institution. The Minister has promised reforming legislation in both the areas to which Senator Ó Clochartaigh has referred. I call on him to take on his role as a member of the oversight committee, examine the legislation, including the immigration and naturalisation Bill and the prisons oversight Bill when they come before the Houses. Ultimately if that legislation is not robust enough we will address the matter again. I am not keen on a situation in which by popular acceptance, the office of the inspector of prisons could investigate complaints when there is another body empowered to do the same business. The Garda Síochána Ombudsman Commission and the Ombudsman do not carry out

the same job. We do not have two people carrying out the same set of investigations at the same time. That is the logic of the argument put to me and it is compelling. We should let the office of the inspector of prisons which is manifestly effective, do the job, rearmed and reinvigorated by more forceful legislation. I have already said that if that does not prove to be effective we will return to it.

Senator Trevor Ó Clochartaigh: The Minister referred to the immigration and naturalisation Bill. We do not know when that will come before the Houses. It has been kicked to touch in recent years. My issue is that we could put this in place for people in refugee and asylum-seeking scenarios. If we must wait for that Bill to come through, how many people will have suffered injustices by the time it is enacted? If we put this in place now these people would have access to a redress system to which they do not have access at the moment. Their voices are not being heard. The Irish Refugee Council report claims there may be situations of child abuse occurring on our watch. I would prefer to err on the side of caution and at least include this form of redress such that the people in that situation have a voice. The Prison Service is one thing but the refugee and naturalisation service is altogether different. We do not know how long the legislation will take. It is years behind the expected enactment and I do not see it on the books for us to discuss in the near future. I am afraid that it will get kicked to touch for another year or so. How many abuses will have occurred in the intervening one and a half or two years? These people are not being given an opportunity for redress.

An Cathaoirleach: We cannot have Second Stage speeches now.

Senator Trevor Ó Clochartaigh: I am not making a Second Stage speech. The Minister mentioned that Bill and it is relevant to what we are discussing. That agency deals with-----

An Cathaoirleach: We have been on this section for more than one hour.

Senator Trevor Ó Clochartaigh: It is a justifiable debate because of the changes that have taken place in one week. A report came out yesterday which has had a profound impact on the opinions of people. It took over the Order of Business this morning. People were incensed by it and rightly so.

Deputy Brendan Howlin: That particular prison is under the purview of the appropriate ombudsman, the Ombudsman for Children. That is not affected in any way by what Senator Ó Clochartaigh is proposing.

Senator Trevor Ó Clochartaigh: It is of course and the Minister knows it. In a sense this is semantics. The Minister is aware that I am referring to the culture of collusion. This was mentioned. People do not have much belief in the Department of Justice and Equality.

An Cathaoirleach: You have made this case about three or four times. You are repeating yourself.

Senator Trevor Ó Clochartaigh: I have and we will be opposing the section. It is a cop out by the Government, which is pandering to the Minister for Justice and Equality.

An Cathaoirleach: Is section 6, as amended, agreed to?

Senator Trevor Ó Clochartaigh: It is not agreed.

Senator Martin Conway: On a point of order, Senator Ó Clochartaigh mentioned my

17 October 2012

name and I want to clarify exactly what I said on the Order of Business. I asked for-----

An Cathaoirleach: Senator, that is not a point of order.

Senator Martin Conway: I called for a full judicial inquiry this morning about what has happened in St. Patrick's Institution.

An Cathaoirleach: The record of the House will speak for itself. That is not a point of order.

Senator Martin Conway: I wish to clarify it in the presence of the Minister, who was not here.

Question put:

The Committee divided: Tá, 31; Níl, 8.	
Tá	Níl
Bradford, Paul.	Barrett, Sean D.
Brennan, Terry.	Crown, John.
Burke, Colm.	Cullinane, David.
Clune, Deirdre.	Mullen, Rónán.
Coghlan, Eamonn.	Norris, David.
Coghlan, Paul.	Ó Clochartaigh, Trevor.
Comiskey, Michael.	Reilly, Kathryn.
Conway, Martin.	van Turnhout, Jillian.
Cummins, Maurice.	
D'Arcy, Jim.	
D'Arcy, Michael.	
Gilroy, John.	
Harte, Jimmy.	
Hayden, Aideen.	
Healy Eames, Fidelma.	
Heffernan, James.	
Henry, Imelda.	
Keane, Cáit.	
Kelly, John.	
Landy, Denis.	
Moloney, Marie.	
Moran, Mary.	
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
O'Donnell, Marie-Louise.	
O'Keeffe, Susan.	
O'Neill, Pat.	
Quinn, Feargal.	

Sheahan, Tom.	
Whelan, John.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators David Cullinane and Trevor Ó Clochartaigh.

Question declared carried.

Section 7 agreed to.

SECTION 8

An Cathaoirleach: Amendment No. 20 is a Government amendment which has also been tabled by the Sinn Féin Senators. It has already been discussed with amendment No. 2.

Government amendment No. 20:

In page 8, to delete lines 44 to 49 and in page 9, to delete lines 1 to 5.

Amendment agreed to.

An Cathaoirleach: Amendments Nos. 20*a*, 21*a*, 21*b* and 21*c* are related and may be discussed together, by agreement.

Government amendment No. 20*a*:

In page 9, line 6, to delete “(e)” and substitute “(d)”.

Deputy Brendan Howlin: These are technical amendments which simply update the lettering on a number of paragraphs, as amended, so that (e) becomes (d), (g) becomes (f), (h) becomes (g) and (e) becomes (d).

Amendment agreed to.

Government amendment No. 21:

In page 9, to delete lines 16 to 18 and substitute the following:

“(e) if the action was taken before the date on which the reviewable agency concerned first became subject to review under this Act, or was taken on a date on which the reviewable agency concerned was otherwise not subject to review under this Act,”.

Deputy Brendan Howlin: I am substituting amendment No. 21, as submitted to Committee Stage on 4 October, to make a technical amendment to update the lettering of paragraphs (f) and (e) in the amended section 5 of the principal Act. The paragraph itself is a technical amendment which provides that the Ombudsman shall not investigate an action taken before the date on which a public body became subject to the Ombudsman’s remit or taken on a date on which the public body concerned was otherwise not subject to review. It is simply ensuring that we

cannot go backwards from the date that it is commenced.

Amendment agreed to.

Government amendment No. 21*a*:

In page 9, line 19, to delete “(g)” and substitute “(f)”.

Amendment agreed to.

Government amendment No. 21*b*:

In page 9, line 21, to delete “(h)” and substitute “(g)”.

Amendment agreed to.

Government amendment No. 21*c*:

In page 9, line 36, to delete “(e)” and substitute “(d)”.

Amendment agreed to.

Section 8, as amended, agreed to.

SECTION 9

Question proposed: “That section 9 stand part of the Bill.”

Senator Thomas Byrne: Perhaps this was already discussed, but I was not here during the last debate. Regarding section 9, the Labour Party put forward an amendment in the Dáil when Fianna Fáil was in government in 2010. That amendment proposed the introduction of a new subsection 3A, stating that, “A reviewable agency shall comply with a recommendation of the Ombudsman”. There has been a change in Labour Party policy since the last Oireachtas and I am merely highlighting this fact. I have not put forward amendments to this Bill because it was steered through the Dáil by a Fianna Fáil Minister in the last Oireachtas. We were blamed last week for the Valuation Bill that was only in preparation when we were in government and which none of us knew anything about. However, many of us were here when this Bill was passed in the Dáil originally. The Labour Party had a position then which seems to have changed now. It is worth highlighting that and pointing it out. It begs the question as to why items are put forward that have no reality to them.

Deputy Brendan Howlin: I try not to wear partisan political hats when I come before this House as a member of the Government but we already had the debate on this very net point today. I do not know whether the Senator was present an hour ago and that is ---

Senator Thomas Byrne: I am making the point on the section, where the Labour Party proposed ---

Deputy Brendan Howlin: I explained exactly the view in relation to that, which was that we looked at the idea of having the Ombudsman’s recommendations made mandatory but when we engaged on that basis, before I brought this Bill to the House, the Ombudsman’s view was that it should not be done. I have explained that to the House. The view put forward was that there have been only two occasions, since the inception of the Ombudsman, where its recommendations were not implemented and that the office would have much more passive co-oper-

ation if there was not a statutory requirement to implement its recommendations. There is, of course, a huge moral suasion to implement recommendations and that is underscored by the fact that it was done in all but two cases. One of those cases was the notorious one we talked about where the last Administration determined not to do it. However, in virtually every case, the Ombudsman's recommendations are regarded as mandatory. We rehearsed the view that they should be made mandatory with the Ombudsman, debated it and I am now giving the House the reasons we are not doing it.

Question put and agreed to.

Sections 10 and 11 agreed to.

SECTION 12

An Cathaoirleach: Amendments Nos. 22 and 23 are related and may be discussed together, by agreement.

Government amendment No. 22:

In page 11, line 42, to delete "8A.—(1)" and substitute "8A.—".

Deputy Brendan Howlin: Issues of legal interpretation may arise from time to time in an investigation carried out by the Ombudsman. This section will allow the Ombudsman to refer a question of law arising in an investigation to the High Court for determination. The amendment provides that any such determination of the High Court is subject to the normal avenues of appeal to the Supreme Court, in line with Article 34 of the Constitution.

Amendment agreed to.

Government amendment No. 23:

In page 12, to delete lines 1 and 2.

Amendment agreed to.

Section 12, as amended, agreed to.

Section 13 agreed to.

NEW SECTION

Senator Trevor Ó Clochartaigh: I move amendment No. 24:

In page 12, before section 14, to insert the following new section:

14.—Section 10 of the Principal Act is amended—

(a) by substituting the following for subsection (1)(a):

(1) (a) The Ombudsman may appoint such and so many persons to be members of the staff of the Office (an adequate number of whom should be competent in the Irish language so as to provide service through Irish as well as English) as it may determine with the consent of the Minister and the Minister for Finance,

and

(b) by the deletion of subsection (4).”.

Bhímid ag iarraidh an fhoráil chéanna a chur chun maidir leis an Bhille sin agus dúirt sé liom labhairt leis nuair a bheadh sé istigh mar go mbeadh Bille eile á thabhairt aige a bhaineann le rialú na dTithe anseo agus bheadh an fhoráil chéanna á cur chun cinn ann. I bprionsabal táimid ag rá an rud céanna anseo ó thaobh Thithe an Oireachtais mar tá sé fíor-thábhachtach go mbeadh daoine anseo ag feidhmiú trí mheán na Gaeilge. Tá conspóid cruthaithe ag an Aire Stáit mar tháinig an Coimisinéir Teanga os comhair an choiste PSOP le fianaise a thabhairt faoina chuid tuairiscí bliantúla. Bhí cás ansin maidir leis an Roinn Coimirce Sóisialaí, nach raibh an Roinn ag cloí le rialachán agus luaigh an tAire Stáit dreamanna nach raibh ag cloí le rialachán de chuid an Ombudsman. Níor chloígh an Roinn Coimirce Sóisialaigh le rialachán a rinne an Coimisinéir Teanga agus níor chloígh sí ar threoir ó Roinn Caiteachas Poiblí agus Athchóirithe faoi dhaoine a earcú a raibh an Ghaeilge ar a dtail acu. An freagra a tháinig ar ais ón Roinn Coimirce Sóisialaigh ná nach bhfuil siad chun sin a dhéanamh mar go bhfuil siad ag leanacht ón Aire féin. Sin an fáth go bhfuil sé seo níos tábhachtaí ná riamh. Tá súil agam go dtabharfaidh an Aire aghaidh ar an cheist eile, maidir leis an earcaíocht agus an cás a thug an Coimisinéir Teanga. Mar an Aire a bhfuil freagracht aige do na ombudsmen, ba cheart go mbeadh sé le feiceáil go bhfuil sé ag tacú leis na moltaí atá á dhéanamh ag na ombudsmen éagsúla. Ní cheart go mbeadh treoir ar bith atá a Roinn a thabhairt ag teacht salach ar moltaí atá déanta ag leithéidí an Coimisinéir Teanga nó aon ombudsman eile.

Mar sin, táimid ag iarraidh an foráil seo a chur chun cinn. Ní dóigh liom go ndéanfaidh sé aon difríocht. I ndáiríre, táimid ag caint faoi daoine nua a bheadh ag teacht isteach sa tseirbhís. Ní bheadh aon chostas breise ag baint le sin. Nuair atá próiseas earcaíochta ar bun, táimid ag iarraidh go ndéanfar cinnte go bhfuil daoine á thógáil ar bord sna Ranna Stáit, agus go háirithe sa gcás seo, in Oifig an Ombudsman, atá ábalta a gcuid gnóthaí a dhéanamh trí mheán na Gaeilge. Thabharfaidh sin tacaíocht do phobal na Gaeilge agus cuirfeadh sé comhartha dearfach chomh maith ón Rialtas seo go bhfuil sé dáiríre maidir leis an straitéis 20 bliain. Cuideodh sé freisin leis an Bille seo. Thaispeánfaidh sé freisin go bhfuil an ombudsman féin dáiríre faoin Ghaeilge agus faoi seirbhís iomlán Gaeilge a chur ar fáil do na saoránaigh sin atá ag iarraidh sin. Sin an bunús atá leis an leasú atá muid ag cur chun cinn agus bheinn bhuíoch don Aire as é a thógáil ar bord.

Deputy Brendan Howlin: Tá a fhios agam go maith céard a dúirt mo chara, an iar Aire Gaeltachta, Michael D. Higgins, anois Uachtarán na hÉireann. Tá a fhios agam go maith freisin céard atá ar intinn ag an Seanadóir ó thaobh na Gaeilge agus muintir na Gaeltachta de. Tá stádas ag an teanga agus an Ghaeilge agus tá meas mór ag an Rialtas ar an Ghaeilge. Tá sin soiléir ón méid adúirt an Aire Stáit, an Teachta McGinley, sa Teach seo an tseachtain seo caite.

In respect of the amendment proposed by the Senator, the Office of the Ombudsman is subject to the Official Languages Act 2003 which imposes a binding duty on all public bodies to enable people to communicate with agents of the State in either Gaeilge nó Béarla. It also requires public bodies to publish certain core documents simultaneously in Irish and English, including annual reports, financial statements and statements of strategy. The Office of the Ombudsman and the Office of the Information Commissioner have jointly prepared a scheme under section 11 of the Act relating to their commitments to provide additional Irish language services. I do not know whether the Senator has had an opportunity to peruse the scheme. In these circumstances, the imposition of a specific statutory requirement under this Bill in respect

of competency in the Irish language could have the unintended consequence of restricting the ability of the Office of the Ombudsman to ensure it is resourced sufficiently to effectively discharge its important functions. We must disaggregate the two issues, sé sin staid agus meas ar mhuintir na Gaeltachta agus muintir na hÉireann i gcoitinne atá in ann an teanga Gaeilge a úsáid and at the same time ensure we do not place impositions on the Ombudsman that would restrict her in carrying out her duties effectively. We have discussed this issue and believe the strategy devised under section 11 of the 2003 Act meets the requirements set out in the amendment without impeding the proper functioning of the office.

Senator Trevor Ó Clochartaigh: With all due respect to the Minister, I do not buy his argument. One of the main issues identified in the reports of An Coimisinéir Teanga for several years is the failure of agencies and State bodies to fulfil their responsibilities under the Official Languages Act. The opt-out clause used most often is the one which concerns insufficient staff or capacity to comply with the Act. My amendment would close that loophole in the case of the Office of the Ombudsman. The Minister will be aware that when certain parts of the scheme developed by Ard-Mhúsaem na hÉireann were not in compliance with the Act, it offered the excuse that it did not have sufficient staff. In times of economic restraint this is becoming a common mantra for various agencies and Departments. They would love to do it and travel to the Gaeltacht when they can, but, unfortunately, they do not have the staff required when it comes to the Irish language. However, the State has a responsibility in this matter. I referred to another case involving the Department of Social Protection. Apparently, that Department does not need to observe the Official Languages Act when recruiting because the Department of Public Expenditure and Reform has issued guidelines which differ from those relating to the Act. This undermines the Act and I am sure An Coimisinéir Teanga has brought the matter to the Minister's attention.

President Michael D. Higgins was visionary in ensuring the Act would apply to most of our cultural institutions. The predisposition of the Ombudsman to provide a good service as Gaeilge is important because the basic aim of the Act is to cover publications, letter headings, signage and similar matters. It does not govern staffing matters, however, unless they are specifically referred to in schemes. The Ombudsman's scheme is out of date, but I understand that is because the Department of Arts, Heritage and the Gaeltacht has yet to ratify the new scheme. I, therefore, ask the Minister to reconsider his opposition to the amendment. It would be cost neutral, but it would send a positive message that the Government was serious about promoting the Irish language.

Senator Thomas Byrne: Tá mise sásta leis an freagra a thug an tAire do Seanadóir Ó Clochartaigh. Measaim go bhfuil sé réasúnta go bhfuil Acht na Teangacha Oifigiúla curtha i bhfeidhm ag an Ombudsman agus ag na daoine eile a luaigh sé. Ag an am céanna, tá sé tábhachtach go mbeadh daoine sna hoifigí sin in ann teagmháil a dhéanamh trí Ghaeilge. Ach, caithfidh an Rialtas na hacmhainní a thabhairt do na heagrais sin chun ranganna Gaeilge a chur ar fáil do na daoine atá ag obair ansin faoi láthair. Bheadh sé an-áisiúil dá gcuirfeadh an Rialtas ceachtanna ar fáil go ginearálta chun féachaint chuige go mbeadh Gaeilge ar a gcumas ag níos mó daoine. Bheadh sé níos fearr dá mbeadh Gaeilge ag an chuid is mó de na daoine san oifig ionas go mbeadh daoine in ann glaoch a dhéanamh agus labhairt le éinne trí Ghaeilge. Níl sin réalaíoch áfach, ach bheadh sé níos fearr. Caithfidh níos mó Gaeilge a chothú i measc an phobail sula ndéanann muid rud mar seo. Tá Acht na dTeangacha Oifigiúla curtha i bhfeidhm agus tá a lán oibre déanta maidir leis an Acht, ach níl a fhios agam an mbeadh go leor daoine oiriúnacha le Gaeilge ar fáil do na postanna dá gcuirfí ar fáil iad.

Deputy Brendan Howlin: I appreciate Senators' comments. Tá sé ar chumas mórán de na daoine atá ag obair in Oifig an Ombudsman an Ghaeilge a úsáid. Any complaint or written correspondence will be dealt with as Gaeilge if the complainant so wishes. The Ombudsman is anxious for me to clearly state such a facility is available and that her office is fully compliant with the Official Languages Act.

Senator Trevor Ó Clochartaigh: It is important to put this matter in context. Tá cuid mhaith daoine ann le Gaeilge. Dá mbeadh muid ag leanacht Acht na dTeangacha Oifigiúla, mar atá luaite ag an Seanadóir Byrne, ní bheadh an deacracht seo againn. Is léir nach bhfuil na tuairiscí cinn bhliana a bhíonn ag Oifig an Choimisinéara Teanga léite ag an Seanadóir Byrne, mar tá sé luaite ansin go bhfuil cuid mhaith de na scéimeanna imithe in éag agus-----

Deputy Brendan Howlin: Ó Oifig an Ombudsman féin? An bhfuil tuairisc faoi leith ag an Seanadóir a bhaineann leis an Ghaeilge agus úsáid na Gaeilge?

Senator Trevor Ó Clochartaigh: Táim ag rá go bhfuil an oifig iontach dearfach don Ghaeilge agus go bhfuil foireann iontach acu agus scéim réitithe acu. Ach tá an scéim a bhí acu imithe in éag le ceithre bliana.

Deputy Brendan Howlin: Tá gearáin faoi leith ag an tSeanadóir mar gheall ar dhaoine-----

Senator Trevor Ó Clochartaigh: Sílim go bhfuil an an t-úrlár agam, a Chathaoirligh, muna mhiste leis an Aire. Tá gearán déanta le roinnt blianta anuas. Bhí Oifig an Ombudsman ar an liosta des na heagrais nach raibh an scéim daingnithe acu le cupla bliain anuas. Tá sé á dhéanamh faoi láthair. Bhí an obair réitithe ag an oifig ach ní raibh an scéim á cur i bhfeidhm.

Níor fhreagair an t-Aire an pointe eile a rinne mé. An bhfuil treoir tugtha ag oifig an Aire don Roinn Coimirce Sóisialaí agus do Ranna eile, gan daoine le Gaeilge a earcadh?

Deputy Brendan Howlin: An bhfuil an Seanadóir ag díriú ar an mBille atá á phlé ag an Teach?

Senator Trevor Ó Clochartaigh: Tá. Is mar gheall ar an rud sin atá mé ag moladh an leasú seo. Má tá Roinn an Aire ag tabhairt treoir dos na Ranna éagsúla nach gá dóibh cloí le hAcht na dTeangacha Oifigiúla, tá gá leis an leasú. Sin bun agus barr an scéil.

Tá sé ráite ag an Roinn Coimirce Sóisialaí, i gcomhfhreagras a chuir sé ag an gcoiste fo-mhaoirsiú, nár ghá don Roinn cloí le rialacháin an Choimisinéara Teanga a bhaineann le hAcht na dTeangacha Oifigiúla, atá luaite ag an Aire. Tá an t-Aire ag rá gur leor Acht na dTeangacha Oifigiúla. Tá an Roinn Coimirce Sóisialaí ag rá nach gá cloí leis mar go bhfuil an t-Aire Caiteachas Phoiblí agus Athchóirithe tar éis a rá gur féidir treoirínite eile, atá eisithe aige féin, a leanacht. Dá bhrí sin, níl an Roinn Coimirce Sóisialaí ag earcadh daoine le Gaeilge.

Tá sin le feiceáil i gConamara faoi láthair. Bhí an t-Aire Coimirce Sóisialaí ar an gCeathrú Rua le déanaí agus níl oifigeach ansin atá ábalta déileáil le daoine i nGaeilge, ar na bun seirbhísí. Níl siad ag cloí leis an scéim. Sin an fáth go bhfuil a leithéidí seo tábhachtach. Is bun-phrionsabal é go mbéadh an ceart sin againn agus go mbéadh an seirbhís ar fáil.

Faoi láthair, tá daoine in Oifig an Ombudsman le Gaeilge ach cá bhfios dúinn nuair a imeoidh na daoine sin nach dtiocfaidh daoine eile agus gan Gaeilge ar a dtoil acu?

Deputy Brendan Howlin: Tá a fhios mhaith ag an tSeanadóir nach bhfuil sé ar mo chu-

mas-sa, mar Aire, nó ar chumas mo Roinne ordú a thabhairt do aon duine gan cloí le hAcht an Oireachtais.

Senator Trevor Ó Clochartaigh: “Treoir” an focal a d’úsáid mé, i gcead don Aire.

Amendment put and declared lost.

Question, “That section 14 stand part of the Bill,” put and declared carried.

Sections 15 and 16 agreed to.

NEW SECTIONS

Acting Chairman (Senator Jillian van Turnhout): Amendments Nos. 25 to 28, inclusive, and amendment No. 36 are related and may be discussed together.

Government amendment No. 25:

In page 13, before section 17, but in Part 1, to insert the following new section:

“PART 2

OFFICE OF THE COMMISSION FOR PUBLIC SERVICE APPOINTMENTS

17.—In this Part “Act of 2004” means the Public Service Management (Recruitment and Appointments) Act 2004.”.

Deputy Brendan Howlin: These amendments provide for the amendment of the Public Service Management (Recruitment and Appointments) Act 2004 and the merger of the Office of the Commission for Public Service Appointments and the Office of the Ombudsman. The merger is the subject of a recommendation made in the McCarthy report and should lead to greater flexibility in the deployment of staff and administrative efficiencies through the amalgamation of back office supports and functions. The Office of the Commission for Public Service Appointments and the commissioners are to continue, with no change in their specific statutory role. The Vote for the Office of the Commission for Public Service Appointments will be subsumed into that for the Office of the Ombudsman and a separate Accounting Officer role will be discontinued.

Amendment No. 25 defines the term “the Act of 2004” to be the Public Service Management (Recruitment and Appointments) Act; amendment No. 26 amends section 28 of the Act of 2004; amendment No. 27 amends section 29 of the Act of 2004; and amendment No. 28 amends section 32 of the Act of 2004 and provides for the merging of staff of the Office of the Commission for Public Service Appointments and the Office of the Ombudsman. This will allow for their assignment between the functions of the two offices as the need arises. A saver is included in respect of the current director of the Office of the Commission for Public Service Appointments who shall be deemed as designated to be an officer of the Commission for Public Service Appointments and the designation shall not be revoked without his consent.

Senator Sean D. Barrett: I found some of the mergers proposed by Mr. McCarthy strange and this is one of them. There is a body charged with recruiting, which it does very well, for which we are all indebted to it, and a body which investigates. Is there synergy between them? If so, where is it, or is this purely an administrative exercise?

Deputy Brendan Howlin: The Senator makes a fair point. There is a common back office support system in place and the suggestion is it could serve more than one function. The functions of each will be as defined in the parent Acts, but there will be a common support base.

Senator Sean D. Barrett: Would the Human Rights Commission not be a better fit? They are both trying to vindicate citizens' rights. However, I will not push the point.

Deputy Brendan Howlin: As the Senator knows, that body is being merged, too.

Senator Sean D. Barrett: Somewhere else. I thank the Minister.

Senator Thomas Byrne: I have no objection to this proposal which I support, but I wish to highlight the failures of this and the last Government in regard to mergers in general. The merger of the Competition Authority and the National Consumer Agency was announced as long ago as late 2008. It struggled under the last Government and seems to be struggling under this one. There are many other examples of agencies that could and should be merged, and some of them have been on the cards for the past four years. I would like to see much more progress being made in that regard.

Deputy Brendan Howlin: I do not wish to stray beyond the remit of the Bill but, I am of the same mind as the Senator. In the programme I announced last year the Government is committed to merging, subsuming or abolishing 48 agencies this year. It is my intention to ensure, in so far as I can do so, that commitment will be fulfilled.

Senator Trevor Ó Clochartaigh: Táimíd ag tacú, go ginearálta, le prionsabal an Bhille, go bhfuil an leathnú seo ag cur leis an reachtaíocht chun na heagrais a chomhnascadh.

Bhí caint ann go raibh Oifig an Choimisinéara Teanga le comhnascadh le hOifig an Ombudsman. Táimíd ag súil nach bhfuil sé sin ag dul a tarlú. Ní léir dom go raibh aon chomhráití ar bun. Chuir mé ceist ar an Ombudsman faoi sin agus is cosúil nach raibh aon comhráití foirmeálta ar siúl léi siúd faoi sin. Níl Oifig an Choimisinéara Teanga i bhfabhar sin, níl pobal na Gaeilge ina bhfabhar agus ní bhéadh Sinn Féin ina bhfabhar agus tá súil agam nach bhfuil sé ar an mbord agus nach bhfuil sé i gceist ag an Aire dul ar aghaidh leis an gceann áirid sin. Ní dóigh linn go ndéanfadh sé aon chiall agus nach ndéanfadh sé aon sábháil i ndáiríre.

Deputy Brendan Howlin: The Senator will be aware that I made my reform announcements towards the end of last year, in which I outlined the mergers, subsumptions and abolitions envisaged. Each line Department has been working on these since, although not everything can be exactly as proposed. I will bring my proposals to the Government very shortly and they will be published for Senators' commentary as soon as possible thereafter.

Senator Trevor Ó Clochartaigh: When I raised that point with the Ombudsman last week, she said there had been no discussions with her about the possibility of the office of An Coimisinéir Teanga being subsumed into her office. I would like the Minister to confirm that this will not happen and that it is not on the agenda. Various cases have been made to explain why it would not make sense and there has been a huge-----

Acting Chairman (Senator Jillian van Turnhout): Can we keep within the scope of the Bill, please?

Senator Trevor Ó Clochartaigh: In fairness, the Minister brought up the point about the subsumption and amalgamation of agencies.

Deputy Brendan Howlin: We are talking about a pass which is within the scope of the Bill.

Senator Trevor Ó Clochartaigh: The Minister might make a statement on the matter.

Acting Chairman (Senator Jillian van Turnhout): Can we keep within the scope of the Bill, please? I am conscious of the need to keep within the timeframe indicated.

Deputy Brendan Howlin: I have nothing further to say on the matter.

Amendment agreed to.

Government amendment No. 26:

In page 13, before section 17, but in Part 1, to insert the following new section:

18.—Section 28 of the Act of 2004 is amended by substituting the following for subsection (1):

“(1) Subject to subsection (2), the person who is designated by the Ombudsman as the chief executive officer (by whatever name called) of the Office of the Ombudsman shall be the Director of the Office of the Commission who shall be known and is referred to in this Act as the ‘Director’.”.

Amendment agreed to.

Government amendment No. 27:

In page 13, before section 17, but in Part 1, to insert the following new section:

19.—The Act of 2004 is amended by substituting the following for section 29:

“29.—(1) For the purposes of the Exchequer and Audit Departments Acts 1866 and 1921 and the Comptroller and Auditor General (Amendment) Act 1993, the person who stands as the duly appointed accounting officer for the appropriation accounts of the Office of the Ombudsman shall also be the accounting officer for the appropriation accounts of the Office of the Commission.

(2) Nothing in subsection (1) shall be read so as to prevent the amalgamation of the appropriation accounts and vote of the Office of the Commission and the Office of the Ombudsman into one appropriation account and one vote.”.

Amendment agreed to.

Government amendment No. 28:

In page 13, before section 17, but in Part 1, to insert the following new section:

20.—The Act of 2004 is amended by substituting the following for section 32(1):

“32.—(1) With effect from the commencement of the *Ombudsman (Amendment) Act 2012*, in so far as it relates to the Office of the Commission:

(a) the members of the staff of the Office of the Commission upon such commencement shall become members of the staff of the Office of the Ombudsman,

17 October 2012

(b) subject to paragraph (c), such and so many officers and staff of the Ombudsman as may be designated from time to time by the Director for the purposes of staffing the Office of the Commission and any such designation may be revoked at any time,

(c) the person who immediately before such commencement had been the Director shall cease to be the Director upon such commencement and—

(i) shall be deemed to be an officer of the Office of the Ombudsman designated to the Office of the Commission, and

(ii) such deemed designation shall not be revoked without his or her consent.”.”.

Amendment agreed to.

Section 17 agreed to.

NEW SECTIONS

Acting Chairman (Senator Jillian van Turnhout): I tabled amendments Nos. 29 to 31, inclusive, but they have been ruled out of order.

Amendments Nos. 29 to 31, inclusive, not moved.

Government amendment No. 32:

In page 13, before section 18, to insert the following new section:

18.—The Ombudsman for Children Act 2002 is amended—

(a) in section 2—

(i) in subsection (1), by substituting for the definition of “public body” the following:

“ ‘public body’ means a body specified in or under the First Schedule to the Act of 1980 or a reviewable agency by virtue of an order under section 1A of that Act, but only to the extent that and in relation to functions in respect of which the body is subject to the Act of 1980;”,

and

(ii) in subsection (6)(c), by deleting “other than in sections 14 to 16,”,

(b) in section 9(1)(c), by deleting “specified in Schedule 2”,

(c) by repealing section 10(7),

(d) in section 15, by substituting “reviewable agency (within the meaning of that Act) concerned” for “Department of State, or other person specified in Part 1 of the First Schedule to that Act, concerned”, and

(e) by repealing Schedules 1 and 2.”.

Acting Chairman (Senator Jillian van Turnhout): Acceptance of the amendment will involve the deletion of section 18.

Deputy Brendan Howlin: This provides for the amendments to the Ombudsman for Children's Act, as I indicated previously. It substitutes the definition of public body to provide that the jurisdiction of the Ombudsman for Children will automatically follow any changes in the jurisdiction of the Ombudsman. As entities are made reviewable or exempt, in whole or in part, the changes will apply to both the Ombudsman and the Ombudsman for Children.

The provision also makes some consequential technical amendments to the Ombudsman for Children Act, including a repeal of the schedule attached to the Act. Acceptance of the amendment involves the deletion, as the Acting Chairman has said, of section 18. This is on foot of the specific request of the Ombudsman for Children.

Amendment agreed to.

Section 18 deleted.

Sections 19 to 21, inclusive, agreed to.

SCHEDULE

Government amendment No. 33:

In page 14, to delete lines 4 to 34, to delete pages 15 to 17 and in page 18, to delete lines 1 to 7 and substitute the following:

“FIRST SCHEDULE

REVIEWABLE AGENCIES

PART I

(a) a Department of State;

(b) an entity established by or under any enactment, statutory instrument or charter (other than the Companies Acts) or any scheme administered by a Minister of the Government;

(c) a company (within the meaning of the Companies Acts) a majority of the shares in which are held by or on behalf of a Minister of the Government;

(d) any entity (other than an entity to which paragraph (a) or (b) relates) established or appointed by the Government or a Minister of the Government;

(e) a subsidiary (within the meaning of the Companies Acts) of a company to which paragraph (c) relates;

(f) an entity (other than a subsidiary to which paragraph (e) relates) that is directly or indirectly controlled by an entity to which paragraph (b), (c), (d) or (e) relates;

(g) an entity on which functions are conferred by or under statute, statutory instrument or charter, but only in respect of those functions;

(h) a higher education institution in receipt of public funding;

(i) an entity that immediately prior to the enactment of the *Ombudsman (Amendment) Act 2012* was subject to review by the Ombudsman.

PART II

Part I of this Schedule does not include a reference to—

(a) the Adoption Authority of Ireland, insofar as it relates to the making of an adoption order or the recognition of an intercountry adoption effected outside the State, within the meaning of the Adoption Act 2010;

(b) An Bord Altranais, except as it relates to an action taken in the performance of administrative functions relating to the establishment and maintenance of a register of nurses under the Nurses Act 1985 and to its role as the competent authority for the purposes of mutual recognition of nursing qualifications obtained in or recognised by a Member State;

(c) Bord na Radharcmhastóirí, except as it relates to an action taken in the performance of administrative functions relating to the establishment and maintenance of a register of optometrists and dispensing opticians under the Opticians Acts 1956 and 2003 and to its role as competent authority for the purposes of the mutual recognition of relevant qualifications obtained in or recognised by a Member State;

(d) the Courts Service, except as it relates to an action taken in the performance of administrative functions under section 5 of the Courts Service Act 1998;

(e) the Dental Council, except as it relates to an action taken in the performance of administrative functions relating to the establishment and maintenance of a register of dentists and dental practitioners under the Dentists Act 1985 and to its role as the competent authority for the purposes of mutual recognition of dental qualifications obtained in or recognised by a Member State;

(f) the Department of Justice and Equality, insofar as it relates to an action—

(i) taken in the administration of the law relating to immigration or naturalisation,

(ii) taken in the administration of the prisons or other places for the custody of persons committed to custody by the Courts,

(iii) involving the exercise of the right or power referred to in Article 13.6 of the Constitution, or

(iv) involving the remission of any forfeiture or disqualification imposed by a court exercising criminal jurisdiction;

(g) the Health and Safety Authority, except as it relates to an action taken in the performance of administrative functions under section 34 of the Safety, Health and Welfare at Work Act 2005;

(h) the Health and Social Care Professionals Council, except as it relates to an action taken in the performance of administrative functions under Part 4 of the Health and

Social Care Professionals Act 2005;

(i) the Health Service Executive, insofar as it relates to an action taken –

(i) by persons when acting on behalf of the Health Service Executive and (in the opinion of the Ombudsman) solely in the exercise of clinical judgement in connection with the diagnosis of illness or the care or treatment of a patient, whether such opinion is formed by the person taking the action or by any other person; or

(ii) an action taken by the Health Service Executive when acting on the advice of persons referred to in subparagraph (i), being actions of the Health Service Executive that, in the opinion of the Ombudsman, were taken solely on such advice;

(j) the Legal Aid Board, insofar as it relates to the provision of legal services (advice or representation) by solicitors of the Legal Aid Board, or by private solicitors working under the auspices of the Legal Aid Board, to clients;

(k) a local authority (within the meaning of the Local Government Act 2001), insofar as it relates to the performance of reserved functions within the meaning of that Act;

(l) the Medical Council, except as it relates to an action taken in the performance of administrative functions relating to the establishment and maintenance of a register of medical practitioners under the Medical Practitioners Act 2007 and to its role as the competent authority for the purposes of mutual recognition of medical qualifications obtained in or recognised by a Member State;

(m) the Personal Injuries Assessment Board, except as it relates to an action taken in the performance of administrative functions under Part 3 of the Personal Injuries Assessment Board Act 2003;

(n) the Pharmaceutical Society of Ireland, except as it relates to an action taken in the performance of administrative functions relating to the establishment and maintenance of registers of pharmacists, pharmaceutical assistants and retail pharmacy businesses under the Pharmacy Act 2007 and to its role as the competent authority for the purposes of the mutual recognition of relevant qualifications obtained in or recognised by a Member State;

(o) the Pre-Hospital Emergency Care Council, except as it relates to an action taken in the performance of administrative functions relating to the establishment and maintenance of registers of pre-hospital emergency care practitioners under the Pre-Hospital Emergency Care Council (Establishment) Order) 2000 (S.I. 109 of 2000) and to its role as the competent authority for the purposes of mutual recognition of relevant qualifications obtained in or recognised by a Member State;

(p) the Private Residential Tenancies Board, except as it relates to an action taken in the performance of administrative functions under Part 7 of the Residential Tenancies Act 2004;

(q) the Property Services Appeal Board, except as it relates to an action taken in the performance of administrative functions relating to the establishment and maintenance of a register of licensed property service providers under the Property Services (Regulation) Act 2011 and to the specification of qualification and other requirements for prop-

erty service providers under that Act;

(r) the Property Services Regulatory Authority, except as it relates to an action taken in the performance of administrative functions relating to the establishment and maintenance of a register of licensed property service providers under the Property Services (Regulation) Act 2011 and to its role relating to the specification of qualification and other requirements for property service providers under that Act;

(s) the Radiological Protection Institute of Ireland, except as it relates to an action taken in the performance of administrative functions under section 7 of the Radiological Protection (Amendment) Act 2002;

(t) the Veterinary Council of Ireland, except as it relates to an action taken in the performance of administrative functions relating to the establishment and maintenance of a register of veterinary practitioners and a register of veterinary nurses under the Veterinary Practice Act 2005 and to its role as the competent authority for the purposes of the mutual recognition of veterinary qualifications obtained in or recognised by a Member State.”.”.

Acting Chairman (Senator Jillian van Turnhout): The amendment has already been discussed with amendment No. 2. I note that if the amendment is agreed, then amendment No. 34 cannot be moved.

Amendment put and declared carried.

Amendment No. 34 not moved.

Government amendment No. 35:

In page 18, to delete lines 10 to 31, to delete page 19 and in page 20, to delete lines 1 to 17 and substitute the following:

“ “SECOND SCHEDULE

EXEMPT AGENCIES

1. Abbey Theatre
2. Aer Lingus
3. An Bord Pleanála
4. An Post
5. Army Pensions Board
6. Arramara Teoranta
7. Bantry Bay Harbour Commissioners
8. Bord Gais Éireann
9. Bord na gCon

10. Bord na Móna
11. Broadcasting Authority of Ireland
12. Bus Átha Cliath - Dublin Bus
13. Bus Éireann
14. Central Bank of Ireland
15. Coillte Teoranta
16. Coimisinéir Teanga
17. Commission for Aviation Regulation
18. Commission for Communications Regulation
19. Commission for Energy Regulation
20. Commission for Public Service Appointments
21. Commission to Inquire into Child Abuse
22. Commissioners of Irish Lights
23. Comptroller and Auditor General
24. Córas Iompair Éireann
25. Cork Airport Authority plc.
26. Coroners appointed under the Coroners Act 1962
27. Criminal Assets Bureau
28. Data Protection Commissioner
29. Defence Forces
30. Director of Public Prosecutions
31. Drogheda Port Company
32. Dublin Airport Authority plc.
33. Dublin Port Company
34. Dún Laoghaire Harbour Company
35. EirGrid plc.
36. Electricity Supply Board
37. Employment Appeals Tribunal
38. Environmental Protection Agency

39. Equality Tribunal
40. Financial Services Ombudsman
41. Galway Harbour Company
42. Garda Síochána Inspectorate
43. Garda Síochána
44. Garda Síochána Ombudsman Commission
45. Health Insurance Authority
46. Horse Racing Ireland
47. Housing Finance Agency plc.
48. Human Rights Commission
49. Iarnród Éireann - Irish Rail
50. Irish Auditing and Accounting Supervisory Authority
51. Irish Aviation Authority
52. Irish Bank Resolution Corporation Limited
53. Irish Film Board
54. Irish Financial Services Appeals Tribunal
55. Irish National Petroleum Corporation Limited
56. Irish National Stud Company Limited
57. Judge Advocate-General
58. Judicial Appointments Advisory Board
59. Judicial Studies Institute
60. Labour Court
61. Labour Relations Commission
62. Law Reform Commission
63. Marine Casualty Investigation Board
64. Medical Bureau of Road Safety
65. Mental Health (Criminal Law) Review Board
66. Mental Health Commission
67. Mining Board

68. National Advisory Committee on Drugs
69. National Asset Management Agency
70. National Concert Hall
71. National Development Finance Agency
72. National Disability Authority
73. National Economic and Social Development Office
74. National Lottery Company (within the meaning of the National Lottery Act 1986)
75. National Oil Reserves Agency
76. National Pensions Reserve Fund Commission
77. National Tourism Development Authority
78. National Treasury Management Agency
79. New Ross Port Company
80. Office of the Attorney General
81. Office of the Confidential Recipient
82. Office of the Director of Corporate Enforcement
83. Office of the Information Commissioner
84. Office of the Inspector of Prisons
85. Office of the Ombudsman
86. Office of the Ombudsman for Children
87. Office of the Ombudsman for the Defence Forces
88. Office of the President
89. Pensions Ombudsman
90. Poisons Council
91. Port of Cork Company
92. Port of Waterford Company
93. Private Security Authority
94. Private Security Appeal Board
95. Raidió Teilifís Éireann
96. Railway Procurement Agency

97. Referendum Commission
98. Refugee Appeals Tribunal
99. Refugee Applications Commissioner
100. Residential Institutions Redress Board
101. Rights Commissioners
102. Shannon Airport Authority plc.
103. Shannon Foynes Port Company
104. Social Welfare Tribunal
105. Standards in Public Office Commission
106. State Pathologist
107. Teilifís na Gaeilge
108. Valuation Tribunal
109. Voluntary Health Insurance Board
110. Wicklow Port Company”.”.

Amendment put and declared carried.

Question proposed: “That the Schedule, as amended, be the Schedule to the Bill.”

Senator Sean D. Barrett: I have two concerns. First, should there be a Schedule? The Bill contains principles which deals with the law itself and relate to industrial relations and financial matters. I would leave it to the courts to decide.

Second, in the 2008 Bill there were 59 exclusions but this time the Minister has carefully numbered all 110 of them. I am worried about that development. Can a Schedule alter what is contained in the body of a Bill? In other bodies that I am associated with one cannot have something in a Schedule that is not in the body of the Bill. I do not know whether the 110 people have achieved that much by getting themselves exempt if the decision of the court was that they were not exempt under the three grounds stipulated in the Bill. I am also concerned that 59 exclusions have increased to 110 exclusions.

There are some new exclusions. NAMA is excluded now but it was not excluded in 2008. The Irish Auditing and Accounting Supervisory Authority was not exempt in 2008. We have had a lot of problems with the accounts of Irish banks since then and I do not know how they became exempt between 2008 and now. There are some peculiar things in the Bill. I am against the idea of exemption schedules in general and the way it “grewed” like Topsy since 2008. I shared the Minister’s objective of extending the powers of the Ombudsman then. However, 110 people do not like it now whereas only 59 people did not like it in 2008 so I propose a toast to the Minister.

Senator Trevor Ó Clochartaigh: I have a certain sympathy with the Senator’s comments.

In an ideal world we would all like for no agencies to be exempt from the oversight of the Ombudsman. I understand that a number of agencies have been included now because commercial interests must be included in the exemptions list.

It is extremely regrettable that organisations that come under the aegis of the Department of the Justice and Equality, including the Irish Nationalisation and Immigration Service, INIS, Reception and Integration Agency, RIA, and the Prison Service shall not be covered by the Bill. The Schedule does not reflect that but my party wants them covered by the Bill. I am taken aback that the Fianna Fáil Party has gone down the same route and supports the viewpoint that the Department should remain outside the auspices of the Bill. The move is very regrettable and my party will seek to have it included in future versions of the Bill.

Deputy Brendan Howlin: I do not intend to re-open the debate that we had for most of the last day and today. There are coherent and good reasons for the exclusions and I hope that I have outlined them. The matter is not closed and we can revisit it.

With regard to Senator Ó Clochartaigh's comment, I try not to be partisan when I present legislation and I favour openness and transparency in all matters. His party could be more transparent about a number of ongoing public concerns that have been voiced. We can all contribute to ensuring that-----

Senator Trevor Ó Clochartaigh: There is no need for that comment, Minister.

Deputy Brendan Howlin: Transparency should apply. I do not mean that in any other way. When we preach about something we must abide by it ourselves. I can take any fair criticism of me by the Senator here. In equal measure, if he wants to preach about transparency and scrutiny then he must subject himself and his organisation to the same rules. He cannot ask of others what he refuses to give himself and I make that point *en passant*. If we are going to move on to a different phase with complete accountability in public life in this country - and this legislation is part of that architecture - then everybody must march in step. Nobody can preach without abiding by it themselves.

As Senator Barrett will know, the idea behind the legislation is to greatly extend the remit of the Ombudsman to over 140 additional bodies. The Ombudsman will find it challenging but she and her staff are up to it and are capable of taking on the new role. It is a great extension of the oversight role of the Ombudsman. I do not think this is the end of it either because we are creating two new clauses in the legislation - first, automaticity for new bodies that are created which is innovative and, second, the oversight committee will now have the power to make recommendations for exclusions now or on any further extensions in the future.

Senator Trevor Ó Clochartaigh: I cannot leave that last contribution made by the Minister unanswered. It is regrettable that he has introduced such a tone to the debate. We have had a robust debate and I did not intend to preach to anybody. It is my job to demonstrate robust opposition and I made worthy recommendations. That is all that my party has done here. Our arguments have been backed up by statements made by public spokespeople on these issues. I regret the tone taken by the Minister. I have no qualms about transparency when it comes to the Sinn Féin Party which is the organisation that I am involved in. We have no issues with transparency and, no more than other parties in the House, we are open to any and all of the scrutiny by any arms of the State. Does the Minister wish to mention specifics?

Deputy Brendan Howlin: Was the Senator ever a member of the IRA?

17 October 2012

Acting Chairman (Senator Jillian van Turnhout): Please stick to the topic.

Senator Trevor Ó Clochartaigh: If the Minister has any specifics then he should raise them.

Acting Chairman (Senator Jillian van Turnhout): Please keep within the scope of the Bill.

Senator Trevor Ó Clochartaigh: If he has any specific evidence then he should bring it to the attention of the relevant bodies, as opposed to taking personal potshots at the end of the debate. We have had a constructive debate and I will defend my party's right to table any amendments that will help the people like those mentioned in the report on the Prison Service today. I will also help the asylum seekers I met in Galway who feel that they have got a very bad deal. I stand here as a public representative and my party represents their rights. I do not need to defend myself to anybody in here.

Question put and declared carried.

4 o'clock

TITLE Government amendment No. 36:

In page 3, line 5, after "1980," to insert the following:

"TO AMEND THE PUBLIC SERVICE MANAGEMENT (RECRUITMENT AND APPOINTMENTS) ACT 2004 SO AS TO ENABLE FUNCTIONS RELATING TO THE OFFICE OF THE COMMISSION FOR PUBLIC SERVICE APPOINTMENTS AND TO THE DIRECTOR OF THAT OFFICE TO BE CARRIED OUT BY, RESPECTIVELY, THE OFFICE OF THE OMBUDSMAN AND BY THE OFFICER OF THE LAST-MENTIONED OFFICE WHO PERFORMS THE FUNCTIONS OF CHIEF EXECUTIVE OFFICER OF THAT OFFICE,".

Amendment agreed to.

Title, as amended, agreed to.

Bill reported with amendments and received for final consideration.

Question proposed: "That the Bill do now pass."

Senator Trevor Ó Clochartaigh: Can I speak on the Bill?

Acting Chairman (Senator Jillian van Turnhout): It has been agreed. We have just had a vote and the question was carried. Do you wish to comment now that the Bill has passed?

Senator Trevor Ó Clochartaigh: I reiterate that we welcome the Bill. I want to be clear about that, notwithstanding any debate we have had today. This is a positive Bill and a positive day. The Ombudsman made clear that it was 25 years in the coming. Numerous Administrations have promised to bring forward this Bill but the Minister is to be commended on doing so, of that there is no question. There is no question about extending the remit and we welcome it. Perhaps to some people we have gone over the point that there are deficiencies in the Bill *ad nauseam*. I take the Minister at his word that this is a work in progress. It is imperative for the Ombudsman to do her job properly. To ensure proper oversight in the State she must be

given these powers as quickly as possible. We favour this but we believe there should be future amendments to the Bill to expand that remit to the areas she has suggested.

The introduction of the Joint Committee on Public Service Oversight and Petitions is a positive move. I am involved in that committee and I will be attending the next meeting in a couple of minutes. It is an important development and it will be beneficial to the people here.

Na pointí maidir le cúrsaí teanga, ní pointí beaga iad. Is bunphrionsabal é seo. Is ball de pháirtí é an tAire a sheasann le bunphrionsabal go rialta agus is bunphrionsabal é sin ó thaobh cearta teanga agus cearta na Gaeilge agus seasaim leis sin chomh maith céanna.

Tréaslaím leis an Aire agus tá agaim gach rath ar an Ombudsman ina cuid oibre mar beidh obair mhór roimpi nuair a bheidh an Bille seo achtaithe agus nuair na heagrais seo ar fad faoina cúram. Tá súil agam go mbeidh mar thoradh air sin ná go bhfaighidh saoránaigh na hÉireann cothrom na Féinne agus má dhéantar aon dochar dóibh in aon bhealach, tá córas acu faoi shúile an Stáit a dhéanfaidh cinnte go bhfaighidh siad ceart agus cóir ina dhiaidh sin.

Senator Tom Sheahan: I compliment and thank the Minister on bringing this progressive legislation before the House. I call on the Minister to be mindful of the comments of the former Minister for the Public Service, John Boland, in 1984 to the effect that it would be unthinkable for an agency or Department not to take on board the recommendations of the Ombudsman.

Senator Thomas Byrne: I pay tribute to the Minister but I also claim joint credit on behalf of my party because we put the Bill through the Dáil. Unfortunately the election occurred subsequently. We have waited patiently for this Government to bring it forward almost one and a half years after it entered office. We support the Bill and the Ombudsman. The Ombudsman has received many tributes from the House in the course of the debate and they are justified and deserved. I have written two complaints to her this week and I assume they will be dealt with expeditiously.

Senator Sean D. Barrett: I thank the Minister for the debates. What he is attempting to do is important. We wish him well and we wish the Ombudsman well. We should always have openness in government and that is what we have been attempting to do during these weeks. I wish the Minister well in his pursuit of that goal.

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): I thank Senators for the robust, good and incisive debate today and on the last occasion I was here. I am mindful of the strong views on the efficient administration of public affairs that are voiced in this House. Every time I visit that is underscored. I acknowledge the words of Senator Ó Clochartaigh in respect of staid an Gaeilge. I know he is passionate about it and I will ensure that those views are taken to heart in respect of any legislation that comes within my purview.

Question put and agreed to.

Sitting suspended at 4.05 p.m. and resumed at 4.25 p.m.

17 October 2012

Bill entitled an Act to create and regulate a mortgage-credit loans and bonds system, for the purposes of the orderly operation of the market for mortgages, such that economic activity is encouraged and property is improved via a system of mortgage-credit loans and mortgage-credit bonds.

Senator Sean D. Barrett: I move: “That Second Stage be taken today.”

Question put and agreed to.

Mortgage Credit (Loans and Bonds) Bill 2012: Second Stage

Senator Sean D. Barrett: I move: “That the Bill be now read a Second Time.”

Cuirim fáilte roimh an Aire Stáit agus molaim an Bille don Seanad. Is as an Ghaeltacht é an tAire Stáit agus mar sin ba cheart dom an Ghaeilge a úsáid anseo.

I thank the Bills Office for its help, which was most valuable indeed, my assistants and, of course, this great House, its officers and Members, and the staff, for the opportunity to put before them today a radical measure needed to reform housing finance and banking in this country. It is the second Bill that we brought in. The fiscal responsibility Bill was brought in about this time last year, and I gather it has been to the Dáil and comes back to us fairly soon. It was important when all of us were elected in the spring of last year to take measures to assist in rectifying the public finances and to assist in the reform of banking, and that is what we seek to do.

This Bill is a piece of macro-prudential legislation and will be part of a suite of reforms to make the financial system more stable. We came across it in endorsements of what happens in Denmark. I had not heard about it until recently, although one of us might have raised it here in the House.

The IMF report on the Danish financial sector assessment programme dated March 2007 states:

The Danish mortgage system is among the most sophisticated housing finance markets in the world and presents some unique characteristics. The combination of a tight regulatory framework with developed specialized, “in-house” expertise in lending and credit assessment, and in wholesale funding and risk management has translated into a highly rated system (and institutions), able to deliver a variety of mortgage products at close to capital market conditions. ...

... Through the implementation of a strict balance principle, the system has proved very effective in providing borrowers with flexible, transparent and close-to-capital markets funding conditions. Simultaneously, as pass-through securities, mortgage bonds transfer market risk from the issuing mortgage bank to bond investors.

The key to it are these mortgage credit institutions of which the IMF speaks so highly in the Danish situation. The bonds that these institutions issue are preferred, particularly in our circumstances, either to the bank shares or to the sovereign. Of course, that is because the rescue of banks four years ago tied the Irish sovereign to the finances of the banks.

These finances here appear to be available in Denmark, at between 2% and 3%. That is a substantial advantage over what the Government would have to borrow on open markets and it is substantially better than the difficulties which Irish banks experience.

I am informed that there are low defaults because of the loan-to-value restrictions. On this kind of borrowing, the loan is maximised at 80% loan to value. At that loan-to-value rate, the default is 2% internationally and only 1% in Denmark.

This appears to be attractive to the borrowers. It appears to work well in Denmark. It is commended internationally, with warm endorsements by the IMF, the Bank for International Settlements and the European Union.

It would be a good time to start now because interest rates are low. Some of those who investigated this previously, with whom we caught up after we tabled the Bill, stated that people may have been caught in the past when interest rates were high and then declined but if we were going to start it, this would be an extremely good time to do so.

We need, as we state in our memorandum, to stimulate the economy. Senators, and, I am sure, Deputies in the other House, have spoken about the difficulties of the mortgage market. I note in *The Irish Times* today that Ms Fiona Muldoon, the Central Bank's head of banking regulation, stated the Central Bank has strongly criticised banks for their slow progress in tackling the mortgage crisis. The Secretary General of the Department of Finance, Mr. John Moran, expressed similar sentiments. Yesterday the *The Irish Times* also reported that Dr. Joachim Faber, chairman of the supervisory board of the Deutsche Börse, stated that it was almost untenable that five years into the financial crisis there was still no clarity on banking reform, and the industry itself was completely passive and this was unacceptable. This House, however, is not completely passive and we have already worked on the Fiscal Responsibility Bill, which will return to the Seanad shortly. The House has addressed the crises in the public finances and in banking. The Central Bank and the Department of Finance indicated only yesterday that there is a need for a Bill such as the one we propose today. It is important that people cannot say the Seanad is standing idly by or, indeed, that both Houses are doing so. We are not; we are bringing an innovative system from another country and pointing to its success.

Senator David Norris: Hear, hear.

Senator Sean D. Barrett: We are also pointing out the advantages the proposed measures would have in terms of reviving the housing market and divorcing house purchase from financial speculation. These became far too entangled in Ireland, which got us into the situation we are now trying to rectify. The Danish system, referred to as *nykredit*, dates back to 1797 and is very robust due to extensive regulation that spreads outside the mortgage credit market to the wider banking sector. Bubbles are not a feature of the mortgage market under this system and, indeed, that was the original purpose.

Strict loan-to-value ratios are an important feature of our Bill and it is a pity we did not have them here through most of the last decade. Such ratios ensure much lower rates of default. There are variations in the ratios used, with an 80% loan-to-value ratio for residences and a 70% ratio for agricultural holdings. Social housing and other types of property could also be included, which makes it possible to use the future flow of rents from local authority housing - or, indeed, any other public building that has an income flow - as security for loans. This has worked well in Denmark. Danish bonds are desirable and are rated typically either triple A or

triple A plus. This low-risk profile is due to that country's strict loan-to-value requirements and the low default rate, to which I referred earlier.

We must find a way to separate the cycles of causation, with the Irish banking sector infecting the sovereign and *vice versa*. Under this proposed system, the market would be of the view that, pending a solution to our public finance problems, there is a better chance that an Irish person will repay his or her mortgage than there is of us fixing our public finances or of the banks sorting themselves out. Therefore, it would be to the advantage of the person seeking to become a home owner to have this system in place and to be divorced from what is happening in banking and the public finances.

This structure is not part of the opaque securitisation process that became infamous with the US sub-prime mortgage crisis. It is therefore not attached to a waterfall payment profile with various tranches of payment and risk profiles. These bonds are transparent and easy to rate and analyse for risk, which makes them very safe and of low yield. In fact, I suggested to a colleague earlier that if there was a fear that this could lead to a repeat of the US sub-prime situation, we might invite the Danes to do it first, given their experience going back over several centuries. In order for the system to work, we would have to improve the registration of title, deeds and valuations system, which is actually being done now as part of the process of introducing a property tax. We must also do away with letters of comfort, falsification of documents and so forth.

This system may have been studied in the past, according to some former officials, now in academia, whom I spoke to after this Bill was published. There are papers somewhere in the realms of Government that I did not know about in which this system was considered. Those papers would be well worth examining to determine whether we can make the breakthrough here. The bankruptcy procedures might be made slightly more complicated with these proposed mortgages but that can be handled.

The Central Bank would have a major role to play as the licensing authority. The system encompasses checks and balances that obviously were not in place in the past and would be part of a wider programme of reform of financial institutions, directed at transforming the Irish financial system and putting in place a macro-prudential system of finance, as advocated by the Central Bank. The Danish system has been endorsed by the IMF, the Bank for International Settlements and the Organisation for Economic Co-operation and Development, and is part of the Basel III banking reforms. Many economic commentators have argued that the system is desirable due to its stability. The legislation as written is also compliant with Directive 2006/48/EC of the European Parliament and Council of 14 June 2006, relating to the taking up and pursuit of the business of credit institutions, as published on page 1 of the *Official Journal of the European Union*, L177.

In the *Financial Times* of 16 October, Martin Wolf wrote:

It is no secret why growth is slowing in high-income countries; this is due to fiscal tightening, weak financial systems and powerful uncertainty. This toxic combination is particularly threatening inside the eurozone...

We are trying to deal with those problems here and I hope this Bill will assist the Government in that endeavour. I commend the Bill to the Minister and the House.

Senator Feargal Quinn: I welcome the Minister to the House. Since Senator Barrett came

into this House, I have been educated so often-----

Senator David Norris: We all have.

Senator Feargal Quinn: Yes; we have all been educated so often and no more so than today. I first learned about Denmark in the 1950s in the context of their folk schools. Their system of education and of involving people in traditional folk schools is wonderful. My father became involved in that and I found it very interesting, way back then. In the 1970s I went to Denmark because it was the first country with a supermarket that put barcodes on its products. Denmark has led the way in many areas but I was unaware of the *nykredit* system until Senator Barrett brought it to our attention.

The crisis has set off a search for the best possible mortgage financing system and many economists have praised the Danish model, which I had not heard about until now. It has been in operation since 1797 and since then, not a single Danish mortgage institution has defaulted, gone bust or had to be bailed out. As Senator Barrett explains in this Bill, the Danish system features specialised mortgage lenders that observe strict loan-to-value limits, along with a system of matched funding in which each mortgage is financed by a specific bond with the same maturity and cashflow characteristics. Unlike Ireland, losses in Danish mortgage banks have remained low during the crisis and there has been plenty of liquidity in those institutions. Indeed, it is a very secure system, and Danish mortgage bonds differ in essence from the widely distributed mortgage-backed securities, MBS. The regulations for Danish mortgage bonds are laid down by law, which means they continue to constitute on-balance financing and are therefore more similar to savings deposits with a general bank than to an MBS, which constitutes off-balance financing. The issuing body continues to carry the risk if a home owner is no longer able to fulfil his or her obligations. With an MBS, on the other hand, the risk rests solely with the investor.

We need to break the linkages between the State and the banks. As the Bill points out, Ireland is unattractive to foreigners but access to credit for mortgages is determined by the ability of our existing pillar banks to obtain credit on the international capital markets. The bank guarantee further undermined this situation. Danish mortgage lenders compete on their ability to distribute and service loans. This specialised competition has helped to drive down costs for the consumer. The Danish system also protects borrowers from interest rate risks by offering long-term fixed rate mortgages. Such a system would greatly benefit consumers in Ireland, compared to the floating rate mortgages which expose borrowers to risks of payment shocks when interest rates rise. Regulations in Denmark limit the amount that can be loaned to homeowners to no more than 80% of the value of a home. We fell into that trap to a great extent in Ireland. Policymakers should be concentrating on this issue.

Several years ago I was invited by then Senator Maurice Hayes to have lunch with George Soros, the billionaire financier and philanthropist, who certainly educated me on these matters. He established a joint venture in Mexico based on this model and argued that a similar system should be adopted in the United States. He has stated in regard to the Danish model: "If you need systemic change ... you may as well go for something that is vastly superior."

We cannot speak about mortgages in a vacuum. There are lessons to be taken from the way Iceland dealt with the crisis and is now recovering strongly. I do not suggest, however, that we should have moved in that direction, given that we do not have our own currency. We must look at mortgages, but we must also push harder than ever for a debt write-off. The IMF is coming

round to the idea that Iceland did the right thing by burning bondholders and that recession is made worse when there is no restructuring of household debt. It has stated: “Key to Iceland’s recovery was ... [a] program ... [which] sought to ensure that the restructuring of the banks would not require Icelandic taxpayers to shoulder excessive private sector losses”.

Overall, this is a positive proposal to tackle a fundamental part of the banking system. If people start to default on their mortgages on an even larger scale, they are also likely to have trouble paying off their credit cards and the resulting credit crunch is going to be even greater. The major lesson we must learn from the recent past is that leverage by banks in property is usually lethal. This system would help to prevent that happening. While there are some drawbacks, the system offers many benefits, including low and competitive prices of loans against mortgages on real property; transparency in prices and repayment terms for loans; market based pricing; availability for all owners of real property; and a system that supports overall financial stability. There is much to be said for these alternatives and we should look around to see who else can offer advice.

Notwithstanding the selective views of ratings agencies, there is strong market demand for Danish mortgage bonds. Nykredit, Europe’s biggest issuer of covered bonds backed by mortgages, has seen its international investor base grow to almost 20%, compared to 13% just one year ago. The bonds are seen as a safe haven which offers investors no credit risk and plenty of liquidity. We also want to be regarded as a safe haven. Perhaps the Danish model might help us in this respect. Realkredit Danmark, the mortgage lending unit of Danske Bank, terminated its contract with Moody’s after it had issued a credit warning because it argued that the agency did not understand Denmark’s mortgage market. Perhaps our own banks would do well to sever their links with some of the ratings agencies.

The economist, Professor Joseph Stiglitz, describes Danish mortgage bonds as a good innovation which helps to improve risk management and lower transaction costs. However, the financial system has resisted many beneficial financial innovations which improve the efficiency of economies. We should move to a model in which people lose their homes only as a last resort. Although Denmark is still in the middle of a slump in its real estate market, foreclosures account for just 0.2% of the total housing stock. The economic and financial crisis has only affected 1% of mortgage holders in Denmark. Any homeowner in Ireland would see the benefits of such a system. During the worst months of the financial crisis and the subsequent eurozone crisis, it was business as usual in the Danish mortgage bond market. This model would not solve all of our problems, nor is it the only solution, but it is worth considering. I urge the Minister not to reject the Bill before it receives the attention it deserves.

Senator Michael D’Arcy: Senator Sean D. Barrett has done something with which I am not overly pleased as a public representative, that is, he has made us think about issues, which makes us dangerous animals. I missed his contribution, but I was most interested in the e-mail I had received from him on the matter. However, I am conflicted about his proposal because, while it is a great idea that has worked in a jurisdiction which is not alien to ours, I am concerned that the Irish psyche is different from that of people in Germany or Denmark. The housing sector in Ireland needs something to make it operational again.

I have repeatedly pointed out that the number unemployed in Ireland is not 440,000 but 300,000. These 300,000 people were working 36 months ago. The remaining 140,000 who were not working at the peak of the boom are still not working and I do not believe they want to work. Every single one of the 300,000 who were working three years ago want to work. An

enormous proportion of these individuals worked in the construction sector. It was easy for young men to leave school early, get a shovel and earn large wages. Six weeks ago I noticed a full page newspaper advertisement for Savills which was selling 1,000 apartments in seven developments in Dublin city. I am almost certain these apartments are in the possession of NAMA. They were being advertised as being under different management and rented. The future of the housing sector lies in those apartments being put on the market to set a base price which would flow throughout the country.

I am not certain about the Government's opinion on Senator Sean D. Barrett's proposals, but I am prepared to give them a fair wind. I do not know if they would work, but I would like to explore them further. We require more than a two hour debate if we are to tease out the issues involved. I have to admit I do not know enough about the subject or sufficiently understand the intricate details set out in the explanatory memorandum to state whether the proposals would succeed in this country. However, I am grateful to the Senator for giving us an opportunity to learn more about them.

We would have hit the perfect storm financially were it not for the fact that interest rates remained historically low. Without such low rates, we would be in 1930s territory and speaking about recession rather than depression. This legislation is prudential and I am satisfied that is the way Irish lending should be. However, there is a dichotomy currently. We are telling the banks they should lend, but at the same time we are telling them they should leave people in their homes, although many of these people will not stay in their homes because they have completely over-borrowed. The Personal Insolvency Bill will be available. If people have over-borrowed to the extent I am aware some people have, there is no prospect they can remain in their homes. I am dissatisfied by that, but it is the reality. The Personal Insolvency Bill is on the way and we are satisfied that is the start of the process. However, in truth we do not know how the legislation will work in practice. The theory of how it will work has been debated in the other Chamber and it will come to us in November. However, I am unsure it will work as well in practice as in theory, but we hope it will work.

I am also concerned that while the local value ratios at 80% are prudential, they are perhaps even more prudential than the banking sector's way of lending now. In my time with local authorities, I always observed that the local authorities were better at providing loans to certain sectors of society, people who could not get loans from the lending and financial institutions. Local authorities went beyond the standard prudential rate, because they knew the people who were borrowing and knew their families. They also knew which families repaid their loans. It was always the same families who repaid and always the same families who did not. That local knowledge existed within the local authorities and among most of the local councillors. My concern is that if this legislation prescribes an 80% loan to value ratio, we will exclude the input of that local knowledge. That would be a mistake.

I was heartened by what Fiona Muldoon said yesterday. It is about time somebody from the regulatory sector put the boot into the banks. Many of us here, from both sides of the House, have tried to do the same, but to no avail. The banks are still the same in my experience. I must tell Senator Barrett that the use of the term "microprudential legislation" is new to me, but I am open to learning and to listening.

I have a concern that while the bond system has operated as it has for centuries, this smacks of what happened in the United States. I understand however that the intention is that what happened in the US, where they bundled them up and started selling them to each other, will

not happen here. That caused a huge problem in the US. I remember reading an article relating to the United States, where they have the three strike rule with regard to felonies. On the third strike, even if minor, culprits go down for 25 years. People in the United States who had two strikes against them were getting loans. These were being bundled together and sold within credit institutions in the United States and this created a huge problem further down the line.

Page 4 of the explanatory memorandum mentions the balance principle. I have a concern in this regard. Irish society went through much of the same as we are going through today in the late 1970s and early 1980s. I remember hearing people say we would never go back to that again and that there was no way we would ever make the same mistakes again. However, as capitalism goes unchecked over time - I speak as someone who supports capitalism - the problem is that it gets out of hand and greed takes over. We believed we would never get back to this position, but we have got back here with a vengeance. It is many times worse than what happened in the 1970s and 1980s, but I do not believe the Irish mindset is prepared to purchase at the loan to value ratios we should be at.

I would like to know what the situation with regard to home ownership is in Denmark. In Ireland and in the United Kingdom, a man's home is his castle. That is the mindset in these islands. However, that mindset is not so strong on the Continent and I suspect home ownership is much lower in Denmark than in Ireland or the United Kingdom. The Irish psyche is intent on home purchase. I was not as dead set against 100% mortgages as some people were. Quite a few people were caught in the trap where they were renting and did not have the opportunity to put together enough cash to pay off or purchase the 92% or 85%. In Ireland, people set their minds to purchasing their home and becoming a homeowner. The difficulty was that banks lost the run of themselves. They also lost the ability to decipher which people could and could not pay. This was compounded further by the fact they did not care. Their objective was to lend the money and then chase it, because their bonuses were linked to the money going out. Therein lay the problem. The regulators, the Central Bank, the European institutions and others lost control also. They too let the animal off the leash.

I would like more detail on this Bill. I am not satisfied that two hours of Private Members' debate is adequate to deal with a Bill intended to radically reform Irish lending institutions. However, I am open to its intention and to giving it fair wind, but would like to go through it in much more detail, whether here, in committee or elsewhere.

Senator Darragh O'Brien: Cuirim fáilte roimh an Aire Stáit go dtí an Teach arís. I thank Senator Barrett for introducing this Bill. We are all agreed an immense amount of work has been put into this Bill. This is the first Bill I have seen where the explanatory memorandum probably needs an explanatory memorandum of its own. I have been reading through it and trying to make a good fist of it.

All potential solutions and all aspects of them need to be considered in the light of day. I support the thrust of the Bill, but the issues need to be teased out. This is not the first Bill we have had on the issue of mortgages. Senator Barrett already produced the Fiscal Responsibility Bill on which the Government is moving separately and Senator MacSharry mentioned the Family Home Protection Bill 2011. There has been significant concern, across parties and among Independent Members with regard to how we can grapple with the banking problem and mortgage debt. The figures given by Fiona Muldoon that we raise all the time with regard to the mortgage arrears crisis are probably another day's work, but they indicate the fact that the banks are kicking the can down the road and are not dealing with the real issue. They are not dealing

with the €6 billion or €7 billion figure given with regard to potential future write-downs.

The banks have not even dealt with aspects such as zeroisation of interest. It is all very well giving people a moratorium for 12 months, but interest still piles up. The banks are not looking at the extension of mortgage terms for those who are in their 30s or 20s with 25 year mortgages who have the capacity to extend the mortgage term out further.

5 o'clock

If one asks our pillar banks for such a mechanism - this is the crux of the issue of freeing money into the economy - one is asked to rewrite the mortgage and to underwrite the mortgage again at its original value. In other words, one will not get it. If we were to allow the terms of mortgages to be extended by five years, with full medical underwriting being done again, we would reduce people's current repayments by between 15% and 20%. People are struggling under mortgage debt. There is no question about that. Senator Barrett's Bill looks towards the future by trying to enable the banks to alter the way they do their jobs. The strict loan-to-value ratios that are provided for and set out clearly in this Bill are very important. That is the way it is. If someone wants to borrow through this mechanism, he or she will know what the situation is. I think that would help the people and the banks.

When the Minister for Finance replied to a question tabled by my colleague, Deputy Michael McGrath, we learned that one third of all mortgage applications made in the last 12 months - the ones that reached application stage - were refused. The market is simply not going to move if that pattern continues. We have seen an increase in rental yields because professionals and other people who can afford to do so are renting rather than stepping into the market to buy. To be frank, I would not step into the market if I had any money to do so, which I do not. I do not believe this is a good time for people to purchase. The NAMA scheme that was announced in this House, which aims to provide protection from future falls in property values, is under-subscribed. Approximately 35% of the houses in question have been sold. The take-up of the incentives offered by the Minister for Finance in the last budget, such as the increase in mortgage interest relief for first-time buyers, has been minimal. The reason for that is people's lack of cash.

The banks do not have money. Senator Michael D'Arcy covered it very well when he said we are asking the banks to show forbearance to people. I think that should happen because the banks shoulder much of the blame for where people are at. I know about it because I worked in the sector. I did not work in a bank, but in a role that was directly related to mortgages and pensions. Normal people went in to look for a 92% loan, but by the time they left they had been given a 110% loan. Those who did not understand what that meant were asked whether they wanted a new car, a holiday or an opportunity to throw all their other loans in with their mortgage and were told everything would be grand. People might not have had guns held to their heads, but they were pushed in a certain direction as I have outlined, particularly by banks that were led by sales bonuses.

The mechanism included in this legislation is part of the solution. It needs to be teased out. It would apply strict structures to what can and cannot be loaned in the case of a certain type of property or development, or in the case of agricultural land. It goes through all aspects of the matter. It really needs to be looked at. I assume and hope the Government will take this Bill seriously. I have referred to two other Bills that have been proposed. Senator MacSharry came into the Chamber about a minute after I mentioned his Bill, which would have established an

independent debt settlement office. I put it to the Minister that such an office is still required. Perhaps an independent appeals mechanism can be provided for in the Personal Insolvency Bill 2012. We cannot give the banks the final say on how mortgage arrears are dealt with.

I wish to ask the Minister for Finance a question while he is here. Perhaps he or his officials might be able to answer it. The Minister, Deputy Noonan, and the Minister of State, Deputy Brian Hayes, both said that mortgage resolution schemes would be submitted by the banks to the Central Bank by 30 September 2012. I would love to know where they are. Have they actually done that? Are they being considered? The Personal Insolvency Bill 2012 is the nuclear button. It is not a solution for people. The mortgage-to-rent scheme is not being taken up by most local authorities, including my own local authority in Fingal. They are telling people they are not operating it. Lenders are also saying they are not operating it. People in my own area of Fingal do not want to know about it. Neither the Oireachtas nor the Government will solve this overnight. Some aspects of Senator Barrett's Bill should be part of the solution. We need to be serious about getting stuck into the banks and the local authorities, where possible. What is the point of the Minister of State with responsibility for housing coming to this House to announce a mortgage-to-rent scheme when most local authorities will not even participate in it?

I will conclude by thanking and congratulating Senator Barrett on the work he has done. If he can work on a new explanatory memorandum for me, I will be happy to circulate it. We know we are in the midst of a mortgage crisis that is getting worse. Mortgage arrears have increased by 50% year on year. I will not even talk about the buy-to-let market, which the banks have failed to deal with. Many of the loans in question are about to reach their capital repayment terms. The mortgage crisis will get worse if action is not taken. The Bill proposed by Senator Barrett would force the banks to engage in new lending and to look at things differently. That is needed as part of the solution. I ask the Government to allow this Bill to be passed on Second Stage.

Senator David Norris: Hear, hear.

Senator Darragh O'Brien: That would allow us to kick it around a bit more. If the Minister for Finance or the officials in the Department of Finance wish to propose amendments to the Bill, that can be facilitated.

Acting Chairman (Senator Michael Mullins): I thank the Minister of State, Deputy McGinley, for being with us. I welcome the Minister for Finance, Deputy Noonan, to the House. Does he wish to speak now?

Minister for Finance (Deputy Michael Noonan): I think I will hear another contribution or two.

Senator Aideen Hayden: I welcome the Minister to the House. Like a number of others, I would like to thank Senator Barrett for all the work he has put into this draft Bill. It is a superb piece of work. I am a lawyer. I also have a degree in economics. I have gone through this proposal on a number of occasions. If I sat down to go through it ten more times, I doubt that I would understand it completely. I can say honestly that I am pretty confident that I would not understand it.

Like other speakers, I would like the Government to give this Bill some serious consideration. I honestly believe we have reached a point in our history at which we need to examine new ways of doing things. I agree with those Senators who have said we need to deal with

the difficulties in the housing market at present. I refer in particular to the manner in which the housing market relates to the current economy. Ms Fiona Muldoon has been mentioned in this House on a number of occasions in the last two days. Her comments at the Irish Banking Federation conference were particularly timely. When she described the dealings of the Central Bank and the regulator with the banking sector as being like dealing with a teenager, she said it all about the point we have reached in our interaction with the banking sector.

I would like to mention a couple of figures to demonstrate that the housing market is currently stuck. The CSO has indicated on a number of occasions that it believes the housing market has over-corrected. The most recent auction figures suggested that over 50% of properties being bought in the State at the moment are being bought for cash. That is not a healthy situation. It does not suggest that the mortgage market is functioning properly. We are all too well aware of the number of home owners who are in mortgage distress. Now that the Minister is in our midst, it is tempting to mention that Senators have asked for a fuller debate on the issue of mortgage arrears, with particular regard to what is happening under the mortgage arrears resolution process, which is meant to be presented to the Central Bank by the pillar banks.

I must admit I have a lot of time for Senator Barrett's proposal. However, there needs to be a note of caution with regard to a couple of points. History matters when it comes to a housing system. When one is talking about the Dutch housing system, for the sake of argument, it is important to bear in mind that one is looking at a process that is over 200 years old. Denmark belongs to the category of countries which come from a social democratic tradition. There is a much lower level of home ownership and a much higher level of social provision, particularly pension provision, in that country. That means people look to home ownership in a way that is completely different from the way people in Ireland look to it. Norway, to take another example, has deliberately encouraged very high levels of home ownership in order to establish a form of asset-based welfare. In other words, one's home is an asset on which one relies as one gets older. When we choose the models we will look at, we should be careful to select those that are most sympathetic to where we are coming from as a jurisdiction and that reflect our priorities and our past.

I would like to make a couple of points in response to Senator Barrett's analysis. He spoke about 80% loan-to-value ratios, for example. The Senator's Bill inspired me to study a couple of the treatises on the Irish housing market that have been published in recent years. I was struck by the 2004 report of the National Economic and Social Council, which basically said that the issue at that time was not one of affordability. For most earners, the issue was access to a deposit. In other words, home ownership had never been less expensive than it was in 2004 but a significant number of people could not actually access the deposit.

It is easy to turn around and say what happened was a failure of banking regulation but that is not true. I would like to take the opportunity to refer Senator Barrett to one of his colleagues, Professor P. J. Drudy, and his work on the difficulty we had with not capturing betterment for the Irish people, for example, in terms of escalating land price values. It is very easy to look at what happened in the Irish housing system and look beyond the banking sector and the failure of regulation but let us not totally be myopic around the banking system. Let us look at the wider issues of why this system failed and collapsed. As an economist, Senator Barrett is particularly attached to the laws of supply and demand. The work of, for example, Mr. Peter Bacon and others shows that what happened in this housing market was not just about the failure of banking regulation but about the failure of supply and demand and, quite clearly, it was about the failure to provide an adequate amount of housing for people who needed it. I do not think

we can ever get away from that when we move forward. If we think our problems are going to be solved by banking regulation and correcting banking misregulation without looking at the fundamental principles of supply and demand and the fact people need homes, we will never move on.

There is one issue we need to look to in the future. As I said, history matters. In the 1990s and leading into the market collapse in the 2000s, one of the fundamental matters in Ireland was the withdrawal of the Irish State from housing provision. The bottom line is that if one looks at Irish housing in the 1960s, 1970s and 1980s, we had a very similar banking sector over those three decades and, in fact, we did not really have financial liberalisation until the end of the 1970s and into the 1980s. The gap was filled by the role played by local authorities in lending to and providing homes for people on low incomes. My point is that if we are to look to the future, we must to some extent look to the past and what worked for this country in the past. Where we went wrong, if I may say so, and I am not sure if I have six or ten minutes remaining-----

Acting Chairman (Senator Michael Mullins): Six.

Senator Aideen Hayden: My colleague had ten. I am wondering if there is some discrimination between Fine Gael and the Labour Party.

Acting Chairman (Senator Michael Mullins): I have to accept there was an error on the part of the Chair.

Senator Aideen Hayden: I will try to rush through as quickly as I can. It is important to say it is more than a debate we can have here today to find what wrong with the housing market in this country. I believe history matters a lot. We need to look at a scenario where we go back to what worked for this country in the past.

I do not favour a situation where we go back to a scenario where we have such tight banking regulation that people would need to have their first communion money before they could get a loan from a bank. Ireland is and always has been a nation of homeowners. Some 25% of the people in this country became homeowners through the local authority sector. There is a significant body of evidence that shows that older people in this country are not poorer than they could be because they own their own homes.

What Senator Barrett has presented is part of what I would suggest is a rich tapestry of options and I thank him very much for producing it in the House. I commend it to the Minister and ask him to give it his serious consideration.

Senator David Norris: I welcome the Minister to the House. It is an indication of how serious the Government is taking this issue that the Minister for Finance would present himself to Seanad Éireann. I regret he was not able to be present, though I am sure it was for very good reasons, when Senators Barrett and Quinn spoke. What they said was so important, so precise, so clear and so brilliantly argued that it is very important the Minister should take the time to read the record of the Seanad, because what they said will be of infinitely greater value than anything I can say, as I am very much an amateur. Nonetheless, I am an amateur who has been concerned politically and socially for the welfare of the Irish people throughout my political career.

I remember a number of years ago, at the beginning of this financial crisis, predicting that

mortgages would be a really serious problem, that we were only beginning to see the tip of the iceberg and that, as the situation worsened, more people would be dragged into this very difficult situation. I made a suggestion at that stage, which was probably a little naive, that we would create a department, not of homeland security, as it is in the United States, but a department of home security, so a group of officials could get together and study the kind of proposals Senator Barrett has used his academic training and encyclopaedic knowledge of the markets and regulations to present to us today.

It is a very important day for Seanad Éireann when such a constructive and immediate response to a very difficult situation should have been entered by Senator Barrett. I am glad the Minister is here but I hope Senator Barrett will send it also to Ms Fiona Muldoon and to the public interest directors of the banks. After all, we own them. I do not know what they are doing. I understand they got €2.5 billion and they have lent about €1 million of it. What is happening? It is very constipated banking, as far as I can see. Nothing very much seems to emerge. We hear day after day on the radio of situations where valid mortgages are turned down. The banks want to amass money in order to refloat their books. Very few people will disagree with this assessment.

The Bill gives certain things. It gives stability, which is very important. It is EU-complicit and has been validated by a number of very significant financial authorities. It provides a situation which could protect us against bubbles in the market. In addition, it has a strict loan to value ratio, which is very important and would allow a much lower possibility of default.

I wish to turn to some of the points made by other speakers. Senator D'Arcy is a very amiable and decent person and I hope he was not put in just to block this Bill. I hope Senator Barrett will do something that Seanad Éireann has done historically for the past few years, namely, when we feel there is something very valuable, the proposer, when he responds, sits down after three minutes instead of five, leaving two minutes remaining so that the Bill is still alive in some form on the Order Paper of Seanad Éireann. This is a terribly important and timely Bill.

Senator D'Arcy seemed to suggest one thing with which I profoundly disagree, namely, that the 100,000 or so people who were on the unemployment register before the bubble and the crisis were not really looking for work at all. One cannot say that about an entire group of people and I hope he did not mean it. God knows, I know it is easy to make a slip of the tongue but I hope that remark was an ill-considered one. I presume Senator D'Arcy's little excursion into the German psyche came from one of the words used by Senator Barrett, realkreditobligationer. It is actually a Danish model and I am not sure the Danes would be flattered by being accused of having a Germanic psyche.

I was very impressed indeed by the tribute paid to Senator Barrett by Senator Hayden, who is one of the best speakers and one of the most incisive intellects in this House. I do not always agree with her but, by God, you know what you are dealing with when you are dealing with her. She talked about the historical background we need to look at. However, that came out of the kind of historical background we are looking at, because the great fire in Denmark in the late 1790s created appalling chaos in the market and this was produced in response to it. Now, it is a valuable response in our situation.

The other point is that it was a mutual situation. It was not just the banks, it was also the building societies. I remember them in my day being mutual societies for the communal benefit and social welfare of people. Then, we got greedy. They decided to privatise themselves and

everybody got €10,000, €15,000 or €20,000 - I think I got about €2,000 out of mine. I always felt this was a violation of what they were set up for, which takes us back to the principal of mutuality and social good. One need only look at the situation from which we have come. I am not good at graphs but I refer to one which shows the composition of debt by country in 2010 as a percentage of GDP. We are the worst in every category. Senator Barrett has not given a percentage for household debt but it looks as though it is 120%.

An Cathaoirleach: Senator Norris has one minute remaining.

Senator David Norris: For non-financial corporations it is 222%, and it goes up to 259% for financial corporations. The overall percentage is 85%. That is terribly dangerous. The approach outlined in the Bill is one way out of it and it will free up money into the system.

One of the most important elements that is proposed is the notion of a sliding scale of loan-to-value ratios. The first type of property is those which require an 80% loan-to-value ratio. This refers to owner-occupied, all-year residences, namely, homes. Also in that category, there is private co-operative housing - the social element; private residential property for letting, including facilities for persons who require care - the decency of the Irish people is reflected there; non-profit rental housing; youth housing; housing for the elderly; and properties for social, cultural and educational purposes. This makes the scheme socially attractive. The next type of property is those which require a loan-to-value ratio of 70%. In that case we are looking at agricultural holdings, forestry property and market gardens. Again, they are immensely socially constructive and also good for the economy. The required loan-to-value ratio then declines to 60% for recreational dwellings, office properties, retail properties, industrial properties and collective energy supply plants. We are again looking at an incentive mechanism for restarting the economy, but we are putting it at a lower level than the socially important items. For the construction industry the required loan-to-value ratio is 40%.

I say well done to Senator Barrett. I congratulate him. He should not withdraw this explanatory memorandum. It is wonderful. It is brilliant and idiosyncratic. I have never seen one like it in my life but it is refreshing because it gives one the answers. It asks the principal question of why Ireland needs the balance-principle banking model. If one wants an answer, it is there. It is not given in the kind of way I have ever seen in an explanatory memorandum before. We need to translate it in case there are any journalists listening who may think that immorality is being proposed. My good colleague, the brilliant academic from Trinity, Senator Barrett, dares to use the classical languages. He uses a phrase from Latin.

An Cathaoirleach: I ask Senator Norris to conclude.

Senator David Norris: He says it would be useful to put in place a highly regulated *tabula rasa* approach to kick-start the mortgage market again. For anybody who is worried about the phrase from Latin, it just means a clean slate - a chance to restart things. All of us in this House feel that is what we need. I commend the Bill and I congratulate my two colleagues. I am sure the Minister, who I know will examine the Bill, will consider the proposal, and if it is useful he will even employ it.

Minister for Finance (Deputy Michael Noonan): I thank the Senator for his work in researching and bringing this Bill before the Seanad today. It is clear that there are many challenges currently facing the Irish banking system and I welcome all contributions to the debate, particularly from the Senator, given his expertise in the economic field. Mortgage credit is a

key component of the banking system and we accept that the market is sub-optimal at the moment. I regret I cannot accept the Bill as proposed by the Senator in its totality but I have asked my officials to consider whether elements of the proposal could be feasibly rolled out as the financial system is returned to sustainable operation.

As the Senator has acknowledged, this Bill borrows heavily from the Danish model which has operated successfully in Denmark for generations. The balance principle of matching loans and bonds is the backbone of the Danish mortgage system. Within the system, the mortgage banks there operate differently from mortgage lenders in Ireland. They do not take deposits or raise funding for lending purposes. Instead, they act as an intermediary between the borrower and the investor who funds the loans by purchasing bonds.

It is far from clear that the Danish system could be transposed to the Irish situation. We must remember that, until the global banking crisis broke in 2007, mortgages in Ireland were funded through a variety of sources. These included customer deposits and unsecured funding from the money markets of both short and long duration, as well as secured funding structures such as mortgage-backed securities and covered bonds. However, as is widely understood today - albeit with the benefit of hindsight - as the last decade wore on and banks developed an insatiable appetite for funding to support their expanding loan books, more and more Irish mortgages were effectively being funded by the international markets.

As part of the restructuring of our banking system, we are downsizing our institutions to a more sustainable level and also restoring a more traditional funding model that largely comprises customer deposits, which do not tend to move frequently. Significant progress in aligning the quantum of bank lending with customer deposits has already been made. However, that is not to say there is no place for market or wholesale funding in the Irish banking system. We do recognise the benefits provided by this type of funding, particularly as banks seek to better align the long-term nature of their lending with that of their funding, which tends to be more short term. It is for that reason the Government is supportive of the covered bond structure we have in place in this country, which has been proven by international investors to be a robust and valued framework.

As Senators can appreciate, since the Government has taken office, much effort and focus and substantial taxpayer resources have been directed towards the stabilisation of a badly damaged banking system. Any proposal for the introduction of new initiatives needs to be viewed through the lens of the State support already committed and broader sectoral financial stability. The Danish covered bond model has been in place for more than 200 years and is specific to the Danish property market. It is a concept that has worked well in the Danish context and is well embedded in Denmark. There are many positives to the system but it must be remembered that the introduction of such a system in this country would necessitate a total shift in mortgage banking policy and regulation. Such a transformation would bring with it a number of risks and could conflict with other Government initiatives currently under way.

For example, the Central Bank's code of conduct on mortgage arrears applies to mortgage lending activities with borrowers in respect of their principal private residences in the State. Compliance with the code is mandatory for all mortgage lenders registered with the Central Bank. The code provides a number of protections to borrowers. These include the establishment of a formal mortgage arrears resolution process, MARP, to deal with mortgage customers who are in arrears or pre-arrears, the establishment of a dedicated appeals support unit and a separate internal appeals process by lenders to deal with individuals on a case-by-case basis.

Provision 9 of the code restricts lenders from imposing charges or surcharge interest on arrears outstanding in MARP cases. With regard to repossessions, a lender may not apply to the courts to commence legal action for repossession of property until every reasonable effort has been made to agree an alternative arrangement. When a borrower is co-operating with a lender, the lender must wait at least 12 months from the date the borrower is classified by the lender as being under its mortgage arrears resolution process - that is, 31 days from when arrears first arose - before applying to the courts to start legal action for repossession. This contrasts greatly with the Danish system, where it typically takes no more than six months from the time when the borrower defaults until a forced sale can be carried through. The Government could not countenance a system that forced families out of their homes in such a short period of time. The Government's proposals for dealing with the mortgage arrears problems have been designed to assist people to stay in their homes for as long as they are proportionate to their needs.

In addition, the Bill, together with necessary and detailed Central Bank regulations, could conflict with the personal insolvency legislation which will deal with borrower indebtedness and with the deleveraging process that is under way in the banks. The Danish model and the Bill proposed by the Senator involve the standardisation of mortgage products, most notably with regard to loan-to-value, LTV, limits. Danish regulations and the proposed Bill limit the amount that can be lent to homeowners to 80% LTV. Although this helps in terms of credit risk for the bank and negative equity risk for the borrower, it would greatly limit the number of mortgages issued in Ireland. Most banks in this country currently offer mortgages of 92% LTV. This is important to many potential borrowers, especially the important first-time buyers, who would struggle to find the additional 12% for a deposit.

In addition, the capital requirements directive and regulation is currently in the trilogue phase of negotiations among the European Commission, the Council of the European Union and the European Parliament. It would not be appropriate to introduce new lending and banking practices in advance of the conclusion of negotiations on this regulation and directive. Concerns have been expressed about how the directive may treat bonds such as those used in the Danish system. The outcome of the negotiations has the potential to require significant change to that system. Finally and crucially, for this system to work, it would need to generate a critical mass and would need legal certainty. It is not clear that there would be sufficient interest in the purchase of Irish mortgage bonds at this time.

The Government is playing its part in returning the property and mortgage market to normal levels although I wish to make it clear that the Government will not artificially stimulate demand. Last year's budget aimed to restore confidence, rebuild our economy and provide stability and certainty to investors to invest in Ireland. It provided that first-time buyers in 2012 will get mortgage interest relief at a rate of 25% and other buyers will benefit from relief at 15%. This measure gives certainty to those considering purchasing a home. Again, I strongly emphasise that this mortgage interest relief measure will come to an end at the end of this year and there will be no extension to this measure given the current budgetary position. Furthermore, purchasers should ensure they factor in the time required between purchase and mortgage draw-down in order to qualify for mortgage interest relief. We are getting really close to the time when the curtain comes down on this relief.

The recently launched residential property prices register also gives certainty to the market in regard to prices paid for specific properties and it is already helping to guide commentators about the current state of the market. The budget also introduced a capital gains tax incentive for property purchased between 7 December 2011 and the end of 2013. If a property is bought

during this period and held for at least seven years, the gain attributable to that seven year holding period will be relieved from capital gains tax. This applies to commercial property, including industrial and commercial buildings, farmland and residential property.

A number of further initiatives have been pushed forward. The Government is aware of the significant difficulties some homeowners are facing in meeting their mortgage obligations and is committed to advancing appropriate measures to assist those mortgage holders who are experiencing genuine difficulties. In this regard, the Government is actively implementing the main recommendations contained in the report of the interdepartmental working group on mortgage arrears,

A number of significant milestones have now been achieved. The Personal Insolvency Bill was approved by Government and published last June and Committee stage of the Bill was passed by the Dáil last month. The Minister of State with responsibility for housing and planning has formally launched the mortgage to rent scheme on a nationwide basis. Lenders have now provided details to the Central Bank on their proposed forbearance and loan modification options and some forbearance measures have been introduced on a pilot basis, with a further roll-out later in the year. In addition, an extensive independent mortgage advice framework has now been put in place by the Minister of Social Protection comprising: an enhanced website, *keepingyourhome.ie*: a mortgage arrears information helpline; and the provision of free, independent, one-to-one, professional financial advice to borrowers considering a long-term forbearance or resolution offer from their lender. The list of accountants providing this service is located on the *keepingyourhome.ie* website. The Government remains very committed to progressing these measures, which are in addition to existing supports such as the code of conduct on mortgage arrears which assists genuine mortgage holders in difficulty, and the Government sub-committee on mortgage arrears, chaired by An Taoiseach, which continues to meet to ensure this matter receives priority attention across relevant Departments and agencies.

I note that the comments of the Secretary General of the Department of Finance, Mr. John Moran, and the Central Bank's director of credit institutions and insurance supervision, Ms Fiona Muldoon, have generated significant coverage. These two public servants were doing exactly what public servants do - clearly articulating and implementing the Government's policy on the resolution of mortgage arrears.

It is important to remember there is no quick-fix solution to the Irish banking and mortgage issues. The Danish model is about a different financial and institutional system of mortgages and lending. Adopting such a system in Ireland would involve many risks and now is not the right time to include further risks into the Irish financial system. While accepting the many merits of the Bill proposed by Senator Barrett, I consider that the direction being taken by the Government is appropriate at this time and I am satisfied that the initiatives currently underway will resolve the situation. I fully accept many of the principles behind the Bill and the spirit in which it is put forward but regret that we cannot accept it at this time. However, I reiterate that I have asked my officials to see if proposals within the Bill can be advanced over time as the financial system moves to a more sustainable level.

Senator Marc MacSharry: I welcome the Minister to the House and thank him for taking time to attend, given his busy schedule. It is a shame we have to talk so often about this issue without any consequent penetrative action. I commend Senator Barrett on his work on this Bill. If we had had a model such as the Danish model some 20 or 25 years ago, before we had all our problems, I do not believe we would be in the difficulties we now face. There is a good

body of work there to consider but although the Minister stated he would ask his officials to look at aspects of it and how they might be transposed into an Irish set up, which is welcome, I have no confidence that this is hitting home in the Department of Finance given the way that Department interacts with Government. I speak of the inherent difficulties which demand immediate action.

The Minister stated: “These two public servants were doing exactly what public servants do - clearly articulating and implementing the Government’s policy on the resolution of mortgage arrears.” Ms Fiona Muldoon stated that the banks should fix their balance sheets through “at least partial forgiveness of irrecoverable loans”. In my view that means debt forgiveness. Mr. John Moran said something very similar, leading to the headline in one of the local newspapers: “New Hope for Write-Down on Mortgage Debt.”

The Minister mentioned possible mortgage resolution solutions, referring in the first place to a code of conduct. In its analysis of compliance with the code of conduct, the Central Bank showed that the banks are not following that code of conduct. This can be verified in the releases published by the Central Bank on its website. It is true that a mortgage arrears resolution process has been put in place which offers a structure of contact with people who are in difficulty and it has been followed to an extent. However, all reasonable solutions are not being considered. The Minister referred specifically to an appeals process but that is an internal process. To what body does it appeal? If a bank’s decision to offer very little is appealed, the appeal is heard by the bank itself, which also determines whether action is necessary.

Senator O’Brien observed that according to anecdotal evidence in his constituency action on the mortgage to rent scheme is not being followed through. In situations where I act formally on behalf of people who have asked me to be a point of contact with the lender, I have asked for action to be taken but no bank has the slightest intention of taking this on board. They are not interested in meaningful solutions. Senator Barrett referred to the back stairs for bankers in the Department of Finance. Unless a measure happens to be the banker’s idea, it seems the Legislature must continue to be in denial and refuse to come forward with reasonable solutions. This will be the case until there is an independent statutory demand that banks take particular actions. That does not mean codes of conduct although if these were statutory and properly enforced we would find out that banks were not complying. Consider what would happen if there was a law enjoining banks to take a particular action. For example, why not have aspects of the Personal Insolvency Bill tested before the courts by requiring that order for repossession of a family home cannot be granted unless specific steps are taken by the relevant bank, including extending the term of the loan, renegotiating its terms or offering a rent-to-mortgage facility? If the law required such steps to be taken in advance of any order for repossession being granted, the brains of the very same bankers who produced various complex methods of losing money, such as derivatives, would have to be engaged to put forward what is needed in this process. This is not just about having the “best boy in the class” T-shirt for European bankers to whom we had to repay enormous sums but about the people of this country. The number of residential mortgages in arrears has reached 129,000 and the figure is increasing by 1,000 each month. If we wait for the market to rise to allow people to recover, we will probably wait for 18 years, as a number of reports have shown. We are still in denial. We have had the Personal Insolvency and Debt Settlement and Mortgage Resolution Office Bills. Senator Sean Barrett, the sponsor of this Bill, is being given the pat on the head that is customary when Independent Senators introduce legislation.

Senator John Gilroy: Senator MacSharry is being unfair.

Senator Marc MacSharry: The Government is thanking him for doing a great job and while indicating it would be give him a first class grade if he was being adjudicated on his economics class, it is also telling him it has no interest in changing the law to do something for people.

The Minister stated that two senior civil servants, the Secretary General of the Department, Mr. John Moran, and Ms Muldoon of the Central Bank, were carrying out Government policy when they spoke of the need for debt forgiveness. Nothing is being done on this issue. As the evidence from every constituency office in the country shows and as everyone involved in business knows, the banks are only superficially engaging with people. I ask the Minister of State to cite one instance of individuals aged in their mid-40s who have paid off 15 years of a 35 year mortgage being offered the option to extend their mortgage term to 35 years. The reason no one can cite a single example of such a scenario is that there are no such cases. Can anyone cite an example of people being offered a mortgage-to-let facility? I cannot find a single example of this in the north west. I have requested that such an option be provided in two specific cases and both my requests have been declined.

I do not doubt that everyone wants the position to improve. However, until responsibility for this matter is removed from the banks, they will continue to act in a superficial manner and put the interests of people last, which I am sure is not the Government's intention.

Senator John Gilroy: I welcome the Minister of State, Deputy Ring, to the Chamber. It is great to see him again. I am pleased to have an opportunity to discuss this innovative legislation. It is always worthwhile spending time examining the approaches taken in other jurisdictions. I commend Senator Sean Barrett on affording us an opportunity to discuss this issue, even if I called down many maledictions on his head in recent days for presenting such complex legislation.

The Standing Orders of the Seanad work against us in respect of this legislation and it is regrettable we must discuss this highly technical Bill within the constraints of a Second Stage debate. I thank the Leader for taking time today to ascertain whether Standing Orders could be amended to allow us debate the Bill in an alternative format. We must deal with it in the prescribed manner, which means we are unable to interrogate the intentions of the proposer in as full a way as I would like. Notwithstanding this, we must do what we can within the constraints of Second Stage to examine this proposal, which has undoubted merit.

No one disagrees that restructuring of the mortgage market is necessary. The introduction of new mortgage products should be considered and welcomed if they are found to reduce the level of risk involved in all lending. Concerns have arisen about the drafting of certain sections of the Bill. These could be improved with further work as one or two sections appear to seek to achieve a little more than is legislatively possible. An example is the prescription for action following default or bankruptcy in relation to the ranking of creditors in section 24, which appears to be outside the scope and jurisdiction of the Bill. However, I will leave this matter aside until we are able to discuss it in a more appropriate manner, perhaps on Committee Stage.

One of the reasons I asked the Leader to ascertain if a different process was available for having this discussion in Private Members' time is that I believe the Government side could support the Bill if it were presented in another form. It is a great shame that we cannot allow the Bill to proceed in its current form as many aspects of it are worth exploring.

Some of the literature I have read on this issue suggests the financial culture in the jurisdiction in which the proposed bonds would be processed is very important for the successful operation of the bonds. The Danish model on which the proposal is based involves a conservative lending regime in a well-funded and mature financial market. As the Senator's note indicates, mortgage credit bonds have been operating successfully in Denmark for two centuries. A similar product in the United States, the mortgage backed security, is an instrument that represents a claim on cash flows from mortgage loans. We know now, however, that in the financial culture prevailing in the United States in the happy days before the collapse of Lehman Brothers, these instruments were bundled with more risky financial instruments and caused massive damage and contagion throughout the global market. Having seen how domestic lending institutions have operated over the years, people could be forgiven for lacking confidence in our lending leaders. I understand, however, that provision has been made within the operation of the mortgage credit bond to prevent over-the-counter resales and bundling with riskier products. I would liked to have had an opportunity to discuss this matter further with the Senator.

I have another concern about the operation of mortgage credit loans and associated bonds. It seems we are proposing that the lending institution - I will use the term "bank" for simplicity of argument - will act as a clearing house to match the loan given to the borrower to the bond of the lender. The bank charges an administrative charge, the borrower receives his or her money and the lender receives an income flow to the value of the bond. While I note that the balance principle works here, I would have also have liked an opportunity to tease out the implications of this with the Senator. My concern in this regard is that it breaks the traditional link between lender and borrower. It is customary for the bank to carry the lending risk and it is in its interest to act in a prudential manner with regard to due diligence because it is carrying the risk. Acting as a clearing house removes this responsibility from the bank or at least reduces the urgency of acting in such a manner. If the credit mortgage bond is available in the financial markets, over-the-counter resale would make this requirement or the urgency of this requirement less onerous on the banks.

Senator Barrett's proposal is exciting and stimulating and I would like to explore a number of other questions with him. For instance, would it be necessary to establish a new organisation as a specialised lender or would another, existing institution be retooled, so to speak, to assume this role in the Irish context? Is there a facility for early settlement of the bond and, if so, would this entail the bond carrying an increased risk premium?

I note section 6 sets out categories of property that would be eligible under the scheme. The non-profit or social housing element calls to mind our old friends, now deceased, in the United States, Fannie Mae and Freddie Mac. We saw where these two institutions ended up when they used a similar sounding financial instrument, despite enjoying the faith and confidence of the US Government.

Could we introduce this model in an oven-ready manner, as it were? Are there any distinctive Danish characteristics associated with this lending model or any unique or novel Irish characteristics which could preclude its smooth transfer into our system? I would have liked more time to discuss these issues.

The Minister indicated in his reply that a total shift in mortgage bank policy and regulation might be required to make it compatible with this Bill but contrary to what Senator MacSharry might say, the Minister's reply constitutes a result. He can take some satisfaction from the fact that it has not been dismissed like many of the proposals we may want to accept but are barred

from doing so by the party Whip system. I say that because we must be honest in our dealings here.

I commend Senator Barrett. It is an interesting topic which I hope we will have an opportunity to discuss again in the House.

Senator Mary M. White: I commend Senator Barrett on this innovative Bill. This is the kind of proposal we need from Senators on different issues because it is worthwhile having a robust Seanad.

The Minister stated: "I note that the comments of the Secretary General of the Department of Finance, Mr. John Moran, and the Director of Credit Institutions and Insurance Supervision... have generated significant coverage." Those two public servants were doing exactly what public servants do, namely, articulating clearly and implementing the Government's policy on the resolution of the mortgage arrears problem. We have not heard yet from any Minister for Finance, including the Minister present, or any Government spokesperson on how bad the situation is in the Irish banks. Ms Muldoon was extremely critical of the behaviour of the banks in doing the job they are supposed to do. She stated:

Old-fashioned credit collection techniques were largely absent. We found that challenge to SFS was minor and peripheral. There was little understanding or agreement around affordability. We found that systems were clunky and difficult to operate. Management information was not in place - I am a big proponent of what gets measured gets done!

She further stated that she has not found any humility in the banks in contrast to the American way of doing business where if one makes a mistake, one gets on with it and resolves it.

I find a conflict in what the Minister said in his contribution which diminishes what Senator Barrett has proposed. People on the opposite side of the House support and admire what he has done. The Minister stated:

It is important to remember that there is no quick fix solution to the Irish banking and mortgage issues. The Danish model is about a different financial and institutional system of mortgages and lending. [We know that.] Adopting such a system in Ireland would involve many risks and now is not the right time to include further risks in the Irish financial system.

I doubt very much if a professor of economics from Trinity College who has vast experience would propose a Bill in Seanad Éireann that would be risk taking. That is an extraordinary comment from the Minister. I am a long time admirer of the Minister, Deputy Noonan, who has been a good commentator on budgets over the years. He always gave a brilliant response to Fianna Fáil budgets; I loved listening to his comments on the 6.30 p.m. news. Is there a conflict of interest between Mr. John Moran and Ms Fiona Muldoon? Are they working together? He says they are carrying out Government policy.

Senator John Gilroy: On a point of order, that statement cannot be allowed to stand.

Senator Mary M. White: They are saying these two public servants are carrying out what the Government wants to do-----

An Cathaoirleach: The Senator should refrain from putting people's names on the record of the House.

Senator Mary M. White: -----but I cannot see that because both Mr. John Moran and Ms Fiona Muldoon were very critical in their speeches yesterday. They were speaking to a banking audience and they criticised them. They could not have gone any further in what they said about how incompetent they are and how they are not dealing with the financial situation we are in that is dragging our country down not only in terms of mortgage arrears, but also in not getting money to small and medium businesses to allow them keep their businesses going. I am amazed at the Minister's speech. I think he came in to deliver it and get it out of the way, and that is showing disrespect to the Bill.

Senator Tom Sheahan: I had not intended to speak on the Bill but I have been moved to do so by Senator White's contribution. At the time of the Peter Bacon report, which was taken from the 2006 census, we had 215,000 unoccupied houses, 65,000 of which were second homes and holiday homes. There were 150,000 unoccupied houses in the country in 2006, yet Government policy was to build 90,000 units per annum. We do not have to look outside these Houses for people to blame for that. We do not have to apportion all the blame on the banks. Senator White quoted from the commentary during the week and said there was little humility on the part of the banks. I suggest there is little humility on the part of Fianna Fáil for what it did. In 2006, there were 150,000 unoccupied houses in the country and Government policy was to build 90,000 units. That is the reason we got to where we are now.

Senator Jim Walsh: I welcome the Bill and commend the interest of Senator Barrett in this area. It grieves me that four years into probably the greatest financial disaster we have seen in our lifetime we are still trying to get to grips with some of the basic actions that need to be taken. That reflects badly on recent Administrations, and I am not excluding my party, and certainly includes the current Administration.

The idea behind the Bill, as Senator Barrett explained, is that the institution will be a bridge between investors on the one hand and borrowers on the other. Everybody in this House will recognise that we do not have a functioning banking system. Having recapitalised the banks, they are still not working, and I do not believe they will work. I recall somebody who was working within the banking architecture for many years saying to me at the time this crisis emerged that the banks, months before the issue arose, were sitting at high levels preparing their campaign and that they would dance rings around our Department of Finance and our Administration. Our Administration depends on people in the Department of Finance, the Central Bank and the regulator, all of whom failed, catastrophically in my opinion, to deal with the issues when they needed to be dealt with.

Many people have identified as a central failing during those good years that policies pursued were pro-cyclical, in other words, we had tax incentives and generated more investment into the property area. I was a critic of our tax regime at the time. I believe the commencement of this spiral began in the mid-1990s when the current Taoiseach, as Minister for Tourism and Trade, introduced the holiday home scheme. Over 1,000 houses were built in the Courtown area in my county and sold at a multiple of three times what houses in the rest of the county were selling for simply because of the tax breaks. Developers and investment structures made a killing, so to speak, because people were blinded by the tax deduction they got and, consequently, spent much more than they should have spent on the system.

6 o'clock

I remember putting it to the Minister in 2001 that we needed to re-introduce a provision

from the 1970s which required a certificate of reasonable value. If one was selling a house at that time one had to get from the Department a certificate of reasonable value. I argued strongly with the Minister. He tried with his officials but they convinced him that it would not work and that people would not go for it. He suggested that we introduce a provision whereby borrowing could not exceed the certificate but that was not done either.

The current Government is pursuing pro-cyclical policies which are depressing the market more than it should be depressed. The market needs to be stimulated. Some of the things we were doing in the good times should be brought back to try to get the market back to a realistic, sustainable level. It is not happening and I do not believe it will happen because I do not believe the advice or expertise is in place.

Everyone in the House knows that there are many young people who need to borrow to purchase their home. They are in a position to meet the repayments on the borrowings but the financial resources are not available in the banks. The banks are simply repairing their balance sheets. The Bill before the House would give an avenue of recourse to revenues for some of these people, although not all of them. It is a way for them to get access to moneys. It is a tried and trusted system in Denmark and elsewhere and it has worked well and successfully for many generations, as the Minister of State has acknowledged.

I note two points made by the Minister of State. He indicated he had no wish to introduce further risk in this area. I have tried to think about what risks there could be but I could only identify one. A securitised bond such as this one would attract the better or stronger borrowers and therefore remove them from the banks, which are dead banks and are not lending in any event. Many of the policies being pursued by this Government are trying to bolster a system that has failed and that is dead in the water. Something needs to be done.

I am a critic of the Personal Insolvency Bill which is still sitting in the Minister's office. Some four years into the crisis we have not addressed the antiquated bankruptcy laws in the country. As a consequence we have seen entrepreneurs and people who have lost everything they had having to emigrate to avail of more realistic bankruptcy provisions in other jurisdictions. In recent mornings on the Order of Business I have said that such people may resume their careers and business activities in those countries with a consequential loss of potential jobs in this country. We need to get expertise that will guide us in the right direction.

I commend Senator Barrett. He has taken a step in the right direction and this proposal should be supported. It is not a solution but it is part of the solution. I appeal to the other side to exercise their independence and leave this on the Order Paper by not voting it down. I imagine some of them realise that this needs to be done. If we vote it down we are going nowhere in respect of solving these issues.

Senator John Crown: This is a brief interjection. I call on the Minister of State to ask the Minister for Finance if he will consider some fundamental changes in the way we do our financial business with regard to the question of mortgage debt and bank sustainability. This is a time of national emergency. Let us reflect on when many people took the advice of bankers. They were a group the people in Ireland were brought up to believe could be trusted. They were a near priest class with whom people had a professional relationship. They were supposed to be counted on to give people advice which was in their interests with respect to what they could and could not afford in a mortgage.

As a result of systematic misleading, a large chunk of our population have found themselves with a level of debt that was never sustainable. However, these people had been advised by those who had a profound personal financial self-interest in telling them that such borrowing was sustainable. We should quickly move to the model of non-recourse mortgages. Anyone who wishes should be able to go to the bank, throw their keys down and tell them that the property belongs to the bank now and that they can keep it and keep the mortgage. This is the way in many countries and it would fundamentally change the outlook for many people here who find themselves trapped in debt or with the burden of negative equity.

These people cannot reinvest in any other part of our economy. Their entire future is in hock and it affects their social and geographic mobility. Their ability to change jobs is totally gone but this measure would restore it. In many cases it would still represent a financial catastrophe for people but at least it would be a liberating experience. It would not be for everyone. I do not imagine our banks would support the proposal but now we truly understood their essential culpability with regard to people making this mistake. It is often misrepresented in Germany and elsewhere that we went mad buying big houses. We did not. Most Irish people bought the same kind of house that their parents and grandparents bought. The only difference was that they bought it for five or ten times the price because they were led to believe that all the old rules of prudence which had applied were gone, rules such as that one should only take out a mortgage of two and a half times one's salary and that one should only take out a mortgage for 80% of the value of the property. These were no longer applicable and those days were gone. People were seriously advised that it was safe to take 100% interest-only mortgages to the value of three, four and five times their salaries. With respect, this was done with the complicity of several Governments, which were perfectly happy to take large sums of stamp duty from them as well. We should give consideration to simple legislation - perhaps it cannot be introduced in this House - to give anyone in a negative equity mortgage the opportunity of changing to a non-recourse mortgage.

I have put it to the Minister previously in the House that many people are in serious debt to banks and other lending institutions. At the same time some of these people have large amounts of personal savings tied up in pension funds, which they cannot access until retirement at 60 or 65 years of age. In many cases by the time those funds mature those involved will have lost their home or business because of the burden of unsustainable debt. I know of many people who would willingly get their hands on some part of their pension fund that is sequestered and untouchable until it is too late, pay the tax that would be due, and then use the money to pay down debt. The figure for Irish pension fund assets stored outside the country is approximately €100 billion. If only a small portion of that was redeployed not to satisfy the Government's payments to those who so unwisely invested in our banks as bondholders, but to deal with the other debt problem in the country, personal debt, I believe it would be a win win win situation. The Government would get more money in tax, the banks would get repayments on debts, which would otherwise simply go bad, and people would get some degree of liquidity which would help them to get their debt-ridden lives back on course. I thank the Minister of State for his attention. I will be supporting Senator Barrett and I hope the Minister of State will pass these message on to the Minister.

Senator Sean D. Barrett: I thank my colleagues and especially the seconder. In future I will allow Senator Quinn to make the proposal because he seconded it so well and I thank him for it. I thank all the speakers. The current Seanad is such that a certain county colleague of the Minister of State might not have proposed its abolition had he known that we would hold

such good debates. I hope the Minister of State will bring that message if there is a meeting of the Deputies from Mayo.

Deputy Michael Ring: I imagine the Cathaoirleach would have more influence than I would.

Senator Sean D. Barrett: I thank Senator Michael D'Arcy. Would the Irish psyche adjust to this? I would like to see the two systems going side by side. I gather the telephone has hardly stopped ringing since we printed the Bill. I understand there was an IDA proposal for a centre of this type of finance in the IFSC at one stage. Perhaps they could operate side by side. Would I like to see Irish banks running these operations? No, I would not like to see Irish banks running anything. Some €64 billion taken out of a country this size of an evening is enough damage done to this country as far as I am concerned. Perhaps they would actually become real banks if we had this measure. It might address their overwhelming reliance on mortgages at inflated prices and that reliance might be replaced by their getting to know some small and medium-sized enterprises. It might encourage them to do some other investment.

Would we have the associated problems that arose in the USA here? This question was raised by Senator Gilroy and other friends and colleagues. I am informed that it is plain vanilla that it will not be combined with anything else. That would be something on which I would like assurance as well. I would not like to see that situation developed.

The IMF likes it, it is Basel II compliant and the EU likes it. In fact, when I spoke briefly with the Minister, Deputy Noonan, I got the impression he will be taking more interest in his Danish colleague the next time they get together. He is intrigued by what we could learn from that, which is extremely good to hear.

Pension funds would like it. This is triple A star and we need that kind of investment. It could be good for local authorities. As one can see in one of the sections, they could get involved in schemes with it as well.

I hope I have dealt with the problems that Senators raised. The Minister is taking a look at it but I will address some of the points in the Minister's speech. I welcome the fact that he will look at this. That is extremely good news.

The Minister stated: "There are many positives to the system [obviously, I agree] but it must be remembered that the introduction of such a system in this country would necessitate a total shift in mortgage banking policy and regulation." We are in a European Union with the Danes and it might not be so. I gather one other Minister, whom I better not name due to the rules of the House, was interested in this previously as well and the IDA was interested in it. It may not be that revolutionary.

He also stated "The Government could not countenance a system which forced families out of their homes ...". I am informed that in Denmark the number is minuscule, a fraction of 0.1%. These are much lower priced loans than anything that is in operation in the Irish system and that has not been a problem. I am glad to deal with that in response.

The Minister stated that it would not be appropriate to introduce new lending and banking practices in advance of the conclusion of negotiations on this regulation and directive in the European Union. I am certain what we suggest is EU compliant and it is not new - it has been there since 1756 or whatever Senator Quinn told us.

17 October 2012

The Minister stated, "It is not clear that there would be sufficient interest in the purchase of Irish mortgage bonds at this time." If the Danes could come here in 1014, they can come back with their mortgage proposals and we will see what gives. In fact, we will invite them back for The Gathering next year, with their mortgage advisers and mortgage companies.

I thank Senator Hayden and all of the Senators. Senator Norris used the word "idiosyncratic" about me. I think I could return the compliment - he always is. Senator Hayden's views are always most interesting. She referred to the collapse of local authorities in the Irish housing market. This could reflate that, and co-operatives are a part of the Danish system.

That brings out the point of why I will be asking to adjourn this debate because there are so many issues. This has just been the start. This is, as I have said, a wonderful Seanad where ideas are discussed. The Seanad did not stand idly by in this crisis. Banks stood idly by and did serious damage and certain officials, who have been mentioned, were not the most active either, but it cannot be said in terms of what we have done on fiscal responsibility and today, that the Seanad ever neglected its duties, and it will assist the Minister and his colleagues in Cabinet in the work of reform. I hope that there will be many contacts between the Minister of State, Deputy Ring, as the tourism Minister of State, and many Danish people, and I hope they will bring their mortgage advisers along as well.

I propose that we adjourn at this stage, if that is acceptable to the House.

Debate adjourned.

An Cathaoirleach: When is it proposed to sit again?

Senator Maurice Cummins: Leathuair tar éis a deich maidin amárach.

An Cathaoirleach: Is that agreed? Agreed.

Adjournment Matters

Hospital Services

An Cathaoirleach: I welcome the Minister for Health to the House.

Senator David Cullinane: I welcome the Minister, Deputy Reilly, to the House. The last time he was in the House when we had a discussion about a Bill to reform the HSE, I mentioned a working group that was established to look at hospital networks. The Minister will also be aware of a south-east hospital working group, which also sent a submission to him and which is headed up by Professor Fred Jackson. The submission was about a regional structure for the south east, that works and that is based on maintaining services in the south-east region, and obviously wanting to protect the status of Waterford Regional Hospital. Professor Fred Jackson, a spokesperson for the south east hospitals working group, has said that a key reform being proposed by the Department of Health involves the establishment of hospital groups in Ireland. His group believes that this proposal is consistent with the programme for Government and that it recognises the clinical networks which have already been established within the region. He

went on to say that if implemented, the proposal would ensure that patients of the south-east region can access high-quality care on a timely, local and cost-effective basis and that is what the people of Waterford want.

There is certainly a need to realign some services, cardiac services being one example, across the south east. We do not have 24-7 cardiac care in Waterford Regional Hospital, for example. Some of the services are fragmented. There is an appetite within the region to build up capacity in the regional hospital but to do so in the best interests of all patients across the region. Obviously the hospital, like all others in the State, has suffered from cutbacks in recent years but I must put on record my appreciation of the staff and management of the hospital, who are doing their very best in difficult circumstances and are providing very good services to the people of the south east.

There is a genuine fear that there might be a proposal to create a new network which would link Waterford to Cork, with the possibility of services in Waterford Regional Hospital drifting away to Cork, which would not be in the best interests of the people of Waterford or the south east generally. It would also fly in the face of the logic of the Minister's attempts to ensure that people have access to world-class health services as close as possible to their communities, but also on a regional basis, where practical and appropriate. That is what we are seeking here.

The Minister is already aware of this issue and he received a copy of the submission. I appreciate that a review is being carried out across the country regarding hospital networks but I just wanted to put on the record the fear that many consultants, not just in Waterford, but across the south east have, of not maintaining a regional entity within the south east and of a drift of services towards Cork, under a new hospital network set-up. I look forward to the Minister's response and hope he will outline what he feels is the most appropriate way forward for the region.

Minister for Health (Deputy James Reilly): I thank the Senator for raising this matter and for the opportunity to clarify the position. Senator Maurice Cummins has also made several representations to me on this issue.

Under the programme for Government 2011-2016, the Government committed to developing a universal, single-tier health service which guarantees access to medical care based on need, not income. On foot of this commitment, the Government will introduce a system of universal health insurance. A key stepping stone to the new system will be to develop independent, not-for-profit hospital trusts, in which all hospitals will function as part of integrated groups. As a first step on that journey, these groups will be formed on an administrative basis. It is envisaged that this will take place from early 2013 onwards, with groups being constituted and becoming operational as soon as is feasible, depending on their readiness and capacity to do so. Groups will be established on the clear understanding that the groupings and their governance arrangements will be reviewed prior to 2015, to ensure an appropriate environment for the introduction of universal health insurance.

The rationale behind the establishment of hospital groups and trusts is to support increased operational autonomy and accountability for hospital services in a way that will drive service reforms and provide the maximum possible benefit to patients. Each group will have a single consolidated management team with responsibility for performance and outcomes. It is intended that non-executive boards, consisting of representative experts, will oversee each hospital group management team and will have responsibility for decisions in relation to services in all

hospitals in the group.

In June this year I appointed Professor John Higgins to chair a strategic board on the establishment of hospital groups. Professor Higgins is head of the college of medicine and health at University College Cork. He has a deep interest in organisational reform and change management. He was the director of the reconfiguration of the health system in Cork and Kerry from 2009 to 2011 and he remains chair of the reconfiguration forum there. The strategic board has representatives with both national and international expertise in health service delivery, governance and linkages with academic institutions. On the advice of Professor Higgins, a project team was established to support the strategic board, consisting of Professor Higgins and the team who were previously engaged in the reconfiguration process in the south, as well as members of the special delivery unit and acute hospitals section of my own Department.

The project team is tasked with making recommendations to the strategic board on the composition of hospital groups, governance arrangements, current management frameworks and linkages to academic institutions. In order to be in a position to do this they carried out a comprehensive consultation process with all acute hospitals and other health service agencies. In carrying out this work, use has been made of video conferencing and meetings have been scheduled to coincide with the presence of international representatives in Ireland, in order to minimise costs.

The consultation process included two days of meetings with the hospitals in the south east, on 9 July and again in October. A significant number of submissions, including one from representatives of the south east, have also been received by the team. Work is ongoing on finalising a draft report on the recommendations for submission to the strategic board for consideration when it meets at the end of this month. When the board has signed off on this report it will be submitted to me and I will then bring it to Cabinet.

I assure Senators that in many areas the hospital groups can be described as marriages made in heaven, but in other areas, they are more difficult. I am aware that the issue of a hospital group in the south east is causing great concern to people in Waterford, Wexford, south Tipperary and Kilkenny. The rationale behind these groups is that we do not have the management expertise to cover the 49 hospitals individually but by having hospital groups, we will be able to get the expertise necessary to turn our hospitals around, as has been done in Galway and is being done in Limerick. We can certainly do it with between eight and ten managers and we can grow new management beneath them. The group system will also give local autonomy.

Recommendations will be made and a discussion will be had at Cabinet but the hospital groups will not necessarily be permanent. If it transpires that a group which looked like it would work at the outset does not work, there will be another opportunity to realign hospitals before the actual hospital trusts are formed. I hope that gives reassurance to people who might be concerned about this. We are still listening to and consulting with people and the draft report has not been presented to me yet.

Senator David Cullinane: I have no difficulty whatsoever with hospital networks and agree they are necessary, based on the rationale outlined by the Minister, in terms of getting managerial expertise across a network of hospitals. The point is that in the south east, we already have a highly-effective regional network of hospitals, which provides a whole range of services, from cancer care, cardiology, acute trauma and orthopaedics and in many of those areas it is working well. In that context, if it is not broken, why fix it? What we need to do is

develop capacity in the region and not see a situation where there is a realignment, even if it is on a temporary basis, of Waterford with Cork rather than the more natural regional alignment which prevails at present, with the existing clinical network teams. That is the argument of the consultants from Waterford and across the south east. I ask the Minister to be conscious of that when recommendations are made. Ultimately the Minister will have to make the decisions, based obviously on the information he receives but also on his own view of what is in the best interests of patients in the south east region.

Deputy James Reilly: I am afraid I must say to the Senator that it is broken and that is why it must be fixed. The Senator's party might say that the budget is broken, but it is not, but I am not trying to score points here. The bottom line is that the health service is not delivering the level of care it should and could do with the resources at its disposal. It has always been a mystery to me that this is the case, given that we have some of the best doctors, nurses and managers in the world in our health service. Clearly, what is needed is a reorganisation of the system to make it a service for patients, which is the core of this. That is the outcome we seek. We want to see better outcomes for patients. As I have said on the record a number of times, we must look at outcomes, not inputs. If we do not improve the journey or the outcome for the patient then we are not doing anything that is worthwhile. The setting up of hospital groups will seriously improve things and I accept and acknowledge the Senator's support for the concept. It will address a whole raft of issues concerning recruitment, retention of expertise, sharing of expertise and particularly, having patients at the lowest levels of complexity treated as close to home as possible.

I hope I have clarified the position. I will continue to listen to what those who work in hospitals and, most importantly, use hospitals have to say.

Senator John Kelly: Before I was elected to the Seanad, apart from being a county councillor, I was a community welfare officer for 28 years, during which time I dealt with medical card assessments. I predicted that problems would arise with the centralisation of the medical card system to the primary care reimbursement service, PCRS, in Finglas. I cannot blame the Government for the centralisation decision because it was made by its predecessor.

The medical card guidelines are often interpreted differently by the PCRS than under the old, locally based system. For example, car loans were allowed to be considered under the previous medical card guidelines where a certificate could be produced to show a medical need to have a car. The guidelines state the HSE must have regard to a person's overall financial position. They do not refer to car loans, but the practice was to take them into account in cases of medical hardship. They permit home improvement loans to be considered, but there could be a situation where a woman decides to upgrade to a modern kitchen that she may not need because it looks nicer. Such a loan would be allowed to be considered, but people need their cars to get to work. A car is not a luxury in such circumstances. Many double income families own two cars and most of them have car loans. Furthermore, where a family relies on two cars to travel to work in different directions, an allowance of €50 per car should be taken into account. In most cases, however, the PCRS is only allowing for one car.

The PCRS is also interpreting child care costs differently. The guidelines state outgoings on child care are allowable, provided they are necessarily incurred in taking up or continuing in employment or education and training, or in providing family supports. Appropriate documentary evidence is required to ensure the costs claimed are reasonable and being incurred. The medical card application form asks for the name and address of the child's creche or childmin-

der. Previously, if a neighbour or friend looked after the children, it was acceptable for him or her to state in a letter how much he or she was being paid. However, the PCRS will only accept such letters from registered childminders, even though the guidelines are silent on this issue.

As a Senator, I am doing as much work on medical cards as I did during my 28 years as a community welfare officer because of all the problems that have arisen. An individual who was refused a medical card was recently referred to me for advice. He brought his income calculation sheet to our meeting, but he had only studied the first page, which stated he was not entitled to a medical card because he was over the limit. I asked him to show me his P60 which indicated that he had earned €19,500. His wife was in receipt of maternity benefit and they had a mortgage, which meant they were under the limit for the receipt of a medical card. He was told that he was over the limit. Understandably, the PCRS has since reversed its decision.

I ask the Minister to address the issues of child care costs and car loans, which are necessary and were allowed to be considered in the past. Somebody needs to tell the PCRS that while it may want to do business its own way, it is dealing with people for whom these costs were previously allowed to be considered when deciding on medical card applications.

Deputy James Reilly: More than 1.8 million medical cards have been issued to individuals, the highest number in the history of the State. It represents an increase of approximately 500,000 since the end of 2008. It is expected that the provision of GP services and prescription drugs under the general medical services scheme will cost almost €2 billion in 2012. We have already issued a further 35,000 medical cards this year than we had budgeted for.

Under the provisions of the Health Act 1970, medical cards are provided for persons who, in the opinion of the Health Service Executive, are unable without undue hardship to arrange GP services for themselves and their dependants. Under the legislation, determination of eligibility for a medical card is the responsibility of the HSE. The assessment for a medical card is determined primarily by reference to the means, including income and reasonable expenditure, of the applicant and his or her partner and dependants. The HSE has produced national assessment guidelines to provide a clear framework to assist in the making of reasonable, consistent and equitable decisions when assessing an applicant under the general medical services scheme. The guidelines are publicly available and can be downloaded from the HSE's medical card website.

There is no automatic entitlement under the 1970 Act to a medical card on the basis of a specific illness. However, there is provision for discretion for the HSE to grant a medical card in cases of undue hardship where the income guidelines are exceeded. The HSE has set up a clinical panel to assist in the processing of applications for discretionary medical cards where there are difficult personal circumstances. It has also established a specific system for the provision of emergency medical cards for patients who are terminally or seriously ill and in urgent need of medical care which they cannot afford. These emergency medical cards are issued within 24 hours of receipt of the required patient details and a letter of confirmation of the condition from a doctor or medical consultant. This system is initiated through the local health office by the office manager.

Every year the HSE processes in excess of 500,000 applications for medical cards and GP visit cards. It centralised the processing of all medical card applications and renewals at the its primary care reimbursement service with effect from 1 July 2011. This established a single uniform system of assessment for all applicants to replace the various systems which previously operated through more than 100 local offices across the country. I am aware that difficulties

with the centralisation project gave rise to a large backlog and long delays for both new applicants and those seeking medical card renewals earlier this year. However, the HSE has taken a range of actions which completely eliminated the backlog of almost 58,000 applications from earlier this year and confirmed that over 95% of complete medical card applications and renewal forms are now being processed within 15 working days. It has also implemented a range of changes to the application procedures which have improved the process for applicants.

Senator John Kelly: I do not doubt that the person who wrote the Minister's response has five years of experience in dealing with health related matters, but I have 28. I take the Minister's point that 1.8 million people have medical cards, but that does not mean someone should be refused a medical card if he or she is entitled to receive it. I do not want to see a repeat of the response often given to those who apply for carer's and invalidity benefit in kicking the can down the road for one year or more before the applicant eventually receives his or her entitlements.

The Minister failed to mention child care costs or car loans. The guidelines are as clear as crystal. Child care costs and car loans are specifically mentioned as allowable, but the PCRS is refusing to take them into account. I ask the Minister to follow up with the PCRS to ensure clarity on how it is reading the guidelines.

Deputy James Reilly: I acknowledge that the Senator has raised issues in this regard. Significant latitude was shown over the years, in the case of car loans and other loans, when the country was awash with money. We do not have the money now. We have 1.8 million people on medical cards and another 120,000 or more on GP cards. We want everybody in this country to have free GP care and we are moving towards that. However, there was no consistency across the country with regard to all the allowances allowed in the past. I will revisit the issue with the Senator, but as things stand the GMS is a demand-led scheme and the latitude shown in previous years is no longer open to us because we do not have the money.

Third Level Grant Eligibility

Senator Colm Burke: My query relates to third level grants. I understand this is not the Minister's area, but I presume he has been provided with a response on it. In the past three weeks I have been in contact with two people who have dropped out of college. In one case the person came to Ireland with parents who had been recruited by the health service to work in an Irish hospital. The mother, a maternity nurse, was recruited from the Philippines when there was a shortage of maternity nurses and her entire family came here with her. Her daughter spent a full five or six years in secondary school here and also spent some time in primary school here and got her leaving certificate. The mother got citizenship, but the daughter could not apply for citizenship until her mother had got hers. She got her leaving certificate and a place in university, but then found out that she does not qualify for a grant for attending university. Her mother has been paying income tax in this country for the past eight or nine years.

The second case is similar. The person in this case has been paying income tax since 2001. This student has done two years in university and has had to pay full fees. The student does not have citizenship, but she is not receiving the student grant for attending university, although both parents have been paying income tax for eight or nine years.

I seek clarification with regard to how these cases are dealt with. It appears to me that these

students are being penalised even though their parents have been paying tax in this country and have contributed to the country. In the first case, the parent has made a huge contribution in the health care sector during a time when there was a shortage, but now despite the work she has done and the taxes she has paid, her family is being penalised. Can I have clarification on this matter?

Deputy James Reilly: I thank Senator Burke for raising this important matter which I am taking on behalf of the Minister for Education and Skills.

Under the terms of the student grant scheme, grant assistance is awarded to students who meet the prescribed conditions of funding, including those which relate to nationality, residency, previous academic attainment and means. The nationality requirements for the student grant scheme are set out in section 14 of the Student Support Act 2011 and regulation 5 of the Student Support Regulations 2012.

The nationality rules require that the student be an Irish, EU, EEA or Swiss national. There are a number of exceptions to this requirement. A person who holds refugee status or the rights and privileges as specified in section 3 of the Refugee Act 1996, or holds subsidiary protection pursuant to the European Communities (Eligibility for Protection) Regulations 2006, meets the nationality requirement. In addition, a person who holds one of the prescribed immigration status as provided for in the Student Support Regulations 2012 may also meet the nationality requirement. These include permission to remain as the family member of a European Union, EEA or Swiss citizen under the European Communities (Free Movement of Persons) Regulations 2006 and 2008 and EU directive and also permission to remain on the basis of marriage or civil partnership with an Irish national resident in the State or as the dependent child of such person. A person who has humanitarian leave to remain granted before the Immigration Act 1999 came into effect or permission to remain in Ireland following a decision not to deport a person under section 3 of the Immigration Act 1999, also meets the nationality requirements.

In all cases, to qualify for a student grant, it is the grant applicant and not his or her parents who must meet the nationality or prescribed immigration status requirements in his or her own right. The onus is on the grant applicant to provide the necessary documentary evidence as proof of his or her nationality or immigration status to the relevant grant awarding authority.

Article 32 of the student grant scheme 2012 provides for the review of eligibility for the award of a grant in the event of changes of circumstances in the academic year, including a change in relation to a student's nationality or immigration status. This means that where a student acquires Irish citizenship by naturalisation or acquires a prescribed immigration status during the course of his or her studies, he or she may make an application in the academic year for a student grant. This is done under the change in circumstances provision. He or she may also under this provision re-apply for a student grant if he or she has previously been refused a grant on nationality grounds. In both cases students may qualify for a student grant from that point, subject to meeting all other terms and conditions of the student grant scheme.

The Minister for Education and Skills has asked his Department to examine the overall issue of the entitlement of non-EU families to third level fees and grants generally and he is currently considering the matter to ensure that there is clarity as to precise entitlements in this complex area. Any decision on changes to the student grant scheme, including changes to eligibility criteria, will need to be considered in the context of availability of resources.

Other supports available to students include the student assistance fund, which will continue to be made available through the access offices of third-level institutions to assist students in exceptional financial need. In addition, tax relief at the standard rate of tax may be claimed in respect of tuition fees paid for approved courses at approved colleges of higher education, including approved undergraduate and postgraduate courses in EU member states and in non-EU countries. Further information on this tax relief is available from the Revenue Commissioners.

Senator Colm Burke: I notice the last paragraph on the first page of the Minister's response does not correspond with the decision by the University of Limerick with regard to the grant applicant. In that case, the mother was an Irish citizen and the daughter was living and had studied in Ireland. However, the University of Limerick advised them that they did not and would not qualify for the grant. As a result, the student opted out of college and is no longer attending college. The interpretation in the Minister's reply seems to be different to the interpretation given by the University of Limerick and that is the reason I sought clarification. This is obviously a matter I will have to follow up on further with the Department, but I appreciate the comprehensive response given.

Deputy James Reilly: My pages do not correspond exactly with those of the Senator, so I am not quite sure to which paragraph he is alluding. However, I will alert the Minister, Deputy Quinn, to the issue and will facilitate a resolution of this in whatever way I can.

Senator Colm Burke: I appreciate that.

Local Authority Offices

Senator Terry Leyden: I thank the Cathaoirleach for allowing me raise this motion, thank his staff for processing it and the Department for preparing a response. I thank the Minister for Health, Deputy Reilly, for coming to the House to respond on behalf of the Minister for the Environment, Community and Local Government on the need for that Minister to confirm the approval of a loan to Roscommon County Council for the development of new civic offices in Roscommon town and to verify the date the original application was made for this loan, the amount sought and when the application was previously approved. Furthermore, I seek confirmation of when the approval of the loan was made by him as Minister, the amount sought, the terms and conditions and date sanctioned.

For some years, Roscommon County Council has been planning the redevelopment of its offices in Roscommon town, where it needs new centralised civic offices. The preparatory work has been going on some time. As a former member of Roscommon County Council, I supported the processing of the loan by the previous Government. My colleague, Michael Finneran, who was a Minister of State at the Department of the Environment, Heritage and Local Government at the time was extremely helpful in ensuring approval of Roscommon County Council's application for the loan in order that the work could be carried out. We relocated the fire service to Circular Road in Roscommon town after a site there was made available. We removed temporary prefabricated buildings which had been used by the former Western Health Board. As a result, the site is very compact.

The development of these offices to accommodate approximately 250 staff would result in the centralisation of the services of Roscommon County Council in Roscommon town. In the light of new developments in local government, it is important that we retain that type of

facility in Roscommon town to service the county. Roscommon town has had council offices since the 1800s. Roscommon courthouse was the centre for the services and senior staff now have offices there. However, the courthouse needs to be refurbished to facilitate sittings of the District Court, the Circuit Court and the High Court in circuit. The children and family courts are also very important. All of these consultations are taking place in the foyer of the building, which is totally unsatisfactory. The Courts Service will have further additional responsibilities relating to the care of children if the children's rights referendum is passed on 10 November. It is important for proper facilities to be provided, as the existing services are not suitable. The provision of new offices for Roscommon County Council would allow the courthouse to be used exclusively for court services, as originally intended.

We are fortunate to have the headquarters of the Roscommon-Longford division of the Garda Síochána in Roscommon town. We are also extremely fortunate that the General Register Office and the Property Registration Authority have been decentralised to the county town. It has been said there is spare capacity in these buildings. The Garda Síochána is moving some of its facilities to the General Register Office, while the Department of Agriculture, Food and the Marine is moving some of its services to the Property Registration Authority. The Government is ensuring all State services will be combined in suitable buildings. If those buildings are environmentally designed with proper heating and lighting facilities, there will be a reduction in costs in the long term. The council is paying an enormous amount in rent. It would be far more desirable to have these rents put towards a loan. I hope the Minister will be the bearer of good news on this occasion.

This issue has created controversy in Roscommon. Very few country towns would decline a loan to build new civic offices. It is unique. As the Minister knows, we have been campaigning for services at Roscommon County Hospital. In this case, some people are campaigning for a decision to be made to refuse permission for this building to proceed. It is ironic that the Minister is here to deliver good news for the people of Roscommon on this occasion. I am sure they will be waiting with bated breath to hear his response.

Deputy James Reilly: I am responding to this Adjournment matter on behalf of my colleague, the Minister for the Environment, Community and Local Government, Deputy Phil Hogan, who is not available. I thank the Senator for raising it.

Local authority office accommodation is a matter, in the first instance, for local authorities. However, they are expected to provide such accommodation in the most cost-effective manner possible, having regard to their needs and resources, a point the Senator has made clearly. In that context, future plans for the council office in Roscommon are a matter for Roscommon County Council, essentially, based on its assessment of the position.

A formal application to borrow €26 million was submitted to the then Department of the Environment, Heritage and Local Government in October 2007. As the Senator pointed out, approval for the loan was granted in April 2008. A revised application to borrow €22 million for the project was submitted in January 2010 and approved on 19 March that year, in accordance with section 106 of the Local Government Act 2001. Sanction was provided subject to the council being satisfied that it was receiving the best possible terms available, making sufficient provision in its annual budgets for the repayment of the loan charges over the repayment period and being satisfied that the financing of the project would not adversely affect the provision of council services during the repayment period. I am sure we would all be very strong on that point.

I am advised that the fragmentation of local authority offices in Roscommon at eight locations, just two of which are fully owned by the county council, causes operational inefficiencies, including the need for staff to spend time delivering files and post and attending meetings at various locations in the town. There are additional indirect hidden costs to the council as a result. I understand issues regarding health and safety, staff welfare, fire safety, disabled access and facilities for the public and elected members have necessitated the extension and refurbishment of the existing headquarters. I understand Roscommon County Council has negotiated a loan of up to €22 million from the Housing Finance Agency over 40 years at a variable interest rate. The Minister for the Environment, Community and Local Government has completed the necessary steps at his end to allow the council to proceed with the work, in accordance with the conditions I have outlined. It is a matter for the council to do so in accordance with the sanction provided.

Senator Terry Leyden: I thank the Minister for his comprehensive response. When I was chairman of the former Western Health Board, I promoted the development of new offices for the health board in Roscommon at a cost of approximately €5 million. We have since spent €3 million on the rental of inadequate facilities in Roscommon. That this was allowed to happen is an indication of the manner in which the health service was managed at the time. The Minister can consider it in the context of the future development of services and buildings, etc. However, I do not want something similar to happen in the case of Roscommon County Council. I welcome the Government's clear decision to support the project which I hope will proceed.

Deputy James Reilly: I concur with the Senator that it does not make sense to rent premises for a prolonged period of time rather than building a new premises. Of course, one has to factor in maintenance costs. Obviously, a new building will require less maintenance than an older one. There will never be a better time to buy because property will never again be as cheap. We have a real opportunity to develop modern, well insulated and low-maintenance buildings heated using renewable energy resources. The Government is glad to support this initiative.

The Seanad adjourned at 7 p.m. until 10.30 a.m. on Thursday, 18 October 2012.