



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

24/04/2013

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SEANAD ÉIREANN

Dé Céadaoin, 24 Aibreán 2013

Wednesday, 24 April 2013

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 John Whelan that, on the motion for the Adjournment of the House today, he proposes to raise the following matter:

To ask the Minister for Health if he will immediately publish the details and announce his long awaited decision into the HSE review of community nursing home hospitals and services in County Laois, with particular reference to Abbeylax and Shaen hospitals.

I have also received notice from Senator Lorraine Higgins of the following matter:

To ask the Minister for Agriculture, Food and the Marine to take steps to ensure that all rules, regulations and laws both Irish and European are upheld by Department officials conducting farm inspections over the coming months, and to furnish all Irish farmers with a charter of their rights in this regard.

I have also received notice from Senator Kathryn Reilly of the following matter:

The need for the Minister for Transport to discuss the future of rural transport bus services, such as the Cavan area rural transport scheme.

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. I now call the Leader.

Order of Business

Senator Maurice Cummins: The Order of Business is No. 1, motion regarding arrangements for an address to the House by Pat “The Cope” Gallagher MEP on 25 April 2013; No. 2, National Lottery Bill 2012 [*Dáil*] - Second Stage, to be taken on the conclusion of No. 1 and to be adjourned no later than 2 p.m. if not previously concluded, the contributions of group spokespersons not to exceed ten minutes, all other Senators not to exceed six minutes; No. 3, Criminal Law (Human Trafficking) (Amendment) Bill 2013 - Order for Second Stage and Second Stage, to be taken at 3 p.m. and to be adjourned, if not previously concluded, no later than 5 p.m., the contributions of group spokespersons not to exceed ten minutes and all other Senators

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not to exceed six minutes, the Minister to be called on to reply to the debate no later than 4.50 p.m.; and No. 4, Private Members' Business, Financial Stability and Reform Bill 2013 - Second Stage, to be taken at 5 p.m. and to conclude no later than 7 p.m.

For the information of the House I wish to advise that next week, in advance of Europe Week which falls in the second week of May, we will continue with our addresses from Irish MEPs. We will have Seán Kelly, MEP, here on Tuesday, Nessa Childers, MEP, on Wednesday and Marian Harkin, MEP, on Thursday.

On Wednesday, 8 May we will welcome our Irish Commissioner in Europe, Máire Geoghegan-Quinn, to the House.

An Cathaoirleach: On a point of clarification, the Leader said that No. 3 would be taken at 3 p.m. and was to be adjourned. In conclusion, the Leader stated the Minister was to be called on to reply to the debate no later than 4.50 p.m. If there is a reply to the debate, it will be concluded rather than being adjourned. Is it proposed to have an open-ended debate?

Senator Maurice Cummins: No, it will not be open-ended. It will be adjourned at 5 p.m. but if we do not have sufficient speakers, the Minister obviously must reply at 4.50 p.m.

An Cathaoirleach: Is it to conclude at 5 p.m.? Are we to call the Minister at 4.50 p.m.?

Senator Maurice Cummins: If there are speakers-----

An Cathaoirleach: If there are enough speakers, the Minister will not be called at 4.50 p.m.

Senator Maurice Cummins: Yes, exactly.

Senator Darragh O'Brien: That is great. Following on from my contribution yesterday, I note the Government has decided to have no opinion on bank executives' pay in Bank of Ireland and the other banks. I again ask the Leader to pass on the message to the Minister that it is not too late. I believe that on behalf of the people, he should reject the remuneration packages for the executives in Bank of Ireland. Furthermore, may I remind the Leader that while the Minister has stated he is waiting for the banks to consider the Mercer report, he has directed the banks to seek reductions in salaries and pensions of between 6% and 10%. Where does this leave the ordinary bank workers? Can the Leader confirm the Government will direct Bank of Ireland, AIB, PTSB, ICS and IBRC to take on the executive pay first?

More than 180 executives in State-owned or partly State-owned banking institutions earn more than €200,000 per year. Most people will agree with me that were a pay cut imposed across the board for normal bank workers who are carrying out their duties as best they can, it would be grossly unfair. The Leader should confirm today that the priority for these pay cuts will be at the upper levels in the banks. Many Members will have received much correspondence from ordinary bank workers as part of the A Bridge Too Far campaign and I believe what they seek is reasonable. Executives and board members should be hit first and this is the reason the Government is failing absolutely in its opportunity today to reject the remuneration packages for chief executives and board members of Bank of Ireland. While it is an absolute cop-out, at the very least the Government might give some succour to ordinary bank workers to the effect it will not insist on them receiving pay cuts of between 6% and 10%.

Furthermore, I ask the Leader to arrange soon for a debate on the betting industry and specifically on how independent bookmakers are finding it extremely difficult to survive with the

onset of online betting and the Government's failure to bring forward agreed proposals to tax online betting at source in the area in which such bets are placed. This leaves a highly uneven playing pitch for independent bookmakers, who are closing down pretty much every day of the week. They employ a significant number of people and I believe this Chamber could provide an opportunity to put forward such cases to the relevant Minister, namely, the Minister for Agriculture, Food and the Marine, Deputy Coveney.

I note most local authorities are at present reviewing and sending out reviews of their rental rates for social housing. In my home area of Fingal, rent review letters started to arrive last week and the average increase in rent for social and council housing there is 24%. This is directly due to the introduction of the Government's property tax. Moreover, I believe the local authorities have increased rents over and above the amount that would be levied on the aforementioned properties and which must be paid by the local authorities to the Government. Consequently, there is no justification whatsoever for a rent increase of 24% for local authority tenants.

In this context, I propose an amendment to the Order of Business to the effect that the Minister for the Environment, Community and Local Government, Deputy Hogan, should come into this House to explain to Members the position in respect of the Government's view as to what constitutes a reasonable rent increase for local authority tenants. Does anyone believe a 24% increase is reasonable on foot of the many cuts experienced in this area? Why are the local authorities, which report to the Minister for the Environment, Community and Local Government, being allowed to increase rents to this extent, which is far above what they will be due to pay on their property tax for these developments? The matter is sufficiently urgent to table an amendment to the Order of Business today and I ask my colleagues to support it. I propose Members set aside perhaps even 40 minutes for the Minister to come in and explain this scenario in the Chamber, in order that they can work with the local authorities to ensure such rent increases do not go ahead.

Senator Ivana Bacik: I join with Senator van Turnhout, who has been raising the issue of direct provision for asylum seekers and their families in this House for some time. She also raised it as a matter on the Adjournment last week. I note the comments reported today of former Supreme Court judge, Mrs. Catherine McGuinness, in which she stated that in years to come, there will be major recriminations over the treatment in particular of children of asylum seekers in direct provision. Members must consider this issue urgently and I support Senator van Turnhout's attempts to uncover some of the statutory basis for the system of direct provision. All Members are conscious that the numbers of people in direct provision have fallen and the Immigrant Council of Ireland has been mounting a campaign about this issue. However, conditions for those remaining in direct provision are still of real concern to many Members. They might have a debate on it in this Chamber because it is a matter of great concern even if numbers are falling. In particular, children may still be in highly inappropriate accommodation.

I welcome the vote in the French Parliament on marriage equality and that the French state now finally will see equality in marriage law for gay couples and for opposite-sex couples. This is relevant to Ireland because as colleagues are aware, the Constitutional Convention passed a motion calling on the Government to hold a referendum on this issue with a 79% majority. It is evident that increasing numbers of countries are moving towards a system of marriage equality, which is really welcome.

I wish to express my concern at reports in the newspaper that the heads of the Bill on the

X case and on the A, B and C v. Ireland case seek to require a panel of six or more doctors to verify suicide risk in pregnant women. There has been extensive comment on the subject in recent days and eminent psychiatrists have described it as abusive of women. All Members would agree that it would be utterly impractical and unworkable to require women to submit to this sort of interrogation-----

Senator David Norris: Hear, hear.

Senator Ivana Bacik: -----that apparently is being put forward. Not only is this abusive of and insulting to women but it also is in clear breach of the judgment in December 2010 of the European Court of Human Rights in the A, B and C v. Ireland case. In that judgment, the court required that Ireland adopt an accessible and effective procedure whereby women could access their rights to a lawful abortion where pregnancy threatened their lives. It would be unacceptable were the legislation proposed by the Government to not, at the very least, comply with the requirement of the European Court of Human Rights.

Senator David Norris: I agree with Senator Bacik's comments on the French vote. It will become the 14th state to accept full gay marriage, which is greatly to be welcomed. As for the Constitutional Convention, despite the best efforts of reactionary forces, which in my opinion discredited themselves, if one distributes the undecided vote, the actual vote was well over 80%. While I consider this to be very heartening, we can look forward to a campaign in Ireland which will be extremely nasty, as unfortunately was that led by some of the Christian churches in France. There has been an immense increase in the number of violent attacks on gay people in France. Places of resort of the gay community have been attacked viciously and people have been injured and have been disfigured for life. This is at the instigation of the Christian churches. Shame on them and let this not, under any circumstances, happen in this country.

I refer to a matter I raised yesterday when I made a request of the Leader. I have spoken to him subsequently and he is in the process of inquiring after it but I now am convinced it is the case. I refer to a report that appeared at the beginning of the week in the *Irish Examiner* under the headline, "ECB gags State on IBRC liquidation". This headline should send a shudder down every decent democrat. A bank, that is, an unelected group of financial twits, presumes to dictate to a democratically-elected Government what it shall and shall not do in respect of informing its own public. We are expected to pay for this but once again, we are not allowed to know who we are paying or the procedures under which this is being done. A senior official is quoted in the newspaper as saying that they have received instructions from the ECB not to release anything to the public.

An Cathaoirleach: Is the Senator seeking a debate on the issue?

Senator David Norris: I am. By God I am. I most certainly am. I am sure everybody in this House would want a debate because this is a Parliament elected by various means. The other House is another part of our Parliament. We are not allowed to say anything. The bankers who have led us into this slaughterhouse are still dictating to us. I find that grossly offensive, immoral and probably unconstitutional. A spokesperson for the Department of Finance said it is, unfortunately, a lot more secretive than we are. It is not tolerable.

There are repercussions for people down the chain. I have a communication from someone who is in the process of purchasing a property in liquidation from IBRC. He has paid the deposit. He has agreed the sale. He has got a mortgage and he is paying it. He is still paying rent

but he cannot get the keys of the house and he cannot get any information. This man is going to be driven into bankruptcy by people in Europe because he is not allowed to know or to nudge things along. All the material has been provided but he cannot find out anything. That is not tolerable. I ask the Leader to organise a debate on the issue.

This point might appear inconsistent but I do not think it is. I will end on it. The issue relates to the chief executive of Bank of Ireland. I had to laugh this morning when I heard people on the radio who I remember very clearly fulminating in favour of Anglo Irish Bank and its proceeds and proceedings and attacking this man for what he was doing. I do not know anything about it but I will say this. I can understand the position of the Government because if one is trying to realise an asset one does not send out a message to the international community that one has no confidence in the person who is running the bank. I do not like the capitalist system at all-----

An Cathaoirleach: Senator Norris is way over time.

Senator David Norris: I am sorry. I will end on this point. I believe that at some stage some citizen across Europe will drop a match on the floor and the whole bloody thing will go up, and it cannot come soon enough as far as I am concerned.

Senator Colm Burke: Could I comment briefly on the proposed legislation on the X case? It is important to realise that the comments that have been made recently about the requirement for six consultants is not a practical proposal. I do not think it was ever on the table. It is amazing how speculation can go wild on occasion. Of the 18 maternity hospitals, 11 of them have only three obstetricians, which means there is only one obstetrician on-call at the weekend. That was evidenced recently in a case in Waterford when all three obstetricians were on holidays at the one time and a locum was dealing with a case involving an unfortunate end result. That gives an indication of the pressures that are on maternity hospitals around the country at the moment.

In 2003 the Hanly report clearly set out that by 2012 we would have a total of 3,600 consultants in this country. As of today there are 2,500. We are 1,100 off the target. The need for consultants applies very much in maternity hospitals around the country, especially in smaller three-consultant units. People need to take that into account in the context of the impracticality of the speculation. The alleged proposal was never on the table and it is purely wild speculation.

I wish to touch on one other issue, namely, the animal fodder shortage. I thank the Minister for Agriculture, Food and the Marine for the work he is doing in this area. He has made €1 million available to help with the transport of fodder from England to this country, making it cheaper for farmers to avail of it. It is also important to realise that the Minister and his Department have been working hard to deal with the issue in recent months. It is not yesterday or today that they are responding to it. The Minister is meeting with the CEOs of all the co-operatives this morning and with the banks. It is important that he or a Minister of State would come to the House to outline the results of the consultations so that people are kept fully informed and that there is not unnecessary alarm. The Government is responding.

An Cathaoirleach: The Senator is way over time. I call Senator MacSharry.

Senator Marc MacSharry: I second the amendment by my colleague, Senator O'Brien. I agree wholeheartedly with Senator Norris. I have seen the reports as well. For far too long

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Parliament has been subservient to Government, and the people are subservient to all of us. It seems now that the Government is subservient to civil servants and that is fundamentally wrong. I would welcome if any information could be made available in the context of the liquidation of IBRC. Senator Norris is correct. As a result of the liquidation of IBRC, in work-outs with a number of properties around the country where sales were close to completion, all of them have now been put on hold. No information in connection with them can be shared with anybody and the reality is that the people once again come last. As many of us on both sides of this House have said, it is time that the people began to come first in all of our considerations in this House.

Senator David Norris: Hear, hear.

Senator Marc MacSharry: That is not going to cost anything. For many years, Ministers from all parties and none, have always said that we must be conscious of the markets, the European Central Bank, the systemic importance of the other. What about the systemic importance of the people? It is time for once that they came first.

Today in the AV room there will be a presentation at lunch time by a group of people from the north west called the N4 Action Group. The road from Collooney to Castlebaldwin is described by an eminent coroner as the most dangerous stretch of road in the country. It has claimed no fewer than 30 lives. Various Governments had scheduled the works to proceed and this dangerous stretch of road to be upgraded but, regrettably, the NRA has recently suspended the upgrade due to financial constraints. However, curiously, work on the stretch of road between Westport and Castlebar which is nowhere near as dangerous in terms of fatalities has not been suspended. We all know who lives at either end of that particular road. If proximity to the Taoiseach and a Minister is the only criteria by which we determine what roads get done it is a sad day. They are not my words but that of a coroner that this stretch of road is the most dangerous in the country. I ask the Leader to personally involve himself in the debate and to impress upon the Minister that as part of the much celebrated, long-awaited NewERA investment, this particular stretch of road would be given priority as a shovel-ready project to try to save lives rather than expedite political support as we have seen on the Castlebar to Westport stretch of road. I invite everybody to come to the AV room today between 1 p.m. and 2 p.m. to hear the presentation for themselves.

Senator Aileen Hayden: As many other Senators and many Members of the Lower House have noticed, Richie Boucher's pay packet is up for review today at the Bank of Ireland AGM. Aside from the role the State has to play, there is an important role to be played by the ordinary shareholders in Bank of Ireland as well. Many institutional investors probably will not oppose Richie Boucher's package but many ordinary investors at the meeting have lost their shirts and any comfort they would have in their retirement. They have a role to play in asking Richie Boucher to show social solidarity with the ordinary people of this country who have taken many hits in their pay packet.

I wish to refer to a matter raised by Senator O'Brien, namely, the local authority differential rents system. It is important to note that if one is a social housing tenant in Waterford, one will pay a higher differential rent than one will do if one is a social housing tenant in other parts of the country. The scheme as it stands is unfair. It is not logical that some social housing tenants will pay a minimum rent that is different from a social housing tenant in another part of the country. However, it does raise a bigger issue. I ask the Leader to support me in a call for a debate on the future of local authorities in the provision of social housing. There is a wider

issue at stake. It is not just about differential rents, it is about the role local authorities will play going forward. A number of issues face us. Currently, 20,000 additional households a year seek housing. At the same time we have no increased housing provision either from the private sector or from the social housing sector. We are facing the potential for a real crisis in this country, at a time when local authorities have no access to housing finance to fund either a buy or a build programme. This is a much bigger issue and I ask the Leader to consider allowing a specific debate on the issue.

Senator Feargal Quinn: This morning I attended a meeting of the Arthritis Foundation of Ireland on keeping Ireland fit for work. It was very interesting. The amount of absenteeism in this country is, and has always been, affected by things we can do something about - this meeting showed some of those things. What really concerned me was an item I heard about the other day on the cost of procedures in Irish hospitals compared to the costs for similar procedures in other hospitals in the OECD area. We are charged double the cost. I will give one example. A knee replacement in a hospital in Ireland costs €11,400 while in the UK it costs €5,400. A hip replacement here costs €12,400; in the UK it costs €5,400. I do not understand why it is so expensive here, or why we became so expensive. The VHI is very concerned about this and has pointed out that in many cases procedures in public hospitals in Ireland are more expensive than in private hospitals, having increased by 41% since 2009. This deserves a debate. The costs in hospitals in Ireland, and thereby the cost for the VHI which must pay them, seems outrageous. It is a cost to the nation as a whole and to employers and as a consequence is also a cost in the creation of new jobs. It is worthwhile having a debate on this in the near future.

I say goodbye to a group of friends we have had for six months. On 23 October the Brent geese came to Ireland. Yesterday they left although there were a few remaining this morning. It is interesting that very many thousands of Brent geese fly from the north of Canada into Strangford Lough and thence to the rest of Ireland. They come on the same day every year and leave on the same day, 23 April. I mention this because every now and then we could do with a debate on the environment. Climate change has meant we no longer have some of the migratory birds coming into Ireland. The first swallows were seen here only last week. We value the environment only to the extent that we protect it.

Senator Paul Coghlan: With the Cathaoirleach's permission and thanks to his good office, I wish to inform the House that the Ceann Comhairle and the Cathaoirleach will plant a tree, obviously a native species, in Leinster Lawn, in conjunction with the Million Trees in a Day national project. This tree will also commemorate the late Minister of State, Shane McEntee, who, in his ministry, had a great deal to do with forestry and was good on that subject. I thank Senator Trevor Ó Clochartaigh for his assistance with this project. He liaised with the Northern Ireland Minister for Agriculture who is coming to meet her counterpart, the Minister for Agriculture, Food and the Marine, Deputy Simon Coveney. The two Ministers may be present but the planting will be done by the Oireachtas leaders, the Ceann Comhairle and the Cathaoirleach. I would like as many Members as possible to attend. It is a worthwhile project and is being supported nationally.

Senator Feargal Quinn: Will the Senator name the time and place?

Senator Paul Coghlan: It is at 12 p.m. tomorrow.

Senator David Cullinane: The Irish people have endured a great deal of pain in recent years. Although they have suffered under austerity and all the tough and gruelling budgets of

the past five to six years, they have done so against a backdrop of €90 billion of taxpayers' money going into the banks in some form, shape or fashion. More than €30 billion of the money that went into the banks went to recapitalise the pillar banks. The State still has a shareholding in some of the banks, with a 15% shareholding in Bank of Ireland. Some €10 billion of that investment in the banks was to be used to offset losses in the domestic mortgage market but that has not happened yet. The banks have not played ball with people in mortgage distress. I do not believe the State or the people of this country can have confidence in Mr. Richie Boucher or the senior executives of the Bank of Ireland when they are paying themselves exorbitant salaries. It is not tenable for Mr. Boucher to be paid more than €800,000 a year when people are suffering and when many of the customers of that bank are struggling to pay their mortgages. In fact they cannot pay them or pay any of their bills, and cannot even put food on the table. Yet this person seems to think it is acceptable to walk away with €800,000 and more.

Senator David Norris: As long as they can do it that is what they will get.

Senator David Cullinane: I do not believe it is about expressing confidence in the bank. This is about the State showing dissatisfaction with the enormous levels of salary that are still being paid to people who are part of the problem. They were part of it in the first place and remain so. This is a person who showed he was inflexible and intransigent when he attended an Oireachtas committee. He showed the contempt he had for elected Members of this and the Lower House and for the people of this State when he refused to engage with those elected representatives. Yet the Minister for Finance will not even stand up and make the case that these salaries are completely unjustified. The Government has a responsibility-----

An Cathaoirleach: The Senator is way over time.

Senator David Cullinane: -----to stand up for the people of this State. It is shocking that the Minister for Finance will not use his vote, the 15% shareholding which belongs to the people of this State, and stand up for the majority of people in this State who will not agree with the huge salary that will be signed off on today by the banks. Although I agree it is important that ordinary shareholders show solidarity-----

An Cathaoirleach: The Senator is way over time. I call Senator Landy.

Senator David Cullinane: -----it is also important that the State shows social solidarity and the Minister should do exactly that today.

Senator Denis Landy: On Monday the Government published a report on pensions that it had commissioned from the OECD. The report goes into great detail on pensions in this country. It recognises that, relatively speaking, there is a generous pension system in place compared to those in other OECD countries. It also recognises the importance of the continuation of the provision of such payments to prevent pension poverty here. However, it throws up many questions and raises many issues in regard to pension provision for people in the future. For example, if a person in private employment or self-employed puts money into a pension fund he or she is unable to have that money released if it is needed to keep the business sustainable. Many issues are raised in the report which is now with Government for consideration. The Minister with responsibility, the Minister for Social Protection, Deputy Joan Burton, has recognised that the current economic situation does not allow movement on this at present. Notwithstanding that, I believe the issue is extremely important. Will the Leader ask the Minister to come to the House to debate and discuss this report with Members of this House and to

provide clarity for people who are concerned about this issue? They are confused because there have been some instances where people put money into pension funds over many years only to discover that up to 50% of their money has been hived off by the companies who are supposed to provide the pensions.

Senator Jim Walsh: I fully concur with what Senator Feargal Quinn stated in regard to the cost of medical procedures in this country. For a long time we have observed medical inflation at levels which are unsustainable. The debate sought by Senator Quinn would be a good and useful starting point for us in regard to this entire area, which obviously reflects badly on our Department of Health and on the HSE. It is interesting that in spite of all the recent debates on public service reform and pay levels the situation remains. I refer to hospital consultants but not to them alone - we have only to look at our legal profession. We can see the amount of privilege that is being abused and exploited right across society, to the detriment of those at the lower end of the socio-economic scale. We still have a situation whereby people like hospital consultants, members of the legal profession and others are abusing and exploiting their positions of privilege, to the detriment of those who are at the lower end of the socio-economic scale. As a House, we could usefully have a good debate on that issue. We should also broaden that debate to include a discussion on the need for a very strong and effective new Department of competitiveness and consumer affairs because in many areas, the consumer is getting a very raw deal.

I support Senator Landy's call for a debate on the recently published report on pensions. The report is timely because the issue of pensions is critical. Many women have no pensions, many leave the workplace during periods of maternity leave and also for periods when they are rearing their children. It is very important to focus on these matters. Many economic commentators over the years have identified pensions as a critical issue. The public service pension bill, for example, will be unsustainable into the future. It needs to be examined.

Senator David Norris: Hear, hear. What about the €17.5 billion that the Europeans swiped from the NPRF?

An Cathaoirleach: Please allow Senator Walsh to proceed without interruption.

Senator Jim Walsh: I am well able to speak without others in the House assisting me and ask that I be afforded the courtesy to continue.

An Cathaoirleach: The Senator is over time now.

Senator Jim Walsh: I will conclude by saying that there was a very good article by Senator Healy Eames in the *Sunday Business Post* last Sunday. Often times when the Leader ---

An Cathaoirleach: Does the Senator have a question for the Leader ?

Senator Jim Walsh: Will the Leader and the Committee on Procedure and Privileges consider having debates in this House with people who publish very good, well-thought out, measured papers? Such people could lead the debate in this House and make a useful contribution to public policy.

Senator Michael Comiskey: I wish to congratulate all of the students who were here yesterday and on their behalf, extend my thanks to the Cathaoirleach, Senator Susan O'Keeffe and all of the staff and Members of the House for the way they were treated. I have been in touch with a few of them and received messages from them last night and this morning. They had a

very enjoyable day which was also very educational.

Senator Colm Burke has already referred to the fodder crisis, which we also discussed in the House last week. I wish to compliment the Minister for Agriculture, Food and the Marine for his work on this to date. He has been working very closely with Teagasc over the last number of months and has now made €1 million available to alleviate the problem. There is also an animal welfare fund which people may not be aware of and if there is a serious problem in terms of farmers being unable to feed their animals, they could apply for assistance under that fund. Farmers should contact their local departmental offices for more information.

I spoke to a representative from Connaught Gold this morning and welcome the fact that the Minister will be speaking to the chief executives of all of the dairy co-operatives later today. Connaught Gold has a special ration in its stores at a greatly reduced price, which will also help to alleviate the problem. Hopefully, the grass will start to grow in the next few weeks and this problem will disappear.

Senator Trevor Ó Clochartaigh: Ach an oiread leis an Seanadóir Coghlan, ba mhaith liom buíochas a ghabháil leis an gCathaoirleach as leis an gCeann Comhairle maidir leis an tacaíocht atá siad ag tabhairt don rud atá ar siúl amárach. As Senator Coghlan has noted, sometimes we get involved in party political spats in these Houses on different issues but certainly one issue that myself and the Senator are agreed on and are trying to promote is the One Million Trees in One Day initiative, which is being rolled out over the coming days. A presentation will be given in the audio-visual room tomorrow morning at 9.30 a.m. on the project, which is an all-Ireland one that aims to plant native trees on various sites throughout the island over a 24-hour period. It is a fantastic project. It is also very apt that we will be taking the opportunity to plant a tree in memory of former Deputy Shane McEntee, given that the last debate in which he engaged with me in this House was on the ash die-back disease. He would definitely have supported this project were he still with us. I hope to see Members at the presentation and the planting ceremony tomorrow.

On that note, perhaps the Leader will indicate when the Government intends to replace Deputy McEntee as Minister of State in the Department of Agriculture, Food and the Marine. When will a new Minister of State be appointed? The agricultural sector is going through very difficult times at present and there is also a lot going on in the fisheries sector at present. In that context, it would be apt and appropriate that a new Minister of State be appointed to make sure there is a full team working on all of the issues involved.

I would also like to commend the Irish Refugee Council on its day of action on direct provision yesterday. I also note that Mrs. Justice Catherine McGuinness has echoed the sentiments of myself and other Senators that the direct provision model is a scandal, almost in the league of the scandal of the Magdalen laundries, that is happening on our watch. It must be addressed and the Leader has indicated his willingness to have a debate on direct provision. I ask him to tell us when such a debate will take place.

Senator Michael Mullins: It is incumbent on the national broadcaster to be extremely careful about the way it presents particular stories. It was quite alarming to hear the national broadcaster suggesting on the “Six One News” programme last night that the fodder shortages and current difficulties being experienced by farmers would lead to an increase in suicide. Everybody accepts that the farming community is going through a difficult time right now but a lot of work is being done behind the scenes, as other speakers have pointed out, to help farmers

through this crisis. The money that is being made available to subsidise the transport of fodder from England, through the co-operative societies, is very welcome. Teagasc has been working closely with farmers over the last number of months because it was very obvious from last summer that there would be a fodder shortage this year. Farmers have been getting very good advice on how to manage the use of fodder in the last few months. It is also important that farmers would have access to credit. The Minister is meeting representatives of the dairy co-operatives today and is also meeting representatives of the main banks to ensure that a line of credit is available to farmers to tide them over for the next few weeks.

It is important that there would be solidarity among members of the farming community. As public representatives, we must also keep an eye out for people who are vulnerable. There is absolutely no reason for animals to be dying in this country. A welfare fund can be accessed in extreme and difficult situations. It is important to send out that message. The IFA and other farming organisations are liaising closely with the Department on these issues. We are going through difficult times right now but hopefully the situation will improve significantly in the coming weeks. Any linking of increased levels of suicide to the current fodder situation is highly irresponsible.

An Cathaoirleach: Senator Norris on a point of order.

Senator David Norris: RTE was not directly responsible for that, in my opinion. It was the farmers organisations themselves and Pieta House who made that ---

An Cathaoirleach: That is not a point of order.

Senator David Norris: --- point. RTE simply broadcast their views.

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

Senator Martin Conway: Today is national job shadow day, a very interesting and successful initiative which has been organised by the Irish Association of Supported Employment. Indeed, the Taoiseach has participated in the job shadow initiative in the past. The objective of the day is to highlight some of the inequalities suffered by those with disabilities and the obstacles they face when trying to access employment. With that in mind, I welcome Padraic Dormer, who is job-shadowing me for the day in Leinster House. I hope that on future job shadow days other Members of the Oireachtas will take part in the programme. I would also like to compliment the Oireachtas disability liaison office for the work it is doing in this regard.

I also wish to raise the matter of the undocumented Irish in the United States. The legislation to deal with this matter is at a very advanced stage. I note with regret, however, that a person from north Clare who employs 11 people and who happened to be undocumented in the United States for many years, was arrested two weeks ago and is being held in detention in Boston. It is a shame, at this late stage when we have a dawn in terms of a proposed pathway for the legalisation of undocumented people, that the heavy hand is being used to take people who find themselves in this unfortunate situation into custody. The gentleman to whom I refer has created 11 jobs in America, has been very enterprising and has worked extremely hard to make a living not just for himself and his family, but also for 11 other families. I ask the Leader to request the Minister for Foreign Affairs and Trade to have discussions with his colleagues in Washington to see if this very regrettable situation can be resolved.

Senator Fidelma Healy Eames: I welcome the school workplace audits that the Minister,

Deputy Quinn, has initiated in school building programmes. I know they are well intentioned as he is concerned about the protection of workers and regulation. However, why is the Minister not using NERA, the professional State labour inspectorate, to carry out these audits instead of using a private company? Obviously there will be costs and quality assurance issues. It would be useful to have that clarified as I have received a number of calls on the matter this morning.

I am uncomfortable that the Government is not using its vote today to express dissatisfaction with the remuneration of Mr. Richie Boucher, which is in excess of the cap. I accept it was put in place by the former Government, but there is considerable concern among the public. This will stick in the craw of many people. I fully respect that the Minister wants the bank to do its own business, get on with its affairs, become independent and give us back our 15% and more. However, Bank of Ireland needs to see this as a goodwill gesture to allow it to move on to achieve the 6% to 10% cuts in remuneration, including pensions, mentioned in the Mercer report. It is Mr. Boucher's job to achieve this.

Senator Catherine Noone: I would have raised this matter yesterday, but I am conscious that we are only supposed to raise one issue on the Order of Business. Yesterday, the Royal College of Physicians in Ireland policy group on alcohol called for the introduction of minimum pricing as a matter of urgency along with other key measures to tackle alcohol marketing and availability. While the level of alcohol consumption has dropped, very harmful levels are still being consumed. Binge drinking means that people are consuming greater amounts on one occasion. Even though the statistics reflect an overall reduction, it is clear that people are drinking in a harmful way. We have discussed many measures, including the segregation of off-licences from supermarkets and shops, the introduction of minimum pricing and the phased withdrawal of alcohol sponsorship of arts and sporting events. When the Minister of State, Deputy White, came to the House previously to discuss the issue, he had just taken up his ministerial position. It would be timely to invite him the House again to discuss the strategy to address our unhealthy relationship with alcohol.

Senator Paschal Mooney: This morning's newspapers report on the cost of rebuilding houses. The Society of Chartered Surveyors Ireland pointed out that as building costs have reduced considerably in recent years, consumers should now shop around to ensure they get the best value for insurance. I ask the Leader for a debate with the Minister, Deputy Bruton, who, I believe, has responsibility for the insurance industry. This has been a long-running sore particularly since the downturn. I did some investigations into the area of rebuilding costs. I live in County Leitrim, which has suffered more than most as a result of reckless building by developers and pseudo-developers in recent years. At 25% we have the highest proportion of both unfinished and unused housing stock, and the housing market in County Leitrim will never recover because of the surplus stock.

However, what the insurance industry is charging for rebuilding has not reduced. In fact it operates a system - I believe it is the architects in association with the insurance industry - with four benchmarks across the country. Leitrim along with Sligo in the north west and Roscommon in the midlands come under Galway. In other words the cost to rebuild a house in Galway applies to County Leitrim. The industry claims it costs €122 per sq. ft. to rebuild. Builders in County Leitrim and the midlands generally would rebuild for as little as €90 per sq. ft. I am sure the same would even be true in Waterford and the south east. It is a scandal and consumers are being ripped off. The industry has not changed those benchmarks in spite of the economic downturn. I call for an investigation into the insurance industry, which is ripping off consumers by charging higher premiums based on exorbitant rebuilding costs. At the end of the day if the

house has to be rebuilt, it will not be €122 per sq. ft. but whatever the current market conditions are in the area. This is a consumer issue and I believe the Minister, Deputy Bruton, has responsibility - I would be grateful for guidance on that. The matter should be debated in the House and should be exposed for the sham and scam it is.

Senator Maurice Cummins: Senator Darragh O'Brien spoke about savings of 6% to 10% in the banks. A number of Senators raised the matter again today even though I believe I addressed it yesterday. I will not presume what the banks might do in regard to the cuts of 6% to 10% the Minister has requested. Regarding Mr. Boucher, the Government holds a 15% stake. I believe a salary of €840,000 or €900,000 is immoral. It is a salary that was negotiated by the previous Government and agreed with it.

Senator Darragh O'Brien: No. The Leader is wrong in that.

Senator Maurice Cummins: For the banks in which the State has a majority stakeholding a cap has been introduced-----

Senator Darragh O'Brien: By us.

An Cathaoirleach: The Leader without interruption.

Senator Maurice Cummins: -----and is being implemented at present.

Senator Darragh O'Brien: The Leader's facts are wrong.

An Cathaoirleach: The Leader without interruption.

Senator Maurice Cummins: I am trying to answer if the Senator would let me. He will get enough time interrupting during his party's Ard-Fheis over the weekend.

Senator Diarmuid Wilson: The Leader is welcome to come along.

An Cathaoirleach: The Leader without interruption.

Senator Maurice Cummins: The Senator also spoke about a tax on online betting, with which I fully agree. That Bill has been on the agenda for quite some time and I will inquire as to when it will come before the House. There is a need to tax online betting. There are major dangers for everybody. We regularly discuss smoking and alcohol but very few people mention gambling addiction and the dangers of online betting in particular. I will certainly try to have that Bill brought before the House as soon as possible. I will make inquiries as to when that will happen and report back to the Senators.

On the increase in rents for local authority tenants, the Minister of State, Deputy Jan O'Sullivan, came to the House on 6 February. I will ask her to come here again to deal with the issue of local authority rents. Senator Hayden and others also requested a debate on the role of local authorities in providing social housing. I will ask the Minister of State to come and address that matter, but as I said, she appeared here only a few weeks ago.

Senator Bacik and others spoke about direct provision, another matter raised on the Order of Business yesterday. While the numbers have reduced significantly, it remains a problem. I have asked the Minister for Justice and Equality, Deputy Shatter, to come before the House to debate direct provision and a number of other matters which come under his portfolio and which are of concern to Members. As everyone is aware, the Minister has a very busy schedule.

However, I hope he will be able to find time to come before us for a debate on these issues in the near future.

Senators Bacik and Norris welcomed the outcome of the vote on gay marriage in France. They also noted the decision of the Constitutional Convention here on that matter.

Senator Bacik and others referred to the protection of maternal life Bill. I would prefer to await, and I encourage others to do so, the publication of the legislation in question before commenting on any speculation relating to this matter. Much speculation is being engaged in at present. We should all tread carefully and await the publication of the protection of maternal life Bill. The legislation will probably be forthcoming prior to the summer recess.

Senator Norris referred to the ECB silencing the State on the IBRC legislation. I agree with him that it is completely unacceptable that the ECB could give an instruction of the sort to which reference has been made. This highlights the fact that the sooner we can extricate ourselves from the bailout the better it will be because we will then be in a position to run our own affairs and get back our sovereignty in respect of financial matters.

Senator Colm Burke highlighted the fact that, in the context of the target set in the Hanly report, there is currently a shortage of 1,100 consultants in the health service. The Senator and Senators Comiskey, Mullins and others referred to the fodder crisis and complimented the Minister for Agriculture, Food and the Marine on the manner in which he is addressing it. The Minister has met representatives from the banks and the co-ops. I understand he is meeting the CEO of the co-ops again this morning in order to address this problem. I hope that the expected increased growth of grass in the coming days and weeks will help alleviate the problems being experienced by the farming community.

Senator MacSharry referred to the N4 action group. There is no question that the stretch of road mentioned by the Senator is extremely dangerous. I am not going to comment on which road projects are due to proceed and which are not. Fianna Fáil would know much more about political patronage in that regard-----

Senator Darragh O'Brien: Fine Gael has not doing badly in that area itself.

Senator Maurice Cummins: -----than most other parties.

Senator Diarmuid Wilson: The Cathaoirleach might like to make a comment on that matter.

Senator Maurice Cummins: Senator Quinn referred to the cost of procedures in Irish hospitals as compared to the cost which obtains in the UK.

Senator Darragh O'Brien: Senator MacSharry inquired about a possible extension.

An Cathaoirleach: The Leader, without interruption.

Senator Maurice Cummins: The matter Senator Quinn referred to is certainly worthy of debate. The fact that hospital procedures here cost 40% more than those carried out in the UK is an absolutely damning indictment. Senator Quinn also referred to Brent geese and the need for a debate on the environment. I hope the departure of the Brent geese will mean that we will see some more sunshine.

Senators Paul Coghlan and Ó Clochartaigh referred to the planting of a tree on Leinster lawn tomorrow in commemoration of our late colleague Shane McEntee. This is being done in conjunction with the One Million Trees in One Day project. I appreciate Senator Ó Clochartaigh's comments in respect of our late colleague and thank him for them.

Senators Landy and Walsh referred to the OECD report on pensions. This matter was raised by Senator Moloney yesterday. I will ask the Minister for Jobs, Enterprise and Innovation to come before the House for a debate on this report.

Senator Comiskey referred to the difficulties relating to agriculture and Senator Mullins highlighted the fact that moneys from the animal welfare fund are available for members of the farming community.

Senator Conway referred to national job shadow day and the difficulties experienced by people with disabilities. The Senator has highlighted that matter in the House on numerous occasions. The Senator also referred to the undocumented Irish and the problems experienced by some individuals in the US. If he is aware of a specific case and if he wants to provide me with details of it, I will certainly make representations on his behalf to the Tánaiste and Minister for Foreign Affairs and Trade. I am sure the Senator either has made or will make his own representations on this matter.

Senator Healy Eames raised the matter of school workplace audits and inquired as to why the services of the National Employment Rights Authority, NERA, were not used. I will check the position in that regard with the relevant Minister. I note the comments of the Senator in the context of the CEO of the Bank of Ireland, a matter I have already addressed.

Senator Noone referred to the important issue of the establishment of a policy group on alcohol by the Royal College of Physicians in Ireland, RCPI. I will ask the Minister of State at the Department of Health, Deputy Alex White, to come before the House to discuss the matter.

Senator Mooney referred to the fact that while building costs have decreased, insurance costs have not followed suit. The Senator also referred to the fact that insurance companies are charging higher premiums. As this matter comes under the remit of the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, I will endeavour to have him come before the House to address the concerns relating to it.

An Cathaoirleach: Senator Darragh O'Brien has moved an amendment to the Order of Business: "That 40 minutes be set aside today for a debate on the increase in rent applicable to local authority housing." Is the amendment being pressed?

Senator Darragh O'Brien: It is.

Amendment put:

The Seanad divided: Tá, 17; Níl, 25.	
Tá	Níl
Byrne, Thomas.	Bacik, Ivana.
Crown, John.	Bradford, Paul.
Cullinane, David.	Burke, Colm.
Daly, Mark.	Coghlan, Eamonn.

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Heffernan, James.	Coghlan, Paul.
MacSharry, Marc.	Comiskey, Michael.
Mooney, Paschal.	Conway, Martin.
Mullen, Rónán.	Cummins, Maurice.
Norris, David.	Harte, Jimmy.
O'Brien, Darragh.	Hayden, Aideen.
Ó Domhnaill, Brian.	Healy Eames, Fidelma.
Ó Murchú, Labhrás.	Henry, Imelda.
Power, Averil.	Higgins, Lorraine.
Quinn, Feargal.	Keane, Cáit.
Reilly, Kathryn.	Kelly, John.
Walsh, Jim.	Landy, Denis.
Wilson, Diarmuid.	Moloney, Marie.
	Moran, Mary.
	Mullins, Michael.
	Noone, Catherine.
	O'Donnell, Marie-Louise.
	O'Keeffe, Susan.
	O'Neill, Pat.
	Sheahan, Tom.
	van Turnhout, Jillian.

Tellers: Tá, Senators Paschal Mooney and Diarmuid Wilson; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared lost.

Question, "That the Order of Business be agreed to", put and declared carried.

Address to Seanad Éireann: Motion

Senator Maurice Cummins: I move:

That, in accordance with Standing Order 57(2) and the decision of the Committee on Procedure and Privileges, Seanad Éireann agrees that Pat the Cope Gallagher MEP shall attend and be heard in Seanad Éireann on Thursday, 25 April 2013 and that the following arrangements shall apply: the proceedings, which shall not exceed two hours, shall consist of a contribution which shall not exceed twenty minutes by Pat the Cope Gallagher MEP, a contribution not exceeding five minutes by the spokesperson of each group and a contribu-

tion not exceeding two minutes from a Sinn Féin Senator at the conclusion of which Pat the Cope Gallagher MEP will reply to questions (which shall not exceed one minute in each case) from members in accordance with the Schedule below.

Schedule

Fine Gael Senators: 2 questions

Fianna Fáil Senators: 2 questions

Labour Senators: 2 questions

Taoiseach Nominees: 2 questions

University Senators: 2 questions

Sinn Féin Senators: 1 question.

Question put and agreed to.

National Lottery Bill 2012: Second Stage

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

Acting Chairman (Senator Diarmuid Wilson): I welcome the Minister of State, Deputy Brian Hayes, to the House.

Minister of State at the Department of Public Expenditure and Reform (Deputy Brian Hayes): I thank the Acting Chairman for the opportunity to return to the Seanad. I am aware that this matter has been debated twice in the past 12-----

Senator Thomas Byrne: On a point of order, an bhfuil ráiteas an tAire Stáit le fáil? Is the Minister of State’s speech available in print?

Acting Chairman (Senator Diarmuid Wilson): I am sure that it will be. Is the Minister of State’s speech available?

Deputy Brian Hayes: I understand that it is outside the Chamber. Will I get the Senator a copy?

Acting Chairman (Senator Diarmuid Wilson): No.

Deputy Brian Hayes: As I was saying-----

Senator Marie-Louise O’Donnell: I beg the Minister of State’s pardon, but is the House quorate?

Acting Chairman (Senator Diarmuid Wilson): No, but if the Senator wishes a quorum to be called, that is her prerogative.

Senator Marie-Louise O’Donnell: I absolutely do, out of respect for the Minister of State

and the Bill.

Notice taken that 12 Members were not present; House counted and 12 Members being present,

Deputy Brian Hayes: This matter has been extensively debated recently in this and the Lower House. The Minister for Public Expenditure and Reform, Deputy Howlin, and the Government welcome such debate. It gives Members of the Oireachtas the opportunity to put on the record their views and concerns regarding Government proposals. It also facilitates the in-depth discussion of issues and allows time to clarify any misunderstanding or misapprehension that may exist.

The Bill was published in December 2012 and was passed by the Dáil last Wednesday, 17 April. The Bill, which is intended to replace the National Lottery Act 1986, has a number of purposes, in particular to continue to provide a legislative framework for the operation of a national lottery, to continue to safeguard the integrity of the national lottery-----

Senator Marie-Louise O'Donnell: I am sorry that I must interrupt the Minister of State but, out of respect for his office-----

Acting Chairman (Senator Diarmuid Wilson): Does the Senator have a point of order?

Senator Marie-Louise O'Donnell: -----we still do not have a quorum. We got it for one second, but then it disappeared. We need 12 Senators.

Notice taken that 12 Members were not present; House counted and 12 Members being present,

Acting Chairman (Senator Diarmuid Wilson): I apologise to the Minister of State.

Deputy Brian Hayes: The third objective is to provide a new national lottery regulator, which shall be funded by the national lottery operator and be independent of the Minister for Public Expenditure and Reform. Fourth, it will set out certain principles regarding the regulation of the national lottery, such as the circumstances in which a licence may be amended or revoked. A number of amendments were made to the Bill during its passage through the Dáil. For example, the natural environment has been added to the list of good causes which may receive national lottery funding. However, none of the amendments made impact on the fundamental purposes of the Bill.

The national lottery commenced operating 26 years ago. In that time, the lottery has raised some €4 billion for good causes. It has also maintained the support of the general public, which is crucial to the success of a State lottery. There has never been any issue with the integrity, probity or ethos of the national lottery. There may be different views regarding the future of the national lottery but there is almost universal consensus that the lottery has been an outstanding success since its establishment. Inevitably, the national lottery has been affected by the economic downturn of recent years. Nevertheless, the lottery has proven itself to be resilient and it continues to generate a very significant surplus for the State each year. This surplus is used to fund a range of good causes in every part of the country. I wish to emphasise that the provision of annual funding for good causes will continue to be central to the arrangements for the next licence.

The present licence to operate the national lottery was granted to An Post National Lottery

Company in late 2001 and is due to expire later this year. Following an examination of the various options by my Department, the Government agreed in April 2012 that the following arrangements will apply to the next national lottery licence: there will be a competitive process for the award of the licence, which will be for a period of 20 years; the terms of the next licence will include an upfront payment to the State which will help fund the new national children's hospital; and the next licence will involve the ongoing provision of a significant level of funding for good causes each year.

I wish to emphasise at the outset of this debate that I do not have any discretion regarding whether or not to hold a competition for the next national lottery licence. Under EU law, the State is obliged to hold a competition for the next licence. However, the State may set the terms of both the competition and the licence itself, such as the duration of the licence and the financial arrangements that underpin it. The fact that I am legally obliged to hold a competition may have been overlooked by one or two contributors to the debates in the Dáil, who seemed to be under the impression that the Minister, Deputy Howlin, could simply award the next licence to whomsoever pleased him without having to hold a competition. Neither the Minister nor I have that option and a competition for the current licence was held between 1999 and 2001. Therefore, this will not be the first time for the State to hold a competition for the national lottery licence.

I do not need to remind Senators of the difficult economic issues we face. This is something which I think is sometimes lost sight of in debates on this issue. Given the present budgetary position, the Government needs to be innovative and creative where opportunities arise to generate additional resources for the State. All parties are agreed that the national children's hospital should be built and that the resources to build it have to be found. Therefore, the Government has decided to take advantage of the expiry of the current lottery licence to provide for new arrangements for the next licence, which will involve an up-front payment to the State.

Despite what was claimed in this House during a previous debate on this issue, the national lottery is not being "sold". A competition will take place for a 20-year licence to operate the national lottery on behalf of the State, which will involve an up-front payment. A number of Deputies and Senators have made the suggestion that the money could be raised through holding a series of special lottery draws to raise funds for the hospital. However, as I have frequently pointed out, such an initiative would simply involve much less funding for good causes, such as sport and recreation, health in the community, or arts and heritage. We are all aware of the enormous benefit of such funding to individuals and communities in every part of the country. Many examples of such projects have been cited recently, for example, by Members of this House during our debate last February. The Government is determined that any initiative to raise funding for the national children's hospital will not be at the expense of good causes. The Government's approach involves an up-front payment and the safeguarding of annual funding for good causes.

When I announced the Government's decision regarding the next licence in April 2012, the intention was that the building of the national children's hospital would commence in the near future. Developments since have meant that the timescale for the hospital has been put back. A question has been raised, and quite legitimately so, in ensuring that funding from the up-front payment will be safeguarded for the hospital. During the debate on this Bill on Committee Stage in the other House, the Minister gave a formal commitment that when the competition for the next national lottery licence is concluded and the Exchequer is in receipt of the up-front payment, he will revert to that committee on the arrangements for the up-front payment. I wish

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to reiterate, in case of any doubt, that the intention remains for part of the up-front payment to be used to help finance the national children's hospital.

With regard to the competition itself, the competitive process will be undertaken by the Department of Public Expenditure and Reform. It is envisaged that the competition for the next licence will commence during May, with the process likely to run until September 2013, at which stage a preferred bidder will be chosen. It is expected that the up-front payment will be made towards the end of the year. It is envisaged that the new 20-year licence will commence in 2014, subject to transitional arrangements.

Much of the Bill replicates the National Lottery Act 1986, which it is intended to replace. However, the Bill also contains important new provisions, such as those in the area of regulation. As well as dealing with the national lottery, the Bill also provides for a number of amendments to the Gaming and Lotteries Act 1956. I am not going to go into the detailed provisions of the Bill as there are many people who may wish to make a contribution. People can see in the circulated document a detailed assessment of each of the sections.

We must be innovative and creative in how we use State resources for purposes which people believe to be important. Even in difficult times we can carry out very significant infrastructural projects. It is arguable that a new tertiary paediatric hospital should have been built during the good times, were it not for the to-ing and fro-ing that occurred. Even in the teeth of a recession, with such a challenging budgetary position, we can still do really important things. The late former Taoiseach, Mr. Haughey, more than anybody proved that in difficult times we can get extraordinary developments over the line. I am thinking of the Irish Financial Services Centre and Temple Bar, for example. That is the template we must follow, with the public finances in a very difficult position.

The Minister, Deputy Howlin, on behalf of the Government, wants to use part of the up-front payment for the purposes of a new national children's hospital. It will look to bring together excellence for children in a small country, which will have significant support around the country. If we use the assets we have by means of the licence to be put in place for the next 20 years, we will be able to part-fund that significant development.

Senator Thomas Byrne: On a point of order, I object to the Minister of State just putting on the record a speech instead of setting out the details of the Bill. It is unacceptable and insulting to the Seanad that the Minister would not explain what is in the Bill for the purposes of the debate. It is unprecedented and I call on the Minister of State to argue his point. Otherwise, we may as well close the doors, walk out and abolish the Seanad immediately as it will just be a rubber stamp. If the Government Senators are willing to do that, fair play, but I am not willing to do it and I object to it in the most fundamental way.

Acting Chairman (Deputy Diarmuid Wilson): In fairness, the Minister outlined his reason for not putting this into the record section by section.

Deputy Brian Hayes: It is clear that the next speaker is unprepared for his contribution because he wants me to use up another 20 minutes of time.

Senator Thomas Byrne: That is an outrageous allegation for the Minister to make in this House. If they treat this Parliament as they are doing they will be run out of office quicker than they ever expected.

Deputy Brian Hayes: I am glad the Senator got a copy of my speech, which was outside as he passed on his way in here. I want to welcome him back to the Seanad following his recent travails. In conclusion, this is an important Bill. It is a key part of what the Government wants to do and there is significant support behind the objective of funding a new national children's hospital. I am sure that is something the good Senator from Meath will support.

Senator Thomas Byrne: I do not know what to say because this is outrageous. It is a bad precedent for the Seanad and the Dáil because while Governments, and this Government in particular, are prepared to guillotine legislation, I have never heard of a Minister's speech being guillotined in any Chamber. It is outrageous and people should object to that in a serious way. It is turning this Seanad into a rubber stamp and that is very unfortunate. We support this Bill. We have some reservations about it. I compliment Senator O'Donnell on her campaign on this because it is highlighting public interest in the matter, but we cannot support legislation that is going to be rammed through the Oireachtas or where the Minister is not prepared to set out why he wants to put this legislation through. That is a fundamental obligation of Government. It should set out the options because there are other amendments to this Bill, not just regarding the national lottery, but also regarding the Gaming and Lotteries Act. I call on the Cathaoirleach to ask the Minister to withdraw his allegation about my being unprepared for this debate as the reason for my standing up. That was outrageous and uncalled for from a Minister of State.

We support this Bill. We have debated this Bill in the Seanad before in Private Members' time and it has come up on numerous occasions. We support the idea of a tendering process. We support the idea that the State would maximise the sale price, given that the Minister has said he will use the proceeds, or a large part thereof, for the national children's hospital. However it is a major flaw in the legislation that we must rely on a Labour Party promise to do this, rather than enshrining it in legislation. Unfortunately, the promises, the word or the solemn undertakings of Labour Party Ministers are not worth the paper they are written on. It is essential that this be provided for in legislation if this is actually what the Government intends to do.

That is a major flaw because the only way the Minister can sell this Bill, and possibly overcome some of the objections that Senator O'Donnell would put forward, is through the prospect of the national children's hospital, and that is not in the legislation. The legislation needs to be amended to ring fence money for the children's hospital. The same process needs to be fully transparent regarding tendering and the rating of bids for the licence, and documentation must be available for public inspection. The tendering process should take note of serious issues that arose during other tendering processes that members of this Government were involved in when they were in government previously. The Minister is already committed to having no contact with the parties involved. It is essential that no such contact would take place. The good causes issue is a flaw of the lottery generally. Money is not ring fenced for those good causes but is sent straight to the Exchequer. It has been a major flaw over many years that there was no express provision for that.

I hope we can get a more detailed debate on this Bill. I advocated undertaking this sort of procedure four years ago in 2009 with the then Minister for Finance, Brian Lenihan, when I felt it could pay for a certain amount of capital infrastructure in the State. My suggestion was schools and roads but the children's hospital is a good one and I would expect that it be provided for in legislation. I hope we will not have a guillotined debate on Committee Stage when we are going through this Bill line by line because we have effectively had a guillotined debate on Second Stage. We broadly support the Bill but we have concerns, which we will raise on Committee Stage. On Committee Stage I will ask the Minister, on every section, to outline

what is proposed. That is very important. The public are watching this debate. They want to know. They do not have the printed statement in front of them. A very unfortunate precedent has been allowed to be set here today.

Senator Tom Sheahan: I welcome the Minister of State to the House. I have reservations about this Bill. There are no specific amounts in the Minister's information. The lotto has raised €4 billion in 26 years. Gross turnover last year was more than €700 million. Be it true or just speculation, it is expected that the national lottery licence will be sold for 20 years for an up-front payment of approximately €500 million. Let the Minister correct me if I am wrong. That does not make good business sense. When the country was going down the tubes during the last Administration a plethora of economists offered their opinions. I am surprised that I have not heard any of these eminent economists offering an opinion on the sale of the national lottery.

Will we get the best achievable deal for the country? Speaking to some so-called experts in this field, they believe there is only one realistic customer for the national lottery. I will not name him in case it does me any harm. While there will be a process, and it is open to anyone to apply for that licence, realistically is there only one customer for the national lottery? If that is the case, I say "Halt" now because we will not get a good deal. I hope the Minister of State can inform me and the House to the contrary but that is the information I have.

I want to see the national children's hospital. It is a disgrace that it has not been built. The term "selling the family silver" has been bandied around. We are not selling it. It is a 20-year lease and the €500 million will build the children's hospital. When the new operator comes in, a regulator must be put in place. I am led to believe that the regulations that should be put on the company coming in to buy this should be water-tight. There is a fear out there that they will put gambling in people's faces every day of the week. This is a business exercise by the company that will take this over and it will do whatever it must to make it profitable, and it will milk it for all it is worth, online and everything else.

I understand it has to go to competition but have all the avenues been looked at for the State not to hold the national lottery? Let the Government, in a meaningful, controlled manner explore other avenues of revenue for the lotto. I use that word "explore" because I am afraid if we sell the licence for 20 years it will be exploited. End of Take I am afraid of that. I am not a regular purchaser of lotto tickets but the statistics highlight that many of those who play lotto cannot afford it. Those in the lower socioeconomic bands spend the most on the lottery. Protection needs to be provided and I am afraid that if the State sells the national lottery licence to a business, it will be exploited.

Senator David Norris: Hear, hear.

Senator Tom Sheahan: The up-front payment is €500 million. The annual levy will merely offset the costs of the regulator's office. I would turn the screw in this regard. There should be an additional benefit to the State other than the levy. Will it be a percentage or will it be a set fee? A percentage of the profits would be the best way to go rather than applying a set fee.

We have to build a national children's hospital but I wonder whether there are more imaginative ways to fund it. Could we retain the huge asset we have in the national lottery and explore other avenues rather than having outsiders exploit it?

Senator Marie-Louise O'Donnell: I thank the Minister of State for his patience. There

are only seven Government Members present but I will not call a quorum. It says a great deal about the interest in this issue. Perhaps Members have not examined it deeply and do not understand what it is happening.

International best practice shows that lotteries run out of steam and need to be regenerated. The lottery licence is due to be renegotiated and re-tendered according to the Minister but regeneration does not necessarily mean sale. The problem is that the Minister is selling the lottery licence to the highest bidder from outside the State for an up-front payment. I do not know anybody in Ireland who has between €400 and €600 million. The Minister for Public Expenditure and Reform stated, “We are in a national crisis we must think outside the box”. This is true but why are we defining thinking outside the box as sale or up-front payment? The Minister argues that the Government would like to secure a significant sum that will enable it to invest a large chunk in building the new national children’s hospital. I am thinking outside the box and we could get the money for the children’s hospital from a dedicated weekly draw over a five to seven year period. There is no evidence to suggest that other draws would suffer and the British did this for the Olympics.

The Minister says we engaged with the troika and “we stated that we would sell up to €3 billion of state assets excluding the national lottery”. The national lottery licence was not to be included in the process but the Minister did so with a few trendy thinkers from New South Wales. The Minister believes that the sale of the licence will not damage the lottery but he is wrong. Following this sale we will not own our lottery licence for 20 years but a private gaming consortium of outside private buyers will. If the House wants an example of damage, it should try the privatisation of public money for gaming private profit. I cannot think of a better example of damage in Ireland.

The Minister thinks that I am resistant to reform and change but I am not. The licence sale is not about reform or change; it is about money up front - a fast buck from the highest bidder. Senators must consider that a €500 million up-front payment to buy the lottery licence for 20 years is outside politics, parties and politicians and they should regard it as such when they vote. Senators need to ask themselves some simple questions. If the national lottery license is so valuable, why is it being sold? Do they think, in the best part of their heart beat, that is right to sell it off for 20 years? If the sale is a success, can we not keep that success for ourselves? Why are we selling the family silver for the up-front payment? The reason somebody would give the Government that amount is healthy profit, which will be generated by the opening up of online gambling and the turnover from that. I am not trying to hold back life at the door and I do not have a problem with online sales but let us have online gambling for ourselves. We should restrict or semi-restrict it and we should control and profit by it solely for ourselves. A sale to a private gaming consortium is a short-term fix, which takes that option away.

Senators have tried to reassure me - and one is present - that the great ring-fencing of good causes is a reason such a sale makes no difference. There are two answers to that. First, the people own all the money generated - €763 million per year - the prizes, marketing and the administration and not just the good causes. Second, regardless of ring-fencing good causes or anything else, money has to be found to pay back the €500 million provided by the buyers. They are not Santa Claus and they are not altruistic. They are private gaming consortia and to make the buyers a healthy profit over 20 years, the money will come from us through online sales because this is the big growth area; otherwise the buyers would not be interested

The Government parties are giving away the right for us as a nation to make huge profits

over many years for ourselves because they want a fast buck, up-front payment and the licence holder will make a profit on that. The greatest and most important question is how much will be extracted as a profit from the up-front payment and how much will continue to be extracted over 20 years to justify the €500 million charge and the interest on it. No up-front payment is worth that quick fix. What happens if the licence holder has given us €500 million and he is not generating his profit? Will we have to pump up the sales? What happens if everything gets a little looser? What if online sales turn into a social disaster? When we are in control, we can tighten regulations but when we are not, we will have to allow the buyers to continue to extract its profits regardless.

I believe gambling will be an issue in the future. I am concerned about the plethora of new casinos opening in towns all over the country. The volume of online gambling is also huge. We seem to have no control over this and will need to have a proper discussion on the issue. The Minister said that. Genuine online gambling will be a different way of playing the lottery. Why can we not retain control of its profits?

There is also another huge problem about which no one is speaking. If the State controls the gaming consortium bidders too much, the price will go down to an insultingly low level. Without control, there could be an explosion of gambling. It is, therefore, Hobson's choice for the Minister and it is not worth it. We are always bending over backwards in this country, doffing the cap to the likes of Shell and BP, to the pharmaceutical companies and to Eircom. We know what happened with the latter company.

What will happen to the 108 national lottery jobs? Where is the written guarantee for them? Will they be assimilated back into An Post? If so, where is the written agreement on this? What has An Post said, agreed and put in writing about this? If not, who will pay the staff pensions and how much will it cost? No Senators can tell me that he or she believes in this sale. How can one believe in a sale that will privatise public money in a private gaming consortium? How can one believe in a sale that incentivises the opening up of online gambling to profit a private gaming company off the island? Is this the kind of judgment the Upper House should be about, as it signs off on decisions such as this? It is not the kind of Upper House I thought I was entering two years ago. People say it does not matter, that I am only grumbling. That is correct but it is €763 million a year of our money and it belongs to us. Where are the ethics in this? Where is the ethics in this? I am reminded of a quote from the late comedian Peter Cook: "We need a futile gesture at this stage. It will raise the whole tone of the war." I have to accept that my speaking against what the Minister of State proposes is somewhat futile because there is an overwhelming majority under the Whip here which ensures that whatever Ministers do or propose, however misguided, will be approved. It is the responsibility of all Senators to question perceived wisdom and decisions, to examine those matters where the consensus is misguided and to hold a mirror to actions which are not in the best interests of the Irish people. This is not in the best interest of the Irish people. The Minister of State with responsibility for public service reform, Deputy Hayes, and the Minister for Public Expenditure and Reform, Deputy Howlin, have told us that we are selling the national lottery but we need to ask why somebody from the private sector would want our lottery licence. The duty of those who manage and lead the private sector body is to maximise shareholder value. This is done by getting the best financial return. It follows then that an investor will buy our lottery licence because it is convinced and has proof that return on this investment will ensure a greater profit than any other venture into which they might put their money. The Irish national lottery licence is one of the greatest cash cows in Europe. If our lottery can ensure such a rich reward for the private sector why can

it not do the same for the State?

The Minister for Public Expenditure and Reform and his colleagues constantly remind us of their ambition to regain our national economy and our sovereignty, to become the independent country that we could be, to exit the bailout, to be free from the troika. If the Minister is determined that we should control our own destiny why will he not think inside the box and allow us to run our own lottery with the development of online gambling by the Irish, for the Irish, and maximise returns to the Irish rather than sell it to an outside private gaming consortium?

I find it ironic that in the anniversary of the 1913 Lock-out a Labour Party Minister is allying himself more with the descendants of William Martin Murphy than with those of Jim Larkin. The Minister is about to destroy a lottery licence owned by the people, operated by a State agency for the Irish people, for Ireland's public good and replace it with a private profit platform for an offshore gaming consortium, for an upfront payment. It is not worth it.

Senator Lorraine Higgins: I welcome the opportunity to speak on this Bill today and I would like to respond to some of the issues that Senator O'Donnell has raised, particularly about social issues and gambling addiction which will remain a problem regardless of whether this is in private or public ownership. Many leading psychologists would vouch for that. The Seanad is a fantastic instrument in the organs of the State. It shows the essence of democracy that we can come into this House and debate on both sides of the argument, saying where we stand on the issue. When other Members come into the House to vote on the legislation we will see democracy at work and how people feel about this Bill. It is necessary to say that. We are not selling this licence.

Senator Marie-Louise O'Donnell: We are.

Senator Lorraine Higgins: We are not. We are giving someone the opportunity to run and operate the national lottery. We are not losing ownership.

Senator Marie-Louise O'Donnell: There is an upfront payment of €500 million. If that is not a sale I am Santa.

Senator Lorraine Higgins: That is the most important point that we must take from this debate today.

I welcome the Minister of State with responsibility for public expenditure and reform, Deputy Hayes, into the House today. I am delighted to have the opportunity to lead this debate on the Bill on behalf of the Labour Party group. We all know that the national lottery has been a constant feature of our lives since 1986. At that time there was much posturing about whether it would be a good idea to introduce it in the first instance and whether it would lead more people to gamble. The results speak for themselves and the Irish people and associated philanthropic organisations are very pleased with it.

I commend the Minister of State and his Department on the introduction of this Bill. This is a pivotal point in our recent economic history as this Bill will allow for the national lottery licence to be sold to acquire funds to assist in remedying the economic crisis in which we have found ourselves over the past few years. The Minister of State, Deputy Hayes, has worked with the Minister for Public Expenditure and Reform, Deputy Howlin, and the Minister for Finance, Deputy Noonan, to bring the country's finances back on track and for that they all deserve the highest recognition. This Bill will go some way towards rectifying our economy through the

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money it will raise. Worthwhile projects will come to fruition on the back of that which will ultimately lead to job creation. None of us in this House should oppose that given that 450,000 people in Ireland are on the dole.

The current licence as operated by An Post expires at the end of June 2013 and the expiry of that contract is giving the State an opportunity to raise much-needed moneys. It is important to remember that the asset of the national lottery itself is not being sold as I highlighted at the outset of my speech.

Senator Marie-Louise O'Donnell: It is.

Senator Lorraine Higgins: It is only the licence to operate this asset that is being sold.

Senator Marie-Louise O'Donnell: Why are we looking for €500 million upfront?

Senator Lorraine Higgins: It is important to have clarity on that. That is the point.

Senator Marie-Louise O'Donnell: That is incorrect information. The Senator is giving incorrect information.

Senator Lorraine Higgins: This should reassure Senator O'Donnell and members of the public who have major concerns about the sale. It is not beneficial to anybody to be scaremongering about this. With this in mind I would welcome the establishment of an independent regulator to ensure that the interests of participants in the national lottery are protected. The regulator would also have the important task of ensuring that allocations to good causes are maintained as far as possible so that they can continue doing their great work. There have been calls, with which I agree, for greater transparency and accountability regarding which projects receive allocations. The appointment of a new regulator should help to allay any concerns in this respect amongst members of the public. I understand from figures being bandied about that the total revenue generated by the sale of a 20-year licence could be anywhere in the region of €400 million to €600 million, a considerable sum. Many sectors of Irish society will benefit from this and we will now begin to ease out of the economic handcuffs which have been placed on us.

The biggest project associated with the sale of the national lottery is the proposed construction of the national children's hospital, a project which holds a special place in the minds of many Government representatives and officials. The advancement of this project is essential for the many young children who will require attendance at this facility and will be a cause of relief to many Irish parents when such a first-class medical facility is available here. Over the years Irish citizens have been promised that this hospital would become a medical feature of this country. One of the prime achievements of this Government will be the delivery of this project. Without the ability to liquidate the value in this licence this project would remain on the back burner. That is a reality. Once we have the money which comes from the sale of the licence let us ensure that the construction phase of this hospital follows immediately. I urge the Minister for Finance to be particularly mindful of that because it is essential that we get the benefit from the liquidity associated with selling the licence. Not only will thousands be engaged in the construction of the project but the multiplier effect will give a great impetus to the local economy, giving it a much-needed shot in the arm as a consequence of increased spending power.

The national lottery plays a very important philanthropic role in Irish society and we cannot

forget that. When the lottery was first set up in the recessionary 1980s its original purpose was to support good causes without putting further pressure on our tax system. Since its inception in 1986 nearly €4 billion has been raised through it for deserving causes which means that almost one third of every euro spent on the national lottery was donated to good causes. This is a powerful example of the American adage “pay it forward” working, as many thousands of people and organisations have benefited from its existence. A total of 30% of the €4 billion raised has been given to projects in the youth, sport, recreation and amenities, health and welfare, arts, culture and heritage spheres. These are areas which could not prosper without special delineation in the allocation of lottery money. Galway organisations were allocated €230,000 in 2012 in lottery grant aid. I profusely thank the national lottery for this.

I welcome the Minister for Public Expenditure and Reform, Deputy Howlin, to the House. I commend him on clarifying this point in section 41 of the Bill which provides that money should continue to be paid to good causes in the same categories as have been the case to date. Most Members of this House will give this a huge welcome. It will come as a relief to the recipients of lottery grant aid. This Government should ensure that these social dividends flow. I thank the Minister for making sure that this was part and parcel of the Bill. As a proviso, however, I urge that legislation be put in place for a percentage to be paid to good causes so that they have certainty in this regard and are not fearful of a dip in percentage donations commensurate with any dip in profits in the same year. Despite our economic recession, sales of lottery tickets have remained robust. In 2011, sales amounted to more than €761 million. These figures and the enduring popularity of the lottery will ensure we attract the highest and best bidder.

We have seen from our near neighbour that the UK lottery has been run successfully for 20 years by a private company, Camelot, which donates 28% of its total sales to good causes. This displays that a private company can work in harmony with the interests of the Irish people while operating the national lottery licence.

I commend An Post, its employees and agents at this juncture for the fantastic job they have done since the inception of this lottery in helping it grow and prosper, and with many philanthropic organisations throughout Ireland. This is the kernel of success of the project and I say, “Well done”, to them. I am sure that should An Post be mindful to bid for it, there is nothing to stop it from becoming a possible bidder, also in conjunction with another bidder.

We and the Irish public alike await the outcome of the operator licence lottery later this summer. No doubt the Bill and the selection of the operator of the licence are matters of intense public interest and of interest to the Members of this House and the Dáil. In the interests of the taxpayers and the population in general, we must ensure we get the best price and the best possible terms for the awarding of the licence.

Whoever wins this licence to operate the national lottery, I wish them the best of luck and urge them to continue to help it grow and look to increasing the overall expenditure to worthy causes in the longer term. I wish the new regulator, whoever he or she will be, all the best in the position. I commend the Bill to the House.

Acting Chairman (Senator Diarmuid Wilson): I welcome the Minister, Deputy Howlin, to the House.

Senator Feargal Quinn: I welcome the Minister to the House. I am glad he heard Senator Higgins. I am disappointed that the Minister missed hearing the emotion and deep concern of

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Senator Marie-Louise O'Donnell. She made a wonderful input that I would urge the Minister to look back at because it is not enough to read what she said; one would want to see it as well.

As chairman of An Post at the time we set up the national lottery in 1986, I was involved in its establishment. At that time, one of the concerns about the national lottery that appealed to me was the battle that went on to ensure that the money from the ticket sales did not go into Government funds in order to shore up the deficit. It seems the Government intends to use the national lottery to shore up the deficit to some degree, although the Minister would not agree.

Since the start of the national lottery, approximately €4 billion or one third of all ticket sales has been donated to good causes such as charities, arts projects and community initiatives. I am glad the Government states it intends that the percentage to go towards good causes will be retained at current levels, however I am concerned that this may not be the case. Camelot has been involved in preliminary negotiations. In Britain, it only donates 28% to good causes, which is a much lower figure than here. Surely if it was to come into the Irish market it would want to bring profits for its shareholders up by reducing the funding for good causes in one way or another. I hope the Minister is able to protect us from that.

There is a need for greater transparency in terms of the national lottery. It is well known that some feel aggrieved that their sports club or similar entity has not received funding due to political affiliations or even the type of sport being played at their club. I would like to see the application process conducted online where applicants could see how their application was judged. If the Minister could comment on this sort of increased transparency, it would be good for everybody.

I will read a letter that I received today because it is from somebody who knows something about the national lottery. It states:

The new National Lottery Bill received scant media coverage during the past week. The original idea to sell the Lottery franchise for a twenty year period in return for a lump sum of circa €500/600 million was ill thought out and nonsensical in the first instance. Any prospective Licensee would require an income of around €1200 million, i.e. some €60 million per annum, in order to cover their initial outlay. Currently the only profit in the operation, which is run on a shoestring, is the €2.4 million management fee paid to An Post. The shortfall would, of course, come out of the beneficiary funds. This would probably not have fazed some politicians as it would be a long time before the beneficiaries would notice the impact. The idea of getting an up-front lump of money that didn't have to be repaid was still attractive to Government. However the risk to the potential licensee was still too great and to sweeten the pot it appears that the Minister was persuaded to allow the Lottery to have internet gaming as part of its portfolio. Internet gaming was, as you will know, a complete no-no for both the Government and the An Post National Lottery Company. To now allow a new licensee into that area is scandalous. You will be well aware of the dangers of introducing further readily available gambling opportunities nationwide, particularly through a state supported institution. To do so at any time would be reprehensible, to do so in current economic circumstances is nothing short of criminal.

I read the letter because I think it is worded better than I might have been able to word it. I would like to hear a reply from the Minister on it to see what is the position.

On the problem with online gambling in general, it seems there is substantial room for growth in the national lottery that would be attractive to bidders as it currently earns just 3% of revenue online compared with those in other countries which earn up to 15%. How will this develop and should the company running the national lottery be allowed free reign to advertise when that side of the business develops under the new management?

I understand betting shops, unless there is a horse race, must close at 6.30 p.m. from September until March under a 1931 Act. A 1931 Act forces betting shops to close. How does this interact with online betting that is available 24 hours a day? Although we may not be enthusiastic about gambling, there is something to be said for at least reviewing regulations based on legislation introduced 80 years ago. Overall, we are lagging behind as legislators when it comes to gambling.

I also want to raise the issue of restricting online gambling. While the Bill covers safeguards including strict age-verification systems, it does not go far enough. The EU is looking to protect children and to combat fraud through a draft directive, but I would like us to consider some issues sooner rather than latter.

For instance, given the problems associated with gambling, should gambling companies be allowed to sponsor and advertise wherever they please? I note the difficulty we are having with alcohol and alcohol advertising in sport, but should we be doing something about gambling and gambling companies on the same basis? As we talk of restricting alcohol advertising, why not gambling advertising? Given the problems with gambling that ever more young people face, should the GAA accept sponsorship from gambling companies? Countries such as Germany have increased controls on advertising as well as limiting the amounts customers can gamble, and increased taxes on betting. I believe we should at least be examining Germany's lead on this issue. Could the new operator of the national lottery be compelled to implement some real measures that will help to protect consumers?

I believe the Government has made its decision in this area as to what to do about the national lottery. There are some benefits in this. We all are quite worried about the sale of any State assets on this basis, particularly coming from a Minister with his background, but there are occasions when the sale of State assets makes sense. In this case, Senator Marie-Louise O'Donnell says we are selling the national lottery and others argue that it is only being rented out for 20 years, but I am concerned about encouraging anything that is not in the interests of the community, particularly its younger members.

The other point about gambling, not only online but of any kind, is that one can now gamble on the Internet anywhere and if we pass a law here, we cannot enforce it in Germany, France, Britain or elsewhere. I note that in the case of alcohol advertising rugby's Heineken Cup cannot be called "The Heineken Cup" in France and is called the "H Cup". It is merely a reminder of how difficult it is nowadays to control anything where one has the ability to be able to buy anything one wants online.

This is a debate that should not be curtailed. We need this debate here today and I welcome the opportunity to hear the Minister's views on the points that have been made.

Senator Catherine Noone: I welcome the Minister to the House and thank him for listening to us once again on this important issue. There is no doubt the national lottery has contributed greatly to Ireland, with more than €4 billion contributed to a variety of good causes over

the past 25 years. During this period it has managed to give to every county in the country and contribute to every sector while always maintaining the support of the public as it was never seen to give favourable treatment to one body, sector or county over another.

When the decision to establish the national lottery was undertaken in the 1980s, at which time much debate took place, as alluded to by Senator Higgins, we were in a time of economic difficulty. This was seen as a creative solution to help us with our problems. Once again we find ourselves seeking solutions to our economic challenges. As part of this, the Government agreed to a competitive process to award the licence for a period of up to 20 years. The licence will include an upfront payment to the State intended to fund the national children's hospital. The licence will guarantee an ongoing provision of funding for good causes each year.

The Minister has acknowledged in the past there must be competitive tendering, and under EU law the State is obliged to hold a competition for the next licence. In this respect we do not have a choice.

Senator Marie-Louise O'Donnell: We have a choice about the sale.

Senator Catherine Noone: We do not have a choice about putting it to tender. We do have a choice in that the State may set the terms of the competition and the licence, including the duration of the licence and the financial arrangements. The Bill represents a sensible proposition because it ensures an upfront boost for the taxpayer and additional moneys throughout the duration of the licence. It also creates a framework which allows the State to obtain the best possible bid and therefore derive the greatest benefit. Like other speakers I have concerns about the large number of companies in the country in a position to tender for the licence. I am interested to hear the Minister's comments in this regard.

The terms of the licence are also included in the Bill. Under the Bill the licence should be published and publicly available, apart from commercially sensitive information. It is expected the licence will be extended in duration from the current ten year period to a 20 year period, an upfront payment will be made by the new operator to the State and the current management fee will be replaced by an operator's fee, producing more company profits. I welcome these moves. The 20 year period adds stability and this is important because presumably we will have a number of bidders. I am interested to hear the Minister's comments on potential bidders.

The rationale for such an approach is to help generate funds to build a new children's hospital. No official figure has been adopted, although figures of between €400 million and €600 million have been reported in the media. In a way, the need for the children's hospital is an emotive issue and, in fairness to those with views opposing the proposal, we must not be swayed by this emotive answer and we must be sure it is definitely the right decision for us. I am sure the Minister is sure, but in any case we should address these points.

The Bill allows for the possibility of the national lottery being managed by a private operator to allow for online sales of lottery products and sets out the key principles for the regulation of the national lottery. I share the concerns of other speakers with regard to opening up gambling. I am sure the Minister intends to answer these concerns. Senator Quinn referred to legislation from the 1930s. Perhaps in keeping with this proposal we could introduce a framework to protect against the flourishing of gambling in the country to a rate which is out of control.

This does not preclude An Post or the State from bidding to operate the national lottery, although An Post would be disadvantaged on an international level with regard to its ability to

tender. It is important to state it is not precluded from tendering in the process. After the bidding process has finished the current operator could be the future operator. It is what I hope for, but I am not sure how realistic this hope is. I am keen to see a sense of flexibility. If the national lottery operator manages to increase profits on non-core items or sidelines in an unforeseen way, the State should benefit commensurately from this and we should keep some level of control in this regard. I thank the Minister for his continued work in this area and I commend the Bill to the House.

Senator Paschal Mooney: My colleague, Senator Byrne, outlined the party's position, in that we agree in principle with the Government's proposals, and this was also stated during the debate and in the Dáil by Deputy Sean Fleming, our spokesperson in this regard. I will focus on a number of issues relating to establishing the office of a regulator.

According to what I can gather, the regulator, when appointed, will be responsible for very narrowly focused operational activities. He or she will oversee the licence, ensure the national lottery is run with all due propriety, ensure the interests of participants in the national lottery are protected, and ensure the revenue allocated to good causes is as great as possible. I cannot see the justification for the appointment of a regulator. Quite a significant amount of the Bill, including Part 7 in its entirety, is about not only the appointment but also the functions, office and architecture of another quango. Perhaps there are other terms of reference of which the Minister is aware, but based on those I have seen I cannot see why this could not continue to be done, as it is currently, under the aegis of the Minister. Once it leaves the ministerial mandate it will be an arm's length regulator and he or she will make decisions which will impact over the 20 year period. Although it is ring-fenced in legislation, will the regulator have the right to change the 30.6% of proceeds for good causes? Will the regulator be able to tell a future Administration that in light of experience, the operator has decided it cannot possibly get a financial return on the basis of the 30.6% taken from profits and will make a recommendation that it be reduced? If this were within ministerial remit, there would be a very strong political dimension to it.

The Fianna Fáil Administration was probably a past master at establishing arm's length operations, but this does not make it right. Anybody who operates in the public area, be it in the Dáil or Seanad, knows to his or her cost when seeking answers to questions involving a regulator that invariably the Minister sends back a one line reply to say that as it is an operational matter, he or she will send a letter to the regulator or the relevant authority. This is why I have an inbuilt antagonism towards regulatory bodies. In this instance I am concerned because once the Government obtains - I hope - the money it seeks to part fund the children's hospital what will happen over the succeeding period of time? The establishment of a regulatory authority at arm's length from the Government will mean successive Administrations, and ultimately the Irish taxpayer will not be best served.

Will the Minister justify why he believes this is important? I have been told it is because a private company as distinct from An Post may end up with the licence, but this seems to put the cart before the horse. I want to focus on why this particular aspect of the Bill is necessary because it will cost more money at a time when the Government is trying to save every penny and is going around the country trying to get whatever money it can. This will cost more money. There is no indication in the legislation of the specific costs involved. How much will it cost to establish the regulator's office? How many staff will be employed? Will a cap be put on expenditure in the regulator's office? None of this features in the Bill. I have a great deal of sympathy with Senator O'Donnell's position on this matter. She has argued passionately against it, but

we are living in strange and difficult times. If the children's hospital is to go ahead along the lines proposed by the Government, the money will have to be found somewhere. This hospital issue has been dragging on for far too long. There is now a real opportunity that significant sums of money can be raised in a short period which can set this particular process in place. I still remain to be convinced that the hospital will be built on that site because I think there will be problems down the road. Somebody even told me that there is a load of bodies buried under that site, similar to Wood Quay. Historically, there were other institutions on that site so I am waiting to hear on the media that skeletons have been found on the site at St. James's Hospital.

Senator Marie-Louise O'Donnell: The same as the Seanad.

Senator Paschal Mooney: Maybe, but they are not going to build the hospital here. However, one never knows what they will do with this building if they get their way. That is a moot question also. I will refrain from referring to the Government in this context, but I am not sure the Taoiseach will get his way in this regard. We will fight him to the last inch, but that is another day's work.

My main concern centres on the area of the regulator. I would like to make one other small point. RGDATA has already lobbied the Minister because it is concerned that the modest margin of 6% must be protected. An RGDATA representative claimed that a similar condition was imposed during a recent competition for the lottery licence in New South Wales, Australia. I understand there is nothing in the legislation which protects the margins for retailers. Perhaps the Minister has a view on that matter, as well.

Senator Ivana Bacik: I welcome the Minister to the House. I also welcome the Bill, which has already been through the other House. The Bill is relatively straightforward and sets out its intention to repeal the National Lottery Act 1986 and make provision for various updates to that legislation. In addition, it will facilitate the competition for awarding the next licence.

The Minister of State, Deputy Brian Hayes, along with other speakers in this House, has pointed out that the Government has no discretion on whether to hold a competition for the next national licence. That is clearly a requirement but the competitive process does not preclude An Post, the current operator, from applying. The award of the licence will not be indefinite, it will be for a period of 20 years. One could say, therefore, that it is a lease rather than a sale.

In his speech, the Minister of State also referred to the important point which everyone has emphasised - that the terms of the next licence will include an up-front payment to the State which will help to fund the new national children's hospital. While others have expressed some doubts about the site, I welcome the decision to situate the facility on the grounds of St. James's Hospital. I had an interest in putting forward the Coombe Hospital, which is a bi-located site. It is where I had my two children so I had a personal interest, but I also felt that it had a lot to offer. I am delighted, however, that St. James's was chosen because it is in the same vicinity. It is an excellent site for many reasons, including the fact that St. James's is already a superb hospital and will add to the merits of the children's hospital being sited beside it. It will also have an important regenerative effect in a disadvantaged area.

The use of national lottery funds, in a difficult economic situation, to raise funds for this vital national resource is both imaginative and creative. As others have said, the decision on sitting and building the children's hospital has dragged on for far too long. We do not have a great history with regard to children's hospitals. I refer to the recent TG4 documentary on Dr. Kath-

leen Lynn and the hospital for children that she ran. In this State we have never had a national children's hospital of which we can be proud and into which we could put all the up-to-the-minute resources. I very much hope, as we all do, that the new hospital will fulfil that function.

There are those who oppose the Bill, or the principle therein, but how else can we raise the money to build the new children's hospital?

Senator David Norris: Natural resources?

Senator Ivana Bacik: How else can we guarantee that the construction of this hospital will go ahead in the way we want it to? The Government must face that difficult question which is at the root of this Bill, although it is not explicitly present within it. That is clearly the context, however, in which we are discussing the legislation.

There is a broader philosophical point about the issue of a competition for the licence. The national lottery is not a strategic State asset of national importance and, as I have said, this is a lease rather than a sale. Many of us do have concerns about gambling and the State having a role in facilitating it. That is a particular ideological or philosophical difficulty that many of us have to struggle with. While we may welcome the large proceeds from the sale of national lottery tickets, we must be conscious that for a lot of people that comes with some pain. If they are buying lottery tickets they are essentially gambling, so there is a difficulty with the State having a large stake in that process. That is part of the context of this Bill.

Having said that, the next licence will involve the ongoing provision of significant funding for good causes each year. The legislation makes it clear that regarding good causes which receive national lottery funding, the new Bill will not provide for any changes to existing categories of good causes, so they will remain.

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): That is in the explanatory memorandum.

Senator Ivana Bacik: I am sorry. I should say that is in the explanatory memorandum, but it has been somewhat changed in the Bill itself.

The Bill also contains some important provisions in respect of the regulator. Senator Higgins has dealt with those and I echo her words. It is important to see the regulator's powers, functions and duties spelt out in some detail. This is an important role. In the past, we have seen that in many different sectors there was far too little regulation and supervision of important functions. Therefore, the national lottery regulator will have a hugely significant role. I join with Senator Higgins in wishing him or her, whoever is appointed, the very best of luck in that role.

I again wish to welcome the Bill before us and, in particular, I welcome the fact that funding will now be ring-fenced for the construction of a children's hospital. We all hope that it will be going ahead in very early course.

Senator David Norris: I welcome the Minister to the House but I do not welcome the Bill. I have a good deal of sympathy for the Minister because I think he is in a bit of a bind here. I would like to ask him to break free of it, if he possibly can. We ought to acknowledge, however, the difficulties that Ministers like Deputy Howlin are under with the troika, the EU and the ECB breathing down their necks. It is a disgusting situation in my opinion. While one must

sympathise with the Minister, I abhor this Bill and everything it stands for.

It must go against the grain for the Minister, as a socialist, to have to introduce it and sell out a national asset to gambling interests. After all, it was casino economics that got us into this mess in the first place and I do not think it will be improved by selling off this asset. It is actually a lot worse than selling the family silver because it is selling the goose and the eggs for the next 20 years. I cannot think that we are going to get a good price for it.

Given that the Minister is under so much pressure and has so much to do - particularly with the EU - he could not be here earlier when the Minister of State, Deputy Brian Hayes, represented him. I am sure he will have an opportunity hear what was said, however. Journalists may say that there were only a few people in the Chamber, but we can watch a debate on the monitors. The Minister can see us online and I would ask him to do so. It would be a good idea because there was a fine speech by Senator O'Donnell, which was one of the finest I have ever heard in this House, although the Minister might not agree with it.

It was a measured debate which was carefully thought through. It is significant that the first spokesman on the Government side expressed considerable reserves about the legislation, including as a business proposition. I saw that look but we should not scold him because he was speaking the truth. We want the truth in the Seanad, not tame people who are bullied through the lobbies. He told it in a clear manner but not a destructive one. The Minister will get support from that side, however reluctantly.

As I have said, I cannot support the Bill. The intervention of the EU and the troika has been appalling. Our National Pensions Reserve Fund is almost entirely gone. The former Minister for Finance, Charlie McCreevy, put away something like €23 billion into the National Treasury Management Agency. What the agency did was superb, but the money was raided by our "friends" in Europe. We were discussing pensions earlier, but when we hit that particular pension wall we are in for a smash because everything we had, including all the padding, is gone. I object to that.

As a socialist, the Minister should look at the history of privatisation in this country, which has been dreadful and appalling. Eircom was an unparalleled disaster. In addition, I can speak from experience, as somebody living in Dublin, about what Dublin City Council did with the bins. It was horrible. It was another utter, total and disastrous mess. Filth and rubbish left all over the streets by these commercial companies are swept up by Dublin City Council. Consequently, the State is left cleaning up the mess after everything is privatised and this is absolutely classic. Members should consider the madness of the European Union, although I acknowledge the Minister will state we are obliged to do it. Recently, there was this stupid stuff about gender equality whereby women who are better drivers are obliged to pay more to be equal. This is insane and I note the Minister at that point did not wish to introduce that rubbish either. Further rubbish was inflicted on the people through the Minister for Health, when we were forced by Europe to allow below-cost cigarette selling. I do not blame the Minister for looking horrified.

Deputy Brendan Howlin: Below cost?

Senator David Norris: Yes, because Ireland is not allowed to set a minimum price, thereby allowing one to sell below cost. Moreover, one can engage in any kind of advertising gimmickry because the European Court of Justice was swayed by the tobacco industry. This decision was forced through and the Minister should talk about it to his colleague, the Minister of

Health, Deputy Reilly. I was furious about this decision and spoke violently against it.

I now speak strongly against this proposal. Ireland has the example of the Irish Hospitals' Sweepstake, which made a lot of money. It did not make much for the hospitals but made a hell of a lot for the McGraths. At least they were Irish but unless one is careful, this money will leave the country, which is absolutely appalling. I will reiterate a point I have made to the Minister regarding the national children's hospital, which is a wonderful project. I have tried to be honourable about it but of course would have preferred it to have been located at the Mater site, where it would have helped the metro, my area and so on. Moreover, I thought people were far too picky about the style and all the rest of it but the most important point is this hospital is needed. Nevertheless, Senator O'Donnell is correct to note this could be achieved with a special dedicated sweepstake. As I have told the Minister previously, I believe this association with the children's hospital was included to enable the Government to then state, "Don't hit me with the baby in me arms" and I do not believe this to be fair.

I do not support this sale and do not know the reason the licence cannot simply be continued. I do not know the reason the State does not declare it is not having an open competition but simply intends to continue the licence. This should be possible, as it has been done previously. Why not continue to do this and argue the case? This measure is clearly against the interests of the Irish people, who should have at least some say in their own destiny. Moreover, the Minister should take a look at Monday's edition of the *Irish Examiner*, which I raised in the House both yesterday and today. The ECB told the Government it could not provide responses to freedom of information requests regarding the IBRC resolution scheme. This is appalling and is another example of being run from outside the country. My final point is if, as has been suggested, there may be only one bidder, the entire process should simply be aborted. It should not be allowed to continue because that is not a tender. In the event of there being only one bidder, I believe the Government should be able to withdraw it.

Senator Jillian van Turnhout: Under Standing Order 21, I wish to establish a quorum.

Notice taken that 12 Members were not present; House counted and 12 Members being present,

Senator Kathryn Reilly: I welcome the Minister to the House. The national lottery is actually older than me and as the saying goes, if it is not broke, do not fix it. I do not consider the national lottery to be broken as since its inception it has provided the State with a high-quality professional service and crucially, it has the public's trust, which is a point Members must remember. However, a new regulatory code and infrastructure for a service that already is well regulated and well run is being introduced in the Chamber today. It is clear that the purpose of this Bill is for the Government to distance itself from the lottery as a first step in a process that aims to transform it from its current state to something that is very different. In so doing, the Government runs the risk of undermining the very thing that makes the national lottery work.

As of 2011, the national lottery has taken in €12 billion, €4 billion of which went to good causes including community projects, sports facilities and the provision of supports for the Irish language. Now more than ever, community organisations rely heavily on this funding stream. I will add to my concerns the voices of Comhdháil Náisiúnta na Gaeilge, Conradh na Gaeilge and other Irish language bodies regarding the implications of this decision for the Irish language fund, which is a key source of revenue for many of these bodies. While funding through the aforementioned fund has decreased since 2009, the national lottery itself has provided an av-

erage of 63% of the overall funds since 2009. Kevin De Barra, acting director of Comhdháil Náisiúnta na Gaeilge, has stated it is incredibly important that whoever is awarded the licence in the future should prioritise the promotion of the Irish language through making adequate provisions for the Irish language fund.

In his contribution, the Minister of State, Deputy Brian Hayes, said “the State may set the terms of both the competition and the licence itself”. Reference has been made to the terms for the upfront payment. I am aware that the Minister intends to hold a competition that will commence in May. Could he advise what other terms and conditions will attach to the competition for the licence? Section 25 refers to the inclusion of matters necessary or expedient in the public interest. I accept the Minister has guaranteed that certain categories of funding will be maintained by the Government. Is the Minister guaranteeing that the same percentage - 30% - will go to good causes, given that the 20-year licence is worth €1.2 billion?

Many speakers have referred to the national children’s hospital and the suggestion that the upfront fee would cover the construction of it. Senator Norris mentioned the baby in the Government’s arms. I do not think that should be the spoonful of sugar that helps the medicine go down. I accept that children need the national children’s hospital and that it should be a priority but its construction should be funded through the capital programme or, as other Senators have indicated, there are imaginative ways for funding to be raised.

When the Government legislated for the national lottery in 1986 it made clear that there was a need for public trust and confidence in the operation of a State lottery and it was correct in that regard. Understandably, there is much concern about who the new licence holder might be, whether the public interest will be of concern to the new operator and if the integrity of the lottery will be upheld or if public trust will play second fiddle to a Government get-rich-quick scheme with little thought for the long-term consequences. The truth behind the so-called reform of the national lottery is that the Minister is seeking to make it attractive to commercial interests with the objective of generating the much talked-about upfront payment. In so doing we are forever more going to change the primary purpose of the national lottery. It will no longer be a method by which citizens can take part in a lottery to win a cash prize while simultaneously contributing financially to their local community, which is important. We do not want the lottery to be just a mechanism to generate additional revenue. We will not support the legislation. We believe the national lottery is well run and serves citizens and communities well. There is no need for a change in the regulatory framework of the business model. We support the national lottery and on that basis we oppose the Bill.

Senator Labhrás Ó Murchú: Tá fáilte romhat, a Aire.

Acting Chairman (Senator Terry Brennan): Gabh mo leithscéal. I call Senator Conway.

Senator Martin Conway: I am sorry, Senator Ó Murchú. The national lottery is one of the institutions that features in the hearts and minds of the ordinary, decent, hard-working people of this country. I for one believe it is regrettable that we are selling the national lottery licence. I would much prefer the national lottery to remain in its current structure, perhaps with some tweaking. I have listened to the arguments and I support the proposed funding of the children’s hospital. If a structured arrangement is reached with one of those awful private companies for which I have absolutely no time – I have a passionate dislike for any company involved in gambling because of the way they destroy lives – and we could get a children’s hospital built from the proceeds of the sale of the licence, unpalatable and all as it is, then we must consider it. The

health of our children is extremely important. I would much prefer to see a situation where all the funding raised from the national lottery for the next five years would be channelled exclusively to the children's hospital. By doing that we could raise funding internationally to build it quickly. I accept the Minister has far better advisers in that regard than me. I do not doubt his sincerity in this matter, as in some of the enormously difficult and challenging decisions he is making. However, I am particularly concerned about the institution of the lottery. I meet old people who play a €4 quick-pick every week, some of whom have used the same numbers since the lotto was created in March 1988. Some people have used birthday numbers between one and 36 in every single draw since then.

Deputy Brendan Howlin: I would be afraid to miss one.

Senator Martin Conway: Perhaps one would. I am dealing with people who possibly started playing the lotto when they were in their 50s and they are still playing in their 70s. It is something they enjoy doing. Pensioners play "Telly Bingo" and it is a social outlet for them.

I commend the 3,500 to 4,000 lotto agents on their contribution to the national lottery in the past 25 years. Billions have been raised for good causes. Unfortunately, much money was squandered as well as a result of political patronage by successive Ministers. It is also regrettable how national lottery funding was allocated. If it is decided that a percentage will go to health then it goes straight to the Department of Health and if a proportion goes to children it goes straight into the budget Estimates for the Department of Children and Youth Affairs. The decision in that regard was made a number of years ago.

Senator Thomas Byrne: It was made in the 1980s by Fine Gael.

Senator Martin Conway: For Senator Byrne's information, the national lottery was created by Fine Gael.

Senator Thomas Byrne: It made that particular decision.

Senator Martin Conway: The sad reality is that the national lottery should have remained an independent fund to which people could apply and there should have also been much more accountability and transparency. It is unfortunate that private golf clubs received very generous funding from the national lottery. That said, we are in a time of crisis. Our very survival was challenged two years ago. Thankfully, as a result of slow, methodical work, both internationally and nationally, we are in a situation now where at least we have a future. Unfortunately, in order to sustain and develop the future and to ensure that people have a future, difficult decisions have to be made. This is one decision I find extremely difficult to make. I am not convinced about it.

Senator Marie-Louise O'Donnell: Hear, hear. Well done.

Senator Martin Conway: That said, I have enormous respect for the line Minister dealing with the issue. I will support the legislation based on his reputation.

Senator Labhrás Ó Murchú: I found today's debate helpful and informative. We know what way the vote will go but it was interesting in the contributions that we did not divide on political allegiances. That is good in itself because we hear things which provide a consensus on the issue. The House and the country owes a debt of gratitude to Senator Marie-Louise O'Donnell because she approached the issue, not just in the House but in public debate on radio

and television, in order to try to provide an informed and pragmatic appraisal of some of the issues involved. That is necessary in a debate. We all acknowledge generally that the Government and the country are in a difficult place. They are really between a rock and a hard place in trying to find solutions to the current economic difficulties. We all know from experience that in time of economic deprivation some decisions are made, not necessarily in a knee-jerk fashion, that we always regret subsequently.

I was impressed by Senator Sheahan. He was speaking for the person in the street and looking at the dangers of what is being suggested, namely, in some way the over-commercialisation of the lottery by allowing it out perhaps to some international gambling company. We will be putting gambling in people's faces. One of the difficulties we have is that when the children's hospital is brought into the debate as a *quid pro quo* for letting the national lottery go from the State for 20 years it makes that debate very difficult. It introduces emotion at too early a stage. It would be much more helpful if we could debate the pros and cons and then discuss whether we can have a national children's hospital if we do not go down this route. That, incidentally, is a bigger debate.

We seem to agree on a number of issues today, the first being that the national lottery is a national asset, in many ways akin to a national resource. As to mining the ore in the ground, we learned messages from that too when we let that asset go from the hands of the State. The immediate argument in favour of so doing was the money upfront but we forget that what we are actually selling off is the family silver. There is no doubt about that.

In this particular case we have arranged that at the end of 20 years the lottery will be handed back to us but I believe it will be very tarnished by that time. The national lottery has been very successful. We cannot doubt that at present it is an integral part of the national economy. There are many good causes that could not continue without the revenue that comes from the national lottery. Therefore, the biggest issue is whether we are again creating problems down the road for the next generation. To some extent I believe that is what is happening. By setting the bar so high in regard to the revenue involved we are going to make it exceptionally difficult for us to provide any control mechanism. We will also make it difficult to have a fair competition for the actual licence. In fairness, it is not even clear in the Bill what percentage of the income will go to good causes. "Good causes" is a general term but it is also a very sweeping term. We are talking about health in the community, sports, recreation, arts and culture - about virtually every aspect of society at present. If the children's hospital and the amount of money we need to generate for it are the main issue, it would be better if we could take on board some of the points made in today's debate. Senator Quinn is right. If some points have been missed they should be revisited and reconsidered by the Government because it will take only a short period to know if we have made a right or wrong decision in this regard.

If we are to go ahead with the Bill, as it seems will happen, it requires much tweaking at this stage. It is very short on specifics. I realise we have not discussed some of the specifics outlined in the Minister's speech but the Bill is short on them. We should build in certain protections to cover the very issues which were raised today. It is still possible to arrive at a compromise. From the language used even by those Members who are promoting the Bill, I could see they had reservations, some very strong, on certain points. We could see that even from the last speaker, who is one of the great contributors in the Seanad. Would it not be well worthwhile if we slowed down the momentum, went back to the drawing board and took on board some of the very strong points that have been made in the Chamber? They should not be ignored. The one message coming across to me is that we appreciate the Government's posi-

tion and we do not have immediate answers as to where it will find the money required for the children's hospital. However, given the standard of research and debate shown today in the Seanad it is well worthwhile bringing the Bill back to the table and taking another look at it. I do not know whether it is within the remit of the Minister to do that but this is one of the times when we should not divide on political allegiances. We must think first of the country, and not only the country as it is now but how it will be in 20 or 30 years' time. The Minister will have noted there was a great degree of what I would call conciliation today, almost a suggestion of compromise. I would hate to think that would not be accepted in some way and taken into the equation.

Senator Aideen Hayden: I thank Senator O'Donnell for her contributions on this subject which she has made on many occasions. Her bona fides on the matter is entirely without question. She has very strong beliefs about the role and future of the national lottery in this country and the need to keep it within public ownership and within the Irish system. As somebody with a Labour Party background, I too believe in State ownership. However, my view of that ownership is perhaps somewhat different in that I see State ownership more in the context of the State owning a basket of assets some of which, when the need arises, we can move around. We can change the inputs into and outputs from that basket. In other words, it is something that is there for us when we need it, whereby we can promote certain activities that we, as a country, want to promote.

I am conscious that during the 1950s and 1960s the role played by State companies such as the ESB and Bord na Móna was critical in the commercial and industrial evolution of this State. The companies were supported, not only by Fianna Fáil but also by the Labour Party, Fine Gael and every party within the State at different points in our history. Those companies were essential to the evolution of industrialisation in this country. Other companies were established because services cannot be provided unless they are provided socially, for example, transportation in rural areas, and so forth. I do not believe any of us in this House disagree that there is a role for State companies and, in particular, a role for their continuation. As the Minister has stated on other occasions, Irish Water is an example of how we are adapting as a State and moving forward with State companies to provide essential services that would not be provided unless the State engaged in the provision of such companies.

Privatisation has a bad name. It is important for us to distinguish that we are not privatising the national lottery *per se*, rather we are putting the licence up for sale, which is a critical difference. It is not as if we were talking about privatising Coillte. I know Senator O'Donnell has very strong views on the issue of national forests. I congratulate the Minister because he has fought a very robust battle to protect the assets of this State and State companies from the troika which, two years ago, as I am sure Members are aware, was looking for €5 billion in sales of State assets. Incidentally, these were not going to be put towards the children's hospital or anything similar but were to be put towards the national debt. The Minister must be personally commended on the role he played in that situation by protecting State assets.

Privatisation does have a bad name, but as I have stated in this Chamber the situation is similar to that of a family with savings. There are times when there is a need to dip into the savings account. I have a strong belief, which I have outlined in regard to this matter, that I regard the building of a children's hospital as one of the top priorities of this Government. It is important to remember that during the decades of Fianna Fáil rule, while we were building ghost estates throughout this country and leaving 230,000 empty units behind, we did not build a single hospital. Let us be realistic - it is for that reason we are now in a position where we

must find from somewhere the money to build a children's hospital. As anybody who has ever had a sick child knows, we are not properly served in this country by the institutions we have available to us to protect our children, especially those who have acute diseases such as leukaemia and life-threatening illnesses.

Much as I would love to be in a position never to sell anything, creating instead good-quality State companies as the need arises, the time to sell the national lottery is now. I might feel somewhat different if the asset in question was Coillte, or some of the other companies, but I am afraid I do not hold the national lottery in the same esteem. "Esteem" is the wrong word. The national lottery has provided a very valuable service to this country but I believe that service can continue. The Minister has included robust protections and has stated on many occasions in this House that he is determined to protect the services that benefit from the national lottery. He has said on many occasions in this House that he is determined to protect the services that benefit from the national lottery. We have control over the terms under which the licence is offered and we are in a position, for example, to protect the retailers whose livelihoods will be affected. We are also in a position to protect the many good causes that will benefit from the national lottery in the future.

I believe this could be an opportunity for the national lottery. There is an opportunity, for example, to tap into the Irish diaspora all over the world, who could contribute to an enhanced national lottery. We should not see this as the end for the national lottery but rather as a potential beginning. We should never see ourselves as being in a position where we cannot use State assets and State companies for the purpose for which they were intended, that is, for the betterment of the Irish people and Irish society.

Senator Paul Bradford: I am grateful for the opportunity to speak on this important legislation. I welcome the Minister to the House and thank him for being here, especially as it is such a busy time for him and his Department. I wish him well in his ongoing negotiations *vis-à-vis* securing certainty and sanity regarding our public sector pay bill.

I am sure the Minister has listened to the debate with interest. I did not read the transcripts of the debate in the Lower House but I suspect, in the tradition of that House, that the debate was more of a Government versus Opposition, black versus white, yes versus no type argument. We have had a very balanced debate here this afternoon and if we lived in a democracy where voting in the Oireachtas was done by way of secret ballot, we might be a little uneasy about the outcome of the Second Stage vote.

I wish to comment first on the matter of the national children's hospital. It must be accepted as an absolute given that every Member of both Houses of the Oireachtas and every citizen of this State wants that hospital to be built as soon as possible. That is not what the debate is about. One could say, 80 or 90 years after the McGrath family brought about the building of hospitals by the sale of Irish Hospitals' Sweepstake tickets, the country has not travelled very far economically, politically or socially if the building of the new children's hospital is now dependent on the sale of national lottery tickets. It is regrettable that we have not been able to use our resources, our taxes and our politics in a more advantageous manner in recent decades. We are now being asked to use the licensing system for the national lottery to generate funding for the hospital. If that has to be the way, then so be it.

Very pertinent issues have been raised in today's Second Stage debate and hopefully we will be able to deal with them in more detail on Committee Stage. In the days of yore it was said

that the Roman Catholic Church sold indulgences in order to build cathedrals. In the era of the British establishment it was said that peerages and seats in the House of Lords were sold to fund naval and army advances and we are doing something similar here in order to build a necessary piece of social and health infrastructure. In that context, we must ask ourselves where it all went wrong.

We talk about thinking outside the box but we are not really doing so. There is a vast amount of unused and under-used financial resources in this country. We have very high levels of savings here but are not able to incentivise people to put their money to more constructive use. There is an enormous amount of legally-held Irish money in onshore and, particularly, in offshore accounts overseas. Should we not look afresh at encouraging some of that money back into this country, particularly for the development of social infrastructure?

In the immediate aftermath of the general election, the country was in a state of economic confusion, chaos and fear and every citizen understood that we were in a national emergency situation. There was a willingness among all sectors of society to think differently and to respond differently, with generosity. Politically, we did not take advantage of those few weeks and months to take major, daring, new and different steps. We are still doing more or less the same as has been done over the past 15 or 20 years. New and fresh thinking are required, even at this late stage.

Regarding the legislation before us, I look forward to the Minister of State's Second Stage reply and I am sure he will be able to justify what he feels needs to be done. However, we must listen to what our colleagues are saying in this House. Those of us in government must listen to what those in opposition are saying regarding the need to guard, in whatever way we can, a resource of the State. Senator Hayden's point about the possibility of differentiating between this State asset and other State assets such as Coillte was interesting. Nonetheless, the national lottery is a State resource and cannot be dismissed lightly. Senator Tom Sheahan posed a question about value for money. Given that the profits to be made over a ten or 15-year period will be very substantial, is it appropriate that we would lease, sell or transfer this asset for the price of the profits that will accumulate over two or three years? These are important issues and I hope the Minister's mind is not fully closed. We must have a substantive Committee Stage debate and go through these very important issues thoroughly.

The broader debate about the funding of necessary national projects such as our hospital building programme will have to be conducted elsewhere. We should be moving beyond the days of the sweepstake tickets. What was appropriate and necessary in the Ireland of the 1930s and 1940s should be left to those times. We should be able to fund necessary projects in different ways today.

I wish the Minister well in his deliberations and hope he will take on board the generally supportive views of my colleagues, as well as the concerns and questions raised.

Senator Michael Mullins: I welcome the Minister of State to the House and wish him well in his endeavours to deal with some very challenging issues. I am very conscious of the very close attachment of the Irish people to the national lottery. Indeed, I know a few people from my own locality who became millionaires as a result of playing the national lottery. I commend Senator O'Donnell for her robust contribution and for challenging us to examine whether it is a good idea to lease out the national lottery for the next 20 years. I wish we were not in a situation where we have to consider new arrangements for this national asset but the fact is that, as

a country, we are broke. We must look at new and innovative ways of raising funds for major projects, including the new national children's hospital. We all want to see that hospital built as quickly as possible.

The Minister has no discretion in terms of putting the licence for the national lottery out to tender, as part of the renewal process. He does have discretion, however, in terms of the arrangements that are put in place for the operator of the new licence. I believe that 20 years is too long and that a ten-year licence would be more appropriate. I know that would mean that the up-front payment would not be as significant but our economy will change considerably in the course of the next ten years and in that context, a shorter time period than the one being considered by the Minister would be appropriate.

I welcome that the good causes will be protected because in every parish and rural community there is evidence of the contribution National Lottery money has made to community centres, playing pitches, swimming pools and every possible public amenity one can think of. Reference has been made to online gambling and we need a major debate on the scourge of online gambling which is increasing. We need much more control of how it is operated. In most cases the State receives absolutely no dividend from online gambling which is free of tax. Unfortunately many people are gambling beyond what they can afford. While that is a matter for another day, the issue has been raised here today.

Senator Norris suggested that the provisions of the Bill were not in the interests of the people. What Minister would want to do anything that would not be in the national interest, particularly with a national asset? What the Minister, Deputy Howlin, is attempting to do here is in the national interest. We would prefer if An Post could continue to operate it. I would love if An Post had sufficient resources to compete for the licence. Only when it is put out to tender will we discover what interest there is in running the national lottery for the next 20 years - or ten years, as I would prefer.

I hope the Minister can give some assurances that national lottery agents will not see any erosion in the commission rates they receive as a result of the change in the licensing arrangements. What will happen to the existing staff in the National Lottery organisation? What guarantees will they have?

I will be supporting the Bill. I had some heated discussions outside the Chamber with Senator O'Donnell on the matter. I would much prefer if An Post continued to run it.

Senator Marie-Louise O'Donnell: It has the money.

Senator Michael Mullins: I am realistic enough to know it does not have the money.

Senator Marie-Louise O'Donnell: Nobody in Ireland has.

Senator Michael Mullins: The country needs the money and we need to build the national children's hospital which requires a significant upfront payment. I ask the Minister to reconsider the term of the licence, but on balance it is in the best interests of the country.

An Cathaoirleach: I call the Minister. Does Senator O'Donnell have a point of order?

Senator Marie-Louise O'Donnell: I did not have the privilege of speaking before the Minister because I knew he was busy in the Lower House. This is a point of order-----

An Cathaoirleach: The Senator has already spoken. I ask her to resume her seat. The Minister has only a few minutes to reply. The debate is to conclude at 2 o'clock and the Senator has spoken already.

Senator Marie-Louise O'Donnell: How will my questions be addressed in the Minister's reply?

Deputy Brendan Howlin: The Minister of State was here as were my officials who took notes. I was anxious to get here myself. When the debate was scheduled I did not realise that events would require me to be in the other House this morning. This is the third occasion on which I have debated this issue in this House and I do not believe there are any views I have not already heard. I have listened to every comment made since my arrival and my staff have taken notes of everything that has been said. I fully acknowledge the bona fides of everybody who speaks in this House. Everybody speaks with passion, belief and integrity. There is no falsehood or contrivance about the views expressed here, which is a comfort in some ways because I cannot say that is always the case in all the debates I attend. That is why it is important for me to listen and it is also important for me to hear.

The role I was given just over two years ago is a daunting one - I do not believe anyone in the House would gainsay that. However, it needs to be put in context again. In 2010, the year before we came into office, the deficit of the State was 32.4% of GDP. That was shocking and disastrous - it was the worst on the planet. I was interested to hear Senator Bradford say that we did not take advantage of the immediate aftermath. During the negotiations for the programme for Government I was not sure if there was a path back from the brink. We have steadily with resolve and determination done more in two years than I believe any government has done in the history of the State. It is because of the breadth of support the two parties in government have that we can do things that are politically extremely difficult. I say that by way of context because in every issue presented to me, as Minister for Public Expenditure and Reform, nothing is black or white. It is lovely to be a purist about these matters.

Senator Marie-Louise O'Donnell: I apologise for laughing.

Deputy Brendan Howlin: I am not referring to anybody.

Senator Marie-Louise O'Donnell: The Minister is referring to me.

Deputy Brendan Howlin: I am not. Bluntly, it is not all about Senator O'Donnell.

Senator Marie-Louise O'Donnell: I know that.

Deputy Brendan Howlin: I have faced difficult issues, including negotiating with the troika on the assets we should sell. I would rather sell no asset. However, during the programme for Government negotiations with Fine Gael, we agreed a package of measures, not all of which I was enthusiastic about, but all of which I could live with. The Government wanted to have a few flagship achievements in areas that are really important for the country. In that context - it cannot be disaggregated as a number of Senators have suggested - we wanted to build a national children's hospital even though I had to downsize the public capital programme. Uniquely in all the capital expenditure I changed, the one area I did not change was the health spend - we left the health capital allocation unchanged. Other areas, for example transport, I am afraid were very significantly downsized.

I knew there was pressure on the built infrastructure of our hospitals and that we had to embark on a new programme of primary-care centres and I did not want to impact upon that. That meant there was no scope for a children's hospital and we needed to decide whether we wanted it and if there was a means to get it. As Senator Hayden said, I believe this was a reasonable way of ascertaining whether we could get better value now for jobs, development and investment from our asset package than we have. I knew the national lottery licence was due to expire. The first range of discussions I had with a number of Senators here related to not having the licence at all. I believe a motion before the House called on me to, almost, fix the result to ensure an Irish winner, but I cannot do that. I must allow for open tendering for the licence.

Those who are critical of the Bill are right to this extent. We constructed it on a different basis in order to get the upfront payment. That is it is a longer term and on a different basis. However, we have included enormous safeguards some of which I would like to outline. Committee and Report Stages will afford me the opportunity to go through this in some detail. While I fully accept the bona fides of those who spoke in the debate, I trust people will accept my bona fides in this regard.

It is my objective to maximise the income flow to good causes - I will go through this in more detail when we get to it. It will be linked to the gross gambling reserves and not to the gross sales. There will be a number of different products. For example, with scratch cards, the payout is 65%. I want to be able to construct a package which will ensure that there will be a robust stream of money for good causes into the future and I want said stream to be at least as good as that which has obtained up to now.

The licence will not be alterable by the regulator or anyone else.

An Cathaoirleach: The Leader has indicated that he wishes to amend the Order of Business.

Senator Maurice Cummins: I wish to propose an amendment to the Order of Business to the effect that a further five minutes be allocated to this debate in order to allow the Minister to conclude his contribution.

An Cathaoirleach: Is that agreed? Agreed.

Deputy Brendan Howlin: I appreciate the Leader making further time available.

In the context of retailers, we are including in the licence the figure which is currently available. It will be stated in the licence that I will determine the figure and that this will not be capable of being altered subsequently by the regulator or anyone else.

I will deal with the issue of the regulator on Committee Stage. I was convinced that we need a regulator. This links to a much broader and important issue which was reflected in all of the contributions made by Senators. I refer to gambling. I seldom have the opportunity to watch television and I usually only get to see it late at night. It is somewhat jarring at that stage of the day to be presented with advertisements for online casinos and God knows what else. There is no proper regulation in this regard and that is why the Minister for Justice and Equality is preparing detailed legislation on gambling. I have had preliminary discussions with him in respect of how the regulator I am establishing might assume, over time, responsibility for the regulation of gambling. This would at least allow us to put some controls in place in the context of how gambling - outside of the very controlled confines relating to the national lottery - operates

in this State. Senators will be able to deal with that matter when the legislation on gambling comes before the House.

I wish to deal, in no particular order, with the points that were raised and I ask Senators to accept that I will not be able to deal with everyone's concerns. Senator Quinn referred to good causes and the position online. The Senator has had a distinguished career in the retail industry. Perhaps he saw the retail results announced by Tesco last week and is aware of that company's statement to the effect that it is changing its marketing pattern to allow it to accommodate "destination stores" and focus on online sales. A large percentage of Tesco's business now emanates from the fact that so many customers are shopping online. This will be the position for all of us in the very near future. We already shop online when we purchase airline tickets, etc. It would be impossible to state that the national lottery operator should be prohibited from selling its product in this way, particularly when it is possible to purchase groceries, airline tickets, etc., and renew one's driving licence online. We must be open to developments in this regard.

We are taking a very measured approach to how we sell State assets. The sales that will proceed this year will be those relating to the generating elements of Bord Gáis Energy, BGE, and two foreign assets owned by the ESB, namely, a power station in Spain and a shareholding in another such station in the United Kingdom. I have negotiated with the troika for over two years in order to get us to the point where all of the money from these sales will not be put towards retiring debt but will instead be available to invest in the economy and in job creation. The Government decided last week to transfer the balance of the moneys in the National Pensions Reserve Fund - a matter on which Senator Norris had strong views - into an Irish strategic investment fund in order that we might leverage investment in jobs. God knows we need a robust stimulus in respect of the SME sector, job creation and the construction sector. This is another matter we will be able to debate separately.

I must inform Senator Bacik that during proceedings in the Dáil we added one item to the list of good causes, namely, the natural environment. There was a strong lobby in this regard and I felt it put forward a good case with regard to the natural environment - in the context of the provision of walkways and other things - being added to the list.

It has been stated that we should put in place a dedicated lottery and that the proceeds from this could be used to pay for the construction of the new national children's hospital. It is as if this would not in some way dislodge the spend from the good causes element of the national lottery. Senator O'Donnell and I have different views in respect of this matter. I am being advised on it by a number of experts who are being paid to consider the position with other lotteries across the globe. The advice I have received indicates that if we were to establish a separate and dedicated lottery such as that suggested, this would have the effect of dislodging some of the money relating to the good causes element of the national lottery. There may be those who are of the view that there is another pool of money for gambling out there which is separate to that which relates to the national lottery but I am of the opinion that it would not be good or reasonable to encourage people to gamble even more. In any event, it would not be possible to obtain the funding to build the new national children's hospital now on the basis of the promise that a separate and dedicated lottery would put us in a position to recoup the required amount over a period of years. We want to build the hospital, create jobs and provide facilities as soon as possible. We will have an opportunity to discuss these issues in greater detail at a later date.

I wish to conclude by making a particular observation. Senator Ó Murchú referred to a knee-jerk reaction. The knee relating to this reaction has been jerking since October 2011,

which was when I put forward my proposals in respect of this matter. The dedicated team in my Department and the outside experts we have brought in and paid to provide advice have considered the position with regard to the operation of lotteries across the globe. This matter has been debated at Cabinet and in this Chamber. This is the third occasion on which I have been involved in a discussion on it. There are a number of major proposals relating to my sphere of operations but there is none which has been debated as often as the Bill, particularly in this House. The legislation was debated at length by the Dáil and the relevant select committee.

Any proposals one brings forward will always contain flaws. Likewise, there is always a reluctance to move away from the *status quo*. As Minister with responsibility for reform, I have discovered that everyone is in favour of reform until one puts forward one's proposals. At that point, there is always a compelling reason that we should not make the proposed change. We are all reluctant to face change. If heed had been paid to the arguments put forward when the national lottery was first mooted, then it would never have been established. I am sure there are still people, even in this House, who are of the view that we should not have a national lottery.

I look forward to the debate on Committee Stage and I will do everything possible to make myself available to deal with the points Senators may wish to raise. I will certainly review all of the issues raised during this debate which I have not been able to address. I thank the House for affording me the time to complete my reply.

Question put:

The Seanad divided: Tá, 27; Níl, 10.	
Tá	Níl
Bacik, Ivana.	Cullinane, David.
Bradford, Paul.	Heffernan, James.
Brennan, Terry.	Mac Conghail, Fiach.
Burke, Colm.	Mullen, Rónán.
Coghlan, Eamonn.	Norris, David.
Coghlan, Paul.	O'Brien, Mary Ann.
Comiskey, Michael.	O'Donnell, Marie-Louise.
Conway, Martin.	Ó Clochartaigh, Trevor.
Cummins, Maurice.	Reilly, Kathryn.
D'Arcy, Jim.	van Turnhout, Jillian.
Harte, Jimmy.	
Hayden, Aideen.	
Healy Eames, Fidelma.	
Henry, Imelda.	
Higgins, Lorraine.	
Keane, Cáit.	
Kelly, John.	
Landy, Denis.	
Moloney, Marie.	
Moran, Mary.	
Mullins, Michael.	

Noone, Catherine.	
O’Keeffe, Susan.	
O’Neill, Pat.	
Quinn, Feargal.	
Sheahan, Tom.	
Whelan, John.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators Marie-Louise O’Donnell and Jillian van Turnhout.

Question declared carried.

An Cathaoirleach: When is it proposed to take Committee Stage?

Senator Maurice Cummins: On Tuesday next.

An Cathaoirleach: Is that agreed? Agreed.

Committee Stage ordered for Tuesday, 30 April 2013. *Sitting suspended at 2.20 p.m. and resumed at 3 p.m.*

Criminal Law (Human Trafficking) (Amendment) Bill 2013: Order for Second Stage

Bill entitled an Act to give effect to certain provisions of directive 2011/36/EU of the European Parliament and of the Council of 5 April, 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing council framework decision 2002/629/JHA; for those and other purposes to amend and extend the Criminal Law (Human Trafficking) Act 2008 and the Child Trafficking and Pornography Act 1998; and to provide for related matters.

Senator Aideen Hayden: I move: “That Second Stage be taken now.”

Question put and agreed to.

Criminal Law (Human Trafficking) (Amendment) Bill 2013: Second Stage

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

Minister of State at the Department of Justice and Equality (Deputy Kathleen Lynch):

I am pleased to present, on behalf of the Minister for Justice and Equality who cannot be here today, the Criminal Law (Human Trafficking) (Amendment) Bill 2013. Trafficking in human beings should not be tolerated and everything possible should be done to ensure the protection of those vulnerable to human trafficking and to bring to justice those who benefit from it. The Criminal Law (Human Trafficking) Act 2008 already criminalises human trafficking for the purposes of sexual exploitation, labour exploitation - including subjecting a person to forced labour - and exploitation for the removal of human organs. The Bill before the House expands the definition of human trafficking to ensure that people are not exploited for the purposes of forced begging and criminal activities. It also defines what is constituted by forced labour.

This is a short but urgent Bill, the main purpose of which is to transpose, in full, the criminal law provisions of a particular EU directive. The directive in question, which relates to preventing and combating human trafficking and protecting its victims, was adopted in April 2011 and replaced an earlier framework decision of 2002. Most of the criminal law provisions in the directive have already been transposed by the Criminal Law (Human Trafficking) Act 2008, which implemented the framework decision. For example, the directive establishes mandatory maximum penalties for human trafficking offences. The maximum penalty set down is five years or ten years if any of a number of specified aggravating circumstances is a factor. Ireland has a high penalty regime for human trafficking offences and, in terms of sanctions, far exceeds the requirements of the directive. In this jurisdiction, a person found guilty of human trafficking for the purposes of sexual exploitation, labour exploitation or exploitation for the removal of human organs is liable to life imprisonment.

Article 2.3 of the directive provides that, at a minimum, exploitation for the purposes of human trafficking shall include “the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs”. This expands the definition of exploitation in the 2002 framework decision to include two new forms of exploitation. The first of these is exploitation for forced begging and the second is exploitation for criminal activities. The Bill extends the scope of our human trafficking legislation to include both. All the other forms of exploitation specified in the directive are already criminalised by the Criminal Law (Human Trafficking) Act 2008.

Article 4.3 of the EU directive provides that member states shall take the necessary measures to ensure that the fact that a human trafficking offence was committed by a public official in the performance of his or her duties is regarded as an aggravating circumstance. The Bill implements this mandatory requirement. Our human trafficking legislation contains separate offences of trafficking a child for sexual exploitation, trafficking a child for exploitation other than sexual exploitation and trafficking an adult. In each case, the Bill provides that where the offence is committed by a public official during the performance of his or her duties, this circumstance shall be treated as an aggravating factor when the court is determining the sentence. Unless a life sentence is being handed down or there are exceptional circumstances justifying its not doing so, the court is required to impose a sentence that is greater than would have been imposed in the absence of this aggravating circumstance.

I should emphasise that the provisions in the Bill before the House do not arise from concerns with regard to the commission of human trafficking offences by public officials in this jurisdiction. They merely flow from a mandatory provision in the directive. Ireland has well established, structured and co-ordinated arrangements for the provision of assistance and support to victims and alleged victims of human trafficking, including those who are particularly

vulnerable. Many of the measures taken in this jurisdiction to address human trafficking, such as the establishment of dedicated anti-human trafficking units in An Garda Síochána, the HSE and the Department, have been commended nationally and internationally. Our achievements in preventing and combating human trafficking are due, in large part, to the commitment and hard work of public servants working in a number of Departments and agencies.

The Minister is availing of the opportunity this Bill presents to define the term “forced labour”, as used in the Criminal Law (Human Trafficking) Act 2008. That Act criminalises human trafficking for labour exploitation, including subjecting a person to forced labour but does not define the term “forced labour”. For the purposes of the Act, the term “trafficking” is broadly defined. For example, the commission of a trafficking offence does not require cross-border - or even internal movement - or illegal entry into the State and includes recruitment; taking a person into one’s custody, care or charge; and providing the person with accommodation or employment.

In the context of a recent review of the potential of the 2008 Act to combat forced labour *per se*, the International Labour Organisation, ILO, Committee of Experts on the Application of Conventions and Recommendations was asked for its views on whether Ireland’s human trafficking legislation is sufficiently wide in scope to encompass forced labour as defined in ILO’s Forced Labour Convention, 1930 (No. 29), concerning forced or compulsory labour. Subject to certain specified exceptions, the ILO convention defines forced labour as “all work or service which is exacted from any person under the menace of any penalty and for which the person has not offered himself voluntarily”. The ILO committee is of the view that the scope of the Criminal Law (Human Trafficking) Act 2008 is broad enough to encompass the main constituent elements of forced labour as defined by the ILO’s Forced Labour Convention of 1930. The committee noted the broad definition of “trafficks” in the Act, which includes providing a person with accommodation or employment. It also noted the numerous means of exploitation, for example, coercion, threats, abduction, force, deception, fraud, abuse of authority and taking advantage of vulnerability, addressed by the legislation. It believes that these provisions combined can be applied in practice to cover situations where work is exacted without freely given or informed consent. However, in the interests of clarity the ILO committee has recommended that we define the term “forced labour” in line with ILO Forced Labour Convention, 1930 (No. 29). The Minister is happy to implement this recommendation and appreciates the assistance of the ILO committee. The proposed definition closely follows the ILO definition and the Minister believes it will give legal clarity to the issue.

The term “forced labour” covers a diverse array of exploitative behaviours, ranging from infringement of labour regulations at one end of the spectrum to false imprisonment, human trafficking, etc., at the other. Consequently, it is likely that activities constituting forced labour could also be prosecuted under several other offences, for example, false imprisonment, blackmail, assault, a coercion offence under the Non-Fatal Offences against the Person Act 1997, offences under employment law, health and safety legislation, immigration law, etc.

The Minister has noted that the Minister for Jobs, Enterprise and Innovation intends to bring forward amendments to employment permits legislation. These amendments will ensure that an employer may not benefit from the illegality of a contract of employment where he or she is found culpable in not ensuring a valid employment permit was in place for the employee concerned. Those proposals will complement this Bill. We have a duty to ensure that vulnerable individuals are not exploited and that a comprehensive approach is taken to tackling the evil of human trafficking.

A small number of issues are still being considered for Committee Stage and, where necessary, the Minister proposes to deal with these by way of Committee Stage amendments to the Bill, either in this House or in the Dáil. In particular, Article 15.4 of the EU directive requires member states to take the necessary measures to ensure that in criminal investigations of human trafficking offences “all interviews with a child victim, or where appropriate, with a child witness, may be video recorded and that such video recorded interviews may be used as evidence in criminal court proceedings, in accordance with the rules under their national law”.

For the purposes of the directive, a child is a person below the age of 18 years. Currently, our criminal evidence legislation makes provision for the use as evidence of video-recorded statements of a child victim under 14 years of age. Consequently, there may be gaps in our law in terms of the directive. For example, it may be necessary to make provision for the video-recording of statements of child victims aged between 14 and 18 years. This issue concerning the rights of child victims and witnesses in criminal investigations and proceedings needs careful consideration. The best interests of children and the rights of defendants to a fair trial in accordance with Article 6 of the European Convention on Human Rights are important matters to be examined in this context.

Following consideration of how best to transpose requirements flowing from Article 15.4 of the EU directive, amendments to the Criminal Evidence Act 1992 will be brought forward. In addition, the Director of Public Prosecutions has been consulted to ascertain whether her office has any difficulties in bringing prosecutions under particular provisions of the Act or whether it foresees any problems in terms of the Bill. If any problems are identified and considered amenable to resolution by legislation then amendments will be brought forward.

The provisions of the Bill are set out in four sections. Section 1 substitutes the definitions of “exploitation” and “labour exploitation” in section 1 of the Criminal Law (Human Trafficking) Act 2008 to add forced begging and exploitation of criminal activities to the scope of exploitative conduct criminalised by the 2008 Act. Recital 11 of the directive states that the expression “exploitation of criminal activities” should be understood as the exploitation of a person to commit, *inter alia*, pick-pocketing, shop-lifting, drug-trafficking and other similar activities which are subject to penalties and imply financial gain. Accordingly, under the Bill, forcing a person to engage in criminal activities, which includes forcing a person to engage in criminal activities outside the State, is defined in these terms. That is to say the Bill refers to activity that constitutes an offence and is engaged in for financial gain or that by implication is engaged in for financial gain.

Section 1 also inserts two new definitions, namely, “beg” and “forced labour” into section 1 of the 2008 Act. The term “beg” is given the same meaning as in the Criminal Justice (Public Order) Act 2011. Begging of itself is not an offence. The 2011 Act created an offence of harassing, intimidating, assaulting or threatening a person or persons, or obstructing the passage of persons or vehicles, while begging in any place. It also established offences of directing or controlling begging and living off the proceeds of begging. For all these offences, the meaning of begging includes soliciting money or goods from a person or persons other than in accordance with a licence or permit, etc. Further, any licence should be granted by or under an enactment. The same definition can be utilised for the offence of trafficking a person for forced begging. The definition of forced labour is in line with the definition of that term in International Labour Organisation Forced Labour Convention, 1930 (No. 29).

Section 2 provides that where the offence of trafficking a child for exploitation other than

sexual exploitation or the offence of trafficking an adult is committed by a public official during the performance of his or her duties as a public official, that fact shall be treated as an aggravating factor for the purpose of determining sentence. Both offences were created by the Criminal Law (Human Trafficking) Act 2008. Unless a life sentence is being imposed or there are exceptional circumstances justifying its not doing so, the court is required to impose a sentence that is greater than would have been imposed in the absence of this aggravating circumstance. “Public official” is defined as an officer or employee of a public body, the term “public body” to be construed in accordance with the Ethics in Public Office Act 1995.

Section 3 mirrors section 2 for the offence of trafficking a child for sexual exploitation. This offence predates the 2008 Act. It originated in the Child Trafficking and Pornography Act 1998. Section 4 specifies the Short Title of the Bill and provides for its coming into operation one month after its enactment.

I look forward to hearing the contributions of Members during the debate and I hope the House will support the passage of the Bill. On behalf of the Minister I recommend the Bill to the House.

Senator Averil Power: The Minister of State is welcome and I welcome the Bill that is before us today. It is difficult to believe in this day and age, in 2013, that thousands of people are trafficked across the European Union, but figures published by the European Commission show that between 2008 and 2010 almost 24,000 people were trafficked across EU states and the Bill is an important part of a co-ordinated European response to that. It is important that throughout the European Union there are no safe havens for people involved in such crimes and that there is real cross-border co-operation. This is a good example of that principle. We should opt-in to more of the work done in the justice and home affairs aspect of the EU. We have been slow in the past in doing so. Criminals will exploit any gap in any area they see as a soft option. It is important that throughout the 27 EU states we ensure we all work together and have the strongest possible cross-border co-operation on these issues.

The Minister of State pointed out that the legislation builds on the 2008 Act and serves to bring us up to standard in terms of the EU directive that must be transposed by the end of this month. This adds to the existing situation and makes improvements such as broadening the definition of trafficking and other matters that have been referred to by the Minister of State.

I have several concerns and several issues have been raised with me by the Immigrant Council of Ireland. I seek further clarification from the Minister of State on these matters. At present it is unclear in the legislation and more generally what the position is with regard to legal assistance for victims across the spectrum, from the first time they access services or when we realise that someone has possibly been trafficked through the process. I realise there are supports during criminal proceedings but the Immigrant Council of Ireland is concerned that there also be support after criminal proceedings. The Immigrant Council of Ireland is concerned that there also be support after criminal proceedings. We are discussing vulnerable people and it is important that they be supported the entire way through. They should not just be seen as witnesses in criminal trials, but as individuals who have had horrific experiences and who need every possible support to get their lives back on track.

It is also important that we ensure that people dealing with these issues have the best possible accommodation and a supportive environment. The directive stresses appropriate and safe accommodation. I have concerns about the system of direct provision. Senators Ó Clochar-

taigh, van Turnhout and I attended a briefing and have been doing some work through a Seanad *ad hoc* group on direct provision. This horrific matter has been in the headlines this week with former Supreme Court judge, Mrs. Justice Catherine McGuinness, speaking out about it. The situation in which people find themselves, particularly children, is unacceptable in this day and age. When dealing with vulnerable people who have been trafficked into the country, it is important that they be in proper accommodation rather than somewhere they are exposed to further risks or do not receive the supports they need.

The Immigrant Council of Ireland also referred to the need to ensure that all victims of trafficking have access to legal representation. It is concerned that not everyone will qualify for free legal aid. Perhaps the Minister of State will clarify the matter. It is also concerned about the need to ensure proper protocols across Departments for dealing with people who have been trafficked. Currently, someone provides an account of his or her traumatic experience to the Garda, but must then recount it to other agencies, for example, the Refugee Applications Commissioner or the Refugee Appeals Tribunal. It is important that we minimise the number of personal accounts delivered.

I understand that we have not opted into related directives. This directive refers to two of them, those being, EU Directives 2004/81/EC and 2009/52/EC. These urge member states to adopt an integrated, holistic and human rights approach to the fight against trafficking. It is important that we not selectively opt into only some directives, but that we take the entire picture on board and ensure that we do everything possible to have an integrated approach.

While I welcome this important Bill, the majority of human trafficking in the EU is done for sexual exploitation. Some 80% of those who are trafficked in the EU are women and girls and 62% are trafficked for sexual exploitation. Work is being done and the Department is considering further laws on prostitution. I strongly believe that we must criminalise the purchasers of sex. I feel sorry for the women involved. Statistics show that they typically get involved in prostitution in their mid-teens and have had horrific experiences. There are significant levels of drug misuse. It is not the glamorised face that is put on the profession by people who are making millions of euro from the exploitation of women and girls. These factors must form part of the picture.

It is important that we introduce legislation like this Bill and co-operate at a European level to catch and prosecute those involved. Ireland's record of prosecutions is dreadful in this regard. We must have effective services to catch people and bring them through the courts. We can have whatever legal framework we like, but people will continue uninhibited if they do not believe they will be caught. Ireland has one of the worst prosecution rates.

Having services after the fact is all very well, but we need to deal with the reason for human trafficking, that being, the demand for sex. I urge the Minister of State to push ahead in this regard. On behalf of our parliamentary party, our justice spokesperson made a submission as part of the public consultation process to the effect that we supported a move towards the Swedish approach. It is the right way to go. We also want to ensure that concerns about driving women underground are addressed. We must work as smartly as we can. The Swedish approach seems to work best. In the past year, Swedish prosecutors have briefed Members and the Garda. I listened carefully to what they had to say. The public consultation process has been completed and the matter will be discussed by the committee, but sexual exploitation is the bigger picture. The process outlined in the Bill will only assist the minority of victims who escape, are spotted by services and are in a position to be helped into better lives. Given the fact that the main

reason for human trafficking is sexual exploitation, it is only when we have proper procedures, laws, prosecution services and supports to crack down on prostitution that we will have assisted those who need help.

Acting Chairman (Senator Paschal Mooney): Before I call the next Senator, I acknowledge the presence in the Gallery of a former distinguished Member and Cathaoirleach of this House, Mr. Charlie McDonald. He is welcome.

Senator Paul Bradford: I welcome the Minister of State and my former colleague, Mr. McDonald. He was one of the first Irish Members of the European Parliament. When Ireland entered Europe in 1973 and our first representatives were appointed rather than elected, people wondered what the impact of European politics would be. Mr. McDonald's presence is appropriate, given the fact that we are dealing with legislation that would not have been tabled had it not been for the politics of Europe and its drive to build a socially and economically fair and just Union. Much of the legislation in the justice portfolio stemmed from European directives and the vision of people at European level who saw a better, brighter and broader future ahead. This answers the cynics who often ask what Europe has done for Ireland. Simply put, this legislation would not be before the House were it not for Europe.

I welcome the Bill and listened with interest to the Minister of State's comments. I thank the Opposition spokesperson for her constructive contribution. We are as one on the need for this legislation to be enacted and enforced. The broader issues of trafficking are a human tragedy and must be addressed. "Something must be done" is a pointless political phrase if no one does anything, but the State will have additional tools to deal with trafficking once this legislation is in place.

Senator Power has consistently given her opinion on the issue of prostitution and the possible criminalisation of purchasers of sex. The Minister of State is aware that the justice committee has been studying this topic in great detail and its members appear to have a united approach on the matter. I look forward to the Government's response to those deliberations.

In our so-called modern society where we talk so much about rights, it is difficult to accept that trafficking is a greater problem than it ever was. One must ask why. In trying to answer, we must reflect on the word "respect". Once society begins to lose its concepts of respect and responsibility, grave problems emerge. Once a view is taken that respect is not due to certain sectors of society and people of certain backgrounds, these difficulties and problems emerge. Whether it is a refugee or someone who is brought to Ireland for forced labour or somebody who has been forced into prostitution, respect has obviously gone out the door on society's part and not on the part of the victims or even the practitioners. As a country, we have a great deal of soul searching to do to get back to a surer, safer and more responsible path.

Sadly, the trafficking problem frequently appears on our television screens when we view pictures of lorry loads of imprisoned people being shipped into Europe and sometimes Ireland. It is a barbaric practice and one wonders how, in a so-called civilised age, it can happen, yet it does. Whatever resources and laws are required must be put in place to tackle the problem more effectively.

The prostitution problem clearly will be the subject of a major national and political debate. The previous speaker referred to the experience in Sweden where the growing view is perhaps the best solution. There are counter arguments and studies but the current scenario is most un-

satisfactory. Only yesterday, I heard Paddy O’Gorman on RTE radio doing one of his reports during which he interviewed prostitutes on the streets of Dublin. They told a sad tale of disadvantage, poverty, lack of education and lack of options. There is a large equation of problems, which we must tackle.

It is not enough only to condemn forced labour; we must ensure through the passage of legislation such as this that it does not happen. I look forward to the enactment of the Bill because it will help in that regard.

On the question of refugees, it was interesting to read comments during the past week about our responsibility or otherwise towards our refugees. There are approximately 4,500 refugees in Ireland. While accommodation is provided, they are prisoners and not even in their own homes. An adult receives an allowance of €19 per week while €6 or €7 is provided per child. These people, in most instances, would love to work. They have skills and abilities but they are not permitted to work. I appreciate we have an enormous unemployment problem but it is not such that we can say to 4,500 people that they have no place in society and they cannot work even if they wish to work and even if a job were available. That needs to be addressed. According to the cynics, these people are technically costing the State whereas, instead, they could be great net contributors to the State from a social, cultural and economic point of view. Somebody has decided - I am not sure whether it was in this House, this Government or the EU - that these people must live in these conditions, which are far from ideal. The inscription on the statue of Charles Stewart Parnell states, “Thus far shalt thou go and no further”. We are saying to refugees, “Thus far shall you go but no further”. We allow them to survive but we do not wish them to thrive. It is a sad problem, which needs urgent attention.

I will not go into detail about the legislation but I appreciate the Minister of State’s view that it is urgent and it is required of us from a European perspective. It is good that we are willingly entering into this and it will make a difference. I thank her for bringing the legislation before us. We talk about a fair, equal and just society but such a society cannot have a place for forced labour and such dreadful stains and burdens on the soul of the state.

Senator Jillian van Turnhout: I welcome the Minister of State to the House. The Bill will transpose some important provisions of the EU anti-trafficking directive into domestic legislation, which is very much welcome. I thank the Minister of State for outlining the Bill’s contents.

I welcome the inclusion of a definition of “forced labour” based on the International Labour Organisation Convention No. 29 of 1930 concerning forced or compulsory labour. I called for a clear definition of “forced labour” last November in the context of the shocking exploitation and forced labour of Muhammad Younis when we debated in the House Senator Quinn’s Employment Permits (Amendment) Bill 2012. The Migrants Rights Centre of Ireland, MRCI, has called for a definition of “forced labour” in domestic law for many years. I welcome members of the centre to the House. They are present in the Visitors Gallery and they are accompanied by a number of survivors of forced labour in Ireland. They are the human faces of the laws we debate and their presence instills in me a sense of my responsibility and our collective responsibility to ensure the law protecting victims of forced labour is as robust as possible. I seek an assurance that the definition of “forced labour”, as intended by the ILO convention and as understood in international jurisprudence with respect to offering oneself voluntarily, means fully informed and free consent throughout the worker’s service period. It is my understanding that in a number of forced labour cases dealt with by the MRCI, the victim could be said to have

offered himself or herself voluntarily and the features defining forced labour came into play thereafter. That is why I stress the need for an assurance from the Minister of State about that understanding of the definition.

I also thank the Immigration Council of Ireland, ICI, which helped me to examine a number of the gaps in the legislation. A number of outstanding issues need to be addressed to give full effect to the EU directive. These do not necessarily need to be dealt with through this Bill or primary legislation but I reserve my right to table amendments on Committee Stage because I received a copy of the Bill only last week and I am still trying to work my way through it. Many of the issues I would like addressed can be dealt with through policy or other primary legislation but they are covered by the EU directive and I would like us to uphold it in full.

The directive specifically highlights the gender dimension of the crime and requires countries to adopt a gender specific perspective in provision of support and assistance to victims and in prevention work but this seems to have been ignored. We need to provide gender neutral accommodation and services in direct provision centres, for example.

My second concern also relates to direct provision and I have pursued this issued via Ad-journment matters, as the Minister of State will be aware. I feel at times, including yesterday, that inappropriate road blocks are put in my way but I will not be deterred. In addition to the overall gender specific approach to service and assistance contained in article 1, the directive also covers appropriate and safe accommodation and assistance. The current policy to secure accommodation and material assistance through the system of direct provision is controversial. Senator Bradford has raised several issues in this regard and it is perceived as inappropriate by many. We need to address these issues. I have asked for a debate on directive provision in the House.

Third, it is unclear what is the policy on provision of support and assistance to victims following criminal proceedings. Specifying a commitment in that regard would be in line with the relevant provision of the directive. Fourth, can the issue of victims of trafficking with special needs be addressed through policy or additional primary legislation? The EU directive obliges states “To attend to victims with special needs where those needs derive from pregnancy, health issues, disability, mental disorder or a serious form of psychological, physical or sexual violence they have suffered”. In that regard, it is noted that the existing administrative arrangements only provide for the granting of a temporary resident permit on condition of co-operation with the authorities. Considerations of any of the listed special needs that I have outlined are absent, so I would like to know how we will uphold that part of the EU directive.

The identification of victims of trafficking is currently extended to a limited category of victims and appears to be an opaque and unlimited process. Even though the authorised personnel are trained and familiar with international guidelines for the identification of victims, no structure has been agreed for this process, including the number of interviews, minimum criteria and time limits, to give effect to the directive’s provisions for early identification. This is in addition to the problem that the vast number of victims remain ineligible for the identification procedure.

The EU directive obliges the State to ensure that victims have access to counselling without delay and, in accordance with the role of victims in the criminal justice system, to legal representation, including for the purpose of compensation. Victims in Ireland currently have access to legal counselling provided by the legal aid board by referral from the Garda National Immigration Bureau. However, access to legal representation has to be considered in full, in my

opinion. For example, not all victims of trafficking would meet the eligibility criteria for legal aid in the State, including for the purposes of seeking compensation. It is worth exploring and eliminating any differences in eligibility that arise from the fact that the person is not formally identified as a victim of human trafficking or the victim is not habitually resident.

Article 19 of the EU directive provides for the establishment of a national *rapporteur* or an equivalent mechanism that will be in charge of statistical data, extraction of trends and evaluation of the adequacy of national measures against trafficking human beings. Currently, the anti-human trafficking unit collates statistics and presents trends in this crime. However, the element of independent evaluation cannot be provided by this unit because it is at the centre of decisions on measures and their implementation. Therefore, when a decision on such a *rapporteur* body is being taken, there should be close co-operation with civil society organisations to ensure we are compliant and fully in line with the directive.

Although they are not defined as workers under our current labour laws, but given the specific vulnerability of their class to exploitation, forced labour and human trafficking, I wish to flag my concern about the unregulated and scrutinising of the au pair industry. The vast majority of parents and au pairs have a really positive experience from this short-term cultural exchange with some child-minding duties. I am not talking about that area specifically but given the crisis in affordable access to child care, we have seen increased instances of au pairs being taken on as child-minders. To all intents and purposes, they have been exploited as domestic workers. I have met some of those au pairs and it is clear that their employment aspects need to be regulated.

We also need to examine the child protection concerns and the vetting of au pairs. There is no facility for parents to have an au pair vetted, unless they go through an agency, so perhaps we need to ensure that this is done through agencies. In addition, no guidance is being given by the State to parents and au pairs about their expectations. For example, how does an au pair, who is new to this country, raise concerns about child protection and alert the authorities here? I have heard cases involving au pairs whose documentation has been taken from them and they are not given access to the public. While I know it is outside this Bill's remit because it is not a labour issue, the problem is that the au pair problem falls between so many gaps. I will raise the matter with the Minister for Children and Youth Affairs, Deputy Fitzgerald, and the Minister for Jobs, Enterprise and Innovation, Deputy Bruton.

Despite raising these issues, I fully support the Bill. However, I want the legislation to be fully in line with the EU anti-trafficking directive. I hope the Minister of State can assure me that the matters I have referred to will be addressed through policy or additional legislation.

Senator Aileen Hayden: I welcome the Minister of State to the House. We appreciate her support and willingness to come here regularly. The Bill essentially extends existing anti-trafficking legislation. Trafficking in persons for the purpose of sexual or labour exploitation is currently outlawed under the Criminal Law (Human Trafficking) Act 2008. The Act incorporated EU anti-trafficking standards as set out in an EU framework decision. However, these minimum standards were replaced by a further directive in 2011 which requires EU states to criminalise trafficking for forced begging for the purpose of criminal activities. The Bill before us today deals with this requirement to amend Irish law accordingly. We are up to the wire on that one as April is the deadline. The Bill uses an International Labour Organisation definition and places into Irish law a specific definition of forced labour. Forced labour is difficult to define and prove, however.

The Bill also provides that public officials, as defined in the legislation, face harsher penalties than private individuals convicted of the same offences, and rightly so. Although our existing law under the 2008 Act is reasonably robust, and aside from the legal requirement upon us to transpose the directive into Irish law, the US State Department, which monitors trafficking internationally, has made recommendations to the Irish Government on how our anti-trafficking measures can be improved. It made such a report in 2012 and recommended that Ireland consider drafting specific amendments to criminalise forced labour in order to strengthen the existing 2008 legislation.

I wish to thank the Oireachtas Library and Research Service for the digest its staff prepared for us on this Bill. It not only gives an explanation of the Bill before us, but also provides a more rounded explanation on the background to the legislation and some interesting statistics on where Ireland, and Europe, currently stand in the battle to prevent the trafficking of human beings internationally.

One of the key points of the European Commission's report *Trafficking in Human Beings* noted that almost 24,000 people in the EU were identified as victims of trafficking over the 2008 to 2010 period. Of more concern is the fact that represented an increase of 18% over that three-year period. More importantly, the report noted that the level of trafficking convictions decreased by 13% in the same period.

It is worth repeating that 79% of trafficking victims are female, of whom 12% are girls. It is a commonly held view that a lot of individuals involved in trafficking are from outside the EU but in fact, as the report identified, the majority of victims are from within the EU - mainly from Romania, Bulgaria, Poland and Hungary.

The report cites statistics concerning those identified as victims of trafficking per 100,000 inhabitants for each EU country. Ireland came in at 1.7%, which is just below the EU average of two victims per 100,000 inhabitants. It is not necessarily something for us to be proud of. First of all, it is difficult to estimate with any degree of accuracy the numbers of people who are trafficked within Ireland. As the Migrant Rights Centre has reported, forced labour is a growing problem in Ireland. The centre has dealt with over 180 cases of forced labour over the last six years.

One of the difficulties raised in the reports I have cited is the fact that we do not appear to be prosecuting to any great extent under the 2008 legislation. For example, the US State Department noted that although it regarded our anti-trafficking legislation as robust, not a single case had been taken under the 2008 Act. Of the cases that were taken, there was only one successful conviction in 2011, which was presumably taken under other legislation. I am assuming that is because the 2008 legislation sets a very high bar for the successful conviction of persons for human trafficking offences. Perhaps the Minister can comment on whether it is deemed to be easier to secure convictions under other legislation. The fact remains that no matter how many laws we pass or how robust they are, if we do not prosecute under those laws, then it is not of any relevance to have them on the Statute Book.

I welcome the extra-territorial measures in the Bill because human trafficking knows no borders. We have recognised the importance of extra-territorial issues in other legislation, including, for example, the female genital mutilation legislation introduced in 2012. I also welcome sections 2 and 3 which provide for additional sanctions on officers or employees of public bodies. It is interesting to note that the definition of a public body includes any "body,

organisation or group financed wholly or partly out of moneys provided by the Oireachtas that stands prescribed for the time being (being a body, organisation or group that, in the opinion of the Minister, ought, in the public interest and having regard to the provisions and spirit of this Act, to be prescribed)". That is a very wide definition indeed and can potentially cover a very significant number of bodies which receive funding from the State.

Forced labour is a modern day form of slavery. It behoves all of those bodies tasked in this area, including the HSE and the Department, as well as wider society to be conscious of the realities of forced labour. Indeed, organisations such as trade unions must be alive to the issues of forced labour.

I was very interested in Senator van Turnhout's observations on the au pair industry. Indeed, I raised that issue myself in a previous debate on the vetting of persons working with children in the context of child protection. While hiring an au pair is, in theory, a very casual arrangement designed to provide a young person with the experience of living in another country, increasingly, due to current economic circumstances and the cost of child care, many people are using au pairs as the principal carers of their children. While it may not be possible for us, as a country acting alone, to regulate this area, it is something that must be examined at a European level because of the child protection implications.

Senator Rónán Mullen: I welcome the Minister to the House. Human trafficking in any form, as most civilised people will agree, is nothing less than a grave evil and a serious violation of human rights. Any legislation proposed to strengthen, support and enforce laws against the exploitation, in any manner, of human beings must be embraced and supported. Estimates from the UN suggest that on a worldwide scale, between 700,000 and 4 million women and children are trafficked each year for the purpose of forced labour, forced prostitution, organ removal, forced begging and many other forms of exploitation. Many victims of human trafficking are subjected to the most evil of acts and terrible human violations such as rape, starvation, forced abortion and torture. If the victims refuse to co-operate, in many cases the lives and welfare of their families and loved ones are threatened.

The International Labour Organization estimates that the forced labour industry alone comprises some 2.4 million people. Even closer to home, the 2010 report of the UN Office on Drugs and Crime on trafficking in persons to Europe for sexual exploitation stated that this is "one of the most lucrative illicit businesses in Europe", making approximately \$2.5 billion per year. On a global scale, that figure jumps to \$7 billion. One of the most frightening statistics I have read is that in Europe alone at any one time there are 140,000 victims forced into a vicious cycle of violence, abuse and degradation, and as terrible as this is, up to 70,000 additional victims are exploited each year.

Human trafficking is a deplorable form of slavery operating on a global scale, including in Ireland where, according to Cois Tine, victims are used to provide slave labour or are forced into prostitution. Ruhama is an organisation that is often mentioned approvingly in this House and rightly so. According to this Dublin-based NGO, which works at a national level with women who are affected by prostitution or are commercially exploited in other ways, human trafficking for sexual exploitation in Ireland is growing. Ruhama's first contact with a woman who was the victim of sex trafficking was in 2000, but over the last ten years, Ireland has become both a transit route and a destination point for sex trafficking. Although the number of women involved is unknown because of the secretive and the highly organised nature of this business, it is very clear that Ireland is included in an international crime web which extends

across eastern Europe, South America and Africa. Most victims are young women from impoverished backgrounds who are sometimes abducted but more usually duped into undertaking the dangerous and illegal journey to Ireland. Often their traffickers are partners or members of their extended family.

During the last decade, Ireland has experienced a growth in the indoor sex trade in particular, involving escort agencies, massage parlours and lap dancing clubs. These provide indoor prostitution and other forms of commercial sexual exploitation. A devastating consequence of this is that the trafficking of women and children has thrived in the indoor sector. Indoor prostitution has often been viewed as more glamorous and socially acceptable than street prostitution partly because alcohol and drug abuse are not accepted in that arena. However, Ruhama's experience suggests that women involved in indoor prostitution experience more psychological problems and are, in some ways, more damaged by the process than those who work on the streets. It is a matter of serious concern that the indoor sex trade in Ireland is predominantly organised and controlled by organised crime gangs, both Irish and international.

Where is our regard for human dignity? How is it still the case that we tolerate advertisements for sex chat lines on TV3, for example, which are perfectly legal here? On this and other issues, including abortion, we must not let certain categories of human being disappear. We must not forget our duty of care and concern to whole categories of human being. We must include people from other lands who are vulnerable, having been duped or forced to come to our country. We must not allow any situation whereby the human dignity of such people is forgotten. That is unconscionable and we must do everything to resist and change that.

I especially welcome this Bill today but obviously, as Senator Hayden eloquently pointed out, enforcement will be the critical issue. I welcome the addition of the definitions for "beg" and "forced labour" in the Bill. This supports the recent UN report of February 2013, where the need for tougher efforts to identify, prevent and prosecute cases of forced labour, involving millions of people worldwide, was highlighted. An equally positive addition is the proposed amendment that would see very serious consequences for any public official involved in any way in human trafficking during the performance of his or her duties. Such people have special responsibilities and it is right and proper that there should be special consequences for any illegalities involving public officials. The proposed amendment of the Child Trafficking and Pornography Act 1998 is also most welcome and will ensure a public official involved in the sexual exploitation of children would also be liable to receive a more severe sentence for his or her actions.

In the US State Department's Trafficking in Persons report of 2012, Ireland was identified as a destination, source and transit country for women, men and children subjected to sex trafficking and forced labour, with forced labour victims found in domestic service and restaurant work. According to the report, some victims have been subjected to domestic servitude by foreign diplomats on assignment to Ireland in recent years. NGO experts described how cities such as Dublin, Kilkenny and Cork have children who are victims of forced prostitution. The report acknowledges that the Irish Government fully complies with the minimum standards for the elimination of trafficking and also how it undertook crucial procedures in investigating and preventing domestic servitude among employees of diplomats. However, it raised a concern about the lack of any full prosecution and conviction of trafficking offenders. We have come to the nub of the issue. Although a sex trafficker was convicted of prostituting a minor, that prosecution did not use the 2008 Act.

While all identified victims of human trafficking in Ireland receive services regardless of their immigration status, victims from non-EU countries also receive services and sought to obtain refugee status through the asylum process. However, some non-governmental organisations, NGOs, criticised this process for resulting in inadequate care and not providing enough protection of victims' rights, particularly when compared with the provisions on trafficked victims.

When it is known that the trafficking of human beings exists in Ireland, it must be seen as being completely unacceptable that, in the five years since the Act, not a single prosecution has been taken using that law. I accept that the Government has not stood still and deserves commendation for introducing initiatives such as the blue blindfold campaign, which raises awareness of human trafficking, but not enough has been done to protect innocent victims of this atrocious crime. Even one victim is one too many.

The guide to procedures for victims, which was published by the Department of Justice and Equality, addresses the services available to them and options for the future, among other matters. Thanks to the Immigration Council of Ireland, it was discovered that the Government had failed to outline procedures for human trafficking victims with special needs, be that in terms of physical or mental health, who had become pregnant as a result of sexual exploitation or who had become disabled through torture or violence. This issue cannot be put on the long finger. It must be discussed in detail now.

Not only should those who organise and control the sexual exploitation of men, women or children be convicted and severely prosecuted, but those who purchase sexual services are just as guilty and should be held accountable for their actions in the same way. The Joint Committee on Justice, Defence and Equality is working on a report on this matter. On many issues, we face a dilemma when the Government, the media or the public sends mixed messages. We need to be clear. Apart from prosecuting wrongdoing, the law is an educator. What it permits and punishes contributes to what people do. It is a significant influencing factor in behaviour. When it comes to the question of whether we should criminalise the users of persons in prostitution, there can only be one answer - "Yes". We cannot have a situation in which a pimp or, in certain situations, a prostitute can be criminalised, yet the person who purchases sexual services cannot. It is no answer to claim that those who avail of prostitutes are sometimes sad people who are to be pitied. This can be reflected in sentencing. The message needs to be loud and clear - for the sake of human dignity, equality between men and women and the way in which the upcoming generation treats other people, it must be a crime to purchase another person's body. There is no other sane or civilised answer to the question. I hope that we will move in this direction in the coming months and that the Government will take a principled decision on the issue and will not engage in double speak and hand-wringing about the sex industry, using unfortunate and meaningless clichés like "It has always been around". Murder has always been around, but we see fit to criminalise that, thank God. I hope that the Government will take a lead, following the example of Nordic countries, and that we will see change.

Senator Cáit Keane: I welcome the Minister of State and am delighted to be present for this debate. I have been waiting for this day. I will outline my interest, in that I am a member of the British-Irish Parliamentary Assembly, BIPA, which is working on a report on trafficking. I welcome and support the Bill. As the Minister of State has outlined its provisions, I will not stick to it, as I only have six minutes and have much to say.

We do not hear enough about this issue, yet it is second only to drug trafficking. Senator

Mullen referred to how lucrative it can be. We rightly hear a great deal about drug trafficking, but I would like to hear more about human trafficking, forced labour and sexual exploitation. I hope that we are turning over a new leaf today. I congratulate the Minister of State and the Minister for Justice and Equality, Deputy Shatter, on introducing this Bill. The former has outlined how Ireland is one of the most compliant countries with EU directives, albeit not wholly. I will address this point later.

I welcome this open debate and the Minister of State's reference to a small number of issues that are still being considered ahead of Committee Stage and that she is amenable to accepting amendments to effect legislative change. Many problems have been identified during this debate for the Minister of State to consider. The BIPA took evidence in London, Wales, Scotland and Dublin and is working with the justice committee on a joint approach. People travel across borders, the reason for which the BIPA believed it necessary to address this matter. A person being trafficked from A to B must cross borders.

At 1 a.m. today, I returned from a meeting in Lithuania of an interparliamentary group on trafficking. Some time ago, the EU called for a European mapping system. We considered the issues of language and the definition of labour. The EU project is determining how to map trafficking and use the same language - numbers, terminology and definitions - across Europe. In 19 countries, not including Ireland, groups of parliamentarians have been set up to address this matter. On the Order of Business, I asked the Leader to consider setting up such a group to avail of computer technology. It is an EU-funded project of which we should avail. We are too late for the pilot project, but I asked at the weekend whether we could have observer status. A computer system will be developed and there is no point in Ireland re-inventing the wheel. We should be involved. Will the Minister of State take this suggestion on board to determine whether Ireland can participate as an observer? Five countries are involved in the pilot project and 19 are involved in the interparliamentary group. As I mentioned to Senator van Turnhout, our involvement could be under the auspices of BIPA's committee D or an all-party parliamentary group. The Government is doing much to scrutinise this issue through legislation, but are we doing what we are supposed to on a day-to-day basis?

The 57 states of the Organisation for Security and Co-operation in Europe, OSCE, which aims to protect citizens' human rights, have committed to ensuring that the return of victims of trafficking to their countries of origin is conducted voluntarily and with due regard to victims' safety. We must ensure that their return is voluntary rather than enforced. We must also ensure co-operation on risk assessment.

The Minister of State should consider 12 matters and how we measure up, including appropriate and secure accommodation, psychological and material assistance and access to emergency medical treatment, translations and interpretative centres. Senator Power referred to legal rights, counselling and information. Other matters include assistance to enable victims' rights to be presented and considered and access to education for children. I also recommend the 60-day recovery period, followed by a six-month renewable temporary residence permission when trafficked, if people wish to assist the Garda Síochána. If, in individual cases, an extension period is necessary - every case is different - it should be considered. It is recommended by the EU that a national rapporteur be appointed in every country. I will send on these ideas to the Minister of State, as she said she would be open to other recommendations. She will not be let off the hook.

Senator David Norris: I welcome the Minister of State to the House and the Bill, as it is

important we maintain the high standards in this area. We should also keep the lines quite clear in certain areas. I have had an interest in the matter for quite a long time. Over ten years ago I took part in a UN delegation to Thailand and was the chief author of a report on the trafficking of children and adults for sexual purposes. What I found was deeply disturbing. Ironically, I was rewarded by having this trip quoted against me by somebody, who I think probably knew the real situation, as if I had gone for the purposes of sexual exploitation myself. I say this just to show that I have a track record in the area and I have been interested in it for a very long time.

We all remember the disastrous effect on human lives of some of this rather horrible trade in Wexford a number of years ago, when some Kurdish people were brought from the Continent in a lorry that was sealed, with a number of them taking seriously ill or dying as a result. The practice can cause death at its extreme. When people are sold into the further exploitation of prostitution they can be subjected to gross violation and abuse of human rights, which is extremely worrying.

I support the Minister of State in this and particularly when she states that a person found guilty of human trafficking for the purposes of sexual exploitation, labour exploitation or exploitation with removal of human organs is liable to life imprisonment. I do not believe exploitation with regard to organ removal happens in this country and I would be very surprised if it did but we see some of the repercussions, and nothing is being done. For example, the recent exhibition in the Rotunda Hospital contained parts of people who never gave any consent for their bodies to be exposed, and it has been suggested by the Falun Gong that some of these people were members of the Falun Gong who had organs removed. We should take such issues seriously before we stand up piously and speak about things that only occur in other countries; when they land at our door we are delighted, and the exhibition was advertised all over national radio. It was an obscenity to have allowed this exhibition and there should be an inquiry into the issue. If we are serious about these matters we should raise them when they happen, as they do regularly in China and in India. It is one thing to be whiter than white in this country but we should really attack the problems where they exist.

There is an issue with begging, as young people are exposed to exploitation through begging on streets. It is a subject matter in itself, as is slavery and servitude, which happens to a certain extent with domestic help and the likes of Gama workers whose fate was exposed first in the other House by a left-wing Independent Deputy. It was only taken up by the then Government after it was repeatedly exposed in both Houses. I am very glad this Government has shown a serious commitment in that regard.

I raise another matter which has a tangential connection but it would be very dangerous to mix it up with the Bill, namely, prostitution. We should consider the issue with clear eyes and not a sanctimonious attitude. The Swedish example has been quoted and there has been a certain level of interest but it has not stopped prostitution. The kind of prostitution it attacks is largely dying out anyway, as the practice is now co-ordinated through phones and the Internet. It will not be stamped out. My interest is in the welfare of the women involved, and I have had to write to the relevant committee as it was not listening to these women. It refused to have some prostitutes as witnesses. If we get to a dangerous unanimity, where we are all pure as the driven snow, it will be terribly dangerous. I have spoken to one of the leading venereologists in the country, who has told me he is seriously concerned there will be a spread of disease. Australian reports provide a direct contradiction to the findings of the Swedish model.

I know I will probably be pilloried again for these comments but I believe in telling the

truth. Going down this line would be extremely dangerous. I have never used the services of a prostitute but I have come in contact with them on a number of occasions. In one case a woman turned up at my house when I was relaxing on a Sunday evening. She said “Wahoo” and I said “Wahoo”. She said, “Here I am”, and I said “I can see that, but what are you doing?” She said that I rang for her but I told her I had not and I had no idea who she was. She said that some clients are shy and I twigged what was going on. I told her she was under a misapprehension and she knew not who she addressed, as I am probably Ireland’s No. 1 fairy. She said “What?” and I told her it meant I am homosexual. She told me she was weak and asked for a drink. Having brought her in I asked her if she really wanted to do that type of work. She was extremely well dressed, highly intelligent and lovely young woman. She was being run by an agency in Cork and I brought her to where she was meant to go, which was an apartment in another part of the street. I told her that if the fellow tried anything nasty, she should tell him that I know about her and that he should get her a taxi home. I also rescued a prostitute working in the basement of the house next door.

I know about the issue at first hand so we must be careful and have a full debate on it, with not just one chorus of self-approving, moralistic and sanctimonious voices. It is very dangerous to say this has to be a crime - as was announced just beside me - without a debate, with no other position possible. We must consider these matters and I do not care if I am pilloried again. It is my responsibility as a Member of Seanad Éireann to tell the truth as I see it and try to ensure, before embarking on a particular course of action, that we can take in all the circumstances.

Senator Mary Moran: I welcome the Minister of State, Deputy Lynch, to the House. I add my support to the Bill and I welcome the visitors in the Gallery and thank them for coming. The phrase “human trafficking” evokes a feeling of horror and revulsion in most people and trafficking causes unimaginable misery and suffering for those who are dehumanised and forced to become commodities that are bought, sold, used and abused. The idea that human beings can be exploited and used for financial gain or kept in virtual slavery sounds like it should belong in another era but unfortunately that is not the case.

It is difficult to estimate with accuracy the numbers of people being trafficked into and within Ireland for the purposes of labour or sexual exploitation as, unfortunately, the majority of cases do not come to the attention of authorities. However, from the reports of the Migrant Rights Centre, it would appear that forced labour is a growing problem, as Senator Keane noted, with the centre dealing with over 180 cases in the past six years. This Bill defines what is meant by forced labour, with the definition based on the International Labour Organisation’s definition of forced labour as all work or service which is exacted from any person under the menace of any penalty and for which the person has not offered himself or herself voluntarily.

This Bill is necessary to copperfasten the measures already in place to combat and prevent trafficking in human beings and to bring us in line with the EU directive adopted in April 2011. As it stands, Ireland far exceeds the terms of the directive regarding the level of sanctions that can be imposed on a person found guilty of human trafficking for the purposes of sexual exploitation, labour exploitation or exploitation for the removal of organs. Such a person is liable to life imprisonment. This Bill extends the scope of our human trafficking legislation to include exploitation for forced begging and exploitation for criminal activities. The problem of forced begging is widespread throughout the EU with figures for 2010 stating that some 14% of those trafficked in the EU were forced into labour while 3% were made to beg on the streets and 1% were in domestic servitude. We have all many times witnessed the scene on our streets where very often we see a young woman with a baby in her arms sitting in the cold begging. The aw-

ful truth is that this woman may be in the control of a person who is forcing her to beg and hand up any money she gets or face the consequences. The amendment will provide that anyone who forces a person to beg is subjecting them to forced labour and will be penalised for this. This is very welcome.

The definition of exploitation in the EU directive also includes exploitation for criminal activities. This could include pickpocketing, shoplifting or drug trafficking. There had been widespread coverage in the media recently of the rise of so-called cannabis grow houses, where large volumes of cannabis have been found in various locations, often in isolated houses or sheds which have been set up with heating and irrigation systems to produce huge amounts of cannabis plants. It has emerged that often these grow houses are being worked by people who have been trafficked into Ireland by criminal gangs and forced to work in appalling conditions. The Migrant Rights Centre has reported that children and adults are trafficked across Europe for forced labour in these cannabis factories. They are moved usually by criminal networks across borders or within countries, often being forced to live as well as work in the grow houses. The use of physical violence or threats of violence is common to ensure compliance and prevent the victim from trying to escape.

Apart from addressing these issues through legislation, there is also a need to raise awareness among the public of the problem of human trafficking. People have to realise that suspicions of human trafficking should be reported to the authorities or else the victims may continue to be exploited in the most inhumane way, powerless to extricate themselves from lives of misery and danger. The Blue Blindfold anti-human-trafficking campaign, which was launched in 2008 in conjunction with the Department of Justice, the Garda Síochána and Crimestoppers, has an excellent website with advice and help for anyone with concerns about human trafficking.

I again welcome the Bill, but like my colleagues, I feel there are areas that must be examined further. Senator van Turnhout mentioned people with special needs. The Immigrant Council of Ireland has sent details to us, which the Minister also has. Secondary victimisation needs to be examined, where people are constantly made relate and tell their stories repeatedly. We need to ensure people are not subjected to the ordeal of relating their tale repeatedly.

Senator Trevor Ó Clochartaigh: Cuirim céad fáilte roimh an Aire Stáit agus cuirim fáilte roimh na cuairteoirí speisialta atá anseo chomh maith. Tá Sinn Féin ag tacú leis an moladh agus leis an reachtaíocht seo atá á thabhairt chun cinn, maidir le gáinneáil ar dhaoine agus coireanna uafásacha, gránna. Rud ar bith gur féidir linn a dhéanamh le cur i gcoinne é seo agus le tacú leis na híospartaigh a bhíonn ag plé leis, ba chóir dúinn sin a dhéanamh.

Sinn Féin commends the Minister on bring forward this legislation and supports it. Human trafficking is an odious crime and we have long demanded action on it to ensure it is effectively combatted and the victims of this crime well protected. Human trafficking is humiliating, dehumanising, abusive, exploitative and robs people of their dignity. Halting it must be a very high priority for any government. We have continually attempted to highlight that there is far more to human trafficking than sex trafficking and while this is a very significant proportion of it, we should also be aware that around the globe and across Ireland there are significant numbers of people trafficked to work in the domestic sector as well as in the agriculture and catering industries, which has been highlighted.

The Migrant Rights Centre Ireland has done excellent work in exposing these practices but the extent of trafficking for forced labour is still under-recognised. The digest kindly provided

by the library and research facility highlights that some 24% of human trafficking in Ireland between 2009 and 2011 involved trafficking for the purposes of labour. Therefore we are glad to see the Minister bring forward this legislation to provide legislative protections in the area. It brings in an autonomous offence of forced labour, as has been highlighted, and states that the minimum standards as set out in Directive 2011/36/EU are to be adhered to, which is welcome and overdue. This legislation brings in a definition based on the International Labour Organization definition of forced labour, which is as follows: “all work or service which is exacted from any person under the menace of any penalty and for which the person has not offered himself voluntarily”.

We have long called for a specific offence of forced labour, and are glad the Minister has acted on it. There were difficulties in identifying and securing convictions for trafficking for forced labour. Previously, while trafficking for forced labour was an offence, forced labour and servitude in itself was not an offence. This was brought into law in the North under the British Coroners and Justice Act 2009, so all-Ireland harmonisation is important, particularly in an area such as trafficking, and we have called for that in numerous policy documents in recent times.

We were not alone in this view. The US State Department recommended that Ireland consider measures which would “explicitly criminalise forced labour and other forms of compelled service.” Likewise the Organisation for Security and Co-operation in Europe, OSCE, special representative and co-ordinator for combating trafficking in human beings stated that “the introduction of an autonomous offence of forced labour could be an additional tool to tackle the criminal phenomenon of labour exploitation”.

The legislation also provides that public officials who are found guilty of certain trafficking offences in the course of their public duties will face harsher sentences. This is in line with the directive and is appropriate. It recognises that persons in such positions as these, for example, somebody working with a Department, is in a position of responsibility and has a certain duty of care to the victim, and to abuse that responsibility is a crime of particular seriousness, and therefore there should be particular penalties to discourage that.

I will take this opportunity, on Second Stage, to outline a number of concerns which are held by the Immigrant Council of Ireland. Many of these relate to the fact that the State should focus not only on bringing traffickers to justice, but also focus on ensuring that the victims of this heinous crime are protected and supported after their ordeal. Ireland has yet to clarify what supports and assistance will be provided to victims after criminal proceedings have concluded, as the EU directive requires. This is an issue on which Sinn Féin has called for action. We believe there should be a full range of protection and support measures as well as medical, professional, legal and psycho-social assistance that address the particular needs and risks faced by the individuals concerned and, where applicable, members of their families. We would like to see commitments in this regard which would outline the types of support and timelines for their provision.

The Immigrant Council of Ireland is also concerned that this legislation does not offer resolution to the outstanding issue of identification of victims. This has led to confusion about the levels of trafficking in Ireland and a very low rate of prosecutions. The Government should use this opportunity to outline how it plans to improve victim identification with a view to improving the support to and protection of victims and to prepare witnesses for criminal prosecution. Yesterday, we saw a day of action on the issue of direct provision, and we had a meeting today of the Seanad *ad hoc* group on direct provision. This is prompting much discussion and has

raised much awareness, and these initiatives are very important. This is an issue on which we in the Seanad, and I in particular, have been very vocal. There is other EU legislation which must be enacted as a matter of urgency, particularly the EU reception conditions directive, the European Convention on Human Rights and the UN Convention on the Rights of the Child, which the direct provision contravenes.

The service provided in direct provision is institutional and does not cater for the need of gender. It is inadequate and inappropriate. It is, the Immigrant Council of Ireland submits, questionable whether it meets the EU directives requirement for appropriate and safe accommodation. The Immigrant Council of Ireland is also concerned at the failure to outline any procedure for victims of trafficking with special needs, including those with disabilities, health issues, pregnancy or trauma from physical, mental and sexual abuse. The council believes this to be a shortfall in the Bill.

The council is also very conscious of what is known as secondary victimisation, as was mentioned, whereby people who are trafficked are forced to recount time and again their horrific experiences. We should seek to ensure this is avoided where possible and Government needs to outline what measures and protocols will be taken on this, in line with the EU directive. On these issues, we will be considering amendments on Committee Stage and are asking the Government to consider these matters in the meantime, to respond and, if possible, to bring forward its own amendments to the legislation. I reaffirm our view that the Government must sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. This has been in force since June 2003 and is the only one of the core UN human rights treaties that the 26-county State has not signed. We also support ratification of the Palermo protocol on human trafficking from 2000 and we are committed to working with others, in particular to stop the trafficking of children. I urge the Minister of State to consider an all-Ireland approach to the problem of trafficking and ensure the Garda and the PSNI work hand in glove on this issue and develop an all-Ireland strategy to ensure PSNI-Garda co-operation to combat and prevent trafficking of people into the sex industry, bonded labour and forced labour, forced marriages, etc. We are happy to support this valuable and worthwhile legislation and commend the Minister of State for introducing it. *Tréaslaím leis an Aire Stáit agus leis an Rialtas as ucht an píosa reachtaíochta an-tábhachtach seo a thabhairt chun cinn.*

Senator Fidelma Healy Eames: Cuirim fáilte ar ais roimh an Aire Stáit. I welcome the visitors in the public Gallery. It is always good to have an opportunity to reflect on issues such as this. Human trafficking at the very least implies that one human being is of lesser value than another, particularly the person engaged in the trafficking. It is great that there is cross-party agreement in the House and we stand together to say this is not right or acceptable. Clearly, it is a human rights issue and, therefore, we must ensure our laws punish this demeaning behaviour whenever it happens. I am delighted for that reason to welcome the legislation, which will prevent and combat trafficking in human beings and protect its victims, and which replaces the Council framework decision for those and other purposes to amend and extend the Criminal Law (Human Trafficking) Act 2008.

This is another step along the way. We have had many discussions in the House on this issue. The legislation builds on our earlier discussions about the need to prosecute and criminalise those who purchase sexual services rather than the victims or the women who are vulnerable and often in difficult circumstances such as dire poverty and do not have a choice but to become the victims of clients who are prepared to purchase their services. I acknowledge we are still not quite there on this issue and it is the subject of an investigation by the justice com-

mittee but I look forward to us developing a response to this because we must achieve equality in this regard. We must set out to achieve a position where no human being is of lesser worth or value than another.

It is welcome that for the first time a definition of “forced labour” is being inserted in legislation to ensure this offence can be prosecuted in the State. I spoke with MRCI representatives earlier and I learned that 180 cases of forced labour over the past six years could not be prosecuted because it was not deemed a crime in this jurisdiction. That was a clear reason for us to act. By explicitly defining “forced labour” in the Bill, it can be prosecuted, which is welcome. One concern, however, is the definition is based on that in the 1930 International Labour Organisation convention where work or a service is extracted from a person under the menace of a penalty and for which the person has not offered himself or herself voluntarily. Is the definition sufficiently clear to enable the Garda to prosecute forced labour in this jurisdiction? That is the measure that would have to be used. Senator van Turnhout spoke eloquently about this issue earlier.

The profile of victims affected by this is they agree to work under certain conditions of employment but when they enter into the employment, they find themselves engaged in forced labour due to deception. We have to accept in the first instance that many of these people are vulnerable before they take up the work and this vulnerability is abused by the employer or the trafficker. I support Senator Moran’s comment that it is critical that such behaviour be reported. While there is silence, abuse and bullying will continue and this is an extreme form of bullying and abuse.

The Bill will also address trafficking for forced begging and criminal activity. The cross-party agreement is very welcome. I agree with the Minister for Justice and Equality who said we have a duty to ensure vulnerable individuals are not exploited and a comprehensive approach is taken to tackling the evil of human trafficking. If there is one thing the Government is doing, we are coming together on this issue from many angles. Human trafficking is complex and difficult to pin down as it traverses jurisdictions. We are doing a good job with this legislation. The two new provisions in the legislation will offer crucial, additional protection for those at risk of trafficking. I support the comments regarding vulnerable groups such as people with special needs and learning difficulties, migrant workers, minors and au pairs because they can also be vulnerable. We do not want them to be trafficked as well.

Senator Feargal Quinn: I welcome the Minister of State and the visitors in the public Gallery to the House. The Bill, which is also welcome, is trying to achieve something I tried to achieve through my own recent Bill, the Employment Permits (Amendment) Bill 2012, partly as a response to the dreadful treatment of Mr. Muhammad Younis.

The MRCI has dealt with more than 180 cases of forced labour over the past six years in Ireland. That is a reminder of what is happening but I am sure that is only the tip of the iceberg, with many other workers too frightened to come forward and I can understand why. This type of forced labour has been described as modern slavery, with coercion and psychological abuse being used to extract consent in a range of overt or more subtle ways. For example, a person may withhold a passport or legal documents or otherwise threaten a worker’s family. That is what happened in the case of Muhammad Younis. These workers mainly operate in non-unionised, unregulated sectors such as private homes, the agriculture, restaurant and entertainment industries as well as the care and construction sectors. Trafficking for sexual exploitation, which has been mentioned by numerous speakers, remains the greatest concern, especially

when children are involved.

Let us also not forget the Magdalen laundries and that horrific form of forced labour. The State was even involved in purchasing services. As the State continues to be such a large purchaser of goods and services, how it is ensuring there are no elements of forced labour or human trafficking in the supply chain is a big question. I understand that the Australian Government intends to introduce legislation whereby it will only buy from companies that have demonstrated they have made an effort to cut out any possibility of forced labour. Given that public procurement is worth billions of euro, why are the Government and the public sector not examining themselves if they are serious about tackling trafficking in human beings? Too often the public sector and the Government fail to examine their own role in issues such as this. Would the Minister of State be open to looking at this issue to legislate in order that public procurement has a role in ensuring it has no part in forced labour? Surely we should learn from the past in this regard. By making this move, the Government could go beyond a mere apology and demonstrate how it will not support such situations in any form or manner.

Retailers and businesses can also play a role in helping to limit the effects of human trafficking and forced labour. In recent years there was an interesting development in California called the California Transparency in Supply Chains Act which applies to all retail sellers or manufacturers doing business anywhere in the state of California with \$100 million or more in annual worldwide gross revenues. It does not have to have \$100 million gross revenues in California but if it is a company that has \$100 million anywhere in the world then it applies to them in California. Specifically it requires that retail sellers and manufacturers disclose their efforts to combat forced labour and human trafficking and to eliminate it from their direct supply chains. Specifically retailers and manufacturers must conduct audits of suppliers to evaluate supplier compliance with company standards for trafficking and forced labour in supply chains. It may be worthwhile for the Minister to take heed of the essence of that particular Bill. By having such a piece of legislation, we could at least get larger businesses to think about human trafficking and if the larger businesses do it, other businesses will follow. As we all know, some of the large clothing companies have been involved in malpractices regarding labour. Do we want to be part of that even in a small way? I believe it could be very helpful if large companies with, say, a turnover of €50 million were required to disclose publicly the efforts they are making to avoid forced labour anywhere along the supply chain. We need to do more in regard to regulating the activities of employment agencies and to monitor them more often in order to prevent abuse and exploitation. There may also be a need for more random checks on private homes or businesses as much of this forced labour goes on behind closed doors. Would the Minister be open to increasing checks in this way?

However, I have concerns with implementing more legislation when so little has been done. I reference particularly the recent European Commission report on human trafficking which has highlighted that although 13 Irish citizens were suspected of being involved in human trafficking between 2008 and 2010, none was actually prosecuted. Therefore, will this legislation be of any use from that point of view? As the Minister mentioned, the Organization for Security and Co-operation in Europe, OSCE, found that up to 60% of trafficking victims are being denied full entitlements and benefits as they are treated as asylum seekers. Steps have to be taken in that area. The Minister has touched on it and I urge the her to pass the legislation and to develop it further in the period ahead.

Senator Susan O’Keeffe: Like others, I welcome the Criminal Law (Human Trafficking) (Amendment) Bill 2013 which will expand the definition of human trafficking and ensure peo-

ple are not exploited for the purposes of forced begging and criminal activity. I would like, if I may, to start by thanking people who work in Ruhama and the Migrant Rights Centre and the many others who have worked enormously hard with something that is difficult to work with, an invisible business for many people, particularly for ordinary citizens going about their daily lives. It is hard to ask people to stop and think about something they may not see. Much of the efforts of the past ten years to push this desperate problem to the point where in this House many Members who are informed and who care are queuing up to speak is due to the work the Minister of State has done and I salute her efforts.

I thank also those people who are engaged with the matter. I am proud to say I have correspondence, probably on a weekly basis, from my constituents in Sligo and Leitrim urging me always to take this matter seriously. They are ordinary people going about their work persuading others to take the issue seriously. That is due to the work the Minister of State has done and people are beginning to listen. The great dilemma is that by and large it is still invisible. It is not invisible, although much of it happens behind closed doors but for many Irish people there is still the difficulty of actually believing much of this is true and that it can happen on their own doorstep in their own towns and cities. Part of the battle that we all share is the visibility level. While there are many stories, case studies and statistics it is still difficult for people to accept and believe that this is happening. In many ways I think it is down to the word “trafficking”.

Deputy Kathleen Lynch: It is slavery.

Senator Susan O’Keeffe: It does not describe the problem for me. As the Minister of State said we should call it what it is, slavery, as other have done. It is slavery. Perhaps that is a word that would resonate more clearly with members of the public and would help them to begin to understand that this is a massive problem of our time and that once there is money to be made in trafficking, slavery, the pushing around the world of vulnerable poor people will continue. There is no question about that. The United Nations global initiative to fight human trafficking is evidence not only that the United Nations is involved and has an initiative but that the problem continues to grow. It is not as if countries do not care or that individual states have not put effort into it. Ireland is well recognised for having made considerable effort and yet it is clear from the contributions today and the reading I have done that it is difficult to get prosecutions. While much work has been done in regard to joined up thinking, holding conferences and appointing people to deal with the matter, the issue is growing. It is growing because of poverty and war and the fact that money can be made out of women and children and trafficking people for organ removal and for the sex industry which is as old as we are.

I welcome the legislation. This is Second Stage and it may be slightly bewildering for the people in the Visitors Gallery. As we tend to mention everything on Second Stage, there has been a wide range of contributions. I guess that shows the level of engagement there is and the level of concern we have for the many matters that still need to be addressed. We should say this is a good amendment which, I hope, will clarify the legislation. I ask the Minister of State whether, with the enactment of this legislation, which has cross-party support, there will be more resources for Operation Quest, the Garda intervention operation? We can legislate until we fall over but unless we have the capacity to enforce it, as Senator Jillian van Turnhout and others have said, we are struggling. It is okay to transpose European Union directives but we must have the resources to make it happen on the ground.

In wish to refer to the organ removal issue. This is an issue about which we do not know a great deal because, by and large, we are not aware of the enormous lucrative trade particularly

in the US where there is a dispute about when people die as to whether one donates or sells one's organs. The whole idea of selling organs has yet to arrive in this country. Once that takes hold we will have a very different situation. That various body parts can be ground down and used for other materials and medical devices means the trade is enormous. Into the future that is an issue we will have to take account of because I think it will become a difficult aspect of the human trafficking business.

Acting Chairman (Senator Jillian van Turnhout): As no other Senators are offering I invite the Minister of State to conclude the debate.

Minister of State at the Department of Justice and Equality (Deputy Kathleen Lynch): I thank everyone who has contributed. As I have stated previously, I am always fascinated by the range of debate in the Seanad.

Senator Averil Power: The Minister of State needs to tell her colleagues.

Deputy Kathleen Lynch: I do regularly. Of course, the range of debate in this instance is far outside the scope of the Bill. Nevertheless, it is still worth listening to because, like everything else that we are trying to do in government and like everything else that every Government tries to do, nothing stands still. One must continually ensure not alone that one is keeping up to date with the possible need for amendments to legislation and new legislation, but also that one is trying to foresee at all stages the need for additional legislation. Whether it is in terms of organ donation, sale or whatever, or the taking and holding of documents and all of that area, it is important that we have debates like this. It is nice to see that one can have a debate that is as wide-ranging as this, even through it is far outside the scope of the Bill.

On trafficking in human beings, I would have to concur with Senator O'Keeffe's conclusion. I have always believed that language is incredibly important and powerful. Somehow trafficking gives us the impression that it is something that happens to others, it is a particular subset and it is for a particular reason. We really need to name it for what it is - slavery. I am not even inclined to say "modern-day slavery" because that assumes that it is a different type of activity whereas, in fact, if one was to take a look at slavery as we assumed it originally existed and as it has continued, it is for exactly the same purposes. It is exactly the same. There is no difference.

Trafficking in human beings should not be tolerated and everything possible should be done to ensure the protection of those vulnerable to trafficking and to bring the perpetrators to justice. The EU directive is one element of regional and global action against human trafficking. That is a good aspect of Ireland's membership of the EU. Senator Bradford referred to this. Even though I am conscious that persons suffer from forced labour and are being blackmailed and incarcerated within the State as well and that we cannot dismiss anything, the fact that Ireland is a member of the European Union gives us greater clout on the transnational or cross-border issues and gives us greater scope for action.

On global action against human trafficking, we must do everything in our power to address the issue at national level and to assist regional and international efforts directed at preventing and combating this crime, protecting victims and prosecuting traffickers. In order to tackle recent developments in the phenomenon of trafficking in human beings, the EU directive adopts a broader concept of what should be considered human trafficking. To comply fully with the directive's minimum detention definition of exploitation, the Bill criminalises trafficking for the

purposes of forced begging and criminal activities. Human trafficking is an abhorrent abuse of human rights and our legislation must keep pace with global developments in this heinous crime.

The Minister is grateful for the opportunity the Bill presents to define forced labour. Senator van Turnhout was concerned about this. The International Labour Organization definition is the international standard and the Bill follows that standard. In addition to bringing clarity to the meaning of the term, the Minister believes the definition will send out a strong message that those who extract labour from persons, without those persons' freely given and informed consent, can be held accountable under the law. That is part and parcel of what we are trying to do.

I will try to address some of the issues that arose. Although outside the scope of the Bill and even though the debate must take place, the Joint Committee on Justice, Defence and Equality is looking at the issue of prostitution, in particular, and a report will be prepared. It is a matter of significant interest to the Department and the Minister. I am not certain yet where it will fall but, nevertheless, it will be responded to.

In response to Senators Power and van Turnhout, legal aid is available to all victims of trafficking from the Legal Aid Board which has a dedicated unit in this regard. A care plan for every victim of trafficking is drawn up by the anti-human trafficking team in the HSE. It covers all needs that may arise, including those with special needs. I take on board that it is a spectrum and that we need to be conscious of having an early detection system. I also take on board the importance of being committed to ensuring that victims are both protected and cared for.

Senator van Turnhout asked whether there is a recommendation by the European Council that EU states set up a national rapporteur on trafficking and whether Ireland have this as an office or similar function. The EU directorate provides for the establishment of a national rapporteur or equivalent mechanism, and the tasks of such a mechanism can include the carrying out of assessments of trends in trafficking in human beings and the measuring and reporting of results of anti-trafficking actions, including the gathering of statistics in close co-operation with relevant civil society organisations active in this field. I think that, as a small country, we are well served by these organisations, and I do not say that merely because there are representatives of one or two organisations in the Visitors Gallery today. Their ability to communicate their message to those of us who are in a position to act is hugely important. I think they understand - perhaps later on they will tell me they do not - that they have an open door when it comes to accessibility to politicians who have an interest in the area. The national rapporteur role is currently being carried out by the anti-human trafficking unit of the Department of Justice and Equality. Independent evaluation is provided by a number of international organisations, such as the Council of Europe and the OSCE. Both organisations visited Ireland in 2012 and their reports will feed in to the policy.

Senator Hayden and others commented on prosecutions. There were seven prosecutions last year under the 2008 Act. They have not been concluded and that is probably why they do not appear. We all are conscious of the position of the man referred to and the fact that we could not prosecute because it was not considered to be a crime. This amending legislation will have a significant impact on where we are going. Of course, how it is implemented must be kept under close review.

In terms of Garda resources, the Garda Commissioner is the person who comes to the Minister for Justice and Equality to state he needs additional resources, and that has not happened

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so far. I am sure the Commissioner would know when additional resources are needed. It is not as if he and the Minister do not meet regularly; they do.

I was asked whether the State offers victims of trafficking alternatives to fully satisfy the requirement of voluntary returns. We are all conscious that when someone is taken from their own place and brought to a different country by way of trafficking or slavery - perhaps the language around that will change soon - and wishes to return, we need to be careful how that return is put in place. The alternatives to voluntary repatriation for victims of human trafficking are set out in the administrative immigration arrangements for the protection of victims of human trafficking, which outlines the procedures for suspected victims of trafficking in human beings, and immigration status is required to be considered. These outline that such a person may be granted a period of recovery and reflection in the State and may also be granted one or more periods of temporary residency in the State. It also outlines how such a person may apply for a change of status allowing him or her a more enduring permission to remain in the State.

I thank the Senators. I am sure any issues which have not been answered will be raised again with the Minister, who looks forward to the passage of the Bill through both Houses.

Acting Chairman (Senator Jillian van Turnhout): I would have loved to have been able to extend the time available to the Minister of State but it is not in my power and I must keep to the timetable. I thank the Minister of State for her co-operation and I thank all Senators.

Question put and agreed to.

Acting Chairman (Senator Jillian van Turnhout): When is proposed to take Committee Stage?

Senator Paul Bradford: Next Tuesday.

Committee Stage ordered for Tuesday, 30 April 2013.

Financial Stability and Reform Bill 2013: Second Stage [Private Members]

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

I welcome the Minister of State, Deputy Hayes, to the House. Two years ago on Monday the Members of the House were elected and, like the Minister of State who had been elected some weeks before, we knew we had to face the problem of the public finances and the banking sector. These two issues have exercised most of our waking hours since then. We were pleased to use the procedures of the House for a fiscal responsibility Bill dealing with public finances and a mortgage finance Bill dealing with the need to change how we finance housing. Discussions are still ongoing on the latter, while fiscal responsibility legislation has passed through the House.

Today the Financial Stability and Reform Bill comes before the House, which completes the agenda needed by everybody elected to the Houses of the Oireachtas a little over two years ago. The purpose of the Bill is to promote the financial stability of Ireland by improving accountability and transparency in the financial system, to reduce systemic risk, end the concept

of “too big to fail”, improve capital adequacy and protect the State from non-transparent safety net subsidies and open-ended bailouts of monetary and financial institutions.

The Bill is presented to the House in a spirit of compromise, absence of partisanship and co-operation. This is a matter which we have all found on the doorsteps, even still. The need to regulate Irish banking genuinely annoys many people in the country. I am a member of the Oireachtas Joint Committee on Finance, Public Expenditure and Reform and we have found that one thing which unites people of very disparate views is the need for reform in this area. As the Bill states, it has already cost us €73 billion and it is rumoured another €16 million will be needed for one institution alone. This would bring the entire cost to approximately 57% of GDP. This is a problem which the Oireachtas and those who lead us in government would much prefer had never happened.

Before I go into detail on what we have before us, I thank the Bills Office, Seanad staff, the Minister of State and Dr. Charles Larkin, Nora Ward and Maura Sullivan from Boston who helped to put together what is in the Bill. The Bill has a most distinguished lineage. Parts are taken from financial reform legislation in the United Kingdom, which is now on report stage, and the parts taken from the United States are from chairman Volcker, Senator Dodd, Congressman Frank and Senators Vitter and Brown. We are bringing the most recent proposals we could find from two countries with which we have significant trading links to see what the United Kingdom and the United States did when they encountered this banking problem, albeit to a much lesser degree than the Minister of State, Deputy Hayes, the Ministers, Deputies Noonan and Howlin, and the Taoiseach had to confront, because I am afraid in this particular case our bank collapse was much more serious relative to GDP than anybody else's.

According to what we found, the key is to increase the equity or capital requirements. I am advised that in the Cypriot case as little as 2% of the capital was equity and 98% was borrowed or leveraged. The key element in the Volcker proposals and in Senator Dodd's legislation is to raise this percentage to require banks to have 10% equity and, in exceptional cases, we would give the Governor of the Central Bank the power to raise this to 15%. We must have a less risky conduct by banks and bank managers. We must protect the taxpayer against any recurrence of what happened in September 2008.

The other idea behind the legislation, particularly in the United Kingdom but also in the United States versions which came into operation in July last year, is to restore the type of banks we had. Utility banking would be restored and separated, as it was historically, from merchant banking, or casino banking to give it a more properly deserved title. The supports which governments give to banks in the old model, which is based on the intertemporal non-concurrence of people saving on short and borrowing on long, with the bank as a financial interrogatory between the saver and the borrower, would be restored. The lender of last resort kept liquidity in the system. What happened in Ireland, and the other jurisdictions which we examined for this Bill, was that the lender of last resort was relied upon for solvency. We hope, along with everybody in the House and in the Dáil, that this crisis never recurs. We want to go back to the old bank model which had money in ATMs and protected people's deposits. I mention ATMs deliberately, because the threat held over the government of the day was that there would be no money in the ATMs. The Bill protects this area.

Once one reaches €1 billion, which is scaled down from the US model, one is required to have 10% capital. In future bankers will gamble with their own money, not with the taxpayers' money. Those are the two kernels, which are widely accepted in countries with very sophis-

licated banking systems, and with which we would hope, when all of this is over, to restore parity. There is a reformed system in the United Kingdom which is at Report Stage but before long will receive the royal ascent and there is also a reformed system in the United States. One cannot have the continuation of the so-called zombie bank system here which the Minister and his colleagues have tried to deal with.

The Bill is an important parliamentary initiative. The legislative list of the Minister of State at the Department of Defence includes a betting Bill; legislation on customs and the NTMA and a Central Bank Consolidation Act. Therefore, the Bill is needed and was offered in a spirit of helping. It would fulfil a valuable role for the Seanad, parliamentarians in general and when Ministers meet people whom I find are angry about the role of Irish banks. Yes, we are addressing the too big to fail issue and the gambler issue. We also require banks to be better capitalised. Of course we regret the immense burden that has been placed on so many people. Every day, since we have been elected, we have discussed having to put the best part of €90 billion into recapitalising banks.

Is this light touch regulation? No. It is de-supervision, a word I like. Nobody was supervising. The supervision proposed in the Bill did not happen in our institutions. In section 5, the Governor, our good and mutual friend, Professor Patrick Honohan, will be asked to conduct a study that will apply the Volcker rule to the Irish banking system and to have them supervised again rather than allowing the banks to impose so much costs on the economy. There is even a section on utilities. It means that when we restore a utility the Minister will have the power to restore wages in the banking system to something more appropriate to running a utility. I listened to the Minister of State speak on radio this morning and I am sure that the section will be of interest to him.

The more risks bankers took the more the more they were guaranteed by the Government through its “put option”, an amazing phrase. When I studied economics it was called subsidies. Such a provision led to moral hazard and reckless behaviour by banks. The more bankers did the more bonuses they got. This legislation will attempt to put an end to that. If one wants to do that in the future please use somebody else’s money and not ours. The bankers should use their own money. In future banks should be funded from profits reinvested in the business and not paid out in bonuses of the kind that led to the problems that the Minister and the Taoiseach have had to deal with. Reckless banking merited the rate of pay that is four times the sum paid to the Taoiseach and multiples of what Ministers receive. We want capital requirements to be met by equity, not borrowing. We want the shareholders to take the risk. We want utility banking and merchant banking separated.

The Minister may be interested to hear the interview by Bill Moyers with Mr. Paul Volcker which was published in *Forbes* magazine and described how the Volcker rule would operate in the United States. In the television programme Bill Moyers said:

Forbes magazine has a good word for you. There was an article last month and I’ll quote it: “While the Volcker Rule will surely put a damper on bank trading profits, it will force many firms to go back to the basic blocking and tackling of the financial services business - acting as intermediaries for their clients. It may also help the Fed, shareholders and taxpayers sleep better at night. How about that?”

Mr. Paul Volcker replied: “God bless Mr. Forbes or whoever wrote that”. My group offers this legislation in that spirit. We need to tackle the problem but the matter is not on the list of

things to do by the Minister of State, Deputy Kehoe.

It has been clear at any committee that I have attended in the House that we must tackle banking. In a cross-party, cosmopolitan and broad encompassing spirit I offer the Bill to the House. We all need to accept it in order to restore the credibility of parliament and redress all of the dreadful things that have happened to us between 2008 and 2010. Therefore, it is my duty, and I am proud to do so, to commend the Bill to the House.

Senator Feargal Quinn: I welcome the words spoken by the Senator and his objective or what he hopes to achieve. That is, not just to have rules for banking but supervision to ensure rules are adhered to. I wholeheartedly agree with his efforts to highlight the need to set the conditions for financial stability in order to avoid a repeat of what happened. The Bill also states: “The principal aim of these items of legislation is to reduce the probability of the State being forced to actively support the banking community with public funds.” As he said, let the banks use their own money rather than the State’s money.

Sometimes I get the impression that the Government is not that worried about addressing failings in our financial system that were highlighted in the past number of years. Instead, the Government is concentrating on getting by. I hope that my words are not too strong. That is the wrong attitude. In business one must learn from mistakes and the Government should do the same. It would demonstrate that the Government is serious about reform thus it might inject confidence into the economy which is our objective.

I welcome the principle of ending the “too big to fail” institutions. The Bill, in Part 2, section 3(1)(a) requires that: “The Governor of the Central Bank of Ireland shall ... establish capital requirements for the ratio of equity capital to total consolidated assets for all [financial institutions]”. That is a change. As Senator Barrett has said, we are not just talking about banks but hedge funds and other organisations that may not be around in a couple of years’ time. There will be new ones around in a couple of years’ time. Given that we seek to overcome the risk to the wider economy should the requirements be linked to GDP? Is that a sensible way to go?

In the United States in 2010, as mentioned by Senator Barrett, a failed amendment to the Dodd-Frank Bill called the Brown-Kaufman amendment tried to put limits on the size of financial institutions. It was based on the idea by Alan Greenspan who said, “If they’re too big to fail, they’re too big”. The Bill intended to cap the amount that a bank borrows, in various ways, to finance its operations at an amount equal to 2% of the United States’ GDP. Could such a proposal be a way forward for Ireland? It would limit the possible negative effect on the taxpayer.

I support the Bill but we cannot get away from the fundamental fact that such stabilisation measures need to be implemented in a pan-European manner. It would be hard for us to do this on our own. However, it is great to see such an ambitious initiative by the Seanad. We must value the Seanad in the coming years, and certainly in the next few months. Initiative needs to be recognised.

It is interesting that some wealthy bankers are coming around to support the idea that risky benefits that do not benefit the majority of a bank’s customers should be separated from a bank’s day-to-day activities. Last year, Mr. Sandy Weill, former chief executive and chairman of the City Group, a major financial institution in the United States, spoke in favour of the argument. He said that we should let commercial banks take deposits and make commercial loans and real estate loans in such a way that they are not going to risk the taxpayer dollar. If they want to

hedge what they're doing with their investments, let them do it in a way that's going to be mark-to-market on a daily basis. Senator Barrett made the same argument. Mr. Weill argues that by separating the two elements innovation will prosper on the investment side of banking while not imposing a risk on the taxpayer. I think he has reached the conclusion that banks will inevitably be more regulated and that is the best solution. Some of our bankers need to stop fighting financial reform and the Government. At the very least, the Government needs to implement elements of the Bill tabled by Senator Barrett. In effect, it should introduce a type of Volcker rule to separate risk and everyday banking activities, as argued by the Senator. It will be similar to the US Banking Act of 1933. This is very interesting legislation, which I studied yesterday. It was enacted after the 1929 Wall Street crash. The restrictions imposed by the Act kept bank deposits and banks themselves separated from the markets. It resulted in 50 years free of any banking crisis. The *Financial Times*, among others, has argued for a new banking Act in Britain, similar to the 1933 one in America, to put limits on banks to better avoid a future crisis.

It is welcome that the Bill before us contains provisions to separate the banking activities on which households and SMEs depend, from wholesale or investment banking activities that may involve a greater deal of risk and expose an institution to financial problems arising elsewhere in the global financial system.

Pensions will also be afforded protection through this Bill. The provision to ensure that the funding and support of SMEs is not linked to speculations or the wider financial system is both welcome and sensible. Wider shocks related to risky investment should not mean that an SME is denied a loan.

As a side issue, if we break up banks into their constituent parts, could this be of economic benefit? Could parts of the banks increase in value if they were split into their separate parts? Mr. Alan Greenspan has pointed to this possible positive effect. He said that in the United States in 1911 they broke up Standard Oil, which was the largest oil refiner in the world and had a monopoly. What happened was that the 33 individual parts became more valuable than the whole. Maybe that is what we need.

As part of wider financial stability, the Government should also be looking at giving more support to smaller financial lenders. There is actually a big worldwide movement back to credit unions and so-called community banking. Even the former US President, Bill Clinton, thinks this is the way forward. Asked about the Occupy Wall Street movement around the world to shift billions from big banks to smaller credit unions, Mr. Clinton said he believed it was a good thing, especially because bigger banks are now reluctant to lend.

There are various other ways, including billing finance which operates in crowd funding. That is an example of what can happen to encourage investment, particularly for SMEs.

This Bill is worthy of support and I hope the Government accepts it.

Senator Tom Sheahan: I congratulate Senator Barrett on his initiative. I always admire the way he goes about doing these things. Unlike other economists who use gobbledygook language, Senator Barrett presents matters in simple language which is easy to understand. We have to be careful, however. SMEs are currently suffering greatly. I have spoken to people in that sector and, to be honest, many SMEs are not worthy of credit. I recently met some people whose biggest problem was collecting money for their business, but that was their fault because they did not collect. They have now engaged the help of a debt collector, because they could

not do it themselves. Their structure was wrong in that respect.

Will we ever really know what happened on that night in September 2008? From what we do know of it, I do not believe it could happen again. At that time, there was such an intrinsic link between the Government, its policies and the banks. The CSO's figures for 2006 showed 260,000 unoccupied houses in the country, yet the Government's policy was to build 90,000 units per annum.

Senator Darragh O'Brien: That is not true. The Senator should check those figures again.

An Cathaoirleach: Senator Sheahan without interruption.

Senator Darragh O'Brien: Tá brón orm.

Senator Tom Sheahan: The Senator is correct. When one takes out the second homes, there were about 150,000 unoccupied houses. The Government policy was to build 90,000 units per annum. Young people considering mortgages were told to hurry up or they would never get on the property ladder. While the banks played their part, Government policy also played a big part. One has to assume that there is no great confidence in the banks, but we do have public interest directors in banks. I hope they are doing the job they were appointed to do.

Senator David Norris: Fat chance of that.

Senator Tom Sheahan: One has to have confidence but if they are not, then that is an opinion. Are we going too far? Could what happened that September night recur? We all lived through the Celtic tiger but when speaking privately with family and friends we said it could not last. It was a regular subject of conversation that it would not and could not last. One way or another, however, we all bought into the property bubble and there was crazy lending. It was possible to draw down unsecured, non-recourse loans in millions of euro but it was crazy banking.

We need to tread carefully now, however. I compliment Senator Barrett on his initiative but I will wait and see before passing judgment. Nonetheless, I applaud his initiative.

Senator Darragh O'Brien: I thank Senator Barrett for bringing forward another piece of legislation on improving the financial stability of our banking sector. It is good to see the Minister of State here again. It is particularly relevant, given the day that is in it.

I have read Senator Barrett's presentation which is well thought out. It is a genuine attempt, as part of a solution, to prevent a repeat of the banking crisis. I disagree fundamentally with Senator Sheahan that this cannot happen again. Unfortunately, it could recur in the future. History has a way of showing that societies tend to repeat their mistakes in cycles. That is why we have to place some controls on the banking sector, despite the presence of the Financial Regulator and the Central Bank's Governor. The way to do so is to put greater constraints on the activities that banks can undertake.

This Bill should be looked at in tandem with measures to progress full European banking union. We could argue the toss about fiscal or political union but European banking union, as proposed by the EU, is an absolute necessity. We should therefore have a proper European-wide regulation of the banking system in line with that aim.

The threat we are currently under concerns the issue that our pillar banks are too big to fail.

However, should an Irish bank operate incorrectly and recklessly in another jurisdiction, as things currently stand, Irish taxpayers would have to pony up again and carry that burden. We had the apparent agreement of 29 June 2012 with the seismic shift in breaking the link between banking and sovereign debt but, bar the wording, we have not seen any movement to formally achieve that. I refer to current events in Spain and the difficulties being experienced there at present. That country is conducting an in-depth analysis of its banking sector and it now is feasible to envisage the Spanish banks being recapitalised directly through the European monetary system. However, Ireland is still left holding the baby. In his one and only appearance here last July, the Taoiseach admitted in this Chamber, probably for the first time, that on that famous night Ireland had no option available to it. Ireland did not have access to another mechanism in Europe to recapitalise its banks further, as none existed. However, we must now work towards a system in which direct recapitalisation of banks can take place through the Eurosystem, using a European mechanism rather than by the host country's taxpayers. Senators Barrett's Bill would reduce the risk of and need for this to happen again.

If one considers the issue of an institution being too big to fail, one reason I argued vociferously against the EBS in particular being subsumed into AIB was there was then an opportunity for a bank from the United States to take over the EBS. The deal was pretty much done, whereby the EBS would have become a proper retail high street bank that would have given to the small and medium-sized enterprise sector the competition about which Senator Sheahan spoke. The present position effectively is there are two large Irish banks. However, when those banks are fully cleaned up - an outcome sought by all and which will happen - they will be bigger than the Irish economy. Consequently, there is a risk in the future of both AIB and Bank of Ireland again becoming a systemic risk to the Irish economy and the Irish taxpayer because the Government has made a conscious decision to the effect that the approach of having two pillar banks is the way forward. I disagreed with it then and disagree with it now. However, when considering potential solutions, Senator Barrett's Bill certainly goes a long way towards doing that. He has been obliged to park other items of financial legislation he had brought forward in the Seanad. Once again-----

Acting Chairman (Senator Pat O'Neill): One minute remains to the Senator.

Senator Darragh O'Brien: How much time did I get?

Acting Chairman (Senator Pat O'Neill): Six minutes.

Senator Darragh O'Brien: Fair enough. I believe this Bill would go some way in this regard.

While I acknowledge the Minister of State personally will consider the Bill, I hope Members do not get the usual response. The Minister of State has set aside his script during previous visits to the Seanad. Perhaps he might be willing to accept the Bill on Second Stage to consider any Government amendments that might be required, if the Government believes it cannot accept it. Moreover, rejection should not be solely on the basis that the Government will not accept a Bill that does not emanate from the Government. There are measures that must be taken that will be helped by this Bill. The role of the ECB as the lender of last resort must be formalised. In addition, consideration must be given to sharing the risk associated with emergency lending among all member states and not just the state in which the problems occur. In addition, the quality of the borrowers must be examined. Senator Barrett's Bill would decouple some of the bad practices and would remove some of the potential for such bad practices to hap-

pen again. I refer to practices such as leveraging of 45 times current deposits, to which some banks still hold. Consequently, normal depositors and mortgageholders in any bank are at risk from the larger corporate bodies and the executives of those banks again carrying on with reckless lending.

Acting Chairman (Senator Pat O'Neill): Sorry, Senator.

Senator Darragh O'Brien: I have almost concluded. Unfortunately however, unlike Senator Sheahan I do not believe there is no risk of this happening again. There is such a risk, whether it be in five, ten or 30 years' time. Legislation such as the Bill before Members, taken in tandem with other measures that are slow to emerge from Europe, certainly would help. I await the Minister of State's response to Senator Barrett's Bill with interest. I apologise for the slight delay and thank the Acting Chairman for his indulgence.

Senator Tom Sheahan: It might depend on who is in government.

Minister of State at the Department of Finance (Deputy Brian Hayes): I thank the Acting Chairman for the opportunity to contribute to this debate. At the outset, I thank Senator Barrett for his publication and tabling of this Bill, as well as for the previous Private Members' Bills on which he has worked assiduously in this House. In the Department of Finance, we genuinely appreciate this because a parallel process is being worked on at present regarding many of the issues Senator Barrett has put forward in this Bill. I should also thank those who helped the Senator in working with this legislation. We are working on and are nearing completion of many of these issues. As other colleagues including Senator Quinn have noted, these are issues on which we must find agreement at a pan-European level, as is the case across ECOFIN and the G20. I reiterate that in the Department of Finance, we very much appreciate the work the Senator has put into this Bill. Moreover, the Department considers that there is nothing to prevent a teasing out of the issues he has raised by way of a parallel process with the Government as it works its way through these issues.

In preparation for the debate on this Bill, I counted seven or eight separate legislative items at a European level that are dealing with this issue of regulation. Senator Barrett is absolutely right that if one is to create confidence within the banking sector, one must ensure the regulatory environment, domestically, internationally and across the Eurosystem, is absolutely spot on. Second, the lessons that have been learned from this enormous crash must be learned by everyone. Moreover, this must lead, as I have noted previously in this Chamber, to an entire culture change within the banking sector in which it recognises prudential risk, the necessity for capital reserve ratios and what are the ingredients behind a good borrowing strategy, either commercially or within the broader society. Unfortunately, what happened throughout the past decade and a half was an appalling lack of risk assessment, whereby people put faith in this enormous bubble, which was created by a deficient policy-making arm of government - and the Oireachtas I hasten to add, I include everyone in that - but also by the failure to put in place a proper regulatory authority and environment. These are lessons from which we must learn and we must ensure the architecture is right in respect of the future of Irish and European-wide banking policy.

I wish to deal with the issue of Basel III, which really is at the heart of a new banking environment, because this has not happened in the past. The capital reserves banks are required to have are absolutely crucial. I know something about this as when we entered Government, as Senator Barrett would be aware, probably the first big decision we took as a Government per-

tained to bank capitalisation in March 2011. At that time, the issue really was how to make the banks look safe because the capital reserve ratios within them had been dramatically changed. I have regularly made the point that Irish banks now are better capitalised than are Swiss banks. There is no difficulty regarding the level of cash within the banks now and this point was made recently by the Irish Fiscal Advisory Council. I note also the council referred to this today before a committee of the House. What is required is a very strong capital reserve ratio within the banks, in order that they can then lend to the economy and get it working again through business lending, mortgage lending and everything else that is needed. All of this really is summed up by two initiatives that have been taken across Europe and which currently are live issues for the Irish Presidency. One is the capital requirements directive, CRD IV, and the second is the capital requirements regulation. This really is the European answer to the international problem of a lack of capital within the banks. This is a matter that currently is before the European Parliament and there is growing confidence that it will be over the line before the end of the Irish Presidency. Given the size of Ireland's diplomatic staff and the number of people who work within its Government when compared with larger Governments, it will be a very good achievement for the Irish Presidency if and when this issue is over the line. This is an issue that has been raised by Senator Barrett in terms of capital ratios in sections 3 and 6. It is being dealt with and resolved. The way in which this will be transposed into Irish law as a result of the directive being in place will be significant in terms of how we address the issue.

Shadow banking arises, in effect, if one has a bank and products are being advanced through it using financial intermediaries. We must recognise that levels of risk attach to them which are not ordinarily attached to the banking sector. This is an issue Senator Barrett has raised in sections 4 and 21. It is essential that there is a co-ordinated approach to monitoring the activities of shadow banking entities. That was agreed by the G20 and at a European level. It is something that we are working on at a global level. Other speakers have outlined that the Irish banking sector will be greatly enhanced by having in place an EU-wide agreement on these matters because of the close connectivity within the banking sector. It is an international operation and therefore it is not just appropriate to have domestic law, one must have a pan-European approach. That is something that is currently being examined. Recent information from the European Commission leads us to believe that the legislative proposals on shadow banking will be published before the end of the Irish Presidency. We will have some role in terms of advancing the EU-wide legislative response to shadow banking, which is important as well.

On the application of capital ratios to the insurance sector, in section 5 Senator Barrett makes proposals in respect of non-bank financial entities. The Bill proposes to apply bank capital requirements to insurance firms engaged in high-risk activities. However, the regulation of insurance firms is already being discussed at European level under the Solvency II legislation which seeks to establish a risk-sensitive solvency regime that is more appropriate for the true risks of insurers. That is another element in the armoury of legislation that is currently being prepared.

On the prohibition of affiliate transactions proposed in section 7, an additional proposal in the Bill covers transactions such as the extension of loans to affiliates, including branches or subsidiaries, investments in securities, derivatives transactions and repurchase agreements. The intention is to prohibit credit institutions from engaging in these transactions with affiliates and subsidiaries. Transactions of this nature are interbank transactions typically completed on a cross-border level and regulated as such. Basel III, and now CRD IV/CRR, provide for the regulation of these transactions. For that reason a domestic legislative initiative is unnecessary

because it is already contained in the European-wide proposals. I fully appreciate the point made by Senator Barrett. However, it is already contained within the proposed armoury of legislation.

On the prohibition on Exchequer assistance in sections 8 and 9, Senator Barrett also sought to restrict the opportunities for the State to become involved in a crisis in a bank or in the banking system. Sections 8 and 9 in particular attempt to make provisions restricting this potential for banking crises to cost the State money. I do not need to tell Senator Barrett or other Senators that the way we recapitalise banks that have become bankrupt is a live issue in the context of the Heads of Government agreement across the European Union. Senator O'Brien made a point in that regard. We are examining how we separate out the clear intention of the sovereign debt from the banking debt. The policy instrument was not available to the Government at the time, and legacy issues prevail in respect of the issue and how it was handled.

Colleagues will be aware that by the middle of next year it is the intention of European authorities that the European Stability Mechanism, ESM, will be in place. That will be a crucially important part of the architecture in terms of standing behind the European banking system. Mr. Rehn describes this as the "big bazooka". The "big bazooka" was not there for poor old Ireland in 2007 and 2008 but we very much hope that it will be able to help us deal with a number of issues that remain in terms of the banking sector. Again, there is a firm intention on the part of the European authorities to put in place the architecture which will help limit the amounts the sovereign will have to put into banks that get into difficulties in that regard.

Senator Barrett has referred throughout his proposals to the role the Central Bank would play in implementing and supervising the rules and regulations laid out in the provisions of the Bill. However, in that context it is important to consider the steps that have already been taken to ensure that the Central Bank can deal with the requirements. Colleagues will be aware that in 2010 the Central Bank Reform Act created a new single unitary body, which was not the case prior to that. It is accepted that the initiative has helped to provide an overarching supervisory role within the financial system. We have learned from that. There are more people employed in the Central Bank now. One of the old chestnuts to which Senator Barrett regularly refers is the quality and quantum of qualified people within the Central Bank who have the expertise in dealing with these matters. The situation now is entirely different to the one that pertained even five years ago. That is largely due to the legislation that was passed at the time and the significant supports that exist to make sure that the fitness and probity regime is currently being rolled out across the system.

The Central Bank (Supervision and Enforcement) Bill is currently going through the Houses. The Minister for Finance, Deputy Noonan, is taking Committee Stage today and I will take it tomorrow. Many of the objectives Senator Barrett has set out in the Bill in the area of Central Bank reform are either in place or will soon be in place when existing legislation is amended. The role of the Central Bank in assisting in the resolution of the financial crisis in Ireland as well as fulfilling its other statutory obligations led to significant change in the organisation. That has been reflected in recent years in terms of the change in culture, attitude and the significant bumping up of the regulatory and supervisory controls the Central Bank had to put in place to ensure that people were clearly aware of the new environment.

We welcome the publication of the Bill. It has set out a number of key issues on which the Government is currently working with other colleagues across Europe. Those issues must be resolved in a pan-European way to ensure that we have confidence in the new architecture

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behind the banking system. I very much hope that this might be a parallel process and that we would keep in contact with Senator Barrett and work with him on the legislative initiatives we propose or that will be transposed in Irish law as a result of the directives that will shortly be agreed at EU-wide level.

I am a long-standing believer in the principle that the Government is not the only fount of wisdom. I have learned that over many years in opposition.

Senator Darragh O'Brien: The Minister of State should tell the Minister for Justice and Equality, Deputy Shatter.

Deputy Brian Hayes: That is why I am conscious of positive initiatives taken by colleagues on all sides of the House. We must learn from the Bill. We need contrary people with contrary views to challenge what the Government is doing. We even need them in government. I am not putting Senator Barrett in that category - on the contrary. We must change the culture given the scale of the crisis and the culture that existed where people did not question, decisions went through on the hoof and Parliament's role was abdicated in many respects. We must do so in a parliamentary sense and within the regulatory system that underpins the financial system. We very much hope that Senators will work with us to develop and bring forward our proposals, ensuring these do what they are supposed to do and that the confidence the people will glean therefrom will help ultimately to underpin confidence within the financial system.

That is what I wish to say on the matter. I am not sure it is of any great assistance. We can work together on a piece of legislation which the Government can bring before this and the other House, one that will set the standard for the new banking environment we all need to see, one that will be the engine of growth within our economy.

Senator David Norris: I agree with the Minister of State that this House is immensely in debt to Senator Barrett. This clearly shows the value of the Seanad because we are tackling this matter in a way that displays the intellectual strength of the House.

I would not start from here, not being in that position, but I would like to analyse this Bill because it is my firm belief that the entire financial system, Europewide and probably globally, is irretrievably compromised. The capitalist market system has had its day and will have to find a new way. It simply does not work, certainly not in the interests of the people. The intention of the Bill is splendid, from the first phrase: "An Act to promote the financial stability of Ireland by improving accountability". Who could possibly quarrel with that? It is splendid. It is what we need and have not had. When the Senator states in the preamble that: "The principal aim of these items of legislation is to reduce the probability of the State being forced to actively support the banking community from public funds", I say, "Hear, hear", in spite of the split infinitive. The Senator refers to Professor Edward Kane and the Government put option which is not a Government put option, rather a taxpayer put-upon option, the taxpayer forced once again to pick up the bills for lazy banking practices and sheer dishonesty.

I raised in this House a question about one of the major banks in the financial services centre which flagrantly and repeatedly broke the liquidity ratios. The matter was eventually picked up by the *Frankfurter Allgemeine Zeitung*, following which *The Irish Times* had a piece. It never mentioned the Seanad, of course, but repeated the debate that took place here, word for word. The Central Bank did sweet damn all about it even though it was aware of the matter. It covered it up and the whistleblower lost his job, which was an absolute disgrace.

I was present in the House when all of this was going on. I remember the Lehman collapse and people saying that bank was too big to fail. It was a big and complex issue and we were all under pressure. I remember a reporter telephoning to say that he could not quite make out what I was saying, and asking if I would clarify. I clarified it in a way that made it appear I was saying something I did not at all mean, which just shows how complex the issue is. However, I maintained consistently that nothing should be too big to fail. Senator Barrett is absolutely right that the problem was not deregulation on its own; it was “de-supervision”. Many safeguards were in place but were not acted upon, a situation that continued, at least until some years ago when I raised this significant problem.

This is history repeating itself, there is no question or doubt about that. The depression of the 1920s was followed by the Roosevelt administration and the introduction of the Glass-Steagall Act in 1933 which managed to separate what I would call main street, over the counter banking from casino banking, the gambling, investment banking of Wall Street. Main street and Wall Street were separated until 1998 when the idiots in the American Parliament reversed the situation. From that sprang many if not all the woes of the present situation. They then tried to repair it with the Dodd-Frank Act. Thank God for Barney Frank, a man of wide intelligence and decency. Then there was the Brown-Vitter Bill and, in the United Kingdom, the Financial Services (Banking Reform) Bill 2012-2013.

I am concerned about some of items in the Minister of State’s extended script, which I assume will either be read into the record or just plonked down into it. He answered a number of points made in the debate but there was much more in his script. He referred to various measures which were similar to those being implemented in France and Germany but these are not necessary in this country as we do not have the same banking system. I point out to the Minister of State that in this Bill we - or rather Senator Barrett, because I can take no ownership of it and simply attended a very interesting briefing yesterday - are trying to prevent this course happening in the future. I do not accept for one minute that we should not foresee circumstances and try to anticipate them. The notion of raising equity to 10% is a good one. I do not believe the ratio is too high. As I understood it, from skimming through the Minister of State’s typed speech that we have just received, he spoke of a rate of 4.5%. The people of Ireland need firewalls and must be protected against stupid Government decisions made under immense pressure from the banks which should never be allowed into that position again. The rate could go to 15%, in certain circumstances and *in extremis*.

We have too many machines in the banks. The ordinary people are picking up the tab all the time. Our pension reserves are gone. The ECB and the troika, those dictators from Europe, told us we could not touch the senior bondholders but then they went to Cyprus and said it had to be done. There is complete inconsistency and there is no European solution. They are picking us off, one by one, the weakest people, using us as an experimental laboratory. The situation is changing so dramatically because of technology. One of the illustrations in Senator Barrett’s magnificent brief, using the doctoral work of his splendid friends from Trinity College, showed how banks have changed. They are nothing like the banks of 40 years ago; they are completely interconnected. It is like the butterfly that flutters its wings in South America and somebody in Chicago gets a cold. That is the way it is. No bank is an island, unfortunately. I wish to God it was.

Acting Chairman (Senator Pat O’Neill): Senator-----

Senator David Norris: I will end on this point. Last night Senator Barrett and his col-

leagues drew our attention to the research of Carmen Reinhart and Kenneth Rogoff from Harvard, who make three points. Financial crises are very expensive for national governments. They result in longer and deeper recessions. They cause long-term increases in unemployment and they encourage governments to engage in bail-ins by citizens via stealth taxes and all the rest of it - outright surcharges, taxes and appropriations. I am sure the Minister of State will remember the advertisement highlighting insurance fraud where somebody puts a hand into another person's pocket and says, "Thanks". That is what governments do. This Bill is intended to prevent that. We do not want governments saying "Thanks" any more. This Bill is a brilliant attempt to stem this.

Acting Chairman (Senator Pat O'Neill): That last point was a long-range one, Senator.

Senator David Norris: It was, but I hope an effective one.

Senator Aileen Hayden: I welcome the Minister of State to the House again. It is appreciated that he attends here as regularly as he does. I congratulate Senator Barrett on the Bill he has introduced, which made very interesting reading. There are particular aspects I found fascinating and wish to dwell upon. I take the Minister of State's point. Effectively there are two perspectives here, which can run on parallel tracks. One relates to EU regulation, or international regulation of the banking sector and one deals with the specific national needs that we in this country have. The crux for me is the provision in the Bill to separate the banking activities which relate to households and small and medium enterprises, what Senator Barrett terms "core activities", away from wholesale or investment banking activities which by their nature carry a greater degree of risk and exposure, ultimately for the individual taxpayer. I am very interested in Senator Barrett's analysis of what he terms the Government-put option. His analysis of the situation is most persuasive. Ironically, Senator Barrett and I would be inclined to disagree on a number of issues. He would broadly be what I would call a monetarist in terms of his approach to the economy while I would support a Keynesian perspective. I believe we agree on one point, however, namely, the current banking system has completely failed us. As a member of the Oireachtas joint committee on finance, I am permanently at a complete and total loss as to why, when members of individual banks come before that committee, they do not give anything that remotely approximates to a straight answer on anything. I do not make that comment lightly. As Members of this House know, I am particularly concerned about the issues of housing and mortgage arrears but I have yet to get one single straight answer from any of the pillar banks as to how they treat individual borrowers who are in arrears. There is absolutely no certainty or transparency. Unless there is a complete change in the banking culture of this country we will never have a banking system that remotely approximates to what we need.

On the issue of the current banking system, I believe that what I would loosely call Senator Barrett's two-tier system has much to offer. Loans to Irish households decreased by over 4% in the year to January 2013. Lending for house purchases is down and lending to non-financial corporations is also down. If domestic demand is to recover, we need a banking sector that is capable of dealing with the domestic economy, which it is currently not doing. I acknowledge recent Government initiatives to encourage banks to engage but I remain very sceptical about the ability of the existing banking system to deal with the category of borrower who is in the first tier, as defined by Senator Barrett, namely, households and those with small and medium-sized banking requirements.

I do not agree with Senator Barrett's analysis that the influence of international governments on the current situation was benign. I actually believe that there was a fair degree of collusion

by governments internationally, in terms of the light-touch regulatory regimes that were put in place, stemming from the collapse of the welfare state at the end of the 20th century. The belief that housing assets could be utilised by individuals to provide for their own welfare gained popularity, particularly in western economies dealing with ageing populations, for example. There was a belief that it would be possible for the property bubble, which led to the development of the sub-prime market and the eventual collapse of the banking system, to continue. I do not believe that governments had a benign influence on all of this. We must face up to this fact when discussing international attempts to change banking regimes.

I appreciate the Minister of State confirming that he is prepared to take on board some of Senator Barrett's proposals and to engage with him on the issue. The Minister of State said in his speech that we do not require a two-tier system because we do not have a sufficiently diverse banking system here. However, if we do not engage with what is being proposed by Senator Barrett, we will end up having to intervene and, in effect, create our own third banking force to deal with the needs that exist in the economy. I do not believe that the difficulties we have at present are going to go away. I do not share the Minister's confidence that we do not have a banking system that requires a two-tier approach.

I thank Senator Barrett for drafting this very interesting legislation. I also thank the Minister for State for committing to an ongoing engagement with Senator Barrett on this matter.

Senator Thomas Byrne: I pay tribute to Senator Barrett who continues to bring forward important legislation, based on his own expertise and experience and that of his students and colleagues in Trinity College. It is very important that such expertise is brought to our national Parliament. It is a great pity, however, with the way that this Parliament works, that such expertise stops when the speeches are made, the discussion is over and the Government says, "Great job, thanks very much, goodbye." It will be a tragedy if Senator Barrett is not deeply involved in the talks that are going on regarding various legislative proposals being discussed at European level or awaiting publication by the European Commission. He deserves that and the country needs people like Senator Barrett, who is willing to spend considerable time drafting legislation. A Bill like the one before us does not just magically appear on a Monday morning but takes a considerable amount of time and effort. We should be grateful for the effort Senator Barrett has put into what is a very workable Bill.

It is a pity the Government is opposing this Bill. Its reason for doing so does not appear to have anything to do with the substance of the Bill. Indeed, the Minister of State has said that he agrees with much of the substance of the legislation. He also said that there are measures emanating from Europe that will deal with many of the issues involved but Europe does not have exclusive competence on many of these issues. We can legislate ourselves for our own situation and perhaps we should, to show that we have learned lessons from the crisis. We seem to be going back to the old ways in some respects.

Sections 8 and 9 of the Bill should be required reading for all Irish citizens. I believe those sections would receive unanimous support if they were put to the people in a referendum. They are very important sections and possibly deserve a Bill in their own right. They state, very simply, the criteria under which credit institutions may receive assistance from the Exchequer. This is such a critical part of the recent history of this country, as Senator Barrett has outlined, and the public deserves some reassurance as to how such matters might be dealt with in the future.

The shadow banking that was discussed here today referred to institutions providing credit

while not being fully subject to normal banking rules. There is another type of shadow banking going on at the moment by banks which operate in Ireland but are not regulated here. Those banks are not subject to Central Bank rules on mortgage arrears, for example. Even Anglo Irish Bank and Irish Nationwide are not subject to those Central Bank rules. That is a type of shadow banking that must be addressed legislatively and not just through Central Bank regulation which, in any case, does not apply. We should examine the possibility of applying Central Bank rules to all banks operating in this country. Indeed, banks can decide not to be regulated by the Central Bank simply by moving jurisdiction. There is a particular problem with Bank of Scotland, Ireland, which has outsourced the management of its loan book to an Irish company. That company, Certus, is doing very well but following a recent court case, its staff are prohibited from offering affidavits in court on loans because they are not sufficiently familiar with them. Certus is an agency of Bank of Scotland, Ireland, collecting money on behalf of that bank in Ireland and is not subject to regulation. Bank of Scotland, Ireland, has been hauled back onto the scene by the courts, which is a welcome development. This shadow banking system, currently operating in Ireland, must be examined seriously. We need legislation and not just statutory codes of conduct from the Central Bank. Statutory codes do not refer to actual statutes but simply refer to the statutory powers of the Central Bank to regulate banks that are within its remit. This issue must be addressed because people who have borrowed from sub-prime lenders or from banks that are regulated elsewhere do not know where they stand at the moment.

Senator Barrett has not just dreamed up his proposals for reform but has applied his own expertise and that of his colleagues to the drafting of this legislation. He has also examined what is happening in the United States of America and the United Kingdom, which is very useful. I thank him for that but yet again, the Government is just saying “No”. This has happened with previous Administrations which rejected legislation simply because it was proposed by the Opposition. I do not think the Minister of State said that the Bill was unconstitutional, which is often the argument used against Bills proposed by members of the Opposition. I would be surprised if constitutional issues are not raised at some point. The response is disappointing and makes one wonder about the purpose of this Parliament. It seems to be just for rubber stamping decisions. If we admit that, we may be in a better place. If we are not willing to accept really well-thought-out legislation then I wonder what we are here for at all.

Senator Colm Burke: I welcome the Minister of State to the House. I also welcome the Bill put forward by Senator Barrett. As someone who has also published a Private Members’ Bill, I know the amount of work involved. This area is extremely complex and this is a very well researched and drafted document, on which I compliment him. He raises the very important issue of whether we learnt lessons from what has occurred, for example, with the banking crisis.

In the past 30 years the Government has had to step in on a number of occasions, with ICI, PMPA and Goodman. If the banking crisis had not arisen, would the Government also have needed to step in in the case of Quinn Insurance? The evidence is that approximately €350 million that should have been set aside to deal with ongoing claims was used for other activity. If the banking crisis had not arisen the Government might have needed to step in, as it did with PMPA a number of years ago. It begs the question as to whether we actually learnt from the PMPA debacle. I believe we did not. Based on what Senator Barrett has proposed, it shows that while we may learn some lessons, we do not necessarily take all the precautions we should in order to protect the economy and the overall financial situation.

This is an important area to raise. When the euro was created everyone presumed the regu-

lation was in place at European level. I have often given the example of the German building company that came to Ireland. On one project it spent more than €1 million without any contract signed. I had to become involved and bail it out of a very difficult situation. It was a €10 million project with no contract signed and €1 million worth of work done. I remember eventually getting the contract signed and collecting €1 million on Christmas Eve in order to get it back to Germany for the new year. I asked them when they came back after Christmas how this had arisen and the response was: “When you came to Ireland, we understood you took everyone at their word.” It shows that when we were drawing down the moneys available to us from Europe, Europe appeared to have been taking us at our word and we appeared as a country to believe there were sufficient regulations in place.

It is important that we learn lessons and put in place the necessary guidelines and controls. Based on the sequence of events over the past 30 years, I suggest in the next eight to ten years we will come across crises when the State may well have to step in again and perhaps we should even start planning for that at this stage. While some people will disagree with me raising that issue and being negative, that is the record over the past 30 or 40 years. Just because we are now dealing with and have more EU regulation and a more co-ordinated approach from a European level, it does not rule out the possibility of an issue arising in this economy for which we have not planned. That is why Government and Departments need to be even more observant than previously.

During the good times a number of banks gave money to their customers to buy their own shares. Do we now have legislation in place preventing that practice? I am not satisfied that we have. We know of one company doing that and I have come across a number of small investors affected. One investor drew down €4.5 million to complete a property transaction to refurbish and rebuild properties, and €1.5 million of that went towards the purchase of AIB shares. He remortgaged every property he had in order to draw down that €1.5 million. I know we are saying we have all sorts of regulation, but is it actually in place? I did not hear of the legislation going through in that area and I am not sure if we have put it in place.

What Senator Barrett has raised this evening is extremely important. We need to ensure we continually review existing legislation and also consider introducing new legislation as the need arises. We need to keep it under review at the moment.

Senator Sean D. Barrett: I sincerely thank the Members of this House. I am so proud to be with them as we address these really serious problems. I welcome the Minister of State, Deputy Perry, who has responsibility for small and medium-sized enterprises. The Bill attempts to right-size, as it were, the banking sector, which had got too big; remove hidden subsidy to the banks - I am sure the Minister of State will have many other ideas in this regard; protect taxpayers and jobs; and show the importance of the Seanad by restoring faith in Parliament and protecting the public interest, not just the banking interest.

I believe that national legislation is needed and I welcome the assurances the Minister of State, Deputy Brian Hayes, gave. I also welcome that he did not read into the record the last sentence of his prepared script, which stated that he opposed the Bill - in fact he said the exact opposite. We will abide by the oral tradition rather than the speech written for him. Following what Senator Hayden said and what the Minister of State, Deputy Brian Hayes, said, the Bill remains very much alive and I will curtail my response to ensure it remains on the Order Paper.

The Minister of State, Deputy Brian Hayes, said that the European directive specifies that

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the capital requirement is set to increase from 2% to 4.5%. We are proposing 10% and 15%. Nobel Prize winners believe it should be 30% to 60%. We cannot return to the debt-fuelled banking that caused the country so many problems. We took the models from the United Kingdom and United States. As Senator Colm Burke said, this is a matter for a national parliament. We cannot simply say this will be done in Brussels. There is nothing on the A, B or C list of proposed Government legislation to address this. The Seanad took the initiative and we are doing it here. Senator Colm Burke, as a former Member of the European Parliament, said there would be flaws in relying on Europe to save us the next time.

I do not believe the culture of Irish banking has changed. It still annoys as many Oireachtas Members as it ever did and it still owes us the best part of €90 billion. I do not believe the Basel III accord is sufficiently radical, a view shared in the United States and United Kingdom, which is why they prepared their own legislation.

The Minister of State said that whenever possible, we have led with our own legislation and will continue to do so where appropriate. I do not believe we have led with our own legislation. I certainly will help and I am delighted at the Minister of State's invitation that we prepare our own legislation.

Senator Sheahan referred to the concerns people have as to whether the problem has gone away. People want us as a Parliament to react and get risk out of it. Let them take as many risks as they want with their own money. That is the purpose of the Brown-Vitter Bill to which reference was made and it is definitely where the emphasis is being placed in the United States and the United Kingdom. Let us not sleepwalk into any belief that the European Union will do the job for us.

I thank Senator Byrne for his encouragement, as always. I acknowledge the final sentence which the Senator read into the record but which was not actually uttered in the Parliament. I also thank Senator Hayden for her contribution. I thank the Acting Chairman for seconding the Bill. It is most important that we, on behalf of the citizens of this country, get a grip on the banking sector. This Bill is an initiative, designed on an all-party basis, to do precisely that.

Debate adjourned.

Acting Chairman (Senator Feargal Quinn): When is it proposed to sit again?

Senator Colm Burke: At 10.30 a.m. tomorrow.

Adjournment Matters

Rural Transport Services

Senator Kathryn Reilly: I welcome the Minister of State. I tabled this matter in the aftermath of receiving a large number of representations from users of the rural bus transport scheme who are concerned about its future. The scheme, which has been in existence since 2002, was established to combat rural isolation. In its infancy it accounted for 151,000 journeys. This

rose to 1.7 million last year. A typical journey would involve collecting elderly people in outlying areas on a Friday morning to bring them to the nearest town in order that they might collect their pensions. Another would involve transporting schoolchildren in rural areas to places where they might avail of facilities such as swimming pools on a regular basis. As a Senator based in a rural area, I am acutely aware of the importance of a good rural transport service and I see the wonderful work done by Cavan Area Rural Transport and Baltibus Rural Transport.

A State-subsidised rural transport service not only helps to deliver some measure of equality between rural and urban areas, but it also plays a vital role in combating rural isolation, which is a particular problem for the elderly. A survey undertaken last year shows that 56% of users - two thirds of whom are women - are over 65 years of age. For some people who live in rural areas, the rural transport service is the only connection they have with the outside world. The door-to-door services has, in many cases, provided a lifeline to people, particularly as it brings them out of their homes. A study published by the Society of St. Vincent de Paul indicates that loneliness is the biggest problem faced by older people and refers to the importance of rural transport in addressing the sense of isolation often felt by these individuals. It must be remembered that not every older person is in a position to run a car. In addition, those who have been widowed or who never married often live alone. That is why the service provides such a lifeline.

The 2009 *bord snip nua* report compiled by Colm McCarthy recommended the abolition of the network and stated:

Given the availability of private sector bus alternatives, the high level of car ownership, and the underutilisation of synergies with other publicly funded local transport services support the view that the level of direct exchequer assistance can and should be eliminated, particularly in light of current budgetary circumstances this programme should be ended.

Earlier this year, and following on from concerns about information linked to one of the newspapers, the Minister for Transport stated:

Work is underway to determine the optimal structure for the delivery of rural transport from an efficiency and service perspective. One of the proposals being examined is that the RTPs be “aligned” with local authorities and that a number of Transport Coordination Units be established.

The Minister also indicated that he would be in a position to recommend a new structure later this year and said: “I will be ensuring that any future structure for the RTP will be based on community input, local flexibility and involving the voluntary sector.” Will the Minister of State indicate when this structure will be recommended, the shape it will take and the steps that will be taken to ensure that it will be based on community input, local flexibility and involving the voluntary sector?

As already stated, many users are concerned with regard to the service and the shape it will take in the future. People who live in rural areas have already been put to the pin of their collars and many communities have been damaged by mass emigration, Garda station closures and the loss of schools. The potential changes to and decimation of the rural transport network give rise to further cause for concern. The denigration of the network will lead to a reduction in the quality and flexibility of services, which means that many elderly people who live in isolated rural areas will have their mobility curtailed. We are opposed to the centralisation of this scheme

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and we hope that the existing service will be maintained. We are of the view that the proposed takeover could affect routing and the general management of the voluntary transport system, which has been operating successfully for over ten years.

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy John Perry): I am taking this matter on behalf of the Minister of State with responsibility for public and commuter transport, Deputy Alan Kelly. An overall budget of €9.133 million has been allocated to the rural transport programme, RTP, for 2013. This is a small decrease on the 2012 allocation and it comes during a very difficult time financially. Cavan Rural Area Transport, CART, has been allocated €211,012 in RTP funding for 2013. In addition, €42,348 in free travel pass funding has been allocated by the Department of Social Protection. This represents a total allocation of €253,360 for the provision of RTP services in the Cavan area.

In its programme for Government, this Administration made a commitment to maintain and extend the RTP with other local transport services. The Government recognises that the RTP plays a major role in combatting rural isolation and enhancing the mobility, accessibility and community participation of local people, particularly those at risk of social exclusion.

Senator Denis Landy: I apologise for interrupting but I wish to raise a point of order, namely, that copies of the Minister of State's reply have not been made available. It is difficult for us to follow the Minister of State without the copy.

Acting Chairman (Senator Feargal Quinn): That is a matter for the Minister of State, not for the Chair.

Deputy John Perry: I will send around a copy when I am finished.

Senator Denis Landy: I thank the Minister of State.

Deputy John Perry: The aim, therefore, is to strengthen the rural transport programme, RTP, by ensuring a more efficient delivery structure and by maximising integration with other State transport services. It is the ambition of the Minister of State, Deputy Kelly, to make the programme a sustainable part of the public transport system.

Developments initiated by the Minister of State since his appointment have been aimed at ensuring that in future we will have a more complete and cost-effective transport service offered in rural areas which better meets the transport needs of all users. To this end, national responsibility for local and rural transport services integration, including the RTP, was assigned to the National Transport Authority, NTA, with effect from 1 April 2012, putting such services in a broader transport context. The national integrated road transport committee was established in April 2012 comprising key stakeholders and chaired by the NTA to oversee and manage a partnership approach to implementing integrated local and rural transport. This was in recognition of the scope for and the desirability of achieving greater levels of transport integration and co-ordination delivery across a range of Exchequer-funded local and rural transport services such as schools and HSE transport services.

I acknowledge the good work already being done by the RTP groups in respect of integration. Significant progress has been made with considerable engagement by the local RTP groups with State agencies which provide transport, for example, Bus Éireann and HSE services. The majority of the RTP groups have services which link with mainstream public transport services, bus stops and train stations. Some 26 RTP groups are now providing services

to the HSE throughout the country and I know from my experience in Sligo that this operates very effectively and that it is a fantastic service. Some 16 RTP groups are providing services to schools and preschools. In addition, the RTP groups are now providing services for other organs of the State including Rehab, the National Learning Network, Cara, the Irish Wheelchair Association, IWA, Enable Ireland, Cheshire Homes and the Centre for Independent Living.

The Minister of State, Deputy Kelly, is therefore perfectly aware of the valuable work done by the RTP groups such as CART in ensuring that the transport needs of local communities are being identified and delivered within the available resources. However, given that resources are limited and that the value for money and policy review of the RTP groups published last year recommended organisational restructuring - which I agree with - to achieve efficiencies and the establishment of a better alignment within the groups and local authorities, it is necessary that the current delivery mechanism and structures are examined and revised. In conclusion in this regard the current structures of RTP groups are not sustainable if the required efficiencies and savings are to be achieved. If these are not achieved then given the limited resources available, services will decline and no one is keen to see that happen.

It is about working on the ground. Work has been under way during the past six months to determine the optimal structure for the delivery of rural transport from an efficiency and service perspective. This has involved consultations with the Department of the Environment, Community and Local Government, the County and City Managers Association and the Rural Transport Network. In the context of aligning the new structures with the local authority structure as part of this process, the Minister of State, Deputy Kelly, received a comprehensive submission from the Rural Transport Network setting out the vision for a restructured RTP based on a more sustainable model of transport for rural areas and building on the integration work to date. Taking on board the views of the Rural Transport Network and others, the Minister of State will ensure that any future structure for the rural transport programme will be based on community input, local flexibility and involving the voluntary sector. By its nature, rural transport is community-based and this will remain under any new structure.

I emphasise that no decision has been taken. The Minister of State, Deputy Kelly, is awaiting proposals from the NTA following the conclusion of its deliberations and discussions. He hopes to be in a position to recommend a new structure in the near future which will allow for the maximisation of spend and services and the reduction of administration costs. While I understand and fully appreciate that this creates a level of uncertainty for the RTP groups, I hope the outcome will be a better service delivered more efficiently. The Minister of State, Deputy Kelly, will be working with all involved in the coming months to make any transition as smooth as possible.

An Cathaoirleach: Senator Reilly, have you a brief question?

Senator Kathryn Reilly: I wish to get a copy of the transcript.

Deputy John Perry: The Whip's office will make that available.

Nursing Home Services

Senator John Whelan: I join the Cathaoirleach in welcoming the Minister of State, Deputy Lynch, to the House. I am grateful that she is taking this question on behalf of the Depart-

ment of Health because no one in the country doubts for one second the commitment, care and compassion that the Minister of State brings to her role in the area of elderly care.

The question is particularly topical and interesting because only today the Minister of State launched the Government's national positive ageing strategy. It underlines and underscores exactly my concerns that Ireland should have embedded as part of a Government policy an ageing-friendly society and services for our senior citizens in order that they can be cared for with dignity and in confidence and comfort in the autumn of their years. It is an urgent matter, as the Minister of State pointed out today, because by 2041 more than one quarter of the population, that is 1.4 million people, will be over the age of 65 years. This will put great demands and responsibility on the State and the Government because we have a duty of care to our senior citizens.

In County Laois it falls to our three important community nursing homes in Abbeyleix, Shaen near Portlaoise and Mountmellick. However, they are all operating under capacity and none are operating the full range of services they could deliver if they were given the resources, support and commitment from the HSE and the Minister for Health which, I believe, they deserve. I wish to publicly thank the Minister of State, Deputy Lynch, for taking the time to visit the hospitals at Shaen and Abbeyleix. I know that she was moved and impressed by the quality and level of care that was provided for the patients and senior citizens in both hospitals.

As far back as October 2011 the HSE dropped a bombshell on the people of Laois when, without any consultation, it unilaterally announced a decision to close both Abbeyleix and Shaen hospitals. This was a mind-boggling decision and it was only halted by people power when the people of Abbeyleix and Laois came out in their thousands to protest and prevent it. It took three brave senior citizens, elderly ladies in their 90s, to go to the High Court to stop the HSE from proceeding with the decision. Thanks to the judgment of the High Court, the HSE was instructed at that stage to embark on a genuine public consultation process, which was conducted. To be fair to the people of Abbeyleix and Shaen, their families and the community at large, they engaged in that process in good faith and in an honest way but the consultation process concluded almost one year ago, last May. I understand the report from the review was forwarded to the Minister for Health, Deputy James Reilly, sometime in the autumn of that year. The Minister has had the report and recommendations from the HSE for more than six months. I do not believe it is unfair or undue to expect that the Minister should take away the doubts, concerns and the anxiety that is being experienced by the senior citizens of Laois. He should confirm to them his commitment, the commitment of the HSE and of the Department of Health to the community nursing homes in Shaen and Abbeyleix because the people of Laois, the elderly citizens of Laois and the patients and their families who are in both hospitals receiving great care deserve to know where they stand. To be fair the issue has dragged on for too long.

Minister of State at the Department of Health (Deputy Kathleen Lynch): I thank Senator Whelan for raising this issue as it gives me an opportunity to outline the current position. He has outlined the history in respect of events rather well. The Abbeyleix community nursing unit is a two-storey building registered with HIQA for a period of three years with effect from 16 May 2012. The maximum number of people that can be accommodated at the community nursing unit is 33. There is also a day-care centre attached to the building. St. Brigid's Hospital, Shaen, is located in a rural setting approximately 7 km from Portlaoise. That hospital is also set out over two storeys and was registered with the Health Information and Quality Authority, HIQA, on 16 January 2012 for three years to provide accommodation for up to 32 people. In October and November 2011, the HSE announced the closure of St. Brigid's Hospital, Shaen,

and the Abbeyleix community nursing unit. In recognition of the strong views held by residents and others, however, the HSE agreed to review the position for both facilities and to embark on a new consideration of the relevant issues. I have met the three ladies involved. Not only were they brave, but also articulate and sprightly.

The new process began with a comprehensive consultation exercise. Central HSE protocol sets out how consultations and subsequent decision making should operate in this context. This protocol sets out the following: who should be consulted, including residents, next of kin, interested parties, action groups, public representatives and unions-staff representation; a named HSE official, known as the designated officer, should be given responsibility for considering all of the available views, information and evidence and for proposing a course of action based on these considerations; and the factors that should be considered by the designated officer. These include issues arising from the range of views expressed through the consultation process, the context and validity of the submissions received, an assessment by the relevant managers of the position, a medical review of the residents and any additional information.

In May 2012, this protocol was applied with the launch of a public consultation process regarding the potential closure of Abbeyleix community nursing unit and St. Brigid's Hospital. All relevant information and submissions were presented to the designated officer on 16 August 2012. The Senator will be aware that there were almost 100 submissions received and more than 60 meetings took place with interested parties, 55 of whom were with residents and next of kin.

In line with the HSE protocol, the designated officer confirmed that the relevant procedures and processes had been fully adhered to in considering these cases. He also confirmed that he had reviewed all submissions received along with the other relevant documentation that I have described. Having considered all of the information available, he formulated his recommendations and submitted them to the Department. These are being considered by the Minister and it is anticipated that an announcement will be made shortly in respect of both facilities.

Although there is nothing new in my reply, I recently checked and know that the Minister will make a decision on both facilities shortly. This will probably bring a great deal of relief to the people involved.

Senator John Whelan: I thank the Minister of State for her comprehensive reply. It is good to hear that a decision by the Minister is imminent. I have heard the word "shortly" in recent months.

Deputy Kathleen Lynch: I know.

Senator John Whelan: He has had the report on his desk since before last Christmas. Six months is a long time to consider this issue. The hospitals are not even running at the level for which HIQA has cleared them. For example, the Abbeyleix facility only has 22 patients. The community fears that moves are being taken to close it by stealth, to wear people down and to procrastinate. I urge the Minister of State to take a message to the Minister - the people of Abbeyleix, Shaen and County Laois in general are waiting anxiously for a decision. We hope that "shortly" means soon.

Farm Inspections

24 April 2013

An Cathaoirleach: I welcome the Minister of State, Deputy Perry, back to the house. I call Senator Higgins, who has been active today.

Senator Lorraine Higgins: Does the Minister of State have the details pertaining to my question?

Deputy John Perry: Yes.

Senator Lorraine Higgins: I welcome the Minister of State and thank him for being present to discuss farm inspections. As he probably knows, the inspection regime is about to restart. In this light, it is imperative that I highlight some of the practices carried out by some - I stress that word - officials during the last inspection period.

In my constituency of Galway East and replicated throughout the country, inspectors arrived on farms to conduct inspections without giving prior notice. In the ordinary way, this would render their arrival on the farms illegal, but they arrived under the guise of the animal feed and hygiene regulations, under which no notice is required according to EU law. A difficulty arose in many cases, in that the departmental officials in question purported to be carrying out tagging inspections on cattle and sheep, in respect of which 48 hours notice is required, and further inspections on land eligibility, in respect of which 14 days notice should be given. From my legal experience, it is clear to me that a cut to any single farm payment stemming from such inspections would be null and void, as the official in question would have exceeded his or her jurisdiction. In many of the cases of which I have been made aware, some departmental officials gave notice to farmers that the latter's single farm payments were going to be cut. They did this on an *ad hoc* basis and the notice was not particularised.

It is clear that we as a Government must strive for better standards to ensure best practice is adhered to and that the fundamental principles of fair procedures and processes are upheld. The farmers of Galway East dread the inspections that are about to start. Often, farmers are afraid to stand up for their rights for fear of detrimental action being taken against them. This is wrong and unacceptably reins in the farming community. We must put a stop to it.

Will the Minister of State ensure all rules and regulations are adhered to by the Department's officials? To ensure clarity, will the Minister for Agriculture, Food and the Marine and his Department distribute a charter of rights to all farmers so that it can be shown that we have taken steps to alleviate this unacceptable situation? People should not live in fear of inspections. I look forward to the Minister of State's response.

Deputy John Perry: I have a comprehensive reply from the Minister for Agriculture, Food and the Marine, Deputy Coveney. I wish to convey his apologies for being unable to be present to discuss this important issue.

As the House is aware, the Department of Agriculture, Food and the Marine carries out a range of farm inspections. This activity relates to the delivery of the significant supports paid to farmers under various EU and nationally funded schemes and ensures that requirements relating to public and animal health are being met. This inspection regime is a prerequisite for protecting public health, securing significant EU funding and ensuring that our vital export trade in food products is protected.

Senator Lorraine Higgins: On a point of order, I do not have a copy of the Minister of State's speech.

Deputy John Perry: The Senator will have it before I leave.

Senator Lorraine Higgins: I thank the Minister of State.

Deputy John Perry: As well as protection under the law, farmers are covered by a charter that, following agreement with the farming bodies, defines their relationship with the Department in respect of a range of measures. It comprehensively sets out a broad range of information on the Department's schemes, including on the main elements of the checks carried out to verify compliance. Thus, farmers are empowered by this information on what is expected of them and on the principles and values governing the performance of inspections. The charter, which is available on the Department's website, also provides farmers with information on the appeal procedures open to them and explains how a complaint can be made should the level of service fall short of what is expected.

In so far as the direct area aid related inspection regimes are concerned, the Department is required to carry out a mandatory range of inspections to a standard that meets EU audit requirements in order to protect the drawing down of the significant funding involved. Every effort is made to take account of the realities of farming, in particular the effects of the pattern of bad weather experienced in the past year.

I will restate the significance of direct payment schemes to recipients and the wider economy. In annual terms, payments under the single farm payment scheme amount to €1.7 billion. Since 2005, total payments have reached almost €9 billion. In 2012, more than €1.2 billion was paid to more than 123,000 farmers under the scheme. These payments have provided and, under the reformed Common Agricultural Policy, CAP, will provide farmers with a stable, guaranteed level of income during challenging economic times and underpin the future of our farming sector, particularly in the context of the ambitious Food Harvest 2020 programme.

I will now take the opportunity to give the House an overview of the nature of this inspection regime. The Department of Agriculture, Food and the Marine, in the context of delivering the single payment scheme, disadvantaged areas scheme and other area-based schemes, is required to carry out annual inspections covering eligibility of the land declared to draw down payments and cross-compliance aspects to ensure compliance with EU regulatory requirements in the public, animal and plant health environment, as well as animal welfare. These inspections are mandatory and there are certain minimum numbers and types of inspections that must take place annually. Land eligibility checks must be carried out in 5% of applicants, with these checks carried out to verify that the area claimed in the application form corresponds with the area farmed by a farmer and to ensure that any ineligible land or features are not included for aid purposes.

The Department has made every effort to respond to concerns about the impact of the on-the-ground inspections of farmers, with up to two thirds of some inspections initially carried out without a farm visit, as the information is verified by using remote sensing via satellite. The rate of inspections for cross-compliance is 1% of applications to whom statutory management requirements and good agricultural conditions apply. However, 3% of farmers must be inspected under the bovine identification and registration requirements, with 3% of sheep and goat farmers to be inspected, covering 5% of the flock. That is fair enough when one considers the amount of money being paid out. It is a recognised principle of the direct aid regime that it serves broader public good objectives and contributes to the maintenance of the environment. These inspections are necessary to verify that the objectives are being met.

The overall annual inspection cycle can only commence following completion of a structured risk analysis selection process which includes the analysis and evaluation of data from the previous year's inspections. Eligibility inspections can only commence following the initial stages of processing of the current year's single payment scheme applications. In order to be eligible to draw down EU funding, it is a requirement that all land eligibility inspections must take place before any payment can issue to a farmer in that country in a given year. Whereas cross-compliance inspections can be carried out after a payment has been made, it is a regulatory requirement that this category of inspections must take place throughout the calendar year to take account of specific requirements at individual statutory management requirement level. However, in so far as is possible, the various categories of inspections are integrated with a view to avoiding more than one visit to a farm. There are also inter-agency agreements in place, such as those with local authorities, in order to facilitate the approach.

With regard to delivery of on-the-ground inspections, all the Department's inspection officers are very experienced, trained and expected to carry out inspections in a professional, non-biased manner, and in accordance with the charter. Inspectors are also fully aware of the difficulties being encountered by farmers due to adverse weather conditions experienced over the past year. Each inspected case will therefore have all factors, including poor weather, taken into account when any decision on the outcome of an inspection is arrived at. Appropriate appeal mechanisms are also in place to protect the interests of farmers who have difficulty with decisions made regarding the single farm payment applications and under this process, a farmer may initially seek to have an inspection outcome reviewed internally by a senior officer. Where the farmer remains dissatisfied, the decision can be appealed to the independent agricultural appeals office and, ultimately, the Office of the Ombudsman, which brings an entirely external and visible independent dimension to the process.

I should emphasise that as with all aspects of activity, the Department's ethos is to discharge its inspection responsibility in a professional, courteous manner. Inspectors are, by definition, at all times governed by the law and the ethics relating to their employment as public servants. The Department has invested and will continue to invest considerable resources in training the inspectorate to ensure that the objectives of a particular inspection are achieved while maintaining a positive engagement with farmers.

Nevertheless, it is fully understood that some farmers can find preparation for and participation in the inspection process stressful. However, every effort is made to minimise such issues, with good will and a reasonable approach on all sides. Therefore, there is no reason a satisfactory outcome cannot be achieved.

Senator Lorraine Higgins: I thank the Minister of State for the very detailed response but unfortunately, I am bogged down in technicality. There was very little to address the problem I have highlighted relating to Department inspections. The Minister must face up to and acknowledge the fact that there is a problem in this regard. He must issue a directive from the Department that any official found breaching fundamental laws that protect the farmer will face disciplinary action by the Department. It is unacceptable that the fundamental rights of Irish farmers are being breached, and something must be done. If action does not come from the top down, there is little hope for the laws of the country.

Deputy John Perry: Considering the very comprehensive reply from the Minister, we can see that there is a charter. There may be an occasional clash of personalities but most farmers I know can do all their returns online. One can consider the remit of inspectors and their inde-

pendence. Very few farmers are inspected and much of the process is done through automatic qualification. I fully endorse the reply, which could not be more comprehensive in dealing with the issues raised by the Senator. The ethos in the Department is to support farming in every possible way and consideration is given to any difficulties encountered. In every business there may be a personality clash but by and large, if people make an effort to comply, they will be fully supported by the Department.

Senator Lorraine Higgins: I have only been a public representative for two years but I am astounded by the number of cases coming before me concerning breaches of procedure and law. I am a member of the Labour Party, which would not have been known as a farmer-friendly party, so it is amazing that farmers are coming to me about it. That highlights the problem so I would appreciate it if the Minister of State could pass on my concerns to the Minister, Deputy Coveney.

Deputy John Perry: The Senator can rest assured of that.

Senator Lorraine Higgins: I would hate to see many judicial review cases being brought against the State in the High Court.

The Seanad adjourned at 7 p.m. until 10.30 a.m. on Thursday, 25 April 2013.