



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

Business of Seanad	357
Order of Business	357
Ireland-Taiwan Relations: Motion	380
Decade of Centenaries Programme of Commemorations: Statements	381
Health (Pricing and Supply of Medical Goods) Bill 2012: [Seanad Bill amended by the Dáil] Report and Final Stages	404
Animal Health and Welfare Bill 2012: [Seanad Bill amended by the Dáil] Report and Final Stages	414
Criminal Justice (Unlicensed Money-Lending) Bill 2013: Second Stage	431
Adjournment Matters	454
Hospital Services	454
Garda Vetting Applications	456

SEANAD ÉIREANN

Dé Céadaoin, 22 Bealtaine 2013

Wednesday, 22 May 2013

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

*Machnamh agus Paidir.
Reflection and Prayer.*

Business of Seanad

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

The need for the Minister for Health to provide an absolute guarantee on the future of Dungloe Community Hospital, County Donegal, and to allow the Health Service Executive to recruit additional staff at the hospital.

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

The need for the Minister Justice and Equality to divert necessary resources to address the delays associated with Garda vetting applications and to examine the possibility of streamlining the process in order that multiple applications can be avoided in any one year.

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

The need for the Minister for the Environment, Community and Local Government, to expedite the immediate approval of funding for a new cryptosporidium barrier for the Roscommon central water supply system in the interest of the 6,000 plus households affected in Roscommon town and the surrounding area.

I regard the matters raised by the Senators as suitable for discussion on the Adjournment and they will be taken at the conclusion of business.

Order of Business

Senator Maurice Cummins: The Order of Business is No. 1, statements on the Decade of Centenaries programme of commemorations, to be taken at 12.30 p.m. and to conclude not later

than 2 p.m., with the contributions of group spokespersons not to exceed eight minutes, those of all other Senators not to exceed five minutes and the Minister to be called on to reply not later than 1.50 p.m.; No. 2, Health (Pricing and Supply of Medical Goods) Bill 2012 - Report Stage, amendments from Dáil Éireann, to be taken at 2 p.m. and to conclude not later than 3 p.m. if not previously concluded; No. 3, Animal Health and Welfare Bill 2012 - Report Stage, amendments from Dáil Éireann, to be taken at 3 p.m. and to conclude not later than 5 p.m. if not previously concluded; and No. 4, Criminal Justice (Unlicensed Money-Lending) Bill 2013, to be taken at 5 p.m. and to conclude not later than 7 p.m.

Senator Darragh O'Brien: On 27 February I and my colleagues in Fianna Fáil tabled a motion of no confidence in the Minister for Justice and Equality, Deputy Shatter, well in advance of his current travails. Anyone who has followed the debate with regard to the Minister's blatant misuse of privileged information would understand that no one in their right mind could stand over his actions, and it is beyond me how the Government can do that. No one believes his excuses or his reasoning, and many unanswered questions remain.

On 27 February, this House had what I felt was a very good debate on policing, this Minister's mishandling of law and order, the fact that he has presided over the Garda Síochána but has lost the confidence of the rank and file gardaí, closed more than 140 barracks and under-resourced the gardaí. We gave over a week's notice of that debate, as we are required to do, but on 27 February the Minister decided not to show up in the Seanad to take the debate. I said on the day that that was probably the starkest example of this man's arrogance and disdain for people who do not share his views.

In that debate I said I would submit a freedom of information request for the Minister's diary, which I did and which I have in my hand. On 27 February, when he could not be bothered showing up for a two hour debate here in Seanad Éireann, the Minister spent 45 minutes meeting with representatives of Responsible Retailing of Alcohol in Ireland. He then met with his private spin doctor, Mr. Tom Fabozzi, for another half an hour while our debate was ongoing. He was not on Government business or doing any bilateral meetings because of the European Presidency. He did not meet anyone of any note who in my view would have excused him from coming here to take a motion of no confidence in himself. He did not even stand up for himself and his record and answer the points here. I have a copy of his diary for circulation and it is not the most extensive ministerial diary I have ever seen. There is no excuse for the Minister not being in the House on this particular day. Will the Leader seek from the Minister, Deputy Shatter, the reasons he did not see fit to come to the House on 27 February to answer a Fianna Fáil Private Members' motion? It is disgraceful.

An Cathaoirleach: It is not a matter for the Order not Business.

Senator Darragh O'Brien: It is.

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

Senator Darragh O'Brien: It is a matter for the Order of Business because it was listed business of the House. Our Private Members' motions come up only once every five weeks. The Minister was in the Houses and not engaged in Government business at the time. He decided he would not come in because he could not answer for himself. He was not man enough to come here to answer for himself on the day.

An Cathaoirleach: We have no control over what Ministers come to the House.

22 May 2013

Senator Darragh O'Brien: I have his diary.

An Cathaoirleach: We have no control-----

Senator Darragh O'Brien: This is the big problem. The Minister has come to the House-----

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

Senator Darragh O'Brien: Yes, I do.

An Cathaoirleach: On the Order of Business?

Senator Darragh O'Brien: On the Order of Business. I propose an amendment to the Order of Business that the Minister, Deputy Shatter, come to the House because he has serious questions to answer which he did not answer in Dáil Éireann yesterday to anyone's satisfaction. I would also like to ask the Minister why he feels he does not need to attend the Seanad. I have his diary for 27 February when he would not come to the House to reply to a Private Members' motion.

An Cathaoirleach: Will Senator propose the wording of the amendment?

Senator Darragh O'Brien: That the Minister, Deputy Shatter, come to the House-----

Senator Maurice Cummins: Today?

Senator Darragh O'Brien: -----and answer questions on how he felt it was appropriate to use privileged information on an individual to score political points. When he comes to the House I will also ask him, as a Minister who regularly attends the Seanad, why-----

An Cathaoirleach: These are issues the Senator can raise during the debate.

Senator Darragh O'Brien: This is important.

An Cathaoirleach: Perhaps, but it is a point that can be made during the debate. The Senator is way over time.

Senator Darragh O'Brien: For a Minister to show such complete disdain for the House is something all colleagues should be concerned about.

Senator Ivana Bacik: I compliment the Chairman and the clerk of the Oireachtas Joint Committee on Health and Children which held hearings in the Chamber over the past three working days. It was very good use of the Chamber. The hearings were comprehensive. I attended as a substitute member for most of the hearings, and many colleagues were also in attendance. We had very constructive engagement on the heads and scheme of the protection of life during pregnancy Bill. We heard very compelling arguments from the legal and medical experts who gave of their time voluntarily to give us the benefit of their expertise. We should all acknowledge this and how much it is appreciated. I look forward to the debate on the Bill which we are likely to have before the end of the session. I look forward to changes being made, in particular to head 19 on the criminalisation of those who seek to procure termination of pregnancy in the State. Concerns were expressed by people on both sides of the argument and people of various views about the level of the penalty and the way in which pregnant women and girls would be criminalised. We may see engagement on this.

I welcome the publication of the Social Welfare and Pensions (Miscellaneous Provisions) Bill 2013. The Minister, Deputy Burton, proposes to introduce a new jobseekers' transition scheme which will be a progressive scheme to deal clearly with concerns expressed in the House during debates on social protection about changes to the lone parent's allowance which disadvantage recipients. The new scheme is extremely welcome. It will exempt lone parents from the full rigours of the requirements to be available for full-time work which apply to those seeking jobseeker's allowance but will allow lone parents access activation plans for return to education, upskilling and training. It recognises that many lone parents are not in a position to seek full-time work but would seek part-time work. It is a very progressive scheme and is welcome. I look forward to debating it in the House.

With regard to the Minister, Deputy Shatter, I am one of the many people who thinks he has questions to answer on the use of information concerning Deputy Wallace. I absolutely agree with this. I am glad questions were put to him in the other House yesterday and that he made a statement. I also understand Deputy Wallace has made an application for further investigation to the Standards in Public Office Commission, and this is appropriate and correct. As we all do, I look forward to seeing what the outcome of the inquiry will be.

Senator Sean D. Barrett: I wish to discuss the report by Senators Carl Levin and John McCain on the taxation habits of the Apple corporation in Cork. This is an extremely serious report of approximately 40,000 words and 152 detailed footnotes and references and it requires a response from us. I will give the House a flavour of it presently. The Fiscal Advisory Council should examine the issues involved such as how corporations are taxed. There is a view in economics that too many tax lawyers and accountants are involved, that they are a dead weight loss, and what is required is a simple corporate tax system with a low rate across the board and no deductions or allowances. We have developed a tax lawyer and accountant industry which does not produce anything. There were some elements of this in the Finance Bill we considered. The Revenue Commissioners should respond to the issues also.

The evidence given to the US authorities was from Apple executives who are named in the report. They stated they have negotiated a special corporate tax rate of less than 2%. Yesterday, the eminent economist Colm McCarthy stated we do not do this and asked where the idea came from, but somebody from the Apple Corporation stated it in evidence to the US authorities. This must be dealt with in a way which goes beyond soundbites. In three years Apple Operations International reported a net income of €30 billion but declined to declare any tax of residence. These hidden corporations are headquartered in Apple in Cork which claims to have negotiated a 2% rate with the Irish Government. It is quite damaging. Apple Operations International has the same mailing address as several other Apple affiliates in Cork, has no physical presence in any other country and did not pay any taxes. There is sizeable evidence of international tax evasion which requires a response from the Revenue Commissioners. It is necessary to confirm this 2% rate does not exist. It may have been adduced in evidence in the United States to get Apple off the hook, but we cannot have a tax system where individuals or corporations negotiate their own rates. Rather than soundbites, it requires a considered response from the Revenue Commissioners and the Minister for Finance. The wider issues, such as what principles should inform the taxation of corporations, should be referred to the Fiscal Advisory Council.

Senator Deirdre Clune: With regard to corporate taxation, this morning I heard Barry O'Leary of the IDA on the radio explaining clearly there are no special tax rates in this country for any individual. Tax rates are set on a statutory basis and the Revenue Commissioners follow these guidelines. Our corporation tax rate is 12.5% and we have agreements with 69 countries

22 May 2013

on taxation measures. Everybody must be careful about soundbites in this area because it is a serious situation. Apple employs 3,500 people in Cork and many other companies also have large employment bases here. It is a complex issue and a soundbite will not provide an answer. From having also heard the Minister, Deputy Bruton, on the radio, it is clear there are no special tax rates for any individual company or corporation in the country and our corporation tax rate is 12.5%. This is the message we should get out there clearly. Individuals and companies are taxed on income and it depends on what the amount of income is. Corporation tax is applied to a certain amount of income. There may be intellectual property based overseas, and this is a different issue for different companies. The House should send the clear message that there are no special tax rates.

Senator Mary M. White: Hear, hear.

Senator Deirdre Clune: I wish to raise a separate issue. Last week, the National Council for Special Education produced a report on how our special educational needs system should be reorganised. It is an important report and the Minister is due to set up a working group to examine the issue. The House should discuss it at some stage so that Senators might give their opinions. Parents, teachers and the children in question have many views on the HSE's interaction with the Department of Education and Skills.

Senator Marc MacSharry: I second Senator Darragh O'Brien's amendment calling for the Minister for Justice and Equality to attend the House, given the pantomime of recent days since last week's "Prime Time" programme when the Minister regrettably used information that ordinarily should not have been brought into the public domain and does not form part of the normal day-to-day work of a Minister. This is not to defend the Deputy or to take the side of those promoting issues in the Lower House. However, receiving a briefing of this nature from the Garda is reminiscent of a regrettable era that is gone and that we do not want to see in this nation again. It is a concern that gardaí or the Garda Commissioner are holding files or sharing information of this nature about any Member of the Oireachtas, a celebrity, a television personality or anyone else. It is reminiscent of what we heard about J. Edgar Hoover in the US and the files that he kept on everyone whom he deemed a political adversary or potential danger.

Senator John Gilroy: What about Michael McDowell and-----

Senator Jim D'Arcy: What about telephone tapping?

(Interruptions).

Senator John Gilroy: Senator MacSharry is quiet about him.

An Cathaoirleach: Has Senator MacSharry a question for the Leader?

Senator John Gilroy: He is quiet about Deputy O'Dea.

(Interruptions).

An Cathaoirleach: Senator MacSharry, without interruption.

Senator Marc MacSharry: Of all the matters that I expected to be heckled on, I did not believe this would be one of them.

Senator John Gilroy: Hypocrisy is always heckled.

Senator Marc MacSharry: I felt that the silence we were hearing from the Minister and most of his Cabinet colleagues on the issue would be continued in this House.

An Cathaoirleach: Has the Senator a question for the Leader?

Senator Marc MacSharry: The Minister needs to discuss this issue in the House because people are entitled to know why such information is being passed around by the Garda, regardless of whether it was a throw-away remark during a briefing. I am concerned about it.

An Cathaoirleach: The Senator can make those points during the debate.

Senator Marc MacSharry: It has echoes of a police state. In the same diary, which the Leader of the Opposition solicited under the Freedom of Information Act, I noticed a meeting with the director of intelligence. One wonders who this individual is and whether it is he or she who shares information-----

An Cathaoirleach: The Senator has gone over time.

Senator Marc MacSharry: -----on Deputies and others who might be of political interest to the Minister.

(Interruptions).

An Cathaoirleach: Senator MacSharry, without interruption.

Senator Marc MacSharry: Perhaps he is just looking for easy copy for his books.

At my third attempt to pass a Private Member's Bill, I hope that the Government will be in a position to support the Criminal Justice (Unlicensed Money-Lending) Bill. Notwithstanding our need to question the Minister on other issues, I hope he will take the Bill.

Senator Aideen Hayden: Like many in Ireland, I am proud of the prominent role played by Google and Apple in our economy. I accept the statements by the Tánaiste and the Taoiseach that we comply with all of the OECD requirements and are not designated as a tax haven. However, an explanation of two statements is required. According to Apple's CEO, incentive arrangements that it was offered in 1980 factored into its decision to locate in Ireland. According to reports, Apple Sales International only paid an effective tax rate in Ireland of 0.05%, which is incredibly low. In terms of the extent of Government debt, the same considerations apply in Ireland as apply in the US. As such, a wider debate on the issue of tax policy would be worthwhile, in particular European tax policy in light of the fact that it is evolving.

I concur with Senator Bacik regarding the health committee's debate on the protection of life during pregnancy Bill hearings which were held in this Chamber for three days. Most would agree that it was a constructive debate. I welcome the commitment by the Minister of State, Deputy White, to consider some of the issues raised during the hearings, for example, the amalgamation of aspects of some of the Bill's heads, the criminal sanctions on women who avail of abortions and so forth.

I call on the Leader to give particular attention to one issue that arose. Many of the witnesses noted the significant issue of the lack of funding for obstetric services. Our excellent maternal death record has to do with the skill and expertise of professionals, not the level of funding for this critical service. Will the Leader invite the Minister for Health to the Chamber

to discuss funding for obstetric services?

Senator David Cullinane: I wish to raise the issue of the corporation tax paid by Apple in this State in the past ten years or more. It has not been clarified. In fact, quite the opposite is the case. Many questions need to be answered. Senator Clune correctly mentioned our 12.5% corporation tax rate, but the majority of multinationals are not paying anything like 12.5%. There is no effective corporation tax rate. This situation contrasts clearly with the taxes that ordinary working people are increasingly asked to pay, for example, property tax and indirect taxes.

Yesterday, Apple's CEO, Mr. Tim Cook, told the US Senate investigation committee that Apple had quietly negotiated a corporate tax deal directly with the Irish Government. The Government has a responsibility to explain how the CEO of a multinational company could make such a statement. If there was no direct negotiation with the Government or a Minister, we need to be told about the contacts between Apple and representatives of the Revenue Commissioners or the Department of Finance. I will provide the facts quickly. Mr. Cook confirmed that Apple paid on average a 2% corporation tax rate in this State for the past ten years. In 2011, it paid a rate of 0.05%. It is not correct to claim that Apple's subsidiaries employ 3,500 people in Ireland. One of them employs no one and the other employs 250 people. Multinational companies are using this State as-----

Senator Mary M. White: The Senator would love to have a multinational in Waterford.

An Cathaoirleach: Senator Cullinane without interruption. Has the Senator a question for the Leader?

Senator David Cullinane: Some multinational companies are using this State in a chain of cash movements for the purpose of significant tax avoidance. The Government needs to clarify what arrangements are in place for Apple and other multinationals.

An Cathaoirleach: The Senator has gone over time.

Senator David Cullinane: There is a difference between having a corporation tax rate that is-----

An Cathaoirleach: I call Senator Healy Eames.

(Interruptions).

An Cathaoirleach: Please, there should be no conversations in the Chamber.

Senator Fidelma Healy Eames: I agree that we held three excellent days of hearings on the abortion debate, to which the Seanad Chamber was appropriate. During the closing session yesterday, the Minister of State, Deputy White, gave a commitment that everything raised in the course of the hearings would be addressed and considered by the Government when preparing the full text of the Bill. Will the Leader ask the Minister of State to keep his word? The expertise at the hearings was second to none. Some of the experts outlined the dangers of unsafe practices when not proceeding on the basis of best medical science and advice. An expert in medical ethics confirmed yesterday that the State would be left open to liability if it did not proceed in that way.

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

Senator Fidelma Healy Eames: That was my question. While I am grateful for the Minister of State's commitment, we want these concerns to be taken on board in the Bill. I have no difficulty with Senators Hayden and Bacik's comments on the relaxation of penalties on women who have abortions.

11 o'clock

Although I support Senator Clune in calling for a confirmation that there is no special tax rates for corporations in this country, I raise a concern about the serious charge of international tax evasion. Where did that charge arise? The public needs reassurance about our tax rates. We need to have that cleared up and for that reason I support the call for clarification. It is a very serious charge and must be clarified for once and for all.

Senator Mark Daly: I ask that the Attorney General attend the Seanad, under Standing Order 56, so that we can get her views on the abuse of privilege and information on the part of the Minister for Justice and Equality, Deputy Alan Shatter. The Garda Commissioner also has questions to answer in respect of the information supplied, who gave him that information and the chain of supply of information. The behaviour of the Minister is a worrying development. People who have made accusations against the Garda, including public representatives who have done so in the public interest, are being targeted by the Garda and the Minister. In doing this, the Minister is sending out a signal to everybody, saying, "I can do this to you also". That is basically what he is doing.

Senator Paul Coughlan: That is a joke.

Senator John Gilroy: It is nonsense, just nonsense.

Senator Darragh O'Brien: It is true.

Senator Mark Daly: The Minister, Deputy Shatter, is a very intelligent man-----

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

Senator Mark Daly: This was no slip of the tongue, he did it with a purpose and we all know that.

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

Senator Mark Daly: I support the amendment to the Order of Business.

I also ask the Leader to organise a debate on the corporation tax issue. Yesterday in the United States there was a very disturbing committee hearing on Apple and its tax affairs, and last week, in the House of Commons, there was a debate on the tax affairs of Google, with reference to Ireland. The British Parliament wants to have a spotlight focused on Ireland. I bring to the attention of colleagues the fact that \$4 trillion is held in British offshore territories. Therefore, when other parliaments are discussing Ireland and its tax affairs we must recognise that our near neighbour, which is trying to focus on us, has more money in tax havens within its jurisdiction than any other country on the planet. When we have the debate we might take that into account.

Senator John Kelly: I support Senator Barrett and other Senators on the rate of corporation tax that applies in this country. Most countries in Europe and throughout the world are laughing

22 May 2013

at us for having a rate of 12.5% but it is outrageous to realise that some companies are paying only 2%.

Senator David Cullinane: Hear, hear.

Senator John Kelly: It is important that we find out how long this has been going on and if it is true that it was negotiated by the Government, I assume it was by the previous one, as Apple has been in this country for ten years.

Senator Darragh O'Brien: Since 1980. It is important that we find out-----

(Interruptions).

Senator John Kelly: It is important that we find out-----

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

Senator John Kelly: It is important that we find out how much we are owed and what we are going to do about collecting it. As long as we do not do so, and as we continue to withdraw disability, domiciliary care and mobility allowances, we are making life difficult for people who want to get their disability allowance or invalidity pension. The way forward is to collect everything we are owed.

The point I really wished to raise relates to charities, a subject we have discussed in this House in the past. The sale of multi-charity scratchcards that goes on throughout the country is an up and running business. A person drops another person to a post office in Roscommon town, others to Castlerea, Ballaghaderreen and Boyle. I have known for a long time that not much of that money ever reaches the charity in question. This morning a friend of mine went to a post office in Roscommon town and was approached by one of these individuals to buy a scratchcard for €1, as were all the elderly people coming out after receiving their pensions. My friend asked how much of the €1 did the individual get for selling the card, and was told he got 60%.

An Cathaoirleach: Has the Senator a question?

Senator John Kelly: I have. I have known for a long time that only 1% raised from the sale of these multi-charity cards goes to the charities while 99% is used to keep a business going. I have no doubt that in most cases many of the people selling the cards are likely to be on social welfare.

An Cathaoirleach: I call Senator Norris.

Senator John Kelly: Will the Leader bring this situation to the attention of the Minister in question? Proper regulation must be put in place. It is ridiculous that 1% of money raised should reach a charity and 99% facilitate a business.

Senator David Norris: I shall resist the temptation to deal with any of the tempting morsels, such as abortion and the protection of human life during Pregnancy Bill, because people are so polarised. I will also resist the case of the Minister for Justice and Equality, Deputy Shatter, although I would be interested to know what other public figures he has felt free to smear in the last couple of years.

However, I very much hope there will be some coverage of another issue, namely, the fate

of Seanad Éireann. I attempted to raise this at the convention forum which decided, democratically, it did not wish to accept it, after a series of very heavy interventions from the platform. If the forum cannot discuss us we should discuss it and the deliberate exclusion of the subject of the Seanad from the convention, in spite of the clear wish of the vast majority of Members that it should be discussed. The delegates believe it is not possible. We should discuss this exclusion because what we are talking about is the abolition of the Oireachtas. Once the Seanad is abolished the Oireachtas will be gone as we know it and will effectively be the Dáil alone, which is terribly dangerous. President Mugabe's first step when he took over in Zimbabwe was to abolish its Senate.

During the very brief debate that took place we were asked why we had never reformed ourselves. I can tell the Irish public why we never did so. I have been a Member of this House for 26 years. Every time there was a report on reform of the Seanad - including an all-party agreed report, tabled by me, as Members will remember - it was voted down on the instructions of the incumbent Government. The Government deliberately prevented the Seanad from reforming itself. It did not want it reformed and now it is holding us up. It targeted the university seats and even though it got a referendum through some 27, 28 or 29 years ago, which would have democratised further the only democratic element, namely, the university seats, it has never acted to do this. The Government does not want a reformed Seanad.

However, as a result of the Bill passed in this House, thanks to the bravery of Members on the other side, for which I compliment them, we now have a clear choice between abolition or reform. This is an extremely important matter, and particularly so because of this Bill, the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Bill. Under the Bill, the Government will take to itself, via Dáil Éireann, the right to impeach the President and to bring him or her before a committee of Dáil Éireann alone and dismiss him or her if it feels like it. It can do the same to the Supreme Court.

An Cathaoirleach: Has the Senator a question for the Leader?

Senator David Norris: Yes, I am asking for a debate on this subject because of the very great seriousness of the implications of this kind of legislation. There was also a great deal of well-intentioned intervention from the forum platform. Things were said, one such being that it was gravely concerned about involving the convention in a current political controversy. Why, for God's sake?

An Cathaoirleach: The Senator can make those points during the debate.

Senator David Norris: The chairman said he feared this would have consequences for our independence. It most certainly would. It would show we were independent. Ms Nora Owen spoke to me and the chairman afterwards and said that at a crucial time in the Northern Ireland talks the two sides attending were presented with a rigid agenda by the two Governments. They decided to extend the agenda against the wishes of the Government and it was only that act that started the Northern Ireland peace programme.

Senator Terry Leyden: He speaks the truth.

An Cathaoirleach: I call Senator Conway.

Senator Martin Conway: I, too, am concerned about the Apple situation and I agree with other speakers. This relates to both the integrity of our tax system and the integrity of our coun-

22 May 2013

try abroad. We in this House and people all over Ireland benefit from the enormous advances in technology as a result of Apple, such as iPads, iPhones, and that type of thing. As a company, Apple has been ground-breaking in what it has achieved in the advancement of technology internationally. I am concerned by any proposal or suggestion that a 2% tax rate applies to Apple that is not applicable to other companies. Irrespective of job creation and while acknowledging anybody who creates jobs, one cannot have a have a tax system that is not a level playing pitch.

I respectfully propose that the Leader would suggest that the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton, should go to America to clear the record by giving evidence to the Senate committee. At the end of the day, the integrity of the country internationally is at stake. I have no doubt there has been some misunderstanding, given the Government's statements today on the 12.5% tax rate. The issue needs to be cleared up. If it means a senior Minister must travel to the United States to give evidence to contradict the evidence being given by executives from Apple to this committee, that must happen for the sake of the integrity of Ireland and the Irish tax system.

Senator Diarmuid Wilson: I propose an amendment to the Order of Business, that No. 37, motion 10. be taken without debate today.

I join the leader of the Fianna Fáil Party, the Leader of the Opposition, in requesting that the Minister for Justice and Equality, Deputy Alan Shatter, come to the House to answer all of the questions outlined by the leader that need to be put to him, including the low morale in An Garda Síochána and the Defence Forces, the closure of Garda stations and Army barracks and political interference in the Judiciary. I would like him to come to the Seanad and not ignore it as he did on 27 February, when he was clearly in the House but chose not to come to face a vote of no confidence in him by Fianna Fáil. That was appalling and an insult to every Member, not only to Fianna Fáil Members.

I also ask the Leader when the commission charged with drawing up the local election boundaries will report to the Minister.

Senator Cáit Keane: Everybody would like a discussion on corporation tax and openness and transparency. As Mr. Barry O'Leary, chief executive of the IDA, and Senator Deirdre Clune have said, everything we do is open, out there and transparent, unlike some other countries. A debate on this issue, tabled many months ago, is taking place today in Europe. This story has been in the public domain and there is a concern about the erosion of the tax base in this country. I welcome a debate on the topic because it will show, as reported on "Today with Pat Kenny" this morning, that Ireland is boxing fairly and very cleverly. We are in a global moveable feast in which companies can move just like that. One must be open and transparent but one must be clever and fair when doing it. It would be most welcome to debate the issue.

I wish to raise the issue of openness and transparency in Government. The Minister for Justice and Equality, Deputy Alan Shatter has been described by a very critical journalist as one of the best reforming Ministers that we have had in the Department of Justice and Equality. Such a comment from Mr. Vincent Browne is, I think, worth something.

Senator Jim Walsh: That is some commendation.

Senator Cáit Keane: It is a commendation. On the issue of discretion, when a politician, be it a Minister, a Deputy or a Senator, is stopped by a garda, there is a duty on them to be open and transparent. When Members call press conferences on issues, such as traffic issues, I want

the committee-----

An Cathaoirleach: Has the Senator a question for the Leader?

Senator Cáit Keane: I want the committee that deals with ethics in public office to ensure that when politicians call press conferences on an issue, they should declare an interest if they have been in any way involved in that issue. They should be the first to come out and put their hands up, saying “I was involved too and the Garda used its discretion”, be it Deputy Flanagan, Deputy Wallace or any Deputy.

Senator Terry Leyden: This is not the place.

Senator Darragh O’Brien: That is not the point.

Senator Cáit Keane: The Garda Síochána is doing a brilliant job. I want to take up a point Senator Mark Daly made.

An Cathaoirleach: The Senator is way over time.

Senator Cáit Keane: Hold on a minute. This is important.

An Cathaoirleach: The Senator is way over time.

Senator Cáit Keane: No. I want to correct the record.

An Cathaoirleach: Will the Senator resume her seat.

Senator Cáit Keane: Senator Daly said that people who make accusations are being targeted by gardaí.

An Cathaoirleach: Will the Senator resume her seat?

Senator Cáit Keane: They are not being targeted. Deputy Clare Daly took a right turn and was stopped by a Garda in the course of duty. She was not targeted.

Senator Darragh O’Brien: On a point of order, I think the Senator will know it is not appropriate for her to mention Members of the other House. She mentioned Deputy Clare Daly.

Senator Cáit Keane: She took a right turn. She was not targeted.

Senator Darragh O’Brien: It is not appropriate to mention names.

An Cathaoirleach: Senator Keane should resume her seat. I call Senator Leyden.

Senator David Norris: I thought she was targeted. The information was leaked. Do not defend corruption that has occurred.

Senator Mark Daly: Just for the record. The breathalyser test was negative and she was still arrested and was still brought in. The Senator should get her facts right. She was targeted and my concern is that Senator Keane will also be targeted.

An Cathaoirleach: Senator Daly, please resume your seat.

Senator David Norris: The Senator should withdraw the presumption that it is appropriate to handcuff a Member of the Oireachtas after they have not been found guilty.

22 May 2013

Senator Cáit Keane: I did not say that.

An Cathaoirleach: That is not relevant to the Order of Business at all. Neither are the comments of Senator Daly relevant to the Order of Business. I call Senator Leyden.

Senator Marc MacSharry: Idi Amin.

Senator Terry Leyden: I would like to second Senator Diarmuid Wilson's amendment to the motion. I agree with the views of Senator Deirdre Clune on the contribution that Apple makes to the Irish economy, with more than 3,500 people employed in Cork. I think we in this Chamber should invite Apple chief executive, Tim Cook, to this House and ask the Tánaiste and Minister for Foreign Affairs and Trade, Deputy Eamon Gilmore, to outline the situation. As a former Minister of State with responsibility for trade, I led delegations to the United States to meet major corporations. Under no circumstances was an offer made on the tax rate except the 12.5% corporation tax rate. No such offer exists. It is totally untrue. The then IDA CEO was Mr. Padraic White, one of the finest chief executives ever in that position.

I negotiated the deal in which Heineken came to Cork and bought Murphys. It was a very difficult deal because at that stage inflation was at 17% to 18% and interest rates were such that there was a major difficulty in Cork. We could not offer Heineken anything less or more than 12.5%. When all the major companies came to Ireland, such as Google and Intel, which was negotiated by the then Minister, Mr. Des O'Malley, me as the Minister of State with responsibility for trade, and Padraic White, we did not offer them 2%. There was no such offer.

An Cathaoirleach: Is the Senator looking for a debate?

Senator Terry Leyden: Yes, I am. When a member of the American Senate would try to downgrade this country in irresponsible comments, as they did yesterday, it is very important that this House, a democratically elected House whose Members can speak for this country, should refute them. The Tánaiste and Minister for Foreign Affairs and Trade, who currently holds the Presidency of the Council of the European Union, should fly to the United States, go to the Senate and make a statement to it. The truth is the truth. This is a very serious allegation. Ireland is neither a tax haven nor a tax shelter. Ireland is fighting for survival and this is an effort by certain elements in countries around the world that are jealous of our success in attracting all the multinational firms through the great work of the current chief executive of the IDA, Mr. Barry O'Leary, and former chief executives. I mentioned Mr. Padraic White.

It is very important that we would have a debate in this House. I ask the Leader of the House to arrange a very early debate, tomorrow if possible, if the Tánaiste is available to come and explain the situation. Let us show the files. The files are there and they are open. This is serious. When I hear Members of this House making points about Google, Apple and such companies without being conscious of the fact that Steven Paul Jobs co-founded that company, as a person who was then a Deputy and Minister of State in 1980, I know the facts of the situation and I can state categorically that I never had any authority to deal with tax rates.

An Cathaoirleach: The Senator is making a Second Stage speech.

Senator Fidelma Healy Eames: Well said.

Senator John Whelan: I beg to differ with Senator Leyden. It is not unpatriotic to ask people to pay tax. In fact, it is the contrary.

Senator Fidelma Healy Eames: It is not what we said.

Senator John Whelan: We pursue people in this country if they are overpaid social welfare payments.

Senator Mary M. White: Believe what is said.

Senator John Whelan: I spoke to members of a family last week which received a small tax rebate and a year later, the Revenue Commissioners decided it was an overpayment and sent debt collectors after them with penalties. The issue has been discussed in Europe for some time and Ms Nessa Childers, MEP has brought it up when speaking about tax justice. We are the envy of Europe and the UK with what was regarded as a very attractive 12.5% corporation tax. Maybe I naively thought that this tax rate was being paid by multinationals but it has been proven otherwise. It not just Apple as the issue involves Starbucks, Google and Facebook. Of course, we welcome the jobs but are we saying we will have the jobs but the companies do not have to pay the 12.5% tax rate? The effective rate apparently being paid by some of the multinationals is-----

An Cathaoirleach: Does the Senator have a question?

Senator John Whelan: We need the Minister for Jobs, Enterprise and Innovation or the Minister for Finance to come to the House to clarify the effective rate of tax.

Senator Darragh O'Brien: They might educate the Senator.

Senator John Whelan: We will be paying a double whammy as the issue will not go away. The G8 will address it in Fermanagh next month.

Senator Mary M. White: They will be really jealous too.

An Cathaoirleach: The Senator, without interruption.

Senator John Whelan: We will lose jobs and tax. The effective rate of tax in this country for ordinary workers is 51% for anybody earning over €35,000. Are we to say that multinationals are not paying their fair share? All we are seeking is the 12.5% rate to be paid on profits. There is nothing wrong or unjust about that and it should not jeopardise foreign direct investment into the country. We should not be afraid to stand up and say that.

Senator Trevor Ó Clochartaigh: An tseachtain seo caite, bhí muid ag plé an ghéarchéim a bhaineann le cúrsaí fodder. Gheall an Ceannaire dom go bpléadh sé an t-ábhar seo leis an Aire. Will the Leader give us an update on the headway made on the fodder crisis and the transport issues discussed last week? I do not believe the problems have been fully alleviated.

I concur with Senator Whelan's comments. We do not always agree but we do on this occasion on his stance on the Apple issue. We seem to be comparing apples and oranges. In the next couple of weeks the Government intends to put its hands in people's pockets to take property tax from wages at source but it does not seem too worried about Apple not paying the full 12.5% corporation tax. There might be a rate of 12.5% on paper but it is not being collected. That is not just a Sinn Féin statement but one being made by the people on the street and on "Morning Ireland" by an international observer. It was made in a US Congress committee yesterday and it has been made by numerous governments and EU parliamentarians. We need a debate on the issue and it is important to find out what deals have been done over the years.

22 May 2013

What Government did the deal with Apple over the years and what rates have been paid over recent years in this State?

Senator Darragh O'Brien: Any Government should be commended on that.

Senator Trevor Ó Clochartaigh: Why was the company not paying the full 12.5% on profits?

Senator Terry Leyden: That is propaganda.

Senator Trevor Ó Clochartaigh: The Senator would know all about propaganda.

Senator Mary M. White: Sinn Féin will never get into government with that ideology.

An Cathaoirleach: Senator Ó Clochartaigh, without interruption.

Senator Trevor Ó Clochartaigh: We saw what Fianna Fáil did when it was in government. We saw what happened during the Celtic tiger.

Senator Mary M. White: Sinn Féin will never be spoken about-----

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

Senator Jim Walsh: Sinn Féin has the-----

Senator David Cullinane: There is no talk about taxation-----

An Cathaoirleach: The Senator, without interruption.

Senator Trevor Ó Clochartaigh: We can see there is consensus, and through the Fianna Fáil years there was a consensus-----

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

Senator Trevor Ó Clochartaigh: Certainly, and I am asking for a debate. Is it possible to invite the chief executive officer of Apple or the head of its local operations to speak in the House on the issue?

Senator Maurice Cummins: No.

Senator Paul Coughlan: It is good to see Senator O'Brien in his usual seat. What would the Opposition do without the Minister for Justice and Equality, Deputy Shatter?

Senator Darragh O'Brien: We would do a lot better.

An Cathaoirleach: Is there a question for the Leader?

Senator Paul Coughlan: Of course. The Cathaoirleach knows I always have a question.

Senator Marc MacSharry: We would have to see the files.

Senator Paul Coughlan: No man has attended more to detail or answered more questions than the Minister. Those opposite have generated much hot air this morning and it was a bottle of smoke. I know they are good at smoke and daggers, or smoke and mirrors-----

Senator Marc MacSharry: Why was he speaking to the director of intelligence?

An Cathaoirleach: Is there a question for the Leader?

Senator Paul Coghlan: I have one, of course. This man has dealt with everything. He went into the penalty points issue in great detail, and that was what the investigation was about. Those opposite do not want to accept such facts for a reason I do not quite understand. I will name nobody but many people came to that matter without clean hands. The Minister did and he dealt with it in detail. I believe everything was answered but the Opposition does not seem to think so. I am sure he will deal with any questions in an appropriate forum. I know the questions were planned before coming today, and I notice co-ordination in the colour of ties and shirts on the Front Bench.

Senator Mary M. White: The uniform.

An Cathaoirleach: Is there a question on the Order of Business?

Senator Paul Coghlan: The Senators' request for today is totally unnecessary. There is nothing outstanding and they are being totally unreasonable. I will not say they are being childish, as we understand adversarial politics. This is the greatest load of baloney when there are so many budgetary and fiscal problems to deal with.

Senator Feargal Quinn: The benefits of sport in many ways cannot be underestimated and last weekend, the tourism benefit arising from the two French teams playing in the rugby final gave much life to the city. Sport can also bring a benefit in peaceful co-existence in many ways, and I will make an example of what happened in Israel recently. Israel has an organisation that sponsors soccer between Israelis and Arabs, and the competition has been going since 1924 and particularly since 1997. The competition last week was threatened by Fatah in Palestine, as death threats were made against any Arab people who played in the soccer match. The project is sponsored by the European Union and is well supported as part of the United Neighbours project. Nevertheless, the efforts to bring people together in Israel have been damaged very severely by these death threats.

We have heard much criticism of Israel over the years but we do not hear much criticism in this House about Palestine. In this case, it is not Hamas but Fatah - the more moderate group in Palestine - that issued death threats. It would be worthwhile to draw the attention of the Tánaiste and Minister for Foreign Affairs and Trade to the matter. We have the EU Presidency and we can make it clear that there are times when we do not approve of such occurrences.

Senator Denis Landy: This afternoon there will be a briefing in the audio-visual room on the provision of further services for children with Down's syndrome. I have listened to the comments about the level of corporation tax being paid and it occurs to me that everybody in this and the other House would support the provision of extra services for children with Down's syndrome, although the question is always from where the money will come. In my book it is simple. If corporation tax is set at 12.5%, we should collect that amount; it should be no more or less. We should collect what we set out to collect and if that is not being done, the reasons should be outlined. I listened this morning to the chief executive of IDA Ireland on "Morning Ireland" and I was not convinced by his answer that the rate set out is being paid in all cases in this country. I remain to be convinced and we need a debate in the House, with the Minister before us to clarify the matter. I call for that debate.

22 May 2013

I am amused at my colleagues in Fianna Fáil who show such great concern for Members of the Oireachtas and members of the public. In 1932, on assuming power, the party's first leader set up the G2 intelligence unit, which in its first year put together 1,000 files on ordinary citizens in this country.

Senator Darragh O'Brien: So?

Senator Denis Landy: That party is now showing its concern.

Senator Jim Walsh: I have refrained from commenting on the issue with the Minister for Justice and Equality until now as I felt the gravity of the incident depended on the source of the information. I am appalled that the Garda Commissioner passed on politically sensitive information. The politicisation of the Garda Commissioner's office raises serious questions for the Garda Commissioner as well as for the Minister. The Minister should attend the House and make a statement. Ultimately, people will have to be held accountable for what happened. That is a very bad turn of events.

On the taxation issue, the Minister for Jobs, Enterprise and Innovation, Deputy Bruton made a very good case on the radio this morning, but I agree with Senator Barrett. It is important that there should be a formal response to the findings of the US Senate on this. We can defend the position. Our autonomy and independence gives us the position to decide our own taxation situation and this should not be interfered with from outside.

I attended the hearings of the Joint Committee on Health and Children over the last three days, as did other Members here. A number of Members commented that we got a lot of very valuable information, particularly about the dangers that normalising suicide could have, especially for young males where suicide rates are well above what we would wish them to be. It was unanimously agreed by all the medics who came before us that abortion is never a treatment for suicidality. I was appalled, but not surprised, that a very prominent Labour Party member of the committee clearly informed us that abortion would not be a treatment, but of course the Bill was not about that-----

An Cathaoirleach: The Bill will be introduced shortly.

Senator Jim Walsh: -----but about women having the choice to get an abortion.

An Cathaoirleach: We are on the Order of Business.

Senator Jim Walsh: Finally, can I just-----

An Cathaoirleach: Senator Walsh is over time.

Senator Jim Walsh: On the Down's syndrome issue, 90% of Down's syndrome babies in Britain are aborted.

An Cathaoirleach: That is the fourth issue Senator Walsh has raised this morning. He is over time.

Senator Michael Mullins: It would be appropriate to extend our sympathies to the people of Oklahoma who have lost so many people over the last number of days, particularly to the parents of the school children who lost their lives. It puts in context our difficulties as parents. They pale into insignificance when we see what the people of Oklahoma have had to endure in

recent times. There has been much talk about taxation and I will not go down that route because I am sure the Leader will accede to a request for a debate on our corporate tax but I want to raise a taxation issue that is of grave concern to many small towns around Ireland.

With the forthcoming abolition of town councils, many towns, including my town of Balinasloe, the traders are very concerned that rates, which are considerably lower than rates in the county of Galway, will increase as a result of the abolition that the county council will decide to increase rates in the town areas. At a time when town centres are struggling and many businesses are closing we must do everything possible to protect our towns. There should be a fundamental review of commercial rates in this country. They should be linked in some way to turnover or profitability. I would like the Minister to come into the House for a debate on the future levying of rates in towns following the abolition of town councils. I will be seeking an assurance from the Government that there will not be an increase in rates as a result of the abolition of town councils. It is such an urgent matter and is of such grave concern to so many towns throughout the country that we should have a debate on it at the earliest possible opportunity and I ask the Leader to organise that.

Senator Mary M. White: I remind my colleagues that during the last Senate the then Minister for Justice, Equality and Law Reform, Michael McDowell, very frequently visited us here and he was won over, by the standard of the debate, to the view that the Senate should be maintained.

Senator Terry Leyden: That is correct.

Senator Mary M. White: On numerous occasions on the Garda Síochána Bill I forcefully said the Garda Síochána should be separate from and totally independent of Government because there is a temptation by Governments to misuse the police service. A tremor went through this country when the Minister for Justice, Equality and Defence, Deputy Shatter made his recent comment. I believe he never intended to say it, and it slipped out. There are very serious consequences for the people of Ireland. I would feel very vulnerable personally if the Garda Síochána and the Commissioner - yesterday we heard it was the Commissioner - give information on citizens. It is a very dangerous situation and we need the Minister to come in here and explain his position.

I do not agree with my colleagues here in that I like strong Ministers. Deputy Shatter is a good Minister but on this occasion he has to clarify his stance. We also need the Minister for Jobs, Enterprise and Innovation, Deputy Bruton to come here and clarify the transparency of tax rates that the American multinationals are paying in Ireland because overnight we could lose 150,000 jobs. I am shocked at the Sinn Féin ideology spelled out here this morning. We constantly hear Senator Cullinane talking about how no jobs are created in Waterford. Would he not love to have a multinational based there? They did not hold onto Waterford Crystal themselves.

An Cathaoirleach: The Senator is over time.

Senator Mary M. White: The people in Waterford did not mind it enough. It was probably that ideology that put Waterford Crystal out of business.

Senator David Cullinane: It was Fianna Fáil I think.

Senator Michael D'Arcy: There is an undercurrent in this conversation, not so much in

22 May 2013

this House but in the media, that the Garda is somewhat corrupt. We should be very clear. The Garda is one of the very few police forces worldwide that is unarmed and it should have our support and not be bad-mouthed.

I raise the issue of US Senator Carl Levin's intervention with his Permanent Subcommittee on Investigations in the United States and the US Senate. We should have an all-day session in the Seanad to explore and discuss this. We keep hearing about the Seanad being relevant. The Seanad should invite US Senators Levin and John McCain to come here. We should take this opportunity to explore and inform them what we do. Our rate of tax in this area is a legitimate rate. If other countries are losing business because their rates are too high, they should also recognise that fact. It was Disraeli who said a lie will get half way around the world before the truth gets its boots on. We need to get our boots on.

Senator Jim D'Arcy: I am a little surprised at the uncharacteristically intemperate attacks on the Minister Justice and Equality and Defence, Deputy Shatter by the leader of the Opposition and others in the sense that he has been a frequent visitor to this House. On his last Bill, the Employment Equality Bill he played particular tribute to one of Fianna Fáil's Members, Senator Averil Power, on her contribution. If he is to have to resign or anything like that a raft of former Ministers should be indicted for reckless endangerment or depraved indifference.

An Cathaoirleach: Have you a question for the Leader?

Senator Jim D'Arcy: I would say that he did not-----

An Cathaoirleach: I asked the Senator to be brief. Has he a question for the Leader?

Senator Terry Leyden: Fianna Fáil looked after Dundalk very well.

Senator Jim D'Arcy: Rumours were that my telephone was tapped for a long time and I did not like that.

Senator David Norris: So was mine.

Senator Jim D'Arcy: Some seven tonnes of toxic waste was seized yesterday by the customs and the Revenue Commissioners at a saving of €8 million to the State. Could the Leader ask all parties to be here tomorrow for the statements on diesel laundering by the Minister of State, Deputy Brian Hayes-----

An Cathaoirleach: The Senator is way over time.

Senator Jim D'Arcy: -----and that all parties would stand up for the Revenue Commissioners?

An Cathaoirleach: The Senator must resume his seat.

Senator Colm Burke: It is important that we come back to reality. We are paying out €50 million in social welfare every day. That is the reality. Since we started here this morning, €2.5 million has been paid out in social welfare.

An Cathaoirleach: Has Senator Colm Burke a question to the Leader?

Senator Colm Burke: It relates to Apple and the contribution the company has made. Apple is not only paying 12.5% corporation tax. It is also paying commercial rates, VAT and

all of the other taxes. The company also pays ESB when it purchases electricity. It pays for the employment it provides. If Senators want to have a debate on this matter, let us have a debate but let us also take into account the contribution that this company is making, particularly in the Cork area, and all like companies are making in areas around the country. It is important that we put it into perspective as regards the contribution they make.

I will touch slightly on the matter relating to the Minister for Justice and Equality, Deputy Shatter. Senators should revisit the series “Love/Hate” to see the real issues in criminal activity in this country-----

An Cathaoirleach: I call Senator Noone.

Senator Terry Leyden: The Minister is not in it, is he?

Senator Colm Burke: -----rather than spending the time here discussing this issue.

An Cathaoirleach: Senator Colm Burke should resume his seat. I call Senator Noone.

Senator Colm Burke: It is about time the Senators came back to reality.

Senator Catherine Noone: I support the other Senators on the issue of Apple. Clearly, the reputation of Ireland is at stake. It is timely. We are lucky that the Taoiseach is coincidentally in Europe today. He will be able to make statements on the issue and, hopefully, clarify the matter, as has been done by this Government in the more recent past on many other issues, so that our reputation can be corrected, restored and enhanced.

I support the call of Senators for a Minister to travel to the United States. It is unrealistic to think that any US Senators will come to this House but it is within our gift to send one of the Ministers to the United States to clearly state the position.

The fact is we are the envy of many of our neighbours. We do compete on tax grounds. However, the CEO of Apple made other important points as to why the company does business in Ireland. It is not only on tax grounds, and we need to highlight those points. I refer to Ireland’s educated workforce, proximity to Europe and advantageous location even when it comes to the Middle East and the rest of the world. It is not only on tax grounds that we compete and we need to remember that. Given that there are so many multinationals here creating employment, there is no benefit in us bashing our tax system, which has been a reason, but not the only one, to get investment here. My understanding is that our tax system is transparent. I would welcome a debate on it here in this House in the near future so that we can dispel any view of Ireland as a tax haven.

Senator Maurice Cummins: Senator Darragh O’Brien raised the question regarding the Minister for Justice and Equality, Deputy Shatter. The Minister went into the other House yesterday and explained the position in his statement. With regard to the points that have been made by the Senator regarding the Minister’s presence in this House, I can assure him that the Minister has practically attended every justice Bill, and there have been many such Bills. Deputy Shatter himself has come in here to deal with the vast majority of those Bills, and that should be acknowledged.

Senator Darragh O’Brien specifically mentioned a Private Members’ motion. If he can recall, his party had two Private Members’ slots during February following a swap with another group. The Senator is referring to the debate on 27 February which, he will recall, was similar

22 May 2013

to the debate of his party on 6 February, three weeks earlier. During that debate, the Minister came into this House and answered all the questions and the allegations that were made against him for two and a half hours on Private Members' business. As the Senator will be aware, it is normal that two hours are allocated for Private Members' business. The Minister had come in here three weeks previously and answered all the questions. It is most unfair for the Senator to suggest that he did not attend the House personally to deal with a matter which was dealt with three weeks previously.

Senator Darragh O'Brien: It was a motion of no confidence.

Senator Maurice Cummins: It seems to be the way they carry on their business on the other side of the House, tabling a similar motion three weeks after another one.

Senator Darragh O'Brien: It was a very different motion. It was a motion of no confidence.

Senator Maurice Cummins: The Minister has been criticised by many, but he has answered specifically the questions that were raised. The Government published a detailed report from the Garda on the fixed ticket charge and the penalty points system on Wednesday last. The Government was committed from the outset, when serious allegations were made, that they would be fully investigated and there would be the maximum transparency. These reports have now gone to the Joint Committee on Justice, Defence and Equality, which can hold oral hearings if it deems it appropriate. They have also gone to the Garda inspectorate. These matters will continue to be investigated. I have full confidence in this reforming and excellent Minister, who has been in this House on practically every occasion that he has had legislation to deal with.

Senators Bacik and Healy Eames raised the hearings of the Joint Committee on Health and Children. I am not going to get into that debate - as I have stated, we will have the Bill coming before us at a later stage - but I compliment the Chairman and all concerned on the dignified manner in which the hearings were held in this House over the three days.

Senator David Norris: Hear, hear.

Senator Maurice Cummins: Senator Bacik also welcomed the Social Welfare and Pensions (Miscellaneous Provisions) Bill which will be discussed soon in the House.

Senator Barrett and the vast majority of Senators raised a report on comments made at US Senate sub-committee hearings about Apple and taxation. I want to make it clear, as the Taoiseach, the Tánaiste and Minister for Foreign Affairs and Trade, Deputy Gilmore, and the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton, have said, that Ireland does not do special tax-rate deals with companies. That is the position. We do not have a special extra-low corporation tax for multinational companies. Ireland's tax system is statute based and there is no possibility of individual special tax-rate deals for companies. That is the clear position of the Government.

In addition, in December 2012, Ireland became one of the first countries in the world to sign an agreement with the United States to improve international tax compliance and implement the Foreign Account Tax Compliance Act 2010. This type of agreement is now being hailed as an international standard for the automatic exchange of tax information.

That is the position as it stands. We have nothing to hide. There is total transparency on our corporate taxation system. Rather than-----

Senator Mary M. White: They are jumping on the bandwagon.

Senator Maurice Cummins: -----talking down the country and jumping to conclusions about US Senate sub-committee hearings, taking them as Gospel and making allegations,-----

Senator Mary M. White: Hear, hear.

Senator Maurice Cummins: -----the sooner one looks at the exact position as it is, the better.

Senator Mary M. White: Running down the country.

Senator Maurice Cummins: Senator MacSharry spoke of Private Members' business and that will be dealt with this evening.

Senator Hayden raised the lack of obstetric funding in the health service. The health service has a very large budget. I will ask the Minister about funding for obstetric services.

As for Senator Healy Eames's point on questions regarding the Minister of State, Deputy White, I have no doubt as to his bona fides and the points she raised can be raised when that Bill comes before the House. Senator Daly stated "People who have made accusations against the Garda ... are being targeted by the Garda". That is an outrageous comment from a Member of this House. It is absolutely outrageous and constitutes an attack on the Garda and the work it does. Senator Daly should consider his statement and perhaps tomorrow he might withdraw that statement he has made to the House.

Senators: Hear, hear.

Senator David Norris: It is not true of all gardaí but the evidence is clear in the case of Deputy Clare Daly.

An Cathaoirleach: Senator Cummins, without interruption.

Senator Maurice Cummins: Senator Norris should note Senator Daly did not clarify his comments. Senator Kelly spoke on the amount of money charities are getting from the sale of tickets and so on. We had a debate in this House on enforcing the Charities Act and I presume Senator Kelly was present to make those points at that time. If not, I certainly will bring it to the attention of the Minister. I note Senator Norris's comments on the Constitutional Convention. I suggest Members discussed the Bill on the Seanad comprehensively last week. As for the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Bill he mentioned, I am sure it will be discussed in early course in the House.

Senator Wilson proposed an amendment to the Order of Business to the effect that No. 37, motion No. 10, be taken without debate and I propose to accept that amendment to the Order of Business. Senator Ó Clochartaigh again rightly raised the position of the fodder crisis. Members had a debate in this Chamber with the Minister present last week and the Minister will be present again today to discuss a relevant item, namely, the Animal Health and Welfare Bill. I am sure the Senator and other Members who wish to raise this issue can do so at that time.

Senator Quinn spoke on how sport can bring peoples together and on the United Neighbours

22 May 2013

project, which I recall was commended in this House a number of years ago. It is an excellent project and should be supported and those who threaten the bringing together of peoples should be condemned in this House. I am sure all Members will agree to Senator Mullins's proposal to extend sympathies to the people of Oklahoma who saw their homes and so many lives lost because of the devastation caused by the recent tornado. The Senator also called for a debate on the review of commercial rates and I certainly will bring that matter to the attention of the Minister for the Environment, Community and Local Government, Deputy Hogan.

The vast majority of the other Members who have spoken made reference to the Garda, the Minister, Deputy Shatter, as well as attacks on the tax regime. Senator Jim D'Arcy also advised Members of the debate tomorrow on diesel laundering and the 7 tonnes of toxic waste that were seized by customs officials yesterday. I am sure Members will have a comprehensive debate with the Minister of State, Deputy Brian Hayes, on that issue tomorrow. I do not propose to accept Senator O'Brien's amendment to the Order of Business.

An Cathaoirleach: Senator O'Brien has moved an amendment to the Order of Business, "That a debate on the use of privileged information by the Minister for Justice and Equality be taken today". Is the amendment being pressed?

Senator Darragh O'Brien: Yes.

Amendment put:

The Seanad divided: Tá, 16; Níl, 30.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Cullinane, David.	Bradford, Paul.
Daly, Mark.	Brennan, Terry.
Leyden, Terry.	Burke, Colm.
Mac Conghail, Fiach.	Clune, Deirdre.
MacSharry, Marc.	Coghlan, Eamonn.
Norris, David.	Coghlan, Paul.
Ó Clochartaigh, Trevor.	Comiskey, Michael.
Ó Murchú, Labhrás.	Conway, Martin.
O'Brien, Darragh.	Cummins, Maurice.
O'Donovan, Denis.	D'Arcy, Jim.
O'Sullivan, Ned.	D'Arcy, Michael.
Quinn, Feargal.	Gilroy, John.
Walsh, Jim.	Harte, Jimmy.
White, Mary M.	Hayden, Aideen.
Wilson, Diarmuid.	Healy Eames, Fidelma.
	Henry, Imelda.
	Higgins, Lorraine.
	Kelly, John.
	Landy, Denis.
	Moloney, Marie.

	Mulcahy, Tony.
	Mullins, Michael.
	Noone, Catherine.
	O’Keeffe, Susan.
	O’Neill, Pat.
	Sheahan, Tom.
	van Turnhout, Jillian.
	Whelan, John.
	Zappone, Katherine.

Tellers: Tá, Senators Ned O’Sullivan and Diarmuid Wilson; Níl, Senators Paul Coghlan and Aideen Hayden..

Amendment declared lost.

12 o’clock

An Cathaoirleach: Senator Wilson has moved an amendment to the Order of Business, “That No. 37, motion 10, be taken without debate.” The Leader has indicated he is prepared to accept this amendment. Is that agreed? Agreed.

Order of Business, as amended, agreed to.

Ireland-Taiwan Relations: Motion

Senator Diarmuid Wilson: That Seanad Éireann supports Paragraph 96 of the European Parliament Resolution of 12 September 2012 on the Annual Report from the Council to the European Parliament on the Common Foreign and Security Policy (12562/2011 -2012/2050(INI)), which states as follows:

‘[The European Parliament] Welcomes the successful conclusion of the presidential and parliamentary elections held in Taiwan on 14 January 2012; commends Taiwan’s continuous efforts to maintain peace and stability in the Asia-Pacific region; recognises the progress made in cross-Strait relations, especially the improvement of economic links, noting that closer economic ties with Taiwan could improve the EU’s market access to China; urges the Commission and the Council, in accordance with Parliament’s CFSP resolution of May 2011, to take concrete steps to further enhance EU-Taiwan economic relations, and to facilitate the negotiation of an EU-Taiwan economic cooperation agreement ; reiterates its firm support for Taiwan’s meaningful participation in relevant international organisations and activities, including the World Health Organisation; recognises that the EU Visa Waiver Program granted to Taiwanese citizens, which entered into force in January 2011, has prov-

22 May 2013

en to be mutually beneficial; encourages closer bilateral cooperation between the EU and Taiwan in areas such as trade, research, culture, education and environmental protection.’

Furthermore, the Seanad:

recognises the improved relations and closer ties between Ireland and Taiwan in recent years;

welcomes the recent introduction, on a reciprocal basis, of a Working Holiday Programme for Taiwanese nationals;

trusts that this initiative – in conjunction with the visa waiver for Taiwanese nationals – can provide a solid foundation for future progress;

believes that there is vast potential in stimulating new Irish-Taiwanese academic links, scientific cooperation, cultural exchange and tourism;

urges the House of the Oireachtas to continue to promote greater bilateral trade and investment;

and hopes that Ireland and Taiwan can continue to develop closer relations, thereby leading to greater economic prosperity for both countries.”

Question put and agreed to.

Sitting suspended at 12.10 p.m. and resumed at 12.30 p.m.

Decade of Centenaries Programme of Commemorations: Statements

An Leas-Chathaoirleach: I welcome the Minister, Deputy Deenihan, to the House.

Minister for Arts, Heritage and the Gaeltacht (Deputy Jimmy Deenihan): I am very pleased to come before the Seanad again to report on the progress of the commemorative programme and the anticipated developments. In our previous consideration, I outlined the principles that would inform the development of the programme. Today, I wish to report on progress and explore some of the considerations for the future.

The year 1913 was a momentous one in Ireland. The established order was directly challenged not only by the continuing Home Rule crisis but also by the assertion of workers’ rights in the Lock-out and the suffragette demand for electoral reform. Both the national movement for Home Rule and the resistance campaign in Ulster made preparations for armed action with the founding of the Ulster Volunteer Force, UVF, in January and the Irish Volunteers in November. Between those events, the desperation of workers in Dublin drove them to action that was met with determined suppression. Alongside that, the votes for women campaign continued with protests and demonstrations. Despite the excited condition, one could ask whether anyone could have anticipated how all those issues would be overwhelmed in the next fateful years.

It was with the intention of building an affinity with these troubled times that *Century Ireland* was launched this month. Supported by my Department, this fortnightly online newspaper

is produced in a partnership with Boston College and RTE. At the core of *Century Ireland* is a collaborative partnership between the major cultural and educational institutions in Ireland. By working so fruitfully together, the various partners are making a range of rarely or never seen material available that will bring the events of a century ago to life. It will present as a continuing stream the news of the centenary period, reporting the headline stories and the off-beat items that sensitise us to the changed times.

The reporting will be supported by a wealth of visual, archival and contextual material to facilitate an understanding of the complexities of Irish life in the years between 1912 and 1923. Change sometimes arrives slowly and without being noticed. *Century Ireland* will make a special effort to address the less visible but no less significant developments in society. I hope the newspaper will attract a wide readership throughout Ireland and abroad, stimulating interest in the period and encouraging all to join in the commemorations. I was informed by RTE that circulation had reached almost 100,000 in the first week. I am particularly pleased with the use of modern technologies to bring our history to new audiences, especially young people and those without ready access to attend the special presentations at the cultural institutions.

I am grateful to have received the initial statement of the advisory group on commemorations chaired by Dr. Maurice Manning. It emphasises the opportunity that now arises to support and encourage people to engage with their heritage at community and local level. Formal and structured ceremonies will be arranged to commemorate the salient events on their centenaries in the coming years. However, the important element of commemoration is not that historic events are brought to mind but that we seek to enhance our understanding of what happened and the enduring significance of the events for subsequent generations.

Research and education will be at the core of the programme. The initiatives of the universities will be complemented by the development of study modules and resources for schools. The advisory group recently commenced a national consultation process on expectations and arrangements. Following an initial meeting in Carlow, meetings are now being arranged to take place in Cork and Kerry. Meetings are arranged in partnership with local authorities and promoted through local media and the network of local history societies. I am conscious of the essential role of local authorities, schools and the history groups in ensuring the commemorative programme achieves its full potential with wide public participation. County libraries and heritage officers will be at the forefront in presenting and facilitating initiatives.

Although the commemorative programme embraces the totality of our history in the years from the third Home Rule Bill to the emergence of the Irish State, I am conscious of the strengthening interest in particular events and how they should be commemorated, most especially the Easter Rising and the Proclamation of the Republic. This special consideration is not surprising. In a world convulsed by war and with the Home Rule crisis unresolved and deferred, the Irish Republic was born of fire and endured to attract the committed support of the nation. Determined to bring an end to British authority in Ireland that had endured for centuries, it necessarily entailed division with those in Britain and Ireland, especially Ulster, who wanted to preserve the Union enacted in 1800.

The polarisation of communities in Ireland that had been defined during the Home Rule crisis was consolidated and took on an enduring expression. Notwithstanding this bitter legacy and the memory of the ensuing years of conflict, I believe that we can and should celebrate the Proclamation of the Irish Republic on its centenary in a way that is both sensitive and inclusive.

22 May 2013

There is an important distinction to be made between commemoration and celebration. In commemorating the Easter Rising, we would acknowledge the service, sacrifice and achievement of a remarkable group of volunteers, giving expression anew to the aspiration for national independence. This is not done with disregard for the loss of life and destruction consequent on their actions. It recognises the republican movement's belief in the urgent need for forceful and determined action to bring an end to the decline in Irish national identity and well-being. The Easter Rising should not be represented as a spontaneous and isolated military adventure of a type not unfamiliar in the colonial age. It was strongly rooted in the distresses and frustrated aspirations of the 19th century and before. More than simply a resurgence of traditional culture, the Celtic revival is a reaction both to assimilation and modernity. The British Red Cross Association and the St. John's Ambulance assessed the potential of Munster, Leinster and Connacht for war service in 1914 to be based on their having one fifteenth of the population of the United Kingdom and one twenty-eighth of the wealth. It was further recognised that the disparity would be much greater if the measure had been of income rather than wealth.

On the imminent centenary of the Rising, I am confident that all will be able to transcend the sad elements of the history of former times. In this regard, I express my appreciation of the acknowledgement of the republican tradition at Easter by the British ambassador and, more recently, by the Duke of Kent as they laid wreaths at Glasnevin in memory of the personnel of the Rising. I hope that such gestures of reconciliation will inspire all to reflect on the relationships we would build for the future rather than to hold with the divisions of the past.

It has been suggested that the difficulties of current times should have precedence in our consideration, inhibiting the scale and scope of commemorations. I agree that sensitive regard must be had to the challenges we face in restoring order to the public finances and that many people are now struggling to manage their finances. However, the centenary of the Easter Rising is such a significant landmark in our national progress that we must seek to transcend all the issues of the moment and the differences between parties and traditions to ensure the optimal arrangements are put in place for us all to come together in commemoration.

The commemoration of the Easter Rising must not exult in the confrontation, destruction and death that characterised those days in Dublin, accounts of which have endured across the generations in the narrative of the heroic action. The story of the Rising must be told, making use of all available sources and with a sense of genuine enquiry open to new analysis and commentary from unfamiliar perspectives. Issues of recrimination must be left to rest with the passed generations. Our aspiration must be towards a comprehensive consideration of the background, principles and motivation that brings new light rather than heat to the subject and that will enhance our understanding of persons and events.

Similar considerations arise in relation to the commemoration of the First World War. How should we respond now to the catastrophic conflict 100 years ago that brought death and casualties on an unprecedented scale, with more than 50,000 Irishmen killed, and 250,000 taking part in the arms factories in Britain and on the battlefields of France? We should start from remembrance. Throughout Ireland there are families with private memories of lost relatives who passed away without acknowledgement in their communities. This was apparent in the response to the First World War roadshow initiative organised by the National Library of Ireland in the Europeana programme. Privately held records and memorabilia were brought to the library to be digitised for inclusion in a database that can be shared internationally. Public interest exceeded all expectations and a second event was organised in Limerick.

The same abiding commitment has been seen in the dedication of memorials to restore to our consciousness the Irish soldiers who died in the war. Often organised at community and local level, new monuments and publications record the service and losses from Ireland in the terrible war that brought an end to the old order in Europe and the wider world. On the invitation of the council chairman in County Cavan, I was very pleased to participate with Northern Executive Minister for Regional Development, Danny Kennedy, in the dedication of a small memorial in Virginia to the 24 local men who died in the war. The gentle message of acceptance and respect inherent in that memorial testifies to the capacity in commemorations to contribute to the work of reconciliation. The centenary presents an opportunity for us to look again at the extent to which regard for the Irish soldiers of the First World War was affected by the conflict between the Crown forces and the independence movement in Ireland.

Perhaps rooted in the destruction of two world wars and maybe because of events in our own age, concern has been expressed that the commemorative programme should not be dominated by military pageantry. I am confident that most people will agree that the participation of the Defence Forces in commemorations is an important tradition and an important representation of the State on ceremonial occasions. I am confident the Defence Forces will make a very substantial and distinguished contribution to commemorations in the coming years. The Defence Forces will have a special responsibility this year in the centenary of the founding of the Irish Volunteers. The arrangements for this important commemoration in November are nearing completion and will be announced shortly.

A comprehensive programme of commemoration, prepared under the auspices of the ICTU, continues to explore and commemorate the history of the Dublin Lock-out. I have been greatly impressed by the diversity of events and the many contributions to the programme, not only from trade unions but also from local authorities, cultural institutions, colleges, schools and the media. Perhaps most importantly, the One City, One Book programme organised by Dublin City Council shows how our commemorations can reach beyond their original purpose to stimulate interest in history and literature with continuing rewards.

This opportunity to engage with our history through artistic expression is very important. As we seek to relate to former times, there is a special and direct insight to be gained from their artistic output which has endured across the years. Equally, the response of this generation expressed through the arts will be of wide public interest, encourage discussion and be a special part of our contribution to the continuing legacy of the revolutionary age. Having afforded priority in my initial approach to certain continuing projects and new developments with a view to completion in 2016, I would now welcome suggestions with regard to the creative possibilities and special presentations that would constitute an artistic programme to complement the commemorations.

Another great opportunity available to us for this centenary programme is to make full use of new communications technologies to communicate our activities widely and encourage the participation of all interested people at home and abroad. The strong and continuing commitment of the national cultural institutions to the digitisation of collections and archives enables everyone to conduct a research project on any aspect of family, local, cultural, economic, political or military history, thereby making their contribution to the portrait of Ireland in the revolutionary age. Centenary related tourism in Ireland can be assisted by the development of informative smartphone applications and street guides. The Century Ireland project has the capacity to reach out through Twitter and Facebook to bring its content to public attention. I hope that people familiar with these technologies will be proactive in making suggestions of

22 May 2013

how they can be harnessed to contribute to our activities. I acknowledge today the production of a supplement by *The Irish Times*, the third of a series on this particular period. It is a fine publication.

I look forward to listening to Senators' suggestions. The last time I was in the House to outline my vision for the decade of commemorations, I got some good ideas. I very much appreciate the interest of this House in considering the progress and potential of the commemorative programme. This House has a major contribution to make in this area.

Senator Labhrás Ó Murchú: Cuirim fáilte roimh an Aire inniu. Tá áthas orm go bhfuil seans agam an clár cuimhneacháin a phlé. Is mór an chabhair é an cur i láthair a rinne an tAire anseo inniu. Tugann sé seans dúinn ár dtuairimí féin a nochtadh. I welcome the Minister and thank him for outlining the progress being made in respect of the decade of commemorations. That the commemorations cover such a long period of Irish history underlines how ancient a nation we are. There is not a part of the world where the Irish footprint cannot be seen. Irish missionaries travelled abroad where they helped to develop education and medical systems and many Irish people were involved in emerging legislatures throughout the world. We did not colonise any other country, which gives us a special status.

The Minister is correct that commemorations should be about more than focusing on the immediate event. They should help us to understand who we are as a people, establish our national identity and set out our vision for the future and how we will fit into the world context. All of these things are part of our highly diverse story. Interestingly, we have often found out through dialogue and taking a fraternal and human approach that the diversity or division in this country is not as solid as we first believed. The commemorations provide us with further opportunities for taking such an approach.

I am pleased the Minister devoted a considerable amount of his time to the 1916 Rising, which fits into the expectations of most Irish people. It was in that period that we set about establishing our independence and taking control of our destiny. The Proclamation of 1916, while one of the shortest charters of independence in the world, expresses sentiments that remain relevant to this day and shows the foresight of the Volunteers who were working under considerable pressure. I have always been impressed by Terence MacSwiney's book, *Principles of Freedom*, in which he wrote that we must always look beyond the battle and know, in time, the type of Ireland we wish to establish.

The 1916 Rising can be commemorated in a way that is not divisive. I would be surprised if any country did not commemorate its founding battle or struggle for independence. Examples of this are evident in Britain, the United States and throughout Europe. Such commemorations and the loyalty we ask people to give to the State and nation are expected. I was always somewhat surprised by revisionists because I could never understand the reason they found it necessary to undertake a programme of revision. It is not necessary to do so because people can interpret any event in the manner in which they wish.

I would like the relatives of those who fought in the 1916 Rising to be given a central part in the commemorations. I recall a debate in the Seanad when relatives of the seven signatories to the Proclamation were present in the Visitors Gallery. I felt part of history on that occasion because the names on the Proclamation were represented by their relatives.

It is important also that the commemoration of the 1916 Rising is not centralised. In that

regard, I welcome the initiative by The 1916-21 Club. For those who are not familiar with the organisation, it is an all-party club that was established to ensure division would be left to one side. It will launch its national programme in the historical setting of the Rotunda in Dublin on 22 June. I thank the Minister and his committee for meeting representatives of the club to discuss the matter.

We should use every opportunity to build bridges, as we in Comhaltas Ceoltóirí hÉireann have done in holding Fleadh Cheoil na hÉireann in Derry this year. This decision was the subject of considerable debate. Interestingly, some people on the republican as opposed to loyalist side took the view that we should not have an all-island event in Derry until a united Ireland had been achieved. I took a different view because it is my belief that the cultural traditions of this country belong to all of its people. We should underline that our ancient heritage is much more enduring and potent than recent political divisions. The Fleadh Cheoil will demonstrate, as it did throughout the Troubles, that our traditions belong to everyone. Hundreds of thousands of people will attend the event which will boost the morale of the people of Derry.

On the issue of Moore Street, which I have discussed previously with the Minister, the area is a designated national monument and one of our most important national monuments. It is the area to which the leaders of the Rising retreated and signed the surrender. As such, it is similar to the Alamo. To walk into Moore Street and see where The O’Rahilly and others died reminds us of the great sacrifices that were made at that time. If it is not possible to have the national monument properly placed in Moore Street in time for the commemorations in 2016, I ask the Minister to consider making a declaration that a fully developed national monument will be located on the site. Such a monument would encapsulate much of our history and provide young people with a focus with which to connect to this history. At the same time, and I do not mean this in a mercenary sense, it would also be a wonderful tourist attraction. I have seen the benefits of similar historical sites throughout the world.

I wish the Minister well with the work he is doing. It is clear that much thought went into his presentation. It behoves us all to be part of the effort to show that while it was necessary to fight for independence, much bridge-building has taken place in the meantime and should continue in future. Our cultural identity must be central to the commemorative process from now until 1916. Our language and the many other distinctive elements of our culture are our distinctive badge of nationhood and should be at the forefront of the forthcoming commemorations. The first President of Ireland, Mr. Douglas Hyde, who was a member of the Protestant community, was also president of Conradh na Gaeilge and one of the foremost proponents of the Irish language. Our language is a cohesive influence and element. Go n-éirí go geal leis an Aire agus go raibh rath Dé ar an obair.

Senator Catherine Noone: I welcome the Minister to the House and thank him for his ongoing work. He is an extremely energetic and hard-working Minister and we will see the fruits of his labours in the period ahead. In the run-up to the symbolic and poignant 1916 commemorations, I applaud the remarkable array of scheduled events and publications which honour all who played their part during that tumultuous and future defining era. I commend the development, preservation and presentation of historical records by local authorities, which allowed new knowledge about the era to be brought to light.

I o'clock

Unlike to the 1966 commemorations, which presented a somewhat monochrome view of

22 May 2013

history, I am pleased to note that the centenary commemorations will expand beyond the set-piece events to cover thematic issues such as the treatment of women and minorities. The realities of the historical events are likely to be expanded upon.

In light of the recent amnesty granted to Irish Army veterans who joined the allied forces in the Second World War, I hope the 2016 commemorations will recognise and acknowledge the diversity of traditions that see both Home Rule and British Army heritage within a large number of Irish families. I believe these centenaries provide an excellent opportunity to ensure all traditions are treated with respect and understanding.

As Government spokesperson on arts and culture in this House, I commend the investment, totalling €1 million, by the Department of Arts, Heritage and the Gaeltacht in the online visual newspaper of the revolutionary period, *Century Ireland*, which the Minister has already mentioned and which was launched earlier this month. The funding is testament to the Department's commitment to bringing this most pivotal point in our history and heritage to life in a fresh, innovative and exciting manner. What is wonderful about this publication is that it seeks to respect the complexity of Irish historical experience, while affording a clearer understanding of the context in which the series of events took place. It must be remembered that between the years 1913 and 1923, in particular, Irish society was transformed by the Dublin Lock-out, the Suffragette movement, the ever-strengthening assertion of civil and democratic rights, industrialisation, the progress of the organised labour movement and by education and the pioneering advances of science, all of which established the foundations for the very progressive society we enjoy today. Meanwhile, the involvement of Boston College in this project prompts us to remember the diaspora and the friends of Ireland around the world who will wish to share in our commemorative programme and will be further encouraged to visit our shores. It will continue the efforts of The Gathering in this regard.

Tourists are not just enticed to come here by our striking scenery. I concur with Senator Ó Murchú's comments regarding our culture. The fact that we are so rich in culture and heritage, along with our scenery and our personality as a people, is what is attractive to tourists. I am particularly pleased that in addition to the collaborative partnership of Boston College and RTE, the national cultural institutions have been joined by Dublin City Gallery, the Hugh Lane Gallery, which last year opened its excellent exhibition of portraits, *Revolutionary States: Home Rule and Modern Ireland*. Dublin City Library and Archives, University College Dublin, NUI Galway and the Dictionary of Irish Biography also contributed greatly.

Century Ireland will no doubt stimulate a renewed interest in the revolutionary period and I am delighted to see the use of new technologies to bring our history to new audiences, especially the younger generations and those who cannot easily access the special presentations at the various cultural institutions. Moreover, I also welcome the bringing forward of proposals outlined by Mr. John Kennedy of the Department of Arts Heritage and the Gaeltacht on the military service pensions archive, a collection of statements that have the capacity to transform our understanding of revolutionary Ireland. I understand the Government has indicated its willingness to publish material without censorship, save in very rare cases where the safety of surviving individuals might be put at risk. This is very important and I welcome it. It is an excellent idea to allow access to this information online for free and also at a dedicated facility that would provide a legacy for the centenaries which would be widely used and appreciated.

I am particularly pleased that all of our cultural institutions and local authorities are playing such an important role in the commemorations. The continuation of the National Library

of Ireland's *Europeana* First World War collection road show is an excellent interactive idea, giving families the chance to contribute artefacts and stories relating to the First World War to a pan-European exhibition.

It is of the utmost importance that the younger generations, in particular, are encouraged to engage with their historical heritage. I hope this will continue at community level in schools and community groups. I look forward to attending many of the upcoming events to commemorate the most transformative of eras in our nation's history. I commend the Minister for his work.

Senator Fiach Mac Conghail: Cuirim fáilte roimh an Aire go dtí an Teach. I welcome the Minister to the House today and thank him for giving us a further insight into his vision and plans for this series of commemorations over the next while. I also congratulate the Minister, in particular, for the Century Ireland project, which is a unique and brilliant way to begin the debate on commemoration. It is wonderful to see the Department leading that, in collaboration with Boston College and RTE.

The Minister spoke passionately about his role and responsibility in this area almost a year ago when we discussed this topic in the Seanad. I would like to add a few thoughts of my own to this debate today and, in particular, to advocate for the role of the living artist in participating in these great events of remembrance that are upon us. To quote the President in a speech he gave a year ago in New York:

We are now in a time which needs new myth-making, including a myth for our Irishness and I believe that this involves both the ethics of memory and the courage of imagination. What should we remember, and how, what might we come to know, imagine, dare to hope and offer such an Irishness for new times as would be authentic and sustainable?

The Minister is asking for this and I commend him for that. The Minister has set out a sense of the infrastructure of how we might commemorate and remember what has happened over the next decade. The participation of our communities, including our artists, in that is to be warmly welcomed and supported.

President Higgins' challenge to all of us is to use the act of memory and remembrance as a way to construct a new vision and a new imagination for our communities and our society. The challenge we have is not so much about commemorating the past but how to use our memory, both actual and fictional, to inform our future. That could be the Minister's legacy in the years to come. We have a wealth of knowledge through our national and local archives about what happened and I congratulate the Minister for supporting various online initiatives in this area. However, we need to use this more to explore the challenges and, through our artists, debate the values of a renewed Ireland.

As I mentioned in a similar debate last year, memory has politics. There is a healthy tension between memory and fact. To tell the story of the Lock-out, the 36th Ulster Division of the British Army, the 16th Irish Division of the British Army, the uprising of 1916, the War of Independence or the Civil War we rely as much on great literature as we do on historical facts. The play by Frank McGuinness, "Observe the Sons of Ulster Marching Towards the Somme", has as much impact as any archive or history lesson. The same is true of the great play by Sebastian Barry, "A Long Long Way" or, indeed, Sean O'Casey's "The Plough and the Stars". I am not in any way diminishing archives, exhibitions or museums as valid forms of remember-

22 May 2013

ing but simply arguing that good art or good writing can also serve history. Memory and art will not neutralise emotion or injustice and that is the crux of the challenge of this centenary of commemoration. The Minister has called on us to respond to that challenge.

We should not be worried if one side appears to hi-jack a centenary celebration over another, providing that there is a multiple of those voices. In that sense, I absolutely agree with Senator Ó Murchú's advocacy of a celebration of 1916. In the Minister's own speech, he spoke quite poetically about the need to celebrate the Rising. He said that the story of the Rising must be told, making use of all available resources and with a sense of genuine inquiry, open to new analysis and commentary. That is where contemporary artists, be they playwrights, painters, visual artists or film makers, can respond in a way that we in this House cannot.

We have examples from the past where the Irish Government either controlled a commemoration too rigidly, as in 1966, or ignored it, as in 1991. We should be confident that no one can control memory. In this instance I again congratulate the Minister on his statement. A subjective understanding of historical events should sit side-by-side with an objective explanation - we need both. I quote Professor Richard Kearney of Boston College, who has written a brilliant paper on the ethics of memory:

This ethical task of testimony is not simply an individual responsibility. It is also a collective one. Here, it seems, the ethical debt to the dead joins forces with the poetical power to narrate. And we recall that the two modes of narrative - fiction and history - share a common origin in epic, which has the characteristic of preserving memories on the communal scale of societies.

What I am saying is that the poet or writer of fiction is just as important as the historian in how we might make sense of commemoration or make sense of our history to look towards the future and the value of the future. This is where artists are best placed to address narrative and memory through critical imagination. Memory not only illuminates, it also illustrates and part of that illustration is the use of images to strike, in the sense of striking home, the horror of evil and the grace of goodness.

I had a deeply profound and confusing experience two weeks ago when I visited the battlefields of the First World War in Ypres and the Somme for the first time. I knew through my limited historical knowledge what had happened in the First World War. I knew about the Archduke Franz Ferdinand's assassination on 28 June 1914. In our history lessons we were swiftly moved on to the League of Nations and the peace conference in 1919. However, we were not necessarily told about the role of so many Irish - North and South - fighting in that war and their reasons for doing so. In a way there was a kind of an embarrassment and a misunderstanding over why these young men went to fight in the war. We need to be told that story.

We certainly know about the 36th (Ulster) Division from *Observe the Sons of Ulster Marching Towards the Somme*, but we do not know about the 16th (Irish) Division, the Royal Munster Fusiliers, the Royal Irish Rifles or the Royal Dublin Fusiliers and how the 36th (Ulster) Division and the 16th (Irish) Division fought together shoulder-to-shoulder in the trenches. That is a great image for us. We speak about the Good Friday Agreement and communities, but working-class men from Dublin and working-class men from Belfast together fought.

That is part of history that I was not taught and I look to the Minister to consider how history can be used through schools. Certainly those in my generation - people in their mid to late

40s - were not taught that through F.S. Lyons's course. There is a generation that needs to be reminded. For me it is profound to know that 80,000 people were not conscripted but volunteered in the first year to fight in the First World War and I imagine that the main reason was to escape poverty. They joined the army not necessarily because of any nationalistic or imperialistic reasons but to escape poverty. The fact that the Lock-out occurred the previous winter had much to do with it. Our commemorations can look to how history can unravel certain myths that might not be as true.

We also need to consider the Civil War where more Irishmen were killed by each other than were killed by the Black and Tans during the War of Independence.

I agree with the Minister and commend him on his speech. I am sure the Seanad would support the Minister in providing funding to contemporary artists, writers, actors, playwrights, painters and sculptors to encourage them to make sense of history and memory in order to help to challenge us as a nation to create new myths of Irishness for the 21st century.

An Leas-Chathaoirleach: Before I call Senator O'Keeffe, I acknowledge from my homeland in west County Cork some students from Rossa College in Skibbereen and their teachers. It is a long journey up and they are very welcome to Seanad Éireann.

Senator Susan O'Keeffe: I extend the same welcome to those who have made that long journey. I thank the Minister and welcome him to the House. As others have said, it is a good start. It is great to hear about the Century Ireland project, which is a thoughtful and good place to start what will be a very intense period of commemoration and thought-provoking memories for many people. It is also good to see the harmony in this House, as we talk about this. Some people may have feared that these commemorations might become somehow divisive, but I do not believe that will be the case. We in this House have a role to play in ensuring that does not happen.

I wish to start with the story of a Dubliner, George Gibson, who was sent out to buy tea, sugar and butter for his mother. Instead he put the money on a horse and lost. Instead of going home, he ended up enlisting in the British Army - in the Lancashire Fusiliers. He ended up at the second Battle of Ypres, where for the first time the Germans used poison chlorine gas on a large scale. George was gassed and his eyesight damaged. He was invalided out like many others. However, George was well enough to be shipped back to the front just in time for the Battle of the Somme, where he served as a stretcher-bearer because, of course, his eyesight was not good enough to fight. He was injured again with shrapnel and was shipped back to the UK. He ended up going back to thing he perhaps loved most - working for a bookie's shop in Liverpool.

As that was happening to George, his brother, Richard, while he did not go shopping, also enlisted with the Irish Citizen Army. He thought he was going on a parade and going on to Fairyhouse - it is clear that horses were a big thing in their house. Instead he found himself in the GPO on Easter Monday 1916, aged 18 with his shotgun. He was also wounded just like his brother, trying to escape to Moore Street with the O'Rahilly, his commanding officer, who was, of course, killed in that event. Richard's was a serious wound - a bullet from a Lewis machine gun lodged in his shoulder, which was no joke in 1916. He was shot right outside Nos. 14 to 17 Moore Street. He could not fight further and was subsequently incarcerated in Kilmainham and in other prisons, and ended up in Frongoch where he met Michael Collins.

The two wounded brothers, George and Richard, came together again during the War of

22 May 2013

Independence, working for Michael Collins. Richard was setting up a bookie business in Dublin, and he and George, still in the UK, used their work on the racecourses and bookies' offices as cover for carrying messages around the UK and delivering them at racecourses where, of course, crowds of people would be gathered and they would be less noticed. They were able to pick up intelligence there and send it back to Dublin.

People such as Richard and George should be our touchstones as we try to work out how to commemorate the events of what historian Eric Hobsbawm famously has called the age of catastrophe - that terrible time between 1914 and 1945. They remind us that real people - men and women, brothers, sisters, fathers and mothers - are at the heart of all these big events, including the Lock-out, the First World War, the Easter Rising, the War of Independence and the Civil War. Real people need to be remembered for who they were, not for who we think they were or for what we imagine they were.

I do not believe that Richard and George ever thought then that they should be commemorated or that people would discuss them nearly 100 years later. That is the very point - they were of the now back then and they did what they thought they should do. They were not showmen and were not trying to create legacy. They were not positioning themselves somewhere in the hope of being important. They did what they thought was right - although perhaps George might be described as taking the scenic route to doing the right thing. These two young men are at the heart of what we want to commemorate. While their story is a classic one of brothers apparently fighting on opposite sides, the truth is, of course, somewhat different. The devil is always in the detail - not just the top line.

Commemorating these events, as we are 100 years later, we must be careful and considered, and observe the complexities of the stories as shown by Richard and George. We need to observe the facts, avoiding the cheap, reductionist, headline style of commemorating which is attractive because it feeds a quick narrative about important events and expands their importance.

Of course, we choose to commemorate these events because it is an important part of defining who we are as a people and who we think we are. It is part of the process of identifying ourselves, believing in ourselves and understanding our place in the world. I believe Senator Noone referred to the 50th anniversary celebrations. I have here a photograph of Richard Gibson at that commemoration. I believe somebody used the word "monochrome" and the photograph is monochrome. He was presented with this to show he had been in the GPO in 1916. It is a beautiful piece of work. Perhaps the National Library of Ireland road show of the Great War could be repeated or extended. These are the types of valuable things people have in their homes. It is a beautiful piece of handmade work to commemorate that event. We have moved on 50 years and we are now more distanced. As stated by the Minister, we now have a greater capacity to inquire and be fresh in our approach to these events.

I attended the very interesting lecture in the National Library last night by Professor Conor Gearty, during which the Minister also spoke. Professor Gearty spoke about the power of testimony - the affidavit and sworn memories people have - and the interpretation of events many years later. Rosemary Joyce, a professor of anthropology at UC Berkeley has spoken about these public ceremonies fixing in our minds a common account of what happened regardless of whether or not we were there, which account embodies attitudes and perspectives as well as facts.

No tragedy is immune to being taken up in a political narrative. The danger is how they

are re-interpreted. Historians, much like lawyers and politicians, have a way of framing history and of creating a narrative argument. They will always be affected by the time and place of their construction. Some may, perish the thought, be affected by a desire to create a wave, make a name for themselves, build a personal reputation or simply make money. At the very good commemoration conference held by Queens University Belfast at the Royal Hospital Kilmainham the historian Jay Winters warned us to beware of historians determining our public memory. He likened commemorations to a cathedral for secular societies, where sacred questions - those about the nature of love, life, death, comradeship and sacrifice - are asked and sometimes answered. It is because of these great emotions, love, life and death, that we run the risk of clouding our commemorative process with the sentimental glorification of events in a manner which would cause people like George and Richard to squirm if they could see or hear it. It is not only people in Ireland who worry about how to commemorate such events. There is a whole business of commemoration, sociological and psychological studies, advisors, consultants and bandwagon jumpers.

In the UK, there is some controversy at the moment about Prime Minister David Cameron's remarks comparing the commemorations for 1914 to those of the recent Diamond Jubilee celebrations for the Queen and calling for them to be about stressing the national spirit. Some well-known actors and personalities, such as Jude Law, Vanessa Redgrave, Ken Loach, want the First World War commemorations to be used to stop current wars and to remind people of the brutal loss of life in terms of the 16 million who died and the 20 million wounded rather than as a commemoration of national spirit. The debate about how we commemorate and what we want goes on.

Let us step carefully. Let us ensure we account for the different views. The Minister has indicated that this is what is being done. We want local authorities, schools and communities to be part of the commemorations. Do we want to learn from the memories and accept all the lessons? Are we ready for this? Do we want to applaud all of it or acknowledge the mistakes? If so, how? Let us not glorify what was not glorious. Let this very important decade of events be about restoring the humanity of those events, the reality of them and the people who fought and died. Richard Gibson never glorified his own contribution. He would tell his grandson Paul about the day he was shot: "How did it feel? What did I do? I did what any good soldier would do son, - I lay down and passed out!" His other great line on the events leading up to Easter 1916 was very simple: "Don't volunteer". His brother, George, lived out his life in Liverpool with his family. He even became an Everton supporter. We will remember Richard - Dick to his family and friends - as the man who smoked a pipe, lived in Stoneybatter, liked the occasional glass of whiskey and was called Daddy by his daughter Catherine.

I welcome his daughter Catherine, Kay, here today with her husband Des Murray who are my mother and father-in-law. I want to pay tribute here to Dick and George and to remember them because above all else, above the national good, the great tradition, the history, the monuments and the solemnity, they were part of a family. Remembering them sustains the living. That ultimately is why this decade matters. There are other events that will be commemorated at this time, including women getting the vote in 1918 and the millennium of the Battle of Clontarf in 1044. The Minister would of course be disappointed if I did not mention 2015, the 150th anniversary of the birth of W.B. Yeats, former Senator.

As outlined by Senator Mac Conghail, this is an opportunity to support living artists and writers who will re-interpret the past and illuminate the present and in so doing commemorate those great people like Richard and George.

22 May 2013

Acting Chairman (Senator Diarmuid Wilson): I, too, welcome Senator O’Keeffe’s mother and father-in-law to the Visitors Gallery. The next speaker is Senator Barrett, whom I understand is sharing time with Senator Norris.

Senator Sean D. Barrett: Yes and Senator Norris will speak first if that is agreeable.

Acting Chairman (Senator Diarmuid Wilson): Is that agreed? Agreed. The Senators have four minutes each.

Senator David Norris: I will take only three minutes. I thank Senator Barrett for so generously sharing his time with me, in particular for allowing me to speak first. I compliment Senator O’Keeffe on putting a human face on these events, which is often a difficult thing to do.

Senator Paul Coghlan: Hear, hear.

Senator David Norris: I come from a slightly different background to many people in that on my mother’s side I come from an old Gaelic Irish family who were comfortable and proud to be British and Irish and saw no contradiction in it.

Senator Paul Coghlan: You cannot beat a Fitzpatrick.

Acting Chairman (Senator Diarmuid Wilson): Senator Norris without interruption please.

Senator David Norris: I agree with Senator Mac Conghail that the arts can play a significant role with regard to the 1913 Lock-out. The RTE broadcast of Barry McGovern reading *Strumpet City* was immensely powerful. I am glad that the Minister has stated that this will be a diverse commemoration. I recall with horror the 1966 celebration, which was a grotesque, triumphalist celebration from which anybody who was not quite heterosexual, republican and Roman Catholic, was ruthlessly excluded.

The visit to Ireland by Queen Elizabeth II was a tribute to the Nationalist element of our population. It was a remarkable event, one welcomed by people here. For this reason, it is important we ensure the commemorations are diverse. I welcome the use of the word “commemoration”. I also welcome that a former leader of this House, Dr. Maurice Manning, is involved. When it comes to 1916, I wonder how much we have to celebrate. It gives us an opportunity to take stock of our once again being victims of a rigid economic theory being applied willy nilly in this country from an imperial centre. We currently have soup kitchens, evictions and rack-renting in the sense that people who dare to improve their property now have to pay a higher price. We have lost our independence, financially and otherwise. It is time for us to stock-take.

I hope the Minister will be involved in political life in 2022-----

Senator Paul Coghlan: Hear, hear.

Senator David Norris: -----not only because of the anniversary of the Civil War but because it will be the 100th anniversary of the Seanad. It would be damaging for our entire cultural and political life if the Seanad were abolished.

Senator Paul Coghlan: Hear, hear.

Senator David Norris: Reference was made to President Michael D. Higgins. This House was good enough for our current President, former President Mary Robinson, who was one of

our greatest Presidents and should be good enough for the Taoiseach, Enda Kenny, also.

I am inspired by my good friend, Senator Paul Coghlan. I was too bashful to mention the Fitzpatrick-Mac Giolla Phádraig families. In terms of celebrations and The Gathering and so on, we should take on board the clan idea. There are many hundreds of thousands, perhaps, millions of people who have great Irish names such as Fitzpatrick, Doyle, Deenihan, Barrett, Coghlan and O’Keeffe. Let us invite them to this House and celebrate. Who knows what glorious things we will dig up? Let us celebrate something of which even His Eminence, Pope Francis, may be unaware, namely, the existence of the Irish Pope. I doubted that I could be correct until I read on the GAA website that Pope Papeus abdicated because he had to play a hurling match on the Aran Islands. According to an article by the former editor of *The Irish Times*, Conor Brady, he was from County Laois and was among the ancestors of the Mac Giolla Phádraig clan. He was educated at Clonenagh monastery and went around with his great friend, St. Enda, until the latter became homesick and came back. They were so impressed by Benedict’s holiness that they elected him pope, but after the departure of St. Enda, he became so homesick that he returned after only three days. He was never officially crowned but he is a pope. We should make a meal out of that because it is a bloody good story. It is every bit as good as the bleeding statues.

Senator Sean D. Barrett: I welcome the Minister, who was nominated to the Seanad by Garret FitzGerald. A previous Taoiseach, Liam Cosgrave, nominated President Michael D. Higgins to this House. The Seanad will be playing a big role in the celebrations the Minister is organising.

Muckross House and the RIC barracks in Caherciveen, in the Minister’s home county, have been restored as part of a heritage project. Both places would have been regarded as Unionist in the past but they are also part of our heritage, and the Minister is well placed to represent them. His fellow county man and friend, Seán Kelly, helped to foster unity in sport in this country by allowing rugby matches to be held in Croke Park. County Kerry is leading by example in this regard. These commemorations should be honoured equally in the Glens of Antrim, Derry, the Mourne and every other part of the country. We have to emphasise the inclusiveness to which the President referred. I am reminded of the wonderful photograph from Oldbridge, along the River Boyne, of the former Taoiseach, Bertie Ahern, and the Rev. Ian Paisley as they commemorated a piece of Irish history.

Senator Ó Murchú spoke about Douglas Hyde, who in 1931 was asked by students of the TCD historical society to be president of the society. He said he would do it on condition they first asked Edward Carson. Here we see the first President of Ireland nominating a leader of the Ulster Unionist Party for an important post in the history of student societies. We should include parliamentarians like Butt, Parnell and Redmond, who took arduous journeys to confront the majority in Westminster on behalf of the Irish people. Of course, Daniel O’Connell took an even more arduous journey in his time. They are all part of what we are commemorating. There is a strong Irish parliamentary tradition. A new book on Edmund Burke was launched last night.

Our historic buildings are in much better condition compared with our last decade of commemorations. Dublin Castle has been splendidly restored, as has the Royal Hospital and, most recently, the museum building in Trinity. They are part of our heritage. Senator Mac Conghail referred to music and the arts. These should not be divisive. There should be no bitterness or dwelling on sadness. As Senator O’Keeffe has noted, we certainly should be determined to

22 May 2013

ensure there are no more wars. We should celebrate spontaneity, generosity, warmth and the best of this wonderful country.

Senator Eamonn Coghlan: I welcome the opportunity to contribute to this debate. It is nice to hear my good friend and colleague, Senator Barrett, mention the famous buildings in our history, including one that is close to my heart and that of the Minister, namely, Muckcross House. In welcoming the Minister and thanking him for his overview, I also commend him on the work he has done to mark the important anniversaries of our history. In particular, I praise the work of the all-party group on commemorations, which the Minister chairs, and the academic advisory group chaired by Dr. Maurice Manning and ably assisted by Dr. Martin Mansergh. They are taking exactly the right approach on the commemorative programme. I had the pleasure of hearing Dr. Manning, Dr. Mansergh and John Kennedy in the not so distant past. Many ongoing initiatives are worthy of mention but I was particularly impressed by the way in which the Century Ireland website, which was recently launched, sets the benchmark for the kind of accessible historical resource that will serve us well over the decade. I thank the Minister for supporting for this project.

As the Minister is aware I have the honour of serving on committee A of the British-Irish Parliamentary Assembly, which last year produced a report on the decade of commemorations. We spoke to key individuals and organisations involved in commemorative activity and I believe that the report we produced is balanced and sensitive. The Minister generously acknowledged this in a fine letter to the committee. He also acceded to our request for a meeting with him, and we perhaps we can arrange one after we visit Belfast next month. We noted in particular how commemorative activity in Northern Ireland can be a key part of the process of reconciliation. The work of Belfast City Council's good relations committee and the recent exhibition, entitled Shared History, Different Allegiances, was of an extremely high standard. We noted, too, the particular importance of commemorating the First World War in the east-west element of commemorations. The events of the decade affected all the people of these islands and shaped relations between Britain and Ireland for the ensuing century. The attendance of the Taoiseach and Tánaiste at Remembrance Day ceremonies in Northern Ireland was a moving and historic gesture towards a shared remembrance of the past.

Many people consider remembrance or commemoration of the past as dangerous because they think it might open up old wounds or enflame old antagonisms. It is true we must remain vigilant against those who would exploit the anniversaries for negative purposes, but the decade of commemorations also represents a vital opportunity. By learning more about our past and the history of all the people of this island, we learn more about ourselves and, more important, we learn more about those of other communities and traditions, allowing us to put ourselves in their shoes and gain a better understanding of their perspectives.

We do not have to agree about everything. For some of us, the Easter Rising is the central event of the decade. We can hold this belief proudly and unapologetically. However, that does not mean we can fail to acknowledge the alternative views legitimately held by others. The centenary of the Ulster Covenant was of particular importance to the Unionist community in Northern Ireland and it is important to acknowledge that. I was very pleased to see the First Minister being invited to Iveagh House last year to deliver the Edward Carson lecture in that context.

While much valuable historical research will be carried out over the course of the decade, if commemorations are to be truly successful, they must capture the broader imagination of

the public. The past is too important to be left solely to the historians, vital though their role may be. I hope local community initiatives will have a central place in the Government's programme for the decade. The Minister has indicated he will encourage this in every respect.

Senator Trevor Ó Clochartaigh: Tá áthas orm deis a bheith agam labhairt ar an ábhar tábhachtach seo. This is an opportunity to discuss what has been dubbed the decade of commemorations, that is, the collection of significant commemorations we will observe in the years to come, from the formation of the UVF last year through 1916 and up to 1923 and the ending of the Civil War. The Government's advisory committee of academic and other experts, chaired by Dr. Maurice Manning, and a group comprising senior officials from relevant Departments are planning the State's centenary programme and advising the Oireachtas committee. A similar group has been established in the Assembly under the Department of Culture, Arts and Leisure, which is headed by the Sinn Féin Minister, Carál Ní Chuilín.

While the establishment of the Oireachtas committee is welcome, I must put on record my dissatisfaction with the manner in which it is conducting its business. It appears that the committee has not achieved a great deal. It has held discussions and meetings but it has not produced many concrete plans. Even with the best will in the world, the Government has not provided the resources to allow it to do anything considerable or worthwhile. It has no real budget. It is highlighting and endorsing events and, to some extent, tying into them, but it is not supporting them in any tangible way and it is certainly not providing any resources. Later this year sees the centenary of the foundation of the Irish Volunteers who would play a key role in the rising. However, it is not yet clear what is planned as regards the commemoration of the establishment of the volunteers, despite the fact that this is mere months away. I would welcome the Minister's clarification on what is planned in that regard.

Neither is it clear what we will see for the cornerstone commemoration in 2016. What events are planned? I understand Easter Monday will see a major event but details are sketchy. A considerable number of events were organised for the 50th anniversary at considerable expense at the time. This included a major play in Croke Park, the production of records by Gael Linn and much more but it took some time in planning. They did not throw it together in a short timeframe.

If the Government has major festivals or concerts in mind or if it wishes to declare a public holiday, we would like to see more action sooner. We are aware the Government will be putting the 1916 pension records online. That is a welcome and positive development. However, it was an initiative which had begun under the previous Government. Likewise, the refurbishment of Glasnevin Cemetery is positive, but it too began previously. As there is not much money, resources or planning going into this we have yet to see any real, tangible, new initiatives.

As has been mentioned, there is also the outstanding issue of the Moore Street site. The Minister is responsible for the decision on what becomes of the Moore Street site. He has seen all the presentations and heard all the discussions at which he was present. He knows the huge potential of this site. It could be a tremendous attraction for tourists and would provide a marvellous focus for so many 1916 events yet currently it is in limbo. The possibility of a shopping centre being built on the site is offensive. I urge the Minister to ensure the site is protected and added to as part of a revolutionary quarter in the north inner city.

There are other aspects of the 1916 legacy that need greater support. Locals near Richmond Barracks are seeking support to renovate and preserve the barracks. This is a key site where

22 May 2013

some leaders were held before they were executed. However, they have not been met with great support.

Likewise, it appears there is a lack of tour guides in Kilmainham Jail and a lack of capacity. Recently, someone in Deputy Gerry Adams's office rang to arrange a tour in the jail for a group and was told that the next date that could be arranged was September. That is disgraceful. It is a popular location and we should seek to ensure that as many people as possible have the opportunity to visit it.

In my constituency we are still unsure what will be the outcome as regards the refurbishment and development of an interpretive centre at Pearse's Cottage, Teach an Phiarsaigh. I would welcome a clear statement from the Minister on that because on a number of occasions on the Adjournment I asked the Minister of State, Deputy McGinley, about it and he gave us a commitment that the Government would have that centre built by 2016. In November of last year he told me it was on the desk of Fáilte Ireland for consideration for a capital grant and that he was hopeful that would be processed. I have written to Fáilte Ireland on two occasions and did not get any clarification but perhaps the Minister could clarify for us where he stands on the issue. Will he reconfirm the Government's commitment to have the interpretive centre at Teach an Phiarsaigh built in time for 2016?

D'fhéadfainn cuid mhaith ábhair eile a ardú. Aontaím leis na pointí atá déanta i dtaobh cúrsaí ealaíne le linn an chomóraidh. Tá na smaointí go maith agus tá an chaint go maith, ach i ndáiríre píre bhí an ceart ag mo chomhghleacaí, an Seanadóir Norris, nuair a d'iarr sé cad a cheapadh an dream a shín Forógra na Cásca 1916 maidir leis an tír ina bhfuilimid faoi láthair. B'fhéidir go bhfuil géarghá le díospóireacht náisiúnta maidir leis na bunphrionsabail a bhí ag an dream sin maidir le caomhnú a dhéanamh ar mhaithe le chuile pháiste sa tír seo ar an gcaoi cheánna ó thaobh ár gcuid acmhainní nádúrtha, cearta agus mar sin de. Chuirfinn fáilte roimhe sin.

Acting Chairman (Senator Paul Coghlan): I call Senator Landy who has five minutes but as we are tight on time I ask him to be brief as Senators Ned O'Sullivan and Paul Bradford are offering and we must give time to the Minister to reply.

Senator Denis Landy: If the Acting Chairman would blow the whistle I can go.

Acting Chairman (Deputy Paul Coghlan): Thank you, Senator.

Senator Denis Landy: I welcome the Minister to the House. I will briefly allude to the Century Ireland initiative. It is a fantastic initiative and I commend all involved in that, including RTE.

This period is about the commemoration of 1913, 1916, the War of Independence and the Civil War but it is also about local issues. History is not solely about remembering war; it is about remembering events that happened, and events happen in local communities. Unlike the previous speaker I believe it is very important that we work together, from the Minister down, to ensure that events happen locally. As we speak, fantastic events to do with The Gathering are taking place across the country, and local people are getting involved in that.

I want to highlight an issue in which I am honoured to be involved in my town of Carrick-on-Suir, namely, the erection of a 9 ft monument to Maurice Davin, the first president of the GAA and the only president to serve two terms. That event will take place on 1 June because

local people from the three local hurling and football clubs, Carrick Davins, Carrick Swan and St. Mullins, along with other local people and assisted by the chairman of the Tipperary county board, Seán Nugent, came together, fund-raised and accessed grants available to people across the country to carry out such functions. The president of the GAA, Liam O'Neill, will be present for that event, as will many people in this Chamber. There is an open invitation to it and we will commemorate in our own way our famous son, Maurice Davin, who founded the GAA in 1884 in Thurles with Cusack and who was world champion in athletics at the time. After winning the British championships in 1881 he was asked by one of his fellow competitors if he thought he was the best athlete in Ireland to which he responded, "Well, I'm definitely the best athlete in Britain after today."

Davin founded the GAA because at that time athletics in this country was governed under British rules and he wanted to stamp our identity in his own way, which is the identity that became the GAA in which the Minister had great involvement over the years. It is an important moment but I raise that because it shows that people can commemorate history locally by their own actions in their own communities. That is what this decade of commemoration should be about. As I pointed out earlier, history should be remembered by citizens. Senator O'Keeffe made a valid point about the way history is written and subsequently read. It is important that local people should write the history of their own area as they know and understand it.

I commend the Minister for all the work going on and I have full confidence that the events to be held in 2016 and the other notable dates during this decade will be organised properly.

Senator Ned O'Sullivan: I will oblige the Acting Chairman by being as brief as possible. Cuirim fáilte roimh an Aire agus tréaslaím leis ar an obair atá á déanamh aige sa Rialtas go ginearálta, agus go háirithe ar an óráid fhairsing a thug sé tráthnóna.

In welcoming the Minister I had forgotten that he had been appointed to the Seanad by Garret FitzGerald. If that had not happened Fine Gael would have lost one of its greatest vote-getters and Kerry politics, and national politics, would be the poorer for it. I hope the Minister will remember the Seanad and how it gave him a good start.

The Minister's contribution was thoughtful and balanced but I would like to pick up on some of the points made. There is no doubt that the decade we are celebrating was one of tremendous excitement, and events happened at an extraordinarily fast pace. It must have been a very exciting time to be alive. The generation that experienced it have gone to their reward but they were very much alive and kicking in 1966, to which I will refer shortly. My generation had to learn about it while on the knees of our grandparents. For many of my generation the film "Mise Éire" captured that sterling period for us in an indelible way with O' Riada's fantastic soundtrack. There was so much happening in that entire movement, with Yeats's "All that delirium of the brave", it must have been an intoxicating period.

Despite criticism of the 1966 celebrations some very good events were held. The RTE programming was outstanding but, unfortunately, most of those archives were wiped, including long interviews with all the surviving leaders in the Easter Rising. That was a terrible mistake. The renaming of our major railway stations after the signatories was welcome also. Such initiatives were valid. We may have made mistakes in 1966 and we must learn from them.

Without giving the Minister the litany, the key moments are the Lock-out; the formation of the volunteers in November 1913 which was a massive event with more than 3,000 people

22 May 2013

in the Rotunda and has many more trying to get in; the Great War; the gun running at Larne and Howth; the funeral of O'Donovan Rossa, which was a seminal moment in the lead up to 1916; the Rising itself; the declaration of independence from which all else hangs; the War of Independence; the first Dáil; and the cultural revolution and Celtic revival. I hope Dublin City Council will agree to the proposal made by the Abbey Theatre and Senator Mac Conghail that the new bridge will be called the Abbey Theatre bridge because the Celtic revival had a huge part to play in our nationalist movement.

I was a typical rural republican and I learned my attitude to 1916 at home. As I got older I realised there was a different story, perspective and narrative. I certainly have the greatest respect for people such as John Redmond and those who took what was an unpopular position at the time. There was bitterness for a long time afterwards. I remember my grandmother saying that someone I had praised had worn the poppy, which was a major crime in her view. We have moved on from this and we respect those who enlisted in the British army such as Tom Kettle, Francis Ledwidge and many others including Tom Barry. When some soldiers fighting in the First World War heard about the Rising in Dublin they felt betrayed. Others, such as Barry, asked themselves what they were doing in Gallipoli fighting for the British when they should be at home fighting for the freedom of Ireland. It cut different ways. We now have a national day of commemoration when all traditions are embraced, and this has been a very important step forward.

Were we too triumphant in 1966? We probably were. Was there too much militarism about it? There probably was. I certainly would like to see the Army have a profile in 2016 and in all other commemorations, but a lower profile. Unlike many of my colleagues here I do not believe the Army should be in churches for ceremonies; there is something incongruous about it. We were a young and emerging nation in 1966 and we had to show a little teaspach, which is only natural. Half of the Deputies at the time had been gunmen during the Rising and the War of Independence and it was natural to let off a bit of steam. Senator Norris was a bit harsh about it. We must be more circumspect and careful this time.

I agree with Senators O Murchú and Ó Clochartaigh with regard to Moore Street and it is very important that we put down a marker on it. The Minister has been grappling with it for quite some time and it is not an easy matter.

There will also be an economic dividend from the commemorations. Recently I noticed tours of the hidden Third Reich are organised in Berlin, and lads in Dublin organise walking tours on 1916 which begin at the International Bar. As we move towards the seminal dates we should have much more of this and I am sure there is no better man than the Minister to exploit and develop it for tourism purposes.

Senator Paul Bradford: I have found the debate very interesting and I particularly enjoyed the comments of Senator O'Sullivan. If he continues with his revision of where he came from he could be charged by Fianna Fáil with conduct unbecoming.

Senator Ned O'Sullivan: I am close to that already.

Senator Paul Bradford: The Minister's speech was also interesting. We have debated this matter in the House previously. On checking the records I found that in 2006 when I was on the other side of the House I proposed we begin to plan for the centenary of the 1916 Rising because we have a responsibility to deal with commemorating that particularly difficult decade in

a sensitive and wise fashion. It is said of the Irish that our wars are merry and our songs are sad, and this is something on which we should reflect. We must be advised by history rather than imprisoned by it. We are unique as a nation in the sense our political process is so much imprisoned by history. Three of our four large political parties are defined by history. Perhaps one is defined by ideology, but three, namely, Fine Gael, Fianna Fáil and Sinn Féin, exist because of historical moments and divisions. Perhaps the country has not been served too badly by our political system, but anybody who tries to examine the Irish political system finds it difficult to come up with reasons the political parties stand for certain ideas. Of course it is because we are historically based and we must now try to reach beyond this.

I look forward to the Minister putting his plans into action, and some of them are already bearing fruit. We have spoken here previously about the need for people to be in a position to study history in a more unbiased fashion. We have spoken about the need to ensure history remains on the curriculum as a subject which people are encouraged to study and not just dismissed as a subject to be given up at the end of first year. Many of us would not have been imprisoned by history for so long if there had been a better study and understanding of Irish history. In this sense I hope the various celebrations had commemorations will be helpful.

Senator O'Sullivan was correct to state it is easy to be too harsh about the 1966 commemoration. We look at it now in a different prism. When we see the black and white footage of marching men - there were no marching women - and church ceremonies and pageantry it looks very outdated but that was then and we must do things differently now.

This is a very weighty subject which we could debate at length. Our job is to ensure all we do in celebrating, commemorating and reflecting is useful for the Ireland of the next decade and beyond. If we want to pay tribute to people of all Irish traditions and all political divides the best way to do so is to build a new Ireland and a better republic. Let us learn from the past but let us not be imprisoned by it. This should be the theme of all of our celebrations and commemorations.

Senator Maurice Cummins: I propose an amendment to the Order of Business that we conclude the debate at 2.10 p.m. to allow the Minister respond.

Acting Chairman (Senator Paul Coghlan): Is that agreed? Agreed.

Minister for Arts, Heritage and the Gaeltacht (Deputy Jimmy Deenihan): I congratulate and compliment the Senators on the standard of the debate. I have found it very informative and in my response I will mention a few ideas which I will put in place. I thank the Senators for their sincerity and honesty.

I stated at the beginning my vision is to have a debate which will be tolerant, inclusive and respectful of everybody, and this is something we can all share and enjoy together. There is no reason whatsoever to be in any way divisive about the debate. Everything possible is being done to ensure the commemoration is carried out properly. Other activities which I have not referred to here will also take place. Everybody is invited to participate and it is up to them whether they want to do so. It is up to the media as to whether they report these activities, and the media have a very important role to play. The tone of the debate was generally positive and I thank the Senators for this.

I agree with Senator O Murchú's vision for Ireland and on how we can be informed by the decade of commemorations to enhance this vision and what people mean by "Gaelic Ireland"

22 May 2013

and how we can foster it in the sense of the European Union and the world order at present, and how very important it is that we express our Irishness now was much as ever.

2 o'clock

This debate can inform that overall vision, which Senator Ó Murchú expands on better than most.

The Senator mentioned something that was important, that being, involving the relatives of the 1916 GPO figures. Mr. Maurice O'Keeffe, an historian from County Kerry whom Senator O'Sullivan would know well, commenced a series of interviews with relatives of those who fought in 1916. There were approximately 2,000 people out, as they say, in 1916, 1,800 men and 200 women. We are focusing on those who fought in the GPO and their families. Mr. O'Keeffe has conducted 90 good interviews. We will bring the people in question together in Dublin Castle in November. They are from all political persuasions. Their families might have been in contact previously, but never have they all met at the same time. We are holding the event to recognise them and to ensure a spirit of inclusiveness whereby everyone can sit down around the table, discuss 1916 and feel a part of it.

I was delighted to be able to meet the 1916-21 Club and I hope to work closely with it while in this job.

The fleadh cheoil of Comhaltas Ceoltóirí Éireann is one of the country's great bridge builders. I am not being patronising when I say that Senator Ó Murchú's organisation does a significant amount of work. I am pursuing an arts in education programme. We have a charter. In terms of those schools around the country that promote the arts, Comhaltas Ceoltóirí Éireann is one of the most active organisations. In the school just up the road from me, every child from second class to sixth class can play an instrument. By sixth class, children can play five instruments because people like Mr. Willie Larkin provide a service to the school through Comhaltas Ceoltóirí Éireann. That is some achievement.

I agree with the Senator that organising the fleadh cheoil in Derry was the right decision. Concerns were raised about security, but I am convinced that it will be a resounding success. I look forward to joining the Senator in the North with my counterpart in Northern Ireland, Carál Ní Chuilín, and other interested parties.

A number of Senators mentioned Moore Street. As they know, 14-17 Moore Street is a national monument. My decision will be on whether the proposal is a proper one and whether it interferes with the national monument. The deliberations, the environmental impact assessment and the environmental impact statement have been conducted and I have received advice from the National Museum. I will make a final decision shortly as I do not want to allow the situation to drag on. It will be my decision. I will listen to reasonable people, but I will not be influenced by any extreme view. I will take my decision to the Cabinet, which I am sure will accept it.

In terms of the site's history, it is important to point out that the former Minister, Mr. Dick Roche, designated 14-17 Moore Street as a national monument. In 1999, planning permission was granted to demolish the entire site, including the battlefield and the monument. Our respect for the men and women of 1916 has come on a great deal. The current planning permission, which was granted by Dublin City Council and An Bord Pleanála, allows for the demolition of the rest of the site, including the battlefield and O'Rahilly's area of retreat. He was a Kerryman

like Senator O'Sullivan and me. I have close contact with the O'Rahilly family. I had nothing to do with the decision of Dublin City Council and An Bord Pleanála, as it pertains to the site beyond 14-17 Moore Street. People do not fully understand the decision that I must make - it is on the monument, not the rest of the site, in respect of which a decision has already been made. The cohesive influence of our cultural identity is important.

Senator Noone made a good contribution. As a young Senator, she sees the relevance of the decade of commemorations in informing people of her generation about the respect we should have for those who gave their lives for our freedom and the sacrifices they made. When they signed the Proclamation, they were undoubtedly signing their lives away.

The Senator also referred to thematic issues and identified the role of women. The suffragette movement was strong in 1913. Even as Redmond was trying to gain home rule for Ireland, he was being attacked by the suffragettes. His bust was defaced with paint by a suffragette. He had nearly achieved home rule and the suffragettes were campaigning for the vote. It is worth remembering that, irrespective of class, creed, race and so on, no woman in the UK or Ireland had a vote in the House of Commons. Thanks to the Suffragette movement, any woman over 30 years of age could vote in the 1918 election. The first woman elected to the House of Commons was Constance Markievicz, although she did not take her seat. Approximately 12 women ran for election. She was an extraordinary woman and I hope that her role up to 1926 will be fully recognised.

Apart from the Suffragette movement, the founding of Cumann na mBan in April 1914 was a significant development. It was one of the country's largest organisations. It was founded as an ally for the Volunteers rather than a support mechanism. Its members were active and wanted to be involved in the overall movement, which they were during the 1916 Rising. It is important that we recognise the fact that some of those involved in founding Cumann na mBan were very strong women. I have put in place a group under Dr. Mary McAuliffe of UCC and the Women's History Association of Ireland. We want to show the courage of and considerable role played by these women. The group is in place and a significant event will be held to recognise them next April.

Senator Noone also mentioned the military service pensions archive. It is an exciting prospect. I advise every Senator to visit the Bureau of Military History, which holds 2,000 testaments. If Senators want to understand the history of the time, they should read those testaments. I am fascinated by them and read them whenever I get a chance. They are available online. For example, I have read about people like Ernest Blythe, the organisation of the volunteers in my home county of Kerry, his joining of the Gaelic League, how he came from County Antrim to learn Irish and became friendly with Seán O'Casey, how he became involved in the Irish Republican Brotherhood, IRB, and his connection with the volunteers. It is an amazing story.

Or take a person like Eoghan Mac Neill, whose story is very understated in our history, and who was very much involved in setting up the Gaelic League with Douglas Hyde. His name is on the poster for the Volunteers, along with that of Kettle. He was the person most responsible for setting up the Volunteers and had amazing organisational ability. At that stage, he was professor of early medieval history in UCD so he was a man who did not have to do this. He did it, however, and later became a Minister.

Acting Chairman (Senator Paul Coghlan): I am loth to intervene but the Minister's col-

22 May 2013

league is waiting. Tá an t-am istigh.

Deputy Jimmy Deenihan: Senator Fiach Mac Conghail made some very interesting comments about the involvement of artists. I agree completely with him and this is something with which we will engage. Last Friday, I saw the production of “An Rí” by Padraig Pearse in the Abbey Theatre, first produced 100 years ago. James Plunkett’s *Strumpet City* is the themed book for this year. I believe we can do a great deal with the connection between artists and writers and the decade of commemorations. It is not only the artists of the time - there were also people such as Sean Keating who produced some iconic paintings such as *On the Run, Men of the South, Men of the West* and so many more relating to this period. He told the narrative of that period. There were others, too, great portrait painters such as John Lavery, and many others. There is a great opportunity here and this is something we will certainly discuss.

Senator O’Keeffe’s contribution was very touching. We should feel honoured that Ms Kay Murray, the daughter of Richard Gibson, is present today. There is that great connection and the human interest story which is so important to this narrative. There are so many other stories like that which can and must be told at this time. It is great that Ms Murray can be in the Chamber while we are having this debate and that she can hear her daughter-in-law make such a wonderful contribution. This is one of the positive aspects of what we can do during the decade of commemorations. We can recognise people like Ms Murray and her family who have made such a great contribution.

Senator O’Keeffe made a point about the roadshow. We will do the same for the 1916 commemoration, which would be very important. It has proven to be very successful for the World War 1 commemoration.

Senator Norris is not present. Our approach to this decade of commemorations will be one of tolerance, respect and inclusiveness. As Senator O’Sullivan noted, in 1966 we were boisterous. We wanted to make a statement that we had arrived as a nation. At this stage we are more confident as a country and have established ourselves in the world order. We are highly respected. We can stand back now, therefore, and have a different approach.

I agree with Senator Sean Barrett about the role of Redmond, Parnell and O’Connell. Redmond, in particular, has been an unfortunate figure in Irish history and has been somewhat airbrushed from it, which is very unfair.

Senator Coghlan mentioned the all-party group on commemorations. That group is working very well and has had a large number of engagements. The group was in place during the last Government and I was part of it at the time. We had some very important initiatives such as the *Asgard* project. The official in charge of the group is Mr. John Kennedy. Many things are happening. Perhaps we are not getting coverage in the newspapers. I was rather disappointed by the Senator’s tone, compared to that of everybody else. I can give him a list of what is happening so that he can be more informed when he casts doubts on what we are trying to do in this regard.

We opened a centre commemorating Thomas McDonagh only two weeks ago. The Seán Mac Diarmada centre in County Leitrim is going very well and is being restored. I have an update on the Pearse Centre. I refer to Deputy Adams.

Acting Chairman (Senator Paul Coghlan): I am sorry-----

Deputy Jimmy Deenihan: I will finish. The reason Kilmainham Jail does not take bookings is that it operates by people turning up and taking the tour. Otherwise it would be booked up and people who turn up casually would not have the experience. A person must actually turn up and will then get the tour.

I agree with Senator Landy that the GAA played a critical role in the 1916 Rising and in the entire revolutionary movement. Some would even say it influenced that movement, perhaps even more than the Gaelic League. One of the reasons Michael Collins became involved in the IRB was that he met Sam Maguire who introduced him to the organisation. It came about through Gaelic football at the Geraldine club in London. It was really the GAA that brought Collins into politics.

Maurice Davin was an immense figure.

Acting Chairman (Senator Paul Coghlan): We are five minutes over.

Deputy Jimmy Deenihan: There were people in Cloughjordan who worked away on their own initiative. A local Fianna Fáil councillor, Mr. Jim Casey, invited me down to turn the sod there and open the centre, which shows the openness involved in all of this. That is the spirit by which we hope to continue the process, at least while I am around.

Acting Chairman (Senator Paul Coghlan): Sadly, we are five minutes past. I must mention the order.

Deputy Jimmy Deenihan: We recognise people like Tom Kettle and Francis Ledwidge, George Fitzmaurice and Thomas McGreavy. These were very important figures, poets who wrote about World War 1. We will have to do more about that.

I agree with Senator Bradford that we must look at and be advised by the subject rather than be imprisoned by it. That might be a good way to sum up this period. We recognise that the ancestors of Fine Gael, Fianna Fáil and Sinn Féin were in the GPO and were all connected at that time. The Labour Party was there too, through the Citizens Army.

Senator John Gilroy: We were there first.

Acting Chairman (Senator Paul Coghlan): I am getting all sorts of signals. I thank the Minister.

Deputy Jimmy Deenihan: I thank the Senators for this opportunity and for their proposals. If they have any more they can send them to me.

Acting Chairman (Senator Paul Coghlan): I thank the Minister.

Health (Pricing and Supply of Medical Goods) Bill 2012: [Seanad Bill amended by the Dáil] Report and Final Stages

An Cathaoirleach: This is a Seanad Bill which has been amended by the Dáil. In accordance with Standing Order 118, it is deemed to have passed its First, Second and Third Stages in the Seanad and is placed on the Order Paper for Report Stage. On the question “That the

22 May 2013

Bill be received for final consideration”, the Minister of State may explain the purpose of the amendments made by the Dáil. This is looked upon as the report of the Dáil amendments to the Seanad.

For the convenience of Senators, I have arranged for the printing and circulation to them of those amendments. The Minister will deal separately with the subject matter of each group of related amendments. I have also circulated the proposed grouping in the House. A Senator may contribute once on each grouping. I remind Senators that the only matter that may be discussed is the amendments made by the Dáil. I ask the Minister of State to speak on the subject matter of the amendments in the first group.

Question proposed: “That the Bill be received for final consideration.”

Minister of State at the Department of Health (Deputy Alex White): Group 1 amendments broadly deal with a timeframe for decisions of the Irish Medicines Board on the inclusion of products on the list of interchangeable medicinal products and the reimbursement list. I do not know if I should read out the various amendments but I can deal with them by way of summary if Senators wish. These are amendments Nos. 1 and 3.

Section 5 of the Bill provides that the authorisation holder of a medicinal product may apply to the Irish Medicines Board to have a product added to a group of interchangeable medicinal products or to add a group to the list of interchangeable medicinal products. It sets out that the board shall have 180 days to make decisions on such applications and allows the board to request further information from the authorisation holder if necessary. As originally drafted, the 180 day period did not begin to run until such time as this additional information was provided. In addition, section 18 provides that a supplier of an item may make an application to the HSE seeking the inclusion of a product on the list of reimbursable items. The HSE shall agree a reimbursement price with the supplier and make a final decision for inclusion on the list within 180 days. The HSE may seek further information from the supplier as part of the application process.

As originally drafted, the 180 days did not begin to run until the further information requested was supplied. This was not fully in compliance with article 6 of Council Directive 89/105/EEC relating to the transparency of measures regulating the pricing of medicinal products. Article 6 of the directive provides for the suspension of time limits pending receipt of additional information rather than setting the clock back at zero. This article must be interpreted as applying to any decision influencing the amount of coverage by reimbursement systems, including decisions on reference groups or groups of interchangeable medicinal products as well as pricing decisions.

Sections 5(3)(b) and 18(3)(b) were amended to provide for a clock stopping arrangement so that decisions on interchangeability and reimbursement are taken within a total timeframe of 180 days. This means that if additional information is sought on day 49, for example, the clock will begin to run again at day 50 on receipt of the information. The amendments bring these sections into line with the transparency directive as indicated.

Senator Marc MacSharry: One wonders about the timeframe as there is the potential for the 180 days to be on the never-never. If we consider the 420 modules and the drugs to be considered in the fullness of time, we will begin with the 20 most used, taking a cumulative six months to assess whether a drug will be on the list. There is no doubt it is in the interest of

Pfizer, Abbott and others to object to it and it is safe to assume the fullness of the 180 days will be called upon by them with any delay tactics that the companies wish to apply.

If one module takes six months, for the first 20 we will be talking about ten years before generics will be available. In this country there is 20% generic usage and 80% non-generic usage. In the UK, the usage statistics are the other way around, saving people millions of pounds. There has been an indication that we will save €200 million over four years because of a new agreement on branded medicines but the timeframes in the Bill are nonetheless ridiculously long. In many ways it is not about this legislation but about what happens next. When will the top 20 medicines be fully interchangeable? Will it take ten years or longer, given the old rugby approach of stopping the clock when there are dissenters, as will happen?

I have a point on reference pricing but I must be specific to these amendments. There is a concern about whether we are approaching the matter in terms of real change as quickly as possible or whether we are appeasing those behind directives in the EU and the IMF by saying we have legislation in place, although it will be absolutely unenforceable in bringing about real savings and a supply of pharmaceutical products to people as quickly and cheaply as possible. The never-ending approach seems to have more of a hand for the branded sectors than the generic products in the field.

One wonders when generic producers will be cleared to be on the interchangeable list. I am told it can take six to 12 months before producers can be in a position to supply the market. We are talking about 180 days to be added to that six to 12 months, notwithstanding stopping the clock in between. Will the Minister of State give a genuine indication of when the top 20 medicines will be fully interchangeable. I am not trying to take a negative interpretation but I am playing devil's advocate. It seems it could take ten years at a minimum for those 20 medicines to be fully interchangeable and available.

Senator Colm Burke: I welcome the Minister of State and thank him for his explanation. It is extremely important that we move forward at a reasonably fast pace in dealing with the matter as we are already way behind the rest of Europe with the availability of generic drugs. The cost of medication and drugs has increased from €574 million in 2000 to more than €2 billion, which is all the more reason we must face up to the issue. I agree that we must ensure the process is fast-tracked as much as possible. The generic drugs about which we are talking are already accepted in other jurisdictions, so we should be able to deal with this matter expeditiously. I very much welcome the amendments, as they are appropriate to deal with the issue.

Deputy Alex White: I thank both Senators. Senator Burke's point is key, as the effect of the amendments to the Bill as passed by Dáil Éireann will be to expedite the matter rather than the contrary. This will mean there will be a total period of 180 days to be considered, rather than a process of waiting until the final information is in before the 180 day period starts. If information is to be provided, the clock will stop but it will resume where it left off. This measure shortens rather than lengthens the process.

Senator Marc MacSharry: How?

Deputy Alex White: I will explain it again if there is a wish to do so. We will not wait until the last piece of information is in before the clock starts on the 180 day period, which is what the original position would have been. Given these amendments, the total period will be 180 days. The effect will be to expedite the process.

Senator Marc MacSharry: If it takes a month to get the information, the clock will not be running.

Deputy Alex White: The purpose of the amendment is not to lengthen the period. I agree with Senator MacSharry on the importance of expediting the applications, which should be done anyway. I agree very much with his emphasis in that respect. It would be wrong to imagine that it would take a period of multiple years to achieve the aims we are setting out. It is not appropriate to aggregate the periods in that way, saying we would do only one set of drugs at a time before taking the next batch.

Senator Marc MacSharry: So the 20 will be taken at one time?

Deputy Alex White: The board can work on different sets of drugs simultaneously and there is no reason to believe the periods would be aggregated in that way. The Senator made a rhetorical point but the directive, to which we must have regard, helps us. We would have to abide by a directive even if it had an adverse effect but in this case it does not as the effect is positive.

An Cathaoirleach: The Minister of State may proceed with group 2.

Deputy Alex White: This relates to a pharmacist's discretion not to dispense a medicinal product. The purpose of section 15 of the Bill is to ensure that requirements regarding generic substitution do not affect a pharmacist's discretion not to dispense a medicinal product. As originally drafted, section 15 was explicit in its expectation that the pharmacist's professional opinion will inform the decision to dispense or not on the grounds of the health of the patient. However, in practice under the current regulatory regime, one of the most common scenarios in which a pharmacist might refuse to dispense a prescription is where the pharmacist has a concern that the person presenting the prescription may be planning to sell or supply the medicines to other individuals or on the street. In this case the pharmacist would usually refuse to dispense the prescription not necessarily on the basis of a concern for the health of the person named on the prescription but on the basis of concern for the safety of others and the integrity of the supply chain. The pharmacy regulator, the Pharmaceutical Society of Ireland, expressed concern that the scope of section 15 be broadened to explicitly provide that a pharmacist would also not dispense a prescription if the pharmacist had a genuine concern that dispensing it might put others at risk. Section 15 was, therefore, amended to broaden its scope to take into account the pharmacist's obligation not to dispense a medicine on a prescription on the basis that it may cause harm to the health of the patient named on the prescription or the health and safety of any member of the public. That is the addition for which this amendment provides.

Senator Colm Burke: I welcome the amendment. It is important when we are considering legislation that we take on board not only the person receiving the medication but also the wider view on the general public. This amendment is a welcome addition to the Bill.

An Cathaoirleach: Group 3, the subject matter of amendment No. 4.

Deputy Alex White: This relates to the notice period for the relevant decision to add or remove an item from the reimbursement list. As drafted section 19 of the Bill provides that the HSE shall give notice in writing to the supplier of the item of relevant decisions it makes regarding the reimbursement list. Section 19(3) provides that the HSE may specify a date for the implementation of decisions to add or remove items to or from the list. This subsection was amended by Dáil Éireann to provide for a minimum notice period of 28 days before items are

removed from the list. This is a reasonable notice period that would facilitate both patients and the pharmaceutical supply chain.

An Cathaoirleach: Group 4, amendments Nos. 5 and 6.

Deputy Alex White: This relates to the criteria for price setting. Section 21 of the Bill sets out the criteria to be taken into account by the HSE when it is considering the proposed price of an item for inclusion on the list of reimbursable items. To address concerns regarding the need for the HSE to safeguard continuity of supply when setting prices, section 21(2) was amended to add “the ability of suppliers of the item to meet patient demand for the item if it were to become a listed item,” to the list of criteria to which the HSE must have regard when setting a price for an item. I am satisfied this amendment is necessary, given the difficulties experienced by some countries in securing an adequate supply of necessary medicinal products following price reductions. This amendment brings section 21 into line with section 24, which already provides that the HSE must have regard to this criterion when setting a reference price for a group of interchangeable medicinal products. In addition, sections 21 and 24 were amended to include a reference to agreements such as those recently agreed with the Irish Pharmaceutical Healthcare Association, IPHA, and the Association of Pharmaceutical Manufacturers in Ireland, APMI, to ensure the State can continue to benefit from price reductions contained in those agreements.

An Cathaoirleach: Group 5 amendment No. 7.

Deputy Alex White: This relates to compliance regulations. Section 32 of the Bill provides for amendments to the Pharmacy Act 2007 to ensure compliance with the relevant provisions of this Bill. Section 7 of the Pharmacy Act is amended to ensure it will be a function of the Pharmaceutical Society of Ireland, PSI, to ensure that pharmacists operate generic substitution in accordance with the legislation. Section 18 of the Pharmacy Act is amended to allow for the making of regulations imposing duties on pharmacy owners and supervising pharmacists to supervise compliance by pharmacists with the generic substitution provisions. Section 35 of the Pharmacy Act is amended to include failure to comply with the generic substitution provisions as a ground for complaint against pharmacists.

A further amendment has been made to section 35(1) of the Pharmacy Act 2007 to provide that a failure by a pharmacist to comply with regulations made under section 18(1A) of the Pharmacy Act, as inserted by section 32(b) of this Bill, will constitute a ground for complaint. Section 36 of the Pharmacy Act, which refers to complaints about registered retail pharmacy businesses, has been also amended. The amendments at subsections d(i) and d(ii) are technical recommended by the Parliamentary Counsel. These are to ensure the terminology here is in line with standard usage. The substantive amendment at subsection (d)(iii) provides that failure by a pharmacy owner to comply with any of the duties referred to in section 18(1A) of the Pharmacy Act 2007 will constitute a ground for a complaint. This provision addresses concerns that section 32 as originally drafted places an unfair burden on pharmacists when compared to pharmacy owners. This amendment will allow pharmacy owners to be held accountable for breaches of duties to supervise compliance with the generic substitution provisions of this Bill.

Senator Marc MacSharry: Would it be in order to make some very quick general points? It is Report Stage and obviously we are supporting the Bill, but I want to raise the points I made on the timeframe. When will be in any position to know? The Minister is saying there is the capacity to look at the top 20 medicines simultaneously. Has the IMB staffed up to deal with

22 May 2013

that so that we would have the 20 within a relatively short period of time? We all want the same thing here. Also, when would the manufacturers know the reference price? I touched on the issue that these outfits need a lead-in time to get production levels up to supply a market, which could be six to 12 months. Perhaps that could be done in advance or at least as quickly as possible so we have the top 20 generic drugs available and the reference price is available as early as possible so the generic companies can increase production in line with the demands of this market.

If we save at the bottom we will get to spend more at the top. As new breakthrough wonder drugs for critical diseases come our way, we will have more to spend on the upper end if we can save on the bottom end. My thanks, as always, to the Minister for making himself available.

Senator Colm Burke: This legislation is long overdue. To comment generally on this matter, it is also interesting that the recent survey by the National Consumer Agency, NCA, is frightening in that there is a huge variation in what pharmacies are charging. In one case the lowest price for a drug was €16.62 while the highest price was €49.69 for the same quantity, a difference of 199%. There is quite a variation between different areas of the country, in Dublin, Cork, Limerick and Galway. That survey raises the issue about whether people are aware they can move pharmacy and get better value.

A major concern is that where somebody who has no medical card is having to buy medication with a total cost in excess of €144, only the receipt for €144 is being furnished to them, not a full breakdown of the cost of medication. For instance, if the total cost of medication for the month is €500 they are not given the cost of that. I am extremely concerned, in particular with the price variation in that regard. The people who are not on medical cards are all taxpayers. They are entitled to get full details on what the taxpayer is having to pay. The first €144 is not refundable but anything over €144 is being paid by the taxpayer and this is one of the reasons we have allowed the cost of medication to go so high, because of lack of accountability.

I have also raised the issue of the cost of medication in hospitals. We need to visit this issue. We still have a very high cost of medication in hospitals. We should be able to do a lot more regarding getting medication at far better value for money compared to what we are getting now. It is a huge bill on our health service. It has not reduced to any substantial degree in the past five years. I accept the Department has done some work on this matter and that there will be savings over the next three years but we have not made enough progress in this regard.

The misinformation out there on generic drugs needs to be clarified. There is a clear provision in the legislation. The chief medical officer of one hospital contacted me in the past two weeks to express concern about this Bill. When there is a concern that one cannot transfer from a branded product to a generic product, because of the particular level of care a patient requires, he was not aware that provision was available to him. I found that very strange. It was another public representative who referred him to me and I was able to refer him to the section of the Bill and gave him a copy of the Bill, as recently as two weeks ago. The amount of medication the particular unit would prescribe would be high because of the type of patient being dealt with. It is extremely important that we get information out to general practitioners and also to people who are involved in the management of the drugs programmes within hospitals. The Department and the HSE have a major role to play in getting that information out and that people are accountable on that issue. There is another issue I wish to raise.

An Cathaoirleach: I ask the Senator to be brief.

Senator Colm Burke: When somebody comes into a hospital which has a budget for the purchase of drugs and it gives a prescription to the patient who is then required to go to the local pharmacist to purchase his or her drugs and go back into the hospital for treatment, that is an additional cost to the Department's budget and needs to be examined.

Senator Sean D. Barrett: I wish to address amendment Nos. 5, section 21, paragraph (g), and No. 6, section 24, paragraph (f) as the wording is similar. Section 21(2)(g) provides that the Executive shall take into account, "the terms of any agreement in place (whether entered into before, on or after the commencement of this section) between the Executive and any representative body of the suppliers of drugs, medicines or medicinal or surgical appliances where the agreement relates, whether directly or indirectly, to the price of the item." I do not know why that paragraph is included.

Deputy Alex White: Will the Senator please repeat that?

Senator Sean D. Barrett: I am referring to section 21(g) which is similar to section 24(f). I should welcome the Minister of State while he is tries to locate his notes. I always welcome his views on these matters. Is it okay for me to proceed?

Deputy Alex White: I am trying to find my notes and if the Senator continues I am sure I will.

Senator Sean D. Barrett: Section 21(2)(g) provides that the Executive shall take into account, "the terms of any agreement in place (whether entered into before, on or after the commencement of this section) between the Executive and any representative body of the suppliers of drugs, medicines or medicinal or surgical appliances where the agreement relates, whether directly or indirectly, to the price of the item." Is that not the problem we are trying to correct, namely, that this industry has a tradition of high cost agreements with the Department of Health and so on and are we letting them off the hook? I just wonder what the Minister of State's briefing note says on that section.

For example, I would look for a time limit if we have these agreements that have put the problem before us, which the Minister of State is seeking to address, with our support. I agree with Senator MacSharry, in asking should they not expire? It can also be an agreement which comes into force after the commencement of the section. I want them all wound out so far as they are there and I want an end to one of the Pat Kenny themes. He is always saying these drugs are far cheaper in Spain. I get material from the industry stating that Ireland is in a different zone from Spain. I do not go along with that. We are in a free trade area in the European Union and there should not be any of these agreements and they should not be binding on the Department. I say "More power to the Minister of State" to go out and buy at the best price possible, including bringing truckloads of them back from Spain if Pat Kenny tells us they are much cheaper there. I would appreciate the Minister of State's note on that section.

It is strange that paragraph (g) in section 21 and paragraph (f) in section 24 were introduced as amendments. I am trying to think whether the pharmaceutical industry has some friends in the Dáil who tabled the amendments because they certainly were not in the spirit of what the Seanad wanted. We were trying to empower the Minister to tackle the problem of a very high cost health service, the estimates for which are the second highest in the world, after the United States. What is the purpose of those two paragraphs because they appear to go against the spirit of what we and the Minister of State have been trying to do?

22 May 2013

Deputy Alex White: May I first address the points raised by Senators Marc MacSharry and Colm Burke? In regard to the timescales expected, my advice is that we can expect to see movement within two to three months of the signing into law of this Bill by the President which I hope will happen in a matter of a short number of weeks. I would expect that upon enactment, it will take two to three months for the Irish Medicines Board to get going on this work. I have met the Irish Medicines Board which is well geared up for this work. In response to my queries, along the lines raised by Senator MacSharry, it assured me it has sufficient staffing to engage in this important work that we all want to see happening. I would have no concerns in that regard. Certainly it was reasonable to raise that issue and it could be raised again if it were to be an issue in the short or medium term but I do not expect that it will.

I expect that work will be taken up immediately and that we could see some results within two to three months. We have the list of 20 which we have published or, at least, read into the record or the particular lists of drugs, with which the Irish Medicines Board will start. I am reluctant to pinpoint a date for a reference price but if matters proceed as we expect, in terms of the enactment of the legislation within the next few weeks, October or November is not an unreasonable target for that to occur.

Senator Colm Burke raised the legitimate public concern in respect of the variations in prices. Senator Barrett mentioned the comparators internationally. Senator Burke also made the point in terms of the variation that has been shown to exist internally in the State. It is an issue of concern. The enactment of the legislation which is crucially important will not just introduce generic substitution and reference pricing but will also change the culture of our approach to the price of medicines. This should have application across the board. There should be strong public dissemination of information and encouragement of people to use, where appropriate, generic medicines where recommended and where the Irish Medicines Board is satisfied that they have the same efficacy as the branded product. A clear set of criteria are set out in the Bill for the Irish Medicines Board to apply. I hope and expect this will change our whole approach to generic medicine.

Senator Burke is right to emphasise the need for information flow, dissemination of information and encouragement for people to take up generic medicine. One of the companies, this has been referred to publicly recently, Tienda, has already begun a public campaign which is being fronted by an old colleague of mine, Dr. Byrne from RTE, who is involved in the promotion of the use of generic products. That is a good initiative and I hope others do likewise. The law is one thing but the information flow and encouragement is a crucially important aspect.

In regard to Senator Burke's final point, I will have to check the phenomenon of people obtaining a prescription in the hospital and going out to the pharmacist and coming back to the hospital. That is something that I would need to understand a little better. I shall check it out and revert to the Senator on the matter. I was not aware of it myself.

I agree with Senator Colm Burke and others who made a point about transparency, in general. As Senators will be aware, the Pharmaceutical Society of Ireland is the regulator. Its code of conduct requires pharmacists to: "provide honest, relevant, accurate, current and appropriate information to patients regarding the nature, cost, value and benefit of medicines provided by them. Every pharmacist has an obligation to comply in full with the statutory Code of Conduct". The PSI advises patients that their pharmacists should be in a position to provide them with whatever information or clarification they require about prescribed medicines, including information about the pricing of those medicines. The PSI is examining options to achieve

greater price transparency for patients. The HSE reimburses pharmacists for products dispensed under the General Medical Services and other community drug schemes, including the drug payment scheme, referred to Senator Colm Burke, in accordance with the rates set out in its list of reimbursable items. The community pharmacy contractor agreement sets out the duties of pharmacists supplying medicines to patients under the GMS and the community drug schemes. It is the view of the HSE and the Department of Health that there should be total transparency provided when any pharmaceutical service is accessed by a member of the public. The HSE will continue to raise the issue with the Irish Pharmacy Union as part of the current project to enhance between pharmacy computer systems and the State.

I thank Senator Barrett for mentioning reference prices. The fundamental issue to grasp and be reassured by is that the reference price will be set by the HSE, irrespective of any deals that may have been done. The related amendment and section talks about a list of items that regard must be had for and that is the decisive aspect. The HSE will set the reference price in accordance with the rules and principles set out in the Act. It will not be set by any other body. It will not be set by public or private deals. Regard must be given to a number of matters. As section 21(5) states:

(d) the potential budget impact of the item if it were to become a listed item,

(e) the ability of suppliers of the item to meet patient demand for the item if it were to become a listed item,

(f) the resources available to the Executive, and

(g) the terms of any agreement in place (whether entered into before, on or after the commencement of this section) between the Executive and any representative body of the suppliers of drugs, medicines or medicinal or surgical appliances where the agreement relates, whether directly or indirectly, to the price of the item.

A reference price will be set but regard must be had for any existing deal or “any agreement in place.” It is not unreasonable to require that to be one of the items that regard has to be had to. I wish to emphasise again, to the Senator and to the House, that the HSE will set the reference price in accordance with the principles set out in the Bill.

Senator Sean D. Barrett: I thank the Minister of State.

An Cathaoirleach: The Senator can do that at the end of the debate.

Question put and agreed to.

An Cathaoirleach: When is it proposed to take the next Stage?

Senator Maurice Cummins: Now.

An Cathaoirleach: Is that agreed? Agreed.

Question proposed: “That the Bill do now pass.”

Senator Sean D. Barrett: I thank the Minister of State. I was concerned about the traditional agreements of the kind that the Department is trying to correct. His sentiments and ambitions for the Bill all go in the right direction.

22 May 2013

I note that the legislation, the Health (Pricing and Supply of Medical Goods) Bill, contains a general wish to curb medical inflation, which we support. There is also a problem with services. I have heard claims that tests, scans, etc., cost far more in Ireland than in other countries. The Milliman report expressed concern, some of which were mentioned by Senator Colm Burke, about people staying in hospital too long at a cost of €1,000 per night which adds to the State's bill. There is also over prescribing and a lack of awareness about general costs. Many economists who have examined the legislation think that reducing costs would be the real function of the competitive health insurance business which the Department is trying to develop as part of the Government's plan. One should not assume that company A charged less for health insurance because it did not insure old people. Perhaps it followed the Department's advice on drugs. It shopped around for low cost locations to provide scans and tests. Perhaps tests were conducted during normal hours so not to incur overtime rates. When I worked on the Brennan commission I discovered that some tests were deliberately delayed and scheduled for when overtime was available. Perhaps an insurance company, on behalf of the Minister, could better police how services are provided and thus provide cheaper health insurance. I know that the Minister of State is attempting to control the budget but the measure would lift a great weight off the Department's shoulders.

What we have done today regarding medical goods should be applied to services. Market mechanisms that can extract a similar gain from excess costs should be implemented. We have a high cost system so we should examine excessive stays in hospitals, excessive prescribing and excessively costly procedures. Perhaps, as part of the Croke Park agreement, we could ensure that procedures are carried out during normal hours so as not to incur overtime rates, reduce high costs and reduce waiting lists. The health service still has many critics and has not met the goals set by us.

Senator Colm Burke: I thank the Minister of State for his response. I need clarification on a few points but I know that he may not be able to provide that today. We should change the guidelines covering drugs that cost over €140 per month.

The Danes have introduced a patient medication card system. The card is the size of a visa card and prescriptions no longer need to be handed out. A GP can access a file using the card and return it to the patient. A pharmacy can also access the patient's file using the card. Therefore, no mistakes are made and relevant information is available to the pharmacist. As much as 27% of all prescriptions written by hospital doctors cannot be understood or are misunderstood. By the end of the year, 48% of the population will have a GP card or a medical card so we should be able to computerise the system and adopt the Danish system.

Minister of State at the Department of Health (Deputy Alex White): I thank the Senators for their participation and contribution to the debate. I also thank them for their helpful insights into the relatively small number of issues that we have dealt with today. Last autumn the Seanad dealt with the Bill and Senators made a very helpful input. Today, the amendments have returned from the Dáil and the contributions have been helpful and very much on point.

I agree with Senator Barrett's call to reduce costs, where we can, across the system. The Bill is a very important initiative on medicines and reminds us of the necessity to reduce costs, where possible. As the Senator said, that aim is not confined to the area of medicines and suggested that we reduce the cost of services. We should be preoccupied with that aim.

I take Senator Barrett's point on the broader issue of health insurance, what insurance com-

panies can achieve and the contribution that they can make to reduce costs. We are faced with an enormous challenge. I know that we describe everything in the health service as a challenge. It must be acknowledged that many great things are happening in the health services all the time. There are challenges because of medical inflation. The cost of procedures are genuinely increasing but in other cases one must wonder how the cost is configured. Questions must be asked, and will continue to be asked, about cost structures and are being addressed. The Department will redouble its efforts in that regard. I thank Senator Barrett for his assistance and contributions.

3 o'clock

Equally, I thank Senator Colm Burke. I agree with his emphasis on the IT dimension to this and what can be achieved. We can see it in other countries. I have had an opportunity to study what happens in other comparable countries. One development the Government wants to see is the introduction of a unique patient identifier which would put the management of data and efficiencies in the system right at the heart of what we are doing. We must press on with that. Our plan is to introduce legislation later this year which will provide for a unique patient identifier, which I hope could then be deployed and used right across the entire system, not least in the area of prescriptions and prescribing, but also right across all of the management of the health services. In primary care, it would be crucial to have that.

I remind the House that the programme for Government includes a commitment that: "Reference pricing and greater use of generics will be introduced to reduce the State's large drugs bill and the cost to individuals of their medications." That commitment in the programme for Government, I am happy to say, has been addressed and has now been achieved by the passing of this legislation in the Houses.

The Bill improves and updates the statutory basis for the supply of medicines and other prescribed items under the General Medical Services and community drugs schemes. I reiterate my commitment and the commitment of the Government to maintain access to new medicines for Irish patients. This needs to be done in the most cost-effective and efficient manner possible.

The core objective of the Bill is to achieve value while maintaining and improving levels of service. In doing so, the Bill will introduce a system of reference pricing and generic substitution for prescribed drugs and medicines which will ultimately lead to savings for taxpayers and patients.

I again thank the Senators for their constructive input to the debate on this Bill. I assure them that, as always, the Government has carefully considered all of the issues and concerns that have been raised during the course of the debate in the House last autumn when the Seanad first addressed this Bill and today, and also by Deputies in the Lower House. I am satisfied that the provisions of the Bill address the concerns raised by Members of both Houses. To reference back to Senator MacSharry's point, I will keep the implementation of reference pricing and generic substitution under constant review, as I am sure Members of the House will also.

I commend the Bill to the House.

Question put and agreed to.

22 May 2013

Animal Health and Welfare Bill 2012: [Seanad Bill amended by the Dáil] Report and Final Stages

An Cathaoirleach: I welcome the Minister for Agriculture, Food and the Marine, Deputy Coveney, to the House. This is a Seanad Bill which has been amended by the Dáil. In accordance with Standing Order 118, it is deemed to have passed its First, Second and Third Stages in the Seanad and is placed on the Order Paper for Report Stage. On the question, “That the Bill be received for final consideration”, the Minister may explain the purpose of the amendments made by the Dáil. This is looked upon as the report of the Dáil amendments to the Seanad. For Senators’ convenience, I have arranged for the printing and circulation of the amendments. The Minister will deal separately with the subject matter of each related group of amendments. I have also circulated the proposed groupings in the House. A Senators may contribute once on each grouping. I remind Senators that the only matters that may be discussed are the amendments made by the Dáil.

Question proposed: “That the Bill be received for final consideration.”

An Cathaoirleach: I call on the Minister to speak on the subject matter of the amendments in group 1, that is, the subject matter of amendment Nos. 1, 2, 43, 66 to 68, inclusive, and 71.

Minister for Agriculture, Food and the Marine (Deputy Simon Coveney): For the information of Senators, there are 27 groups. I hope we can move through them quite quickly because there is nothing really contentious left in this. There has been over eight hours of debate on this Bill, much of that in this House. Members of this House have made a significant contribution to the content of this Bill. It is a good example of a Bill that began in the Seanad and has been heavily influenced by it. I will outline the changes that have been made on Committee and Report Stages in the Dáil to the Bill the Seanad approved a number of months ago.

Group 1 concerns regulations relating to microchipping. These amendments allow a horizontal regime to incorporate existing provisions for identification in the Control of Dogs Act 1986, the Dog Breeding Establishments Act 2010 and the Welfare of Greyhounds Act 2011. Second, an amendment has already been made to Schedule 3 to provide that the Minister may introduce such regulations without the need for local authorities to request them specifically, as is currently the case.

On amendments Nos. 1 and 2, as we wish to amend the Dog Breeding Establishments Act 2010 and the Welfare of Greyhounds Act 2011, it was necessary to include in the Long Title that amendment to those Acts is being proposed.

Amendment No. 43 provides that where a dog is identified in accordance with animal health and welfare regulations, this will cover the dog as complying with section 16 of the Dog Breeding Establishments Act 2010. The purpose of this provision is to ensure both sets of legislation are consistent and to ensure one measure does not contradict the other, particularly in relation to microchipping.

Amendments Nos. 66 to 68, inclusive, contain a number of amendments to the Welfare of Greyhounds Act 2011. References to various Acts which are being replaced by the Animal Health and Welfare Bill are replaced with references to the Animal Health and Welfare Bill. The purpose is similar to amendment No. 43.

Amendment No. 71 widens the scope whereby the Minister may set down controls, such

as identification and microchipping, hitherto limited to acting at the behest of a local authority.

Those are the amendments Nos. 1, 2, 43, 66 to 68, inclusive, and 71. In essence, this group of amendments allow me to introduce regulations that can require that all dogs would be microchipped by 2016, that we would phase that in and that we will be consistent with what is already the law in the Welfare of Greyhounds Act 2011 and the Dog Breeding Establishments Act 2010.

An Cathaoirleach: Group 2 consists of amendments Nos. 3 and 23 to 25, inclusive.

Deputy Simon Coveney: Group 2 is a little shorter. This relates to amendments Nos. 3 and 23 to 25, inclusive. It relates to the definition of intensive units.

A small drafting amendment moves the definition of “intensive unit” out of the general definitions to the two specific sections where it is used in this Bill. Essentially, this relates to defining poultry units, pig units, etc. where there is intensive farming.

An Cathaoirleach: Group 3 consists of amendments Nos. 4 and 5.

Deputy Simon Coveney: Group 3 consists of drafting amendments to definition of “protected animal”. These are amendments 4 and 5. Following legal advice, it was deemed more correct to make clear that the Bill is limited to those animals in the State and those animals that are specifically owned.

There was an issue in relation to Northern Ireland versus the Republic of Ireland here because, essentially, we were referring to animals on the island of Ireland. We had to clarify with the Department of Agriculture and Rural Development, DARD, north of the Border that this Bill applies to animals in the Republic of Ireland. That is the clarification on amendments Nos. 4 and 5.

An Cathaoirleach: Group 4 consists of amendments Nos. 6, 48, 54 and 60.

Deputy Simon Coveney: Group 4, which is amendments Nos. 6, 48, 54 and 60, relates to the keeping of records. Discussion in my Department has identified the need for some tweaks to the definition of “record” and its use at various points in the Bill. First, we are providing more details to specify that documents like animal passports or identity documents are included in this definition for obvious reasons given the lessons learned during the horsemeat crisis. Second, we are allowing some flexibility that electronic records can be used or that officers can provide evidence on certificate. This reduces the need for officers to appear in court merely to verify that a document such as an animal movement notification is the official document. In other words, the Government is recognising the collection of data electronically, which makes sense in any modern legislation.

An Cathaoirleach: The fifth group comprises amendments Nos. 7, 8 and 10.

Deputy Simon Coveney: These amendments relate to measures to protect animal welfare and which prohibit straying. Amendments Nos. 7 and 8 to section 8 provide for a change in the term describing the actions that must be taken to stop an animal straying from “necessary” to “reasonable”. This was an amendment tabled by Fianna Fáil on Committee Stage that I considered to be reasonable and for the addition of the phrase “the risk that the animal will damage the flora and fauna of the surrounding environment”. In section 11, I have left in place the word “necessary” as that is really the minimum requirement this Bill requires. Consequently, in respect of straying, the point is that animal owners or those responsible for animals must act

within reason to prevent straying but in terms of protecting an animal's welfare, they must act where necessary to protect an animal's welfare. I believe the emphasis is correct with regard to these two paragraphs and again, I believe it was a sensible amendment that came from Deputy Ó Cuív.

An Cathaoirleach: The sixth group comprises amendments Nos. 9 and 15.

Deputy Simon Coveney: The sixth group relates to the non-application of provisions to certain enactments and regulations. While this sounds somewhat technical, my Department became aware that late last year, the Minister for Health had introduced a new statutory instrument amending the Irish Medicines Board Act 1995 to reflect recent changes in the law at European Union level that are reflected in the replacement of the Cruelty to Animals Act 1876 by the European Union (Protection of Animals used for Scientific Purposes) Regulations 2012. Therefore, it is necessary to keep the references in the Bill up to date. That is all that is being done. This will reflect this new European Union regulation as regards animals that are used for scientific purposes.

An Cathaoirleach: The seventh group comprises amendments Nos. 11 to 14, inclusive.

Deputy Simon Coveney: This group relates to the prohibition on animal cruelty. The amendments are a number of small changes to section 12 that reflect a number of issues raised by Deputies. In the main, they serve to improve the language of the section and provide that where a suffering animal is seized, the dependent offspring also can be seized. This provision is unlikely to be used, as where animals have been mistreated, it usually is that other animals in the herd or flock have been similarly mistreated. Amendment No. 13 allows that where an authorised officer has clear reason to believe a notice will not be complied with, he or she can seize animals. There have been cases in which offenders have ripped up notices or made it clear they have no intention of complying with lawful direction. This provision allows that if such a situation occurs, the authorised officer need not wait for the animals to suffer any further. This should not be read as some form of *carte blanche* for authorised officers to act as they please. If an officer is challenged in court and cannot show a genuine and compelling reason for his or her actions, then they will not stand. In other words, I am trying to give sufficient power to authorised officers to act on the spot. If they can see that animals are being abused and mistreated and if they are dealing with someone who was being completely unreasonable and unbalanced in terms of not respecting a written direction, one must allow an authorised officer to proceed and actually seize animals. However, such authorised officers must defend that course of action in court if necessary and if challenged.

Senator Trevor Ó Clochartaigh: None of us had envisaged the fodder crisis when this Bill was being drafted but to take on board the Minister's comments on animals being malnourished or not treated properly, are there implications in the Bill before Members regarding farmers who financially are not in a position to feed their animals? If an authorised person, that is, an officer from the Department of Agriculture, Food and the Marine, visits a farm and finds emaciated animals and a farmer or someone else who is unable to pay for the fodder or whatever in a situation similar to what has been experienced in recent months, are there implications in the Bill for such people and for farmers in particular who find themselves in difficult circumstances and who cannot feed animals? I acknowledge the Minister has stated that in the current fodder crisis, this will not happen to any animal, as food will be provided, etc. However, I am trying to foresee other tragedies or crises that may arise which would see the farmer in a position in which the animals become emaciated. Some farmers are concerned that they might be reported

to the RSPCA or the ISPCA about the welfare of the animals and so on.

Deputy Simon Coveney: That is a reasonable question and I wish to say two things to farmers on this issue. First, if one is unable to feed one's animals at present for whatever reason, regardless of whether one cannot get them out and has no fodder to feed them inside or cannot afford to buy feed or cannot access feed, there is absolutely no reason to allow an animal to starve in Ireland at present. There is a lo-call number on which one can contact the Department. It will deal with such calls on a case-by-case basis and is doing this at present. The Department is treating them confidentially and consequently, there is no loss of face in this regard. Essentially, the Department sends out a vet to assess the situation and then it accesses and pays for emergency fodder. The Department has now done this in many cases and has spent nearly €130,000 in recent weeks feeding animals in extreme cases. We have had more than 800 calls to that helpline, more than 300 of which have been serious. In the case of the others, we simply have put them in contact with local co-ops and markets to enable them to access feeds. The Department is there to help and not to punish people. This is the first message I wish to send to farmers.

Second, however, in the longer term, I cannot allow a situation in which animals are not being fed. There must be consequences if people allow their animals to starve or to become emaciated or whatever. Consequently, this is the reason this legislation is being put in place. If one is responsible for animals or if one owns animals, a major responsibility comes with that. Yes, the Department is there to help but it is also there to ensure that if one ignores the structures that can help one, of course there are consequences because the Department cannot allow situations in which animals are starving only for farmers then to simply state they were sorry but could not afford to buy fodder.

My point is this legislation allows the Department to take action if there is wilful neglect of animals. Equally, however, to balance that, the Department has put in place an animal welfare call line that is not a temporary measure but is a permanent facility for farmers who have difficulties for whatever reasons in respect of not being able to feed animals. Alternatively, it may not be a question of feeding the animals but the farmers may have a concern about another insoluble issue with regard to the welfare of their animals. There is a balance in this regard. A support system has been put in place that can kick into action, is well-financed and does not have an expenditure ceiling. Second, however, there is a responsibility on animal owners to use that facility or to feed their animals. Both are necessary as otherwise, one contributes to an animal welfare, which is not the purpose of this Bill.

An Cathaoirleach: The subject matter of the eighth group is amendment No. 16.

Deputy Simon Coveney: Amendment No. 16 stands alone in the eighth group and is about the prohibition on abandonment of animals. This was suggested during the Committee Stage debate and addresses the need to allow for light and ventilation for animals that are being left unattended. This merely adds to the categorisation of what constitutes abandonment. In other words, it is one thing to abandon an animal on a mountainside but I must also cater for abandonment within sheds, garages, backyards or wherever. Therefore, there is an obligation to provide light and ventilation for animals when they are unattended.

An Cathaoirleach: The subject matter of the ninth group comprises amendments Nos. 17 to 20, inclusive.

Deputy Simon Coveney: The ninth group concerns an issue about which I personally feel strongly, as I suspect do other colleagues. It pertains to the prohibition on animal fighting. Amendments Nos. 17 to 20 are to section 15. There has been some concern over section 15 of the Bill, despite the fact that it relates clearly to performances. I have had this section re-examined and am satisfied this provision will not be used as a basis for prosecutions against either farmers or educators.

It has been suggested that I should add a clause making it clear that normal farming practice is not covered by the section. Aside from the difficulty with defining normal farming practice, there is the added problem that were I to specify this was not covered, I would be obliged to similarly allow for every other legitimate activity, which might involve animals from riding schools to sporting events to even walking a dog in terms of the actual legal definition. Obviously, this list would never be complete and would therefore be pointless.

However, we made a few amendments on Committee Stage. Amendment No. 17 makes clear that performances with an untrained bovine rather than merely a bull are covered. That addresses a concern that unscrupulous operators could use freshly castrated bullocks to circumvent the ban on such performances. Amendments Nos. 18 and 19 were introduced to clarify the situation for a lawful investigative purpose to justify filming an animal fighting event or to show said material afterwards. That is not particularly well written but, essentially, what it means is that not only is it unlawful to organise, participate in or attend a dog fight, cock fight or other such fight, but it is also unlawful to film it and to put it online to make money from it.

I also proposed a minor amendment No. 20 on the roping of horses. As currently worded, performances involving that activity are banned where they cause suffering. However, there are specialists who carry out the activity in a humane and non-coercive fashion and my amendment proposes to allow such an activity where no unnecessary suffering is caused. I refer in other words to a horse whisperer situation where one is breaking an animal using unconventional but proven methods, for example, the work of Monty Roberts. That type of performance should not be banned by the legislation when there is a proven beneficial effect on animals and is a humane way to break a horse if it is done properly.

An Cathaoirleach: We now move to group 10, amendments Nos. 21 and 55.

Deputy Simon Coveney: Group 10 relates to operations and procedures. If Members are not happy with the provision of this level of detail I can shorten my contribution. My concern is to ensure that I do not skim over anything.

Amendments Nos. 21 and 55 relate to sections 16 and 52. There was much discussion about section 16, mainly concerning tail docking and exceptions for so-called working dogs. I have opted for a ban on tail docking for cosmetic purposes. However, there is still some compelling scientific research both available and pending and the balance of evidence seems to indicate that while some working dogs will avoid tail injuries from preventative tail docking, the number is small compared to the number who suffer from side effects associated with preventative tail docking. I suggest that those who think they are protecting the welfare of working dogs by having their tails docked should consider the research carefully.

The amendment to section 52 is to ensure the correct cross-reference to a subsection in section 16 is in place. In other words, what we are saying on tail docking is that the onus will be on the owner to prove there is a requirement to dock the tail of a dog. We are banning tail

docking for all cosmetic purposes but we can deal with that through regulation at a later stage in conjunction with the bodies concerned with working dogs. I need to be convinced that tail docking is necessary. There is ongoing research, in particular in a university in Scotland at the moment on the issue of whether working dogs benefit from tail docking. We do not want the situation to arise whereby the tails of working dogs are mutilated and damaged severely by not having them docked. We aim to get the balance right.

An Cathaoirleach: Group 11 concerns amendments Nos. 22, 58 and 59.

Deputy Simon Coveney: This is about the protection of animals from poison. Amendment No. 22 replaces the section as was presented in this House. That followed difficulty in overlap between the legislative area of my Department and the National Parks and Wildlife Service. Therefore, the specific issues we discussed concerning wildlife remain within the remit of the wildlife Acts. While a one-stop-shop might have been desirable some issues defy being easily categorised. Therefore, the section does not replace but adds to the existing legislation on poison.

In essence, the section outlines that when one lays poison one must take account of domestic animals and to alert their owners by means of suitable signage where the land is accessible. I have addressed an issue raised by Deputy Tom Barry about poison laid as part of a programme throughout the year. The amendment provides that only a single notice need be lodged with the local authority rather than multiple notices if one is putting out poison, for example, every second day for a week. It is a sensible, pragmatic approach to the issue.

Senator Susan O’Keeffe: I seek clarification. On the notices that must be clearly visible from every public place, is one notice sufficient on the grounds that notices are often placed in a way that they are not noticeable and therefore one would not see them?

My other query relates to feral cats and their potential poisoning. The issue was raised with me and I wonder whether there is any clarification in regard to the matter.

Deputy Simon Coveney: We had a long discussion about feral cats in the Dáil because they are an issue. Cats are an unusual animal in that they are semi-domesticated in many ways. They become a protected animal if they are owned by a person but, essentially, for the purposes of the Bill they are considered a wild animal if they are not owned. On many farmyards one has cats living in the yard who are essentially protected animals because they are owned by someone but they behave in a pretty wild manner in terms of ratting and such behaviour.

We cannot treat feral cats as protected animals because we are then going down a road whereby we would be unable to control and implement the regulations because there are no owners to prosecute, take to court or to whom we could issue a welfare notice. We must be sensible and we must do a lot of other things to deal with the feral cat population such as catching, neutering and releasing. That is already the case in work done by many animal welfare organisations. We must do more such work and perhaps help to financially support the programme. We are encouraging that through our code of practice, that we are requiring of all the animal welfare bodies that we financially support. However, one cannot apply the same level of protection to a wild animal as a protected animal because it is so difficult to enforce. Whereas there is an onus on landowners in terms of wild animals and protected animals to be mindful of said protection when laying poison, we are somewhat limited in what we can do for wild animals because they are far less predictable.

22 May 2013

In terms of the laying of poison, it is necessary that a notice or notices of the laying of poison upon the land shall be so that at least one notice is clearly visible from every public place adjoining or being upon the land. In other words, one has to be able to see the notice regardless of the way one enters the land. The notice must be up on a gate or otherwise visible. It is not necessarily limited to one notice. If there are multiple entrances or access points to land my understanding is that they must all be clearly marked.

An Cathaoirleach: We will now discuss group 12, amendments Nos. 26, 27 and 56.

Deputy Simon Coveney: This was a particularly sensitive issue. It relates to the role of authorised officers in the humane destruction of an animal. Amendments Nos. 26, 27 and 56 are to sections 23 and 52. There was a lot of concern about ensuring a badly injured animal could be put down by a suitably qualified operative, and we now provide for this. We had said only a qualified vet could put an animal down but if, for example, there was a road accident when transporting cattle and there were animals with broken limbs, they would have to be put out of their misery quickly. If an authorised officer is present who is not a vet but is a qualified person from a knackery, for example, we must allow that person to take the appropriate course of action.

Deputy Ó Cuív was also concerned about the provision where an authorised officer intends to put down an animal, he must seek suitable veterinary advice to approve this action. There is an onus on someone who is not a vet to attempt to get veterinary advice before doing that. He must attempt to call a vet because everyone who works in a knackery yard will have the phone number of a vet and should try to call that vet to get some basic advice to approve what they are doing. If, however, they cannot contact the vet but have shown an attempt to contact him, they can proceed and put the animal down, if that is what is necessary. That is important, because otherwise we could find ourselves in an awkward situation in gruesome circumstances where animals are screaming and they cannot be put down while a person waits for a vet to arrive. No one would support that.

An Cathaoirleach: The next group is amendments Nos. 28, 39 and 51.

Deputy Simon Coveney: This relates to arrangements for consideration of representations. This series of identical amendments is intended to address concerns raised by limiting the power of the Minister to withhold moneys that are currently due to the Minister from an individual. There are three sections with similar powers so the amendment appears three times. The amendments introduce an additional safeguard by providing for a period of time within which a person may make representations and requiring the Minister to consider them before moving to withhold the moneys. These powers to withhold moneys only apply where the State has had to intervene in cases of probable wrongdoing, such as disposal of non-compliant animals the status of which was unverified and therefore could not enter the food chain, thus giving rise to a cost to the State associated with their disposal. In other words, if the State must intervene and pay for the disposal of an animal and is trying to recoup that cost, I cannot just simply recoup it now. The person from whom I am recouping has the opportunity to make the case and I must consider that case before proceeding. This is a safeguard to ensure the Minister does not over-extend his powers.

An Cathaoirleach: Group 14 is made up of amendments Nos. 29 to 32, inclusive.

Deputy Simon Coveney: These relate to codes of practice. These are a group of small

drafting changes to the section which provides for codes of practice. These will be a central feature of this Bill in a series of different areas. While there has been some disquiet about codes, it is difficult for me to understand it. It is clear that a code cannot create a new offence, it can only illustrate an existing offence. For example, if I adopt a code saying a fully grown male pig needs five to seven litres of water per day, this merely illustrates how one might comply with the provision in section 13 that an animal keeper must provide sufficient quality of feed and water. The code gives everyone - animal keepers, authorised officers and the courts - a better understanding of what is to be done.

This is not some sort of regulation by the back door, it is a way to improve understanding of precisely what is covered by existing laws. The technology changes regularly so it is neither possible nor desirable to put such detail into primary legislation. This is why codes of practice are a useful tool, particularly in this Bill where we are trying to improve standards. That is a basic explanation of the difference between a code of practice and regulation. One makes new law while the other outlines practice to be consistent with existing laws.

An Cathaoirleach: Group 15 covers amendments Nos. 33 to 38, inclusive.

Deputy Simon Coveney: This group relates to animal health levies and affects sections 26 to 29, inclusive. The amendments are designed to provide for maximum flexibility in order that the arrangements for the collection of animal levies can be amended in the future via regulations to reflect best practice in terms of efficiency and public accounting requirements. Accordingly, the requirement for advance payment, whether in cash or possible security, of the levy in respect of animals exported live from the State is being dispensed with in favour of a more flexible and adaptable system to make regulations for the collection and remittance of any animal health levies provided for in Part 5 of the Bill. We have an antiquated system at present of farmers who are bringing cattle for live export having to bring a bag of money to pay those levies at the same time. That is not sensible and these amendments reflect that in the new regulations.

An Cathaoirleach: Group 16 covers amendments Nos. 40 to 42, inclusive.

Deputy Simon Coveney: This is a particularly sensitive area for farmers and farming organisations related to valuation and compensation. There were concerns about compensation where animals are destroyed for disease purposes. These were based on a misreading of the current legal situation. The provisions in the Animal Health and Welfare Bill do not make any change to the meaning of the 1966 Act but make the language clearer. The provisions are in line with established case law and the constitutional protection of property. While in the 1966 Act use of the term “shall” at one point is qualified by the term “may” and compensation under the Act is dependent on agreement by the Minister for Finance, currently the ERAD scheme operates without any legal requirement on the Government to pay compensation but the Government pays nevertheless and will continue to pay fair compensation.

When it comes to eradication of widespread endemic diseases, this approach is an important policy plant to ensure compliance with the scheme. I made the point clearly that there is no reason for any move away from the current approach. The issue is that we will not move away from the current approach, be it towards TB or other diseases we want to eradicate. I must, however, have the flexibility where if a person is blatantly abusing the system, he will not automatically be entitled to compensation. If someone steals animals and infects them with TB, then surrenders them as animals that have tested positive for TB, or if someone infects his own

22 May 2013

herd with TB to draw down compensation, we must be able to refuse payment. This is the flexibility that already exists and must be covered in the legislation. We are not changing anything, and I reiterate for the benefit of those who were concerned that the commitment to compensate for animals that must be destroyed is being undermined that this is not the case. We had a long discussion on this issue in this House when it was raised by Senator Ó Domhnaill and on Committee Stage in the other House. We have clarified the issue and I am clarifying it again today.

Sitting suspended at 3.40 p.m. and resumed at 4.10 p.m.

An Leas-Chathaoirleach: We will resume proceedings on group 17, which relates to the appointment of authorised officers.

Deputy Simon Coveney: Amendment No. 44 clarifies that the Minister need not personally authorise every officer and may delegate this power. This is a practical change which has been made at the suggestion of Deputy Ó Cuív in recalling his experience as a Minister, of which I am sure he has fond recollections. It is sensible to provide that Ministers should not be required to sign off on all such matters. If an authorised officer must be appointed in an emergency, for example, and the Minister is not in the country, other people must be available to proceed with the authorisation. Such persons must have been delegated the power of authorisation by the Minister.

An Leas-Chathaoirleach: The subject matter of group 18 is the remit of local authorities in the enforcement of the Act.

Deputy Simon Coveney: Amendments Nos. 45 and 46 deal with local authority officers. Amendment No. 45 is intended to clarify the language around the appointment of an authorised officer to make clear that officers appointed by a local authority may only act within the jurisdiction of their local authority or that of another local authority where arrangements to do so have been made. These are uncontroversial amendments.

An Leas-Chathaoirleach: The subject matter of group 19 is distinctions between authorised officers.

Deputy Simon Coveney: Amendment No. 47 makes clear that an authorised officer appointed by a body with which the Minister has a service agreement may not act in relation to farm animals on a farm. Senators may recall our previous discussion of the legislation when concerns were expressed that I would delegate officers from animal welfare organisations who may not have an understanding of farming to audit farmers. This was a genuine concern, albeit one that was not well-founded.

Notwithstanding that, the amendment has been introduced to ensure there is no ambiguity about the matter. If I enter into service agreements with the Dogs Trust, the Irish Society for the Prevention of Cruelty to Animals or the Dublin Society for the Prevention of Cruelty to Animals, the authorised officers from such organisations shall not participate in agricultural or farm inspections and their role will be confined to animal welfare and cruelty cases. In any case, the latter is the only area in which the organisations in question wish to be involved. The amendment provides the clarification Senators sought on this matter.

An Leas-Chathaoirleach: Group 20 consists of drafting amendments relating to criminal justice legislation.

Deputy Simon Coveney: These amendments address a technical issue. Amendment No. 49 to section 39 clarifies the powers of a garda to arrest a person. It is based on legal advice received from the Department of Justice and Equality and the Office of the Parliamentary Counsel and ensures the section is in line with the Criminal Justice Act 2006. Amendments Nos. 52 and 57 provide for minor drafting changes to ensure correct legal terminology is used in respect of arrest and prosecution. None of the amendments changes the substance of the Bill.

An Leas-Chathaoirleach: Group 21 relates to the animal health and welfare notice.

Deputy Simon Coveney: Amendments Nos. 50 and 72 are technical in nature and relate to section 42, which deals with the animal health and welfare notice. Amendment No. 50 corrects a typographical error by replacing the word “as” with the word “or”, while amendment No. 72 corrects a cross-reference arising from an earlier amendment.

An Leas-Chathaoirleach: The subject matter of group 22 is the fixed payment notice.

Deputy Simon Coveney: Amendment No. 53 has been introduced to address the issue of fixed penalty notices or on-the-spot fines, as they have been described by some. The amendment is intended to make clear that the authorisation to issue the fixed penalty notice is separate from the general authorised officer provisions of the legislation. The Bill provides adequate checks and balances and I am satisfied it will not be possible for what could be described as a “trigger happy” officer to issue spurious on-the-spot fines.

I will elaborate a little on this matter as it gave rise to concerns in the earlier debate in the House. We have amended the section to provide that a fixed penalty notice cannot be issued by one officer acting alone. Instead, an officer who wishes to issue a fixed penalty notice must first obtain the authorisation of a second officer in a divisional veterinary office or local authority. As such, it will not be possible for fixed penalty notices to be issued in a trigger happy manner. The approval of a second officer must be sought before an officer may issue fixed penalty notices, which are essentially a slap on the wrist for individuals who have been responsible for minor offences. No one wants to take people to court for such offences, unless absolutely necessary. It is important, therefore, that officers have available to them a penalty that equates to an on-the-spot fine. The amendment introduces a check on the initial proposal by providing that a second authorised officer must sanction a fixed penalty notice.

Senator Brian Ó Domhnaill: I appreciate the Minister’s response and clarification because this is an issue which has caused concern. We discussed it in this House previously and I know the IFA has been raising the issue of the fixed penalty notice too. The Minister captured it well with his reference to trigger-happy agricultural officers or inspectors. I am sure there are none out there but-----

Deputy Simon Coveney: I hope not.

Senator Brian Ó Domhnaill: I certainly hope not too. What is being proposed probably makes sense in that no one officer can make the decision. It has to go up the line for a second opinion. Am I right in understanding the amendment to mean that a second officer would have to agree with the initial report or recommendation from the primary officer? If that it is correct, it would at least give some level of comfort.

I am also concerned about the level of fines being imposed. This Bill is very similar to road traffic legislation whereby an administrative penalty of up to €1,000 can be imposed. Consti-

tutionally, that is the position. I have worked in conjunction with Senator O'Donovan on other legislation, which I hope the Minister will see fit to support when it comes before the House, on the decriminalisation of fisheries offences, for which we are proposing administrative sanctions. I would not be averse to supporting administrative sanctions in this instance. They constitute a slap across the wrist and mean that the individual farmer or herd owner will not end up in court, facing prosecution and a criminal conviction. It makes sense but I understand the level of the fines will be fixed by way of regulation. In that context, it would make sense that the cap would be placed at a level that is not excessive. Perhaps there should be a lower cap for a first offence with a gradual increase for any subsequent offences. The purpose of administrative sanctions or penalties is to discourage certain practices. The idea is to disincentivise the practice that is occurring, and if that is the rationale behind this, I will support it. I am glad to see the imposition of sanctions will not be at the whim of one inspector or officer. Any such decision will have to go up the line, which I welcome.

Deputy Simon Coveney: That is exactly what is happening. On the amount, it will be €250 or a higher amount, if deemed appropriate, but it cannot be higher than €1,000. In the vast majority of cases, the fine will be €250. This is a warning, essentially. The notice will also indicate what needs to be done to solve the problem, which is what is required. It is a warning, an instruction and a relatively small fine, and hopefully everyone will be able to move on and learn a lesson from it. That is the idea. It was necessary to reassure people that it would not happen on a whim. I believe we have got the balance right now.

An Leas-Chathaoirleach: Next are regulations relating to the census of animals, the subject matter of amendment No.61.

Deputy Simon Coveney: Amendment No.61 deals with regulations relating to the census of animals. As previously drafted, if a person does not comply with an animal census, he or she is guilty of a lower, class B offence. The amendment makes it clear that persons have a period of 14 days within which to make the return before an offence can come into existence. This eliminates the possibility that persons can be deemed to be in default as soon as the census goes out.

If there is a census, that is, if the Department is collecting data on animal populations, it will give people a period of 14 days to return the census form. This gives people a sufficient period of time to provide the required information before the results are correlated. That is my understanding of this amendment.

An Leas-Chathaoirleach: The next amendment, No. 62, deals with the fixing of fees.

Deputy Simon Coveney: Amendment No.62 amends section 73. There was concern that, while I indicated that there would not be new fees or charges imposed on farmers arising from the Animal Health and Welfare Bill, some future Minister might use the Bill as a vehicle to impose charges on farmers. Therefore, there is now a safeguard in place that states that such a charge cannot be bigger than the cost of the service to which it relates. This seems like a reasonable approach. It should be stressed that the reality is that the majority of services provided by the State to the agricultural sector, such as inspection of animals or laboratory tests, are provided free of charge or for charges which are far lower than the actual cost of such services. Essentially, the Bill provides that the Department must provide services at cost and cannot charge for profit. No future Minister can impose a charge which includes a profit. Any service the Department provides, such as inspections, for which there is a charge, the charge

cannot be higher than the cost of delivering the service, which is sensible. There is no intention to increase charges from my perspective. If charges are to be introduced or increased, that will have to be discussed and negotiated with the relevant stakeholders. We are not in the business of adding to people's costs at the moment.

An Leas-Chathaoirleach: The next group of amendments, Nos. 63 to 65, inclusive, relate to service agreements.

Deputy Simon Coveney: Amendments Nos. 63 to 65, inclusive, amend section 74 of the Bill. They are minor technical amendments designed to clarify that organisations with which the Minister enters into a service agreement are not permitted to make regulations but may operate or enforce regulations made by the Minister.

An Leas-Chathaoirleach: The next group, comprising amendments Nos. 69 and 70, deals with diseases to which the Bill applies.

Deputy Simon Coveney: Amendments Nos. 69 and 70 amend Schedule 2. They are drafting amendments to correct the spellings of certain diseases. I assume nobody has any objections to that.

An Leas-Chathaoirleach: The next group of amendments, Nos. 73 to 82, inclusive, refers to statutory instruments relating to animal health and welfare.

Deputy Simon Coveney: Again, these are technical amendments to update the list of legislation.

Question put and agreed to.

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

Minister for Agriculture, Food and the Marine. (Deputy Simon Coveney): I thank this House, in particular, for its contribution to this Bill. I hope I have taken on board most of the concerns expressed by Senators. I certainly tried to do that, both here and in the Dáil, and I believe the Bill is better for it. The original draft of this legislation was put in place by the previous Government. It has been amended, changed and modernised, as appropriate, by this Government, but the same people in my Department have been involved in making it happen, namely, Mr. Mark Winkelman, Mr. Dermot Murphy and Mr. John Moloney. They have done an enormous amount of work over a number of years to get this legislation right. The Bill brings our animal health and welfare legislation up to date and clarifies the responsibility animal owners have towards their animals.

The most exciting thing about this Bill will be in the using of it because we have had some appalling cases of animal welfare breaches and of cruelty in Ireland and we need to deal with that. We need to make an example of some people, whether it is in dog fighting, abuse of stray horses or other areas. There are some people who should not have animals and we need to intervene to protect those animals. We will have a lot more power and a lot more legal clarity with the enactment of this legislation, and not before time, in my opinion. I am looking forward to putting the codes of conduct in place and the training programmes that will be required to go with this legislation. I am also looking forward to the conclusion of the other preparatory work needed before we can fully enact and use this legislation. Certainly when that is done we will be able to enhance Ireland's reputation as a country that takes animal welfare seriously. Most

importantly we will be able to protect vulnerable animals which are currently being abused and in some cases mutilated. We will be able to hold people to account and impose appropriate penalties so that we can insist on the kind of respect that I believe should be part of any civilised country in terms of how animals are treated and protected.

I thank Members of all parties for their contributions to this legislation. It has been a good example of how this House, working with the other House and a cross-party system, can contribute in a very constructive way to good legislation.

Senator Michael Comiskey: I thank the Minister for coming to the House today and for the co-operation he has shown. He has been to the House with the Bill on a number of occasions. I acknowledge the funding that has been allocated to the animal welfare agencies. I take the opportunity to thank the Minister and his staff for helping out the farming community on the issue of fodder in the recent difficult weeks.

Senator Trevor Ó Clochartaigh: I welcome the passage of the Bill and commend the Minister on making significant progress in the area. I also recognise the work done by the officials in ensuring all-island North-South co-operation and bringing policies much closer together. The Minister's approach to the Bill has helped considerably and a number of other Ministers might take a leaf from his book. He listened to amendments, took them on board and when he returned it was obvious the amendments were put in place. We note that a number of them have been taken on board and it makes for better legislation at the end of the day and much of that comes down to the Minister's approach in the area.

On the Order of Business I raised the fodder crisis and I ask the Leas-Chathaoirleach for some leniency because the Leader advised me to raise the issue while the Minister was in the House today. Where do we stand on the fodder crisis? Last week we raised a particular issue of fodder coming in from France which was being stalled at the ports because of industrial disputes.

An Leas-Chathaoirleach: Perhaps the Minister might give a very brief response later as we so not want to go into another issue.

Senator Susan O'Keefe: I join others in thanking the Minister for his patience and, as Senator Ó Clochartaigh has said, his capacity to listen and with his officials take on board the suggestions. It has been a very collaborative exercise and the Bill is strengthened as a result. The Minister has shown his own personal passion which shines through and has made an enormous difference in passing the Bill in a timely fashion. I just hope my hens will not look for a choice in their meals in future and that they will feel they are well catered for already.

As a matter of coincidence an official called to our house today checking on dog licences. It is good to know that is happening. Some people may believe that dog licences are a dream but I believe it is good to have them enforced. Fortunately my dog licences are intact. Much has been discussed here and the extent of the legislation has probably been a revelation for people. The Minister has said he looks forward to it being enforced and we all welcome that.

Senator Brian Ó Domhnaill: I echo the other Senators' sentiments and thank the Minister. This is what parliamentary democracy should BE about - a Minister coming in with a piece of legislation and not rubbishising proposed amendments. While some of the amendments we initially proposed may not have been 100% correct, the Minister acknowledged our intent, went back, made amendments in the Dáil and the officials worked overtime on it. This is substantial

legislation as it crosses over a multitude of legislation in the Department. It deals with every animal in the country, each of which has a right to be protected and the Bill does that.

Obviously farmers had genuine concerns. We needed to marry those genuine concerns with the greater good of protecting animals. That has been achieved in the best possible manner. I thank the Minister for his co-operation. I agree with Senator Ó Clochartaigh. In the past there were Fianna Fáil Ministers who would not even accept amendments from ourselves when we were on the other side of the House. Every Minister should learn to accept amendments or provide an explanation as to why it is not possible to do so. The Minister has certainly done well in that regard.

The fodder crisis has been referred to and I do not want to get into it too much today. There is a need for additional fodder particularly in the west of Ireland down as far as Galway and Clare, and in the north west in parts of my county where there is difficulty in getting fodder in quickly enough. There are issues relating to the boats and the capacity to bring it in. There is a need for an extension for the scheme and for additional transportation capacity to bring in fodder that has been sourced, particularly in places such as France. I am sure the Minister and his officials are doing everything they can to deal with the issue. Additional resources will undoubtedly be needed because growth levels are inadequate and a lot of livestock are indoors at the moment and cannot get out.

I commend the Minister on the passing of the legislation to which everyone in this House and the other House had an opportunity to contribute. That is a reflection on his co-operation.

Deputy Simon Coveney: May I respond?

An Leas-Chathaoirleach: It would be interesting to get a progress report and I will not impede the Minister.

Deputy Simon Coveney: I am happy to outline the status of the fodder issues at the moment, which are serious and have been for some time. The fodder crisis began this time last year because we really had no summer from June onwards. Parts of west and north County Cork, and County Kerry had only three days without rain from the start of June to the end of August. It was an extraordinary weather pattern that then continued to be hampered by the early onset of winter and the late arrival of spring. The result has been a significant shortage of fodder in parts of the country.

Even though we have been working with farmers through Teagasc, private advisers and others to try to extend the use of limited fodder for many dairy and beef herds for longer than would normally be used through winter, everybody had anticipated that we would have some kind of normal weather patterns after St. Patrick's Day, but that simply did not happen. We then moved into a crisis management situation where farms literally ran out of all fodder. While some accessed it from their neighbours for a period, eventually that ran out also. It quickly became clear that we would need to import very large volumes from abroad, which had never happened previously.

On 24 April I announced that we would essentially pay for the majority of the cost of transporting from the UK. I committed €1 million representing 1,000 truckloads. We have subsequently extended the scheme's deadline and have doubled the fund. The scheme ends on Friday but we have said we will extend it until Friday week on the basis of deliveries. However, we need clear indications from co-operatives, marts and others that are approved to import and

22 May 2013

avail of the transport subsidy - the Department has now approved many of them - of proof of purchase before Friday, but the delivery can take place into next week. The reason for that is as follows. We could take the option of simply extending each week resulting essentially in a drip feed of hay coming in each week as long as it is needed. Instead we need to put pressure on organisations, co-operatives, marts and those importing to bring in a lot of fodder in a short time. In sticking to this Friday's deadline and extending the delivery period until end May, we are doing so. People understand the reason we are making that choice. As we move into June, we need to concentrate on the provision of our own fodder, if possible. If weather does not permit this, we will have to review the situation.

As of yesterday, some 2,158 loads of fodder have been contracted by dairy co-operatives, co-operatives and marts, 419 of which have yet to be delivered. To put this into context, this equates to more than 40,000 tonnes of fodder, which is enough fodder to feed between 5 million and 6 million animals for a day. This has been a mammoth task logistically over the past four weeks or so, which has resulted in huge volumes of, primarily, hay but also maize in the case of Glanbia, imported into Ireland. However, there are areas that continue to suffer and are unable to access as much fodder as they would like. In counties such as Leitrim, Roscommon and in parts of Mayo there are queues for the small numbers of bales available. We are in contact on a daily, and often hourly, basis with co-operatives such as Connacht Gold and others to try to get hay to where it is needed and with other co-operatives such as Dairygold, Glanbia and so on to try to compensate where there are real shortages. This work is ongoing. A lot of hay will continue to come into the country between now and the end of the week and into next week. I understand Dairygold will bring a shipload of fodder into Ireland. However, this has not been confirmed.

This is about not only feeding the crisis but allowing farmers, as an insurance mechanism lest this summer is the same as last summer, to get fodder into storage. We must plan for such a nightmare situation. We will continue to keep the pressure on in terms in bringing in large volumes of fodder and assisting where we can. For example, the head of the Irish Road Hauliers Association has been very helpful. Connacht Gold had a problem sourcing trucks and the Irish Road Hauliers Association has linked up with it to bring in large volumes of fodder, particularly to the west and north west of Ireland, including Donegal, which was hit badly last Saturday by very heavy rain. While in comparison to other parts of the country Donegal did not experience particularly high rainfall last summer, it is experiencing it now.

In terms of the emergency welfare line, I have consistently said that there is no reason any animal should starve, regardless of the availability of fodder. If a farmer is in crisis and is unable to afford to feed his or her animals or cannot access hay or silage he or she should contact my Department and we will help. The Department has responded to approximately 800 calls during the past month. It has helped in approximately 300 emergency situations and has put others in contact with co-operatives from whom they can obtain feed. More than €130,000 has been spent on getting hay into farmyards to ensure animals get the feed they need. We will continue to do this. This scheme will not close any time over the summer or next winter for that matter. The animal welfare helpline will remain open and the Department will remain supportive and discreet in terms of how it assists farmers so that there is no loss of face. This is about feeding and supporting animals. I would encourage farmers to avail of what is in place.

On mortality, there has been much talk about numbers reaching epidemic proportions and so on. It is important to put this into perspective. We do have a high mortality rate this year as compared with last year. Thus far, approximately 152,000 animals have died on farms this

year as compared with 116,000 this time last year. It is important to put this into perspective. It amounts to a little more than one animal per farm. It is also important to note that we have a 3.5% increase in calving rates this year. There will always be some mortality during calving. The real problem is not that there are animals starving in fields - if there are we need to know about them and deal with it - but that animals are being housed at a time when they would normally be out, which has contributed to the spread of disease and other disease threats to which animals would not normally be exposed this time of year because they would be out in the fields in the fresh air. A series of things have led to the increase in mortality. It is important to put this into perspective so that people understand the reasoning behind it.

On farm payments, we are ahead in terms of access to payments around REPS 4. Some €167 million has been paid out thus far under that scheme, €35 million of which was paid out in 2013. Agri-environment option scheme, AEOS, payments are almost all paid. More than €3 million has been paid out during the past two weeks to farmers. We want to get as much cash out to farmers as we can, given their financial concerns. Discussions are ongoing with the banks and co-operatives in regard to making credit available. We are seeking interest-free credit for fertiliser purchases from the co-operatives in an effort to ensure grass growth as the land begins to dry out. Again, practically all of the co-operatives have responded positively to this request.

In terms of accessing an EU solidarity fund, we have pushed for this with the Commission. However, it is not a runner. While I do not have time now to go into the reasons for this they have been set out in detail today in the journal, which members can read tomorrow. If we could access this funding, we would do so. The fund is used specifically in relation to natural disasters and to compensate states in respect of the clean-up following natural disasters rather than to provide funding to individual farmers or private businesses. The fund is not, unfortunately, designed for what we are experiencing.

The real challenge for us now, apart from getting fodder to the parts of the country where it is needed, is to ensure that this does not happen again next winter. That is very challenging. We need to find a way of getting enough fodder into storage to ensure we do not have a repeat of this crisis, which would be very expensive for us to deal with next winter and spring. I am pleased to inform the House that the Minister for the Environment, Community and Local Government, Deputy Hogan, and I today announced a temporary and targeted adjustment to two provisions of the nitrates regulations to support additional fodder production on Irish farms in the coming months. Essentially, we are extending by two weeks the periods during which farmers may spread fertiliser, thus extending the grazing season and, hopefully, getting a late cut of silage that normally would not be even considered by farmers because they would already have sufficient fodder in storage at this time. We are also addressing the phosphorous issue. As herds have been fed a great deal more meal than normal, this will have consequences in terms of the nitrates action plan and directive. We are also seeking some flexibility in this area.

We are dealing as best we can with the immediate crisis in terms of having established a low-call emergency helpline for farmers and continuing to subsidise the importation of large volumes of fodder. We are bringing a great deal of pressure to bear on bringing in as much fodder as is feasible and practicable. We are also doing a great deal of work with Teagasc to plan for the medium to long term issues around fodder. I cannot recall it ever being the case that farmers across the country have had no fodder in storage, with some few exceptions, while at the same time the grazing season in wet areas was four to six weeks behind and in better areas was two or three weeks behind in terms of normal growth patterns. We are under real pressure.

22 May 2013

The system is being tested. In my view, we have the capacity to respond to this positively and to ensure that we get enough fodder into storage for next winter. I am confident that we can do this, but it will not happen by itself.

Question put and agreed to.

Sitting suspended at 4.50 p.m. and resumed at 5 p.m.

5 o'clock

Criminal Justice (Unlicensed Money-Lending) Bill 2013: Second Stage

An Cathaoirleach: I welcome the Minister, Deputy Shatter, to the House.

Senator Marc MacSharry: I move: "That the Bill be now read a Second Time."

I thank the Minister for taking the time to come into the House. As he is no doubt aware, illegal moneylending is an increasing scourge on our society. Unfortunately, the crime figures do not bear that out because, as the Minister is all too aware, there has never been a conviction for illegal moneylending in Ireland. There is a great deal of law governing this area but, unfortunately, its victims are not sufficiently protected in terms of coming forward and giving evidence against the accused when the accused, or agents of same, is likely to be in a position to intimidate them on their way out of the courthouse or elsewhere.

In terms of legislation, unlicensed moneylending is mentioned in the Consumer Credit Act. The penalties include up to five years imprisonment as well as fines. The offences perpetrated in terms of the criminality involved and the methods of collection these people use are governed under sections 10 and 11 of the Non-Fatal Offences Against the Person Act and the Criminal Justice (Public Order) Act 1994. While there have been many convictions under those sections of those Bills, it is not possible to say specifically the crimes to which they were related, although it is certain, from the Minister's responses to parliamentary questions in the other House, that there have not been any convictions for this particular crime.

The situation is exacerbated in a recession where there is a need for social finance in our new regulatory regime. People are being forced in the first instance into the hands of Provident plc and other such lending institutions which, strangely, can legally charge up to 200% and employ questionable methods of collection activities in terms of the persistence with which they contact people and so on. They are the lender of last resort in terms of officialdom, and when people cannot make those payments, they are forced into the hands of the illegal moneylenders. Many of them are involved in serious criminality throughout the country, including intimidation and violence and in terms of the persistence with which they threaten people and vary the principal people owe rather than simply applying interest rates, however high they may be. It also seems from discussions with gardaí, community groups and those trying to prevent this particular crime that the perpetrators are well-known but we do not have the evidence to convict them. The victims are people preparing for children to go back to school or those with the expense of a first holy communion, a family wedding, schoolbooks, children going to college,

an electricity bill or simply putting food on the table. As we know anecdotally from our clinics these are real problems people have on a daily basis. They go to these moneylenders and then suffer serious consequences.

I must mention Communities Against Illegal Lending of Money, CAILM, in Sligo which has done significant work on creating awareness on the issue and encouraging alternatives such as community banks where people save over a period of time. Cranmore, which is a large estate in Sligo, has the Cranmore community bank which works very well. CAILM takes a three tiered approach encompassing prevention, alternatives and enforcement. It also educates through telling people where they can go for social finance. We are falling down when it comes to enforcement. I am aware of two cases in the north west where files were sent to the DPP but, as with many other cases, the victims did not come forward as they did not have enough confidence in the system to protect them. On summary conviction one faces quite a small fine and or a maximum prison sentence of 12 months. I do not believe any cases have been heard on indictment but in such a case the maximum sentence is five years in prison.

The Bill offers a very small spoke in the wheel to deal with these issues. It will give additional protection to people whereby on conviction the court can hand down an order to prohibit the perpetrator and his or her agents contacting by any means the victim in an effort to get away from the intimidation and give people confidence. The Bill also states if there is not enough evidence to convict but the judge is satisfied there is a clear issue of intimidation an order to prohibit contact can be handed down. This is to encourage people to come forward so these moneylenders can be convicted by providing safeguards which do not exist at present. While illegal money lending and violence against an individual are crimes, in practice the victims of this particular crime fall between two stools. This is a small advancement. It is non-adversarial and could be embraced by the Government.

The tradition, certainly for members of Fianna Fáil, is that Private Members' motions do not tend to be accepted, for no other reason than they are Fianna Fáil motions. The Independent Senators enjoy better success in this regard, as it seems more palatable for the Government of the day to accept their Bills on Second Stage. This is not a criticism exclusively of the current Government nor is it an absolution for previous governments which had the same practice. I very much hope in the interests of groups such as CAILM - Senator O'Keeffe is well aware of its work and supports it - that we take steps in this area. It is incumbent on us to do so.

Moneylenders prey on society and those who are at their most vulnerable, who are unemployed, have no money and have exhausted all avenues, perhaps including social welfare. In the regulatory regime we now have it is increasingly more difficult for credit unions to make social finance available. The Bill is small, and other supplementary measures would be required with regard to the delivery of social finance. We must examine the models in the UK where its Assets Recovery Agency, Department for Work and Pensions and other agencies have come together to successfully secure approximately 100 convictions in recent years for this particular crime.

The Bill provides for a prison sentence of 14 years, which is a significant increase on the five year sentence which exists at present because it is not a deterrent to criminals. As I have stated, there have been no convictions and I do not believe there will be until we can demonstrably afford additional protection to victims. We humbly believe this is a step in this direction and we very much hope the Minister will be in a position to accept it on Second Stage and add the benefit of his party and the coalition's brilliance to enhance it further on Committee Stage.

22 May 2013

This issue is predominantly urban. Sligo is not unique and large urban centres throughout the country such as Limerick and Dublin have been affected by this crime. I very much hope we can extend some element of hope to the victims of this crime and to society by taking this step to provide them with additional protection to ensure they are encouraged to come forward and testify against these criminals.

I pay tribute and thank councillor Deirdre Heney, who was very much involved in helping to draw up the legislation and in researching the existing legislation which governs this area. The figures speak for themselves as we have had no convictions. There is much law but no justice. We believe this is but one small spoke in a wheel of many spokes to assist in this area. I very much hope the Minister will be able to embrace this legislative initiative in the spirit with which it has been tabled.

Senator Darragh O'Brien: I support the constructive legislation put together by my colleague, Senator Marc MacSharry. It is not the first time he has done so. He has outlined many of the reasons the Bill should be accepted. As my colleague stated, it is part of a solution and not the be all and end all. It will not solve everything. One of the biggest issues with regard to illegal money lending is with regard to the tactics used by some moneylenders to threaten people into paying exorbitant rates of interest. They use physical assault, seize goods, break into property and verbally threaten.

The problem is increasing in these very straitened times. We are in the middle of a very deep recession and people cannot obtain finance from banks or credit unions, social welfare payments have been cut drastically and the Government has abolished payments such as communion and confirmation grants. Many vulnerable and poor families who do not have resources fall into the arms of moneylenders when it comes to communion and confirmation. The Bill would provide protection for someone who made a complaint to the Garda. At the very least even if there was not enough evidence to convict someone a judge could put in place a barring order to prevent an individual or his or her agents from threatening or making contact with the person who owes him or her money. The Bill is part of the solution and the Government should accept it on Second Stage and allow amendment should it be required.

We intend to bring forward further legislation on legal moneylenders. We do not have a maximum APR set by the Central Bank. One company in particular, which I will not mention, offers a €500 loan repayable over 52 weeks at a payment rate of €15 a week. Somebody who may not be too financially competent might think this is reasonable, but it is an APR of approximately 160%. People prey on the vulnerable and desperate and those who are not up to speed on finance.

At least those moneylenders are legal, but illegal moneylending generally emanates from organised crime, dissident groups and drug dealers, people who are dangerous in their own right. Senator MacSharry's Bill would provide protection and increase the maximum penalty to 14 years in prison. Under it, a judge could instruct an individual or his or her agents not to make further contact with a person. This is a sensible approach and I am interested in the Minister's response.

I would be also interested to know whether his Department or the Department of Finance plans to tackle moneylending in general. A part of the legislation that we intend to introduce will deal with the advertising of legal moneylenders. They run promotions such as no credit checks, guaranteed loans, borrow up to €500 instantly, etc. These adverts are prevalent on Brit-

ish television and are creeping into this country at an alarming rate. Were this Bill accepted, it would form part of the solution and lay down a marker that the Government was willing to do something about the issue.

This is not an easy matter and one size does not fit all. People's social welfare payments have been cut and they cannot access finance through normal channels because their banks will not lend to them if their credit cards are maxed out. Generally, it is family events such as communions, confirmations and weddings that prompt them to try to get their hands on €500. They do not realise how much they will repay. More importantly, they do not have the protection of the courts. As Senator MacSharry stated, there have been no convictions under the current legislation. This Bill would make it easier for the courts to set down a barring order. It might be a start to the process. I hope the Minister sees fit to allow the Bill to pass Second Stage and to accept it in the manner in which it has been proposed. It is constructive, well thought out legislation.

Minister for Justice and Equality (Deputy Alan Shatter): I would like, at the outset, to express my appreciation to Senator MacSharry for publishing the Criminal Justice (Unlicensed Money-Lending) Bill 2013. The Senator has, through this Bill, put on the agenda once more the important issue of illegal moneylending.

Responsibility for legislation on the regulation of moneylending and the prohibition of illegal moneylending lies with the Ministers for Finance and Jobs, Enterprise and Innovation, respectively. Comprehensive legislation targeting the illegal lending of money has been on the Statute Book for some time and has, indeed, been strengthened in recent years. Licensed moneylenders operate under the regulatory control of the Financial Regulator, who can impose "administrative sanctions" against moneylenders licensed by him for prescribed contraventions of legislation or regulatory rules.

The focus of today's debate is illegal moneylending, which is addressed by section 98 of the Consumer Credit Act 1995. This prohibits any person from engaging in the business of moneylending without a licence. Acting as an agent of an unlicensed moneylender is also prohibited.

A member of the Garda Síochána has considerable powers under the Act where he or she has reasonable cause to suspect that a person is engaging in the business of unlicensed moneylending. The member may, without warrant, stop, question, search - if need be by force - and remove from that person any document or money which the member reasonably believes may be in that person's possession for the purpose of moneylending. It is an offence to obstruct or interfere with a member of the Garda Síochána using those powers. It is also an offence to give a garda information which is false or misleading or to fail to comply with any request made by a garda using those powers.

The primary offence of engaging in unlicensed moneylending is indictable and it is noteworthy that legislation brought forward by the then Department of Enterprise, Trade and Innovation, namely, the Investment Funds, Companies and Miscellaneous Provisions Act 2005, increased the penalties for the offence to a fine not exceeding €100,000, imprisonment for a term not exceeding five years or both. In addition, the offence of demanding money with menaces under section 17 of the Criminal Justice (Public Order) Act 1994 already carries a penalty of up to 14 years imprisonment.

As the Minister for Justice and Equality, I share the Senator's concern for persons who fall

victim to those unscrupulous individuals who would prey on their fellow citizens through illegal moneylending. I think the House will agree, however, that the powers granted to the Garda to address the problem, and, indeed, the penalties available to the Judiciary in this regard, are considerable. In that regard, the provisions of this Bill would not in fact create any new power or penalty. The Bill effectively replicates offences which are already on the Statute Book.

The provision in section 2 of the Bill, which proposes making an offence of “extortion, demanding money with menaces and unlicensed money-lending”, replicates and merges the separate offences already contained in the Criminal Justice (Public Order) Act 1994 and the Consumer Credit Act 1995. The Criminal Justice (Public Order) Act 1994, section 17, provides for the offence of blackmail, extortion and demanding money with menaces. This section already provides that it is an offence for any person who, with a view to gain for himself, herself or others or with intent to cause loss to another, makes any unwarranted demand with menaces. The Consumer Credit Act 1995, section 98, provides for the prohibition on engaging in business of moneylending without a licence, as previously mentioned. This section already provides that a person shall not engage in the business of moneylending on his or her own behalf unless the person is the holder of a moneylender’s licence and maintains a business premises for that purpose.

However, whereas the existing legislation provides clarity in dealing separately with these two very separate and distinct offences, the proposed Bill would, in my view, create confusion by effectively merging these two separate offences. Furthermore, the penalties proposed in the Bill are equivalent to the existing penalties already imposed for the relevant offence under the 1994 Act. This already carries a penalty of up to 14 years on indictment, the penalty that Senator MacSharry made reference to in his Bill.

In addition, the law already provides in the Criminal Justice Act 2007, section 26, that a court may make a monitoring and protection order to protect a victim of an offence from harassment by the offender. This provision can be made by a court in regard to the offence of demanding money with menaces, as defined by section 17 of the 1994 Act. A court may also make an order protecting a person from harassment under section 10 of the Non-Fatal Offences Against the Person Act 1997, even where the court finds that the alleged offender is not guilty of an offence. This is identical to the provision in section 2(5) of the Bill.

For these reasons, the Bill would not provide our courts and An Garda Síochána with any power they do not already have under existing legislation. The Bill would therefore have no legal effect other than to make the law less effective and more obscure by blurring the distinction between the separate offences of illegal moneylending and demanding money with menaces. This would, in my view, not be appropriate.

I think we are all aware as public representatives of the damage that illegal moneylenders can cause in people’s lives. Typically, they prey on the most vulnerable and disadvantaged people in our communities and charge extortionate interest rates for money lent. Rates in excess of 100% are by no means unusual. Prosecuting people for the offence is very difficult - that I acknowledge - because the loans are informal and undocumented and the vulnerable victims often live in terror of the moneylender, so they are typically extremely reluctant to make formal complaint about the offender. I have been advised by the Garda authorities that, where offences under section 98 are disclosed and are reported to An Garda Síochána, the matter will be the subject of investigation under the direction of the local district officer, with relevant expert assistance available from the Garda Bureau of Fraud Investigation. I would encourage those who

have information concerning the operation of unlicensed moneylenders to make that information available to An Garda Síochána, which will take all measures open to it to enforce the law in this area.

However, we must remain aware of the considerable reluctance of victims to provide evidence against offenders to whom they owe money. Prosecutions for illegal moneylending are very infrequent. There is one case pertaining to illegal moneylending activities - offences under the Consumer Credit Act 1995 - currently before the courts.

Due to the infrequency of prosecutions, I believe that, in tackling the problem, legislation and enforcement can go only so far. In addressing the issue, the greatest success comes when the support and assistance of the community is brought to bear to ensure persons in vulnerable positions are well advised about steering clear of illegal moneylending. That is why I believe that community-based initiatives such as the Money Advice & Budgeting Service, popularly known as MABS, are crucial in ensuring that people who are under financial pressure can be advised to take the appropriate steps to avoid falling into the moneylender's trap. MABS also advises people on how to reach accommodations with credit institutions and how to avail of the exceptional needs assistance available from community welfare officers. In concert with MABS, other services such as credit unions, community development projects, family support centres, social services and Government-funded voluntary organisations such as the Society of St. Vincent de Paul play an important role in providing appropriate advice and guidance to vulnerable people. Additionally, and shortly to come into force, there will be the help available under the Personal Insolvency Act of 2012 to facilitate those in substantial financial difficulty to enter into appropriate settlements. That is a far preferable route to dealing with creditors than borrowing money from illegal moneylenders.

As he mentioned it, Senator MacSharry will be aware of the efforts of the Communities Against Illegal Lending of Money, CAILM, initiative in his own constituency. This is an inter-agency approach funded by the Government, involving the local community, the Money Advice & Budgeting Service, the credit union movement, Focus Ireland, the local Garda and social services in diverting people away from illegal moneylending. I commend the work that organisation does and join the praise voiced by Senator MacSharry in his contribution.

We all share the concern for persons who fall victim to those unscrupulous individuals who prey on their fellow citizens through illegal moneylending. I believe the House will agree, however, that the powers granted to the Garda to address the problem and the penalties available to the Judiciary in this area are considerable. Unfortunately, this Bill would not provide our courts or An Garda Síochána with any powers they do not already have under existing legislation. The Bill would have no legal effect, therefore, other than to make the law less effective and more obscure by blurring the distinction between two separate offences, namely, illegal moneylending and demanding money with menaces, which would be an undesirable outcome. However, I appreciate and share the genuine concern Senator MacSharry voiced about the extent to which moneylenders exploit the most vulnerable and I welcome the opportunity to address this very important issue in this House. I urge people not to fall prey to illegal moneylenders and, if they find themselves in financial difficulties, to use the other mechanisms available to them to which I referred. Each of us should encourage organisations in our individual constituencies to publicise that message. In most constituencies throughout the country there are voluntary groups and individuals, branches of MABS and others who are engaged in this very important work.

I point out to Senator MacSharry that it is not my inclination, having been on the receiv-

ing end for too many years, automatically to vote down a Private Members' Bill. Rather I am anxious to encourage people to work on such Bills because often there are areas of importance that, in Government, one has difficulty in prioritising, given other demands. I can tell the House I have no difficulty with this, as a Minister. If a Bill is produced in an area that truly requires legislation and if the Government has not had an opportunity to address it, I will not, as Minister, automatically say we should oppose that legislation. That is the wrong approach. I believe we should encourage people, whether in this or the other House, to act as legislators and make a contribution. For the reasons given, however, I must oppose the particular provisions of the Bill before us, but I welcome that the House has an opportunity to discuss this important issue which can have such a detrimental impact on the lives of very many vulnerable people.

Senator David Norris: I commend Senator MacSharry on bringing this matter before the House, and I note with satisfaction the presence of the Minister because it is good to have a senior Cabinet Minister with us in Seanad Éireann for this kind of debate. I also welcome the Minister's attitude towards the entire issue of moneylending, one he made clear during the passage of the insolvency legislation, when I and others raised this question. It surely must be a concern, however, that there is in some areas, especially in our cities, what amounts to a crisis in terms of moneylending, in particular illegal moneylending. That this is not being satisfactorily addressed at present must be clear from the fact that there has not been a single instance since 2005 of an illegal moneylender facing serious charges, being jailed or fined substantially. The practice is widespread and we know from listening to people on the wireless they have immense difficulty from the pressure caused. I recall listening during the past six months to a woman who was put under such pressure.

I note the occupant of the ministerial chair has changed. I welcome the Minister of State, Deputy McGinley, and ask him to pass on to the Minister, Deputy Shatter, the recommendations I shall make, particularly given that the Minister who has just left indicated his strong support for the views of the Society of St. Vincent de Paul. Coincidentally, today I received a magazine from that society which makes clear recommendations. It concurs with my view that there is a crisis. As my time is limited, I wish to put those remarks immediately on the record of the House.

To reiterate, the St. Vincent de Paul Society indicates that a crisis exists. The contradiction, which is clear to anybody, is that it is the most vulnerable people who are engaging in the practice of the most dangerous form of borrowing money. Very often they cannot repay it properly. Recommendation No. 1 of the St. Vincent de Paul Society is that the Central Bank be asked to publish baseline data on the number of loans and the number of households with such loans in the Republic of Ireland. The second recommendation is that the total cost of credit should be emphasised in loan agreements. In my view, we should also include the APR figure. In his speech the Minister noted there were some unscrupulous people who charged more than 100%. They are not only the unscrupulous or the unlicensed, however. Licensed moneylenders, including the largest one, Provident Financial, which has 75,000 loans extended in this country, charges up to 187% per annum, yet this is not regarded as an offence although we complain about 20% or 17.5% being charged on credit cards. This is a very serious situation.

It is recommended that moneylending companies should not be permitted to offer loans that are more four times the proven weekly income. That would protect people who cannot afford to make the repayments. Often these are not huge amounts - perhaps €500 to cover a child's first Communion - and it seems all right that people should pay €50 a week. However, they may not be able to afford this sum. It looks all right at the time of the crisis or emergency that is often

associated with a family event. The society also seeks greater regulation regarding the amount which can be borrowed and how often a loan can be obtained. It suggests a minimum time delay between one loan and another and that there be only one loan per adult in a household. These are all obvious suggestions and should be kept before the mind of the Minister.

Moneylending companies should be made responsible for the lending and payment collection activities of their agents. We have had the example of a gentleman known as “The Viper”, who started a debt collection agency having had a long career as a violent criminal. People are absolutely terrified of him. All he has to do is put a sign on his van - “The Viper Collects”, or whatever it may be - drive in front of a person’s house and I can guarantee that person will pay up pretty quickly.

There is a recommendation that the Central Bank should produce information brochures and offer financial education. FLAC has done a very good job here, with an excellent brochure, “Moneylending and the Law”. MABS also does this work. There is a crisis. It has not been addressed satisfactorily, which is clearly evident from the widescale extortionate interest rates being charged with no one being convicted of these offences.

Perhaps the Minister’s speech is a little out of date. My colleague and friend, Senator Barrett, suggested that I should table an amendment to the Minister’s speech because the copy I have states clearly at the top: “Speech by Minister for Justice, Second Stage Seanad Éireann, 22 May 2011”. That is I think two years ago, so it may be slightly out of date, it could, of course, also be a printing error.

A report on the licensed moneylending industry in March 2007 by the Financial Regulator states:

In 2005, licensed moneylenders had approximately 300,000 customers. This represents approximately 10% of the population of the Republic of Ireland in 2005 over the age of 20 years.

I was surprised at the number of people involved, but I was even more surprised to discover that 89% of the customers were satisfied. That cannot represent naivety, particularly when one considers that 50% of them gave them ten out of ten. It is obvious to me that actually the problems arise in the area of unlicensed and unregulated loan sharks.

When I noticed the Minister was leaving I had to frontload some of my remarks. I heard a woman on the radio speaking about taking her life because she had borrowed in order to help her son with a deposit. She had sold all her furniture. She had no food in the house. She was sleeping on the floor because she was paying enormous sums in interest. To my mind that is not tolerable. For that reason I am glad that Senator MacSharry introduced this legislation. The Minister is slightly contradictory and states the Bill replicates offences that are already on the Statute Book, namely, blackmail, extortion, demanding money with menaces and so on. He further states that it will have the contradictory effect. I am left to wonder if these provisions also have a contradictory effect.

I congratulate Senator MacSharry. He has raised an important matter. I am not satisfied that it is being effectively dealt with. We owe the most vulnerable in our society the protection of the law. It appears that legal moneylenders, in spite of their enormous rates of interest, are providing a service that people are capable of dealing with but the illegal moneylenders are bleeding vulnerable people to death in some instances.

22 May 2013

Senator Martin Conway: I listened with interest to the debate. I have regard for the contributions that Senators MacSharry and O'Brien have made during my two years in the Seanad. The theme of the legislation is extremely important and as Senator Norris quite rightly said, it deals with the most vulnerable people in society.

Many people have very little time for banks and I would probably include myself in that category, but I have no tolerance at all of moneylenders. The place of moneylenders in society is close to the bottom of the barrel. I am glad this matter is on the Seanad agenda, as it gives a forum for discussion of a topic that comes in under the radar in comparison to dealing with the euro billions in bailouts and the 150,000 mortgages in arrears. People may owe as little as €400 to €500 to appalling individuals who have no sense of social justice, decency and responsibility. These people, who may live in local authority housing, matter. They may not have mortgages of €100,000 plus in arrears. These people are managing just about to pay their rent but are being scalded and hounded by these merciless individuals. The reality is that people who use moneylenders possibly do not have the skillset to know their legal rights, to know what protections are in place and that is the reason it has become apparent to certain groups. Senator O'Keeffe has been telling me about the group in Sligo which is doing phenomenal work on behalf of people. They may feel that the current legislation is not being properly implemented. That is the major challenge.

I take on board the comment by the Minister that were this Bill to become law, those engaging with it would be dealing with replication. We do not want to create that situation, but in fairness I do not think that was the intent. I think the Opposition has made a very genuine effort to raise an extremely important issue and the Minister's words were very conciliatory in that regard, when he said that he does not knock down Bills in Private Members' time easily, as he did not like this being done to him when he was in opposition.

The Minister expressed the fear of duplication, with more cogs in the wheel that were unnecessary, making the bike unsafe. The major problem is that if this Bill were enacted, it would create a situation in which the most vulnerable people could become more confused about their rights than they are at present. I welcome the Minister of State, Deputy McGinley, who is a very loyal contributor to this House. It was remiss of me not to have done so earlier. The challenge for the Government is to focus and become challenged to ensure that the most vulnerable people know their rights when it comes to moneylenders. There are some very useful ways of channelling that type of information. Citizens Information and MABS have already been mentioned but there are other ways. One could send out explanatory literature twice yearly with social welfare payments, explaining in simple language what people's rights are when dealing with moneylenders. It is only a tiny minority of people who find themselves in these difficult situations who have the wherewithal to go to the Garda Síochána to make a formal complaint and request the assistance of the State mechanisms to assist them. I can remember a case about four years ago, in which a client of mine found herself in an appalling situation with an illegal moneylender and her PPS card was being requested. I told her that she and I would both meet the individual and that would deal with the situation. We did. An Garda Síochána got involved and dealt with the situation very quickly. The matter was resolved.

We need the Government to sit down with organisations such as the Society of St. Vincent de Paul, MABS and a number of other agencies and perhaps set up an interdepartmental working group or a working group with representation from those various different groups to identify ways of communicating to the people who are the most vulnerable what their rights are, what they can expect in terms of protection from the State and how to deal with moneylenders.

We have already heard from the Minister that one cannot be a moneylender in this country unless one has a licence. If a moneylender has no licence he or she is in breach of the law and is acting illegally. Second, the business model and client base of licensed moneylenders must be continuously audited to ensure they are acting with the utmost integrity in dealing with their clients.

I commend Senator MacSharry for raising this issue. The group in Sligo dealing with this issue is doing very good work and I commend his colleague on the council for the work she has done. I would like to see what is happening in Sligo reflected in other counties, so that these groups mushroom throughout the country to equip the people with knowledge. It has been a very worthwhile debate and I sincerely hope we see some action as a result.

Senator Paschal Mooney: I welcome the Minister of State and look forward to seeing him in our home county tomorrow. We will give him a very warm welcome, as usual. I compliment my colleague, Senator MacSharry, on bringing forward this legislation, and the theory behind it is to be commended. Nevertheless, it raises some fundamental questions. The purpose of the Bill is to provide new offences and prohibit unlicensed moneylenders from subjecting victims to harassment. While this may work fine in theory, there is also a responsibility on the Government to try to ensure that if the law is passed, there is additional support for the people at whom it is directed. Those involved with moneylending are usually in the very lowest strata of society and at their most vulnerable. They have gone through all the conventional methods of seeking finance for whatever purposes they need, and it is usually family reasons like communion, confirmation or a few days respite. It could be for a variety of legitimate reasons, even putting food on the table.

I must be careful in choosing words but with the plethora of Government and other agencies out there, there should not be any room for moneylenders. There is the Society of St. Vincent de Paul, various other worthwhile charities, the Money Advice & Budgeting Service, MABS, which helps people, especially those with limited resources manage their money, and there is the social welfare system. There really should not be any need for moneylenders, but the fact that there is means there is something wrong or malfunctioning within the system that drives people to extreme lengths, putting them in a most vulnerable position where a Bill of this nature must be passed to address issues of intimidation and harassment.

My only difficulty with the practicality of the Bill is that because of the circumstances of people who are involved with moneylenders, they will not only be the most vulnerable but will be so intimidated that gardaí will not be able to pursue prosecutions. To pursue a prosecution one must have witnesses and statements and go through the courts, all of which is included in this Bill. That will not happen. People will be fearful and we have heard some of the horrific stories circulating about the intimidation by moneylenders or associates. This has led Senator MacSharry to bring forward this legislation. One particular criminal who goes under one of the funny names applied to give a human face, such as the Penguin, went around with his name written on a van. He said he set himself up as a legitimate moneylender.

Senator Martin Conway: It is the Viper.

Senator Paschal Mooney: He indicated he had set up a legitimate moneylending service but if a person fell foul of him, he did not have to violently attack anybody. All he had to do was provide an implied threat. He would turn up in his van outside a person's house, with "Viper" written across the van in big and bold lettering, and he or his associates would just sit there.

How does a Bill like this address such intimidation or harassment? I would venture to suggest that the person to whom this implied threat of violence is being directed would be so scared that the last thing he or she would do is go to the local gardaí. That is why I suggest that on top of this Bill, there should be some sort of mechanism that the State should be able to address. I do not know how this could be done as we are talking about human nature but it is the only flaw I see in the practicalities and effectiveness of the Bill.

It seems we should consider the issue in the same way as prostitution and go after a different source. Perhaps more resources should be given to the Garda? When people like the Viper are questioned, they say they are running a legitimate business. He should not be allowed to run a legitimate business because he is a convicted thug and criminal. Perhaps we should examine how people applying for trading licences or other aspects of business get approval. They may comply in theory with 90% of the law in order for them to be able to stay outside the law 10% of the time, which in this case is critical. Perhaps in this way we could facilitate the State to go after these people, helped by legislation like this, so that when they are caught, they will be put away for a long time.

Senator Susan O’Keeffe: I welcome the Minister of State to the House. I join other Senators in acknowledging Senator MacSharry’s concern and his efforts in this regard. Nobody in the House would have a difficulty in the broad area of moneylending, especially illegal moneylending. People have outlined very clearly that it is a criminal activity that causes grief, not just with financial worry for families but also on a much wider scale when it comes to the kind of intimidation and harassment used on a regular basis.

It was not Senator MacSharry’s intention in the Bill to make the law more confusing, as has been suggested, by merging the two very separate and distinct offences of unlicensed moneylending and demanding money with menaces. I share many of his concerns - we are both based in Sligo - but neither of us wants to add to anything that would make the law more confusing. Raising the matter and related issues is important, and it is clear that for the Government, the challenge remains what can we do to tackle this very difficult problem. There are many and varied approaches to take so I will mention some possible action that could be separate to legislation. The difficulty with bringing people before the courts has been explained, because people are intimidated and afraid and do not know what to do. The last thing people will do is point out a particular person and be willing to give evidence in court. I am aware there are two cases pending in Sligo that are with the Director of Public Prosecutions, and I hope they will come to court and help set an example.

I give credit to the work of the Communities Against Illegal Lending of Money, CAILM, group in Sligo, set up as a subgroup of the RAPID community safety task force. It includes the RAPID co-ordinator, community gardaí, the credit union, MABS, the Sligo Education Centre, social services, the Springboard resource house project, the Cranmore community co-op, Northside CDP, other community representatives, the Cranmore regeneration project, Sligo Borough Council and elected members. It is often difficult to appreciate the level of co-operation required, but it is a very good model and perhaps one we might see in other parts of Ireland. People who are genuinely concerned have come together to share expertise and knowledge, and although their achievements so far may be terribly simple, they have also been terribly effective.

The first achievement is related to raising awareness and getting the message out there. The group speaks to people in the community, particularly in Cranmore, where there has been a spe-

cific problem, but also in other areas of Sligo. CAILM has produced a brochure, entitled Lenny Disease in Your Community, which indicates that so-called “lennies” are nasty and poisonous pests that can be found anywhere in any community. They are quite cunning but are generally quite dumb. Of course, a “lenny” is an illegal moneylender. These leaflets have been spread as part of an awareness-raising campaign that includes press releases and radio pieces.

6 o'clock

They have presented to the joint policing committee in Sligo and, of course, they have lobbied Members of the Oireachtas. That is part of their job. We sometimes underestimate the need for awareness raising. Many people do not know there are other avenues available.

The other step, after awareness raising, is to do something about it. The initiative of developing a community bank in Cranmore estate has been very welcome. It is operated by Sligo Credit Union and the Resource House project. It is a small bank specifically for that area and it is slowly beginning to encourage a savings habit in people who were never able to have a bank account, never understood what a bank account was, never wanted a bank account and, perhaps, had used illegal money lenders on previous occasions because that is all they had available to them. They have actively promoted the services of credit unions, MABS and social services. They have done this through the schools, in summer school holidays and have gone in and talked very effectively to parents trying to encourage them to see different ways they can recycle and reuse things that perhaps they did not think of before. It is a very slow, but effective, process. Finally, CAM has been working very closely with the Garda to try to help people to come forward and say, until we start prosecuting people and we see them in court we will not understand that this is a crime and we will not be able to send a message.

I was very lucky many years ago when I worked at the BBC to go to Birmingham where they had a very good pilot project. It was only in the early days then. I remember them saying it to me at the time, when I worked as a senior producer, that they very much hoped it would be a project they would roll out across the UK. Indeed, they have done that. They have used a lot of money. They have seconded police officers who specialise in gathering intelligence on money lending. They have had 180 prosecutions since they have been set up. They have very specific support for victims. They work very closely with the trading standards team. They have financial inclusion partnership officers who do nothing else but specifically support communities and raise awareness. They do what Communities Against Illegal Lending of Money, CAILM, is doing but on a much grander and better-financed scale. They are using social media, talking to credit unions and local banks and effectively taking the fight to the loan sharks and saying that until they do that, nothing will change. One of the people they prosecuted and imprisoned had charged the highest APR ever recorded, 117,000%.

There is a lot of work to be done. The challenge is with Government. It may not be through this piece of legislation, but it certainly means there is a support process. I advocate that the work done by CAILM, funded by this Government, would be used as a model to be rolled out and supported in a much wider context so that we would be seen to be active on the ground to defeat what is an extremely serious and growing problem, particularly for families who can least afford it and who are least able to cope with it.

Senator Sean D. Barrett: I thank Senator MacSharry for raising these issues, and indeed Members on all sides of the House. This is an important debate where the Seanad reaches out to help those in serious need because of what has happened to finance and banking in this country.

22 May 2013

In contrast, half of the bank rescue fund was paid to Anglo Irish Bank, which was a bank for approximately 18 people. Tens of millions, billions of euro were paid out in that case and the system was so dysfunctional that it left many people victim to the money lenders, as Senator MacSharry and the Minister said.

It must be a concern that the Minister said there has been only one prosecution for illegal money lending. It is a far greater problem than that suggests. We have lost out of the system and weakened institutions which would be of value to the people whom Senator MacSharry is helping with his legislation. I commend the Credit Union Movement and the great work of people such as John Hume in promoting those, the Money Advice and Budgeting Service, MABS, the Free Legal Advice Centres, FLAC, and the Minister for Justice, Equality and Defence, Deputy Shatter with the Personal Insolvency Act. We have to act against intimidation. Senator Michael D'Arcy was most concerned in Wexford at the heavies, quasi criminal groups, who call around to collect tractors and so on, in a period when some of his farming neighbours were in difficulties.

We need to look at the institutions we have lost such as thrift associations and savings clubs. The Trustee Savings Banks were banks for low income people to try to put money by. If one can do it, learning how to work with credit is a major advantage in trying to run households and develop the wider economy. Banks used to do things like promote thrift and savings in schools, but they became obsessed with lending to the 18 people in banks such as Anglo Irish Bank. Building societies used to be mutual benefit societies, part of the wider co-operative movement where people got together to buy each other's houses. One of the building societies that now has a financial sector name was originally the Dublin Working Men's Mutual Benefit Building Society. People got together to help each other to manage their financial affairs.

I commend the Society of St. Vincent de Paul. We need banks with a human face and we have not had those. They have been so busy running around with the people who bankrupted the country. The low interest rate policy that is so widely believed in by so many international economists deprives low-income people with small savings of some income so that we can promote property bubbles and fund massive borrowing by really rich people. That is a form of inequality in society that we have to address.

I had not heard of the 117,000% interest rate that Senator O'Keefe has just drawn attention to. *The Irish Times* of 7 March 2013 reports a 300% interest rate on loans. Sinn Féin last year sought to introduce a cap of 40%. Legislation in Canadian limits interest to 60%, Spain 10%, France and Belgium 20% and Germany 18% to 20%. We need to address the inequality in the access to funds for renegade builders and ordinary citizens, particularly at the low end of the scale. In the *Irish Examiner* of 26 June 2012 Mr. Brendan Dempsey of the Society of St. Vincent de Paul is quoted as saying "nobody will give evidence" in cases against money lenders. The Minister has acknowledged that. Are we naive to think people would even go to the Garda? It may be that these people are so isolated, fearful and separated from the rest of society that even gardaí would be regarded as establishment figures.

We must deal with loan sharking and money lending. We must promote the democratisation of society's saving so that low-income people can participate in what is part of a developed economy, the ability to borrow money, use it wisely and pay it back.

I wonder if the fine of €1,500 is a bit small compared to the illegalities and the criminality that Senator MacSharry is attempting to combat with his Bill. I commend it warmly, and all

Members of the House must, because this is a real problem for people who are socially deprived and it has to be tackled. Sometimes we are all more interested in removing income limits or universalising a benefit, which is really extending something from very low-income people to the rest of society, who may be well-off. However this is a measure designed to deal with low-income people who require better institutional assistance and the restoration of some of the bodies that used to help them in this regard.

I commend the Government for rescuing the Credit Union Movement from the difficulties we saw it in because we need to get credit and help to people with their financial affairs. Mr. Micawber was mocked in the glory era. Who wanted to balance the books like that? Governments and countries do not do it but households have to do it and we should assist in any way we can. I commend Senator MacSharry again.

Senator Ivana Bacik: I welcome the Minister to the House. I commend Senator MacSharry and his colleagues for bringing this important issue to the fore through the Criminal Justice (Unlicensed Money-Lending) Bill 2013. Other colleagues have spoken eloquently about the real trauma, fear and intimidation that takes place in the unlicensed or illegal moneylending sector where people are forced to pay enormous rates of interest, as illustrated by Senator Susan O’Keeffe. All of us would unequivocally condemn those practices and have full sympathy for the motivation behind the legislation. All of us are agreed on the need to ensure the issue is dealt with rigorously through the law.

In his contribution, the Minister for Justice and Equality, Deputy Alan Shatter, was very clear that a consequence of accepting the Bill would be to create a duplication and a dangerous blurring of offences. We all appreciate the motivation but the provision in section 2 to condense two different offences that are currently on the Statute Book, of demanding money with menaces on the one hand, blackmail extortion, and that brand of offence with this very separate offence of unlicensed moneylending is a dangerous blurring. The Minister has pointed out that section 98 of the Consumer Credit Act 1995 deals with the unlicensed moneylending aspect of that particular offence and gives the Garda very extensive powers to stop, question or search and remove documents or money from people without warrants where it reasonably believes that such documents or money may be in that person’s possession for the purpose of moneylending. Extensive powers are already in place. The penalty was increased in 2005 for that offence up to five years imprisonment or a fine of €100,000, which is entirely appropriate.

Section 17 of the Criminal Justice (Public Order) Act 1994 deals with the separate offence of blackmail, extortion and demanding money with menaces. It provides for a heavier penalty, which is correct, because that is a more serious offence and an offence of a different nature, of imprisonment for 14 years on indictment. Under the Criminal Justice Act 2007 we have the ability to provide for monitoring and protection orders where people are subjected to harassment on an ongoing basis by moneylenders. There is a strong argument, given the nature of the debate, for codifying the offences. An issue I have often addressed in the House with the Minister, Deputy Shatter is the lack of codification and the unsatisfactory nature of our criminal law. In other words, we have to look to different statutes. On the face of it the Criminal Justice (Public Order) Order does not appear to have anything to do with blackmail. It deals specifically with public order offences, such as, drunk and disorderly in a public place and so on, therefore, it is arguably not the appropriate place to find an offence of blackmail or extortion. Similarly we might ask why there is a separate Act for dealing with monitoring and protection orders and why criminal law is not codified in a much more coherent manner. That is a much bigger issue. It is certainly an issue that Senator Jillian van Turnhout and I have addressed in

the context of child sexual abuse offences where one has to look to a whole range of statutes to find what the law is on offences of sexual abuse against children. There is a bigger issue here about placing offences in an appropriate and accessible place. I know that is what the Senators are seeking to do in this Bill but, as I have said, it would duplicate existing law.

A further valid point was made by the Minister, which was picked up by Senator Sean D. Barrett and others, which is the difficulty in securing convictions. That has nothing to do with the offences on the Statute Book because one could have any number of offences. The difficulty has been getting people to come forward. First, there is a lack of complaints to the Garda which could trigger investigations and prosecutions and, second, even where an offence is suspected and the Garda has commenced investigation and taken a prosecution there is a lack of willing witnesses who will come forward and give evidence and testify and swear up, so to speak, in criminal cases dealing with illegal moneylending. The reality is that people who are in vulnerable positions and who have been subjected to the type of practices the Bill seeks to deal with are often not willing to come forward to give evidence for obvious reasons. The Minister is right to say that the real challenge for policymakers and legislators is to ensure people have viable alternatives available to them in order that they do not have to avail of these unscrupulous lenders. The Minister referred to MABS. Senators mentioned other efforts such as the CAILM initiative in Sligo. Clearly these are the best way to ensure people do not fall into the hands of moneylenders.

I appreciate the Minister's comments that he considered accepting the Bill and that he was not going to oppose it for the sake of it because it is a Private Members' Bill. We have had a good record in the past year or so of having Private Members' Bills accepted. It is important that we would not, as a matter of course, oppose Private Members' Bills. Whether they come from Government, Independent or Opposition Senators it is important that each Bill is scrutinised on its own merit and, in fairness, this one was so scrutinised and a clear rationale put forward for opposing it.

Senator Denis O'Donovan: I support the Bill which has been introduced by my colleague, Senator Marc MacSharry, and compliment him for the work and effort he has put into it. It is a very difficult area and a serious problem. I was disappointed that the Minister dismissed out of hand the efforts of Senator MacSharry. The current legislation, irrespective of what category, is failing those people who are caught in the trap of receiving money from these moneylenders. Unfortunately, in a time of recession the loan sharks, the unlicensed moneylenders, come to the surface. They emerge like rats from a sewer in difficult times and are difficult to deal with. The people who are in dire straits and go to moneylenders probably have a poor record with banks, no account with credit unions, may have burned their bridge with the Society of St. Vincent de Paul and exhausted all opportunities and as a last resort are prepared to throw the last dice in an effort to get €100, €200 or €500 to survive. That is a most unfortunate situation.

I listened carefully to what the Minister had to say. He said there was sufficient law in this area and that this Bill would be duplication. If that is the case why is the scourge of moneylending raising its ugly head so frequently throughout Ireland at present? That is likely to continue while the recession continues. I would hate to see poor people who are borrowing money at exorbitant interest rates, sometimes 300% which is extraordinary, further crucified. One has to ask from where those who are providing the money are getting it. Is it money that has been laundered? Is it money derived from the sale of drugs or other illegal or illicit activities and, if so, the current laws are not adequate to turn the screws on them, because it is obviously continuing.

Like other speakers, I laud the great work done by our credit unions throughout the country, the Society of St. Vincent de Paul and so on who have done immense work. The moneylender is a bit like a drug addict, he needs a supply and has to survive. He will not go to the Garda and will not squeal on the supplier of drugs and is in a desperate situation for a fix. Those who are borrowing the money, sometimes to feed their children or keep the roof over their heads, will do anything in desperate situations to get a few bob and will be very slow to bite the hand that feeds them on that particular occasion. The *modus operandi* of some of the loan sharks is threats, intimidation and instilling fear into unfortunate victims. In many instances, having borrowed a relatively small amount of money at the start, the loan sharks are so astute that before one repays the last few bob one is encouraged into another roll-over scenario. It is a desperate situation and one problem leads to another.

Moneylending is a serious issue and Senator MacSharry must be given great credit for highlighting the issue. At the height of the boom moneylending was a miniscule problem. The Irish and European wide recession has changed its status and moneylenders, who are primarily illegal, are coming out of the woodwork again. Moneylenders can see that people are in desperate situations and dangle a carrot in front of them, entice and trap people. The Senator's Bill has highlighted a real problem that is evident in our towns, cities and throughout the country. The law does not protect the victims of moneylending and that is why he has raised the issue.

I shall conclude by asking the Minister of State to convey a message to the Minister for Justice and Equality that moneylending is a serious ongoing problem that will not go away. The current legislation does not protect victims. That is the truth. We cannot sidestep this unsatisfactory and difficult issue. Senator MacSharry must be commended for bringing the matter to the attention of the House. I understand that the Minister does not wish to accept the Bill. If he does not accept the legislation then we will not see the end of the problem this year or next year and the citizens and country must face an ongoing, serious and unfortunate problem.

Senator Marie Moloney: I welcome the Minister of State to the House. I was not scheduled to speak tonight. When I saw that the Bill was scheduled to be debated I decided to add my voice here because it is such an important issue. I may not always agree with Senator MacSharry but I give him great credit for bringing the matter into the political arena.

Moneylending exists, whether we like it or not. I spoke during the debate on domestic violence which is a taboo subject. Moneylending is also a taboo subject. People will not admit that they borrow from moneylenders. People approach public representatives when they want help but, normally, they will not admit to borrowing from moneylenders. Illegal moneylenders prey on the underprivileged, the unemployed and the socially deprived. They are the people who can least afford to meet exorbitant repayments.

I lived in a local authority estate once. I remember a company, and I shall not name names, arriving in the estate and started off by offering a hire purchase option to enable people to buy little items of clothing for their children or household goods. The company then offered money to people to pay the costs of a first communion or confirmation ceremony even when people did not seek it out. On many occasions the woman of the house, either the wife or partner, borrowed the money but never told their husbands or partners. The women were put under fierce financial pressure to pay the loan back without the knowledge of their husbands or partners. Of course a borrower was never allowed to clear the loan. As Senator O'Donovan said, one would be about to pay it all off when one would have to borrow for something else or robbed Peter to pay Paul. A person would end up owing money all of the time.

22 May 2013

One does not have to approach legal moneylenders for loans. We have all seen television advertisements for credit cards but the small print states that the interest charged can range between a whopping 34% and 38%. However, people do not take much notice of the small print and apply for a card anyway. One pays a lot for the privilege to use the cards.

I congratulate Senator MacSharry for heightening awareness of moneylending. It does no harm to talk about the problem. People have been harassed, bullied and threatened by illegal moneylenders. They will not come forward to lodge a complaint because they are physically afraid and fear for their lives. Every day television programmes warn about moneylending and the lengths that moneylenders will go to in order to make people pay.

I must say, and I purposely allowed this to happen, I signed a contract to buy a dongle for my computer. Last February, I rang the company to cancel the contract but was informed that I had to give one month's notice which I agreed to do. In March I left my direct debit stand and in April I cancelled it thinking that I was finished with the matter. I then received a telephone from a reputable company claiming I owed money for March. I informed them that I had paid by direct debit but the person on the other end of the line was horrible to me. He was so obnoxious that I refused to deal with him and asked to speak to his supervisor. Unfortunately, he was no better. By the way, both men were not Irish people. Even though the company is based in Ireland one must speak to a foreign person when dealing with such matters. The supervisor did not treat me any better because he told me that I was trying to avoid paying a bill of €14. As a result I decided to let the bill run to see what would happen. Every day since I have had three telephone calls from the company seeking €14. I have no problem paying €14 and can afford to pay the sum. I wanted to get a feel of what it is like to be harassed and to owe money. I can now identify with people who have been harassed. I said to my husband that if a company is willing to pursue me like that for €14 what will it do when a person owes €14,000 or mortgage money. Obviously I will pay the €14 or I shall be listed as a bad debtor. The company has stopped ringing me in the past few days. I presume that it will start sending me court letters so I had better pay the sum. All of the Senators would talk about me if I was put on a list of debtors.

Senator Martin Conway: There is no fear of that.

Senator Marie Moloney: Senator Bacik mentioned codifying crimes. I encountered the same problem when I tabled a motion two weeks ago. There is no crime in Ireland of domestic violence or for illegal moneylending. I hope that the Minister will take on board the words and sentiments expressed here today. If he is not going to accept Senator MacSharry's Bill then I urge him to consider it and incorporate the Senator's ideas into a Government Bill. The matter must be dealt with as soon as possible.

Senator David Cullinane: I commend Senator MacSharry and his Fianna Fáil party for tabling the Bill and a Private Members' Bill. The more legislation that is introduced in the House the better. Far too often motions are tabled and my party is as guilty of that as any other. We are here to legislate and we have valuable legislation before us this evening.

Unfortunately, we are all becoming too familiar with moneylending. Many families enter our constituency offices on a weekly basis. They have told us about their concerns about unscrupulous moneylenders. It is a traumatic experience for people who are in their grip.

Over the past six years more families have fallen prey to moneylenders, unlicensed moneylenders in the first instance but also licensed ones, who have acted in an unscrupulous man-

ner. The illegal moneylenders are of greater concern to us all. Credit has increasingly become harder to secure and has led to people going to moneylenders. There is high unemployment, wage cuts and social welfare cuts. A range of benefits have been cut over the past five years in six budgets. People are trying to pay their domestic bills even though they have less money in their pockets, less social welfare or have lost their jobs. As a previous Senator remarked, people must pay high mortgages that they cannot afford. Families are under all sorts of pressures to pay basic bills. Any of the charities that work with those who are vulnerable will tell us that, increasingly, they are going to moneylenders to pay for basic bills. There must be something wrong with that. We must recognise that as a wrong which needs to be corrected. Unfortunately, it is part of the impact of the wider austerity agenda on families. According to Social Justice Ireland, the State's poorest families experienced a disposable income drop of almost 18.7% in 2000 alone, at the height of the Celtic tiger. One can imagine how much worse matters have become for those families since, especially from 2008 onwards.

The "What's Left" tracker 2012, which was published by the Irish League of Credit Unions, provides a graphic picture of the human face behind these figures. The report stated that 1.6 million families are left with €100 or less each month when bills are paid. That is a staggering number of families who are left with that level of disposable income. When they are faced with increasing bills and an inability to get credit from banks or wherever, it is quite easy to see how many fall prey to moneylenders.

We also must acknowledge that there is considerable variety in the types of moneylenders. Many are perfectly honest, above board, well-equipped, have proper procedures in place and deal with people in a fair way. The word "moneylending" has negative connotations, but there are persons engaged in moneylending who are licensed moneylenders who behave in a responsible way. Equally, there are many who do not and there are many unscrupulous ones.

We all have heard worrying and upsetting stories about the behaviour of some of the more unscrupulous moneylenders, especially when it pertains to debt collection. Senator Marie Moloney gave an example of a company - it was not a moneylender - pursuing her for a small sum of money. I certainly have had many stories recounted to me in my constituency office of persons who are being chased and harassed by moneylenders who are linked to big criminal gangs in Cork, Dublin and Limerick for money they owe. In fact, I had a meeting with the chief superintendent in Waterford a year ago where there was one gang that was trying to control a housing estate and its communities and using moneylending as a way to get a grip on those communities. In fairness, the Garda has been proactive in dealing with these individuals.

There is a need for tighter regulation in this area. Fianna Fáil's Bill is part of it, by putting a bar for a period on someone who has been convicted of the offence of unlicensed moneylending from communicating with or harassing any victims of that unlicensed behaviour. The offence of unlicensed moneylending covers not only those directly involved, face to face in the act of moneylending but also those directing or aiding the act. Dealing with the latter is vital, given that many of the more unscrupulous actors, as I stated earlier, get others to collect the debts for them. They adopt an arm's length approach. They lend the money but they have others collect it for them, and the type of practices used leave much to be desired.

Last year, my colleague, Deputy Pearse Doherty brought forward a Bill in the Dáil to deal with this issue. It was to amend the Consumer Credit Act 1995 to introduce a cap of 40% on the annual percentage rate a moneylender can charge a borrower. The rate of 40% is reasonable in that one could make a handsome profit on the back of that, yet that Bill was voted down by

22 May 2013

Fine Gael and the Labour Party. The excuse given was that if the Bill was accepted, it could drive some moneylenders out of business. If the consequence of introducing such a Bill drives some moneylenders out of business, I am all in favour of it. If one cannot make a profit on the back of 40% APR, there is something seriously wrong.

We need more robust regulation and more supports. We need to take the matter seriously and ensure we do what we can to help those who are victims of moneylending.

Senator Jim Walsh: The Bill is probably overdue. I commend Senator MacSharry, as everybody else who has spoken has done, on his initiative in this regard. In commending him, I would condemn the Minister for his failure to take this on board. This is a real issue, as everybody in the House, whether on the Government or the Opposition benches, will be aware. It is a terrible affliction on those who find themselves in this position. We have seen many robust and illegal methods used to extract repayment from borrowers. We are talking about borrowers who are the most vulnerable and disadvantaged in society. This Bill deserved the Government's support in this regard.

Senator MacSharry has identified this as a growing problem. While it concerns illegal moneylending, there are issues surrounding legal moneylenders as well which also need to come under focus. The Senator is seeking to ensure the punishment is commensurate with the seriousness of the offence and that there would be a prohibition on those convicted of unlicensed moneylending from harassing those who have been their clients.

Senator MacSharry might well go beyond that. I would ask him to consider, because I am sure this Bill will return, perhaps in a different format, if it is voted down today, ensuring illegal moneylenders are aware that any contract they enter into would be regarded as being void by the State, in other words, an illegal moneylender would have no recourse to recovering his or her money legally and also there would be severe punishment for any strong-arm tactics to recover that money.

While I criticise the Minister for not dealing with this, it is fair to say that it is 40 years since RTE produced a programme on the issue. At that stage the scourge of illegal moneylending was refuted by Members in this House and led to an inquiry which substantiated what was going on.

The fact that nobody has been convicted of illegal moneylending over the past seven or eight years at a time of harsh economic circumstances for most of the population shows the legislation is inadequate and is certainly not being enforced by the Garda. In some instances, there is a reluctance among those who are caught up in this scenario to come forward and make a complaint because of the danger to which they feel themselves personally subjected. We have heard of cases here, and for that matter in Northern Ireland, of collateral such as pension books, post office books and benefits being removed from clients or their having to attend at certain locations to hand over either their social welfare or pensions to these moneylenders. The consequences for many have included not only threats but also physical assault and illegal seizure by moneylenders of the goods of borrowers. Sometimes lenders force their victims to carry out illegal activities and commit offences, purely in order that they may extricate themselves from their difficulties.

It is past time we got much tougher with people who take advantage of those who are in difficulties. In my book, the reasons given by the Minister for not accepting this legislation do not stand up. Moreover, the State is also aware that details regarding licensed moneylenders, which

can be found on the Central Bank website, show some of the charges made are staggering. I am told that in some instances, the annual percentage rate, APR, is as high as an incredible 287%. I suggest this Bill, which constitutes a start in the right direction, should at least be kept on the Order Paper. If the Minister believes it could be improved, by all means let him or others bring forward amendments to substantiate that. However, Members should avoid doing what they did two years ago, when efforts were made to deal with the position regarding bankruptcy and insolvency. They sat on the problem for a couple of years before legislation was passed, which actually gives all the cards to the banks. People who are in financial difficulties cannot now resolve them unless the banks acquiesce. Are Members stating those who are victims of moneylenders will be stuck in the same position, whereby they only will be able to extricate themselves from their difficulties if the moneylenders acquiesce? That is an appalling situation to allow to continue.

Senator Maurice Cummins: I wish to share time with Senator Jim D’Arcy.

Acting Chairman (Senator Jillian van Turnhout): Is that agreed? Agreed.

Senator Maurice Cummins: I will be brief. The subject raised by Senator MacSharry unquestionably is very important and is something all Members have witnessed in the constituencies in which they live throughout the length and breadth of the country. However, I find it extraordinary that some Members, including the last two speakers, have come into the Chamber without reading the Minister’s response to the debate and the Bill’s introduction. I will quote two items from his speech. He stated:

The focus of today’s debate is illegal moneylending, which is addressed by section 98 of the Consumer Credit Act 1995. This prohibits any person from engaging in the business of moneylending without a licence. Acting as an agent of an unlicensed moneylender is also prohibited.

He then went on to outline what were the powers and to make the single point that sums up the whole lot, namely, “The Bill effectively replicates offences which are already on the Statute Book”. In other words, the offences provided for in the Bill before Members are already covered by the Statute Book.

Senator Jim D’Arcy: In common with all previous speakers I find reprehensible illegal moneylending and the pressure it puts on people. Similarly, what are called payday loans put people into terrible situations and whatever can be done to deal with this should be done. Senator MacSharry is a thoughtful politician all the time who presents his politics in a thoughtful way most of the time. However, he has brought this matter to Members’ attention. In this context, I note that a young writer approached Mark Twain with his new novel and asked the author what he thought of it. Mark Twain replied he had read it all before and when the writer protested that he could not have done so because he had just written it, Twain repeated that he had read it before. When the writer asked where he had read it previously, Mark Twain replied, “In the dictionary”. It was words.

As Senator Cummins has noted, Members have been informed that thankfully, all of the contents of this Bill already are on the Statute Book. Consequently, what is needed is enforcement and proper attention paid to the issue in order that people do not get into such terrible situations. Finally, I encourage anyone who is in difficulties to contact the Money Advice and Budgeting Service, MABS, and have his or her situation sorted out by that service. While it is

not perfect for every situation, it is of great help.

Senator Diarmuid Wilson: I will be brief. I commend my colleague, Senator MacSharry, on bringing to the floor of the Seanad this important legislation. This is the third legislative item Senator MacSharry has presented to the House. He has presented the Family Home Bill 2011, the Access to Cancer Treatment Bill 2012 and now this Criminal Justice (Unlicensed Money-Lending) Bill 2013. Unfortunately, I regret this Bill appears to be destined for the same fate as the other two Bills on which Senator MacSharry worked, as the Government is intent on voting it down. This is a pity and as Senator Walsh has noted, it would be preferable were this Bill accepted by the Government and left on the Order Paper. If the Government has better legislation to put before Members, I encourage it to so do with haste.

Senator Martin Conway: It is not a question of legislation.

Acting Chairman (Senator Jillian van Turnhout): Senator Wilson, without interruption.

Senator Diarmuid Wilson: I understand and appreciate the brief contribution made by the Leader this evening, in which he pointed out, quite rightly, that the Minister had stated legislation is in place that covers illegal moneylending. However, the Minister also referred to the infrequency of prosecutions. Why are prosecutions infrequent if there is legislation on the Statute Book that is effective in dealing with this difficulty?

Senator Martin Conway: People are afraid to come forward and no legislation will change that.

Acting Chairman (Senator Jillian van Turnhout): Senator Wilson, without interruption.

Senator Diarmuid Wilson: This is the reason my colleague, Senator MacSharry, has introduced this legislation. I accept the points made by Senator Conway and the Minister.

Senator Martin Conway: The Senator is confusing things.

Senator Diarmuid Wilson: People may be reluctant and rightly so. This is because they are afraid for their lives, as most illegal moneylenders are gangsters and criminals.

Senator Martin Conway: Thugs.

Senator Diarmuid Wilson: As the Minister noted in his contribution, the Garda has widespread powers to deal with this issue. If this is the case, why is the Garda not dealing with the problem? These are the questions that must be answered by the Minister on foot of the introduction of this Bill. The most vulnerable people are being affected by these gangsters and thugs. While the latter are the unlicensed operators, I also would include the licensed moneylenders in this regard. I challenge the Central Bank and the Financial Regulator to check up on the licensed operators because I believe they are breaking the law and using heavy-handed bully-boy tactics to try to extract exorbitant interest rates from their vulnerable clients. While Members have suggested people should go to MABS, these people are at their wits' end. They are maxed out with the credit union, which is the only financial institution to which they have recourse. They have no other option but to seek to get money to pay for Christmas, holy communions, confirmations, school uniforms and in some cases, to pay to put food on the table. They must do this to supplement the social welfare payments they are receiving but which are going to pay moneylenders.

As colleagues have outlined earlier, the Society of St. Vincent de Paul does excellent work but it does not have sufficient resources to cope with the difficulties such people face. I agree with Senator Moloney's observations with regard to the pressure under which she was put by a reputable business for €14. However, with respect, I suggest the rasping she was put under is nothing compared with what these people are going through.

Senator Marie Moloney: Agreed.

Senator Diarmuid Wilson: I understand the Senator was only making that point.

I welcome the Minister of State, Deputy Costello, to the House and note he is the third Minister to attend this evening. I urge him to reconsider, on behalf of the Minister, Deputy Shatter, who, as everyone knows, can be shrouded in a straitjacket of pomposity from time to time. Admittedly, he was reasonable enough this evening.

Senator Maurice Cummins: The Senator never encounters that on his side of the House.

Senator Diarmuid Wilson: I ask that this Bill be accepted this evening. If the Government could come up with better legislation then I suggest it does so.

Senator Marc MacSharry: It is with great regret that, yet again, Private Members' Bill No. 3 for me, is going down the tubes. Of all the Bills I initiated, this is the one where there was the least excuse not to accept it. I thank all Members for their commendations. As a former Ceann Comhairle in the other House who was a member of the Labour Party famously said when he was retiring some years ago, I wanted to kick myself to ascertain whether I was still alive, as one Member after another, Ministers included, got up to commend him. I do not wish to be commended. I abhor how we all commend ourselves in the Seanad. I said that last week in the context of amendments to motions and how Governments commend themselves. I said it when I was on the other side of the House also. I could not stand it.

We want progress on the issue. First and foremost, I disagree with the Minister for Justice and Equality, Deputy Shatter, who was contradictory in his statements on the existing legislation. I accept that legislation exists in the area and while similar, this Bill creates a new offence. I disagree that the merging of what happens to be aspects of other laws will in any way obscure the law. Everyone admitted that the problem is that people are afraid to come forward. The very essence of what I am trying to do is to provide protection for people by putting in place the specific offence of illegal moneylending in conjunction with demanding with menace. While the measure is similar to section 26 of the Criminal Justice Act 2007, it is specifically to ensure that a person could go to court to have it make an order to the effect that the person who lent the money but was demanding with menace must stay away from him or her.

I do not refer to an aspect of the Criminal Justice Act 2007 where as a condition of bail, someone must stay away from someone else. My aim is specifically that the victim of the person who lent money, who is demanding money with menace, is beating one up, breaking one's windows and harassing one every day or has in his or her possession one's children's allowance book - whatever the case is - would be protected by the Bill, even in the event of no conviction being secured. That does not happen currently. The statistics clearly speak for themselves. There have been no convictions. All speakers said that people are afraid. Sadly, despite the Minister extolling a different opinion, that he welcomes Private Members' Bills, the reality is that he is clutching at straws in denying the merits of this one. He spoke about the merging of two similar pieces of legislation-----

22 May 2013

Senator Maurice Cummins: Not at all.

Senator Martin Conway: No.

Senator Marc MacSharry: -----into one specific offence. The victims of such offences were told today by the Minister that what they need to do is set up a group such as the one in Sligo, Communities Against Illegal Lending of Money, and that is the way to deal with the issue. The group specifically said that its three-pronged approach of educating and creating alternatives have been working but what is not working is enforcement. By the admission of those who have spoken in the debate, enforcement is not working. The fact is that people are not coming forward because they are not sufficiently protected. The Bill would give them some protection.

Senator Maurice Cummins: Not at all.

Senator Marc MacSharry: I am sad to say that-----

Senator Martin Conway: It only confuses the issue more.

Acting Chairman (Senator Jillian van Turnhout): Senator MacSharry should be allowed to speak without interruption.

Senator Marc MacSharry: -----for no reason other than the fact that it was a Fianna Fáil Bill tabled by Senator Marc MacSharry and his colleagues trying to do something that nobody else in the history of the State has done anything about. That is the only reason it has been voted down.

Senator Maurice Cummins: That is a load of nonsense.

Senator Marc MacSharry: Senator Crown and I are used to that because when we tried to do it with the Access to Cancer Treatment Bill-----

Senator Maurice Cummins: Senator MacSharry cannot accept that he-----

Acting Chairman (Senator Jillian van Turnhout): Senator MacSharry should be allowed to speak without interruption.

Senator Marc MacSharry: -----and the Family Home Bill the reality was the same. The people must sing for help in the context of this particular Administration because illegal moneylending is not going to get the necessary attention.

Senator Martin Conway: What is the point of bringing in legislation that already exists?

Senator Marc MacSharry: I again thank Members for their commendations but I am afraid they are lost on me. I hoped in earnest for genuine support for what could be a measure to help vulnerable families in Ireland but the Government has been found wanting yet again.

Question put:

The Seanad divided: Tá, 17; Níl, 23.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.

Seanad Éireann

Byrne, Thomas.	Bradford, Paul.
Crown, John.	Brennan, Terry.
Cullinane, David.	Burke, Colm.
Daly, Mark.	Clune, Deirdre.
Leyden, Terry.	Coghlan, Paul.
MacSharry, Marc.	Comiskey, Michael.
Mooney, Paschal.	Conway, Martin.
Mullen, Rónán.	Cummins, Maurice.
Ó Domhnaill, Brian.	D'Arcy, Jim.
Ó Murchú, Labhrás.	D'Arcy, Michael.
O'Brien, Darragh.	Gilroy, John.
O'Donovan, Denis.	Harte, Jimmy.
O'Sullivan, Ned.	Hayden, Aideen.
van Turnhout, Jillian.	Higgins, Lorraine.
Walsh, Jim.	Kelly, John.
Wilson, Diarmuid.	Landy, Denis.
	Moloney, Marie.
	Mulcahy, Tony.
	Mullins, Michael.
	Noone, Catherine.
	O'Neill, Pat.
	Sheahan, Tom.

Tellers: Tá, Senators Ned O'Sullivan and Diarmuid Wilson; Níl, Senators Paul Coghlan and Aideen Hayden.

Question declared lost.

7 o'clock

An Cathaoirleach: When is it proposed to sit again?

Senator Maurice Cummins: At 10.30 a.m. tomorrow morning.

Adjournment Matters

Hospital Services

22 May 2013

Senator Brian Ó Domhnaill: This matter relates to Dungloe Community Hospital in County Donegal, a publicly funded HSE community hospital that provides essential day care services and both long and short-stay beds, which are needed by the elderly population of west Donegal, which includes Árainn Mhór, the most elderly population in the country. Given its location, it is crucially important the hospital is fully supported given the increased demand for beds at the hospital.

The hospital was established in 1958 and has served the community exceptionally well since then in no small way to the staff who work in it, both retired and current. At present, according to HSE figures, there are 16 long-stay beds in the hospital and 19 short-stay beds, a total of 35 beds. That is a reduction of ten beds in recent times, which has affected the capacity of the hospital to provide essential respite care and longer stay care for those in transition from hospital treatment or who may require accommodation in the nursing unit.

This issue has been raised by the local community at a public meeting. A public meeting was held on the issue and heard serious concerns from members of the community. The problem boils down to one issue. While I do not question the Health Service Executive's commitment to the long-term future of the hospital, the moratorium on the recruitment of staff has resulted in a lack of full support to the hospital. In the past four to six weeks, long-term sick leave among staff has increased and other staff members have retired or gone on planned maternity leave. The moratorium does not allow the HSE or hospital management to fill the vacant positions. The Department must step in and allow some degree of flexibility to enable a recruitment process to proceed to replace staff on sick leave or maternity leave as well as those who have retired.

The Health Information and Quality Authority will not allow any more than 35 beds to be occupied under current staffing levels. The facility has been well maintained and developed and in 2010 it benefited from an investment of between €500,000 and €600,000. The issue at the hospital is entirely one of staffing.

While the Health Service Executive may have the option of using agency staff, recruiting staff is a no-brainer in terms of the drain the agency option places on Exchequer resources. Some degree of flexibility must be provided to allow community hospitals such as the facility in Dungloe to replace staff who are on sick leave or maternity leave, even if only for a short period. It does not make sense that demand for services cannot be met because staff shortages cannot be addressed as a result of the moratorium on recruitment.

The Minister of State is aware of the issue I raise. The Department must show flexibility if this problem is to be resolved, not only in Dungloe Community Hospital but other hospitals in a similar position. The moratorium on recruitment in the public sector must be reviewed to meet the needs of patients in such hospitals. This must be done quickly because patients and their families are being forced to avail of alternative services, both private and public, outside their catchment area. In this case, the catchment area is a Gaeltacht area. I hope the Minister of State has some good news. The Government must give a commitment to address this important local issue.

Minister of State at the Department of Health (Deputy Kathleen Lynch): Unfortunately, as Senator Ó Domhnaill will be aware from previous Adjournment debates, I will be reading a reply.

I thank the Senator for raising this issue, which the Government is examining. As he is aware, Government policy is to support older people to live in dignity and independence in their own homes and communities for as long as possible. Where this is not feasible, the health service supports access to appropriate quality long-term residential care, including the provision of financial assistance under the nursing homes support scheme. In 2012, with a budget of almost €1 billion, financial support was provided to over 22,000 people in nursing homes.

These are challenging times for the Health Service Executive in respect of all services. In the case of community nursing units, these include challenges regarding staffing, funding and the age and structure of its units. In this regard, all developments have to be addressed in light of the current economic and budgetary pressures and any decisions taken by the HSE must have regard to this and the current recruitment moratorium.

As the Senator will be aware, Dungloe Community Hospital is located on the Gweedore Road, a short walk from the town centre. The facility was registered with the Health Information and Quality Authority on 22 June 2012. The registration period is three years and the current capacity is 35 beds. This consists of 16 continuing care, six respite, three convalescence-rehabilitation, two palliative care and eight assessment beds. The hospital also provides a wide range of care services, including a day hospital, outpatient clinics, an X-ray department and other specialist services, such as physiotherapy, speech and language therapy, mental health and social work.

Dungloe Community Hospital has recently experienced an increased number of staff retirements, long-term sick leave and maternity leave. To maintain a safe level of care to patients, the Health Service Executive decided to temporarily reduce by ten the number of short-stay beds in the facility. Long-stay beds are unaffected by the decision. I understand six beds closed in the week ending 10 May, with the remaining four beds closing last week. The decision to temporarily close the beds was taken to ensure there is an adequate number of staff to safely meet all of the needs of the residents. This matter will be kept under constant review. The hospital will continue to provide respite and rehabilitation care within its current capacity. Additional respite services, if required, are available in Falcarragh Community Hospital. The HSE has asked me to assure the House that residents at the hospital are receiving a safe and quality service.

The Government is committed to the provision of a quality public nursing home service. Our overall objective is to protect the viability of as many units as possible, within the funding and staffing resources available. The Department is working closely with the HSE to finalise an overall plan regarding future public provision. The plan will reflect regional need and have regard to the current severe financial constraints, restrictions on public sector staffing and recruitment as well as the ongoing need to meet service and safety standards, all of which pose challenges for community nursing units across the country. Senator Ó Domhnaill can take some solace from the fact that we are fast running out of capacity in respect of nursing home beds.

Garda Vetting Applications

Senator Lorraine Higgins: A central pillar of Government policy is to have large numbers of those who are currently without work gain meaningful employment as a means of resolving the economic crisis. I commend the efforts the Government has made in this regard, including successfully increasing foreign direct investment, implementing two action plans for jobs and announcing a schools building programme. Despite the recession, it also announced substantial

22 May 2013

capital expenditure on infrastructure under last year's stimulus plan.

Notwithstanding these positive developments, I propose to focus on how a policy of the Government or State agency is affecting the growth of jobs in east County Galway. I am sure the issue I highlight is replicated across the country. I am fully in favour of ensuring that all residents in my area have full accessibility to the workforce and that boundaries and barriers to work are eliminated through Government action. To achieve anything of significance in this regard, we must address a delay that many people are experiencing in having applications to the Garda vetting unit processed. The Garda Síochána provides a great quality control service in processing vetting applications. However, it is of the utmost importance that nothing comes between those who wish to work and access to employment. People are waiting for months to obtain Garda clearance, which is acting as a major barrier to entry into the workforce. Last year, in my home town of Athenry, 63 students who were studying various post-leaving certificate courses in the vocational college were prevented from undertaking work experience as part of their courses as a result of delays in obtaining Garda clearance. Some of them also had placements withdrawn as a result, which essentially deemed them unemployable for the period of the delay.

I have also been contacted by a self-employed individual who had to cease work for a three-week period because he did not have the clearance required for the job he was undertaking. This caused him financial hardship. It is a terrible indictment of the current process that it deters and discourages people from entering the workforce. Much of the problem with delays is caused by people making multiple applications for Garda clearance each year. For instance, if someone needs clearance for his or her workplace, an application must be submitted to the Garda vetting unit. If the same person wishes to train a children's sports team or work for a charity, he or she will have to submit separate applications for each purpose.

We must consider the number of job opportunities that are being lost as a result of these delays. Will the Minister of State consider redeploying public servants to the vetting unit in Thurles to alleviate the delays being experienced? Will the Department draw up plans to invest in technology that will help address the current delays in processing Garda vetting applications? Greater efforts must be made to prioritise applicants who have been approved in previous months. I am not suggesting in the preceding years, obviously, because as the Minister of State knows well, people might have committed a crime that might be contrary to the spirit of the legislation and, in particular, the Garda vetting unit.

Deputy Kathleen Lynch: Unfortunately the Minister for Justice and Equality, Deputy Shatter, cannot be here today so I am taking this Adjournment matter on his behalf. While I am reluctant to say he has been detained elsewhere, that is actually the fact of the matter.

It is the intention of the Minister to ensure that the best possible vetting service is provided in this country and by extension, to ensure that the maximum protection possible is provided to the most vulnerable people in our society. The vetting services in this country are provided by the Garda Síochána through the Garda central vetting unit. The unit provides employment vetting, not Garda clearance, for a number of organisations in Ireland registered with the unit which employ personnel to work in a full-time, part time, voluntary or student capacity with children and/or vulnerable adults. The service provided is continually being extended, on a phased basis, to such organisations. At present, approximately 20,000 organisations are registered with the central vetting unit and the unit processed approximately 328,000 vetting applications on behalf of these organisations in 2012.

The Garda Commissioner has informed the Minister that one superintendent, two sergeants and approximately 113 civilian personnel are currently assigned to the Garda central vetting unit. This civilian complement includes 23 staff recently transferred from Department of Agriculture, Food and the Marine who are undergoing required training. A further 15 staff will commence their training later this month. The current average processing time for applications is approximately 12 weeks from date of receipt. There are, of course, seasonal fluctuations in average processing times and the processing time can also be affected where further inquiries have to be made, normally in respect of court outcomes and-or suspected offender details. All organisations registered for Garda vetting are aware of the processing timeframes for the receipt of Garda vetting clearance and have been advised to factor this into their recruitment and selection process.

In order to observe equity and fairness in respect of all applicants for Garda vetting, standard processing procedures are such that applications are processed in chronological order, from the date of receipt at the central vetting unit. Clearly, the protection of children and vulnerable adults is the primary objective of the Garda central vetting unit and this must remain the case. The Minister remains in contact with the Garda Commissioner as to how best this service can continue to be delivered and improved upon, while at all times protecting the integrity of the system. The methodology currently utilised both in the training of appropriate personnel in registered organisations and the actual processing of applications for Garda vetting provides a direct working relationship between the unit and each organisation seeking Garda vetting disclosures in respect of prospective employees. In doing so, the security, integrity, confidentiality and accountability of the overall Garda vetting process are protected. This process also provides each registered organisation with Garda vetting disclosures which are up to date at the time of their assessment. Critically, this also minimises the risk of false, forged or fraudulent Garda vetting disclosures being presented to employers by prospective employees. Standard policy in place with registered organisations for Garda vetting is that the vetting subject gives written permission on a Garda vetting application form for An Garda Síochána to disclose details of all prosecutions, successful or not, pending or completed and-or convictions, recorded in the State or elsewhere, in respect of them to the registered organisation.

All available resources at the Garda central vetting unit are fully deployed on an ongoing basis to provide for Garda vetting services to meet the demands of registered organisations. The Minister fully agrees with the objective that processing times should be kept to a minimum, while maintaining the overall integrity of the vetting system. In that regard, the Department of Justice and Equality is examining the scope for the redeployment of additional personnel from within the public service to the central vetting unit. Regarding streamlining the process, the Minister, as pointed out earlier, remains in ongoing contact with the Garda Commissioner as to how best the service can continue to be delivered and improved upon, while at all times protecting the integrity of the process. Clearly, the protection of children and vulnerable adults is the primary objective of the unit and this must remain the case. In that context, it is essential that registered organisations have confidence in the system, a confidence which can only be underpinned by rigorous checking processes and access to the latest available accurate information on prospective personnel, who after all, are seeking to work with the most vulnerable members of our society. In this regard, the possibility of introducing an e-vetting system has been assessed and the Garda authorities are now in the process of developing a system which will enable vetting applications to be submitted electronically through a secure web service. In addition, the system will facilitate the checking and monitoring of applications.

22 May 2013

The relevant work is being pursued on a priority basis and it will be completed as quickly as possible. I can, on behalf of the Minister, reassure the Senator and the House that it is his intention to ensure that the most efficient and effective vetting service is provided by the Garda central vetting unit while, at the same time, providing the maximum protection possible to the most vulnerable people in our society.

Senator Lorraine Higgins: I thank the Minister of State for her response. It is excellent to hear that 23 people have recently been transferred from the Department of Agriculture, Food and the Marine to the central vetting unit. I also welcome the plans to introduce an e-vetting system. On the question of dealing with multiple applications, it might be worth considering introducing a card system so that a person would have a valid card indicating vetting clearance for a one-year period. That person could then be re-vetted on an annual basis thereafter. I ask that the Minister of State bring this suggestion to the Minister.

Deputy Kathleen Lynch: I would point out to the Senator that on top of the 23 people who have already been transferred, an additional 15 staff will be transferred and will start their training at the end of this month.

We need some joined-up thinking on Garda clearance and Garda vetting. There is a difference between the two processes and one is less rigorous than the other. Perhaps the Senator's suggestion that a person who passes under one process should be deemed to have passed under the other could be examined. I will relay the Senator's comments to the Minister.

The Seanad adjourned at 7.30 p.m. until 10.30 a.m. on Thursday, 23 May 2013.