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DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

Dé Céadaoin, 26 Meitheamh 2013

Wednesday, 26 June 2013

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Machnamh agus Paidir.
Reflection and Prayer.

Business of Seanad

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

The need for the Minister for Transport, Tourism and Sport to ensure the Government will proactively endorse the bid to host the 2018 Gay Games in Limerick, given that the games would be worth up to €80 million to the city and Ireland more generally and that the alternative bids from London and Paris have been officially endorsed by David Cameron and François Hollande; and if he will ensure the Government provides every possible support for the site visit of the Federation of Gay Games from 1 to 5 July 2013.

I have also received notice from Senator David Cullinane of the following matter:

The need for the Minister for Agriculture, Food and the Marine to make a statement on fishing stocks in the Waterford estuary, the performance of the fishing industry in Waterford and the south-east, future plans to develop the industry in the county and the supports that are being provided to fishermen who are no longer employed in their traditional sectors of salmon, bass and eel fishing along the Waterford estuary.

I have also received notice from Senator Martin Conway of the following matter:

The need for the Minister for Education and Skills to give an update on the reasons for the delay in amalgamating the three post-primary schools in Ennistymon, County Clare, and to outline when this project will proceed to the next phase.

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.

Senator Maurice Cummins: The Order of Business is No. 1, Thirty-second Amendment of the Constitution (Abolition of Seanad Éireann) Bill 2013 - Second Stage, to be taken at noon and to adjourn no later than 1.30 p.m., with the contribution of each Senator not to exceed ten minutes; No. 41, Private Members' business, non-Government motion No. 8, motion re lobbying, to be taken at 2.30 p.m. and to conclude no later than 4.30 p.m.; and No. 3, Housing (Amendment) Bill 2013 - Committee and Remaining Stages, to be taken at 4.30 p.m. and to conclude no later than 4.45 p.m. I am only allowing 15 minutes as this Bill collapsed on Second Stage and no amendments have been tabled. However, if more time is necessary, I will allow it and the other items will follow.

The rest of the Order of Business is No. 4, Public Service Management (Recruitment and Appointments) (Amendment) Bill 2013 - Report Stage, to be taken at 4.45 p.m. and to conclude no later than 5.30 p.m., if not previously concluded; No. 5, Courts Bill 2013 - Committee Stage, to be taken at 5.30 p.m. and to adjourn no later than 8 p.m., if not previously concluded; and No. 6, Social Welfare and Pensions (Miscellaneous Provisions) Bill 2013 - Report Stage, to be taken at 8 p.m. and to conclude no later than 10 p.m., if not previously concluded.

Senator Darragh O'Brien: It is interesting to note that five Bills have been tabled for today, one of which relates to the abolition of the Seanad. In the House, the Taoiseach will propose the Seanad's abolition without having anything to replace it. Most of us would condemn the fact that the Government guillotined this Bill in the Dáil last night, allowing only 40 minutes for Committee Stage. The idea that the Bill forms part of a reform programme is a nonsense and a farce. I will tell the Taoiseach directly today - out of 93 Bills in Dáil Éireann, 55 have been guillotined, the last of which was last night. The Seanad is an important plank of the Oireachtas.

I am glad that the Taoiseach will attend the House today, but it will only be the second time in two and a half years.

Senator Sean D. Barrett: Shame.

Senator Darragh O'Brien: This shows the esteem in which he holds Bunreacht na hÉireann and the Oireachtas, but that is a matter for another day. Rather, it is for later today. I am looking forward to it, as I am sure are most of my colleagues on both sides of the House.

Tomorrow, the new code of conduct on mortgage arrears will be published. Will the Leader allow time next week? The schedule in this apparently useless House will be busy next week due to our consideration of legislation, but it is important that we be afforded an opportunity to examine the detail of the new code of conduct. I have not had sight of it, but I hope that it will deal with the real victims, as the Taoiseach terms them, of the economic crisis. Can we set aside time before the end of this session for a reasoned debate and to feed into the code? It is an important step for the thousands of people who are in mortgage arrears. Some 95,550 principal private residences are in arrears, an increase from 92,000 last December. The crisis is getting worse.

Will the Leader bring to the attention of the Minister for Education and Skills, Deputy Quinn, the fact that I welcomed yesterday the reversal of the cut to resource teaching and hours? The Minister was right to recognise that he had made a mistake and to overturn his decision.

However, this is not to forget about the 22,000 children who require special needs assistants, an increase from 20,000 last year. However, the same amount of resources are being provided this year. This amounts to a 10% cut in any language. Will the Leader relay to the Minister our displeasure with this situation and ask him to revert to the Cabinet to reverse that cut as well?

Senator Ivana Bacik: To return to a theme that dominated yesterday's Order of Business, namely, the revelations about Anglo Irish Bank, the debate has moved on nationally and now relates to the sort of inquiry that should be held into the collapse of the banks and the circumstances surrounding the September 2008 bank guarantee. I reiterate the point that I made yesterday - for most people and all Senators, the key concern is that we see an expedited criminal investigation, particularly upon listening to the tapes as they become available.

I welcome the imminent announcement of the redress scheme for the survivors of the Magdalen institutions, which I understand the Minister for Justice and Equality, Deputy Shatter, is to announce later today on foot of Mr. Justice John Quirke's report. However, there has been a further development in the form of the Irish Human Rights Commission's publication this month of its follow-on report into the Magdalen laundries. It is worthwhile reading as a follow-on from former Senator McAleese's report. Unlike his report, the commission's focus is on the breaches of human rights standards that prevailed in the Magdalen institutions as regards the women and girls incarcerated therein. The commission's report is a timely publication, as it coincides with the welcome redress scheme. I urge members to read the report.

The constitutional convention is due to report its recommendations on marriage equality to the Government. By an overwhelming majority, the convention voted in favour of marriage equality. Once the Government makes a response to the report, I hope that this House will be able to debate it.

In this context, I hope that we will debate an Amnesty report that was published yesterday. In considering the criminalisation of homosexuality in certain countries, it makes the point that it is dangerous to be lesbian, gay, bisexual or transgender, LGBT, in many states. We must bear in mind the conditions in which these people live. Last week, I mentioned the serious situation in Russia, where a recently passed law institutionalised homophobia.

Senator Sean D. Barrett: I feel a great sense of sadness and shame, as the Taoiseach will attend this House to abolish it. In the two years that it has sat, it has made a splendid contribution to the country. As Senator Quinn pointed out, we have introduced Bills and amended legislation and our attendance has been better than the Taoiseach's. In any educational institution, a student who turned up for only two days in two years would be expelled. We are not here to have arguments with the Taoiseach. We are here to help in the restoration of the country. What is happening today is shameful.

Senator s: Hear, hear.

Senator Martin Conway: We are almost 50% into the Government's term and many aspects of the programme for Government are being implemented. However, it is regrettable that no individual has yet been jailed for the banking crisis. Is this surprising, though? Since 2008, we have cut the budgets of the offices that deal with such matters. In the past three or four years, the budget of the Director of Public Prosecutions, DPP, has decreased from €44 million to €36 million. The budget of the Criminal Assets Bureau, CAB, which was initiated under the auspices of Nora Owen by a Fine Gael-led Government, has decreased from €7.5 million to

€6.4 million. The budget of the Office of the Director of Corporate Enforcement, ODCE, has decreased from €6 million to €5.3 million. Given these cuts, is it any wonder that we are not in a position to bring people who engaged in treason against the State to justice? I have not even referred to the cuts to the Garda fraud squad. In my humble opinion, we should have provided additional resources to these important offices, not cut them. I call on the Leader to pass on our views to the Minister for Justice and Equality, the Minister for Finance and the Taoiseach that we need to see the budgets of these offices restored as a matter of urgency because the people want to see people brought to justice for wrecking the country. White collar crime in this country has gone unabated and it has not been dealt with for far too long. It is time for action.

What we heard on the Anglo Irish Bank tapes was appalling. There was a cavalier and an arrogant attitude among senior bankers in the Anglo Irish Bank which, I am sure, was replicated in many other banking institutions but the evidence has not come out yet. The people are seething and want urgent action. The Government needs to lead the way and ensure prosecutions as a matter of urgency. We need a banking inquiry but we need prosecutions also.

Senator Marc MacSharry: Following on from the theme of the Government speakers, in particular Senator Bacik, it is my opinion that no inquiry under 2005 Act, no tribunal or no Oireachtas inquiry will give the results all of us deserve and desire quickly enough. As Senator Bacik said, the expedition of a criminal investigation is of the utmost urgency. As somebody who knows very little about criminal law and how the justice system works, I know that what I heard on the tapes in recent days is tantamount to conspiracy to defraud the State. Rather than the grandstanding by the Taoiseach on an axis of collusion or whatever words he chooses to use, whatever happens must focus on these tapes and on a criminal investigation. Let me say as a Fianna Fáil person that if a parliamentarian, a banker, a civil servant or anybody else has to feel the full rigors of the law, then that is what must happen.

Senator Martin Conway: Good man. Well said.

Senator Paul Coghlan: Is the Senator coming out with his hands up?

Senator Marc MacSharry: Frankly, the Taoiseach is diverting slightly from the crux of the debate, which Senator Bacik captured very well, which is to expedite a criminal investigation.

I call on the Leader to ask the Taoiseach to contact the Garda Commissioner and the Office of the Director of Corporate Enforcement today to ask what has been happening with these tapes for the past three years, who has them, who has heard them and why has action not been taken on them? If it is a case of resources, in terms personnel and adequate expertise in white collar crime which our justice system does not have, they must be provided forthwith. What have any tribunals of investigation ever given us? Issues are considered over a long period of time and a lot of information is garnered, which is important to get, but would we not be better imprisoning the perpetrators and having a criminal investigation forthwith rather than fruitlessly kicking a football around these Houses and with no return to the public?

An Cathaoirleach: Senator, you are way over time.

Senator Marc MacSharry: I know I am but it is a very important issue.

On a slightly different note, I can hardly contain my excitement today that the Taoiseach has agreed to come to the House.

An Cathaoirleach: That is not relevant. You will get a chance during the day to-----

Senator Marc MacSharry: It reminds me that some infamous people in history attended the Reichstag from time to time before they saw to it being burned to the ground.

An Cathaoirleach: I call Senator Landy.

Senator Denis Landy: There are times the Senator surpasses himself.

I wish to raise the issue of moneylenders and the concern I and the Society of St. Vincent de Paul have about the lack of restriction on moneylenders in this country. Moneylenders are regulated by the Central Bank of Ireland and are provided with licences. The number of licences is increasing but it is no coincidence that the number of loans from credit unions available to people in low income families is decreasing because of restrictions. Moneylenders are using the current opportunity to squeeze money out of hard-pressed families. For example, a loan of €1,400 over 52 weeks is repaid to the tune of €2,184.

A review has been done by the Central Bank of Ireland on moneylenders and the practice of moneylenders and I am pleased that most of them conform to the regulations but there is still no regulatory system to ensure the number of loans per household is restricted or that the amount of money provided to each borrower is based on his or her income. I call on the Leader to contact the Central Bank about those two issues to ensure there is greater restriction on moneylenders and that it can be proved that those who borrow money from them can pay it back before they get into a spiral of debt.

Senator John Crown: It has just been announced that 2,000 people are waiting for hospice services due to an appalling lack of hospice beds and I must say that puts everything else we will say today into perspective.

I would like two issues of conflict of interest addressed. One is a specific query for the Leader to address to the Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton, because having studied it over the past day or two days, I greatly fear the new forum the Minister for Health, Deputy James Reilly, has set up to look at the private health insurance market has very serious issues in terms of competition law and conflict of interest.

The Minister correctly identified the fact there is a need to reign in the costs paid by private health insurers if the sector is to survive and has basically instituted a forum led by the person who was in charge of the hospitals office in the HSE which, on the one side, is a service provider for the individual insurance companies. It will be constituted by representatives of the insurance companies, one of which is a company - VHI - with one shareholder, who is the Minister for Health. Three others are voluntary insurance agencies run on behalf of people who work for organs affiliated with the State and others are wholly private insurance entities, one of which - Aviva Insurance - is, as I pointed out in the House last week, increasingly representing a high end scam rather than an insurance company. This company has agreed to pay for crazy treatments, such as homoeopathy which has no basis in science, while subjecting treatments which are proven to work, such as treatments for malignant melanoma, to cost benefit analyses, to which it has never subjected homoeopathy. The reason is that the cost per year of lives saved from homoeopathy would be infinity because it does not save any lives and yet this company is allowed to sell insurance semi-fraudulently in our market.

For the Minister for Health to get these companies to work together to form a unified force

ostensibly - I should not say "ostensibly" because he means well in this - to reduce costs is giving them a licence to form a cartel. That is exactly what is happening. It is wrong and it needs to be investigated. We need those companies to compete on the basis of cost and not to collude to deny their patients access to treatments while at the same time strong-arming the service provider.

The second issue of conflict of interest relates to the Magdalen laundries. With the greatest respect to our former colleague, Dr. Martin McAleese, I am very troubled by a conflict of interest in the activity of the laundries. The report stated that the entities which ran the laundries did not profit from them. The laundries were providing a service to other organisations which the same religious orders were running. Were they doing it at a commercial rate or, in effect, were the laundries subsidising the for-profit activities of these other entities? There is a real potential for a conflict of interest here and I believe, with respect, that the original report was inadequate in the way it dealt with the activities of the religious orders which were running the laundries. This aspect needs to be looked at because the issue-----

An Cathaoirleach: Are you looking for a debate on this issue?

Senator John Crown: Yes. I am asking for debates on the new insurance forum and on the Magdalen laundries in light of the statements I just made.

Senator Paul Coghlan: I agree with Senator Darragh O'Brien. Naturally, we are all equally inquisitive about the new code of conduct in regard to mortgages and I agree with him that the Leader should arrange a debate in early course because there are fears about the way financial institutions are lining up to dispossess hundreds, if not thousands, of homeowners.

11 o'clock

That is something we cannot afford to have in our society. These financial institutions must share in the pain. They lent to these home owners, too much perhaps in many cases. I am interested to hear their detailed plans and practices. I call for an early debate on the matter.

I agree with Senator Ivana Bacik on the need for a criminal investigation, which Senator Marc MacSharry also mentioned. I am becoming more inclined to the view that an Oireachtas inquiry under the current powers would not be effective. A more honest approach would be, as has been speculated, that the Government is considering going back to the people on the issue. Respectfully, I think it should, in order that an Oireachtas in the future would have the necessary powers. There is no point in dealing with the issue willy nilly and the criminal side is much more important in the immediate future.

Senator David Cullinane: I propose an amendment to the Order of Business that, "The Thirty-second Amendment of the Constitution (Abolition of Seanad Éireann) Bill 2013 is given three hours for debate today, rather than the short time allowed". If the Order of Business is agreed to and ten minutes speaking time is allowed for each Senator, a handful of Senators will have an opportunity to address the Taoiseach, but it is very unlikely that a Sinn Féin Senator will have an opportunity to do so. I doubt if the Taoiseach will return to the House for the next Stages and discussions of the Bill. Of all Bills that come before the House, especially when the Taoiseach comes in to the address the House, and he has done so on only two occasions, he should hear the opinions of all parties and groups in the House and not the selective views of some parties and some groups. It is appalling that the Bill was guillotined in the Dáil. The irony of that will not be lost on the people. The Taoiseach wants us to believe we can have

extra scrutiny and an extra layer of scrutiny of legislation if the Seanad is abolished and that the next Dáil, with a reduction in numbers, will be able to increase its scrutiny of legislation by an extra committee and an extra layer of scrutiny, when the current Dáil which has more Members has already guillotined more half of the legislation in this term. How in God's name can we ensure extra scrutiny with fewer Members and the Seanad abolished? That makes no sense whatsoever and makes a mockery of democracy and political reform and shows, once again, that the Government is not interested in reform. It is interested only in the abolition of the Seanad, reducing numbers and reducing the ability of some parties to speak and have a say in the role of the Oireachtas.

Senator Aideen Hayden: I reiterate a call I made some weeks ago for an early debate on the code of conduct on mortgage arrears. It is obvious to most Members that the behaviour of banks has been nothing short of disgraceful. The lack of transparency in which banks are engaged in dealing with customers beggars belief. All of us in the House have had occasion to intervene on behalf of people who are in mortgage arrears. The attitude within banks that they will move forward, irrespective of the cost to the ordinary man on the street who is in mortgage arrears, needs to be brought out into the open and the lack of independent advice that is available to such people which would put him or her on an equal footing when negotiating with a financial institution must be taken on board as a matter of urgency.

I seek the indulgence of the Cathaoirleach to draw another matter to the attention of the House. I am proud of the fact that the Government passed the constitutional referendum on children's rights. Recently, it has come to my attention that it is the practice where an application is made for rent supplement and one parent has sole custody of a child, rent supplement will only be given to the parent who has sole custody in order that the children will be housed with that parent. As it is a human right for children to have a full family relationship with both parents, that means that the parent who does not have sole custody needs accommodation where the child can spend the weekend with that parent and not, as happens, outside what would be regarded as a proper family home. I ask the Leader to bring this issue to the attention of the Minister for Social Protection as it needs to be dealt with as a matter of urgency.

Senator Mark Daly: With my colleague, Senator Paul Coghlan, I share the fear than an Oireachtas inquiry would not work but would turn into a circus and come to no conclusion as the legislation does not allow it to find on matters attributing blame. What we want is action and a criminal prosecution. It is lamentable that it has taken this length of time and that nobody is behind bars in respect of what happened in the banking crisis.

I support my Sinn Féin colleagues in respect of their proposed amendment to the Order of Business which seeks extra time for debate. When we speak about guillotining the debate, we should speak about it in a language that people understand. The debate was cut short; it was stopped and stifled. The Taoiseach will come into the House for the debate but only one person from each group will be allowed to speak and he will walk out the door merrily. That is what he means by democratic reform given that he stopped debate in the other House on the issue. Nobody has outlined what is to replace the Seanad and its powers.

I seek the indulgence of the Cathaoirleach on another matter. Today, the US Senate will again vote on immigration reform. Last Monday, the vote was 67:27 in favour of immigration reform which will take 50,000 undocumented Irish out of the shadows. The Irish lobby for immigration reform has worked tirelessly on the issue in recent years and has asked colleagues here and around the country to contact people they know in Maine, Ohio and Pennsylvania to

lobby their public representatives to support the legislation.

Senator Michael D'Arcy: I wish to raise a matter I raised last week. On the matter of mortgage arrears, where people who work for the banks do not give clients the correct code of conduct on the mortgage arrears resolution process, MARP, they should be sacked. I raised the matter last week during the debate on the Central Bank (Supervision and Enforcement) Bill 2011 and information came to me, via the Minister, that in the event of a person not adhering to the code of conduct, there is a power whereby their role can be changed. I call for a debate with the Minister for Finance on the new code of conduct which we have been told is imminent. What I am seeking is that the Central Bank (Supervision and Enforcement) Bill be amended to ensure that an employee of a financial institution who does not adhere to the correct code of conduct and does not give the client the opportunity to take the mortgage arrears resolution process should be sacked.

Senator Feargal Quinn: I propose an amendment to the Order of Business, "That No. 18, Food Provenance Bill 2013, which it is hoped to introduce next week, be taken before No. 1 today".

Another issue to which I wish to draw attention, in which Senator Mark Daly will have a particular interest, is the drop in the number of organ donations in Ireland recently. Researchers have found that social media, such as Facebook, can dramatically increase the number of organ donation registrations. A study from John Hopkins University School of Medicine revealed a 21-fold boost in the number of people registering in one day after a social media push, suggesting it is an effective tool to address organ shortages in some countries. We have had a real problem in Ireland recently. I am aware much work is being done in this area. Perhaps there are steps that can be taken to save lives. A number of people will die this year because we did not manage to get organ donations through in the same numbers as in the past. Three years ago we had a Bill on the issue which was adjourned but I know there are steps to be taken. I understand the Minister has more steps in mind for the future and that Senator Daly has taken some steps in this area also. Let us ensure that we do not continue just to talk about it, but do something about it.

Senator Lorraine Higgins: Yesterday, I called for all tapes from all the bailed-out banks to be made available to the Joint Committee on Finance, Public Expenditure and Reform, in the public interest. I reiterate that call today.

I want to raise an issue related to the Anglo Irish Bank debacle and the individuals recorded on the tapes. Were their terms and conditions of employment contracts changed in their favour after the bailout? Did they accept bonuses after the bailout? If so, then this is a most serious issue that needs to be investigated. I strongly feel that these people should not hold any position of responsibility following the revelations in recent days. We must never lose sight of the fact that they played Monopoly with the Exchequer and the Irish taxpayer while people lost their jobs and houses.

For the record, I oppose an Oireachtas inquiry into banking. It is a matter for the authorities and there is no need for the Oireachtas to conduct a long drawn out investigative inquiry. Some politicians might grandstand on the issue while others might challenge the remit of an inquiry thus delaying any findings. The situation is far too serious. The tapes are proof enough that the individuals were involved in wrongdoing. It is important that we take a course of action without delay.

Senator Labhrás Ó Murchú: I second Senator Cullinane's motion on the amendment to the Order of Business. We should not be so docile about the issue. Even if fingers were pointed at us accusing us of being only interested in our own positions, I still think that the methodology for the abolition of the Seanad is not correct. First, it was dropped like a bombshell and without consultation in the middle of a general election campaign. Second, it is clear that there is no plan to replace the Seanad in terms of scrutinising what happens in the Dáil or initiating legislation in the Seanad. No plan has been put forward.

It is evident that the media, at long last, are engaging on the issue. They have begun to realise that to get rid of a House of Parliament in the crude manner suggested is unacceptable.

Senator Sean D. Barrett: Hear, hear.

Senator Labhrás Ó Murchú: Surely it should have been necessary to publish a White or Green Paper that set out the various pros and cons, have a debate and then allow the Government to make a decision. Let us consider the debate that has taken place in the media on the matter and the suggestion not to give each Senator an opportunity to make a contribution. The suggestion is virtually anti-democratic and is unacceptable. We should ask for more time.

I wish to discuss another matter. All of the recent polls show people have a growing disillusionment with politicians and politics. There is no doubt about that. We will add insult to injury if we posture about a bank inquiry, have a point scoring operation or adopt a cosmetic approach. We are right in being critical of the bank chiefs, particularly having listened to the tapes in recent days. If we do exactly the same and are not serious, focused and committed to a proper inquiry the public will not forgive us. It would add insult to injury to all of those people who suffer day in and day out as a result of the bank crisis, which is one of the most corrosive events in the history of the State. I appeal for urgency and request that we avoid gaining political party kudos. We must avoid all of that.

An Cathaoirleach: The Senator has gone way over time.

Senator Labhrás Ó Murchú: We are approaching the precipice on this issue. If we go over the precipice then politics and democracy will suffer.

Senator Michael Mullins: I strongly support the call this morning for an urgent criminal inquiry following the revelations in the tapes disclosed by Independent Newspapers in recent days. The revelations seem to get more bizarre by the day. It is particularly galling that all of the good work done by the Government over the past two years to repair Ireland's reputation internationally is being undone day by day. It will be particularly difficult for the Minister for Finance to secure future deals on debt. The people responsible for wrecking the economy must be brought to book as quickly as possible.

I strongly support Senator Conway's call that the arms of the State who fight white collar crime are properly resourced. We must arrange a discussion here with the Minister for Justice and Equality on the resources available to the Criminal Assets Bureau, the Office of the Director of Public Prosecutions and the Office of the Director of Corporate Enforcement.

I wish to raise a separate issue. On a morning when there has been much speculation on who won almost €94 million or a half share in the Euro Millions draw last night the Irish Postmasters' Union has brought the issue of Prize Bonds to my attention. Prize Bonds are revered and purchased by people around the country. The union stated that anti-money laundering

identification requirements to purchase prize bonds worth over €25 in value is unnecessarily restrictive. We all agree that we need strong controls to prevent money laundering but I think that €25 is too low and €100 would be more appropriate. Many people buy Prize Bonds as gifts for birthdays, special occasions and Christmas.

An Cathaoirleach: The Senator could table the matter for the Adjournment.

Senator Michael Mullins: I ask the Leader to communicate with the Minister for Finance and ask him to consider increasing the threshold from €25 to €100 to prevent a drop in the sale of Prize Bonds and to maintain business in post offices. We must also remember how significant and important post offices are to communities.

Senator Rónán Mullen: There is a connection between the debate that we are about to have, the debate on the abolition of the Seanad and the response to the disgraceful revelations in the Anglo Irish Bank tapes. There has been an attempt to manage the public mood and outrage without providing details. We all know how shallow the original proposal to abolish the Seanad was. We all know the threadbare arguments that are being made by the Taoiseach and the Government to abolish the Seanad. We all know now, after the media told us about the Anglo Irish Bank tapes this morning, that the debate has moved on to a possible banking inquiry. There seems to be something of bread and circuses about it all.

I agree with Senator Lorraine Higgins when she said that a banking inquiry was not the answer. Instead we need an investigation into crime. Senator Bacik mentioned the importance and pre-eminence of that issue in her contribution and I do not want to prejudice an investigation. It is important that the tapes form part of a prioritised Garda investigation.

Past inquiries have done nothing except depress the public. The inquiries did not contribute to bringing people to justice but this situation demands bringing people to justice. I am worried that the Government is engaging in another bout of distracting the public by again talking of having a referendum to strengthen the powers of the Oireachtas to conduct a banking inquiry and saying we will not get anything better from the Oireachtas. An Oireachtas inquiry would be much worse and far inferior to the reports produced by Nyberg, Regling and Watson and we need to get real about that. We need to focus on investigating a crime.

Today, the Taoiseach will attend for an hour to debate the abolition of the Seanad and I presume that he will not show his face here after that. On this issue and, indeed, the abortion issue, the Taoiseach has never allowed himself to be confronted by the detail of his proposals.

Senator Darragh O'Brien: Hear, hear.

Senator Rónán Mullen: He merely does not engage. He appears to be a managed Taoiseach who comes out with mantraic lines-----

An Cathaoirleach: Senator Mullen will get time during the debate to put those issues.

Senator John Gilroy: Senator Mullen should say that to the Taoiseach.

Senator Rónán Mullen: -----which do not reassure the public that he is across the detail of what he is proposing.

An Cathaoirleach: Senator Mullen is way over time. I call Senator Gilroy.

Senator Rónán Mullen: On issues as serious as these, the Taoiseach needs to show for the ball a little more. In conclusion-----

An Cathaoirleach: Senator Mullen is over time. I call Senator Gilroy.

Senator Rónán Mullen: -----as we face into this debate on the abolition of the Seanad, I remind the Government Senators in particular of what Mr. Ciaran Fitzgerald said many years ago-----

An Cathaoirleach: Senator Mullen is over time. I call Senator Gilroy.

Senator Rónán Mullen: -----when he asked his colleagues on the Irish rugby team where their pride was.

An Cathaoirleach: Senator Mullen should resume his seat.

Senator Rónán Mullen: The Government Senators need to find their pride in the coming days and weeks.

Senator John Gilroy: I rise today to support the concern expressed by my colleagues, Senators Higgins and Paul Coghlan, at the proposed establishment of an Oireachtas inquiry into the recent revelations. This is a matter not only of social justice but of public confidence. Not too many in this country can have much confidence in a system of Oireachtas inquiries or tribunals which finds a Member of the other House to be profoundly corrupt and yet allows him to swan around this building with impunity or which, in the form of the beef tribunal, threatened my party colleague, Deputy O'Keeffe, the only person who was threatened with jail time by a tribunal for breaking the story. There is no possibility that anyone would have any confidence in any sort of an inquiry led by politicians. As Senator Higgins stated, this is clearly an issue for the Garda authorities and I support her call in that regard. No doubt we will discuss that later on at the Labour Parliamentary Party meeting. I hope we will get some support for that. There seems to be some traction in this Chamber for it. The Seanad has been criticised often enough. Indeed, we have been criticised by the Taoiseach for not preventing the calamity that befell us. Here is one opportunity for the Seanad to show what it can do and what it is worth. If we are not shown to lead on this, we should not be retained at all and a good case will have been made for our abolition.

Visit by AWEPA-RFPAC Delegation

An Cathaoirleach: On my own behalf and on behalf of the Members of the House, I welcome to the House a former Member of the House, Ms Katharine Bulbulia, and a delegation of parliamentarians representing the network of women Parliamentarians of Central Africa and AWEPA.

Order of Business (Resumed)

Senator Trevor Ó Clochartaigh: Tacaím leis an leasú atá molta ag mo chomhghleacaí, an Seanadóir Cullinane, maidir leis na díospóireachta inniu agus athrú a dhéanamh ar an Ord Gnó. I support the call by my colleague, Senator Cullinane, to extend the amount of time that is being given today in the presence of the Taoiseach to discuss the Thirty-second Amendment of the Constitution (Abolition of Seanad Éireann) Bill 2013. We need to do that in the interests of democracy.

What is the Taoiseach afraid of? Is he afraid of a debate on this issue? No one here will attack him in any way but there are many issues surrounding the potential abolition of the Seanad that need to be teased out. I doubt I will get time to contribute to the debate today. The way the Order of Business is being set out, it does not look like a Sinn Féin spokesperson will get to speak.

An Cathaoirleach: The debate is being adjourned today.

Senator Trevor Ó Clochartaigh: The Taoiseach will not be back to hear our opinions when he needs to.

Senator Maurice Cummins: It is the Bill we are discussing, not the Taoiseach.

Senator Trevor Ó Clochartaigh: The reason I am raising this issue is pertinent.

Senator Paul Coghlan: Senator Ó Clochartaigh does not know if he will be back.

Senator Trevor Ó Clochartaigh: Maybe The Taoiseach will be back but perhaps the Leader will clarify that. I note, for example, the Taoiseach has no issue in going to Davos for a couple of days to speak to people there. He had no issue in spending a couple of hours climbing Croagh Patrick with Trapattoni when he needed to, or cycling a greenway. He had no issue-----

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

Senator Trevor Ó Clochartaigh: I do. The Taoiseach had no issue recently in spending a full day in Connemara opening extensions to schools, where he was welcome. What is the Taoiseach afraid of? Why will he not come in here for a number of hours to discuss the Bill and listen to everybody's opinion on it? That is the least he could do before he intends to scrap the Seanad. If he is so sure of his position on this question, what is he afraid of? That is what I would ask. It is only appropriate on this occasion that there be an extension to the amount of time given and a commitment from the Taoiseach that he will stay to listen to the opinions of all 60 Senators, if that is what they wish.

Senator Colm Burke: I want to raise the two Bills which I published. The first, the Medical Practitioners (Amendment) Bill 2012, which relates to the need for comprehensive insurance, was first introduced in 2009 by the Minister for Health, Deputy Reilly, who was then in opposition. At the time, the then Department of Health and Children stated that by January of 2010 there would be agreement from it to this legislation. The reason I raise this is that there was another report at the weekend that it is likely the claims of some women who had breast implants will not succeed because of inadequate insurance. It only emphasises the urgency of the legislation which I published over six months ago. We were told the Department would be back to us by June and we have heard nothing from it, whether it intends publishing its own Bill or accepting the Bill which I published.

The second Bill relates to the remit of the Department of Justice and Equality. I have made

representations to the Department on the matter of missing persons and the need for putting in place new legislation to deal with that issue where a death certificate cannot be issued. This is important legislation.

It is about the use of the Seanad. We are leading into the debate about the abolition of the Seanad and these two pieces of extremely constructive legislation illustrate how the Seanad can be used constructively in bringing forward legislation. That might be raised with the Taoiseach when he is in today. I would ask the Leader that I might get some answers on those two Bills.

Senator Mary Moran: I welcome the release today of details of the compensation scheme for the survivors of the Magdalen laundries. The fund, in the region of €25 million to €50 million, is for the 700 women survivors and the payments will depend on the length of time spent in the laundries.

It leads me on to another matter, that of symphysiotomy. It is an issue I have raised continually in this House since I came into the Seanad two years ago. Recently, I have again been in correspondence with the Department of Health and the Minister calling for a definite date when the Walsh report can be published. I am tired of listening to my own voice asking for it every week. As recently as yesterday, I was told, yet again, that it will be published shortly. The report was due to be published in September last. It is now 26 June and we are still waiting. I call on the Minister, Deputy Reilly, to make a statement on the matter giving us a clear idea of when the report will be published. Every day that goes by without action on this is another day that we are not doing right by these women. I call on the Minister to establish a date for the publication of the Walsh report without fail and to stick to it. I call on him to make a statement on the matter for it to be published before the summer recess.

Senator Maurice Cummins: The Leader of the Opposition, Senator Darragh O'Brien, spoke about matters in the other House last evening regarding the guillotining of the Bill to allow for a referendum on the abolition of the Seanad. I can assure the House that no such guillotine will be applied in this House-----

Senator Darragh O'Brien: Well done.

Senator Maurice Cummins: -----and ample time will be given for every Member of the House to contribute, irrespective of what time it takes. We have an hour and a half today, we have three hours tomorrow and we will have further time next week to deal with Second Stage. We will continue to deal with Committee and Report Stages over the coming weeks.

Senator Mary M. White: It is not satisfactory if the Taoiseach will not be here.

Senator Maurice Cummins: If Senator White could let me reply-----

An Cathaoirleach: The Leader, without interruption.

Senator Mary M. White: The Leader should be honest about it.

Senator Maurice Cummins: -----I am saying that there will be more than ample time for Members to make their points on that Bill, today, tomorrow and, if necessary, on any other day. There will be no guillotine in this House on the Bill.

Senator Sean D. Barrett: Hear, hear.

Senator Maurice Cummins: I note that Senators Darragh O'Brien, Hayden and others raised the issue of mortgage arrears and the code of conduct on mortgage arrears. I understand that the code of conduct is a Central Bank draft and is still subject to consultation. I am not aware of when the code of conduct will be published but when it is published, I certainly will ask the Minister to come to the House in order that we can have a debate on the issue. I note Senator O'Brien's points on special needs assistants and I will bring the matter to the attention of the Minister for Education and Skills, Deputy Quinn.

Senators Bacik and Moran referred to the redress scheme for survivors of the Magdalen laundries, which is to be welcomed. I am sure we will have further discussion on that as soon as the proposals are announced, which I understand will happen today.

Senator Bacik also spoke about other issues that have been addressed by the Constitutional Convention. Perhaps we could find time in September to have a debate and discuss the issues on which decisions have been made by the Constitutional Convention to date. Perhaps we could invite the chairman of the convention to update us on its work in September. I will seek to do that.

I note Senator Barrett's points on the Seanad referendum Bill. I am sure he will make those points strongly on the Bill itself when it is discussed in the House.

Senator Conway spoke about reductions in the budgets of various offices and the need for adequate resources to combat white collar crime in particular. I will bring the matter to the attention of the relevant Ministers. The Minister for Justice and Equality will come to the House to deal with the Courts Bill and that could provide an opportunity for Members to raise the points with him that they have raised on the Order of Business.

Senator MacSharry called for the full rigours of the law to apply to people who broke the law, especially in regard to alleged bank fraud. We all hope the full rigours of the law will and must apply to all involved in breaking the law in any area. I reject the suggestion calling on the Taoiseach to put pressure on the Director of Public Prosecutions, DPP, and the Garda Commissioner. I do not think it would be a matter for him to interfere with the DPP in the execution of her duties.

Senator Landy referred to licensed moneylenders charging exorbitant rates and the need for tighter controls in that regard. The Central Bank (Supervision and Enforcement) Bill has come before the House and more debate is required on it. The matter is one that should be raised in the context of the Bill.

Senator Crown referred to a number of issues. He called on the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, to investigate the make-up of the consultative forum that has been announced on private health insurance and called for the issue to be examined by the Competition Authority. He also spoke about Magdalen laundries. I will bring those matters to the attention of the Minister.

All I can say in response to Senator Cullinane is that we will have ample time to discuss the Bill to allow for a referendum on the abolition of the Seanad. We will welcome his comments at that time. He and other Sinn Féin Members, as every Member of the House, will have an opportunity to speak on the Bill.

Senator Hayden raised the code of conduct on mortgage arrears, a matter which I have ad-

dressed. I also note her comments on difficulties for persons seeking housing. We have the Housing (Amendment) Bill but I do not know whether it is appropriate to discuss it with the Minister of State with responsibility for housing. The matter might be more appropriate to the Minister for Social Protection, Deputy Burton. I will bring the matter to her attention.

Senator Daly referred to immigration reform in the United States. The Government has lobbied very strongly in that regard and I hope a positive result will emerge from such lobbying by the Government and other sources.

Senator Michael D'Arcy spoke about the new code of conduct for mortgage arrears. He said that penalties should apply to people who break the code following its introduction. I hope we will have an opportunity to discuss the code when it is published.

I will accept Senator Quinn's amendment to the Order of Business on the publication of the Food Provenance Bill. I agree that there has been much foot-dragging on the matter of organ donations. I will try to find out the up-to-date position and report back to him.

Senators Higgins and Paul Coghlan gave their opinions on whether we should have a banking inquiry and said there is a need to expedite prosecutions. I am sure that would be the wish of all Members of the House. Senator Ó Murchú spoke about the Bill for a referendum on the abolition of the Seanad and the need for a banking inquiry.

Senator Mullins called for a criminal inquiry on the Anglo Irish Bank tapes. I understand the tapes are with the Garda for a number of years and it is a matter for it to address. I agree with the comments of the Irish Postmasters Union on prize bonds. It is not right for their purchase without identification to be restricted to €25. It should be increased to €100. I will bring the matter to the attention of the Minister for Finance, as has been requested by the Irish Postmasters Union.

Senator Mullen made points about the tapes and called for a banking inquiry and a criminal inquiry. Senator Gilroy referred to the need to restore public confidence. Senator Colm Burke mentioned a number of Bills he has on the agenda and called for an update on the two Bills he has published.

Senator Moran raised the Walsh report on symphysiotomy, a matter she has raised on a number of occasions. I understand the Minister will bring proposals to Cabinet in early course on the matter. I am sure that will be welcomed by Senator Moran and everyone in the House who has raised the issue of symphysiotomy.

I just heard on the 10 o'clock news that our friend and colleague, Senator Norris, has gone public on the fact that he has been diagnosed with cancer. I extend good wishes to our colleague on my behalf and on behalf of the House.

Senator s: Hear, hear.

Senator Maurice Cummins: He said that he will be back soon with us and I have no doubt that will be the case. We will all welcome that day.

An Cathaoirleach: I am sure all Members of the House would like to join the Leader in sending good wishes to Senator Norris.

Senator Cullinane has proposed an amendment to the Order of Business: "That the time al-

lowed for debate on No. 1 today be extended to three hours." Is the amendment being pressed?

Senator David Cullinane: Yes.

Amendment put:

The Seanad divided: Tá, 17; Níl, 23.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Byrne, Thomas.	Brennan, Terry.
Crown, John.	Burke, Colm.
Cullinane, David.	Coghlan, Eamonn.
Daly, Mark.	Coghlan, Paul.
MacSharry, Marc.	Comiskey, Michael.
Mooney, Paschal.	Conway, Martin.
Mullen, Rónán.	Cummins, Maurice.
Ó Clochartaigh, Trevor.	D'Arcy, Jim.
Ó Murchú, Labhrás.	D'Arcy, Michael.
O'Brien, Darragh.	Gilroy, John.
O'Brien, Mary Ann.	Hayden, Aideen.
O'Sullivan, Ned.	Henry, Imelda.
Quinn, Feargal.	Higgins, Lorraine.
van Turnhout, Jillian.	Kelly, John.
White, Mary M.	Landy, Denis.
Wilson, Diarmuid.	Moloney, Marie.
	Moran, Mary.
	Mullins, Michael.
	Noone, Catherine.
	O'Donnell, Marie-Louise.
	O'Neill, Pat.
	Sheahan, Tom.

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

Amendment declared lost.

An Cathaoirleach: Senator Quinn has moved an amendment to the Order of Business, "That No. 18 be taken before No. 1". The Leader has indicated that he is willing to accept the amendment. Is the amendment agreed? Agreed. Is the Order of Business, as amended, agreed to?

Senator David Cullinane: No.

Question put: "That the Order of Business, as amended, be agreed to."

The Seanad divided: Tá, 24; Níl, 15.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Brennan, Terry.	Byrne, Thomas.
Burke, Colm.	Crown, John.
Coghlan, Eamonn.	Cullinane, David.
Coghlan, Paul.	Daly, Mark.
Comiskey, Michael.	MacSharry, Marc.
Conway, Martin.	Mooney, Paschal.
Cummins, Maurice.	Mullen, Rónán.
D'Arcy, Jim.	O'Brien, Darragh.
D'Arcy, Michael.	O'Sullivan, Ned.
Gilroy, John.	Ó Clochartaigh, Trevor.
Hayden, Aideen.	Ó Murchú, Labhrás.
Henry, Imelda.	Quinn, Feargal.
Higgins, Lorraine.	White, Mary M.
Kelly, John.	Wilson, Diarmuid.
Landy, Denis.	
Moloney, Marie.	
Moran, Mary.	
Mullins, Michael.	
Noone, Catherine.	
O'Brien, Mary Ann.	
O'Neill, Pat.	
Sheahan, Tom.	
van Turnhout, Jillian.	

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

Question declared carried.

12 o'clock

Food Provenance Bill 2013: First Stage

Senator Feargal Quinn: I move:

That leave be given to introduce a Bill entitled an Act to enhance the level of information which is made available to the consumers of foodstuffs and for that purpose to introduce a series of new requirements for food labelling and signage, to amend the Food Safety Authority of Ireland Act 1998 and to provide for related matters.

An Cathaoirleach: Is the Bill opposed?

Senator Maurice Cummins: No.

Question put and agreed to.

An Cathaoirleach: Since this is a Private Members' Bill, Second Stage must, under Standing Orders, be taken in Private Members' time.

Senator Feargal Quinn: I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

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

Senator Feargal Quinn: Next Wednesday, 3 July 2013.

Second Stage ordered for Wednesday, 3 July 2013.

An Bille um an Dara Leasú is Tríocha ar an mBunreacht (Deireadh a Chur le Seanad Éireann) 2013: An Dara Céim

Thirty-second Amendment of the Constitution (Abolition of Seanad Éireann) Bill 2013: Second Stage

An Cathaoirleach: We will now move on to item No. 1 on the Order of Business, the Second Stage debate on the Thirty-second Amendment of the Constitution (Abolition of Seanad Éireann) Bill 2013. Item No. 2, motion pursuant to section 23 of the Referendum Act 1994, prescribing a formal statement for the information of voters to be included on the polling card, will be debated in conjunction with Second Stage of the Bill. The motion will be formally moved when debate on the Bill is concluded.

Tairgeadh an cheist: "Go léifear an Bille an Dara hUair anois."

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

Senator David Cullinane: On a point of order, I wish to bring to the Taoiseach's atten-

tion the fact that not all parties in this House will be given an opportunity today to address the Taoiseach ---

An Cathaoirleach: That is not a point of order. The Order of Business has been agreed.

Senator David Cullinane: Under the Order of Business, not one Sinn Féin Senator will be given the opportunity to ---

An Cathaoirleach: Senator Cullinane, resume your seat please.

Senator David Cullinane: --- to address the Taoiseach on the important issue of Seanad reform and political reform.

An Cathaoirleach: The Senator must resume his seat.

Senator David Cullinane: I think that is wrong and the Taoiseach ---

An Cathaoirleach: That is not a point of order. The House has decided on its business for today ---

Senator David Cullinane: The Leader of the House and the Cathaoirleach are wrong in excluding a political party from the opportunity to address the Taoiseach on something as fundamentally important as this.

An Cathaoirleach: Senator Cullinane is showing discourtesy to the House. The House has decided on the business today. I now call the Taoiseach.

The Taoiseach: Gabhaim buíochas don Chathaoirleach as ucht an chuiridh don Teach seo chun labhairt faoi seo.

The purpose of this Bill is to fulfil a programme for Government commitment to hold a referendum on the abolition of the Seanad in the autumn. The Government also intends to hold a referendum on the establishment of a court of civil appeal on the same day and other issues arising from the early reports of the Convention on the Constitution may also be considered.

As this referendum is proposing a major change in the structure of our Oireachtas, it is both right and appropriate that I, as Taoiseach, should come before this House today and outline the reasons for this action. The proposed abolition of the Seanad is part of the Government's comprehensive programme of political reform, a programme that will establish a new politics in this Republic, one that is more accountable, democratic and more responsive. In fact, it will be the biggest package of political reforms since the passing of the Constitution in 1937. No Government would ever propose changing the Constitution lightly. It is our fundamental law and the main blueprint for our system of government and it has served this country well. However, the Constitution is not, and must not ever be, fixed in stone. The ultimate source of sovereignty in our Republic is the people and the people have the right to amend and update their Constitution as they decide, including those articles of the Constitution which define the nature of our country's Oireachtas.

For 75 years the political establishment has debated reform of the Seanad. For 75 years that same establishment has failed to introduce a single reform of this country's second House. After 75 years of failure to do so and ten separate reports on Seanad reform all of which have been ignored, the Government has decided to ask the Irish people a simple yet profound ques-

tion, "Does Ireland, in your view, need a second House?" It is the people who will decide, not this Government or Oireachtas.

Members of the House will be aware that when our nation's first Oireachtas was established in 1919 it was composed of just one Chamber, Dáil Éireann. It was the drafters of the Free State Constitution which established a Senate in 1922 and that was largely to reassure members of Ireland's Unionist community. It soon became clear, however, that creating a properly functioning second House was a lot easier in theory than in practice.

Over ten constitutional amendments were made relating to the Free State Senate before its final abolition in 1936. The early drafts of the 1937 Constitution envisaged an Oireachtas that was, like the first Oireachtas of 1919, unicameral in nature. A second House was included in the final document only very reluctantly by Éamon de Valera and only on the basis that it would be under the strict control of the Government of the day. That is why the Seanad was given so little power and why the Taoiseach of the day is allowed to nominate 11 Senators, effectively giving any Government a permanent majority in the Chamber.

Vocational panels were supposed to deliver independent expertise into the Seanad but the first election to the Seanad demonstrated conclusively that even this idea was not going to work, as the following quotation from *The Irish Times* in 1938 shows: "The idea of electing a Senate on a vocational basis has proved futile. The complete defeat of nearly every representative of the learned bodies and of those who purport to represent interests other than those which are frankly political was a marked feature of the results".

Almost 60 years later, at the MacGill school in Donegal, I announced Fine Gael was embarking on a root and branch analysis of the political system. Although the party favoured reforming the second House - a position I reiterated in my MacGill speech - this review did something which my party had not done since the drafting of the 1922 Constitution. It asked the fundamental question, "Does modern Ireland actually need a second House?" The conclusion reached was that it does not.

Constitutional theory has moved on since Seanad Éireann was established. Given the huge difficulties in creating workable second houses in any unitary state, modern constitutional theory now places the emphasis on establishing strong unicameral parliaments with appropriate checks and balances. Some five European countries have roughly the same population as Ireland, of between four six million, namely, Denmark, Finland, Norway, Croatia and Slovakia. None has a second house. In fact, no unitary state in the OECD with a population of less than ten million has a second house, with the exception of Ireland and Slovenia.

Some of the most effective democracies in the world have abolished their second houses. All of the Scandinavian countries, for instance, have done so. New Zealand also has, even though its political system is derived, like Ireland's, from its history as part of the British Empire. Significantly, most of the emerging democracies in Eastern Europe have also decided they do not need a senate. If second houses are so essential to democracy why have so many small states, emerging from years of dictatorship, decided they do not need a senate?

Some have asked why this Government has not put reform of the Seanad as a possible alternative to abolition. There are three reasons for this. First, and most important, both parties of Government gave a commitment to hold a referendum of the people on the abolition of the Seanad. Fianna Fáil also gave this commitment but decided not to follow through on it. Sec-

ond, we do not believe that a second house is necessary in a modern republic, for the reasons already specified. Third, experience in Ireland and elsewhere suggests that genuine reform of the Seanad would be almost impossible to achieve.

There have been over 20 major proposals for constitutional senate reform in Canada since the early 1970s, and all have failed. Supporters of Seanad retention are, in fact, deeply divided. Some want it to be an elected second Dáil, others a House of experts and yet others some form of citizens' assembly. This lack of consensus suggests two likely possibilities. Either no change will be made or reform of the Seanad will be tokenistic at least and, at best, the very minimum that can be agreed on. Recent proposals to reform the Seanad's electoral system, which leave in place the Taoiseach's 11 nominations and do nothing to change the Seanad's powers, fall squarely into this category.

Instead, we need more effective Dáil reform. We have made a start. There are Friday sittings, additional Leader's Questions, Topical Issues debates, a Joint Committee on Public Service Oversight and Petitions chaired by a member of the Opposition and the establishment of an Oireachtas Joint Committee on Jobs, Enterprise and Innovation to focus solely on this area of Government policy.

The Government believes that in tandem with the abolition of the Seanad, further change is required to strengthen the role of Dáil Éireann to reform the way we deal with legislation. In that regard, legislation will first be submitted to the relevant Dáil committee in the heads of Bill format. A new schedule will increase the amount of time available for legislative scrutiny. Four day sittings will become the norm. Each Bill will be required to be referred back to the committee that originally considered it for final examination. Ministers will be required to revert to the relevant Dáil committee within 12 months of the enactment of a Bill to review and discuss its functioning to see it is effective in what it is supposed to do.

The new legislative process will ensure, therefore, that legislation is fully considered before, during and after it is enacted. Committees will carry out investigations and inquiries into matters of major importance. The legislation to give effect to this has been recently published and is currently before the Dáil. It will come before the Seanad in due course. Furthermore, we also propose to radically overhaul the committee system. Some 14 Dáil committees will be established. Outside experts will be invited to come before them, as is necessary. We will introduce the d'Hondt system to distribute chairs of key committees on a proportional and equitable basis. If approved by the people, I and the Government are convinced we will create a better, more effective political system with better accountability, oversight and scrutiny of legislation.

It should be clearly understood that the constitutional responsibility to hold the Executive to account is vested in Dáil Éireann. That is where the clarity and requirement for greater capacity for scrutiny and accountability is vested.

I will turn to the provisions of the Bill. Under the Bill, and assuming the referendum is passed, Seanad Éireann will be abolished from midnight on the day immediately before the day on which Dáil Éireann first meets after the next general election. This will enable an orderly transition to be made from the outgoing bicameral to the incoming unicameral system of parliament. From abolition day, the Oireachtas will consist of the President and Dail Éireann only.

Articles 18 and 19 of the Constitution, which deal with the composition of the Seanad, elections and nominations to it, etc., will be deleted. Also, the Bill provides that no general election

to the Seanad will take place after the next dissolution of the Dáil that occurs following the referendum. It will be necessary to amend or delete all the articles in the Constitution which either relate directly to the functions of the Seanad or which are premised on its existence. Many of these changes are purely technical. In such cases, it will be necessary to amend the references to both Houses, each House and so on in order to take account of the situation that will arise if the Seanad is abolished. Other references in the Constitution relate to the functions of the Seanad and I will now deal with these.

The articles relating to the Oireachtas legislative process will have to be amended or, where appropriate, deleted. As a result, Articles 20, 21, 23 and 24, which deal with the relationship between the Dáil and Seanad with regard to the passage of legislation through the Houses, will be deleted because they would no longer be needed in a unicameral parliament. Article 20 deals with the initiation of Bills in either House and the Seanad's power to amend Bills, while Article 21 limits the Seanad's powers as regards money Bills and the time within which the Seanad must consider such Bills. Article 23 deals mainly with the time for the Seanad to consider other, non-money Bills and while Article 24 provides that where the Taoiseach certifies that, in the Government's opinion, a Bill is immediately necessary to preserve public peace and security in an emergency, then the Seanad's time for considering the Bill can, if the President agrees, be shortened by a resolution of the Dáil.

As well as deleting these articles, it will be necessary to amend Article 22 which deals with money Bills. That article defines what a is money Bill and provides a mechanism to resolve a dispute between the Dáil and the Seanad on whether a Bill is actually a money Bill. This is because the Seanad can only make recommendations on, and cannot propose amendments to, a money Bill. The Ceann Comhairle's certificate that a Bill is a money Bill is final and conclusive unless the Seanad asks the President to refer the matter to a committee of privileges. If the President agrees, he can appoint a committee consisting of an equal number of members of Dáil and Seanad and chaired by a Supreme Court judge. This procedure relates only to whether a Bill is a money Bill; it is not concerned with the merits or otherwise of such a Bill. The reason for maintaining and amending Article 22 is because, under the Constitution, the President cannot refer a money Bill to the Supreme Court to test its constitutionality. In order to provide clarity on whether a Bill is a money Bill in the context of the possibility of a reference to the Supreme Court, an Article 22 procedure would still be needed even after the Seanad is abolished. The Bill proposes that the Ceann Comhairle's certificate that a Bill is a money Bill will be final and conclusive unless the Dáil resolves that it is not a money Bill.

The Bill before the House proposes the deletion of Article 27 of the Constitution. This article provides for the possibility of a petition from a majority of the Members of Seanad Éireann and at least one third of the members of Dáil Éireann to the President to refer a Bill to the people on the grounds that it "contains a proposal of such national importance that the will of the people thereon ought to be ascertained". The President must consult the Council of State before deciding whether to agree to such a petition. This procedure does not apply to money Bills or to legislation. It applies only where a Bill is deemed to have been passed by both Houses of the Oireachtas under Article 23. In other words, it applies only to a Bill that is not passed or rejected by the Seanad within 90 days or that is passed by the Seanad with amendments that are not agreed by the Dáil. For Article 27 to apply, the Dáil must also pass a resolution to deem the Bill to have been passed by both Houses. Essentially, Article 27 provides a way of resolving a dispute between the two Houses on a legislative matter. If the Seanad is abolished, there will no longer be a need for this provision and it is, therefore, proposed to delete it. As with the money

Bill procedure, the Article 27 procedure has never been used.

Other articles involve the Seanad in actions relating to legislation or to measures proposed by the Government. Article 28.3 provides immunity from challenge on constitutional grounds of any law - other than one imposing the death penalty - that is expressed to be for the purpose of securing the public safety and the preservation of the State in time of war or around rebellion. The article provides that the term "time of war" includes a time when there is an armed conflict in which the State is not a participant but where each House of the Oireachtas has resolved that, arising out of that armed conflict, a national emergency affecting the vital interests of the State exists. This article also provides that the expression "time of war or armed rebellion" includes such time after the end of the war, armed conflict or rebellion as may elapse until each of the Houses of the Oireachtas has resolved that the national emergency has ended. The powers in this article for each House will, with the abolition of the Seanad, necessarily reside in the Dáil.

Article 29.4.7o and 29.4.8o relate to the exercise by the State of certain powers conferred on it under certain provisions of the Treaty of Lisbon. The State may exercise these powers only with the prior approval of both Houses of the Oireachtas. The abolition of the Seanad will mean that the power of approval will reside in the Dáil alone. It is far more satisfactory that it will be for a democratically-elected House to make approval decisions in this area.

I will now deal with the Seanad's role in the procedures laid down in the Constitution for the removal of certain officeholders. In the context of the impeachment of the President, abolition of the Seanad will remove the current arrangement whereby the House that prefers a charge of stated misbehaviour against the President cannot be the House which investigates that charge. The Dáil will retain the power under Article 13.8 to ask a court, tribunal or other appointed body to conduct an investigation on its behalf. In order to ensure the highest level of protection for the independence of the office of President, however, the Government is proposing that a resolution to prefer a charge against the President and if an investigation sustains that charge, a resolution to remove the President, must each be passed by four fifths of the total membership of Dáil Éireann.

In respect of the impeachment of the Comptroller and Auditor General and of judges, the Government has also considered the procedures in the Constitution for the removal of the Comptroller and Auditor General under Article 33 and of Supreme Court and High Court Judges under Article 35. The removal of the Comptroller and Auditor General requires a resolution not just of the Dáil, but also of the Seanad. The abolition of the Seanad raises the question of whether some additional safeguard should be provided for the independence of that office. The independence of the Judiciary is central to our system of government and to the constitutional balance of powers. This is reflected in the fact that, as in the case of the Comptroller and Auditor General, a resolution must be passed by both Houses of the Oireachtas in order to remove from office a judge of the Supreme Court or the High Court. The Government is anxious to ensure the continued independence for these offices. Accordingly, we are proposing that a two thirds majority of the total membership of the Dáil should be required in order to remove either the Comptroller and Auditor General or a judge of the Supreme Court or the High Court.

The Bill proposes that, following abolition of the Seanad, the Leas-Cheann Comhairle will replace the Cathaoirleach on the Presidential Commission. Abolition of the Seanad would reduce parliamentary representation on the Presidential Commission to one member and would reduce the commission itself to two. In order to maintain the current constitutional balance, the Bill proposes that the Leas-Cheann Comhairle of the Dáil will replace the Cathaoirleach of this

House as a member of the commission. It is also necessary, however, to designate substitutes should the former be unavailable. Accordingly, the Bill provides that Dáil Éireann shall nominate, as soon as may be after it reassembles following a general election, two Members to act as substitutes for the Ceann Comhairle and the Leas-Cheann Comhairle should either or both be unable to act on the commission or if one or both of the posts are vacant. The Bill proposes that the Leas Cheann-Comhairle should replace the Cathaoirleach on the Council of State.

The Bill proposes to amend Article 12.4 of the Constitution to provide that not less than 14 serving Members of Dáil Éireann may nominate a candidate for President. At present, a nomination under this provision requires not less than 20 Members of both Houses. The reduction to 14 is proposed in light of the proposal to abolish the Seanad as well as the planned reduction in the number of Deputies after the next general election.

Transitional arrangements will be necessary in the move from a bicameral to a unicameral parliamentary system. Thus the Bill provides that any Bill not passed or deemed to be passed by both Houses of the Oireachtas before abolition of the Seanad will be deemed to have lapsed. Any such Bill may, however, be introduced or re-introduced in Dáil Éireann following re-assembly after the general election. However, any Bill passed or deemed passed by both Houses, but which has not been enacted before abolition of the Seanad, can complete the process of signing and promulgation into law, subject of course to any other constitutional provisions, such as a reference by the President to the Supreme Court.

I wish to make reference to the transitory provisions in Articles 51 to 63 of the Constitution. These provide for the transition between the Irish Free State and the new State created by the 1937 Constitution. In accordance with their terms they are not published in official texts of the Constitution. The Bill proposes to delete two of them. Article 53 dealt with the election and assembly of Seanad Éireann after the coming into operation of the 1937 Constitution. Article 55 dealt with the composition of the Oireachtas and the signing and promulgation of Bills passed by it in the period between the coming into operation of the Constitution and the entry into office of the President.

This Bill will provide the electorate with the opportunity to give their verdict on the future of the Seanad. It is the people, not anyone in government, the Dáil or this House, who must make this decision. We await their decision. I realise some Members have said that I do not spend enough time in the Seanad. I hope, following the Irish Presidency of the EU Council, that I will have some time to come to observe the debate on the Bill as it is going through. I commend the Bill to the House.

Senator Darragh O'Brien: Cuirim fáilte roimh an Taoiseach on his second visit to this House in the two and a half years since he assumed office. I respect the Taoiseach and his office but I expect the Taoiseach to respect the Oireachtas, as elected. I put it to the Taoiseach that the fact that he has only once, prior to this day, attended the Chamber in his tenure shows he does not fully respect the Oireachtas as it is currently constituted and this is concerning.

I speak, first and foremost, as a citizen of this country, as an Irish citizen, and, second, as a Senator and a Member of the Houses of the Oireachtas, someone who has served in the Dáil and the Seanad. I have seen where reform is required in both Houses and I see the legislation that the Taoiseach has put forward and his explanation of it as nothing short of rushed and vague.

I would not take the task lightly should I ever get to the heady heights of Taoiseach of the

country, which is unlikely, nor would I propose a referendum on the abolition of the Seanad that would make more than 75 specific changes to Bunreacht na hÉireann. As the Taoiseach has noted, it is a document that has served this country well in the main. The proposal is more concerning in the context of the Government, led by the Taoiseach, having an historic majority in the Lower House. Power in the Government, the Executive and the Taoiseach in the past two years in particular has been further centralised in Cabinet and the Executive by the creation of the Economic Management Council, on which the Taoiseach and three other Ministers sit.

This proposal is all the more concerning because the Taoiseach is proceeding with the referendum without referring the issue of reform of the Seanad or what should be done to the Seanad to the Constitutional Convention. When the Taoiseach returns to the House for his third visit I will be keen to hear about his rationale for not referring this important change in how the Oireachtas operates to the Constitutional Convention. I speak as someone who has attended the Constitutional Convention. I was impressed with the work done there. I was cynical when I went in first but I was impressed subsequently with how the work was done. It was a reasoned debate. I do not see in any shape or form any reason not to refer this to the Constitutional Convention.

Further, I call on the Taoiseach to explain the timing of this referendum and whether he intends to hold the referendum in October. Do I take it the Taoiseach intends to hold it before the budget? Is that his intention? If that is his intention, I put it to the Taoiseach that this is simply a diversionary tactic from the difficult decisions that he will have to make in the upcoming budget. I realise they will not be easy decisions and that choices have to be made by the Government.

I can inform the Taoiseach from talking to people where I live, in north Dublin, that reform of the Seanad is not even in the top ten items that people discuss. The vulnerable people, the victims of the economic downturn referred to, rightly, by the Taoiseach yesterday, are keen to see Government action on matters such as mortgage arrears, jobs, employment and emigration.

The Taoiseach has put this forward as a cost-saving exercise. I call on the Taoiseach to ask those within the Government - clearly not many of them agree with his proposal - to be honest in the debate and during the course of the campaign about what this is really about. The Taoiseach has bandied about figures of savings of between €20 million and €50 million. More recently, Deputy Paschal Donohoe in an article in the *Irish Times* referred to a figure of €50 million. That is absolute nonsense and it should be put to bed.

Senator John Crown: It is nonsense.

Senator Darragh O'Brien: We are going to have a debate, which I welcome, by the way, and I welcome a referendum on this in the context that we can actually discuss real reform. I call on the Taoiseach to reflect on the reform that he and his Government have brought through since he was elected. He has abolished Údarás na Gaeltachta and reduced the number of county councillors. The Taoiseach referred to the Nordic unicameral systems. What the Taoiseach did not mention about Denmark is that it has 98 local authorities and 2,500 local councillors. Finland has 304 local authorities and 10,000 local councillors. Norway has 423 local authorities and 12,000 councillors. They have these not simply for the sake of it, but because they have proper local government.

Let us consider the work of this House, which I joined in early 2011 after a period in the

Dáil. It might come as a surprise to the Taoiseach to learn that in 2011 some 59 Dáil Bills were debated in the House as well as 25 Seanad Bills. In 2012, some 87 Dáil Bills and 37 Seanad Bills were debated. In 2013, so far, a total of 51 Dáil Bills and 18 Seanad Bills have been debated. Further, in this year up to May some 529 amendments to the laws of the State and to proposed legislation have been made in this House.

I cannot decipher what the Taoiseach is proposing instead. Some weeks ago it was reported in the media that the Taoiseach was proposing to set up a mini-Seanad of appointees of Government, experts that he would bring in. It is still remarked on in the House that the Taoiseach is effectively planning to have a four-day sitting and allow heads of Bills to go to the Dáil and invite in outside unelected experts. I agree that there remains absolutely an issue of a democratic deficit in this House. Reform Bills and reports have been published in the past ten years. It is certainly not my fault or that of many of my colleagues that reform of the House has not been brought forward. I do not envisage reform coming in the guise of abolition.

Let us consider from where most of our laws emanate. Since 2009, some 1,291 EU regulations have been automatically transposed into Irish law without any systematic or detailed parliamentary scrutiny. Let us consider the Oireachtas joint committee system and the level of scrutiny that goes on. Since I came to this House in 2011, I, the Leader opposite and many others have requested of the Chief Whip and the Government assistance to enable the House to scrutinise European legislation in this House, but we have not been allowed to do so. Since the Lisbon treaty, and, in particular, since the second Lisbon treaty, in every state, including Ireland - this point covers the previous Government and the current Government - some 139 tranches of legislation were released for comment and consideration by a member state in advance of being passed. During the campaign on the second Lisbon treaty referendum we all spoke about how important it was for us to have a say on EU law so that we would not be just led by the nose. We said we would comment and make submissions. Ireland has made only one submission since the passing of that referendum, which is a sad indictment of the previous Government and this one. I have great regard for every Senator in this House. Even in a system that is not perfect they bring a high degree of scrutiny, professionalism and experience to the debates that take place here. Many Ministers have commented on this and if the Taoiseach were here a little more often, he would understand that. The Minister of State with responsibility for European affairs, Deputy Creighton, said the Seanad could carry out that role.

I would be gravely concerned about the provisions for how a President can be impeached and how a Comptroller and Auditor General can be removed, as the Taoiseach outlined in his explanation to the House. Is he proposing that impeaching a President would require the support of four fifths of the Dáil? Is that without a Whip system? Is he proposing any change to the Whip system in the Dáil should the Seanad be abolished? He is also proposing that it would require the support of two thirds of the Dáil to remove the Comptroller and Auditor General, whose role in the State is vital. I say that as someone who served as Vice Chairman of the Committee of Public Accounts in the last Dáil. As the Whip system is operated today, a Comptroller and Auditor General could not be removed. Will the Whip system be changed? Will the Taoiseach allow free votes on certain aspects, particularly the impeachment of a President or the removal of a Comptroller and Auditor General?

Regarding the Taoiseach's crusade on reform, I watch the Friday sittings with interest and find that in the main they are farcical. He pointed to the Topical Issue debate and the additional Leaders' Questions. What happened to the programme for Government commitment to allow debates to proceed without using the guillotine? Last night saw the 55th Bill out of 93 taken in

Dáil Éireann that the Government has guillotined; in other words, it stopped the debate before it had finished naturally. The Government allowed 40 minutes for the Committee Stage debate on removing one third of the Oireachtas. It is not about the Members here - I will live if this happens. I am concerned as a citizen. I welcome the debate and I will welcome a referendum if it is an honest referendum and if the Taoiseach does not continue to put out figures such as savings of €20 million to €50 million and if he does not erroneously try to lay the blame for problems that happened in the past on the Seanad alone.

I put it to the Taoiseach that, as father of the House and having served more than 35 years in Leinster House, he would know a considerable amount about the lack reform in this House over the years. I say that as someone who has only been here since 2007. I welcome that he is in the House today and I hope he will come back to answer the specific questions I have asked. Amending Bunreacht na hÉireann, which is owned by the people, is not something to be taken lightly. I fear and believe that he is taking it lightly and he is vandalising the Constitution with this proposal.

Senator Maurice Cummins: I welcome the Taoiseach on this, his second visit as Taoiseach to Seanad Éireann. Based on the atmosphere that one can feel here, I cannot guarantee that he will have a warm welcome coming with his intention to advocate the abolition of the House. However, I am sure Members will treat him with respect, observe the dignity of the House and be constructive in their comments on the Bill to be debated here today and over coming weeks. I have assured the Members that adequate time will be offered on all Stages of the Bill, which deserves the considered and collective contribution of all Members of Seanad Éireann.

This is a very difficult Bill to deal with for all of us - Government, Opposition and Independents. In the general election campaign Fine Gael gave a commitment that a referendum on the future of the Seanad would be held. This commitment was subsequently written into the programme for Government, which is why we find ourselves dealing with this Bill today. As the Taoiseach rightly pointed out, countless reports on Seanad reform are gathering dust, consigned to the scrapheap by successive governments. In the main these reports dealt with how the Seanad should be elected, but no Government had the courage to implement the recommended reforms. The Seanad is not to blame for not implementing the recommendations contained in these reports. It is the responsibility of the relevant governments which failed miserably to act on all the reports. There was no action - just silence and total disregard for the Upper House of the Oireachtas.

As a young man, I joined Fine Gael Party, whose founders were so instrumental in the foundation of the State and in defending democracy and the institutions of the State. Those formative years of our State when elected Members were murdered were difficult times. Later during the Troubles in Northern Ireland, the State was again under threat from subversive elements when members of the Garda and the Defence Forces, and a Member of this House, Senator Billy Fox, were callously murdered. Fine Gael was always seen as the party that could be trusted in defending the State and its institutions. I mean no disrespect to the many Fianna Fáil governments that stood firm against terrorists who tried to subvert democracy and overthrow the State. After such courage and dedication over the years in this regard, it is difficult for many Fine Gael Members now to advocate abolishing an integral part of these institutions, Seanad Éireann, as the Bill proposes.

I am the first to acknowledge that time never stands still, that change is inevitable and that reform of the political system is urgently required to address the disconnect between the public

and politics, which is a cause of concern in many democracies. Whether abolishing this House and going to a unicameral system addresses this disconnect and the need for greater interaction between the people and politicians will be a matter for the people to decide upon.

On the issue of change and reform, this Seanad has initiated many reforms despite the archaic rules and Standing Orders under which we work. We established a public consultation committee at the suggestion of the Independent Senators nominated by the Taoiseach. We have engaged with many organisations from people dealing with the rights of older people to professionals and groups dealing with the necessary lifestyle changes needed to prevent cancer. We have consulted with representatives of Social Entrepreneurs Ireland, CoderDojo and Change Nation, who inspired us with their ideas for improving Irish life and society. Each of those consultations has produced a report which we have submitted to the relevant Minister not only for debate, but also for action. As long as we have the co-operation of Government, we intend to continue with this work which gives a voice to people who may not otherwise be heard by Government, but are nonetheless carrying out essential work in wider society.

The House has always been to the forefront in highlighting human rights issues at home and abroad. The former President, Dr. Mary Robinson, and the former Leader of the House, Dr. Maurice Manning, as chairman of the Irish Human Rights Commission, addressed the House on that subject. The Members were greatly appreciative and better informed following those excellent contributions, which were informed by many years of expertise in that area. This type of debate then informed Senators when they raise important matters with members of Government who have the capacity to act. This is where this Seanad is particularly effective, in giving a voice to those who otherwise might not have it.

We have heard from the Nobel laureate, Christopher Pissarides, an expert in the area of youth unemployment, whose observations and counsel I have often heard repeated to various Ministers, again keeping the spotlight on an issue of critical importance. Ms Margareta Wahlström, the United Nations Special Representative of the Secretary-General for Disaster Risk Reduction, spoke to us recently about disaster relief and rescue, and also on the economic opportunities to be harnessed from disaster prevention. This is another matter we can bring to the attention of the Government for action.

Of course the address which received most attention during the life of the 24th Seanad was that made last summer by Mr. Drew Nelson, head of the Orange Order. This historic event was, we were told, more significant in the history of the organisation than all of the steps thus far in the peace process, as it demonstrated just how far the Unionist community had travelled on the road to lasting peace in Northern Ireland. Preceding this event, the House was always a champion for peace in Northern Ireland given that we were privileged to have people such as Seamus Mallon, Bríd Rogers, Gordon Wilson and Martin McAleese as former Members, all of whom played a pivotal role in their own way.

During the Irish Presidency of the European Council which, under the Taoiseach's stewardship was a tremendous success, I decided to provide a platform for our Irish MEPs in the Seanad, as the Taoiseach suggested in the MacGill Summer School. I invited all 12 to come to discuss their particular areas of expertise and inform us of the work of their committees so that we as legislators are better informed about the procedures at European level before we are asked to enact legislation in Ireland which has been largely drafted elsewhere. This initiative was long overdue, particularly given how important it is to engage with our representatives in Europe. Commissioner Máire Geoghegan-Quinn also gave an excellent address to the House and spoke

of the need for greater dialogue between politicians and EU representatives and institutions. As Senator O'Brien mentioned, when the House tried last year to take on a greater role in the scrutiny of EU legislation, the legislative work programme, EU directives and other significant EU policy decisions which affect us in Ireland, it was prevented from doing so. We asked for an additional staff member to be assigned two days a week to bring the relevant documentation before us and forward our observations to the relevant EU institutions if it was deemed fit. The request was refused, but the Members of the House intend to proceed with this task from within their own resources without in any way duplicating the work of existing committees which, frankly, rubber-stamp EU legislation in many instances without proper analysis of the implications of how policy developed at European level will work practically on the ground in Ireland.

It is my duty to outline the work in which the House engages on a daily basis. Our primary function of scrutinising legislation often goes unnoticed, and recently I have heard many comments in the media and elsewhere asking when the Seanad has ever blocked Government legislation. Blocking legislation is not what the Seanad is about; improving and enhancing legislation is the key contribution we make to the legislative process. As has been mentioned, approximately 600 amendments to legislation have been accepted to date and this is testimony to the contribution made by Senators to the legislative process.

The Taoiseach gave a commitment to the Irish people to hold a referendum on the future of Seanad Éireann and he is honouring this commitment in bringing forward the Bill. I know, from listening to his speech in the House and on Second Stage in the other House, that he firmly believes in a unicameral parliament as the best method to serve democracy in a country of our size and composition. Democracy is a fragile flower which must be jealously guarded at all times. Should the Irish people feel democracy would be diminished in any way by the abolition of this House, they must vote "No" in any referendum.

Senator s: Hear, hear.

Senator Maurice Cummins: Likewise, if they feel a unicameral system would best serve democracy in Ireland, then they must vote "Yes". As a democrat, I will embrace and accept the will of the Irish people, as I accept this Bill which gives the choice to the people of Ireland.

Senator Jillian van Turnhout: As leader of the independent group of Taoiseach nominees, with Senators Fiach Mac Conghail, Mary Ann O'Brien, Marie Louise O'Donnell and Katherine Zappone, I begin by stating clearly that each of us has our own individual perspective on the Bill before us today. We are, as everyone knows, a group of Independent Senators in the truest sense, independent of Government and of each other in the positions we adopt in the course of our Oireachtas work. We come from a wide range of backgrounds and disciplines, including civil society, NGOs, the arts, education, business and human rights. It is this diversity in our expertise which prompted the Taoiseach's choice of appointment.

Seanad Éireann was established to give a voice to different and challenging opinions in Irish society. I am confident we are fulfilling this role with honesty and integrity. On behalf of us all, we thank the Taoiseach for the privilege of the position in which he has entrusted us. We have taken time to reflect on our individual viewpoints in this debate today on the Thirty-second Amendment of the Constitution (Abolition of Seanad Éireann) Bill. I look forward to hearing the deliberations of my colleagues as the debate ensues. From this point onwards, the views I express are entirely my own.

I was greatly honoured to accept this position as Senator and at the time I was cognisant of the Taoiseach's position with regard to the abolition of the Seanad and the commitment in the programme for Government. In trying to work through my position on the Bill, I have had to separate my role as a Senator from that as an individual citizen who will vote in the referendum. When it comes to Committee and Report Stages, I will, as I do with all Bills, consider each amendment tabled and will vote on the merits of the rationale behind it. That said, and as a matter of principle, I will not impede the passage of this Bill through the Seanad. This is a decision for the Irish people to make.

Finalising my personal position on the Bill and its ramifications has not been an easy journey, and in fact it is a journey I have yet to complete. I have embraced my role as Senator with enthusiasm and dedication. I relish the opportunities presented to me to further issues through legislative amendments and policy debates. I am one of life's optimists but I do not wear rose-tinted glasses when it comes to the Seanad. I see the flaws, I live the frustration and I understand the critics. The Order of Business can sometimes seem more like a recital of "It Says in the Papers" and all too often is dominated by local issues, making us seem more like a council meeting. I decided some time ago to participate on the Order of Business only where I believed an issue of national relevance needed to be raised and debated immediately and where there was no other channel through which I could raise it. Several colleagues remarked this decision would mean I would reduce my media presence, as it is the only part of our work in the Seanad on which most media report. I stand by my decision, as the record will show. However, these comments make me wonder how the public is supposed to get a true picture and understanding of the work we do.

Proponents of abolition have stated small countries such as Ireland do not need second chambers, which are more common in large, federal countries or countries with deep divisions. The countries cited as good models for us to follow have a strong system of local democracy. Ireland has widened the role and functions of local authorities, but very few powers have actually been devolved. Increasing powers over the years have absorbed by the Executive, and one only needs to watch Bills as they progress through the Houses to see the quality and openness of debate is really up to the approach of individual Ministers. I have sat here and watched, in dismay, as some Ministers have basically rammed a Bill through the House. Equally, I have had the ultimate privilege of being able to robustly and appropriately debate my points and amendments with Ministers who respect and engage fully in the parliamentary process. On a few occasions I have even won my point. Moving Ireland to a unicameral system is something I can understand in theory, but I am concerned we are being asked to take this decision without having any safety nets in place.

I was very interested in the proposals for reform outlined by the Taoiseach at the opening of Second Stage in the Dáil and today. There are many worthwhile proposals which are not contingent on the abolition of the Seanad so why do we not progress ahead with these reforms? George Bernard Shaw stated, "The best reformers the world has ever seen are those who commence on themselves". This is a sentiment with which I fully concur. I respectfully put it to the Taoiseach that all of the questions we are debating about the ability for the Seanad to reform apply in equal measure to the Dáil and local government. There have been a number of reports on Seanad reform.

1 o'clock

I imagine we could stack this room high with articles and books on all aspects of political

reform in Ireland. If we were to take all decisions based on the number of reports written then I would like to know how many more reports on alcohol-related harm we need before action is taken on marketing and minimum pricing?

I have seen first-hand how difficult it is to change a procedure or a Standing Order in the Seanad. People do not resist change in principle but they do resist being changed. Is there a reason some of the proposed changes cannot be immediately commenced? What is the incentive to change for Deputies? Will the proposals get diluted as time progresses and why wait for the result of the referendum to effect wider political reform? From working in Leinster House I see the competing demands on Deputies' time, not to mention local and constituency demands. Will they be able to free up the time needed to take on an increased legislative role? I would have greater confidence if I saw more evidence of actual change and ability to change. In the words of US President Barack Obama, "Change will not come if we wait for some other person or some other time. We are the ones we have been waiting for. We are the change that we seek".

Considering the committee process in particular and the proposals put forward to strengthen it, we have seen a small number of Ministers bringing the general scheme or heads of Bills to joint committees for an initial consideration, which should be welcomed. I am an active member of the Joint Committee on Health and Children, which is ably chaired by Deputy Jerry Buttimer; I find my work on this committee very rewarding and I believe there is scope for members to influence legislative and policy outcomes. However, holding our work up to scrutiny one can see there is only a cohort of members who regularly attend for more than 20 minutes and who actively participate. One can consider the metrics. In July, we will have our quarterly meetings with the Minister for Children and Youth Affairs and the Minister for Health respectively. One month in advance of these meetings we are asked to submit questions; I have a long list but we are only allowed to ask three questions of each Minister, so I must make a shortlist. With 21 members on the committee, one can imagine the potential range of questions. However, I note that with regard to the Minister for Health's quarterly review meeting on 25 July, only ten of the 21 committee members have submitted questions, and even more disappointingly, only six of the 21 committee members have submitted questions for answer by the Minister for Children and Youth Affairs. Is this because of the competing demands on the time of representatives or is it because of resource constraints? Will this be addressed by the proposed reform?

We can critically examine the important issue of the child and family support agency that was announced in the programme for Government, with an anticipated budget of €546 million. Why was the committee process not used to give the heads of Bill the scrutiny they deserve, as this is a once in a lifetime opportunity for reform. I want to believe but the evidence suggests otherwise. I have on numerous occasions expressed my willingness to support and actively engage in the process to establish the new agency and yet, to date, I have never heard silence quite this loud. In any proposal to reconstruct and reform we need to ensure that there are members who are looking at issues with a national focus. We need balance in our discussions, and the Seanad has at times represented views that have otherwise been unheard.

EU scrutiny is another area in which the Oireachtas has, to date, been lacking. We are not using the red and yellow card system of the Lisbon treaty, for example. I would also have liked to address the issue of costs with the Taoiseach, as we should examine equivalent costs for strengthening competencies and resources. There is also the issue of timing of this referendum and the rush to hold it in the autumn. Why not hold it with the European and local elections in May next year? Why not introduce changes to the Dáil and local government while stepping up EU scrutiny? The heart of my dilemma is a question of why one action is contingent on another.

I question the constitutional changes relating to the President, judges and certain officials like the Comptroller and Auditor General. We need a distinct debate on the constitutional impact of such changes.

I believe the events of recent years and days clearly show we need a political system that ensures we have a democracy built on accountability and transparency. We need to bolster our defences to ensure that powerful interests cannot have a free rein, and there is a clear and urgent need for political reform. My dilemma is that on the one hand I am unconvinced the Dáil will reform to the extent that is needed in order to compensate for the losses that will be accumulated through the abolition of the Seanad, while on the other hand, one must ask if a second Chamber is the most effective way to achieve the accountability, transparency and openness that we need to resuscitate political democracy in Ireland. I remain undecided.

Senator Ivana Bacik: Cuirim fáilte roimh an Taoiseach and I am delighted to have the opportunity to speak to the Bill, which has already been the subject of a great deal of debate already in this House and elsewhere. I am glad that today's debate is being conducted in a most respectful and thoughtful manner on a question of principle, and there are very principled arguments to be made both for a unicameral and bicameral system. It is unfortunate that some of the debate in other quarters has become personalised, and I am glad we will not descend to that level here.

As leader of the Labour group I will be voting for the Bill as I recognise and accept that we signed up to the programme for Government in February 2011 in which a commitment was given to hold a referendum on the future of the Seanad. As the Taoiseach stated, there is a political imperative that the question is now put to the people. However, I will not be voting in favour of abolishing the Seanad and I will urge others to do the same, as we should be able to reform rather than abolish the Seanad.

Senator Sean D. Barrett: Hear, hear.

Senator Ivana Bacik: That would strengthen rather than weaken our democracy. I regret that the position of the Labour Party in advance of the last election - that the matter should go to the Constitutional Convention - has not been ultimately adopted within the programme for Government.

The case for fundamental and substantive reform of the Seanad is clear and unanswerable, and nobody within or outside the House would argue for retention of the Seanad in its current form. Reform of the Seanad has had cross-party support for many years, although it is fair to say that the political will to introduce the necessary legislation or constitutional amendments has been lacking. I will return to that point, and it is important to note there are two Bills before us that have passed Second Stage which provide for significant reform within the terms of the current constitutional provisions. They have been put forward by Independent Senators, so there is a blueprint for reform in a legislative format. There has also been a cross-party report, chaired by a former Senator, Ms Mary O'Rourke, which made some very significant recommendations for change when it was published in 2004.

The basic composition of the Seanad is currently provided for in Articles 18 and 19 of the Constitution and in legislation such as the Seanad Electoral (Panel Members) Acts of 1947 and 1954 as amended and the Seanad Electoral (University Members) Act 1937. There are many references to the Seanad throughout the Constitution and they are addressed in the terms of the

Bill. It is fair to say that the majority of Senators are elected by a very limited electorate, with those of us elected by the universities having a bigger numerical electorate. My electorate of the University of Dublin has over 50,000 people, with the National University of Ireland electorate at twice that number. There is a significant number of people, both inside and outside Ireland, who vote for the university panels.

To return to the question of political will, Seanad reform was in the 2007 programme for Government in the year I was elected to the Seanad. In the same year a Minister, former Deputy Gormley, initiated an all-party working group on Seanad reform based on the Mary O'Rourke report I mentioned. There was a momentum for reform at that stage but it ran out of steam as it was overtaken when the true extent of the economic crisis became apparent. It is unfortunate as in that period of 2007 and 2008, we could have seen significant reform introduced through legislation that would have addressed some of the very serious and justified critiques of the manner of election and the business we do in the Seanad.

This was overtaken by the announcement made by the Taoiseach in October 2009 that he would seek to abolish the Seanad, which caused some surprise. The position was subsequently followed by other political parties, and in Labour we took the more nuanced position that a referendum should be carried out as part of a broader process of reform and as part of the Constitutional Convention process.

We know that if the legislation is passed, the referendum is likely to be held in autumn this year. It is important to say that this 24th Seanad has already become a stronger and more worthwhile institution in the short time since we have been elected. With the Taoiseach's choice of nominees, he moved away from a traditional party hack appointment system-----

Senator Catherine Noone: Hear, hear.

Senator Ivana Bacik: -----to choose a group of genuinely independent individuals, and I pay tribute to that group, which has contributed enormously to the quality of debate and business done in this House. They have formed a new Independent nominees group, which means the Government does not have a clear majority in the House, making debates more interesting, lively and worthwhile. I do not know if I am misquoting the Taoiseach but he is reported to have said that in his choice of nominees, he had taken the view that if this was to be the last Seanad, he wanted it to be the best Seanad. This is a positive note to make. I hope I am not misquoting him.

Another point to make about this Seanad is that it is a considerable improvement on the Dáil in terms of gender balance. As we know, only 15% of Deputies in the Dáil are women while nearly one-third of Senators are women. Six out of the 11 Senators in the Labour group are women, constituting a majority, so we have a much better gender balance in the Seanad than exists in the Dáil. This is not a coincidence but is something we have seen replicated in previous Seanaid. We have introduced significant procedural reforms. Senator Cummins has led on those and has already mentioned them. They include the public consultation process and the question-and-answer sessions with Ministers, such as the session in which the Minister for Finance revealed the true extent of the bailout required for credit unions. That was a result of a change of procedure.

Along with the public consultation process, we have introduced a series of distinguished speakers. For me, the speech by former President, former Senator and current chancellor of

Trinity College, Mary Robinson, was an outstanding contribution. Today, on foot of a suggestion by the Leader, we are looking at inviting the chair of the Constitutional Convention, Tom Arnold, to talk to us in September about the very important work of the convention, which may lead to further referenda as the Taoiseach noted.

The arguments being made about unicameral versus bicameral sometimes miss the point of other levels and layers of government. Senator Darragh O'Brien mentioned that in many of the Scandinavian countries, we see a great deal of power and strength devolved to local or regional government. We have not had that tradition in Ireland. It may well be that if we were to put in place the sort of local government reform to give local government the kind of powers it has in other jurisdictions, the case for a unicameral system would become much stronger. I do not think we are there yet. If we look at the powers our own councils have and the business they conduct, we can see it is not at the level where we have seen councils running local education or child care facilities and having very strong powers to raise local taxation. That level of power has not yet been devolved to our local government system. The debate about unicameral versus bicameral often misses that point. One cannot look at national Houses of Parliament in isolation from other layers of government and governance within any political system. That is a point that will be brought out more and more in the debate over the coming months.

A key question in this debate is the purpose of the Seanad. The Taoiseach said that those in favour of retention have various different views on reform. I do not think that is a bad thing. It is useful that we have seen many different ideas around how the Seanad can be reformed both within the terms of the Constitution through legislation alone and through constitutional change. There is one common theme that runs through those who argue in favour of retention and reform. This is that the key strength of the Seanad is in its function of scrutinising legislation. I am struck that Article 20.1 of the Constitution gives the clear purpose of the Seanad and states: "Every Bill initiated in and passed by Dáil Éireann shall be sent to Seanad Éireann and may, unless it be a Money Bill, be amended in Seanad Éireann and Dáil Éireann shall consider any such amendment." The key power and function of the Seanad is to scrutinise and, if necessary, propose amendments to legislation. That envisages legislation being initiated in the Dáil. Of course, we are increasingly seeing legislation being initiated in the Seanad largely because many Ministers see the Seanad as a very useful forum to test out ideas and run arguments that may be conducted in a more conciliatory and considered fashion than the more adversarial setting of the Dáil Chamber. The real strength of the Seanad and its power of scrutiny in the short time I have been here lies in the Committee Stage debates. I have seen some excellent Committee Stage debates here involving very deliberative sessions on particular amendments where Senators with particular expertise in significant aspects of legislation can express their views in the House. We do not have the sort of constraints that operate in the Dáil select committee sittings on legislation.

Many amendments proposed in the House are accepted by Ministers. Other speakers have referred to the number of amendments that have been accepted to date. Very recently, our education spokesperson Senator Moran and I had two important amendments accepted in respect of the Education and Training Boards Act 2013 initiated by the Minister for Education and Skills. One concerned ensuring greater gender balance on the boards and the other was a technical amendment picking up on a drafting anomaly in the Bill that had not been noticed previously. That is the sort of strength the Seanad brings to the scrutiny of legislation. It is no coincidence that nearly one third of Bills are initiated in the Seanad. That is an important point to make.

I also wanted to mention the role of the Seanad in initiating Private Members' legislation

and to pay tribute to former Senators like Mary Robinson whose Bills on contraception in the 1970s, while not accepted by the then Government, undoubtedly helped to change public opinion and prepare the ground for the subsequent Government legislation on contraception passed in later years. I also want to pay tribute to Senator Norris, who sadly announced his illness this morning but who I know will be back with us very shortly, and his work in initiating civil partnership legislation. Again, this paved the way for subsequent Government legislation. Other examples include former Senator Mary Henry's work on assisted human reproduction and IVF, Senator Quinn's construction contracts Bill and other legislation that other Members, myself included, have initiated in this House and that has subsequently been accepted by Government and passed into law. That has strengthened our democracy and is exactly the sort of work the Seanad should be doing.

We provide a forum where views that are sometimes not represented in the Dáil or other fora can be represented. We constitute a forum where legislation can be scrutinised in detail and in a less adversarial way. While significant and substantial reforms to the way we are elected and the business we do are undoubtedly needed, on balance, a reformed bicameral system is preferable to a unicameral system.

I very much welcome the opportunity to have this debate. I know we will have a very strong and worthwhile debate over the coming months as people delve into the issue of unicameral versus bicameral. For that reason, we will support the Bill but I know many of us in this House may oppose the referendum itself.

Senator Feargal Quinn: I wish to share three minutes of my time with Senator Crown if that is permitted.

An Cathaoirleach: Is that agreed? Agreed.

Senator Feargal Quinn: I move amendment No. 1:

To delete all words after ''That'' and substitute the following:

"the Bill be read a second time on 17 September, 2013, for the following reasons:

(i) to request the Constitutional Convention to consider the constitutional role of the Seanad and to allow time for such consideration;

(ii) to facilitate a consultation process with the Nominating Bodies and the Nominating Universities who have for more than 75 years fulfilled the constitutional role for Seanad General Elections as required by Article 18 of Bunreacht na hÉireann;

(iii) to allow other interested parties to make submissions; and

(iv) to have the views arising from these consultations and discussions available to the people as they prepare to vote in the Referendum."

The Taoiseach is very welcome. I have been here for 20 years and know many very good decisions have been taken. One decision I do not understand is the Taoiseach's decision to keep the debate on Seanad reform and abolition from the Constitutional Convention until after September. He set up the convention but will not allow it to debate the issue until after the referendum has taken place. It is for this reason that I propose an amendment to Second Stage.

I have said before that the proposals in the Bill are anything but reforming. They will damage our democracy, vandalise our Constitution and concentrate more power than ever before in the hands of Cabinet members, not just in the Dáil. What must be kept in mind is that there is real alternative which has been referred to today. It is the Seanad Bill proposed by Senator Zappone and I. Senator Crown has also proposed a similar Bill. That was introduced last month and both Bills have passed Second Stage.

Those Bills are worthy. Our Bill is a roadmap for radical reform to involve a broader range of voices in our Parliament by finally creating the vocational Chamber for which the people voted in 1937, involving all civic society and giving everybody a vote, giving a vote to emigrants forced out of this country by the failures of our political system and giving voters in Northern Ireland a voice in our national Parliament for the first time, building on the progress of the peace process. The last proposal is very interesting. Senator Barrett spoke about it earlier today. This Seanad is unrepresentative and I hope it will cease to exist and be replaced by a real opportunity to have a cost-effective, gender-equal, functional second House that can provide a second look at the legislation instead of the current system whereby the Government merely gets its way and pushes its interests through both Houses. With the Bill we proposed, we would have a Seanad comparable to the United States Senate. We must reform the Seanad so it can ensure that we can protect citizens from legislation which may have a negative effect on their lives and on that basis I think we can do so.

I wish to touch on one other aspect, namely, the cost of the Seanad. It seems clear that the €20 million figure of savings has been plucked out of the air. As Senator O'Brien has said today there are savings figures of €50 million, €20 million or €10 million. An Oireachtas finance officer is quoted in the *Irish Independent* as saying that a cost-benefit analysis for abolishing the Seanad has not been carried out. Is this the way the Government should go about doing its own business? I reiterate that I do not believe the Seanad is working now, therefore, I understand the frustration. What is needed is reform of the entire Oireachtas and singling out the Seanad is a very strange way of doing that. We must remember that the Seanad in its current form presents many thousands of amendments through Senators, many of which contribute to better legislation. There is so much that can be done in that area.

Senator Ivana Bacik has just referred to the Construction Contracts Bill which will go through shortly and last week the Public Health (Availability of Defibrillators) Bill 2013 went through Second Stage. Do people really want all the power in the hands of the Cabinet, dominated by the Whip system, or a Seanad that can put a break on Government when things are going the other way? Up to May 2013, the Seanad had made a total of 529 amendments to 14 Bills that had passed through the Dáil in an inadequate or incorrect fashion. What would have happened if these amendments had not been made? The answer is, bad law is much more likely to result. An argument has been made that the number is actually higher than 529 amendments. That amount of bad legislation came to his House and had to be amended. Nobody is going to do that if we are not around. We have got to find a solution to that. I believe the solution is that proposed in the Seanad Electoral Reform Bill 2013 that we have put forward.

Bad law affects everyone in society, it damages trust in politics, it undermines economic renewal and impacts negatively on the way we all lead our lives. Before voting to abolish the Seanad I urge people to ask themselves a couple of fundamental questions. Who will monitor and where will they amend the legislative work of the Dáil? Recently, Darren Lehane said:

> Prior to 1918 women could not vote in parliamentary elections but the answer was not

to abolish parliament, the answer was to extend the vote to women and to open up the franchise to all. Reform the Seanad, open up a democracy to all. I believe that is the way we have to go.

Surely, we should learn from the mistakes of the Celtic tiger and realise that what we need is more oversight in the system, not less. I appreciate the opportunity to have the referendum but I urge people to vote "No".

Senator John Crown: I welcome the Taoiseach to the House. In the three minutes at my disposal I am sorry if I give a Micheál O'Hehir impersonation. I ran for the Seanad two years ago on the promise to my constituents-----

An Cathaoirleach: Is the Senator seconding the amendment?

Senator John Crown: Yes.

An Cathaoirleach: Okay.

Senator John Crown: -----that I would work to either reform or abolish the currently undemocratic Seanad, which I specifically said was an affront to democracy as it is currently constituted. It is an affront because it was designed to be an affront. It was designed to sacrifice popular democracy on the altar of vocationalism. The vocationalism had a sound theoretical background although I would not have supported it at the time if I had been privy to the deliberations of the original Constitution. The main reason vocationalism did not work was that the parties subverted it. They were the ones who made it a second Dáil. It was not the will of those who would be vocational Senators that it would become a mini Dáil, a waiting room, or an exit room for people on either end of a Dáil career. That is why I authored a Seanad reform Bill, to which the Taoiseach referred directly in his presentation. It has the 11 Taoiseach's nominees because we try to live within the Constitution. We tried to reflect the maximum degree of reform that could be achieved within the current Bunreacht. That reform would have thoroughly democratised the nomination process with any citizen able to run for the Seanad if he or she had 1,000 nominations and would have thoroughly democratised the voting process for the Seanad with every citizen having the franchise to vote in a panel of their choice.

In a recent speech, the Taoiseach mentioned that one of the reasons the Seanad should be abolished was that it had done nothing to stop the inflation of the Celtic tiger. With great respect, I do not hold the Taoiseach personally responsible for what happened in the economy but his party was also a supporter of the bank guarantee. I was not aware of his party being a group which attempted to put a break on the inflation of our housing bubble. Please do not think I am drawing any unfortunate powers when I say that it would be a little like Neville Chamberlain blaming the Mexicans for failing to stop the Germans from invading Poland. We had in the Dáil at that time a dearth of trained economists. In the Seanad today we have Senator Sean D. Barrett. If the abolition goes through without reform we will lose the only senior trained economist in the Oireachtas. There is something wrong with the logic which will allow that.

The Minister for Public Expenditure and Reform, Deputy Brendan Howlin, has on two separate occasions, once in this House and once on radio yesterday, stated that there will be no net saving to the Exchequer from abolishing the Seanad because the money would be redeployed to Dáil committees. In addition to redeploying the money to Dáil committees, the proposed reform package which we are told will follow the abolition of the Seanad, will involve replacing the quasi-elected democratic Senators with unelected external experts. At least in the current

system we have a mechanism for getting some degree of popular validation for the involvement of the experts. This will not save money and it will decrease democracy.

In addition, we heard that the figure of €30 million was plucked out of the air, in truth, one of the cleaner places figures have been plucked out of in the national debate this week. At this stage I must give a gentleman's challenge. I would ask that the Taoiseach give authority to the Leader, to Members of the Seanad and to Members of the Oireachtas to allow the two reform Bills to pass one more Stage before the date of the referendum and to allow people to make Committee Stage amendments. He was keen on the idea that we would not have a preferendum but a "Yes" or "No" vote on abolition. We will still have the referendum but at least people like me will be able to campaign with a clean conscience if we campaign against abolition. We are working to reform and not working to retain a Chamber which, in truth, has not been the bulwark of democracy that some have alleged is the principal justification for its continuation. I thank the Taoiseach for this attention.

Senator Catherine Noone: I welcome the Taoiseach to the House for what is a very important debate. As we face into the referendum on the Seanad, it is important to be mindful that it is part of our parliamentary system which has, as other Senators have alluded to, on more than one occasion faced an uncertain future. The first national assembly established in Ireland, following the Act of Union, was a single Chamber body, Dáil Éireann, which convened in January 1919. It was only in 1922 that our parliamentary system became bicameral or dual-chambered with the establishment of Seanad Éireann. At the time it was an unusual move to jump from being unicameral to being bicameral and we were alone in that sense. However, in many respects Ireland has always been somewhat different.

While many countries entered into war, Ireland embraced neutrality. I do not follow the argument that just because a system suits one country, it works for all countries. The world is a little more complicated than there being any single correct answer. Unicameral and bicameral are not one-size-fits-all solutions. Different countries require different systems. In 2013 I am proud of our system while recognising, as other Senators have done, the shortfalls and the need for radical changes. I am proud of the work we achieve in this House. From the outset, Dáil Éireann resisted efforts by an assertive Seanad to encroach upon what Deputies saw as being properly their own territory. Tensions between the two Houses intensified after De Valera and Fianna Fáil came to power in 1932.

The manner in which the Free State Seanad was abolished and the decision to re-establish it, albeit in a different form in the 1937 Constitution, is also interesting in the context of the current debate. When the Free State Seanad was abolished in 1936, De Valera clearly indicated that the idea of a second Chamber was not anathema to him provided it could be shown that a second Chamber would be of value. De Valera then established a commission to investigate how it believed a second Chamber should function. This commission recommended that the second Chamber should have the power to regulate its own business and to elect its own members.

Cuireadh an díospóireacht ar athló.

Debate adjourned.

Sitting suspended at 1.30 p.m. and resumed at 2.30 p.m.

Register of Lobbyists Legislation: Motion

Acting Chairman (Senator Diarmuid Wilson): The next item is No. 41, motion No. 8, regarding an update on the general scheme of the Regulation of Lobbying Bill 2013. I welcome the Minister of State, Deputy McGinley, to the House. I call on Senator van Turnhout to commence and she has ten minutes.

Senator Jillian van Turnhout: I move:

> ''That Seanad Éireann:
>
> recognises that corporate and market forces can have a significant impact on people's lives and public health outcomes and this provides strong justification for legislative and regulatory responses by government to reduce the influence of commercial and vested interests associated with tobacco, alcohol, gaming and other industries on public health and welfare policy;
>
> recognises the need to provide decision makers with guidance to meet public expectations for transparency, accountability, integrity and efficacy when considering, developing, debating and implementing legislation or government regulations;
>
> and calls on the Minister for Expenditure and Public Reform:
>
> — to update the House on the General Scheme (Heads) of the Regulation of Lobbying Bill 2013;
>
> — to debate with the Members of Seanad Éireann the need for transparent and accountable regulations governing Parliamentarians in relation to any engagement with representatives from tobacco, alcohol, gaming, or other commercial and vested interests.''.

The motion has been tabled by the Independent Group comprising myself and Senators O'Donnell, Mac Conghail, Mary Ann O'Brien and Zappone. We felt that it was important to table the motion as Private Members' business because we wanted to focus on the lobbying of parliamentarians and to reflect on our role in that process.

When I saw the Government's amendment, which I shall deal with in more detail later, I was surprised that the role of parliamentarians was not mentioned. The aim of the Independent Group's motion is to shine a spotlight on parliamentarians, particularly the role of lobbying in the areas of tobacco, alcohol, gaming and other interests that have a public health and public welfare policy.

Everybody knows what role the tobacco industry plays in public health. The World Health Organization has prepared a report that identified a number of forms of tobacco industry interference which has been used to derail or weaken tobacco control.

An example in the past few weeks has been the Minister for Health's proposal on packaging. I would summarise the WHO's list is as follows: manoeuvring to hijack the political and legislative process; exaggerating the economic importance of the industry; manipulating public opinion to gain the appearance of respectability; fabricating support through front groups; discrediting proven science; and intimidating governments with litigation or the threat of litigation. The WHO has clearly identified many forms of interference and I can see the hallmarks

of it here in Ireland.

Let us examine alcohol-related harm. Too much focus has been placed on how alcohol affects industry. I have written two EU reports on the affect of alcohol-related harm. First, the issue must be adopted as a public health issue. All too often people have been sidetracked or derailed when they tried to deal with the matter. We have many reports on the issue and the figures are unacceptable. The latest report that I participated in was the one prepared by the Oireachtas Joint Committee on Health and Children. In early 2012 the committee had all-party agreement on the major recommendations in its report but no action has been taken. I surmise that the alcohol industry has influenced the debate. We have witnessed lobbying during the debate on the marketing of alcohol and alcohol sponsorship of sporting events. The industry has far too much say in these issues. My problem with such influence is that it does not happen in the open but at meetings or expensive dinners.

Let us examine the tobacco industry. Many factors hinder efforts to cut the unnecessary toll of death and disease. The Irish Heart Foundation and the Irish Cancer Society have identified that the tobacco industry has great determination and has successfully influenced vital areas of policy. The tobacco industry is one of the best funded and sophisticated corporate lobbying interests in the world that works to build relationships with legislators and policy makers. The tobacco industry has a fundamental conflict of interest with public health policy. For decades the industry has worked across the world to market its killer and addictive products to children, deceived the public about the harmful effects of tobacco use and fought any policies designed to reduce tobacco use and save lives. Like any other corporation the primary obligation of tobacco, drinks and gaming companies is to deliver profits to shareholders and they are not concerned about public health issues. That means selling more of their addictive products.

I wish to refer to public health policy. Article 5.3 of the WHO Framework Convention on Tobacco Control states that there is a "fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests." Parliamentarians should declare when they are approached by these industries. We cannot leave it to the lobbying companies to list their consultations with politicians, perhaps using a PR agency. That is not good enough because they represent specific interests of the industry. I would prefer if companies declared their interest rather than list a collection of consultations with politicians. The latter is not accountability or transparency.

I wish to raise the concerns of organisations to whom we should listen, such as the Irish Heart Foundation and the Irish Cancer Society as they are at the coalface dealing with these issues. They have written to me stating they have been informed by a number of elected officials that tobacco industry representatives have been actively lobbying Members of the Oireachtas on the price of tobacco products in Ireland and the volume of illicit tobacco. They also point out that information gathered from parliamentary questions, media reports and freedom of information requests indicate that the tobacco industry representatives have considerable contact with Government officials.

From my reading of Article 5.3 of the World Health Organization framework that should not be happenings. We as parliamentarians should not accept this happening. We should not be meeting them. We need to ensure we have a clear regulatory system for lobbyists, but also for parliamentarians. What is needed is a code or pledge that parliamentarians sign stating that in the interest of public welfare, there are certain companies, sectors or vested interests that they will not meet or Members may be allowed to meet those organisations but must declare they

have done so.

This brings me to the important work that Transparency International Ireland has done on a legislative footprint. When I came to the House I checked with the office of the Clerk of the Seanad about conflicts of interest I might have when I table amendments. I was advised quite clearly that I should make a declaration of interest. I have actively done that. I am involved *pro bono* in an organisation for NGOs and I do not get an income from it. For clarity, I will always declare any interests I might have. When we deal with policy and legislation I do not hear people announce often they have met representative from any of these companies. However, the Irish Heart Foundation and the Irish Cancer Society report that Oireachtas Members are meeting representatives of the tobacco companies.

It is important to look at ensuring that if contacts are made with officials, Ministers or parliamentarians that the footprint is clearly noted when we are adopting legislation. Following scandals in the European Parliament involving parliamentarians ready to accept bribes in exchange for legislative favour, the Parliament recommended to the bureau to establish the requirement of a legislative footprint but it has not yet been implemented. This goes to the crux of the difficulty we have and to the crux of the motion we tabled and the amendment to it. We find it very comfortable to talk about the lobbyists and how we will regulate and control them. That is important and I do not underestimate that challenge but there is also a responsibility on ourselves as parliamentarians to state what is acceptable or not, which is the reason I was very disappointed in the amendment tabled by Government. We worded our motion in very open language. It states, "to debate with the Members of Seanad Éireann the need for transparent and accountable regulations governing Parliamentarians in relation to any engagement with representatives from tobacco, alcohol, gaming, or other commercial and vested interests." What was the problem with that paragraph? I wanted to make provision for a pledge or a contract. We left it open to have a debate in the House, yet those on the Government side could not incorporate that into their amendment. In my view that raises serious questions.

My colleague, Senator Marie-Louise O'Donnell, will second the motion.

Senator Marie-Louise O'Donnell: I second the motion.

I welcome the Minister of State to the House. I wish to draw the attention of the House to one valuable, distinctive and relevant example of this Private Members' motion. An independent consultant company which has expertise in winning parliamentary support travelled the corridors of Leinster House two to three months ago in the Lower House, the Upper House and at the committees, lobbying for Camelot. For those who may have forgotten, Camelot is a very cash rich gaming company which runs the British lottery and it has made a bid to run the Irish lottery. We are selling the Irish lottery for 20 years for money up-front. This is the great idea of the Government and the Minister for Public Expenditure and Reform, Deputy Brendan Howlin. Initially, the Government looked for €500 million up-front, but that has now become €300 million and the good causes are not now being ring-fenced. This great gaming company, Camelot, does not take prisoners. It has well travelled swagmen who know how to deal with money when it is needed up-front and get the very best return as well as the very best opportunity to open up online gambling in Ireland to make a bigger profit. One would think that the company would not need a lobby group, but think again, it did.

This independent consultant lobbying company was quite brilliant. It has clients that include asset managers, fund administrators, hedge funds, banks, accountancy firms, lawyers, consul-

tants and insurers and of course in this instance, Camelot, which was the reason it was here in the Upper House and the Lower House. This lobbying company is everything and everybody that the poor and those who play the lottery are not. We had a great lobbying company patrolling the House, influencing decisions. If it was not influencing decisions one would need to ask why it was here, as it had a unique opportunity to do so. This lobbying company is everything which the socially excluded are not about or what the people who play the lottery on a nightly basis are not about. This lobbying company prides itself on below the radar intelligence. One might say it was in the right place because the sale of the lottery could be considered to be below the radar of intelligence. Only for a slip of the tongue did I know anything about it. Why was I not consulted? Why did I not know that this lobbying company, working on behalf of Camelot, was being represented in the House and around our corridors?

The lobbying company also makes sense of the legislative environment in which its clients find themselves. How does it do that? Does it live under the stairs? Does it have a vote in the House? No, it does not but it has lobbying access here. It was peddling this kind of rubbish around the House, while at the same time representing a gaming company called Camelot. This lobbying company representing Camelot states it can craft its messages to senior decision makers. I thought we were supposed to be legislators who are in the business of honest and open representation and messages, and outside the cute craft of certain kinds of communication. This lobbying company builds and uses political support like other like-minded organisations such as Camelot. This lobbying company knows and, I am quoting it, "exactly where you need to be to influence decisions in your favour." It is influencing decisions around gaming companies and crawling the corridors of Leinster House. If ever we needed an update to the House on the general scheme of the heads of the Regulation of Lobbying Bill and if ever we had an urgent need for transparent and accountable regulations governing parliamentarians as my colleague pointed out in relation to any engagement with representations from the great corporate bodies, we need it now.

It is my opinion, after the beginning of the debate on the abolition of the Seanad, that the role of any real politician, or of any real Senator, is to take on the corporates, be they tobacco companies, alcohol companies or gaming companies or any other commercial and vested interest.

I asked on the Order of Business some months ago whether Senators and Deputies who were approached by this company would name themselves. Nobody did. It is not the place of Deputies or Senators to be wining and dining lobbyists or be informed or influenced by corporate bodies. Being informed or influenced by the great corporates is the antithesis of politics and democracy.

Acting Chairman (Senator Diarmuid Wilson): Senator Sheahan has six minutes to move the Government amendment.

Senator Tom Sheahan: I move amendment No. 1:

To delete all words after "Seanad Éireann" and substitute the following:

"recalls the 10 Principles for Transparency and Integrity in Lobbying adopted as a recommendation by Ireland as part of the OECD Council in 2010 in response to concerns over lobbying practices and demands for transparency in public decisions making;

recognises that in all areas of policy, legislation and administration unregulated lob-

bying can create significant public concern:

- regarding the potential scope for vested interests to secure privileged or excessive access; and

- creating a risk that government decision-making will not promote the balance of the public interest to the detriment of society at large;

recalls in that context that specific OECD principles that countries should:

- provide a level playing field by granting all stakeholders fair and equitable access to the development and implementation of public policies (Principle 1);

- provide an adequate degree of transparency to ensure that public officials, citizens and businesses can obtain sufficient information on lobbying activities (Principle 5);

- foster a culture of integrity in public organisations and decision making by providing clear rules and guidelines of conduct for public officials (Principle 7);

and

commends the Government for approving the drafting of the Regulation of Lobbying Bill which will deliver on the commitment contained in the programme for Government;

endorses the policy approach approved by Government which will assist in assuaging public concerns that lobbying carried out 'behind closed doors' could override the interests of the community as a whole;

strongly supports the fundamental objective of the lobbying legislation to provide appropriate transparency on 'who is lobbying whom about what' which will facilitate the wider community to reach informed evidence-based judgments regarding the extent to which different interest groups are able to access and influence decision-makers; and

looks forward to the pre-legislative scrutiny process on the General Scheme of the Bill to be carried out by the Joint Oireachtas Finance, Public Expenditure and Reform Committee which will provide the opportunity to examine and make recommendations on all aspects of the legislative proposals.".

Dialogue and engagement between Government and citizens are central to a well-functioning democracy and are vital to support informed and evidence-based decision making. We must at all times ensure policy formulation benefits from full information and that all individuals, groups and interests in society have an opportunity to contribute to it. Such interaction supports the political process in finding a balance between competing interests, in fostering consensus and in helping to guide and educate public and political debate. Therefore, interest groups, representative bodies, industry, civil society organisations, NGOs, charities and third party professional lobbyists all provide crucial input and feedback to the political and public administration systems through communication of the views and concerns of the public to Government.

However, such people and organisations also clearly seek to influence the policy and decision-making process in order to align it to their goals and objectives. These goals and objectives may reflect a private, commercial or sectional interest or what may be represented as a

wider public interest or benefit. By seeking to regulate those involved in this process, the aim is to bring about significantly greater transparency in order that the public at large will know who is seeking to influence whom in respect of what in relation to public policy. It is appropriate that this activity would be open to public scrutiny as part of the desirable checks and balances which help ensure any attempt to seek to exert undue or improper influence on the conduct of policy formulation and development, political decision making and preparation and implementation of legislation is discouraged.

The reports of the Mahon and Moriarty tribunals have highlighted the risk that the legitimacy of the political system could be eroded by the corrosive impact of secrecy and undue influence. The regulation of lobbying is one of a suite of measures which the Government is taking to address the serious concerns which have emerged in this area. This collection of measures will involve an extensive programme of political and government reform. By regulating lobbying activity through registration and reporting requirements, we can strengthen public confidence in politics and in the business of government and subject public policy making, and those who seek to influence it, to greater scrutiny.

The Government's decision to commence drafting of the regulation of lobbying Bill marks a significant step in bringing greater openness to the important process of interaction between the political and administrative systems and all sectors of society which seek to influence specific policy, legislative matters or prospective decisions. I understand the legislative proposals include a requirement to register all lobbying activity, the appointment of an independent regulator to oversee the process and ensure compliance and effective penalties for non-compliance. While the proposed legislation is broader in its scope, this suite of measures should address many of the legitimate concerns raised by the Independent Members in their motion which is particularly focused on the tobacco, alcohol, gaming and other commercial and vested interests.

I understand that to ensure the regulatory system is balanced and proportionate and does not give rise to unintended adverse effects, it is proposed that it will be introduced on a phased and incremental basis. The commencement of the enforcement powers of the registrar will follow a review of the legislation and its operation carried out by the Minister for Public Expenditure and Reform one year after commencement of the legislation. I recognise that the proposals complement significantly the proposals for the reform and restoration of freedom of information already agreed by the Government. I understand that the general scheme of the regulation of lobbying Bill has been submitted by the Minister to the Oireachtas Committee for Finance, Public Expenditure and Reform for pre-legislative scrutiny. That will provide a further opportunity for input and discussion.

Senator Thomas Byrne: Fianna Fáil supports the Independent Senators' motion. It is worthwhile that the Seanad would debate the issue today. I had two guests from County Meath in the restaurant at lunch time. I walked from the restaurant back to my office and I met two lobbyists along the way. I greeted them. They are nice people. I have no problem with them. The situation did not just start with this Government. That is just the way it is. They walk around the corridors and they seems to have open access. I pointed out to one official previously that a number of lobbyists were walking around the corridors. I inquired how they have free access to the Oireachtas. I was told that Members sign them in. That seems to be the rule, that we can sign in anyone we like and they have free access to the Houses. That must stop now. We can stop it. We do not need legislation to do it. Why should individual lobbyists have access to the House on the say of a Member? It is about time we published the list of who is visiting the Houses.

Senator Marie-Louise O'Donnell: Who is coming in?

Senator Thomas Byrne: I would be delighted to publish my own list.

Senator Marie-Louise O'Donnell: We should publish the list every morning.

Senator Thomas Byrne: I would be delighted to publish the list of everyone who visits me except school groups. It is outrageous that Members can sign someone in and they have free access to the Houses.

Senator John Gilroy: What about former Members?

Senator Thomas Byrne: I do not blame officials. It is our responsibility. Former Members are another issue. I believe that will be dealt with in the legislation. That is an issue. They are allowed to come but one could ask what they are doing. There are people the public would not know if they visited the Houses or saw television cameras pointing them out. We must ask what people are doing and why they seem to have free run of the building. I object to that. I have never allowed someone to have free run of the building but it seems to be common practice in these Houses at the moment. It has been most obvious in recent weeks. I often wondered how certain individuals seemed to have free run of the place. That must stop. We do not need lobbying legislation. The various administrative committees in the Houses could easily come up with rules such as publishing the register of visitors. Ordinary members of the public have nothing to fear from that and Members have nothing to fear either.

The meeting of the Taoiseach and the tobacco industry illustrates the need for a more open and transparent system in which citizens can have faith. I met representatives of the tobacco industry about a year after I was elected. It was only subsequent to the meeting that I realised it was a gross violation of United Nations protocol. I was quite embarrassed that I did not know that when I met the representatives. It is something politicians are not meant to do but the situation has changed under the current Government. It is the first time such a meeting took place. It seems to be the case that if one gets the right politically connected consultant or lobbyist to do the work, the meeting will take place.

The situation did not start with this Government but it seems to be continuing. We all know what went on and we have all read about the Mahon and Moriarty tribunals. We hear from the tapes how the banks wound up politicians and regulators. There was too much close interaction in that regard. Once again, the banks seem to have too much influence on the process for dealing with mortgage arrears. The banks have been let off and given what they want in the personal insolvency legislation and the code of conduct for mortgage arrears that is due to be published. There is too much of that going on and it must stop.

As Members of this House we could pledge not to allow lobbyists to have free access and not to sign in people in order that they can go around visiting Members. When I ran for the Seanad it was suggested to me to come back to Leinster House to canvass sitting Members. I thought that was most inappropriate and I did not do it. I am sure many did and perhaps they did not see anything wrong with it but I did not think the Houses of Parliament were the place for such activity.

We must take a much more rigorous approach. The Government appears to be trying to water down some original proposals in the Bill on lobbying. That is most unwelcome. Situations can arise at social functions and things could be said that might have consequences and should

be regulated. I have no difficulty with any record of who contacts us. We are lobbied daily. As the main Opposition spokesperson in the Seanad on the area, I note that I was not contacted by Camelot. Perhaps that is an indication either of the lack of importance of the Seanad or my lack of importance. I do not know. I do not think I would have met Camelot.

3 o'clock

It is not just Camelot, gambling interests in general are very active. The alcohol industry is also very active and it must be said that NGOs are active and while we support the work they do, it should be registered and done in public so there is no issue that could arise. Not everyone will agree when someone asks us to change legislation. Some NGOs have different reasons for doing things so it must be regulated so the public knows what is being sought by whom and who they are meeting. A simple first step would be for us to state that we will not let lobbyists have free run of the Houses. It only takes a few Members to allow that to happen.

We support this motion. I do not see why the Government amended it as it was non-controversial. The Government would agree with everything in it, although perhaps the reference to the tobacco industry was seen as political. The wording of the motion states there is a need for transparent and accountable regulations governing parliamentarians in their engagement with those representatives, which we are told the Government agrees with. It is a pity, however, that meeting took place. It will be chalked up as a major victory for tobacco interests that they got into a Government. They try in every way to meet representatives and they are clever enough. There was a particularly controversial issue in the last Dáil and I was targeted to be persuaded to vote a certain way. It was left to a small number of individuals, with whom I was personally friendly, to talk to me about it and it was very hard to say no in those circumstances. Once I acquainted myself with the principles involving parliamentarians meeting the tobacco industry, I made every possible excuse not to meet them. The lobbyist who contacted me moved on from the tobacco industry and acknowledged that to me subsequently. He could see it and told me he understood. They understand in their heart of hearts because there are rules in place for a reason.

Senator Sean D. Barrett: I praise the Senators who proposed the motion. This is a major problem. It is estimated there are 14,000 lobbyists in Britain, 17,000 in the United States and 10,000 in Brussels. What are they doing? They are earning large amounts through their role in influencing legislation and, as Senator Byrne pointed out, that is our task. We should not allow that influence and I agree with Senator Byrne about who gets into this House. We should have a visitors' book for Government Departments because much of the lobbying goes on there. The book from the Department of Finance or Government Buildings went mysteriously missing the night the €65 billion escaped. This must be done openly. It is a major cause for concern.

This is a huge distortion in the modern economy. The studies of why so many countries have nearly gone bankrupt puts as one of the top five reasons that lobbyists are so powerful it means legislation is not assessed in terms of its benefit to society as a whole but just for the narrow interest groups. That increases public expenditure and borrowing, diverting resources that should be used productively into lobbying while letting public servants off the hook. They rely on lobbyists and do not develop the expertise themselves to frame proper legislation. I want to see the best grower of strawberries in Ireland thriving, not the best lobbyist who gets imported strawberries banned for six months and who then makes a fortune by selling an inferior product. That is the nature of lobbyists.

Tobacco was mentioned. The Minister has moved a lot on this and menthol flavour cigarettes are gone. The Minister could not get slim cigarettes banned at the European meeting but in the plain packaging no one will know. We now recognise that we should phase out the tobacco industry.

I have never been lobbied by tobacco, alcohol or gambling interests. Perhaps they know the answer they would get so they do not waste their time. Gaming has tried and we hear that if the industry is allowed to do X, Y and Z, it will create X thousands of jobs but that does not wash with me. Gambling destroys incomes and family homes. It takes a long time for a person to drink himself into ill health but in ten minutes the house could be gone on a horse; that is the damage gambling does.

Bankers have been mentioned and they did more damage than the rest put together. There was a failure to regulate them and previously politicians held them in awe. Enterprise and entrepreneurship must be separate from banking, which is a sort off left luggage place where we put money and leave it in case we need it further along. It should not be allowed to pretend it runs the economy.

The construction industry has an appalling record of lobbying in this country. There used to be a section in the capital budget detailing the amount that had been spent on the construction industry. Nothing else counted. Why did it get a whole section for itself in the public capital programme? The hospitality at the Galway races did the sector no credit either. We need a learned Civil Service that could point out these construction projects would have no multiplier effect, would cause an increase in national debt and would not create an asset. The building industry can no longer mumble about Keynesian economics.

I sometimes wonder if all the lobbying by agricultural interests has had any impact at all in improving standards for those it is supposed to represent. Why is agriculture in New Zealand doing so well? Most of the subsidies are capitalised into higher land prices that prevent young people from entering agriculture. I look askance at documents I get from existing farmers about how to keep new farmers out. I had the same experience with the Government's Bill on the taxi industry that had to be seriously amended.

If lobbyists are to be allowed in here at all, they should be confined to one room. I would prefer to keep them in Buswell's Hotel but if they are here it should be open to everyone - lobbyist X is in room Y and that room should be open to anyone to go in to see what they have to say. Much of the bank lobbying was done with bankers marking the golf balls so the regulator always won the competition and would be presented with the cup. He should have been nowhere near those golf fixtures. We all need rules to keep our distance from those who try to inveigle us with hospitality or golf outings.

I got the document on lobbying, which was published in July 2012. Is there any chance the Government might act on it as it has been sitting around for a year? The Government should come up with something; we have not held the EU Presidency forever. These proposals should be developed. The Government's intentions are good but speed is lacking.

We must restore an independent public service, which we always had in the past. Public servants were steely in staying away from lobbyists. That was undermined during the economic bubble era. It can be restored, however, because young people have very high standards in that regard.

We want regulatory impact statements. The Government has been sliding out of that duty and we rarely get them now. Who lobbied, what did he want, what would the effect be on society? That information should be included with every Bill that in introduced to the Houses.

I look askance at the tax lawyers and accountants who have designed a tax system only they can understand. We as ordinary PAYE employees do not have access to them. Their relationship with the Revenue Commissioners must be looked at, particularly in light of the last Finance Bill.

Having listened to the moral arguments for the Government amendment and the motion itself, this is a useless and wasted industry of tens of thousands of people looking for concessions. Why do they not do some real work and produce something that would add to our GDP? Economists would hold even stronger views on this than the proposers of the motion. This is an activity undertaken by termites that eat the tax base and eats into the Legislature. We must have strict rules because we do not want those people around here.

Senator John Whelan: I welcome the opportunity to speak on this motion. It is timely and I commend the Independent Senators for their creativity and good timing. It would be difficult to table a more appropriate motion than this. In a strong, confident and modern democracy, one would expect to have this type of legislation embedded in its democratic infrastructure. We are fighting a rearguard action in addressing these issues.

While I have been a critic of the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, and Government in general on certain issues, to be fair to the Minister he has introduced legislation this year. As Senator Barrett noted, however, time is of the essence and the Houses must pass the legislation.

Unfortunately, lobbying works, as has been shown, no less than in the Houses of Oireachtas, where it was recently accepted that not one child would play rugby, soccer or GAA if it were not for the drinks companies. We have been persuaded of the argument that without alcohol sponsorship, sport would fall apart at the seams. The argument in favour of sponsorship of sport by the drinks industry was made before the Joint Committee on Transport and Communications. Why was a public health issue removed from the remit of the Joint Committee on Health and Children? It should never have been sidetracked or diverted for lobbying purposes and to ensure continued sponsorship of sport by drinks companies would be accepted on a wink and nod.

The master stroke of the drinks companies pales into insignificance when compared with the *pièce de résistance* of lobbying, the bank bailout. It is topical and timely that we are discussing this lobbying coup of the century today. My only regret is that we do not have recordings of the meetings that took place on golf courses and at race meetings, not only the Galway Races, at which decisions were made in the period leading up to September 2008. While we have tape recordings of bankers discussing the bailout, we do not have recordings of them discussing the issue with those who ultimately made the decision. I am not being politically partisan in saying this. However, it is absurd to suggest there are no records of any value in the Department of Finance or Office of the Taoiseach which show that lobbyists were active in this matter. It is difficult to believe that scenario.

I do not want to tar everyone with the same brush because many of those who visit the Houses do so to engage in what one could loosely describe as lobbying. This week, for example, people visited the Oireachtas to lobby about special needs assistants and home helps. We also

received a delegation seeking to discuss the side-effects of narcolepsy. The people in question are decent individuals and families who are trying to represent citizens who have not been well represented by the State. People come here to make representations on behalf of the elderly, a group which frequently gets the wrong end of the stick. This, too, is a form of lobbying, albeit not of the type we are discussing.

Behind the motion lies a desire to address the issue of people representing big business getting close to the Government and Cabinet of the day. I resent this because I naively and stupidly believed that elected Deputies and Senators would have access to Ministers to make arguments and lobby, so to speak. As Senator Thomas Byrne stated, one learns lessons along the way. As we speak, there are people we do not know in the House. They are inside the tent and we do not know them, because lobbyists come in all shapes and sizes. As the Senator noted, one cannot walk down a corridor in the House without meeting one. I have been confronted for not attending a briefing or lobbying session and told I will pay a price down the road. We have to ask who is signing these people into the House and on what basis such access to the Government and Legislature is being given. This dangerous practice should be curbed.

Big business has managed to flex its muscles in the area of taxation. While no one welcomes job creation or foreign direct investment more than I do, it has taken a British Tory Prime Minister to set the agenda by stating that big corporations should pay their fair share of tax. Who would have believed Prime Minister Cameron would get us to do the right thing on taxation? I always believed corporations here paid 12.5% tax but it has transpired that companies have ways and means of circumventing the tax system. Lobbyists serve one purpose, namely, to bend our ear, twist our arms and persuade us to turn a blind eye. In many cases, they do so to advance the interests of big business.

While I do not wish to draw the ire of Senator Crown, I do not have problem if I am approached by someone who introduces himself or herself as a representative of the tobacco industry before outlining a pitch. At least one knows the angle in such cases. I am more concerned about vested interests and people with concealed interests or conflicts of interest who do not declare their position. In some cases, these people have been appointed by the Government to represent the public interest on State and public bodies. Some of them double back through the swing doors downstairs before heading to the Minister's office to outline what policy the Government should pursue. I will not abuse the privilege of the House by identifying the individuals in question but Senators know who they are. New cases are emerging all the time. Some of them are undeclared directors, shareholders and board members of companies. While it is legitimate to be in business to try to generate profit and create jobs and to represent one's position, it is not legitimate to pretend that one can represent the public interest and a private commercial interest at the same time. The people in question come to the House to engage in lobbying and have access to the Cabinet and Government on a daily basis.

The motion is not before its time in many ways given the events of this week. Senators often beat up on journalists and the media, sometimes with good cause, but to be fair to the media it is good to finally see a return to good old-fashioned investigative journalism. That people are wondering what will be in the following day's newspaper is a good outcome for journalism and democracy. Finally, the issue of the bailout is being flushed out into the open. Those who have nothing to hide have nothing to fear. The current story is a little like an iceberg in the sense that we have only seen about one ninth of it and we have not yet run aground. As Senators Barrett and O'Donnell noted, the people in question gambled with the lives of citizens, with the result that 300,000 people had to leave the country, 400,000 are unemployed and many people losing

their homes. Unfortunately and tragically, others have lost their lives. Lobbying is not a victimless pursuit or benign industry. It must be curbed and, at a minimum, records must be made.

Senator John Crown: I am pleased this motion has been introduced. It does not require amendment and deserves our support. I am not sure if it was inspired by events several weeks ago when it was reported that a high level delegation from the tobacco industry secured what was an unbelievable level of access to the Taoiseach and Ministers for Justice and Equality and Finance to advance the industry's commercial agenda. The industry may cloak this issue in whatever way it wishes or claim the delegation attended the meeting to address a problem of smuggling or the sale of unregulated products, but it attended for one reason only, namely, to address the industry's commercial agenda. The tobacco industry was facilitated by a well connected public relations company - I do not propose to fling mud by naming names but we know the company - with extensive connections to the senior party in the Government. Those of us who have more than two brain cells, in other words, everyone present, knows that these various observations are not coincidental and the people who secure this type of access are those who have these types of connections.

One holds one's nose and, through gritted teeth, acknowledges that this kind of thing will happen. However, there is no gas mask, no level of nose-holding and no amount of camphor that one can insert in one's nostrils that can cloud the stench when the people coming here to speak to one are responsible for hundreds of deaths daily because they sell a toxic, immoral and addictive product, which I hope will be made illegal at some stage. There is, I hope, a cultural lesson in this for the Taoiseach and the Ministers in question for whom, as individuals, parliamentarians and leaders of Government I have a lot of respect. I hope they understand that on this occasion they made a colossal blunder and that they never do it again. I hope it will inspire some degree of soul searching within the higher levels of Government and an understanding that the only interaction we should ever have with the tobacco industry is in the context of trying to put it out of business. The Government should not be trying to save any part of the tobacco industry's business.

It should not be trying to save the domestic aspect of the business at the expense of the illegal importation part of it. While the Government might wish to save the retailers, it should be trying to get them to stop selling tobacco. Although we do not deal much with money issues in this House and are above all of that, being more cerebral creatures, perhaps one of the ways we could do this is through incentives like exemptions from or reductions in VAT for shops, pubs or clubs that make a commitment not to allow tobacco commerce to take place on their premises. That would be a wonderful incentive for those who, while making most of their money from selling newspapers or coffee, might be wondering at night how many people's lung cancer they have contributed to by selling cigarettes. This is the reality. People who sell cigarettes are drug dealers, pure and simple. Tobacco contains drugs and those drugs are for sale. If one sells something, one is a dealer. People who make cigarettes are drug manufacturers and people who import them are drug runners. These are legal activities but that is what they are. The only interaction we should ever have with the industry is to say "No more".

That is why I hope that in the area of tobacco specifically, there would be an absolute zero tolerance policy. Members of this Parliament should never meet representatives of the industry. If the shopkeepers want to come in here to talk about tobacco smuggling in Border areas, we should say "No". If the manufacturers want to come in here to talk about trading conditions, we should say "No". We should be telling them that we want them out of the business, pure and simple. There should be no compromise on this.

Another issue that arises is alcohol. I believe we have little successful lobbying by the tobacco industry in this country. Most people are smart enough not to engage. The Minister for Health, Deputy Reilly, to his great credit, has, as in so many other areas related to tobacco policy, taken the high road on this and his actions have been right. However, the situation regarding alcohol is somewhat different, I am afraid. We are much softer on alcohol. I know I am going to lose one or two friends when I say this but what other parliament in the world has three lots of drug dealers acting as nominating bodies? None, but we have. The Licensed Vintners Association, the Vintners Federation of Ireland and the National Off-Licence Association are all nominating bodies for Seanad Éireann. While I am not advocating making the sale of alcohol illegal, we must recognise the facts. The national consumption of alcohol from the 1960s to the height of the so-called Celtic tiger - which according to the Taoiseach was caused by Seanad Éireann - went up four or five-fold, from approximately three or four litres to a maximum of 17 litres of pure alcohol per citizen per year. Consumption has reduced a little since then because of the contraction in the economy but our consumption is still colossally high by comparison with the 1960s. As a result, we are seeing, as my good friend and colleague, Professor Frank Murray, has pointed out, a colossal increase in alcoholic liver disease.

Many things would improve if we all stopped drinking, although I am not saying we should stop. Nor am I saying we should make it illegal and *mea culpa*, I like a drink as much as the next person. However, if we all stopped drinking, we would see decreases in liver disease and cancers of the liver, head, neck, oesophagus, pancreas and colon, as well as decreases in levels of violence, domestic violence and rape. We would also have a smaller prison population. We would have an increase in the availability of domestic discretionary funds for feeding, clothing and educating our children. We would have an end to waiting lists in our health service. In terms of public policy, our attitude to the alcohol trade should be: "We need your business to be doing less well than it is." We should not be doing anything to protect alcohol sales. We want sales to drop and for business conditions for the alcohol industry to be more challenging in the future. We should be saying: "Sorry about that, but that is the deal." We need to get back down to consumption levels of two to four litres of alcohol per person. We need to get back to where we once were, with consumption more evenly spread.

On the issue of lobbyists, I have had a great deal of contact with the pharmaceutical sector over the years. I am sure I have taken and will take more credit for it. However, a simple rule of thumb I have applied since coming into this House is to tell the industry that I will not deal with its lobbyists. I insist that if the industry has clinical data to present, it should sent a medical director in to make a doctor to doctor medical presentation to me. I have no interest in meeting public relations companies.

However, that shoe fits both feet. This Government and every previous one, as well as every Department, is spending tens of millions of euro of public money on PR contracts which are, essentially, for reverse lobbying. The Government is lobbying the people to tell them how great it is. We should have zero PR contracts in the public service. Every public servant should be prepared to speak for her or his own track record. Every senior public servant, on a rotating basis, should make one hour available once a month to do press conferences and press briefings. We need to get rid of all of the PR companies. We do not need to have press secretaries plus communications company contracts plus corporate affairs departments. The National Cancer Control Programme does not need to bring two PR experts every time its chairperson addresses a meeting. We do not need a PR team of six to eight people in HIQA. We do not need to have separate PR contracts in every hospital. If we are going to make truly open and transparent

Government, we need to get rid of the lobbying on both sides.

Minister of State at the Department of Arts, Heritage and the Gaeltacht (Deputy Dinny McGinley): I thank Senators for bringing this very important issue before the House today. I am happy to update the House on the general scheme of the regulation of lobbying Bill 2013. As Members will be aware, the programme for Government contains a commitment to introduce a statutory register of lobbyists and rules governing the conduct of lobbying. The public service reform plan contains a further commitment to meet these objectives through the publication of legislation in 2013. The final report of the Mahon tribunal also recommended the introduction of lobbying regulation and a code of practice governing the conduct of lobbying.

Regulating lobbying activity through registration and reporting requirements seeks to address the very concerns set out in the Members' motion. The aim is to strengthen public confidence in politics and in the business of Government, to increase the accountability of decision makers and to subject public policy making and those who seek to influence it to greater openness and transparency. The proposed legislation would also facilitate the appropriate independent scrutiny of lobbying activity.

The value of the regulation of lobbying, in fostering a culture of integrity, is supported by the OECD, which states that "a sound framework for transparency in lobbying is crucial to safeguard the public interest, promote a level playing field for business and avoid capture by vocal interest groups". The aim of this process is unequivocally not to restrict the flow of information, opinions, perspectives or proposals feeding into policy making or legislation but rather to bring about greater transparency in order that the public at large will know who is seeking to influence whom in respect of what. The reports of the Mahon and Moriarty tribunals have highlighted, *inter alia*, the risk that the legitimacy of the political system might be eroded by the corrosive impact of secrecy and undue influence. The Government has prioritised this issue since coming into office.

The general scheme of the Bill which will provide for the statutory regulation of lobbying was approved by the Government for drafting at the end of April and has been published. The general scheme has been forwarded to the Oireachtas Joint Committee on Finance, Public Expenditure and Reform for pre-legislative scrutiny. It is intended that the Bill will be enacted this year.

As I have said, the fundamental objective of this initiative is to provide appropriate transparency on who is lobbying whom about what. This will allow the wider population to reach informed, evidence-based judgments regarding the extent to which different interest groups are able to access and influence decision-making. This legislation is intended to assuage public concerns that lobbying carried out behind closed doors could override the interests of the community as a whole.

The proposed legislation introduces specific registration requirements for lobbying activity falling within the scope of the legislation and also provides an enabling framework for the establishment of a statutory code for the conduct of lobbying, in line with the recommendations of the Mahon tribunal**.** The core principle guiding the proposed policy approach, as set out in the general scheme, is to continue to foster ongoing dialogue and engagement between Government and all sectors of society on public policy matters while ensuring there is an appropriate degree of openness in regard to such communications. To ensure the regulatory system is balanced and proportionate and does not give rise to unintended adverse effects, it is proposed

that it will be introduced on a phased and incremental basis to ensure it works effectively and efficiently.

The development of the policy of lobbying regulation has been informed by several very valuable sources of information, analysis and experience. In December 2011, the Department of Public Expenditure and Reform invited submissions from interested parties on key issues relating to options for the design, structure and implementation of an effective regulatory system for lobbying. This process was based on the agreed OECD principles for transparency and integrity in lobbying which were the subject of a recommendation by the OECD council in February 2010.

Research on international approaches was undertaken, including the regulation in Canada, the USA, Australia, New Zealand, several European countries and the European Union institutions. This work was advised and informed by the work of international experts on lobbying regulation, including Professor Gary Murphy of DCU, Professor Raj Chari of Trinity College Dublin and Dr. John Hogan of DIT, as well as comprehensive analysis and recommendations published by the OECD on lobbying regulation.

In preparing the details of these proposals, regard was given to five Private Members' Bills on the regulation of lobbying which have been published since 1999, four of which were introduced by the Labour Party and one by Fianna Fáil. The Department also reviewed the Fine Gael draft lobbying Bill included in its New Politics document published in 2010.

On foot of an extensive public consultation process, the Department published a policy paper, entitled Regulation of Lobbying Policy Proposals, in July 2012. This paper was intended to communicate the main policy options to interested parties, including Departments and bodies under their aegis as well as the public more generally. The paper was the subject of a seminar in July 2012 which was attended by large numbers of stakeholder interests and experts and was followed by a further short and focused consultation phase focusing on the issues raised at the seminar and in the paper.

It is essential that normal local and constituency related interactions should be unaffected by the proposals to regulate lobbying. Such interaction includes day-to-day contact between individual citizens and their local political representatives, constituency Deputy, councillor or public representative in regard to any issues affecting them as individuals. These interactions will be excluded from the scope of the regulatory system.

It is unequivocally the case that there should be no registration requirement for an individual contacting his or her political representative in the context of communicating his or her views as an individual citizen on any issue. The only exception relates to matters relating to planning, rezoning or development of land. Similarly, micro-sized enterprises will be excluded where the communication relates to that enterprise.

It is intended that the proposals would lead to the implementation of the recommendations contained in the final report of the Mahon tribunal. There is a close alignment between the commitment included in the programme for Government and recommendations made in the report of the tribunal relating to the establishment of a statutory register of lobbying and a professional code governing the conduct of lobbying. Indeed, in light of the key objective of securing greater transparency in regard to the development of public policy and legislation, the intention is to adopt a comprehensive definition of lobbying, encompassing a broad range of

interest groups beyond the relatively small number of consultant or multi-client lobbyists which were the primary focus of the recommendations and findings of the tribunal.

The key objective of this legislation is to promote greater transparency regarding the formulation and development of public policy. In the course of consultation on this legislation, many stakeholders have referred to the need for a level playing field for stakeholders in regard to the development of policy initiatives, the need for more initiatives by public bodies across the public service in inviting submissions from and engaging in consultation with organisations in the pre-legislative phase or early stages of policy development and securing greater transparency by public bodies in regard to their interactions with stakeholders.

While the introduction of lobbying regulation and the parallel implementation of such measures as the restoration and extension of freedom of information would be expected to contribute significantly to the Government's transparency objectives, the Minister, Deputy Howlin, recently formally issued a letter of intent for Ireland to participate in the multilateral global open government partnership which is expected to provide a framework for the development of specific proposals designed to promote a more open and consultative approach to policy formulation and to encourage more proactive release of information on interaction with stakeholders by Ministers and senior civil and public servants.

The Irish Heart Foundation and the Irish Cancer Society responded to the extensive consultation process I referred to earlier and welcomed this initiative. In their submission they stated the significant impact of market forces on public health outcomes provides strong justification for a legislative and regulatory response by Government in the area of lobbying, highlighting that voluntary codes are not conducive to good health outcomes. While their submission also raised a number of broader issues which do not fall under the scope of lobbying regulation, it was clear that the design of the regulatory system proposed in the general scheme of the Bill goes a long way to meeting their recommendations in the area of Government engagement with industry and, in particular, the introduction of a lobbying register providing transparency and a code governing the conduct of lobbyists.

The Standards in Public Office Commission, SIPO, will act as the registrar for an initial two year period, given the alignment of this area of activity with its current functions. The long-term appointment of a registrar will be reviewed in light of developments around a new ethics framework and the possibility of the establishment of new or revised structures to manage the oversight of integrity obligations. The focus of the registrar for the initial two year period will be on education, guidance and information to foster compliance. While it will have powers of investigation, powers to name and shame individuals and organisations who do not comply with registration requirements and offences provisions to address more significant breaches of statutory requirements, these provisions will not come into force until a review of the implementation of the Act one year after its commencement.

The regulation of lobbying would be expected to contribute to the further professionalisation of lobbying and increase public understanding of it. Regulation of lobbying renders politicians and Government officials more accountable and helps to promote greater transparency.

Senator Paschal Mooney: The Minister of State is very welcome. I am grateful to him for outlining the provisions of the Bill and thank the sponsors of the motion for putting it before the House. This is an old chestnut. If truth were told, it itches at the skin of politicians in general that there should be lobbyists. In a way one feels somewhat undermined as a parliamentarian.

One comes into the Houses, one is primarily focused on legislation and one tries to inform oneself as best as possible. It can, however, be quite irritating to discover that while one is coming in through the front door of this institution, those who represent big business are exiting through the back door and that they have the relevant Minister in their pockets. That is the perception which many people have of us. I am glad, therefore, that some effort is going to be made to begin to regulate an area which has remained unregulated for far too long.

When considering this matter, I cannot help but reflect on the recent furore relating to our corporation tax regime and the fact that the head of a major multinational informed a US Senate committee that he had done a deal on the side with the then Government in respect of corporation tax. Even though the current Administration and IDA Ireland have denied this was the case, the charge that a side deal relating to tax was done with the Government of the day in the early 1980s remains.

If we do nothing else, perhaps we will bring about a degree of transparency in respect of this matter. I appreciate that the diaries of Ministers are already in the public domain but I hope that what we are doing will extend to ensuring that the public will be aware of the extent of the lobbying that is taking place. As already stated, lobbying can be insidious. What particularly annoys me is the fact that while we might be debating a Bill in the House, changes might be made to it elsewhere as a result of the efforts of a very efficient PR person. Such individuals invariably come from within the political establishment and will have previously worked with or been members of the various political parties.

I understand that the legislation does not contain any provision which imposes a time limit on former officeholders who leave these Houses in the context of when they can, as lobbyists, re-engage with their former colleagues. I am not sure this is a good idea. I am of the view that there should be a period during which these individuals would be prevented from operating within the political environment. They should not be able to move directly from these Houses and take up careers in lobbying. There are one or two glaring examples of former Ministers who ended up being major lobbyists for particular industries. There is nothing inherently wrong with this. However, the fact that a person could be a Minister one week and a lobbyist representing a particular organisation - and using his or her experience and access to former colleagues on its behalf - the next does not sit well with members of the public and nor is it right.

As the Minister of State is aware, RTE operates a specific system in respect of those who have held office or who have been involved in the public domain. I refer, in particular, to journalists who work as Government press secretaries and who then seek to return to the broadcasting environment. The most famous example of such a journalist is Mr. George Lee, who was a Fine Gael Deputy for approximately six months. Mr. Lee was not allowed to return to current affairs coverage for at least 12 months after rejoining the station. In a sense, this removed him from any potential controversy which might attach itself to him or, more importantly and by extension, to RTE, which has a public service obligation in the context of being seen to be fair and impartial.

Those are the issues about which I am concerned and the final one to which I referred is that in respect of which I believe there might be a need for some further reflection. I am of the view that those who have been elected to high office in these Houses should be obliged, on leaving office, to wait for a period before being allowed to engage in commercial activities and use their political contacts . I do not wish to inhibit anyone who may be unemployed from obtaining a job but a balance must be struck in the context of allowing the public to have confidence that

we are not just moving the chairs around the room.

Senator Catherine Noone: I welcome the motion tabled by the Independent Senators. It is good that we are debating lobbying and the level of transparency which exists in respect of it.

In the ongoing debates on alcohol advertising in sport, plain packaging for cigarettes and abortion, the presence of lobbyists - working either covertly or overtly on behalf of particular interests or causes - is obvious. A number of weeks ago the Minister for Public Expenditure and Reform, Deputy Howlin, secured Government approval for the drafting by the Office of the Parliamentary Counsel of the regulation of lobbying Bill. The general scheme of that Bill has been published on the Department of Public Expenditure and Reform's website. I have no doubt that the final version of the legislation will be introduced in the House before long. The goal of regulating lobbying is to ensure confidence in the political process while increasing the accountability of those who make decisions by bringing the policy creation process into the open and allowing it to be subject to greater transparency than was previously the case. I am sure everyone in the House would welcome the latter.

I understand the regulation of lobbying Bill will create a register of lobbyists which will be available online. It will also make provision for a cooling-off period of up to one year for former public officials seeking to lobby colleagues with whom they previously worked for public bodies. The latter is welcome and it will hopefully prevent the equivalent of a revolving door from developing within Departments. In that context, I refer to the recent events involving a former employee of NAMA who, in effect, is a gamekeeper turned poacher. We need to ensure that similar scenarios do not arise within the public sector. The primary focus of the register of lobbyists will relate to the subject matter and purpose of the lobbying, the organisations or persons lobbied and the type and intensity of lobbying activity carried out. The Standards in Public Office Commission, SIPO, will have oversight in ensuring compliance and monitoring activity.

While I welcome the debate on the motion and commend those involved on the amount of work they did in drafting it, I am of the view that in the context of the concept of openness and transparency being introduced into decision-making and public policy and ensuring that a revolving door will not develop, we should await the publication of the proposed legislation before proceeding further. I am also of the view that while the motion before the House has merit and raises points which are more than worthy of further discussion, it must be recognised that the Government is actually in the process of legislating in respect of this matter. The Government amendment strongly supports the fundamental objective of the regulation of lobbying Bill in the context of providing appropriate transparency with regard to who is lobbying whom and about what. Such transparency will facilitate the wider community in reaching informed, evidence-based judgments regarding the extent to which different interest groups are able to access and influence decision makers.

Naturally, I agree that lobbying is an important part of democracy. Lobbyists often assist us in framing things in such a way as to ensure that they will not have an adverse or inadvertent impact on sectors of the economy or society that were not considered during the initially policy-making process. As such, they can help to augment the decision-making process. However, it is my core belief that any representations by lobbyists should be made openly in a way which allows members of the public to see the number of such representations made by particular sectors, businesses or lobbyists. Citizens should be able to know who represents whom. I believe in openness and transparency and in the process the Government has put in train. While I recognise the hard work done by the Independent Senators in respect of preparing the motion,

I am afraid that I must support the Government amendment.

Senator Feargal Quinn: I welcome the Minister of State. It is good to learn about particular matters and, in that context, the motion on lobbying tabled by the Independent Senators is welcome.

I did not realise that I was previously a lobbyist.

Senator Catherine Noone: We are all lobbyists.

Senator Feargal Quinn: Approximately five years ago I was asked to become president of Eurocommerce, which represents both the retail and wholesale trades throughout Europe. Eurocommerce is based in Brussels and at the time I was not quite sure what I was getting myself into. My wife pointed out that I would only be obliged to attend 12 meetings a year and I then discovered that each of the subsidiary organisations in the 27 member states expected the president to address their annual conventions. This meant I would be obliged to visit places such as Estonia, Greece and Portugal. Eurocommerce is a very good organisation which represents the views of retailers and wholesalers. There are other bodies which represent farmers and producers and one can see why there is a need for organisations such as Eurocommerce.

It was not until I read the motion tabled by the Independent Senators that I realised that there are significant outstanding issues in respect of lobbyists. In that context, we are currently debating the future of the Seanad. If the House were abolished, there would be less oversight and this could exacerbate the problems relating to lobbyists. Mr. John Devitt of Transparency International has said of our political system, "Other forms of abuse are possible because of the weak or non-existent regulation of lobbyists, the concentration of political power in the hands of government ministers and weak oversight by the Oireachtas ... the planning and public contracting system still creates incentives for bribery". We have to act upon the covert links between business and Government and introduce transparency in lobbying and fundraising. All of this can be done very simply online and I will outline an example of it presently. We should extend this approach to all levels of society and put public spending online in an accessible fashion. I raised this issue previously and I have said on several occasions that I am unsure why the Government is not doing more on lobbying and increasing transparency through putting all public spending online in an easily accessible way for every citizen to examine. This is done in America and it should be easy to do it here. We should look to the example of other countries. In the United States businesses are obliged to reveal what policies they have been seeking to influence on behalf of which clients. We should include something along those lines in Ireland and this is a step towards that end.

I would be interested to hear the discussion on the position of former politicians. How should we deal with former politicians who end up, immediately after they leave these Houses, working for lobbying companies? Should the Oireachtas be more picky about who it allows in? In Australia, in general, lobbyists must organise a pass to get access to the federal Parliament and it must be signed by two parliamentarians. Should we look to there for example? Our current system is probably far too open.

While a register of lobbyists may seem like a good idea, how do we define what a lobbyist is? An hour ago I attended a very interesting talk by representatives from a disability group in the audiovisual room. I suppose what they were doing was lobbying and I found it very useful. We need to distinguish in some form or other between someone who is carrying out commer-

cial lobbying and those like the representatives of the disability organisation, which was only established this year and which is seeking to influence Government decisions in future. Such work is to be supported and understandable.

Some weeks ago I introduced the Public Health (Availability of Defibrillators) Bill. Representatives from the Irish Heart Foundation saw it and came in to see me. I found the advice they were able to give most useful. They were lobbyists. It is almost a bad thing to say someone is a lobbyist but there is certain lobbying that we must support and we should ensure that we do so. Do lobbyists include charities or youth groups who meet the local Deputy or Senator? Let us suppose a group is seeking to improve the environment in its area. It is not as straightforward as it first seems.

If there were a register, should there be fines and deadlines for not signing up to the register of lobbyists, for fundraising or for furnishing misleading statements? In the United Kingdom there was a recent proposal to introduce fines of up to £5,000 for missing deadlines and higher fines and a maximum two-year jail sentence for knowingly making misleading statements. That is a real method of countering unethical business-government relations. Should we consider following that lead?

Perhaps we are losing sight of the wider picture and putting too much blame on business interests. In the United Kingdom, research by the Hansard Society, a think tank, found that UK Members of Parliament are more amenable to being influenced by charities and interest groups than by businesses. However, as we all know, the interests of charities can result in negative consequences, just like those of businesses or trade unions. We must not always lump charities in with so-called good lobbying as opposed to bad lobbying.

We need to take a hard look at the relationship between alcohol, tobacco and politics. In Australia, the Parliament of New South Wales recently passed legislation banning donations to political parties by the alcohol, gambling and tobacco industries. I am unsure whether any money is given by alcohol and tobacco companies to political parties in this country, but we need to make things clear. Could we, as politicians, send out such a strong message by introducing legislation to formally break the link between the tobacco industry and its lobbyists and the political system? That would be a positive step. I appreciate the motion before the House. It gets us talking and thinking but, above all, I hope we will get to act on it.

Senator John Gilroy: I welcome the Minister of State to the House. I wish to comment on the Government amendment to this worthwhile Private Members' motion. I am very disappointed; I will not put a tooth in it. We commend ourselves, we endorse ourselves, we strongly support ourselves and we look forward to ourselves. It is an insult to the work done on this commendable Bill by the Independent Senators. I hope that we will not see the likes of this lazy Government response to the motion come before us again. I put my case this morning to the relevant Minister and I am happy to say as much publicly now. I discussed the matter with the Minister and I recognise the proposals he is bringing forward, which are very much to be welcomed and are rather sophisticated.

There are several issues I wish to discuss in general. Most Senators in the House today have identified what we could term the "red in tooth and claw" lobbyists, perhaps from the drinks industry, the banks and the tobacco industry. They are easily identifiable. On the other side of the dichotomy are voluntary services and the voluntary sector, which are also easily identifiable by their actions and objectives. However, as we move towards the middle we come across

a blurring of the lines between what is and what is not legitimate lobbying. For example, we take the view that anyone with a blatant and open commercial interest in promoting his or her product is considered a lobbyist. There is no question about that. However, what about the voluntary sector? Sometimes, as part of its fundraising activities, a voluntary organisation may be involved with the commercial sector. The objective of the organisation may not be primarily to raise money although the money being raised is to fund the activities of the organisation. Are such people lobbyists? Are they the type of people we wish to regulate? We probably should regulate these people in some way but not in the same manner as we should regulate the more professional lobbyists.

Often, it is not easy to identify when one is being lobbied. There is plenty of anecdotal evidence relating to sales representatives from medical companies visiting doctors or physicians in surgeries, clinics or hospitals. There may be anecdotal evidence to suggest that the prescribing practice following the visits is somewhat different to the prescribing practice before the visits. Naturally, the evidence remains anecdotal and that is half of the problem. Since it is anecdotal we cannot prove it, and because we cannot prove it we cannot act on it. Instead, we must simply rely on the goodwill and integrity of the physicians, which is not a problem in the vast majority of cases. The anecdotal evidence and the lack of empirical evidence is certainly an impediment to identifying lobbyists.

For years people laughed when mention was made of the Galway tent. People always looked at each other with a wry smile on their faces. Often we wonder about the incentive of most of the developers who were entertained and wined and dined and had to pay substantial fees to visit the famous tent at Ballybrit. I wonder whether some of the things we know now, but which seemed obscure at time, would have happened if developers did not have such ready access to power.

Sometimes lobbying is as much about the omission as the act. As a councillor on Cork County Council I recall when guidelines were introduced relating to burying pipes coming into houses under the ground. It was recommended in the relevant Department guidelines that these pipes should be buried to a depth of 600 mm or approximately 2 ft. When we examined the older guidelines we noticed they stated that the pipes should be buried more than 1 m deep. One may think that it is all rather obscure and that it makes no difference but it made a considerable difference, because if a contractor is digging more than 1 m deep it must shutter the sides of the trench and that adds considerable costs to the job. This obscure omission or change came about. We do not know why it came about but the result was that thousands of people throughout the country found themselves without water two years ago when half the country was frozen. If the pipes had been buried more than 2 feet deep, no one would have had frozen pipes.

I produced a policy for Cork County Council on taking into consideration the previous planning history of a developer before it would get planning permission for its next development. My view was that if a developer left a shoddy estate behind, it should not get planning permission for the next job. I believed it was common sense. The county manager told me that such a law already existed and that there was no problem with it. However, there was a problem with it because the onus of proof was changed and it was not for the developer to prove that it finished the estate.

4 o'clock

The law was changed to put the burden of proof to a High Court standard for the local

authority to prove that the developer had not finished the estate. What local authority will do that? These are the little omissions that we regard as obscure, of which most of the population, including me, take little heed of until we are affected by them.

It is a very complex area. While we welcome the Senator's proposal, unfortunately with the whip system as it is, if there is a vote I would not be able to support it despite my very fine words here. However, the Senator understands the nature of the whip system.

Senator Terry Brennan: The main aim of the proposed Bill is to strengthen public confidence in politics and in the business of Government as well as to increase the accountability of decision makers by subjecting public policy making and those who seek to influence it to greater openness and transparency as previous speakers mentioned. The Bill provides for a statutory web-based register of lobbying activity. The key features of the proposed regulatory system include the following. Communication with designated public officials or officeholders on specific policy legislative matters or prospective decisions will be subject to registration. The focus of the lobbying register will be on the subject matter of the communication. The purpose of the lobbying organisations and persons lobbied, and the type and intensity of the lobbying will also be registered.

It is intended that the Standards in Public Office Commission will be responsible for managing the implementation of the register and for monitoring compliance. An important part of this function will be to provide guidance to registrants. The proposed Bill will also provide for a cooling-off period of up to a year for former public officials seeking to lobby former work colleagues with whom they worked in a public body, as outlined by Senator Noone. A wider blanket prohibition on post-public employment is likely to conflict with a person's right to earn a livelihood. Normal citizen interaction with local political representatives is a fundamental democratic right and will not be subject to registration other than when it relates to land rezoning and development issues in light of the recommendations of the Mahon tribunal.

Lobbying activity forms an important element of the democratic process. It contributes to greater openness and transparency in public policy formulation, and provides valuable input into the decision-making process. The intention of the Bill is to continue to encourage such participation and engagement, but to ensure that it occurs in an open and transparent manner. I believe everyone is entitled to lobby. The issue with the lobbyist register is that everyone is entitled to know who is lobbying. It is also important that lobbying is done in an open and transparent way.

On the cooling-off period, people are entitled to make a living and we must respect that people have constitutional rights in this regard. The embargo on lobbying will apply not only to officeholders but also to senior public servants. People are aggravated that senior public servants dealing with an industry or an issue can seamlessly move within a month or so of leaving office to the other side of the fence, well armed with information and know-how. A year is a reasonable cooling-off period because matters move on without unnecessarily impacting on a citizen's right to earn a living. I support the Government amendment.

Senator Martin Conway: Cuirim fáilte roimh an Aire Stáit go dtí an Teach arís. This debate is very worthwhile. I remember as a UCD student sitting in the Public Gallery when the former Taoiseach, Mr. John Bruton, took office. In his speech he talked about Government being accountable to such a degree that it should be visible through a pane of glass. I fully agree that a democracy needs to be accountable. In the 1980s and the early 1990s there was

regrettable behaviour by public officials which resulted in tribunals. Unfortunately it was a part of our past that we would much rather forget, but at the same time we have a responsibility to ensure it does not happen again. It is extremely important to learn from recent history. In recent years we have seen significant improvements in ethics in public office criteria, etc. However, unfortunately we have not seen that to the same degree in the area of lobbying. That is why I welcome the proposed Bill.

I will give a simple example. As a councillor in Clare when we were preparing the county development plan the lobbying that went on was appalling. In fairness to my colleagues across all parties in County Clare, it did not influence us. Lessons have been learned from experiences in north County Dublin and in other places. That said, it is not possible to rely on the probity of everybody and therefore an effective register of lobbying is extremely important. International best practice is scattered in the area. I would not consider that the United States has international best practice in the area. The degree of influence that lobbyists have in the United States is grossly obscene. It is also obscene that those seeking any kind of senior public position in the United States need to have multi-million dollar funds available. Of course all of this is channelled through big business which can exercise serious influence within the political system, where lobbyists are dangerous in my view.

I was here for Senator van Turnhout's earlier contribution and I commend her on her comments on the tobacco industry. We can take pride as the first country to have introduced a workplace smoking ban despite the highly-focused lobbying of the tobacco industry. Wearing my other hat, I run a shop in County Clare and have seen the lengths to which tobacco companies will go in order to push their products - that is the business they are in. All we can do as a Government and an Oireachtas is to regulate it and it is important to do so.

This debate is healthy as is any debate about transparency and accountability. Ensuring the best possible result for the public is important. I commend the people who have spoken in the debate. It is an important issue and those who spoke demonstrated its importance. As a society we can be relatively happy and proud that despite the lack of regulation in the area, it is not a big problem and certainly has not manifested itself as it has done in other countries. Prevention is better than cure and in order to prevent it becoming a problem, I support any endeavours to ensure this is addressed.

Senator Jillian van Turnhout: I thank colleagues for their participation in the debate. I particularly thank my Government colleagues for not seconding their amendment, which I assume has been withdrawn and that we will not have to be pushed to a vote on the issue. I was disappointed at the selective citing of the OECD principles in the amendment. Several of the principles were cited but not principle No. 6. The comment on it calls for transparency and integrity in lobbying, and mentions the Government should also consider facilitating public scrutiny by indicating who has sought to influence legislative or policy-making processes, for example by disclosing a legislative footprint which indicates the lobbyists consulted in the development of legislative interests. This is the heart of what we are trying to bring forward in our motion.

We called for a debate and not for anybody's hands to be tied. We wanted a debate on the role of parliamentarians, which is exactly what we have had today in the Seanad. This is a first step in the process. Many interesting points have been raised with regard to the role of lobbyists, and this is important, but we also need to focus on ourselves and our role as parliamentarians. Several weeks ago the Government launched the healthy Ireland initiative. What

we propose supports this Government policy. We would like to see a legislative commitment to publish details of meetings on public health and welfare issues. The regulatory impact and legislative footprint should be examined. Why not have a code of conduct for all branches of Government? Why not give clear guidance to our parliamentarians? Senator Byrne disclosed his experience. Why are we not given clear guidance so we do not have to find out by accident? Senator Marie Louise O'Donnell, who seconded the motion, clearly showed the reality of what is happening in the gaming industry. I would like to see assurances that the Cabinet handbook will be updated to include Article 5.3 of the World Health Organization framework convention on tobacco control.

Senator Whelan asked the pertinent question as to why alcohol sponsorship was not dealt with as a public health issue. This is something we must ask ourselves as parliamentarians. As I have stated previously, I wrote two reports on alcohol-related harm for the European Economic and Social Committee. Most Senators have probably not heard of the committee, but the European spirits organisation lobbied intensively every one of the 344 members of the committee on my report. It tried to discredit me, the NGO for which I was working and the report itself. Thankfully it did not win and my colleagues in the committee supported me in the majority. The motion we have tabled was for the purpose of having this debate, and I thank the House for its support. It is a first step in starting the process and the public has an expectation of us that as parliamentarians we must have higher standards.

An Cathaoirleach: For the benefit of the House, Government amendments do not need to be seconded.

Senator Jillian van Turnhout: I respectfully ask the Government to not press the amendment because our motion is very openly worded. I respectfully ask that the debate is left in a healthy way.

Amendment put:

The Seanad divided: Tá, 23; Níl, 16.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Bradford, Paul.	Byrne, Thomas.
Brennan, Terry.	Crown, John.
Burke, Colm.	Cullinane, David.
Coghlan, Paul.	Daly, Mark.
Comiskey, Michael.	MacSharry, Marc.
Conway, Martin.	Mooney, Paschal.
Cummins, Maurice.	O'Brien, Mary Ann.
D'Arcy, Jim.	O'Donnell, Marie-Louise.
D'Arcy, Michael.	Ó Murchú, Labhrás.
Gilroy, John.	Quinn, Feargal.
Hayden, Aideen.	van Turnhout, Jillian.
Henry, Imelda.	Walsh, Jim.
Kelly, John.	White, Mary M.
Landy, Denis.	Wilson, Diarmuid.

Moloney, Marie.	Zappone, Katherine.
Moran, Mary.	
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
O'Neill, Pat.	
Sheahan, Tom.	
Whelan, John.	

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

Amendment declared carried.

Motion, as amended, agreed to.

Housing (Amendment) Bill 2013: Committee and Remaining Stages

An Cathaoirleach: I welcome the Minister of State at the Department of the Environment, Community and Local Government, Deputy Jan O'Sullivan, to the House.

Sections 1 and 2 agreed to.

Title agreed to.

Bill reported without amendment and received for final consideration.

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

Minister of State at the Department of the Environment, Community and Local Government (Deputy Jan O'Sullivan): I thank the Senators for their consideration of the Bill and their contributions on Second Stage. I thank them for taking us through the Final Stages.

As I explained previously, the Housing (Amendment) Bill 2013 is a technical Bill making minor changes to section 31 of the Housing (Miscellaneous Provisions) Act 2009 so that we can effectively implement a new and more harmonised system of local authority rents. There are two amendments to section 31 of the Housing (Miscellaneous Provisions) Act 2009, with the first remedying an error in the text of section 31(5)(*a*) that prevents the provisions of section 31 from being brought into operation in a logical and effective sequence. This will ensure that a clear statutory basis exists for housing authorities to charge rent for dwellings during the transition from the existing rents regime to the new rents system.

The second amendment deletes from section 31(6) references to rent-setting criteria that conflict with the rent system where charges are determined largely on the basis of household composition and income. I am fully in favour of local authority rents being linked to household income and I therefore propose to delete from the enactment references to specific rent-setting criteria other than income.

There will be a number of housing Bills coming before the House in the autumn and the next Bill will provide, among other elements, a new housing assistance payments scheme administered by housing authorities, which will replace rent supplement in the case of households with a long-term housing need. That will be a much more substantial piece of legislation than what we are dealing with today. I thank the Senators for their speedy implementation of the detail of the legislation and their contributions.

Senator Aideen Hayden: I will briefly reiterate my call to the Minister of State on Second Stage to come before us for a more complete debate on the future of social housing. I know this is a minor, technical Bill but there are a number of issues which Members would like to discuss, particularly the supply of social housing, the Government's intentions in the treatment of social housing and, perhaps, a closer examination of the Government's housing policy statement and what it means for the future of social housing. It is a complex issue but we would be obliged if the Minister of State could return when we have more of an opportunity to discuss the broader issues rather than minor and technical matters.

I will take this opportunity, as the Leader suggested this morning, to bend the Minister of State's ear on something that is not her direct realm but which is important to the area of housing. It relates to the access of parents to housing where they are not the sole guardians of a child. The principle in the past has been that even though parents are separated or were never together, the non-principal carer will have access to appropriate housing to enable him or her to be able to have a full relationship with the child. Unfortunately, it has transpired in the middle of a recession that this is not occurring. If a child has a home with one parent, they are deemed to be suitably housed. That is the approach taken by the local authorities. I am concerned about that because it takes away from the right of the child to have a full family life with both parents and the right of the parent to have a full family life with that child. I ask the Minister of State to consider making a directive to local authorities that the right of families to a full family life needs to taken into consideration in allocation policies.

Senator Diarmuid Wilson: I welcome the Minister of State to the House. As she stated, this is a technical Bill but an important one in that it makes the way local authorities charge tenants rent more transparent. I very much welcome that. I agree with Senator Hayden's call for a broader discussion about the Government's housing strategy and in particular social housing policy and an update regarding ghost estates. I know that significant progress has been made in this regard but there are still major difficulties. Like Senator Hayden, I would welcome a broader debate on housing. I welcome this Bill.

Senator Michael Mullins: I also welcome the Minister of State to the House. I welcome the Bill, which brings fairness and a much clearer understanding of the rent situation. A situation pertained where rents varied from county to county and local authority to local authority. It makes total sense that rents would be assessed solely on income so I very much welcome that provision.

I join with my two colleagues in asking the Minister of State to facilitate a much wider de-

bate on social housing. Every local authority is struggling with the size of the housing lists and the various options the Government is looking at. We would all like to have an input into that and get our suggestions on the record regarding the best way to proceed with the many challenges facing the Minister of State in her Ministry.

Question put and agreed to.

Sitting suspended at 4.35 p.m. and resumed at 4.45 p.m.

Public Service Management (Recruitment and Appointments) (Amendment) Bill 2013: Report and Final Stages

An Cathaoirleach: I welcome the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, to the House.

Before commencing I remind Senators that a Senator may speak only once on Report Stage, except the proposer of an amendment who may reply to the discussion on the amendment. On Report Stage, each amendment must be seconded. I call Senator Thomas Bryne on amendment No. 1.

Senator Thomas Byrne: On the basis of assurances that the Minister gave in the House on Committee Stage last week and, in fairness, on the basis of assurances that his officials gave me, subsequently for which I thank them, I am not going to push these issues. I am not moving the amendments because the Bill does not facilitate compulsory deployment and does not override collective agreements in the public sector. Nobody will be forced to move job except on a voluntary basis, which I understand to be the practice. I do not want legislation that introduces an unfair system in the public sector. That is all I wanted to achieve with my amendments. I scrutinised the legislation for such a threat and have accepted the assurances given. We have had a good discussion here and the legislation will be robustly debated in the Dáil. Therefore, I shall not push my amendments.

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): I thank Senator Byrne. I can give the reassurance formally on the floor of the House that there is no compulsory redeployment implicit in the legislation. The provision was included to facilitate cross-sectoral redeployment that does not exist at present and to facilitate the PAS in its role. Senator Byrne has correctly interpreted the legislation. Respect for all of the agreements will continue and that has been written into the Bill.

Amendment No. 1 not moved.

An Cathaoirleach: Amendments Nos. 2 and 3 are related and may be discussed together by agreement.

Senator Thomas Byrne: I shall not move my amendment.

Amendment No. 2 not moved.

Government amendment No. 3:

In page 9, line 32, to delete "or" and substitute the following:

"and, in so far as not inconsistent with that policy, any".

Deputy Brendan Howlin: The amendment simply seeks to replace "or" with "and". For consistency, I spoke with the House about the approach to the Haddington Road proposals.

I have considered amendment No. 3 since we debated it here on Committee Stage. I was concerned that the provision, as drafted, could be interpreted as enabling PAS to decide, in a given case, to have regard to a collective agreement to the exclusion of the Minister's broader policy on mobility and redeployment within the public service. The amendment seeks to remove "or" and replace it with "and". That means PAS must now have regard to any sectoral agreement that might exist and the Minister's policy on redeployment.

Senator Thomas Byrne: The Minister has listened to the arguments that I made last week and I shall chalk it up. The changing of "or" to "and" is an important distinction because there was a danger that collective agreements could be deemed second class in the criteria listed. I am sorry that I did not spot the possibility because it is simpler than changing the entire wording. I thank the Minister and my party supports the amendment.

Amendment agreed to.

Bill, as amended, received for final consideration and passed.

Sitting suspended at 4.55 p.m. and resumed at 5.35 p.m.

Courts Bill 2013: Committee Stage

SECTION 1

Acting Chairman (Senator Marie Moloney): Amendments Nos. 1 and 74 to 76, inclusive, are related and will be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 1:

In page 4, line 19, after "Courts" to insert "and Civil Law (Miscellaneous Provisions)".

Minister for Justice and Equality (Deputy Alan Shatter): We are discussing amendments Nos. 1 and 74 to 76, inclusive, together. The purpose of amendment No. 1 is wonderfully simple, namely, to change the Short Title of the Bill to better reflect the content of the Bill in light of the amendments proposed on Committee Stage. As a consequence to the amendments being made to the Bill on Committee Stage, it is necessary to amend the Long Title to correspond with the content of the Bill. Amendments Nos. 74 to 76, inclusive, provide for this, and I suspect that these are the least controversial amendments proposed.

Amendment agreed to.

Acting Chairman (Senator Marie Moloney): Amendments Nos. 2, 5, 6 and 17 to 19, inclusive, are related and may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 2:

In page 4, line 20, to delete "*9*" and substitute "*12*".

Deputy Alan Shatter: Following discussions with the Minister for Children and Youth Affairs, we have agreed that it would be appropriate for the change to the *in camera* rule provided in the Courts Bill also to apply to court proceedings under the Adoption Act 2010. The relevant proceedings would appear to be those provided for by sections 18, 30, 31, 49, 54 and 92 of the 2010 Act. Amendments Nos. 5 and 6 provide for this. However, the Adoption Bill 2010 does not contain an explicit *in camera* requirement in three relevant sections and I am advised that in the interests of clarity and consistency, it would be better to insert an explicit reference to the requirement. Accordingly, a requirement for proceedings to be held in private is being explicitly inserted in sections 18, 30 and 31 of the Adoption Act by amendments Nos. 17 to 19, inclusive. Amendment No. 2 is consequential to these amendments.

Amendment agreed to.

Government amendment No. 3:

In page 4, after line 31, to insert the following:

"(4) *Part 7* shall come into operation on such day or days as the Minister for Justice and Equality may appoint by order or orders either generally or with reference to any particular provision and different days may be so appointed for different provisions.

(5) *Part 8* shall come into operation on such day or days as the Minister for Justice and Equality may appoint by order or orders either generally or with reference to any particular provision and different days may be so appointed for different provisions.".

Deputy Alan Shatter: This provides for the commencement of Parts 7 and 8 of the Bill, which are proposed to be inserted by subsequent amendments.

Amendment agreed to.

Acting Chairman (Senator Marie Moloney): Amendments Nos. 4, 25 and 26 are related and may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 4:

In page 5, between lines 2 and 3, to insert the following:

"(5) The Coroners Acts 1962 and 2005 and *section 21* may be cited together as the Coroners Acts 1962 to 2013.".

Deputy Alan Shatter: Amendments Nos. 25 and 26 propose to insert a new Part 6 into the Bill which provides for the amendment of the Coroners Act 1962 and the Civil Legal Aid Act 1995 to provide for legal advice and aid in respect of certain inquests. As I mentioned on Second Stage, the Coroners Bill 2007, which has been restored to the Order Paper for this House, is in the course of being reviewed in my Department. That review essentially focuses on the development of the optimum administrative and jurisdictional structures which in the most cost-effective way can best deliver the planned reform of coronial law. The Bill, as published, provides for the comprehensive reform of the existing legislation and structures relating to coroners and provides for the establishment of a new coroner's service. The European Court

of Human Rights has in recent times emphasised the importance of ensuring the next of kin of the deceased can effectively participate and engage in a coroner's inquest into certain categories of death such as those limited number of cases where death is at the hands of the State. This right to effective engagement includes the provision of information prior to the inquest. This means that in certain cases, families may require legal assistance to participate effectively in the inquest process.

I should make it clear that I am not introducing a legal aid scheme for participants at any or all inquests. This is because an inquest is an inquisitorial process which does not establish civil or criminal liability. Rather, I am providing for the targeted provision of legal advice and aid in certain defined scenarios where the participation and engagement of next of kin is considered necessary and desirable and where they do not have sufficient means to provide for that representation. No eligibility criteria in regard to financial means operated by the Legal Aid Board will apply in these situations. Neither am I providing for free legal aid to pursue civil actions by next of kin. The legal assistance provided is in regard to the death investigation only.

This matter was addressed in the Coroners Bill 2007 which proposed in section 86 for the introduction of a legal aid scheme for proceedings before a coroner and in section 92 for the required technical amendments to the Civil Legal Aid Act 1995. These changes would permit the Legal Aid Board to arrange for the granting of legal advice or aid to the family of a deceased person for legal representation at an inquest where the person has died in or immediately after being in State custody or certain institutional care situations. Given the importance of these matters, being conscious that progressing the Coroners Bill 2007 may take some time and in light of the State's obligations under the European Convention on Human Rights, I am of the view that the Courts Bill presents an opportunity to address the issue of legal aid at certain inquests.

Accordingly, the amendments I am moving today propose to include the broad provisions contained in sections 86 and 92 of the Coroners Bill 2007 in the Courts Bill with some refinements to the text to take into account developments since the Coroners Bill was published. An important consideration is that the amendments will be made to the Coroners Act 1962 as opposed to the original intention of being contained in new legislation. I should point out that the proposed amendments have been developed with the advice of the Office of the Attorney General. We have also had the benefit of the technical advice from the Legal Aid Board. I believe coroners will also welcome the new provisions.

The new provisions will replace the *ad hoc* arrangement operated by my Department, in consultation with the Office of the Attorney General, under which *ex gratia* payments for legal representation may be made in certain cases involving deaths in State custody. At this point, I would have regard to the uncertain nature of possible situations. While it is not possible to be exact as to the likely costs, I would expect that some increase on the cost of the current *ad hoc* arrangements, which have averaged €50,000 per annum in recent years, will arise. The base of the potential number of deaths which might qualify the cost may be in the region of €250,000 annually. This, however, would be considerably less than the cost of establishing dedicated inquiries into deaths at the hands of the State, which will be necessary in the absence of the inquest system in order to meet the State's European Court of Human Rights obligations.

Amendment No. 25 provides for amendments to the Coroners Act 1962. Section 21(a), which is a new section, provides for the amendment of section 29 to provide for certain exemptions to the fees charged by coroners and county registrars for providing copies of documents to

certain categories of persons or organisations. This would now include the next of kin granted legal aid. Section 21(b) provides for the insertion of a new section 60 in the Coroners Act 1962 which sets out the circumstances where legal advice and aid at inquests will apply. It provides that where an inquest is to be held into the death of a person in circumstances listed in subsection (5), a member of the family of the deceased may apply to the coroner for a request be submitted by the coroner to the Legal Aid Board for the grant of legal aid or advice of both. The application is to be made before the commencement of the inquest unless the coroner permits otherwise.

Subsection (3) provides that the coroner is required to determine the application within ten working days of the receipt of the application. If the coroner is satisfied that the applicant meets the criteria set out in subsections (5) and (6), he or she shall request the Legal Aid Board to grant legal aid or advice or both to the applicant concerned.

Subsection (5) lists a range of State custodial or certain institutional care situations to which the provision applies. Deaths in these institutions will give rise to an inquest by the coroner. I am also providing to ensure the fullest possible compliance with the European Court of Human Rights for the coroner to consider an application to request the Legal Aid Board to provide legal aid where the circumstances of the death may give rise to a matter of significant public interest where the possible recurrence or continuation of those circumstances could be harmful to public health or safety. Subsection (6) provides that where an applicant has been granted legal aid or advice or both by the Legal Aid Board on foot of subsection (4), no further application will be made by a family member in respect of the inquest concerned. Subsection (7) is an interpretation provision.

Amendment No. 26 provides for mainly technical drafting amendments to the Civil Legal Act 1995 to provide for the inclusion of these new inquest provisions in the legal aid framework and any necessary cross-referencing to the new section 60 of the Coroners Act 1962 to be inserted by this Bill. Amendment No. 4 is consequential on amendment No. 25.

Senator Ivana Bacik: I very much welcome these amendments to the Coroners Act and the Civil Legal Aid Act which are long overdue. It is appropriate that we would do this pending the overall review of the coroners legislation. This is something for which the families of deceased persons have been looking for some time. I appreciate that, as the Minister says, it is limited to certain cases, in particular where there has been some State involvement or where the deceased has been in the custody of the State in some way or in related circumstances.

I have one issue with amendment No. 21 and the new proposed section 60 of the Coroners Act, including section 60(6). I know that quite a broad definition is given in subsection (7) of the family member who may apply. Subsection (6) provides that there is no further application possible by a family member where legal aid or advice has been granted to an applicant in respect of an inquest. Should some provision be made where there is a conflict? One can anticipate that this could arise where there is conflict between different family members who wish to be represented in respect of a particular deceased. How should a coroner adjudicate on that if their hands are tied having granted one application for legal aid? Should there be a provision in subsection (6) along the lines of "unless the coroner considers it appropriate" or some saving clause to allow for some discretion for the coroner? One does not want to be too prescriptive but it seems that one could anticipate that a family member might apply and by virtue of having done so first, they then preclude other family members who might wish to apply where there is some difference of view among a family or where some conflict arises in respect of the inquest.

It seems it might be a safer option and I ask the Minister to look at that for Report Stage.

Acting Chairman (Senator Marie Moloney): Does the Minister wish to reply?

Senator Trevor Ó Clochartaigh: I note that the Minister has added numerous amendments from amendment No. 26 onwards which we have not had enough time to consider adequately because they effectively amount to a new Bill. We do not feel this is the way to do business. Effectively, it is a new Bill with several lengthy provisions with significant implications regarding the amendments circulated last night. The Taoiseach spoke in this House earlier about significant political reform, yet we feel this is a very bad way of doing business so we will abstain for the time being and consider in more depth what is contained in these new amendments from amendment No. 26 onwards. We may consider new amendments for Report Stage. I understand these amendments largely relate to making provision for the Juries Act in the case of lengthy jury trials, the Coroners Act, civil legal aid, assignees for the insolvency service, etc. While we do not see anything obvious to which we object initially, we want to consider these in greater depth before Report Stage.

Senator Colm Burke: I wish to raise an issue in respect of the Coroners Act. The issue may already have been covered in other amending legislation but I have not been able to find it. The issue is about the duty of the coroner to hold the inquest within a certain period of time. The case I am citing is where a death occurred in a hospital through natural causes and there had to be an inquest but there was a delay of about 18 months. The hospital became concerned that it was creating uncertainty and might involve unnecessary litigation to the extent that it contacted the State Claims Agency to see if pressure could be put on the coroner to hold the inquest. Does the Coroners Act need to be amended regarding the time period in which inquests should be held because no explanation was given for the delay? All the necessary documentation was furnished but the inquest was not held for 18 months. I ask the Minister and his officials to examine the issue and if there is to be a delay that a reasonable explanation is given to the medical people involved and the family who are awaiting a date for the inquest.

Senator Averil Power: We support this amendment in respect of the Coroners Acts. In general the lack of support for families and people who have to face inquests is dreadful. It is a very stressful process. Many families find it bewildering as they have not been party to an inquest previously, particularly when there have been tragic circumstances relating to a death within a family. There is a desperate need for a broader service. I welcome the amendment as a first step in that direction but I encourage the Minister to progress the wider view as soon as possible.

I share the concerns raised by Senator Trevor Ó Clochartaigh about the amendments in general. At very short notice we have been presented with a list which is longer than the Bill. While many of them do not appear to raise major issues I am concerned at having to debate them without the opportunity to consult with various interest groups, take advice and vote on them today. Similarly, we may well raise issues on Report Stage. In general, it is a positive Bill, particularly in regard to the family law aspects and opening up reporting in the system should help to greatly improve confidence and transparency in family law. I wish we had a longer period before Committee Stage and I hope Report Stage does not appear on the schedule for next Tuesday or Wednesday. I urge that sufficient time is allowed between now and Report Stage in order that we can reflect on the issues properly.

Deputy Alan Shatter: Perhaps I can make a general comment. There is a series of dif-

ferent proposals contained in these amendments which have widened the scope of the Bill. I did signpost that we would do this on Second Stage. Much of what is being done is tidying up areas of law that need to be tidied up and addressing issues that have been long ignored. It has proved possible with the assistance of the Attorney General's office to bring these matters into the House today. Of course, there will be an opportunity after today to consider them for Report Stage. I do not want to mislead Members but we are on a tight timeframe because I am very anxious that the legislation is enacted before the Houses adjourn for the summer recess. There are substantial provisions in these which are very much in the public interest and which will be of assistance to many individuals, even the court jurisdiction issue, in so far as it may save people legal costs.

I apologise to Senators if they have not had enough time to consider all the amendments. Very substantial concentrated work has been undertaken by my departmental officials and the Attorney General's office to facilitate us progressing these issues at this stage. Some of the issues we need to address are in dereliction such as the issue in relation to coroners. On the substance of that, Senator Ivana Bacik raised an interesting issue on which I will reflect. There is a concern to ensure that if there is a tragedy and somebody dies there is not a multiplicity of family members seeking legal representation. It does not require marital breakdown for that to give rise. There could be conflict within families over the circumstances. There could be parents and five or six brothers and sisters of an individual who has lost his or her life and the State simply could not afford to provide legal advice to every family member in those circumstances. Of course, any lawyer appointed would have a duty to assist the coroner in the deliberations they undertake and one would assume would make submissions of relevance to any issue surrounding the death of an individual. I will certainly reflect on the issue raised by Senator Bachik but it could open a vista that could create enormous legal expense and make coroner court hearings unnecessarily prolonged and expensive. We need to find a balance.

I will come back to Senator Colm Burke on an issue he raised previously and again today, that is the delays that can occur in inquests being held, as sometimes happens, because there is a pending criminal trial or there can be other reasons. I accept that where there is a delay it would be helpful to families if the reason was articulated. I would like to reflect on that issue. I thank Senators for their general welcome for our addressing the particular issue that these amendments address.

Senator Ivana Bacik: I thank the Minister for saying he will consider the issue I have raised. I am not suggesting that a multiplicity of family members should be represented, far from it. What I am trying to do is pre-empt a situation where coroners are faced with a multiplicity of requests. It is sensible that one application would be granted but how the coroners decides is the question. In most cases, presumably an agreed family member would come forward to make the application but where there is a conflict, tension or a dispute there may be problems that we need to anticipate in the legislation.

Amendment agreed to.

Section 1, as amended, agreed to.

Section 2 agreed to.

SECTION 3

Government amendment No. 5:

In page 5, line 12, to delete "2004." and substitute the following:

"2004;

"Act of 2010" means the Adoption Act 2010.".

Amendment agreed to.

Section 3, as amended, agreed to.

SECTION 4

Government amendment No. 6:

In page 6, to delete lines 2 to 7 and substitute the following:

"(h) sections 33 and 38 of the Act of 1995;

(i) section 38 of the Act of 1996;

(j) section 16 of the Domestic Violence Act 1996;

(k) sections 18, 30, 31, 49, 54 and 92 of the Adoption Act 2010;

(*l*) sections 145 and 199 of the Act of 2010.".".

Amendment agreed to.

Section 4, as amended, agreed to.

SECTION 5

Acting Chairman (Senator Marie Moloney): Government amendments Nos. 7, 8, 13 and 14 are related and may be discussed together by agreement.

Government amendment No. 7:

In page 6, line 23, after "relate" to insert ", by order".

Deputy Alan Shatter: The purpose of these drafting amendments is to improve the text of the provisions of sections 5 and 8 regarding orders that can be made by the court in regard to press attendance and reporting.

Amendment agreed to.

Government amendment No. 8:

In page 6, to delete lines 30 and 31 and substitute the following:

"and any such order may, with regard to any restriction, contain such conditions as the court considers appropriate.".

Amendment agreed to.

Acting Chairman (Senator Marie Moloney): Government amendments Nos. 9 and 15 are related and may be discussed together by agreement.

Government amendment No. 9:

In page 6, to delete lines 32 to 38, to delete page 7, and in page 8, to delete lines 1 to 3 and substitute the following:

"(c) In determining whether or not to make an order under paragraph (b), a court shall have regard to the desirability of promoting public confidence in the administration of justice and to any other matter that appears to it to be relevant and shall, in particular, have regard to the following:

(i) the best interests of a child to whom the proceedings relate;

(ii) the views, if any, of-

(I) a party to the proceedings, and

(II) a child to whom the proceedings relate who is, in the opinion of the court, capable of forming his or her own views;

(iii) whether information given or likely to be given in evidence is sensitive personal information;

(iv) the extent to which the attendance of bona fide representatives of the Press might inhibit or cause undue distress to a party to the

proceedings or a child to whom the proceedings relate by reason of the emotional condition or any medical condition, physical impairment or intellectual disability of the party or the child concerned;

(v) the need to protect a party to the proceedings or a child to whom the proceedings relate against coercion intimidation or

harassment;

(vii) whether information given or likely to be given in evidence is commercially sensitive information; and

(viii) whether information of the type referred to in subparagraphs (iii), (vi) and (vii) when taken together with other information would, if

published or broadcast, be likely to lead members of the public to identify a party to the proceedings or a child to whom the proceedings relate.

(d) In considering the views of a child referred to in clause (II) of paragraph (c)(ii), a court shall take account of the age and level of

maturity of the child concerned.

(e) Where evidence in proceedings to which a relevant enactment relates concerns a matter referred to in subparagraph (vi) of

paragraph (c), an application under paragraph (b) may be made by or on behalf of the Director of Public Prosecutions.

(f) In this subsection-

'commercially sensitive information' means-

(i) financial, commercial, scientific, technical or other information the disclosure of which could reasonably be expected to result in a

material financial loss or gain to the person to whom it relates, or could prejudice the competitive position of that person in the conduct of his or her business or otherwise in his or her occupation, or

(ii) information the disclosure of which cold prejudice the conduct or outcome of contractual or other negotiations of the person to

whom it relates;

'party to the proceedings' includes a witness in the proceedings;

'sensitive personal information' means information about a person that would, in the ordinary course of events, be known only to the person or members of the family, or friends, of the person, and includes but is not limited to-

(i) information relating to the medical, psychiatric or psychological history of the person,

(ii) information relating to the tax affairs of the person,

(iii) information relating to the sexual conduct or sexual orientation of the person.".".

Deputy Alan Shatter: The main purpose of these amendments is to insert a provision expressly requiring the court from making a decision regarding press attendance or reporting at family law or child care proceedings, to take account of the views of the parties to proceedings and any child to whom the proceedings relate. The need for this amendment was raised in a submission from the Children's Rights Alliance, whom I thank for drawing this matter to my attention. A couple of days ago the issue was raised by the Ombudsman for Children.

Senator Ivana Bacik: The Minister is well aware that concerns have been expressed about the substantive provisions in section 5 by family law practitioners, particularly practitioners who work in courts where issues concerning children are raised. I am very glad to see this amendment put forward at the behest of the Children's Rights Alliance as it gives the necessary criteria to a judge in making a decision as to whether the press shall have access. I am aware that practitioners, particularly outside of Dublin, are concerned that notwithstanding the very carefully drafted provisions, there might still be sensitive material that ultimately is identifying of a child or of parties to proceedings that could still be published. The Minister, as a very experienced family law practitioner, is well aware of that.

6 o'clock

The amendment greatly improves the situation by making express provision that the views of parties, or of any child to whom proceedings relate, is capable of forming their views will be taken into account.

Senator Trevor Ó Clochartaigh: I have no major issue with the amendment. Perhaps this is the right place to mention the recently launched report by Women's Aid to the Minister because it mentioned the facilities at Dolphin House. In many cases the women who attend Dolphin House seeking barring orders, etc., find the experience incredibly intimidating due to its retrograde facilities. Prior to a hearing women must sit straight across from the person they are seeking the barring order against in the waiting area.

We can take into consideration this type of an amendment. However, we must also take into consideration the facilities that are available in order to ensure that the amendment can be lived up to in practice. The report by Women's Aid, and the testimony given on the day of its launch, was a damning indictment of the situation in Dolphin House. Perhaps the Minister will comment on the matter. Does he intend to improve the facilities?

Senator Averil Power: I strongly welcome the inclusion of the new provision. It is important to increase the visibility of family court proceedings as it will improve confidence and reassure people that there is consistency across the board. The provision will shine a light on what has often been a very secretive area of Irish law. However, it is essential that we have watertight provisions to protect people's identity, particularly of children and families involved in cases. The Minister mentioned the Children's Rights Alliance. Barnardos strongly welcomed the Bill but expressed the concern that there is a risk that children could be intimidated and discouraged from testifying by having too many members of the press present or being worried about their identify being exposed. I welcome the provisions and I am glad that the Minister has taken those concerns on board. Between now and Report Stage I will consult the children's organisations again to see if they have any other suggestions. Today, he has put forward a good and comprehensive list and I welcome it.

Acting Chairman (Senator Marie Moloney): Does the Minister wish to respond?

Deputy Alan Shatter: Yes, quickly. I thank Senators for their supportive comments.

It was always my intention, after we published the Bill, and I think I said it in my speech, to give people an opportunity, particularly people who work in the areas and organisations with an interest in the areas, to come back to us with their observations on the provision. I am conscious of the need to provide a proper balance, of the need to protect the best interests of children, and of the need to ensure that we have a scheme that does not result in information being published that should not be published, or indeed that it does not create pressures that would inhibit individuals who need the assistance of the courts from taking court action.

The difficulty here has always been to strike a balance because there is a risk that we could, in attempting to give some additional access to courts in these areas and creating a degree of transparency, make it so conditional that after the legislation is enacted that cases continue virtually automatically to be heard in private. It was important to find the right balance. I am very appreciative for the various submissions and comments that we have received. I hope that we have now, in a sense, tidied up aspects that gave rise to concern. The provision is positive. We will have to wait and see if the Bill is enacted with the provision, not further amended, and how it works in practice. That is an important issue. We need some insight into that and I hope that we now have the balance right.

We cannot have a system where, because it is so conditional, every family law and child

care case, virtually automatically, takes place in private. We also cannot have a system where everything is heard in public in circumstances where individuals are so stressed that they could not cope with reporters in a court and where a child's best interests or welfare could be detrimentally impacted upon.

Of course we must have very careful rules with regard to publishing. One of the things that has occurred to me that would be very useful in the context of dealing with matters is that following the enactment of the legislation, there could be some agree protocol with media outlets as to how they will report family cases so as to ensure that there is a degree of consistency in non-disclosure of sensitive information or of anything that could identify individuals. That would be an additional positive development if that could come about.

I hear what was said about Dolphin House. If I had my way, and if I had an unlimited sum of money, I would have dedicated new courts built across the country providing all of the necessary facilities, all of the consultation rooms, back-up mediation services, welfare services and judges specially appointed due to their specialist skills in these areas. That would mean we would have both the personnel and the buildings. However, we are operating in an environment where there is very limited funding available to provide all of the additional consultation services in Dolphin House. The provision of the inhouse mediation service has been a big step forward. Principally, it assists estranged parents, be they married or unmarried, to resolve issue relating to children. That is a great step forward.

Unfortunately, I cannot give guarantees on when the structure of our courts system will change and provide all of the adequate 21st century facilities that should be there because we are hamstrung by our financial capacities. As Minister, I will do what I can in this area but I do not want to hold out hope or mislead anyone on what is possible. Of course, the court structure will become a further issue of discussion as we travel the route of consultation in advance of providing a separate family court structure. It will take some years before the State is financially able to provide the type of desirable facilities that can be found in other countries such as Australia and some parts of Canada and the United States. In some parts of the UK work has been undertaken, particularly in the county and magistrates courts, to provide better facilities. I am very conscious that many have complained about facilities in the UK at the moment. I am afraid that is issue of court facilities is one to be addressed on an incremental basis. It is not an issue of direct relevance to the Bill but it is an issue that is of relevance to individuals who are engaged in family disputes.

Senator Trevor Ó Clochartaigh: On that point, I appreciate the Minister giving us latitude to discuss the matter. The Women's Aid report painted a chronic picture of what happens in Dolphin House. Our fear is that justice will not be seen to be done there because of the fear and intimidation experienced by the women who enter those buildings. They are literally afraid of their lives because of the facilities. It would appear to be a specific situation that needs to be addressed. I appreciate that the Minister is constrained financially but I call on him to relieve the situation so that justice can be administered in a fair manner and the women who must enter the building do not feel intimidated.

Deputy Alan Shatter: I will ask the Courts Service to examine the matter.

Senator Trevor Ó Clochartaigh: Go raibh maith agat.

Acting Chairman (Senator Marie Moloney): I thank the Minister.

Amendment agreed to.

Section 5, as amended, agreed to.

SECTION 6

Acting Chairman (Senator Marie Moloney): Amendments Nos. 10, 44, 48 to 50, inclusive, 54, 60 to 62, inclusive, 64 and 68 to 70, inclusive, are related and may be discussed together by agreement.

Senator Averil Power: I move amendment No. 10:

In page 8, between lines 3 and 4, to insert the following:

"6. Section 133 of the Personal Insolvency Act 2012 is amended by the substitution of the following subsection for subsection (4):

"(4) A register maintained by the Insolvency Service shall remain confidential at all stages.".".

The amendment arose out of discussions that the Fianna Fáil group had with Mr. David Hall. He is well known to Members of the House because of his advocacy work on behalf of mortgage holders. He raised a concern with us about the public availability of information on people who have had to avail of the insolvency service. He has worked with families in this situation and is concerned that making their names publicly available will deter people from availing of the insolvency provisions in the first place.

This is the reason Fianna Fáil has tabled this amendment. While that information of course must be available to lenders and to those who have a genuine interest, personally I do not understand the reason it necessarily should be available to one's next-door neighbour or someone else who may have a nosy rather than a necessary interest in someone's personal circumstances. It is difficult enough for people to be obliged to avail of insolvency arrangements in the first place. The procedures that have been put in place by the Government set quite a high hurdle and give the banks and the lenders a veto in the first instance. Consequently, as matters stand, it will be a quite stressful process for families to avail of insolvency and I do not understand the reason the Government would wish to add to that by putting out in the open, people's financial position for all to see. The reason Fianna Fáil has tabled this amendment is to ensure the type of privacy Members have been discussing in other aspects of the Bill is extended to families who are suffering from mortgage and debt distress.

Senator Trevor Ó Clochartaigh: I note for the record that from amendment No. 26 onwards, Sinn Féin reserves the right to introduce amendments on Report Stage because we believe sufficient time has not been given to consider them.

Deputy Alan Shatter: I will deal first with the amendment tabled by Senator Darragh O'Brien and then with the other amendments that are being discussed together. As Senator Power stated, the purpose of amendment No. 10 is to delete the existing provision in section 133(4) of the Personal Insolvency Act 2012, which provides that the public may inspect the insolvency registers at all reasonable times and to insert a new provision that provides that the registers shall remain confidential at all times. Section 133 of the 2012 Act provides for the establishment by the Insolvency Service of Ireland of registers of insolvency arrangements, debt relief notices, debt settlement arrangements, personal insolvency arrangements and protective

certificates. The registers will be in electronic form and members of the public may inspect a register and may take copies of or extracts from entries in a register. While the name of the person will be posted on the registers, the full details of the debt arrangements will not be available to the public.

Registration of the grant of a protective certificate or the fact that a person has been granted a debt relief notice, debt settlement arrangement or personal insolvency arrangement is a necessary feature of the insolvency legislation. To protect the constitutional rights involved and to prevent potential actions for judicial review, the Act makes provision for enhanced oversight by the court of the new debt resolution procedures. This court involvement has the significant benefit to the debtor of providing protection from enforcement actions by creditors either during the negotiation period or during the lifetime of the arrangement.

The granting of a protective certificate must, to have its full effect, be registered in the appropriate public register. Likewise, the successful conclusion of an arrangement also must be recorded. This is normal in other jurisdictions and I am of the view this neither imposes a significant burden nor exposes a debtor to shame. Moreover, the decision to seek to participate in a debt resolution process of course is theirs alone. The provision for public register of insolvency arrangements is common in many countries, including the United Kingdom. Indeed, the new European Union insolvency register has a requirement for the interconnectivity of public insolvency registers. I should also mention the register of bankruptcies has existed in this State for a very long time and, consequently, in the circumstances, I cannot accept the Senator's amendment.

Amendments Nos. 44, 48 to 50, inclusive, 54, 60 to 62, inclusive, 64 and 68 to 70, inclusive, provide for a number of amendments to the 2012 Act in respect of the recording of information on the insolvency registers. They are required to provide greater clarity with regard to the recording and removal of information from the registers maintained by the Insolvency Service of Ireland. The amendments also seek to improve the presentation of the Act to provide consistency of approach. The purpose of amendments Nos. 48, 60 and 68 to sections 43, 83 and 122, respectively, of the Personal Insolvency Act 2012 is to address omissions in the Act. At present, there are no provisions for the appropriate court to inform the Insolvency Service of Ireland of its decision to terminate a debt relief notice, a debt settlement arrangement or a personal insolvency arrangement, respectively, although the Insolvency Service of Ireland is to be obliged to remove information from the register on termination and therefore must be aware of the court's decision. The proposed amendments address these lacunae by the insertion of new subsections that provide for the necessary notification by the appropriate court to the Insolvency Service of Ireland and for the recording of the termination on the appropriate register. This is to the benefit of an individual who has exited a debt settlement arrangement.

Amendment No. 49 to section 45 of the 2012 Act is a technical drafting amendment to improve the presentation of the section. The amendment addresses the removal of information from the register of debt relief notices following a termination by providing that the Insolvency Service of Ireland shall remove all information from the register within three months of receipt of a notification of the termination of the debt relief notice, DRN. I am advised by the Parliamentary Counsel that this is better placed in section 45, which deals with the effect of termination of DRNs. Amendment No. 50 to section 46 of the 2012 Act is a technical drafting amendment that is required to ensure consistency of approach throughout the Act. The requirement to remove information "without delay and, in any event," is inconsistent with the requirement on the Insolvency Service of Ireland to so do within three months and again, this is an amendment

to the benefit of debtors who have availed of the mechanisms under the Act.

Amendments Nos. 54 and 64 to sections 61 and 95 of the 2012 Act, respectively, are addressed to issues in respect of the protective certificate process. In paragraph (a) in both cases, the amendments clarify the information to be provided to the court in the case of an application for a protective certificate in connection with a debt settlement arrangement, DSA, and a personal insolvency arrangement, PIA, respectively. A similar amendment is being made to section 31 in the related amendment No. 44. The amendments in paragraph (b) in both amendments set out more clearly the recording of the issue of a protective certificate in the register of protective certificates of any extension of the protective certificate period, if applicable, and the date on which the protective certificate ceases. The amendments also make clear that within three months of the date on which the certificate ceases, the Insolvency Service of Ireland must remove the information from the register of protective certificates.

Amendments Nos. 61 and 69 propose to insert new subsections into sections 85 and 124 of the 2012 Act, which provide for the removal of the debtor's information from the register of debt settlement arrangements or register of personal insolvency arrangements, as the case may be, within three months of the date on which the DSA or PIA would have expired, but for the fact that the arrangement in question was terminated prematurely. Amendments Nos. 62 and 70 propose to amend the text of sections 86 and 125 to clarify the obligation on the Insolvency Service of Ireland to record the successful completion of a DSA or a PIA on the register of debt settlement arrangements or the register of personal insolvency arrangements with the information relating to the arrangement to be removed from the register within three months of the date of receipt of a notice of successful completion of the agreement. I should mention I am considering further amendments to the Personal Insolvency Act on Report Stage. These include technical amendments relating to the debt relief notice, the debt settlement arrangement and personal insolvency arrangement, as well as amendments relating to appeals and the functions of the Insolvency Service of Ireland.

Senator Averil Power: I accept the point, as the Minister stated at the outset, about the need to inform creditors that someone has been obliged to seek an insolvency arrangement. As the Minister indicated, people who are owed money by that person of course need to know what is the position and must be put on notice regarding the protective order to prevent them from being able to move against the borrower. However, I still do not understand the logic essentially for naming and shaming people by having a public register into which anyone can dip and find out whether neighbours, colleagues or associates have been obliged to avail of insolvency arrangements. It appears to be adding additional stress and worry onto people who are in financial distress.

This issue has been raised with Fianna Fáil Members by groups who represent mortgage owners, including the Irish Mortgage Holders Organisation established by David Hall, who has been working on this issue for years. He told us his genuine view was that people would be put off availing of the insolvency arrangement by it and that would be a shame. I still do not get the necessary public interest that dictates it would be so. I absolutely understand the reason creditors must be put on notice but even on foot of the Minister's response, I am not clear as to the reason the public necessarily has a need or an interest in knowing who has availed of the insolvency arrangements.

Deputy Alan Shatter: I will respond briefly by noting it is not about naming and shaming anyone. For example, one might ask what is the purpose of the protective certificate. The pro-

tective certificate is to protect the debtor from being sued by individuals who are owed money during the period between when the protective certificate is granted and the engagement with the personal insolvency practitioner trying to negotiate a resolution of the debt situation of the individual debtor between the debtor and the creditors and trying to bring about a debt settlement resolution or to enter into an arrangement. This is a protection because, at that stage, unless this arrangement is put in place there may well be creditors who do not know whether someone is engaged in this arrangement. It may well be that the initial phase would involve the personal insolvency practitioner meeting with the debtor to go through all of their debts and to present a proposal to creditors having regard to their income and assets and personal financial needs for themselves or their family. Creditors might not otherwise know. One could end up with a debtor, within two or three weeks of engaging with a personal insolvency practitioner, being the happy or unhappy recipient of multiple court proceedings. Once this measure is in place and one has a protective certificate, before anyone issues proceedings against someone to recover debt, they will be able to consult the register and see whether the person he or she is going to sue is the beneficiary of a protective certificate, because if he or she is then there is no purpose in issuing proceedings.

This is a protective measure in the context of protecting individuals and also if a personal insolvency arrangement, PIA, or debt settlement arrangement, DSA, is put in place it provides protection during the period of the financial resolution arrangements. It is important that information is available but the information does not disclose the extent of any individual's debts. It does not disclose the nature of the arrangement he or she has entered into. The measure does reflect the practice in other jurisdictions dealing with debt settlement resolution issues. For many years we have published the names of individuals who are bankrupt. There are issues also with regard to individuals who are within that process who may not be owed any money by a debtor – it may be an institution or an individual from whom the debtor seeks to borrow money - and protecting them in knowing that someone is going through a debt resolution process and information can be accessed. This is important information not just for creditors, but for others with whom someone who is participating in a debt resolution process may engage.

There is a whole series of reasons for the measure; it is not about naming and shaming. It reflects a consistent approach that is in other European jurisdictions. During the course of the Irish Presidency, I have been engaged in dealing with the new proposed insolvency regulation which seeks to ensure European-wide recognition of debt settlement arrangements that do not involve bankruptcy and to ensure that there is transparency to the entering into these arrangements for the very reasons I have just mentioned right across Europe. Part and parcel of that architecture envisages that there would be this type of register maintained and that if I am doing business in, for example, Belgium, and there are individuals in Belgium who are willing to give me credit, they can check a register as to whether I am an individual who is currently subject to and engaged in a debt resolution process. It would give them an insight into the extent to which perhaps I should be given credit. There are very important reasons that there is a need to maintain this type of register.

Amendment, by leave, withdrawn.

Acting Chairman (Senator Marie Moloney): Amendments Nos. 11 and 16 are related and may be discussed together. Is that agreed? Agreed.

Government amendment No. 11:

In page 8, to delete lines 29 to 41, and in page 9, to delete line 1 and substitute the following:

"(3) (a) Where an offence under this section is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect, of a person who was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person, as well as the body corporate, shall be guilty of an offence and may be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(b) Where the affairs of a body corporate are managed by its members, paragraph (a) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.".

Deputy Alan Shatter: The Attorney General has advised that the amendments are necessary to improve the drafting of the provisions in section 6 and 9 of the Bill regarding liability for offences committed by bodies corporate.

Amendment agreed to.

Section 6, as amended, agreed to.

Section 7 agreed to.

SECTION 8

Senator Trevor Ó Clochartaigh: I move amendment No. 12:

In page 9, between lines 14 and 15, to insert the following:

"(b) Not withstanding paragraph (a), bona fide representatives of the press shall be required to undergo an accreditation process to be provided for by the Minister by way of regulation.".

We flagged our concern on the issue and the section with the Minister on Second Stage. We do not believe he has adequately addressed the concerns and therefore we have tabled the amendment. I put it to the Minister that the legislation is somewhat light on detail and in terms of safeguards. We believe there ought to be greater safeguards as to the reporters who would be permitted to attend such proceedings and the manner in which they would be able to report. While the safeguards in sections 5 and 8 are welcome and comprehensive, I note that the meaning of "bona fide representatives of the press" is not defined in the Bill nor does the Bill set out the terms under which a member of the press may attend a family or child care case. The term "bona fide" should have a clear basis. We must be sure that those attending the hearings are sensible members of the press who will take a considered and reasonable approach to the cases and that they would be sensitive to the importance of protecting the people involved and their identities, in particular where it applies to children.

I note that the concern is shared by the children's body, Barnardos. I received a submission from it to that effect.

Barnardos is anxious that permitting multiple journalists access to the court hearing will

increase the chance of the child and their family being identified by themselves or others as various versions of the same case will be reported. Comprehensive safeguards must be in place to ensure no identifying features of the case are released and attention is focused only on the significant facts and outcomes. The heads of Bill clearly state that it will be an offence for any information to be published or broadcast that would enable the parties of the case to be identified. Barnardos recommends that the penalties imposed be sufficient to ensure compliance.

Barnardos also wants to highlight the risk that a child may become aware of the media interest in their case and retract or change their statement in light of this. This could alter the outcome of the case. Having the media present could also potentially act as a deterrent for children to report incidences of abuse or neglect to their social worker because they fear their case would be identified. Given the sensitive nature of these cases, children must be assured that their privacy will be protected by any media reports of their case. To do otherwise will undermine trust between the families concerned and State bodies.

To conclude, Barnardos does favour greater transparency in how cases are dealt with but seeks to ensure that the legislation passed is watertight in terms of protecting the identities of the children and families involved in individual cases.

We share Barnardos' concerns and we hope the Minister could clarify his rationale for not clarifying that aspect of the legislation. An inordinate number of people could lay claim to being bona fide members of the press and how we monitor who is will be difficult. It seems that the most sensible and practical way of ensuring the system is well monitored and that the legislation will be, as Barnardos' put it, watertight, is a form of accreditation. It is not unusual to put in place safeguards of this kind. Accreditation is a perfectly reasonable, practicable and inexpensive way of ensuring that those who are reporting on such sensitive cases are aware and conscious of the substantial risks which would exist were the information and the identities of the people involved, in particular relating to children, to be released into the public domain. The legislation should be watertight and we must ensure the confidentiality of identities remains protected. I hope the Minister will outline how he intends to ensure that objective is reached.

Deputy Alan Shatter: The Bill does not take a prescriptive approach to regulating members of the media who may or may not be permitted access to relevant child care, family law and adoption proceedings. The Bill leaves it to the court to allow bona fide members of the media to be present in certain circumstances. The formula "bona fide members of the media" has been used in other legislation. There is nothing one can do about that. It is a matter for the individual judge to be satisfied as to the bona fide nature of representatives of the press in this respect. The same approach is used in many legislative provisions, not least of which are those relating to criminal proceedings in serious sexual offence cases, where there is express provision which details the circumstances of attendance of bona fide members of the media. The experience to date is that the approach works and I am happy that it is the correct approach in the circumstances of these provisions also.

In the context of the Senator's amendment, he says that he wants bona fide representatives of the media to be required to undergo an accreditation process to be provided by the Minister by way of regulation. I can just imagine members of the press getting into a happy state of excitement if suddenly it was to fall to the Minister for Justice and Equality to determine which particular member of the press could attend which particular court case. I would be immediately accused of interfering with press freedom and I do not think that is appropriate. This phrase

bona fide members of the media has given rise over decades to no issue of difficulty or confusion. Clearly, if someone attended a court and a judge was of the view that he was not a bona fide member of the media, or if a litigant in that court with a family case announced the person who was pretending to be a bona fide member of the media was actually a family member or nosy neighbour who was there to see what was going on, the court would be well able under the terms of the legislation to deal with that issue.

Senator Ivana Bacik: I appreciate Senator Ó Clochartaigh's concern on this and I said earlier that representations have been made to me by members of the legal profession acting for children or guardians *ad litem* and who are concerned about press access. We must strike a careful balance in terms of allowing scrutiny by the public of such proceedings while ensuring there is protection for the rights of the children concerned in particular. I share the Minister's view, however, that it would not be appropriate or in line with general press freedom to have an accreditation process for bona fide representatives of the press. My concern is that interest groups would masquerade as press seeking to come into a courtroom to report. In such an instance, I would be confident a judge could make a judgment and exclude those who are not bona fide representatives such as the nosy neighbour or someone from an interest group with a particular ideological viewpoint on the conduct of family proceedings. I share that sort of concern but I do not see another way of dealing with it other than the way we set out in the original Bill that there would be bona fide representatives of the press and the judges must decide who they are. I said earlier there is a real concern in courts in small towns outside of Dublin that identifying material would be published. Against that, a judge of the District or Circuit Court in a small town will know who is a bona fide press representative in that town. It is a valid concern but this is the only way to deal with. The amendment is certainly not the appropriate way to address the issue.

Senator Trevor Ó Clochartaigh: I disagree with both the Minister and Senator Bacik. As someone who worked in the media for quite a number of years, I know there are many people who are members of the National Union of Journalists, NUJ, from many different areas who would be accredited as journalists. I do not agree a District Court judge would know all of the journalists or those who would hold an NUJ card in an area. I cite the example of these Houses, where there is accreditation for any journalist who works here. No journalist can walk in the gates without some form of accreditation. Some journalists try to blag their way into the All-Ireland final and will not get away with it because they must have accreditation in advance if they want to report on a GAA match. If the GAA and the Houses of the Oireachtas can put in place a system of accreditation, I cannot see why the Courts Service cannot have a similar system of accreditation where a bona fide person interested in covering court cases could apply to the service for accreditation as a reporter. It would be easy to implement and the media are used to such protocols being put in place. As someone who worked in the media for a number of years, we had to apply for accreditation for major events such as concerts or matches. It is no big deal and it would be a positive step to put this safeguard in place. I will, however, take on board the Minister's note on the wording of regulation and, based on the fact, we might look at it again on Report Stage. I will withdraw the amendment, but the principle must be examined.

Amendment, by leave, withdrawn.

Government amendment No. 13:

In page 9, line 23, after "relate" to insert ", by order".

Amendment agreed to.

Government amendment No. 14:

In page 9, to delete lines 30 and 31 and substitute the following:

"and any such order may, with regard to any restriction, contain such conditions as the court considers appropriate.".

Amendment agreed to.

Government amendment No. 15:

In page 9, to delete lines 32 to 38, and in page 10, to delete lines 1 to 33 and substitute the following:

"(c) In determining whether or not to make an order under paragraph (b), a court shall have regard to the desirability of promoting public confidence in the administration of justice and to any other matter that appears to it to be relevant and shall, in particular, have regard to the following:

(i) the best interests of a child to whom the proceedings relate;

(ii) the views, if any, of—

(I) a party to the proceedings, and

(II) a child to whom the proceedings relate who is, in the opinion of the court, capable of forming his or her own views;

(iii) whether information given or likely to be given in evidence is sensitive personal information;

(iv) the extent to which the attendance of bona fide representatives of the Press might inhibit or cause undue distress to a party to the proceedings or a child to whom the proceedings relate by reason of the emotional condition or any medical condition, physical impairment or intellectual disability of the party or the child concerned;

(v) the need to protect a party to the proceedings or a child to whom the proceedings relate against coercion, intimidation or harassment;

(vi) whether information given or likely to be given in evidence might be prejudicial to a criminal investigation or criminal proceedings; and

(vii) whether information of the type referred to in subparagraphs (iii) and (vi) when taken together with other information would, if published or broadcast, be likely to lead members of the public to identify a party to the proceedings or a child to whom the proceedings relate.

(d) In considering the views of a child referred to in clause (II) of paragraph (c)(ii), a court shall take account of the age and level of maturity of the child concerned.

(e) Where evidence in proceedings referred to in subsection (1) concerns a matter referred to in subparagraph (vi) of paragraph (c), an application under paragraph (b) may

be made by or on behalf of the Director of Public Prosecutions.

(f) In this subsection—

'party to the proceedings' includes a witness in the proceedings;

'sensitive personal information' means information about a person that would, in the ordinary course of events, be known only to the person or members of the family, or friends, of the person, and includes but is not limited to—

(i) information relating to the medical, psychiatric or psychological history of the person,

(ii) information relating to the tax affairs of the person,

(iii) information relating to the sexual conduct or sexual orientation of the person.".".

Amendment agreed to.

Section 8, as amended, agreed to.

SECTION 9

Government amendment No. 16:

In page 11, to delete lines 10 to 23 and substitute the following:

" "(3A) (a) Where an offence under this section is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect, of a person who was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person, as well as the body corporate, shall be guilty of an offence and may be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(b) Where the affairs of a body corporate are managed by its members, paragraph (a) applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.".".

Amendment agreed to.

Section 9, as amended, agreed to.

SECTION 10

Government amendment No. 17:

In page 11, between lines 23 and 24, to insert the following:

"Amendment of section 18 of Adoption Act 2010

10. Section 18 of the Act of 2010 is amended by inserting the following subsection after subsection (7):

"(8) An application for approval under this section shall be heard in private.".".

Amendment agreed to.

Government amendment No. 18:

In page 11, between lines 23 and 24, to insert the following:

"Amendment of section 30 of Adoption Act 2010

11. Section 30 of the Act of 2010 is amended by inserting the following subsection after subsection (7):

"(8) An application for approval under this section shall be heard in private.".".

Amendment agreed to.

Government amendment No. 19:

In page 11, between lines 23 and 24, to insert the following:

"Amendment of section 31 of Adoption Act 2010

12. Section 31 of the Act of 2010 is amended by inserting the following subsection after subsection (4):

"(5) Proceedings under this section shall be heard in private.".".

Amendment agreed to.

Section 10, as amended, agreed to.

Sections 11 to 13, inclusive, agreed to.

SECTION 14

Acting Chairman (Senator Jillian van Turnhout): Amendments Nos. 20 to 22, inclusive, are related and will be taken together.

Government amendment No. 20:

In page 13, to delete line 9 and substitute the following:

"(a) in section 33—

(i) in subsection (3), by substituting "€15,000" for "£5,000",

(ii) in subsection (4)(a)—

(I) by substituting "Consumer Credit Act 1995 or to which section 17(2) of that Act refers" for "Hire-Purchase Acts, 1946 and 1960", and

(II) by substituting "€15,000" for "£5,000" (inserted by section 6(2) of the Act of 1991),".

Deputy Alan Shatter: These are technical amendments to amend references to section 33

of the Courts (Supplemental Provisions) Act 1961, to the Hire-Purchase Acts, and to increase the jurisdiction limits on hire purchase matters under the Consumer Credit Act 1995 in order that they will be in harmony with the increases proposed in this Bill.

Amendment agreed to.

Government amendment No. 21:

In page 13, line 11, to delete "3, 4, 5,".

Amendment agreed to.

Government amendment No. 22:

In page 13, between lines 13 and 14, to insert the following:

"(ii) at reference number 3 —

(I) in column (2), by substituting "Consumer Credit Act 1995 or to which section 17(2) of that Act refers" for "Hire-Purchase Acts, 1946 and 1960", and

(II) in column (3) —

(A) by substituting "the said Act" for "the said Acts", and

(B) by substituting "€75,000" for "£30,000" (inserted by section 2(1)(a) of the Act of 1991),

(iii) at reference numbers 4 and 5 —

(I) in column (2), by substituting "Consumer Credit Act 1995 or to which section 17(2) of that Act refers" for "Hire-Purchase Acts, 1946 and 1960", and

(II) in column (3), by substituting "€75,000" for "£30,000" (inserted by section 2(1)(a) of the Act of 1991),".

Amendment agreed to.

Section 14, as amended, agreed to.

Sections 15 to 18, inclusive, agreed to.

NEW SECTIONS

Government amendment No. 23:

In page 15, after line 13, to insert the following:

"PART 4

AMENDMENT OF COURTS (ESTABLISHMENT AND CONSTITUTION) ACT 1961

Amendment of section 1 of Courts (Establishment and Constitution) Act 1961

19. Section 1(2) (inserted by section 6(1) of the Courts and Court Officers Act 1995) of the Courts (Establishment and Constitution) Act 1961 is amended by substituting the fol-

lowing paragraph for paragraph (b):

"(b) not more than nine ordinary judges (each of whom shall be styled 'Breitheamh den Chúirt Uachtarach' ('Judge of the Supreme Court')).".".

Deputy Alan Shatter: This provides for the appointment of two additional judges to the Supreme Court. This is an important proposal because there are substantial arrears of cases to be heard in the Supreme Court. There is a list of in excess of 70 cases outstanding by way of appeal that are described as priority cases. The Chief Justice has estimated it will take between three to four years to complete all outstanding appeals. I welcome the fact the Supreme Court is now sitting more regularly in divisions. That way two appeals can be heard simultaneously by different members of the Supreme Court. I also welcome the fact the Supreme Court will sit in September to help tackle that backlog. The Government's programme includes a provision to establish a general court of appeal, which will have a court of civil appeal and the current Court of Criminal Appeal within it. I hope shortly to have in this House the legislation for a referendum on that matter. If we create such a court, it is important that everything necessary is done to address the backlog that has developed in the Supreme Court. If we have the expected referendum in the early autumn, it will still be some time before the new court is in place because substantive legislation will have to be enacted on foot of the referendum. This amendment is intended to facilitate the appointment of two additional judges to the Supreme Court to provide for additional numbers of divisional sittings to help address the backlog that has accumulated and to ensure appeals are heard within a reasonable time. I hope the House will support the proposal.

Senator Colm Burke: I welcome the provision to facilitate the appointment of two additional judges to the Supreme Court. As the Minister outlined, there is a substantial backlog in dealing with cases. While I am open to correction, I understand that in a large number of appeals, the Supreme Court is finding that it must provide substantial assistance to litigants to ensure fair and proper procedures are followed and everyone is given a fair hearing.

Once the backlog of cases has been cleared and a court of civil appeal established, will we be required under this provision to continue to have nine Supreme Court judges? Will it be possible to review the matter at some stage? What is the constitutional position in that regard?

While the Minister may not want me to raise another issue, I propose to do so because it is an issue of concern for the legal profession. I do not accept the response I received from the Department when I raised the issue in the House last week. The appointment of two additional Supreme Court judges is welcome. A problem arises, however, with regard to costs being taxed in the High Court. Fairness must apply to people who provide legal services to those who are involved in litigation. Last week, I proposed that a third taxing master be appointed and argued such a measure would be cost neutral. The Department's response in which it indicated the delay in hearing cases on the taxation of costs was only ten weeks is utterly incorrect. I have personal experience of the problem. While I accept the Government is introducing measures to address the issue, many smaller legal practices, particularly in rural areas, are experiencing financial difficulties because insurance companies are using the delays in the system. I accept that the issue is not related to the subject matter of the amendment.

Acting Chairman (Senator Jillian van Turnhout): The Senator should speak to the amendment.

Senator Colm Burke: It is a matter of concern which cannot be ignored.

Deputy Alan Shatter: The only issue the Senator raised that is of relevance to the amendment was whether, under this proposal, we will inevitably and forever more have two additional members of the Supreme Court. The amendment allows for the appointment of an initial two members to the Supreme Court. If, some years from now, it transpires that the backlog issues have been resolved - the new court of appeal will inevitably reduce the number of appeals that go before the Supreme Court - it will be for a future Government to take a decision on whether it is necessary to appoint the full quota of judges to the Supreme Court, as allowed in the amendment, or whether a reduced number will be appointed. I expect it will take some time to deal with the backlog issues. This is a separate issue but it is appropriate that a facility is put in place to appoint the additional two judges now.

The other issue the Senator raises does not arise under this Bill. I am aware of his concerns about the matter and I will follow them up further.

Amendment agreed to.

Government amendment No. 24:

In page 15, after line 13, to insert the following:

"PART 5

JURIES IN LENGTHY TRIALS

Amendment of Juries Act 1976

20. The Juries Act 1976 is amended—

(a) by inserting the following section after section 15:

"Additional jurors

15A. (1) Subject to subsection (2), at any time before the selection of a jury in a trial of a criminal issue begins pursuant to section 15, a judge of the Circuit Court or the Central Criminal Court, as the case may be, may, on his or her own motion or on the application of the prosecution or the accused person, order that a specified number of persons not exceeding 15 in number be selected to serve as jurors and sworn in the trial concerned.

(2) A judge shall not make an order referred to in subsection (1) unless the judge is satisfied that—

(a) the duration of a trial is likely to exceed 2 months, and

(b) the selection of additional jurors for the trial is an appropriate means of ensuring that there will be a sufficient number of jurors for the jury to remain properly constituted for the purposes of giving a verdict in that trial.

(3) An application referred to in subsection (1) shall be made—

(a) not later than 10 working days before the selection of a jury in the trial of a criminal issue begins pursuant to section 15, and (b) on notice—

(i) where the application is made by the prosecution, to each accused person in the trial, or

(ii) where the application is made by an accused person in that trial, to the prosecution and any other accused person in the trial concerned.

(4) Where an order is made pursuant to subsection (1), the number of persons specified in the order shall be selected to serve as jurors pursuant to section 15 and sworn in the trial concerned.

(5) Where—

(a) additional jurors have been sworn in the trial of a criminal issue pursuant to an order under subsection (1), and (b) immediately before the jury in the trial retires to consider its

verdict the jury comprises more than 12 jurors, the judge shall direct that from the jurors then constituting the jury 12 jurors be selected to retire and consider the verdict in the trial.

(6) The selection of jurors to retire and consider the verdict in a trial pursuant to a direction under subsection (5) shall be made by balloting in open court.

(7) Where a ballot is held pursuant to subsection (6)—

(a) a juror who is selected shall retire to consider the verdict in the trial concerned, and

(b) a juror who is not selected shall be discharged by the judge.

(8) A jury which has been selected pursuant to subsection (6) to retire and consider the verdict in a trial shall continue to constitute the jury for the purposes of the trial and that trial shall proceed and a verdict may be found accordingly.",

and

(b) in section 20—

(i) in subsection (2), by substituting "Subject to subsection (2A), in every trial of a criminal issue" for "In every trial of a criminal issue", and

(ii) by inserting the following subsection after subsection (2):

"(2A) In every trial of a criminal issue which is tried with a jury in which additional jurors have been selected pursuant to section 15A, the prosecution and each accused person may challenge without cause shown eight jurors and no more.".".

Deputy Alan Shatter: The Law Reform Commission recently published a report on jury service, which includes a recommendation that legislative provision be made for the appointment of up to three additional jurors to deal with lengthy trials. The commission recommendation also proposes that the final jury that retires to make a decision in a case should be selected by ballot. This issue is of significance to lengthy trials involving fraud or other complex fi-

nancial matters. Under current law, a jury consists of 12 members but a decision in a trial by ten members of a jury can be accepted. Currently, up to two members of a jury could become incapacitated or otherwise unavailable during the period of the trial without risk to the sustainability of the trial. However, during the period of a protracted trial, there is a risk that more than two jurors would become unavailable. Were this to occur, the trial would collapse.

I have accepted the Law Reform Commission's recommendation that legislative provision is required to provide against such a possibility. The provision before the House proposes to amend the Juries Act 1976 to insert a new section 15A to provide that, on application by the prosecution, defence or in its own motion, the Circuit Court or Central Criminal Court can order that up to 15 people be selected to serve as jurors. The judge has to be satisfied that the trial is likely to last for more than two months. If, before the jury is to retire to consider its verdict, there are more than 12 jurors remaining on the jury, a jury of 12 jurors will be selected by ballot.

I am also providing, by way of amendment to section 20 of the Juries Act, that where a jury has additional jurors, challenges without cause shown can be made by the prosecution or accused person or persons of up to eight jurors as opposed to seven jurors in a normal jury.

Senator Ivana Bacik: This is a sensible and practical provision, particularly given the prospect of long trials involving, for example, complex banking fraud or other such fraud. There is a concern to ensure we have a sufficient number of jurors available in such cases. I am conscious that there has been little research done in Ireland on the inner workings of juries. A former PhD student of mine, Dr. Mark Coen, has done a good deal of research on the quality of juror decision making. I wonder if the Law Reform Commission considered the alternative of having substitute jurors, as opposed to selecting up to 15 jurors, all of whom would sit as jurors during the course of the deliberations of the court and from whom 12 would be selected by ballot.

In terms of the quality of the attention individual jurors would pay, is it considered preferable to have a position where only 12 of the 15 jurors would ultimately be chosen? Would it be better to have the alternative model, under which one would have 12 jurors and up to three additional jurors who know they would only act as substitutes if some of the 12 jurors drop out? I do not recall whether the Law Reform Commission considered the latter option, which may be preferable in terms of ensuring jurors pay the necessary level of attention to proceedings. I have an open mind on the issue. Given the need to make some provision for the types of circumstances the Minister outlined, the proposal is a sensible one. My concern is to ensure it is the best solution.

Senator Colm Burke: This is a welcome development given that many criminal cases take a considerable time in the courts. Does the procedure for having an open ballot need to be defined in the Bill? Normally, we select 12 jurors. Does this issue need to be clarified through definition, perhaps in a subsection?

Deputy Alan Shatter: The ballot concept is well understand. Basically, one draws lots rather than holding a vote to choose who will be in the jury. I will, however, reflect on the issue raised by Senator Burke in that context.

The Law Reform Commission considered the option of having alternate jurors as opposed to a group of 15 jurors. It was concerned that if one were to have alternates or substitutes, two or three substitutes would not adequately focus on the evidence because they might doubt that

they would be called into service. This is a case of six of one and half a dozen of the other. We were very conscious, particularly with long trials, of the issues that could arise. For example, if a trial ran for six or eight months under our current system and if three jurors fell ill, the trial would effectively have to be aborted and started all over again with a fresh jury. Therefore, having considered what the Law Reform Commission had to say and because of the need to address this issue, we concluded that it was appropriate to implement the Law Reform Commission's recommendation. Obviously, if difficulties arise with it, the manner in which it is working can be monitored. If there are 15 individuals, all of whom think they may have to be engaged in making a decision, the commission felt that, on balance, they were more likely to fully focus on evidence than if we had 12 jurors plus three substitutes.

Senator Paul Bradford: I have a question regarding the provision for up to three jurors to be discharged, with the jury then retiring to consider its verdict. Sometimes such a verdict might be arrived at relatively quickly but on other occasions, the deliberations might go on for a number of days. Let us imagine the situation in a court house during a trial which might have generated a significant degree of publicity. The balloting of jury members takes place and three members are selected to be discharged. Presumably, those members can then leave the court. Would the Minister be in any way concerned that the three discharged persons, who no longer constitute the jury for verdict purposes, might become the focus of media attention? The media might attempt to obtain information from them regarding discussions in the jury room and so forth. While it might be difficult for the three persons in question, would it not be more appropriate not to physically discharge them from the court setting so that there would be no danger of them being pursued by the media or others?

Deputy Alan Shatter: The Senator has raised an interesting issue. It would be important that jurors who were discharged did not engage in discussions with the media. I will certainly reflect on that matter. I am not sure if we could capture them in the context of a jury that might be sitting for many days. In circumstances where they were not involved in the deliberations at all, requiring them to stay within the precinct of the court building could give rise to problems, particularly if the trial has been a lengthy one. However, Senator Bradford has raised an interesting issue and perhaps we will reflect on it further before Report Stage.

Amendment agreed to.

Government amendment No. 25:

In page 15, after line 13, to insert the following:

"PART 6

LEGAL ADVICE AND LEGAL AID IN RELATION TO CORONERS INQUESTS

Amendment of Coroners Act 1962

21. The Coroners Act 1962 is amended—

(a) in section 29—

(i) by substituting the following subsection for subsection (3):

"(3) A coroner shall furnish a copy of any document preserved by him or her under this section to every person who applies for a copy of such document and, except

where the application is made on behalf of—

(a) a Minister of the Government,

(b) the Attorney General,

(c) the Garda Síochána,

(d) the Defence Forces,

(e) the Garda Síochána Ombudsman Commission, or

(f) an applicant within the meaning of section 60, shall charge for the copy such fee as may be prescribed.",

and

(ii) by substituting the following subsection for subsection (4):

"(4) A county registrar shall furnish a copy of any document preserved by him or her under this section to every person who applies for a copy of

such document and, except where the application is made on behalf of—

(a) a Minister of the Government,

(b) the Attorney General,

(c) the Garda Síochána,

(d) the Defence Forces,

(e) the Garda Síochána Ombudsman Commission, or

(f) an applicant within the meaning of section 60, shall charge for the copy such fee as may be prescribed.",

and

(b) by inserting the following section after section 59:

"Legal advice and legal aid for inquests

60. (1) Where an inquest in relation to the death of a person is to be held under Part III of this Act, a family member of the deceased (in this section referred to as 'the applicant') may apply to the coroner for a request to be submitted by that coroner to the Legal Aid Board in relation to the granting of legal aid or legal advice, or both, to the applicant pursuant to the Civil Legal Aid Act 1995.

(2) An application referred to in subsection (1) shall be made before the commencement of the inquest, unless the coroner otherwise permits.

(3) A coroner shall determine an application referred to in subsection (1) and shall notify the applicant of his or her determination within 10 working days of the receipt of the application.

(4) Subject to subsections (5) and (6), where a coroner receives an application referred to in subsection (1) in respect of an inquest, he or she shall request the Legal Aid Board to grant legal aid or legal advice, or both, to the applicant in respect of the inquest concerned.

(5) A coroner shall not make a request referred to in subsection (4) unless—

(a) the deceased was, at the time of his or her death or immediately before his or her death, in the custody of the Garda Síochána,

(b) the deceased was, at the time of his or her death or immediately before his or her death, in custody in a prison within the meaning of section 2 of the Prisons Act 2007,

(c) the deceased was, at the time of his or her death or immediately before his or her death, in service custody within the meaning of section 2 of the Defence Act 1954,

(d) the deceased was, at the time of his or her death or immediately before his or her death, involuntarily detained under Part 2 of the Mental Health Act 2001 in an approved centre within the meaning of section 2 of that Act,

(e) the deceased was, at the time of his or her death or immediately before his or her death, detained in a designated centre within the meaning of section 3 of the Criminal Law (Insanity) Act 2006 or was a person to whom section 20 of that Act refers,

(f) the deceased was, at the time of his or her death or immediately before his or her death, in custody in a remand centre within the meaning of section 3 of the Children Act 2001 or detained in a children detention school within the meaning of that section,

(g) the deceased was, at the time of his or her death or immediately before his or her death, a child in care, or

(h) the coroner is of the opinion that the death of the deceased occurred in circumstances the continuance or possible recurrence of which would be prejudicial to the health or safety of the public or any section of the public such that there is a significant public interest in the family member of the deceased person being granted legal aid or legal advice, or both, for the purposes of the inquest concerned.

(6) Where legal aid or legal advice, or both, are granted by the Legal Aid Board to an applicant in respect of an inquest further to a request by a coroner under subsection (4), no further applications under subsection (1) may be made by a family member in respect of the inquest concerned.

(7) In this section—

'child in care' means a child who was in the care of the Health Service Executive pursuant to section 4 or Part III, IV or IVA of the Child Care Act 1991;

'family member', in relation to a deceased person, means—

(a) a parent, grandparent, child, brother, sister, nephew, niece, uncle or aunt, whether of the whole blood, of the half blood or by affinity, of the person,

(b) a spouse, a civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 or a cohabiting partner of the person,

(c) any other person who is ordinarily a member of the person's household, or

(d) any child who has been placed in foster care with the person or any person referred to in paragraphs (a) to (c), and includes a reference to any such member of his or her family who is adopted;

'legal advice' has the same meaning as it has in the Civil Legal Aid Act 1995;

'legal aid' has the same meaning as it has in the Civil Legal Aid Act 1995.".".

Amendment agreed to.

Government amendment No. 26:

In page 15, after line 13, to insert the following:

"Amendment of Civil Legal Aid Act 1995

22. The Civil Legal Aid Act 1995 is amended—

(a) in section 1—

(i) by substituting the following definition for the definition of "applicant":

" 'applicant' means, subject to subsection (1A), a person who makes an application for legal aid or advice, or both;",

and

(ii) by inserting the following subsection after subsection (1):

"(1A) A person in respect of whom a request for legal aid or advice, or both, has been made by a coroner to the Board pursuant to section 60 of the Coroners Act 1962 shall be deemed to be an applicant for the purposes of this Act.",

(b) by inserting the following section after section 24:

"Restriction on right to apply for legal aid and advice

24A. A person shall not be granted legal aid or advice in relation to an inquest under Part III of the Coroners Act 1962 unless a request for legal aid or advice, or both, has been made by a coroner to the Board pursuant to section 60 of that Act in respect of the person.",

(c) in section 26(3), by substituting the following for paragraph (b):

"(b) a person shall qualify for legal advice, in respect of a matter referred to in section 28(9)(a), in the cases mentioned in subparagraphs (i) to (v) and (vii) of

section 28(9)(c).”,

(d) in section 27—

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

“(1) In this Act ‘legal aid’ means representation by a solicitor of the Board, or a solicitor or barrister engaged by the Board under section 11, in any civil proceedings to which this section applies or at an inquest under Part III of the Coroners Act 1962, and includes all such assistance as is usually given by a solicitor or barrister, as the case may be, in contemplation of, ancillary to or in connection with, such proceedings or inquest, and whether for the purposes of arriving at or giving effect to any settlement in proceedings or otherwise.”,

and

(ii) in subsection (2), by substituting “This section applies to an inquest under Part III of the Coroners Act 1962 where a request for legal aid has been made to the Board by a coroner pursuant to section 60 of that Act and to all civil proceedings other than proceedings relating to” for “This section applies to all civil proceedings other than those relating to”,

and

(e) in section 28—

(i) in subsection (2), by substituting “under this section to a person, other than a person referred to in subsection (2A), if, in the opinion of the Board” for “under this section to a person if, in the opinion of the Board”,

(ii) by inserting the following subsection after subsection (2):

“(2A) Subject to sections 24 and 29 and the other provisions of this section and to regulations (if any) made under section 37, the Board shall grant a legal aid certificate under this section to a person in respect of whom a request for legal aid or advice, or both, has been made by a coroner to the Board pursuant to section 60 of the Coroners Act 1962 if, in the opinion of the Board, the person satisfies the criteria in respect of financial eligibility specified in section 29.”,

and

(iii) in subsection (9)(c), by substituting the following paragraphs for paragraph (vi):

“(vi) in respect of a conveyancing matter connected to a matter in which legal aid or advice has already been granted;

(vii) in respect of an inquest under Part III of the Coroners Act 1962 where a request for legal aid has been made to the Board by a coroner pursuant to section 60 of that Act.”.”.

Amendment agreed to.

Acting Chairman (Senator Jillian van Turnhout): Amendments Nos. 27 to 38, inclusive, are related and may be discussed together.

Government amendment No. 27:

In page 15, after line 13, to insert the following:

"PART 7

BANKRUPTCY

Interpretation (*Part 7*)

23. In this Part—

"Act of 1961" means the Courts (Supplemental Provisions) Act 1961;

"Act of 1988" means the Bankruptcy Act 1988.".

Deputy Alan Shatter: Amendments Nos. 27 to 38, inclusive, insert a new Part 7 into the Bill and are required to give effect to the transfer of the existing Office of the Official Assignee in bankruptcy to the Insolvency Service of Ireland. When we were dealing with the Personal Insolvency Bill I indicated that if it was not possible to address this issue in that Bill, we would deal with in the Courts Bill. Unfortunately, due to lack of time in regard to finalising the Personal Insolvency Bill last year, it was not possible to provide in that legislation for the transfer of the Office of the Official Assignee in bankruptcy to the Insolvency Service of Ireland as originally intended. I am anxious that this matter be dealt with as soon as possible to ensure the Insolvency Service of Ireland and the services of the Office of the Official Assignee in bankruptcy are aligned and provided for in the Personal Insolvency Act 2012. To facilitate this, I am proposing to provide for appropriate additions to that Act by way of amendments to this Bill. I should mention that I intend to move some further amendments on bankruptcy on Report Stage. These relate to some remaining issues concerning the transfer of staff of the Office of the Official Assignee in bankruptcy to the Insolvency Service of Ireland of Ireland as well as some technical amendments relating to bankruptcy.

Amendment No. 27 provides for the interpretation of the new Part 7. Amendment No. 28 provides for the amendment of section 3 of the Bankruptcy Act 1988 by the substitution of new definitions of bankruptcy inspector and Official Assignee, to take account of the changes proposed in this Bill. Amendment No. 29 provides for the amendment of section 60 of the Bankruptcy Act 1988 by its deletion and the substitution of a new section 60, by the insertion of three additional sections which provide for the transfer of the staff of the assignee's office, for the delegation of the function of the Official Assignee and for the appointment of deputy Official Assignee. Section 60 provides for the functions of the Official Assignee, defines the relationship between the Official Assignee and the insolvency service's director, particularly in relation to the exercise by the Official Assignee of adjudicative functions but more generally in relation to statutory functions underpinning the assignee's conduct of a bankruptcy case. Subsection (3) provides for the Official Assignee to be independent in the performance of his or her functions.

The new subsection 60A sets out the provisions concerning the transfer of the staff of the Office of the Official Assignee in bankruptcy from the Courts Service to the Insolvency Service of Ireland. It provides that the staff concerned shall be seconded from the Courts Service to the Insolvency Service of Ireland for a period of two years from the date of the commencement of

this provision. On the expiry of the secondment period, each person seconded shall transfer definitively to the staff of the Insolvency Service of Ireland or exercise a right to return to a suitable vacancy in the Courts Service. The new subsection 60B provides for the delegation of the functions of the Official Assignee to other staff members of the Insolvency Service of Ireland. This is an important provision which is required to facilitate the management of cases by the Official Assignee in the future in response to the anticipated significant increase in the number of bankruptcies arising from the reduction in the bankruptcy period to three years. A delegation under the new section 60B will permit the person to whom the functions of the Official Assignee are delegated in respect of an individual bankruptcy arrangement case to handle the case from start to finish, including the execution of transfers of property. The provisions of this section will not affect the vesting of property in the Official Assignee. However, subsection (5) permits a person to whom the Official Assignee's functions are delegated to dispose of property that is vested in the Official Assignee under the Bankruptcy Act.

New subsection 60C provides for the appointment of a deputy to act for the Official Assignee in the event of a vacancy in the office or the temporary absence or incapacity of the Official Assignee. The subsection provides for the director of the Insolvency Service of Ireland to designate a Deputy Official Assignee who will act in place of the Official Assignee in his or her temporary absence or while the position of Official Assignee is vacant.

Amendment No. 30 provides for the amendment of section 63 of the Bankruptcy Act 1988 to replace the reference to "rules of court" in section 63 (b) with a reference to "regulations made by the Minister under this Act". Procedure relating to court applications in respect of bankruptcy and matters on which a court can give directions will continue to be regulated by rules of court. However, it is more appropriate, following the change of status of the Office of the Official Assignee in Bankruptcy from a court office to part of the Insolvency Service of Ireland, for other matters relating to the Official Assignee's functions to be regulated by the Bankruptcy Act and the Personal Insolvency Act and regulations made under those Acts instead of rules of court.

Amendment No. 31 provides for the amendment of section 69 of the Bankruptcy Act 1988 to include a regulation-making power to make provision for the manner in which the Official Assignee maintains accounts in bankruptcies and arrangements. This matter is currently provided for in Part 27 of Order 76 of the Rules of the Superior Courts. Amendment No.32 provides for the repeal of section 83 of the Bankruptcy Act 1988. The repeal arises as a consequence of the proposed amendment to section 17 of the Personal Insolvency Act 2012, which is proposed in amendment No. 36. Amendment No. 33 provides for the substitution of the existing section 84 of the Bankruptcy Act with new text, the purpose of which is to permit the unclaimed dividend account to be held in a bank other than the Central Bank and also to provide that the manner in which that account shall be kept shall be prescribed by regulations made by the Minister rather than by rules of court. The operation of the unclaimed dividend account maintained by the Official Assignee with the Central Bank under section 84 of the 1988 Act is currently governed by Part 28 of Order 76 of the Rules of the Superior Courts. Amendment No. 34 provides for the substitution of the existing section 144 of the Bankruptcy Act 1988 with new text, the purpose of which is to extend the section to cover regulations under sections 69 and 84 of the 1988 Act to make provision for the scope of such regulations. Amendments Nos. 35 to 38, inclusive, provide for the necessary amendment of the Personal Insolvency Act to take account of the extension of its remit, following the transfer of the Official Assignee's Office. Amendment No. 35 amends section 9(1) of the 2012 Act to provide that the principal functions of the Insolvency

Service of Ireland shall include the administration of the functions of the Official Assignee. Amendment No. 36 amends section 17 of the Personal Insolvency Act 2012 to provide that the Insolvency Service of Ireland shall keep accounts relating to the functions of the Official Assignee under the Bankruptcy Act 1988.

7 o'clock

The amendment of this section gives rise to the deletion of section 83 of the Bankruptcy Act 1988.

Amendment No. 37 proposes to amend section 20 of the Personal Insolvency Act 2012 to allow for the power for the insolvency services to charge fees in relation to bankruptcy administration by the Official Assignee, since it is proposed that the office of the assignee will cease to be a court office necessary to provide a new statutory basis for the charging of fees in relation to the functions of the official assignee.

Amendment 38 provides for amendments to other enactments that will be necessary as a consequence of the transfer of the Official Assignee to the insolvency service. Subsection (1) amends section 32(3) of the Solicitors (Amendment) Act 1960 and refers to fees payable in accordance with regulations under section 20 of the Personal Insolvency Act 2012. Subsection (2) amends the eighth Schedule to the Court (Supplemental Provisions) Act 1961 on the transfer of a business from the Office of the Official Assignee to the new insolvency service. It is appropriate that the office relinquish its status as an office attached to the High Court and that the relevant provisions of the Court (Supplementary Provisions) Act 1961 be amended to remove reference to the office of the official assignee. In addition, since the official assignee's office would no longer be an office of the High Court it would not be appropriate that the business transactable in it be prescribed by rules of court.

Subsection (3) provides for the amendment of the Schedule to the Dormant Account Acts 2001 as the accounts held by the official assignee are no longer to be under the control of the court. It is proposed to amend Part 2 of the Schedule to reflect the change in status of those accounts. Subsection (4) amends section 2(1) of the Personal Insolvency Act 2012 to include a definition of official assignee.

Amendment agreed to.

Government amendment No. 28:

In page 15, after line 13, to insert the following:

"Amendment of section 3 of Act of 1988

24. Section 3 of the Act of 1988 is amended—

(a) by the substitution of the following definition for the definition of "the Bankruptcy Inspector":

" 'Bankruptcy Inspector' means a person standing appointed for the time being—

(i) to the position of Bankruptcy Inspector in the Office of the Official Assignee in Bankruptcy on the day before the coming into operation of *section 25* of the *Courts Act 2013*, or (ii) to the position of Bankruptcy Inspector pursuant to section 12 of the Per-

sonal Insolvency Act 2012;",

and

(b) by the substitution of the following definition for the definition of "the Official Assignee":

" 'Official Assignee' means a person standing appointed for the

time being—

(i) to the position of Official Assignee in Bankruptcy in the Office of the Official Assignee in Bankruptcy on the day before the coming into operation of *section 25* of the *Courts Act 2013*, or

(ii) to the position of Official Assignee pursuant to section 12 of the Personal Insolvency Act 2012;".".

Amendment agreed to.

Government amendment No. 29:

In page 15, after line 13, to insert the following:

"Amendment of section 60 of Act of 1988

25. The Act of 1988 is amended by the substitution of the following for section 60:

"The Official Assignee

60. (1) The Official Assignee shall have such functions as are assigned to him by or under this Act or any other enactment, and subject to this section, sections 60A to 60C and the Personal Insolvency Act 2012, such powers and functions as were heretofore exercisable by the Official Assignee in Bankruptcy continue to be exercisable by the Official Assignee.

(2) The Official Assignee shall be a member of the staff of the Insolvency Service.

(3) Subject to subsections (4) to (6), the Official Assignee shall be independent in the performance of his functions under this Act and any other enactment.

(4) The Official Assignee shall, in relation to matters of general administration, be subject to the general direction of the Director.

(5) The Official Assignee, when performing any function relating to the business of a court, or acting under or pursuant to an order of a court, shall observe and obey such directions as are given to him by the court.

(6) The Official Assignee shall be an officer of the court for the purposes of the performance of his functions under this Act or any other enactment.

(7) Subject to sections 60B and 60C, subsections (3) to (6) shall apply to a member of the staff of the Insolvency Service—

(a) to whom functions of the Official Assignee have been delegated under section 60B, as respects those functions, or

(b) who is designated under section 60C, as respects those functions, for so long as the delegation or designation remains in force and is exercisable by the member of staff concerned.

(8) The Official Assignee shall not, without the approval of the Director, hold any other office or position in respect of which remuneration is payable, or carry on any business, trade or profession.

(9) In this section and sections 60A to 60C a reference to an enactment means—

(a) an Act of the Oireachtas,

(b) a statute that was in force in Saorstát Éireann immediately before the date of the coming into operation of the Constitution and that continues in force by virtue of Article 50 of the Constitution, or

(c) an instrument made under—

(i) an Act of the Oireachtas, or

(ii) a statute referred to in paragraph (b).

Office of Official Assignee – Transfer of staff

60A. (1) This section applies to—

(a) the person who immediately before the coming into operation of this section held the office of Official Assignee in Bankruptcy(otherwise referred to as the Official Assignee), and

(b) every person who immediately before the coming into operation of this section was a member of the staff of the Courts Service assigned to the Office of the Official Assignee in Bankruptcy.

(2) On the coming into operation of this section every member of the staff of the Courts Service to whom this subsection applies shall be seconded to the Insolvency Service for a period of 2 years.

(3) On the expiry of the period of secondment referred to in subsection (2) each person seconded under that subsection shall—

(a) transfer definitively to the staff of the Insolvency Service, or

(b) subject to subsection (4), exercise a right to return to a suitable vacancy on the staff of the Courts Service.

(4) If a person seconded under subsection (2) exercises a right under subsection (3)(b) to return to the staff of the Courts Service but no suitable vacancy on the staff of the Courts Service exists, the person concerned shall be transferred to a suitable vacancy in a public service body.

(5) A person who—

(a) is seconded under subsection (2),

(b) is transferred under subsection (3)(a) or subsection (4), or

(c) returns to the Courts Service under subsection (3)(b),

shall not, except in accordance with a collective agreement negotiated with any recognised trade union or staff association concerned, receive a lesser scale of pay or be made subject to less beneficial terms and conditions of service than the scale of pay to which he was entitled and the terms and conditions of service to which he was subject immediately before the secondment, transfer or return concerned.

(6) A person seconded under subsection (2) shall be deemed to be a member of the staff of the Insolvency Service during the period of the secondment.

(7) Subject to subsection (3)(a)—

(a) the person who immediately before the coming into operation of this section held the office of Official Assignee in Bankruptcy shall continue in office as Official Assignee, and

(b) the person who immediately before the coming into operation of this section held the position of Bankruptcy Inspector shall continue to hold the position of Bankruptcy Inspector.

(8) In this section—

(a) 'public service body' has the meaning assigned to it by section 5 of the Public Service Pensions (Single Scheme and Other Provisions)Act 2012;

(b) 'recognised trade union or staff association' means a trade union or staff association recognised by the Minister for the purposes of negotiations which are concerned with the remuneration or conditions of employment, or the working conditions of employees.

Delegation of functions of Official Assignee

60B. (1) The Official Assignee may in writing delegate to a specified member of the staff of the Insolvency Service—

(a) any of his functions under this Act in relation to a specific bankruptcy or arrangement matter, or

(b) any of his functions under any other enactment.

(2) A delegation under subsection (1) shall be subject to such conditions or limitations as to the performance of any of the functions delegated, or as to time or circumstance, as may be specified in the delegation.

(3) The Official Assignee may in writing revoke or vary a delegation made under subsection (1).

(4) More than one delegation may be made and have effect under subsection (1) at any one time.

(5) Subject to subsection (2), a person to whom functions of the Official Assignee have been delegated under subsection (1), shall, while the delegation remains in force, have all the powers of the Official Assignee in respect of the functions delegated to him as fully as if he held that office, and such powers shall, where the delegation so specifies, include the power to sell, transfer or otherwise dispose of property or assets in the name of and on behalf of the Official Assignee.

(6) Nothing in this section shall affect the vesting of property in the Official Assignee in accordance with section 44.

(7) In any legal proceedings, a certificate that—

(a) is signed by the Official Assignee,

(b) states that any function of the Official Assignee in relation to a bankruptcy matter was on a specified date delegated to a specified member of staff of the Insolvency Service, and

(c) states that the delegation of the function remained in force on a specified date, is, in the absence of evidence to the contrary, proof of the matters stated in the certificate.

(8) A certificate referred to in subsection (7) that appears to be signed by the Official Assignee is admissible in any proceedings as evidence of

the matters stated in the certificate without proof of his or her signature.

Deputy for Official Assignee

60C. (1) The Director may in writing designate a member of the staff of the Insolvency Service to be the deputy for the Official Assignee, and the member of staff so designated shall, during every temporary absence and every temporary incapacity through illness of the Official Assignee and every occasion on which the office of the Official Assignee is vacant occurring while such designation remains in force, perform the functions assigned to the Official Assignee under this Act or under any other enactment.

(2) A designation under subsection (1) shall be subject to such conditions or limitations as to time or circumstance as may be specified in the designation.

(3) The Director may in writing at any time revoke or vary a designation made under subsection (1).

(4) Subject to subsection (2), a person designated under subsection (1) shall, while he performs the functions of the Official Assignee, have all the powers of the Official Assignee as fully as if he held that office, and such powers shall include the power to sell, transfer or otherwise dispose of property or assets in the name of and on behalf of the Official Assignee.

(5) In any legal proceedings, a certificate that—

(a) is signed by the Director,

(b) states that a specified member of staff of the Insolvency Service was designated on a specified date, in accordance with subsection

(1), to be the deputy for the Official Assignee, and

(c) states that the designation remained in force on a specified date, is, in the absence of evidence to the contrary, proof of the matters stated in the certificate.

(6) A certificate referred to in subsection (5) that appears to be signed by the Director is admissible in any proceedings as evidence of the matters stated in the certificate without proof of his signature.”.”.

Amendment agreed to.

Government amendment No. 30:

In page 15, after line 13, to insert the following:

“Amendment of section 63 of Act of 1988

26. Section 63 of the Act of 1988 is amended in paragraph (b) by the substitution of “regulations made by the Minister under this Act” for “rules of court”.”.

Amendment agreed to.

Government amendment No. 31:

In page 15, after line 13, to insert the following:

“Amendment of section 69 of Act of 1988

27. Section 69 of the Act of 1988 is amended—

(a) by the substitution of the following for subsection (3):

“(3) All money and securities received by the Official Assignee, being part of a bankrupt’s estate, shall be forthwith lodged by him in an account in the Central Bank of Ireland or a bank authorised to carry on business in the State and shall be kept there to the credit of the Official Assignee subject to the provisions of this Act, any regulations made under subsection (6) and the directions of the Court.”,

and

(b) by the insertion of the following subsection after subsection (5):

“(6) The Minister may, following consultation with the Insolvency Service, by regulations make provision for the manner in which the Official Assignee shall maintain accounts referred to in subsection (3) and for matters relating to the keeping of such accounts.”.”.

Amendment agreed to.

Government amendment No. 32:

In page 15, after line 13, to insert the following:

"Repeal of section 83 of Act of 1988

28. Section 83 of the Act of 1988 is repealed.".

Amendment agreed to.

Government amendment No. 33:

In page 15, after line 13, to insert the following:

"Amendment of section 84 of Act of 1988

29. The Act of 1988 is amended by the substitution of the following for section 84:

"Official Assignee — Unclaimed Dividend Account

84. (1) The Official Assignee shall cause an account to be opened—

(a) in the Central Bank of Ireland, or

(b) a bank authorised to carry on business in the State, and any such account shall be called the "Official Assignee — Unclaimed Dividend Account" and a reference in this section to a "relevant account" is to be construed as a reference to such an account.

(2) The Official Assignee shall pay into a relevant account all unclaimed dividends and all money unclaimed, being part of any bankrupt's estate.

(3) (a) The Official Assignee shall be entitled to pay out of a relevant account all dividends lawfully claimed as well as the sums provided for by section 61(3)(k).

(b) In order to provide temporarily for payments for which no funds are immediately available in the particular estate against which they are chargeable, there may be paid out of a relevant account to the credit of the Official Assignee in a separate account in the said bank such sums, subject to such conditions, as may be prescribed by regulations made by the Minister.

(4) The Official Assignee, with the leave of the Court, may from time to time invest the whole or any part of the money standing to the credit of a relevant account, and the interest on the investments shall be paid into a relevant account.

(5) The Court may order that the Official Assignee shall be paid out of a relevant account such sum by way of indemnity in respect of any damages, costs or expenses payable or incurred or to be payable or incurred by him for or by reason of any act or matter done by him while acting as Official Assignee as the Court thinks just, including the costs of any proceedings taken by the Official Assignee with the leave of the Court where there are insufficient funds in the matter.

(6) A relevant account shall not be available for any purpose other than the purposes of this section.

(7) The Minister may, following consultation with the Insolvency Service, by regulations prescribe—

(a) the manner in which the Official Assignee shall maintain a relevant account,

(b) the purposes for which funds may be withdrawn from a relevant account pursuant to subsection (3)(b),

(c) the monetary limits relating to the withdrawal of funds from a relevant account pursuant to subsection (3)(b), and

(d) the conditions subject to which funds may be withdrawn from a relevant account pursuant to subsection (3)(b).”.”.

Amendment agreed to.

Government amendment No. 34:

In page 15, after line 13, to insert the following:

“Amendment of section 144 of Act of 1988

30. The Act of 1988 is amended by the substitution of the following for section 144:

“Regulations and orders

144. (1) A regulation under this Act may contain such incidental, supplementary and consequential provisions as the Minister considers necessary or expedient for the purposes of the regulations.

(2) Every regulation made under this Act and every order made under section 142(2) or 143 shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order or regulation is passed by either such House within the next 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.”.”.

Amendment agreed to.

Government amendment No. 35:

In page 15, after line 13, to insert the following:

“Amendment of section 9 of Personal Insolvency Act 2012

31. Section 9(1) of the Personal Insolvency Act 2012 is amended by the insertion of the following paragraph after paragraph (j):

“(ja) subject to section 60(3) of the Bankruptcy Act 1988, administer the functions assigned to the Official Assignee by the Bankruptcy Act

1988 or any other enactment,”.”.

Amendment agreed to.

Government amendment No. 36:

In page 15, after line 13, to insert the following:

“Amendment of section 17 of Personal Insolvency Act 2012

32. Section 17 of the Personal Insolvency Act 2012 is amended by the substitution of the following subsections for subsection (2):

"(2) Subject to subsection (2A), the Insolvency Service shall keep in such form and in respect of such accounting periods as may be approved of by the Minister, with the consent of the Minister for Public Expenditure and Reform, all proper and usual accounts—

(a) of moneys received and spent by the Insolvency Service, including an income and expenditure account and a balance sheet, and (b) relating to the functions of the Official Assignee under the Bankruptcy Act 1988 or any other enactment.

(2A) Accounts which are required to be maintained by the Official Assignee under the Bankruptcy Act 1988 in relation to the estates of bankrupts or in respect of unclaimed dividends shall be kept in such a manner that monies or securities or interest accrued or earned thereon in relation to the estates of bankrupts or unclaimed dividends are not intermingled with monies otherwise held by the Insolvency Service.".".

Amendment agreed to.

Government amendment No. 37:

In page 15, after line 13, to insert the following:

"Amendment of section 20 of Personal Insolvency Act 2012

33. Section 20 of the Personal Insolvency Act 2012 is amended—

(a) by the substitution of the following for subsection (1):

"(1) Subject to subsection (5), the Insolvency Service, with the consent of the Minister, may, and if directed by the Minister to do so and in accordance with the terms of the direction, shall, prescribe by regulations the fees to be paid to it and when they fall due in respect of—

(a) (i) the performance of functions,

(ii) the provision of services, and

(iii) the carrying on of activities, by it under this Act, and

(b) the performance of functions by the Official Assignee under the Bankruptcy Act 1988 or any other enactment.", and

(b) in subsection (5), by inserting "or in the performance by the Official Assignee of his or her functions under the Bankruptcy Act 1988 or any other enactment" after "this Act".".

Amendment agreed to.

Government amendment No. 38:

In page 15, after line 13, to insert the following:

"Miscellaneous amendments to enactments consequential on transfer of Official Assignee

to Insolvency Service

34. (1) Section 32(3) of the Solicitors (Amendment) Act 1960 is amended by the substitution of "such fee as may be prescribed under section 20 of the Personal Insolvency Act 2012" for "in the Bankruptcy Office such court fees as are payable on a realisation account of the Official Assignee in a bankruptcy matter".

(2) The Eighth Schedule to the Courts (Supplemental Provisions) Act 1961 is amended—

(a) in paragraph 2, by deleting "The Office of the Official Assignee in Bankruptcy,",

(b) in paragraph 3, by deleting "The Official Assignee in Bankruptcy,", and

(c) by deleting paragraph 9.

(3) Part 2 of the Schedule to the Dormant Accounts Act 2001 is amended—

(a) in paragraph 1, by deleting subparagraph (g), and

(b) by the insertion, after paragraph 3, of the following:

"3A. An account held by the Official Assignee.".

(4) Section 2(1) of the Personal Insolvency Act 2012 is amended by the insertion of the following:

" 'Official Assignee' has the same meaning as it has in the Bankruptcy Act 1988;".".

Amendment agreed to.

Acting Chairman (Senator Jillian van Turnhout): Amendments Nos. 39 to 42, inclusive, 51, 53, 56 to 58, inclusive, 66 and 71 are related and may be discussed together. Is that agreed? Agreed.

Government amendment No. 39:

In page 15, after line 13, to insert the following:

"PART 8

AMENDMENT OF PERSONAL INSOLVENCY ACT 2012

Definition (*Part 8*)

35. In this Part, "Act of 2012" means the Personal Insolvency Act 2012.".

Deputy Alan Shatter: These are technical drafting amendments required to improve the presentation of the Personal Insolvency Act 2012 and to correct errors in the text. Amendment No. 39 is an interpretation provision for the proposed new Part 8 of the Bill. Part 8 provides for a number of amendments to the 2012 Act. Many of the amendments are technical in nature and address errors in the existing text or improve the construction of the text.

Amendment No. 40 to section 8 of the 2012 Act amends the current requirement for two signatures to authenticate the seal of the insolvency services by now providing that either the signature of the director or a member of staff of the insolvency service authorised by the director to act on his or her behalf will suffice.

Amendment No. 41 changes the mandatory requirement of section 13(1) of the 2012 Act to a discretionary one. It has come to light that the current construction used in the Act is not appropriate for the requirements of the insolvency service. I am advised that the best approach is for the service to have discretion in regard to this matter.

Amendment No. 42 is a technical drafting amendment recommended by the Office of the Parliamentary Counsel to better describe a qualifying debt for the purposes of interpreting Chapter 1 which deals with debt relief notices of Part 3 of the Act.

Amendment No. 51 is a technical drafting amendment required to address an error in section 54 of the Personal Insolvency Act. Amendment No. 53 is a technical drafting amendment required to address an error in section 59 of the Act. I am advised by Parliamentary Counsel that the proposed amendment is required for consistency with similar provisions elsewhere in the Act.

Amendment No. 56 is a technical drafting amendment required to address the cross-referencing error in section 65. Amendment No. 57 is a technical drafting amendment required to improve the construction of section 72(1). The current text is repetitious as there is no need to repeat the purpose of the meeting as this is set out in section 70(1). The proposed amendment is modelled on the nearly equivalent section 109.

Amendment No. 58 proposed the deletion of section 73(3) which refers to voting by preferential creditors in the context of a debt settlement arrangement. No such provision exists in respect of the personal insolvency arrangement. I am of the view that this provision has no practical effect as a preferential debt is defined in relation to the Bankruptcy Act 1988 and in the DSA context this can only be a social welfare employee entitlement type debt or Revenue debt, such will either be an excluded debt or excludable debt, which, if the creditor consents, becomes a committed debt and is voted at the creditors meeting. The concept of preferentiality imported from the Bankruptcy Act has no real role here.

Amendment No. 66 is a technical drafting amendment required to address an error in section 102 of the Personal Insolvency Act. It makes clear it is the appropriate court not the insolvency service which issues the protective certificates.

Amendment No. 71 is also a technical drafting amendment required to address an error in section 194 of the Act which referred incorrectly to specialty judge instead of specialist judge.

Amendment agreed to.

Government amendment No. 40:

In page 15, after line 13, to insert the following:

"Amendment of section 8 of Act of 2012

36. Section 8(4) of the Act of 2012 is amended, in paragraph (a), by substituting "or" for "and".".

Amendment agreed to.

Government amendment No. 41:

In page 15, after line 13, to insert the following:

"Amendment of section 13 of Act of 2012

37. Section 13(1) of the Act of 2012 is amended by substituting "may" for "shall, as soon as may be after the establishment day".".

Amendment agreed to.

Government amendment No. 42:

In page 15, after line 13, to insert the following:

"Amendment of section 25 of Act of 2012

38. Section 25 of the Act of 2012 is amended, in paragraph (a)(iv) of the definition of "qualifying debt", by deleting "such as a guarantee given by a debtor that has been called up that any amount guaranteed is due and payable by the debtor,".".

Amendment agreed to.

Government amendment No. 43:

In page 15, after line 13, to insert the following:

"Amendment of section 27 of Act of 2012

39. Section 27 of the Act of 2012 is amended—

(a) in subsection (10), by substituting "Where, at any time after the debtor has made the confirmation referred to in subsection (3) but before the Debt Relief Notice is issued under section 31, the approved intermediary concerned ("original approved intermediary")—" for "Where, at any time during the Debt Relief Notice process after the debtor has made the confirmation referred to in subsection (3), the approved intermediary concerned ("original approved intermediary")—",

(b) in subsection (11)(b), by substituting "and, where applicable, a creditor to whom a notification under section 28(2) has been sent, where the period referred to in section 28(3) has not expired," for "and the creditors concerned", and (c) by deleting subsection (12) and substituting the following:

"(12) Where an approved intermediary is appointed under subsection (10)—

(a) that appointment shall not affect the validity of anything previously done under this Chapter by the original approved intermediary, and

(b) references in this Act to an approved intermediary, in relation to the debtor concerned, shall be construed as including references to the approved intermediary so appointed.".".

Deputy Alan Shatter: The purpose of this amendment to section 27 of the 2012 Act is to clarify the roles of the approved intermediary, the insolvency service, during the debt relief notice process. The proposed amendment to subsection (10) ensures there is no confusion for debtors as to what agency, the service, the insolvency service or the approved intermediary, they are meant to be dealing with over the course of the three year supervision period which begins after a debt relief notice has been issued. Any such confusion could cause problems with notifying the insolvency service about changes in the debtor's circumstances or the debtor making payments to creditors.

This change will ensure that the debtor is not needlessly engaging an approved intermediary after the debt relief notice is issued as the approved intermediary has no further the role after this point. It ensures there is no confusion for the debtor who should at this stage be dealing with the insolvency service directly. The proposed amendment to subsection (11) improves on the existing text to make it clearer which creditors are being referred to and the period to which the provisions relate. The proposed amendment to subsection (12) is a technical amendment to improve the text.

Amendment agreed to.

Government amendments No. 44:

In page 15, after line 13, to insert the following:

"Amendment of section 31 of Act of 2012

40. Section 31(1) of the Act of 2012 is amended by substituting the following for paragraph (a)(ii):

"(ii) furnish that certificate together with a copy of the application and the supporting documentation (other than the documents referred to in section 29(2)(e) and (f)) to the appropriate court, and".".

Amendment agreed to.

Government amendment No. 45:

In page 15, after line 13, to insert the following:

"Amendment of section 34 of Act of 2012

41. Section 34(5) of the Act of 2012 is amended by deleting the words "and the approved intermediary concerned".".

Deputy Alan Shatter: Section 34 of the Personal Insolvency Act provides that the debt relief notice remains in effect for three years from the date on which it is recorded in the register of debt relief notices. This period is called the supervision period.

Sections 34(2), 34(3) and 42 to 44, inclusive, provide for extension of the supervision period by the court, on application to it by the consultancy service, in certain specific situations.

Section 34(5) as currently worded provides for the notification procedure to the insolvency service and the approved intermediary by the registrar of the court of an extension to the supervision period. Deleting the reference to the approved intermediary in subsection (5) will

ensure section 34 is consistent with the rest of the 2012 Act, taking account of the fact that the improved intermediaries have no further role following the issue of the DRM. This will avoid difficulties for approved intermediaries in the insolvency service.

In relation to the question of who keeps the debtor's file, over the course of the supervision period under the DRM the insolvency service not the intermediary manages these cases once a DRM is issued.

Amendment agreed to.

An Cathaoirleach: Amendments No. 46, 55, 59, 65 and 67 are related and may be discussed together. Is that agreed? Agreed.

Government amendment No. 46:

In page 15, after line 13, to insert the following:

"Amendment of section 35 of Act of 2012

42. Section 35(1) of the Act of 2012 is amended by substituting the following for paragraph (e):

"(e) take any step to recover goods in the possession or custody of the debtor, unless title to the goods is vested in the specified creditor or the specified creditor holds security over the goods,".".

Deputy Alan Shatter: The current provisions regarding the debt relief notice, DRN, and personal insolvency arrangement, PIA, in sections 35(1)(e), 96(1)(f) and 116(3)(f) - but not as regards the debt settlement arrangement process in sections 62(1)(c) and 79(3)(e) - prevent a hire purchase creditor from repossessing hire purchase goods while a DRN or, as applicable, a protective certificate or PIA is, in effect, in respect of the debtor. This would be the case even though title to the hire purchase goods would remain vested in the hire purchase creditor and is not passed to the debtor. This could obviously lead to anomalous results where a debtor retains possession of hire purchase goods and refuses to make payments and where the creditor is prevented by the legislation from repossessing those goods until the end of the three-year supervision period relating to the DRN or, as applicable, the end of the period in respect of the protective certificate or PIA.

Amendments Nos. 46, 55 and 59 are designed to bring the DRN and PIA provisions into line with debt settlement arrangements in order to ensure that hire purchase creditors will not be unduly prevented from repossessing hire purchase goods from defaulting debtors. Amendment No. 65 to section 96 and amendment No. 67 to section 116 are related technical drafting measures to ensure consistency in the legislation.

Amendment agreed to.

Government amendment No. 47:

In page 15, after line 13, to insert the following:

"Amendment of section 39 of Act of 2012

43. Section 39 of the Act of 2012 is amended—

(*a*) by designating the section as subsection (1), and

(*b*) by inserting the following after subsection (1):

"(2) An application under subsection (1) shall be on notice to the specified debtor and each specified creditor.".".

Again, this is a drafting amendment. The proposed additional subsection would require the insolvency service to notify the specified debtor and those creditors specified in a DRN in cases where it applies to the court under section 39 to amend a DRN.

Amendment agreed to.

Government amendment No. 48:

In page 15, after line 13, to insert the following:

"Amendment of section 43 of Act of 2012

44. Section 43 of the Act of 2012 is amended by inserting the following after subsection (5):

"(6) Where the appropriate court makes a decision under subsection (5) or section 44(4)—

(*a*) the Registrar of the appropriate court shall notify the Insolvency Service of the decision, and

(*b*) the Insolvency Service, on receipt of the notification under paragraph (a), shall notify the specified creditors concerned of the decision.".".

Amendment agreed to.

Government amendment No. 49:

In page 15, after line 13, to insert the following:

"Amendment of section 45 of Act of 2012

45. Section 45 of the Act of 2012 is amended by inserting the following after subsection (3):

"(4) Where a Debt Relief Notice is terminated under this Chapter, the Insolvency Service shall, within 3 months after the date on which the supervision period concerned would, but for that termination, have ended, remove from the Register of Debt Relief Notices all information recorded in it in respect of the Debt Relief Notice.".".

Amendment agreed to.

Government amendment No. 50:

In page 15, after line 13, to insert the following:

"Amendment of section 46 of Act of 2012

46. Section 46(2) of the Act of 2012 is amended by deleting "without delay and, in any event,".".

Amendment agreed to.

Government amendment No. 51:

In page 15, after line 13, to insert the following:

"Amendment of section 54 of Act of 2012

47. Section 54 of the Act of 2012 is amended in paragraph (c) by substituting "Prescribed" for "Personal".".

Amendment agreed to.

Government amendment No. 52:

In page 15, after line 13, to insert the following:

"New section 54A in Act of 2012

48. The following section is inserted after section 54 of the Act of 2012:

> **"Performance by other person of certain functions of personal insolvency practitioner**
>
> 54A. Nothing in this Act shall be taken to prevent a function of a personal insolvency practitioner under this Act that is of a clerical, secretarial or administrative nature being performed, under the direction of the personal insolvency practitioner, by another person.".".

Deputy Alan Shatter: The objective of this amendment is to address a significant issue that may hinder the feasibility of the personal insolvency practitioner's role in practice. Were a personal insolvency practitioner to take on any more than a handful of cases, he or she could not manage them without some assistance from another person, for example, a staff member. The amendment is designed to address this by allowing for appropriate delegation of work related to a case which is clerical, secretarial or administrative in nature.

Amendment agreed to.

Government amendment No. 53:

In page 15, after line 13, to insert the following:

"Amendment of section 59 of Act of 2012

49. Section 59(2) of the Act of 2012 is amended by substituting "as may be prescribed" for "as may be specified".".

Amendment agreed to.

Government amendment No. 54:

In page 15, after line 13, to insert the following:

"Amendment of section 61 of Act of 2012

50. Section 61 of the Act of 2012 is amended—

(a) in subsection (1), by substituting the following for paragraph (a)(ii):

"(ii) furnish that certificate together with a copy of the application and the supporting documentation (other than the documents referred to in section 59(2)(f) and (g)) to the appropriate court, and",

and

(b) by substituting the following for subsection (11):

"(11) Where a protective certificate is issued under this section, the Insolvency Service shall—

(a) record in the Register of Protective Certificates, in addition to such other details as may be prescribed under section 133(3)(b), the following—

(i) the name and address of the debtor and the date of issue of the protective certificate,

(ii) where applicable—

(I) the extension under this section of the protective certificate, and

(II) the making by the appropriate court of an order under section 63, and the creditor in respect of whom the order has been made,

and

(iii) the date on which the protective certificate ceases, under this Chapter, to be in force,

and

(b) within 3 months of the date on which the protective certificate ceases, under this Chapter, to be in force, remove from the Register of Protective Certificates all information recorded in it in respect of the protective certificate.".".

Amendment agreed to.

Government amendment No. 55:

In page 15, after line 13, to insert the following:

"Amendment of section 62 of Act of 2012

51. Section 62(1) of the Act of 2012 is amended in paragraph (e) by substituting "whether or not" for "unless".".

Amendment agreed to.

Government amendment No. 56:

In page 15, after line 13, to insert the following:

"Amendment of section 65 of Act of 2012

52. Section 65(2) of the Act of 2012 is amended, in paragraph (e)(i), by substituting "sections 48 to 54" for "sections 48 to 53".".

Amendment agreed to.

Government amendment No. 57:

In page 15, after line 13, to insert the following:

"Amendment of section 72 of Act of 2012

53. Section 72(1) of the Act of 2012 is amended by substituting "called in accordance with section 70" for "called by the personal insolvency practitioner for the purpose of approving a proposal for a Debt Settlement Arrangement given to the creditors under section 70(3)".".

Amendment agreed to.

Government amendment No. 58:

In page 15, after line 13, to insert the following:

"Amendment of section 73 of Act of 2012

54. Section 73 of the Act of 2012 is amended by deleting subsection (3).".

Amendment agreed to.

Government amendment No. 59:

In page 15, after line 13, to insert the following:

"Amendment of section 79 of Act of 2012

55. Section 79(3) of the Act of 2012 is amended in paragraph (e) by substituting "holds security" for "has security".".

Amendment agreed to.

Government amendment No. 60:

In page 15, after line 13, to insert the following:

"Amendment of section 83 of Act of 2012

56. Section 83 of the Act of 2012 is amended by inserting the following after subsection (3):

"(4) Where the appropriate court makes a decision under subsection (3)—

(a) the Registrar of the appropriate court shall notify the Insolvency Service of the decision, and

(b) the Insolvency Service, on receipt of the notification under paragraph (a), shall notify the personal insolvency practitioner and the specified creditors concerned of the decision.

(5) Where the appropriate court decides, under subsection (3), to terminate a Debt Settlement Arrangement, the Insolvency Service shall, on receipt of the notification under subsection (4) of that termination, record the fact of the termination of the Debt Settlement Arrangement in the Register of Debt Settlement Arrangements.”.”.

Amendment agreed to.

Government amendment No. 61:

In page 15, after line 13, to insert the following:

“Amendment of section 85 of Act of 2012

57. Section 85 of the Act of 2012 is amended by inserting the following after subsection (2):

“(3) Where subsection (1) applies, the Insolvency Service shall, within 3 months after the date on which the Debt Settlement Arrangement would, but for that fact, have expired, remove from the Register of Debt Settlement Arrangements all information recorded in it in respect of the Debt Settlement Arrangement.”.”.

Amendment agreed to.

Government amendment No. 62:

In page 15, after line 13, to insert the following:

“Amendment of section 86 of Act of 2012

58. Section 86 of the Act of 2012 is amended by substituting the following for subsection (3):

“(3) Where the Insolvency Service receives the notice referred to in subsection (1), it shall—

(a) record the successful completion of the Debt Settlement Arrangement in the Register of Debt Settlement Arrangements, and

(b) within 3 months of such receipt, remove from the Register of Debt Settlement Arrangements all information recorded in it in respect of the Debt Settlement Arrangement.”.”.

Amendment agreed to.

Government amendment No. 63:

In page 15, after line 13, to insert the following:

"Amendment of section 93 of Act of 2012

59. Section 93(2) of the Act of 2012 is amended—

(a) by substituting "accompanied by such fee (if any) as may be prescribed and the following documents:" for "accompanied by the following documents:",

(b) in paragraph (c), by substituting "section 91(1)(e);" for "section 91(1)(g);",

(c) by inserting the following paragraph after paragraph (c):

"(cc) the declaration in writing of the debtor referred to in section 91(1)(g);".".

Deputy Alan Shatter: Section 93(2), which relates to an application for a protective certificate in the context of a personal insolvency arrangement does not, unlike the corresponding provision in section 29(2), concerning DRNs, and section 59(2), concerning DSAs, mention any fee to be forwarded with the documents. The proposed amendment in paragraph (a) mirrors the DSA arrangement at section 59(2). Accordingly, it is required for consistency.

The proposed amendment in paragraph (b) amends a cross-referencing error in section 93(2)(c). The proposed amendment in paragraph (c) to section 93(2)(c) by the addition of a new paragraph is intended to make it clear that both a statutory declaration relating to a prescribed financial settlement and the declaration in writing regarding the debtor's co-operation with the MARP process are explicitly included in the list of documents required to accompany the application form for a protective certificate in the case of a PIA. The current wording in section 93(2)(c) could lead to confusion as to what is required in order to show co-operation on the part of the debtor with the MARP process.

Amendment agreed to.

Government amendment No. 64:

In page 15, after line 13, to insert the following:

"Amendment of section 95 of Act of 2012

60. Section 95 of the Act of 2012 is amended—

(a) in subsection (1) by substituting the following for paragraph (a)(ii):

"(ii) furnish that certificate together with a copy of the application and the supporting documentation (other than the documents referred to in section 93(2)(f) and (g)) to the appropriate court, and",

and

(b) by substituting the following for subsection (11):

"(11) Where a protective certificate is issued under this section, the Insolvency Service shall—

(a) record in the Register of Protective Certificates, in addition to such other details as may be prescribed under section 133(3)(b), the following—

(i) the name and address of the debtor and the date of issue of the protective certificate,

(ii) where applicable—

(I) the extension under this section of the protective certificate, and

(II) the making by the appropriate court of an order under section 97, and the creditor in respect of whom the order has been made,

and

(iii) the date on which the protective certificate ceases, under this Chapter, to be in force,

and

(b) within 3 months of the date on which the protective certificate ceases, under this Chapter, to be in force, remove from the Register of Protective Certificates all information recorded in it in respect of the protective certificate.”.”.

Amendment agreed to.

Government amendment No. 65:

In page 15, after line 13, to insert the following:

“Amendment of section 96 of Act of 2012

61. Section 96(1) of the Act of 2012 is amended by substituting the following for paragraph (f):

“(f) take any step to recover goods in the possession or custody of the debtor, whether or not title to the goods is vested in the creditor;”.”.

Amendment agreed to.

Government amendment No. 66:

In page 15, after line 13, to insert the following:

“Amendment of section 102 of Act of 2012

62. Section 102(7) of the Act of 2012 is amended by substituting “the issue by the appropriate court” for “the Insolvency Service’s issue”.”.

Amendment agreed to.

Government amendment No. 67:

In page 15, after line 13, to insert the following:

"Amendment of section 116 of Act of 2012

63. Section 116(3) of the Act of 2012 is amended by substituting the following for paragraph (f):

"(f) take any step to recover goods in the possession or custody of the debtor, unless title to the goods is vested in the creditor;".".

Amendment agreed to.

Government amendment No. 68.

In page 15, after line 13, to insert the following:

"Amendment of section 122 of Act of 2012

64. Section 122 of the Act of 2012 is amended by inserting the following after subsection (3):

"(4) Where the appropriate court makes a decision under subsection (3)—

(a) the Registrar of the appropriate court shall notify the Insolvency Service of the decision, and

(b) the Insolvency Service, on receipt of the notification under paragraph (a), shall notify the personal insolvency practitioner and the specified creditors concerned of the decision.

(5) Where the appropriate court decides, under subsection (3), to terminate a Personal Insolvency Arrangement, the Insolvency Service shall, on receipt of the notification under subsection (4) of that termination, record the fact of the termination of the Personal Insolvency Arrangement in the Register of Personal Insolvency Arrangements.".".

Amendment agreed to.

Government amendment No. 69:

In page 15, after line 13, to insert the following:

"Amendment of section 124 of Act of 2012

65. Section 124 of the Act of 2012 is amended by inserting the following after subsection (2):

"(3) Where subsection (1) applies, the Insolvency Service shall, within 3 months after the date on which the Personal Insolvency Arrangement would, but for that fact, have expired, remove from the Register of Personal Insolvency Arrangements all information recorded in it in respect of the Personal Insolvency Arrangement.".

Amendment agreed to.

Government amendment No. 70:

In page 15, after line 13, to insert the following:

"Amendment of section 125 of Act of 2012

66. Section 125 of the Act of 2012 is amended by substituting the following for subsection (4):

"(4) Where the Insolvency Service receives the notice referred to in subsection (1), it shall—

(a) record the successful completion of the Personal Insolvency Arrangement in the Register of Personal Insolvency Arrangements, and

(b) within 3 months of such receipt, remove from the Register of Insolvency Arrangements all information recorded in it in respect of the Personal Insolvency Arrangement.".".

Amendment agreed to.

Government amendment No. 71:

In page 15, after line 13, to insert the following:

"Amendment of section 10 of Courts of Justice Act 1947

67. Section 10(12) (inserted by section 194(c) of the Act of 2012) of the Courts of Justice Act 1947 is amended by substituting "specialist judge" for "specialty judge" in both places where it occurs.".

Amendment agreed to.

Government amendment No. 72:

In page 15, after line 13, to insert the following:

"PART 9

MISCELLANEOUS

Amendment of section 38 of Courts of Justice Act 1936

68. The Courts of Justice Act 1936 is amended in section 38—

(a) in subsection (1), by substituting the following for paragraph (b):

"(b) in every other case—

(i) subject to subparagraph (ii), to the High Court on Circuit sitting in the appeal town designated for the appeal in accordance with section 34(2), or

(ii) where a direction has been given pursuant to section 34(7) in respect of the appeal town in which the appeal, but for such direction, would have been heard, to the High Court on Circuit sitting in such other appeal town, or to the High Court sitting in Dublin, as the case may be, as directed in accordance with section 34(8).",

(b) in subsection (4), by deleting "on the same circuit", and

(c) in subsection (5)(a), by deleting "in the same circuit".".

Deputy Alan Shatter: This is a technical amendment to correct an error in the amendments to section 38 or the Courts of Justice Act 1936 which were made by section 64(e) of the Civil Law (Miscellaneous Provisions) Act 2011.

Amendment agreed to.

Senator Jillian van Turnhout: I move amendment No. 73:

In page 15, after line 13, to insert the following:

"PART 4

INADMISSIBILITY OF SEXUAL ASSAULT COMMUNICATIONS

19. The Criminal Evidence Act 1992 is amended by the insertion of the following sections after section 30:

"31. (1) Where a person under the age of 18 gives evidence as a witness in any criminal proceedings, evidence disclosing the content of communications made by that witness in confidence in the course of sexual assault counselling shall not be admissible save by order of the trial court.

(2) In determining an application for an order admitting such evidence, the court shall have regard to the following requirements:

(a) the evidence must have substantial probative value;

(b) there must be no other evidence which could prove the disputed facts;

(c) the public interest in disclosure outweighs the potential harm to the complainant.

32. For the purpose of section 31, sexual assault counselling shall mean communications or notes thereof, whether made contemporaneously or subsequently, made between the relevant witness, being the victim of a sexual assault, and a person—

(a) who has undertaken training or study or has experience that is relevant to the process of counselling persons who have suffered harm, and

(b) who—

(i) listens to and gives verbal or other support or encouragement to the other person, or

(ii) advises, gives therapy to or treats the other person, whether or not for fee or reward.”.”.

I tabled this amendment in the utmost good faith and I thank my colleagues in the Independent Group for their support for the amendment.

The issue of court ordered disclosure of complainants confidential records, be they medical, psychiatric or therapeutic and be the complainant an adult or a child, in the absence of any legislative guidelines is one of considerable and pressing concern. I have no intention of undermining the urgency and necessity relating to adult complainants but I see this Bill as an opportunity to introduce legislative provision and clear practice for the disclosure of sexual assault counselling communications regarding children who are witnesses in criminal trials.

I note the work in this regard and the calls to action by many children’s and human rights NGOs, civil society organisations and practitioners in the field of specialised assessment and therapeutic services for children who have been sexually abused. I am grateful, in particular, for the support and advice I have received from Rape Crisis Centre Ireland and Children at Risk Ireland in the context of assisting me in understanding the current lacuna in the protection of confidential therapy notes and records and developing the legislative solution proposed in the amendment.

I am acutely aware of the need to strike the proper and appropriate balance between the right of the accused to procedural fairness in child sexual abuse cases, the right of the child witness to privacy as well as his or her right not to be revictimised or unduly traumatised by the criminal justice system and the public interest. It is wholly compatible with Irish constitutional law, Ireland’s obligations under the European Convention on Human Rights and the best interest of the child to provide in law that the disclosure of sexual assault counselling communications will only be granted by the trial court where the evidence sought has substantive probative value, where there is no other evidence which could prove the disputed facts and where the public interest in disclosure outweighs the potential harm to the child.

I wish to provide an overview of the current law in Ireland, the jurisprudence of the European Court of Human Rights and arrangements in other common law jurisdictions. Such an overview is relevant to the arguments I am making in support of the amendment. However, I do not propose to document each area exhaustively because I am confident that the Minister, as a legal expert, is *au fait* with them and as a result of the fact that they have ably synopsised by the Government special rapporteur on child protection, Dr. Geoffrey Shannon, in a number of his annual reports and, most recently, his fourth such report which was published in 2010. It was via the latter that I first became aware of this issue. The report to which I refer contains Dr. Shannon’s finding that there was an urgent need for legislation governing the issue of disclosure of private records, such as medical records, and counselling notes.

The right of the accused to justice and procedural fairness is the cornerstone of the Irish criminal justice system and is principally guaranteed under Articles 43.1 and 43.2 of the Constitution. The European Convention on Human Rights provides further guidance via Article 6, which protects the right of the accused to the presumption of innocence and the right to a fair trial, and Article 8, which provides a right to respect for one’s private and family life and home

and correspondence, subject to certain restrictions that are in accordance with law and necessary in a democratic society. The most relevant restriction in this context relates to the protection of the rights and freedoms of others. The issues at stake here clearly require the balance of what, in this context, are competing interests. There is a substantial body of jurisprudence from the European Court of Human Rights in Strasbourg which finds that a complainant's Article 8 interests can be accommodated alongside the Article 6 rights of the accused. The decisions from Strasbourg demonstrate that while the right to a fair trial is absolute, none of its contingent parts, of which disclosure is one, is itself absolute. A fine example of this can be found in the Doorson *v*. The Netherlands decision of 1996, in which the courts held that Article 8 interests:

> ...are in principle protected by other, substantive provisions of the Convention, which imply that Contracting States should organise their criminal proceedings in such a way that those interests are not unjustifiably imperilled. Against this background, principles of fair trial also require that in appropriate cases the interests of the defence are balanced against those of witnesses or victims called upon to testify.

The court was confirming that while Article 6 is important, the concept of fairness that it embodies has many possible configurations.

The practice regarding disclosure orders for third parties has been considered in the past 15 years by many of our fellow common law jurisdictions. The disclosure process settled upon in these jurisdictions range from being governed by judicial rulings, as in Northern Ireland, to legislation, as in Australia, Canada and Scotland, to a combination of both, as in England and Wales. I have examined all of these. They vary in their application from being manifestly weighted in the interests of the right of the accused to a fair trial, as in Scotland, to a comprehensive codified system for the use and disclosure of confidential records in sexual offence cases, as in Canada, to models requiring judicial scrutiny on a case-by-case basis, as in Australia. Whatever the approach adopted, what is most important is that each jurisdiction has seen fit to debate the balance of rights and public interest considerations and to apply standards governing disclosure, non-disclosure and objection to disclosure.

In Ireland there is no legislative provision governing disclosure nor have these important issues been subjected to sustained analysis or consideration by the Irish superior courts. The matter is crucial with respect to child witnesses who have been the victims of sexual abuse. They are uniquely vulnerable by virtue of their age and the heinousness of the abuse perpetrated against them. My understanding is that under current practice, therapists in recent years, especially in the past six to 12 months, have been receiving increasing numbers of requests from the Office of the Director of Public Prosecutions seeking access to the notes of children's private and confidential therapy sessions.

I have several serious concerns. One is re-victimisation, creating a sense of powerlessness, stigma and betrayal at having innermost thoughts and feelings examined by a third party and, potentially, the alleged abuser. Another is the perception of a breach of trust, a betrayal by the therapist following the therapy process which could undermine the healing potential of therapy. This could also create a conflict between seeking counselling and reporting or proceeding with a prosecution. One could argue that the disincentive effect of disclosure of personal records would be such a powerful disincentive to report sexual offences - this relates to the public interest in the pursuit of justice area - and seek counselling - this relates to the public interest in restoring the child's well-being and ability to function in society area - that it seriously prejudices the public interest.

There is a strongly held view by many practitioners in specialised assessment and therapy services for children who have been sexually abused, that therapy notes should be privileged outright on the basis that they hold neither material evidence nor information relevant to the proceedings. When we reflect on the purpose of therapy for children who have been sexually abused, what the therapy involves and, moreover, the arrangements these services have in place to manage the process, the rationale for such privilege is strong. Therapy, as a whole, is not concerned with making judgments or assessing the veracity of what is shared in sessions. Rather, it is a particular type of human engagement whereby the exploration of the thoughts and feelings of the child at a particular point is facilitated. Therapy notes, in turn, are context specific. They derive from therapeutic encounters and, as such, are concerned with documenting feelings, thoughts, hopes, fears and dreams rather than actual facts or material evidence. Ultimately, the aim of therapy is to assist a child to get back to a life that is not dominated by the sexual abuse experience and to equip the child to build trusting relationships. In doing so, the therapist will address patterns of behaviour and responses that have become unhelpful, burdensome or troubling to the child's living experience.

Therapy can also draw attention to healthy responses and coping strategies shown by the child in and out of session. This can involve the use of fantasy and therapeutic play scenarios, especially for younger children, in which the children can try out different roles to make sense of the abuse they experienced. However helpful to the children, therapists are becoming increasingly concerned about how notes describing such scenes might be interpreted in a legal arena and taken out of context. Trust in the therapeutic relationship and the creation of the a safe space is paramount to the effectiveness and success of the therapeutic process. It is difficult to envisage how this can be achieved where privacy and confidentiality of these therapy sessions are not sacrosanct.

I suggest that the effectiveness and success of the therapeutic process is an important part of the public interest consideration in restoring the child's well-being and ability to function in society. I could offer several harrowing examples of the devastating effects the current practice is having on child victims of sexual abuse and their families, including the conflict that ensues between either seeking justice or striving for the healing and well-being of the child. However, to speak about these cases on the record would be inappropriate. There is one case I can refer to, however, which was given to me at the request of the subject. It is a case I find deeply disturbing. The case highlights the reaction of one teenager, currently engaged in sexual abuse counselling, at the thought of their therapy notes being disclosed to a third party. The person said if they had known starting the counselling process that their therapy notes might be disclosed, they would never have started the process. Having already started, but now knowing it is a possibility, they are afraid to explore certain thoughts and feelings, thus undermining the therapeutic value. Most upsetting, they said that the idea of their trauma being scrutinised by others was tantamount to their insides being poked at again. This is a classic example of the re-victimisation I referred to earlier. There is a sense of powerlessness instilled by the criminal justice system in the absence of disclosure guidelines and this must be addressed.

I note the language of the European Commission in respect of the EU directive establishing minimum standards on rights, supports and protection of victims of crime, which was adopted in October 2012. The Commission stated that one of the greatest tests of the quality of our justice system is how well we treat our victims and that appropriate treatment is a demonstration of the solidarity of our society for each individual victim and a recognition that such treatment is essential for the moral integrity of society. It is crucial, therefore, not only to combat and

prevent crime but also to properly support and protect individuals who fall victim to crime.

It is important to this debate to understand the management systems that specialised assessment and therapy services employ and their relevance to disclosure. The first phase, which is distinct from therapy, is the compilation of an assessment report whereby the practitioner will take account of the abuse alleged by the child. This is the baseline account of what the child says has happened. It is passed on to social workers and the Garda, where appropriate. It is available to the DPP and, in the context of a criminal trial, is not difficult to see how its content is regarded as relevant information. However, then the process moves on into the next phase, away from the who, what, where and when. Instead, the focus is on therapeutic issues that arise for children in their recovery. If any information arises in the course of the therapy phase that substantively alters the picture in the assessment report, the practitioner will update the assessment report accordingly and pass it on to the relevant social worker and so on. In essence, any information or evidence relevant to a criminal trial for child sexual abuse is already disclosed as a matter of course. The information left contained in the counselling records and therapeutic notes have no material relevance but it represents the heart and soul of a damaged child. As the Minister noted earlier, the Bill is about addressing issues that have been long ignored. I put it to the Minister that we must bolster our protection of these child witnesses and I offer the amendment to the Minister in this regard as a legislative response.

Senator Ivana Bacik: I wish to express support for the concerns raised by Senator van Turnhout. In this amendment she has put very eloquently the case for making provision as regards admissibility of records of counselling where witnesses are under the age of 18. The Minister will be aware that this is an issue of immense concern, not just concerning child witnesses but also concerning adult witnesses in rape and sexual offences trials. I know the Senator has done a great deal of work on the protection of child witnesses in this regard. She and I have also worked with the Dublin Rape Crisis Centre and others concerning admissibility of counselling records for witnesses generally in sex offence trials - that is adult as well as child witnesses.

The Senator is right in saying that clear guidance needs to be given. The current state of uncertainty is clearly of real concern to child witnesses and complainants in sexual offence trials generally and their friends, families and supporters. This is a matter with which we need to deal. The rape crisis centre has been working on a protocol with the Office of the Director of Public Prosecutions concerning disclosure. It is a matter of increasing applicability in sex offence trials as defence teams increasingly seek disclosure of these records. It can be very traumatic for the witnesses and complainants involved, particularly, as Senator van Turnhout said, when these are children.

Senator Averil Power: I strongly support Senator van Turnhout's amendment and thank her for putting so much research into best practice elsewhere in Europe and other jurisdictions. It is essential that we have a fair balance and, as the Senator pointed out, of course there must be the right to a fair trial. However, in doing so we must ensure that we do not necessarily revictimise people by making the process more stressful and upsetting than it already is.

I was also horrified to hear from the Dublin Rape Crisis Centre that this is causing major problems for people. It did not seem to be as much of an issue in the past, but it seems defence teams are increasingly seeking this information. It is important that the issue has been raised. I am strongly supportive of the points Senators van Turnhout and Bacik have made. I am not sure whether a protocol or legislative amendment would be the best approach. We need to find a fair way to strike the right balance between the right of the accused to see necessary informa-

tion and an unfair trawl of a victim's entire counselling background.

We need to ensure we do not deter victims from seeking counselling and that we do not damage the therapeutic relationship they have with their counsellor to the extent that they feel they cannot have full disclosure and are concerned that they cannot fully trust the person sitting across the table. It is such an important and sensitive relationship that we need to ensure we have adequate protections for victims. I again thank Senator van Turnhout for tabling her amendment.

Senator Martin Conway: I commend Senator van Turnhout on introducing a very necessary amendment. Unless there is some technical or wording reason for not accepting the amendment, I believe the Minister should accept it. I have been contacted by Rape Crisis Network Ireland - not the Dublin Rape Crisis Centre - a network of rape crisis centres throughout the country. It has deep concerns about the issue of counselling notes being made available and the pressure being brought by the Director of Public Prosecutions and others to make these notes available to form part of a book of evidence. If a victim felt for one minute that, having entered a programme with a counsellor from any rape crisis centre, the notes might end up as part of a book of evidence, that person might never seek the service of a rape crisis centre, which would be a retrograde step. It would choke these organisations, many of which are operating on a shoestring and are doing profoundly important work and giving crucial support to people who need it at a desperately vulnerable time in their lives having become victims of unspeakable crimes.

They feel constrained because the notes of a conversation might end up as part of a book of evidence. The counsellors are also constrained for the same reason. While Senator van Turnhout would have considerably more knowledge of the issue than I have, from my lengthy discussions with a counsellor over a number of hours on a number of different occasions, I was so concerned about it that I requested the Oireachtas Joint Committee on Justice, Defence and Equality to do a module on the area of sexual violence and what protocols are in place to deal with counsellors and other professionals involved. It is very serious and I would be interested in hearing the Minister's response on the subject.

Senator Trevor Ó Clochartaigh: We would concur with and support Senator van Turnhout in the issue she is raising. I appreciate that the Minister might need to find other legalese to address her concerns. From working with services that deal with rape crisis, including those involving children, I share the concerns. There is almost a sense of a doctor-client privilege when a person is being treated in such a scenario. Members of the public would regard that as extending to a therapy situation. Although the person with whom they are working might not be a medical doctor, they enter such scenarios in the understanding that what they say will be confidential or else they would not disclose. That is also found with people who enter counselling for drug and alcohol addiction. That confidentiality is a fundamental part of the treatment.

Many rape crisis centres would advise that it is very hard to get a woman to take a court case against a significant other. Any support that can be given to a person who has been subjected to any form of abuse is absolutely necessary. While I do not have the figures, I imagine the proportion of people who come forward is extremely small. The amendment would help women, men and children in those desperate situations to have more confidence in coming forward. I urge the Minister to take on board the spirit of the amendment.

Senator Colm Burke: I broadly agree with the amendment, which would still leave it open

that the evidence would not be admitted except by order of the court. The amendment sets out the circumstances in which such an order could be made. The proposed amendment should be given serious consideration - perhaps it should have been considered at an earlier stage.

Deputy Alan Shatter: I thank the Senator for proposing the amendment, which has given rise to the very important discussion that is taking place. The amendment was only made available a few days ago. I make no complaint about that because we have subjected the House to many amendments in the past where there has only been a short time to consider them. This is an issue in which I share the views expressed by Senator van Turnhout and other Members of the House. It is of major importance in criminal trials of all description, including criminal trials involving allegations of sexual assault that the rights of the accused are protected, that anything of evidential value with regard to a prosecution taking place is made available and that the books of evidence are provided to the accused and his or her lawyers so they are in a position to prepare for trial and deal with issues. It is also important that we try to protect as best we can individuals, children in particular, who have been the victims of sexual assault so that, to take the words of Senator van Turnhout, they are not revictimised and do not believe the legal system is abusive of them also.

The Senator spoke very ably on the need to balance the rights in articles 8 and 6 of the European convention and on some of the background case law. I understand the Law Reform Commission will examine this issue as part of its fourth programme, which I expect to be announced shortly. On foot of the amendment tabled by the Senator we consulted with the Office of the Attorney General which has advised me, and I must relate this advice, that a very detailed examination of this issue is required because of the need to balance the constitutional right to due process against the right to privacy. This is a very complex matter and I am entirely happy that we leave it to be dealt with by the Law Reform Commission, for no reason other than the timeframe involved. The Law Reform Commission is very well equipped to deal with this matter and with the point raised by the Senator, which is the need in the State for sustained analysis on this issue. Much of the material is from outside the State. I am personally aware of the concerns of the Rape Crisis Centre and it seems that in recent years those defending accused have been more actively seeking these reports. It is an inhibiting factor for those counselling an individual as to how they approach these matters and it is of concern to an individual who may disclose information that is necessary in the context of counselling which has no direct relevance to their credibility in a court hearing, or of no direct relevance to any issue in dispute at a trial, but may be a cause of embarrassment to the individual if the information is disclosed. The problem is how to achieve a balance.

I cannot accept the Senator's amendment and I want to point out some of the technical reasons. This is not to raise technical reasons to in any way put down the Senator, because it is a very serious issue. The proposed section states where a person under the age of 18 gives evidence as a witness in any criminal proceedings, evidence disclosing the content of communications made by the witness in confidence in the course of sexual assault counselling should not be admissible save by order of the court. The section is based on an assumption that the person who is the victim will either already have given evidence or be in the course of giving evidence, because it mentions a person who gives evidence and does not refer to the victim or the alleged victim. There is no provision for pre-trial procedures. It would be very unsatisfactory in the context of a criminal trial that this issue would only be addressed during the course of someone being in the witness box except in exceptional circumstances, and there are exceptional circumstances in criminal trials where issues may arise. If there was to be an issue as to whether this

type of report would be disclosed, it would be better dealt with in a pre-trial procedure, whereby the case is made in a pre-trial procedure as to why it should be disclosed and why it should not be disclosed. It may well be that in determining whether it should be disclosed, a judge would have access on a preliminary basis to the documentation and would himself or herself determine its relevance or not to any issues in dispute in the criminal proceedings.

The manner in which this is framed could create a very real problem and could result in a trial being unnecessarily prolonged or adjourned, to the detriment of the victim who, having gone through the trauma of attending court, could find the hearing is adjourned for a period of days while an issue is addressed in this context. If documentation was furnished which the defendant's solicitor was of the view might well raise new issues it could result in an application being made to set aside the trial and for a new trial to be held while how to deal with the information was being considered. At the very start of this there is a problem not only of a merely technical nature, but of a substantive nature as to how it could impact on trials.

We could discuss issues regarding subsection (2) and the matters to which the court should have regard, but I do not want to delay the House and I will not go into it in detail. With regard to the provision in the proposed section 31, there is a difficulty as to what should be confidential in the context of the person to whom it is communicated. Should it only be confidential if one is being seen by a qualified psychiatrist or a qualified psychologist? Others are engaged in counselling who may have specific training in counselling individuals who have been the victims of a sexual assault but they may not be formally psychiatrists or psychologists. There would have to be clarity as to with whom communications should be regarded as confidential. In the context of this particular revision, reference is made to a person who has undertaken training or study. This does not mean the person is actually qualified. What if someone has undertaken training or study and is so poor he or she does not obtain a professional qualification? Does this make the person an individual with whom one can have a privileged conversation? It also refers to a person who has experience which is relevant to the process of counselling persons. This is an extremely loose wording and I am not quite sure what this is.

Senator Jillian van Turnhout: I took it from Irish law.

Deputy Alan Shatter: We are dealing with criminal trials and we must be very careful. It is always easy to look at a proposed amendment and point out difficulties with it, and I am not trying to do this for gratuitous reasons. There is a difficulty with it. I have huge alarm bells ringing in respect of the wording of section 32(*b*)(1), which refers to a person who listens to and gives verbal or other support or encouragement to someone, but encouragement to do what? If I were a lawyer representing someone being prosecuted, the first question I would ask is whether the person was encouraged to lie, tell the truth or make a complaint when there was nothing about which to complain. We must be very careful with this.

I want to state categorically I agree with the general expressions of concern about the way this area is working. The advice of the Attorney General on this amendment as proposed, which is what I must deal with, is that this is a complex area and if we are to address it, we must do so with great care and exact language, which not only protects the privacy of a young child who has been the victim of abuse and ensures counselling they engage in can be appropriately confidential and there is no barrier to engaging in it, but also protects the rights of the accused and ensure evidence which is genuinely relevant to a prosecution is not concealed from the court which could result in an innocent individual being found guilty.

This is a very important discussion. As I said, I think the Law Reform Commission is the right body to deal with this but I am concerned about the timeframe. I am conscious this has become more of a problem in the past couple of years, in particular. I ask Senator van Turnhout, having given us the wealth of her insights and the benefits of her research, not to press the amendment tonight. For my part, I will engage with the Attorney General on whether in the short timeframe available, she believes that all of the different issues such as issues of constitutional sensitivity could be adequately addresses by her office to facilitate either the Minister bringing forward an appropriate amendment or if Senator van Turnhout produces an amendment for Report Stage. I am conscious that the Bill goes from the Seanad to the Dáil. I expect there is a possibility on Report Stage that I may be telling this House that a number of amendments, which we did not have the time to frame, will be tabled in the Dáil Chamber which will mean the Bill will be returned to this House. If the Attorney General believes the work could be done but not in time for Report Stage in the Seanad but in time to facilitate addressing it in the Dáil, I will tell the Members of this House on Report Stage. I do not want to inhibit Senator van Turnhout in any way from retabling this amendment or tabling amendments which take account of some of the concerns I have expressed on Report Stage.

This is an important issue. I personally would like to ensure we can address it as soon as is possible but we must do so in a very careful way.

Senator Jillian van Turnhout: I thank the Minister. I will not press this amendment. The Minister robustly engages in exchanges on the amendments tabled by Members. I know that, like me, the Minister understands the importance of this amendment. Having listened to his response, I know he appreciates the timeliness if we can find an appropriate and balanced wording. As I said, many practitioners wanted me to look for absolute privilege, which is probably what my heart would like to seek, but I realise we must achieve a balance which is what I strove to do. I take on board what the Minister has said. I looked at legislation for ways we previously defined counselling advice, so I am very happy to share that information with him.

In 2010, Dr. Geoffrey Shannon identified in his fourth annual report the urgent need for legislation governing the issue of disclosure of private records, such as medical records and counselling notes. It is now 2013. I would be very hesitant to go any other route, even though I have utmost trust and faith in the Law Reform Commission. The issue of adults must be looked at but for me there is a real and pressing concern in regard to children. I will engage in the process outlined by the Minister.

An Cathaoirleach: Is the amendment being pressed?

Senator Jillian van Turnhout: No.

Amendment, by leave, withdrawn.

Schedule agreed to.

TITLE

Government amendment No. 74:

In page 4, line 5, to delete "2004 and" and substitute "2004,".

Amendment agreed to.

Government amendment No. 75:

In page 4, line 5, after "1991" to insert "and the Adoption Act 2010".

Amendment agreed to.

Government amendment No. 76:

In page 4, line 13, after "2002;" to insert the following:

"to amend the Courts (Establishment and Constitution) Act 1961 to increase the number of Supreme Court judges to nine; to amend the Juries Act 1976 to provide for the selection of additional jurors in lengthy criminal trials; to amend the Coroners Act 1962 and the Civil Legal Aid Act 1995 to provide for the provision of legal aid or advice, or both, in respect of coroners inquests to families of deceased persons in certain circumstances; to amend the Bankruptcy Act 1988; to amend the Personal Insolvency Act 2012;".

Amendment agreed to.

Title, as amended, agreed to.

Bill reported with amendments.

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

Senator Ivana Bacik: Next Tuesday, 2 July 2013.

Report Stage ordered for Tuesday, 2 July 2013.

Sitting suspended at 7.55 p.m. and resumed at 8 p.m.

8 o'clock

Social Welfare and Pensions (Miscellaneous Provisions) Bill 2013: Report and Final Stages

An Cathaoirleach: I welcome the Minister for Social Protection, Deputy Burton, to the House. Before commencing I remind Senators that a Senator may speak only once on Report Stage, except the proposer of an amendment, who may reply to the discussion on the amendment. On Report Stage each amendment must be seconded.

Senator Katherine Zappone: I move amendment No. 1:

In page 30, after line 38, to insert the following:

" 'overpayment' means any Social Welfare assistance or benefit payment received by a person as a result of—

(a) an error or omission on the part of the Department,

(b) an error or omission on the part of the overpaid person,

(c) fraud on the part of the overpaid person, or

(d) the provision of incorrect information by the overpaid person;".

This amendment is simply trying to follow the philosophy I used for all the amendments, which is to ensure fair and transparent procedures in the recovery of overpayments through attachment. What we have offered is a definition of "overpayment". In our exchange, the Minister has identified a number of ways in which an overpayment can result, and we have listed some of these, including error or omission on the part of the Department or the overpaid person, fraud on the part of the overpaid person and the provision of incorrect information. Our concern is that the different ways within which overpayment can occur should be listed, as we are concerned about the process taking in the attachment order. If there are reasons for overpayment not caused by proven fraudulent behaviour, it should be indicated in the attachment order, as this would be more respectful of a person's reputation and the way in which affairs are conducted. As the Minister knows, legislation permits a Minister to contact employers or holders of joint accounts. Although we trust the Minister in her effort and vision of fairness, this amendment is an attempt to put that fairness into law out of concern for the person who could be subject to a supposition of fraudulent behaviour.

Senator Paschal Mooney: I second the amendment.

Minister for Social Protection (Deputy Joan Burton): I thank Senator Zappone for putting forward the amendment, although I do not propose to accept it. We had a very long discussion about this and we went through the various sections that set out in some detail what each element of this change means. Essentially, the Department is being given power to recover overpayments, as we are required to do arising from successive reports of the Comptroller and Auditor General. This is to target people who no longer receive a social welfare payment who have a capacity to repay a social welfare overpayment but have repeatedly refused to do so.

The term "overpayment", which is used in the notice of attachment provisions, has the ordinary meaning given to the word. That is to say it is the payment of money in excess of what is due. I put it to Senator Zappone that as there is no ambiguity, there is no need to delimit or extend the meaning of this word in the context of the notice of attachment provisions. It is not considered necessary to include a specific definition of the word "overpayment" for the purpose of these provisions. As I said, we propose to be very much guided by the arrangements the Revenue Commissioners make. We have detailed provisions in the Bill. As I explained yesterday, it will take staff in the Department a couple of months to prepare detailed guidelines. This legislation will come into force when that work is done by way of a commencement order.

I appreciate and understand Senator Zappone's concerns but the communication, as with Revenue communications, in the case of the employer does not go into any detail. It is just a change in respect of the deduction arrangements. As the Senator knows, these happen on a very widespread basis in respect of taxation. People get changes in certificates and have underpayments, overpayments and changes to their allowances. There is no proposal to have any particular contact in the sense of discussing in any way with the employer the private affairs of its employee. The employer is simply facilitating in the case of tax, PRSI and social welfare appropriate deductions that need to be made. It would be improper if the Department of Social Protection was involved in communication with the employer as to the detail or cause because

that is a matter of privacy and confidential personal information for the employee. I understand what the Senator is trying to achieve, namely, to not cause any negativity to the reputation of the employee but I suspect that the actual impact might not be what the Senator intends, namely, an attempt to offer some protection to an employee. I am not sure it would achieve that. It might only draw attention to the situation whereas there is just an arrangement as with taxation where an extra amount is due and it is being facilitated through the employee's wages.

We should bear in mind that employees make arrangements in respect of court orders and relationship settlements. I am not aware that they are entered into in any great detail because these are, essentially, very private matters. For example, the arrangement relating to wages in the case of relationship breakdown is to facilitate orders for maintenance. It is not really appropriate to get involved in the detail or give rise to questions as to how this arose and what it is about. It would be better for it to be just a routine arrangement, as happens with the tax system.

Senator Katherine Zappone: I appreciate that response. We have had quite a lengthy exchange in respect of the variety of reasons that can cause the overpayment. Even that kind of exchange on the public record is helpful in terms of reducing the potential of that negativity. I also understand from the Minister's response is that in terms of any attachment orders, it is simply an overpayment. I will not press the amendment.

Amendment, by leave, withdrawn.

Senator Paschal Mooney: I move amendment No. 2:

In page 39, after line 39, to insert the following:

"17. Section 221 of the Principal Act is amended by the insertion of a new subsection (9) as follows:

"(9) Child benefit in respect of a child resident in an EU country other than in Ireland shall be paid at the rate of child benefit that applies in that EU country, provided that the rate is lower than the rate of child benefit that applies in Ireland.".".

Once again, I welcome the Minister to the House. This amendment arises out of a perception that is widespread in this country that we are over-generous in the payment of child benefit to non-Irish nationals who are working in this country. Essentially, it attempts to try to level the playing field to some degree. Irish citizens living in EU member states and who are eligible for and apply for child benefit in those countries receive the prevailing rate in those countries. We have one of the highest child benefit rates in the EU which came about as a result of the Celtic tiger era. I remember talking with a former Minister who told me that between 2003 and 2009, social welfare benefits increased by some 900% when the inflation rate was only 13%. It puts the Government of the time into stark relief in terms of its excesses. Everybody said it was great and wonderful, applauded it and wanted more. Let us be brutally frank about it. Ultimately, the buck stops with the Government because it was the one which did it, irrespective of who was cheering it on from the sidelines. The reality is that we and the Minister are now faced with that legacy because of all that has happened in the past five years.

This is an attempt to try to re-balance things and possibly an opportunity for the Minister to outline how that structure works in practice and what its impact is across the EU in terms of how many recipients are in this country, how much money goes out of the country to be paid to EU citizens and how many Irish citizens are benefiting abroad. My impression is that not that

many are benefiting relative to those who are benefiting from it in this country. I do not want to labour the point. Essentially, that is the objective of the amendment. Hopefully, it is a helpful gesture to the Minister because if was to be implemented, it would ultimately result in savings.

An Cathaoirleach: Is the amendment being seconded?

Senator Katherine Zappone: I second the amendment.

Senator Marie Moloney: I have also spoken a lot about this issue and have put this suggestion forward. I questioned our MEPs, in particular Seán Kelly, MEP, about it when they visited the House. I asked Mr. Kelly what the feeling was in Europe regarding this and he told me that somebody has suggested it but that nobody wanted to speak or hear about it. I heard about an Irishman working on the oil rigs who was being paid by a British company. His wife had to claim child benefit from the UK and could not claim it from Ireland so it works both ways but, as Senator Mooney said, it is probably disproportionate. Irish people working abroad must claim child benefit in the country in which they are being paid.

Senator Martin Conway: I have certain sympathies with Senator Mooney's position. I can remember as a councillor the amount of non-nationals in particular who approached me for assistance in getting child benefit and whose children were not living in the country but living in the Czech Republic or Poland. One had a situation where a mother or father were residing here for work purposes but the children were living and being educated in their native country and were being minded by a sibling or grandparent. There is something fundamentally wrong with a system that facilitates a scenario like that. I do not have any issue if the children are living in this country with their parents who are working here. They are being educated in this country and are engaging in the culture, sporting activities and learning environment of this country. However, I think most fair-minded people would have an issue if the children are not living in this country. I believe the Minister was trying to get a derogation from Europe on this issue. I would be interested in hearing how successful she was. If that type of thing and other frauds within the whole area of child benefit and so on can be eliminated, there would be no need for cuts in child benefit and we would be in a position to sustain the current payments and, perhaps, down the road consider increasing them.

Senator Michael Mullins: I have great sympathy with the amendment tabled by Senator Paschal Mooney. Certainly it is an issue that has been raised on many occasions with me by hard-pressed taxpayers. There appears to be something fundamentally wrong that benefit is being paid to children who are not living in our country but in a country where the rate is much lower.

Another issue about which we spoke yesterday is social welfare fraud. How robust is our system to ensure payment is made only for those who legitimately exist and that there is not a manipulation of the system? A case was brought to my attention recently, which I may have relayed privately to the Minister, by a registrar of births in my town who, following the birth of a child, received a request from 14 individuals for a copy of the birth certificate. I do not think it was for the purpose of framing them or souvenirs those requests were made. Obviously, the registrar did not issue the birth certificates to those who requested them. How well is the system resourced to ensure we pay only for children who exist? I welcome the fact that the new identity card system which is being put in place will include a photograph and signature of the holder. That is for adults but is there a system in place that allows for payment to be made only for children who exist?

Deputy Joan Burton: I understand the sentiments behind the amendment. The social welfare entitlements of European Union citizens moving around the EU are governed by EU regulations and the co-ordination of social security systems. These regulations have direct effect and override domestic legislation which would conflict with their provisions. Under these regulations, EU citizens enjoy the same benefits and are subject to the same obligations as citizens of the host country. Accordingly, an EU national working in Ireland is entitled to receive child benefit in respect of children living in the home country. The rate at which we pay is adjusted to take account of any payments which are made by the other country. The regulations are viewed by the European Commission as being very important in the context of the free movement provision of the EU treaties. For an amendment, along the lines suggested, to become effective, change would be required at EU level. The European Commission is the only body which can propose such a change. I have raised this matter with the Commission on a number of occasions and discussed it with the Commissioner for Social Affairs, but the agreement of the Commission to this proposal is highly unlikely. There are a number of member states which have concerns around this issue. The Commission attaches great importance to these arrangements in the context of free movement of citizens but there is also legal precedent from the European courts which suggest that any arrangements along the lines suggested, would not be in keeping with the EU treaties.

In terms of the current situation, the amount of child benefit paid in 2012 to children living abroad was €13.3 million for an average of 5,039 families who had 7,922 children. The amount paid in 2013 to is €6.1 million. The average number of families in 2013 to date is 4,893 for 7,792 children. Child benefit is paid to customers in 24 EU countries based on entitlements under EU regulations. We do not have an exact breakdown but there are countries which are significant recipients. Some of these are eastern European countries, including Poland, but also the UK because there is a great deal of movement between Ireland and the UK and also in regard to Northern Ireland which accounts for significant numbers. The situation is further complicated by the Northern Ireland cross-Border issue. The total number of claimants living abroad as of 21 June was 4,728 with 7,590 children. The total number of families receiving child benefit in this country is 614,000 who between them have 1.17 million children, so the total number of claimants abroad is 0.6% of that total. That represents a significant decrease on 2008 which was the high point of the payments when €20.9 million was paid. The amounts involved have reduced significantly, some of which relate to England, Ireland and the North, which is traditional.

Senator Michael Mullins and a number of other Senators asked about controls. Applications are carefully examined and vetted. We also maintain continual contact to confirm that the people are at the addresses stated. If people to not reply or there is no return from the address, we stop the payments immediately. In that way we have reduced the payments. However, it is an issue for a number of member states where social welfare payments are more generous than in some other states.

Certainly, to change the situation we would need the agreement of the Commission and of the European courts. In any of the court matters which have touched on this, the European courts have held the strong view that with the free movement of labour being a critical issue, certain entitlements which arise from working in a country should be available to all workers who move to that country to receive payment. Of course, there are Irish families who would receive payments from other member states, particularly if their payments and supports are significantly higher than the payments and supports here. The main difference is that in some

countries the actual payment of child benefit is quite low but there may be child services, such as access to crèches and nurseries which are funded by the municipality. We have always concentrated on a very high cash payment whereas many European Union countries have a mixed system of services and cash payments. Some heavily emphasise services so that there is a universal take-up by children. Therefore the money is spent on children directly. During the period of intense economic growth, the emphasis was on large increases in the cash payment.

There was a change in that policy with the development of the early childhood education system and the introduction of a universal preschool year. I strongly supported that change. As a consequence, almost all children or families take advantage of the provision. It replaced the previous cash payment paid to parents of children under four years at a rate of €1,000 per year. Once the financial crisis began that payment was shifted. Children ranging between three and half and four years now benefit from a universal preschool year. It is one of those areas where we are slowly changing policy towards the mix that other countries have of cash benefits and direct service provision.

Senator Paschal Mooney: I am grateful to the Minister and appreciate the bind that she is in. I am pro-Europe but this is another example of nonsense by the European Union because the Commission seems to dictate policy to member states. In collective bargaining between government and unions a term that is used is "inability to pay" but that aspect has not been taken into consideration for this issue. The Commission seems to have issued a Directive which has been incorporated into national law and we are left to just get on with it. The attitude adopted is "hard luck if you cannot pay it."

I know from the public pronouncements of the Minister and that of her colleague, Minister Fitzgerald, that they would ideologically like to reduce the cash benefit environment and have more direct support for child care services. People may argue that both Ministers have adopted an ideological position but I empathise with them. We have a problem. When one gives something away it is difficult to get it back as we found with medical cards for senior citizens. There is not a word about the issue now even though the law has changed. I thought it was a modest proposal but I had an issue with the way that it was handled. Millionaires were quoted at the time. I will not mention names but we all know who I am talking about. They said that when they sat down in their local GP's surgery they felt as entitled to a medical card as the woman with the widow's mite. That is wrong and shows an unequal society.

Now the Government wants to make savings. A saving of €13 million may not seem a lot when compared with the Department's budget of €20.5 billion. However, a lack of money was given as a reason to withdraw the mobility allowance and special needs assistance. The provision of both schemes would have cost between €3 million and €5 million which is a small amount. When one puts that small sum in context then €13 million looms large.

I would like the Minister to provide two things. First, I want to know how many or what percentage of the 5,000 recipients are from the North and England. The locations are problematical because there are cultural and historical connections. There is a perception that people from Poland, the Baltic countries or eastern Europeans are claiming. It is possible, based on the figures indicated, that a significant number might be located in the North, south and east and west of this country.

Second, what changes, if any, can the Minister initiate as a member of the Council of Ministers? She said that the courts and the Commission do not favour the provision. There seems

to be like-minded Ministers across the European Union who would, perhaps collectively, share the same view as the Minister of adjusting or ameliorating it in some way that would give the Irish Government the flexibility to decide the rate of payments. A change would also give other Governments some flexibility. The problem is that the Commission's directive is inflexible. The European Union's ideological position is the free movement of goods, services and people. If child benefit comes under the heading of services then it will disrupt the concept behind the European Union. A directive must be realistic.

What powers, if any, does the Minister have as a member of the Council of Ministers and the European Parliament? Can they challenge the European Commission? Can the Commission refuse a change once a directive has been incorporated into national law? I refer to a myriad of issues. Can a change be made once a directive has been enshrined in national law?

It is seldom that changes are made to European directives. It is rare for a European directive that has been incorporated into Irish law to be returned to this House for a change or amendment. The reason is that when a directive has been incorporated into Irish law it comes under the remit of the Treaty of Rome obligations. This is a much wider issue and we are getting into a philosophical and ideological discussion here. I just wanted to raise a few general points and do not necessarily expect the Minister to reply. All I want is some insight into how she can use her sovereign power, as Minister of an Irish Government operating within the European Union, to effect change when necessary. It is as plain as the nose on her face that change is needed.

Senator Martin Conway: Well said, Senator.

Deputy Joan Burton: I shall give a little background on the issue. The EU regulations that deal with family benefits do not specifically deal with child benefit. They encompass a range of benefits designed to support families in one way or another. In the case of Ireland, the benefits designated as family benefits include: child benefit, family income supplement, one-parent family payment, guardians payment which was formerly the orphan's pension, and the domiciliary care allowance. Accordingly, anyone who is employed here and is in receipt of the above benefits is entitled to payments in respect of their family resident in another EU country. That entitlement ends once they leave the State. Article 67 of the regulations states that a "person shall be entitled to family benefits in accordance with the legislation of the competent Member State."

I shall outline some more interesting background information. Until the mid-1980s there were special provisions in the regulations for the payment of benefits by France. That allowed for benefits to be paid at the rate applying in the country where the children reside, the precise point that Senator Mooney has made. The provision stated:

> A worker subject to French legislation shall be entitled, in respect of members of the family residing in the territory of a Member State other than France, to the family allowances provided for by the legislation of such Member State; the worker must satisfy the conditions regarding employment on which French legislation bases entitlement to such benefit.

In other words, they had a specifically French regulation and payments were made at the local rate.

The provision was the subject of a judgment by the European Court of Justice on a case brought by Mr. Pietro Pinna in 1989. The court states:

The criterion set out in that provision was not of such a nature as to secure the equal treatment laid down by Article 48 of the Treaty and therefore could not be employed within the context of the coordination of national legislation prescribed by Article 51 of the Treaty with a view to promoting [and the following is key] the free movement of workers within the Community in accordance with Article 48 of the Treaty.

The regulations were changed as a result of the 1989 judgment.

In response to another point that was made, there are currently no derogations available regarding the payment of the benefits. The provisions on family benefits derive from the equality provisions of EU regulations which provide that "persons to whom the regulations shall apply shall enjoy the same benefits and be subject to the same obligations of any Member State as the nationals thereof." At EU level these provisions are viewed as being extremely important in facilitating the free movement of labour. The EU Commission is the body charged with putting forward EU legislation for consideration. Given the importance attaching to the provision concerned and the legal precedent outlined above, it would be very difficult to persuade it to adopt any proposal that would restrict export of family benefits. That is the legal position.

I have raised this issue several times in discussion with the Commissioner, who is aware of the Government's concerns because this is important, even if the amounts are relatively small and it is now down to approximately €13 million out of a significantly larger spend. Nonetheless, the principle is important and this is a concern shared by a number of countries, which by and large have contributory social welfare systems. People contribute here and if people from other countries are here, there should not be an apparent advantage over Irish workers. As I stated, the original French arrangement was in line with the Senator's amendment, which was to pay at the rate that applied in that country. However, this arrangement was struck down by the European Court of Justice. There have been a number of discussions at European Council level in the Council of Ministers. Obviously, countries that are beneficiaries are in favour of the current arrangements continuing, whereas a number of counties that, like Ireland, have contribution-based systems, generally are concerned that people would not appear to be gaining an unfair advantage by virtue of not having been obliged to contribute significantly to the system but then gaining significantly from it. I expect it will remain as an item of discussion on the agenda of the Council of Ministers but the Commission is adamant with regard to its position and it is the entity that proposes European Union legislation.

Amendment put and declared lost.

Senator Maurice Cummins: I propose an amendment to the Order of Business that on the conclusion of this Bill-----

An Cathaoirleach: Senator, I wish to dispose of this Bill first.

Senator Maurice Cummins: May I then make a proposal to allow for an earlier signature motion on that Bill this evening on its conclusion?

An Cathaoirleach: Yes, you may.

Bill received for final consideration.

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

The Seanad divided: Tá, 25; Níl, 10.	
Tá	Níl
Bacik, Ivana.	Crown, John.
Bradford, Paul.	Cullinane, David.
Brennan, Terry.	Daly, Mark.
Burke, Colm.	MacSharry, Marc.
Coghlan, Paul.	Mooney, Paschal.
Comiskey, Michael.	Ó Clochartaigh, Trevor.
Conway, Martin.	O'Sullivan, Ned.
Cummins, Maurice.	Power, Averil.
D'Arcy, Jim.	Walsh, Jim.
D'Arcy, Michael.	Wilson, Diarmuid.
Gilroy, John.	
Hayden, Aideen.	
Henry, Imelda.	
Kelly, John.	
Landy, Denis.	
Moloney, Marie.	
Moran, Mary.	
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
O'Neill, Pat.	
Sheahan, Tom.	
van Turnhout, Jillian.	
Whelan, John.	
Zappone, Katherine.	

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

Question declared carried.

Business of Seanad

Senator Maurice Cummins: I propose an amendment to the Order of Business that we would now take the earlier signature motion for the Social Welfare and Pensions (Miscella-

neous Provisions) Bill 2013.

Question put: "That No. 7 be taken now."

The Seanad divided: Tá, 25; Níl, 10.	
Tá	Níl
Bacik, Ivana.	Crown, John.
Bradford, Paul.	Cullinane, David.
Brennan, Terry.	Daly, Mark.
Burke, Colm.	MacSharry, Marc.
Coghlan, Paul.	Mooney, Paschal.
Comiskey, Michael.	O'Sullivan, Ned.
Conway, Martin.	Ó Clochartaigh, Trevor.
Cummins, Maurice.	Power, Averil.
D'Arcy, Jim.	Walsh, Jim.
D'Arcy, Michael.	Wilson, Diarmuid.
Gilroy, John.	
Hayden, Aideen.	
Henry, Imelda.	
Kelly, John.	
Landy, Denis.	
Moloney, Marie.	
Moran, Mary.	
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
O'Neill, Pat.	
Sheahan, Tom.	
van Turnhout, Jillian.	
Whelan, John.	
Zappone, Katherine.	

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

Question declared carried.

9 o'clock

Social Welfare and Pensions (Miscellaneous Provisions) Bill 2013: Motion for Earlier Signature

Senator Maurice Cummins: I move:

> That pursuant to subsection 2° of section 2 of Article 25 of the Constitution, Seanad Éireann concurs with the Government in a request to the President to sign the Social Welfare and Pensions (Miscellaneous Provisions) Bill 2013 on a date which is earlier than the fifth day after the date on which the Bill shall have been presented to him.

Question put and agreed to.

An Cathaoirleach: When is it proposed to sit again?

Senator Maurice Cummins: Ar 10.30 a.m. maidin amárach.

Adjournment Matters

Sporting Events

Senator Averil Power: I welcome the Minister of State, Deputy Ring. The reason I tabled the motion is to discuss Limerick's bid to host the 2018 Gay Games and to specifically ask the Government to proactively endorse the bid and to do everything it can to ensure the bid is successful. The Gay Games is one of the largest participative sporting events in the world. It is the largest event that is open to everyone, regardless of age, ability or physical capacity. The games enable athletes to compete in more than 30 different sports at all levels. In the games, people represent their cities rather than their countries.

Winning the bid to host the Gay Games in Ireland would be of enormous benefit not just to Limerick but to the country as a whole. It would be a fantastic opportunity to promote this country as a welcoming country for everybody, regardless of sexual orientation. It would be a great way to highlight the progress that has been made in recent years in equality and equal rights for lesbian, gay, bisexual and transgender people and to showcase the work that has been done. I hope the work will be built on when we introduce full marriage rights as well. It would be a great way to showcase this country's journey both in terms of how far we have come and where we hope to be in the future.

The games also have the potential to generate significant revenue – up to €80 million for Limerick, Munster and the country as a whole. Up to 200,000 people are expected to attend the 2018 Gay Games, including 14,000 athletes. As one might imagine, there has been a lot of competition to win an event of this scale and importance. Cities that pitched for the 2018 games include Sao Paolo, Rio de Janeiro, Orlando, Amsterdam, London, Paris and Limerick. The Limerick bid book was put together by a team of volunteers, including Emma Murphy who is in the Gallery. I welcome Emma and Jeffrey Rockett who are present to hear the debate. John Hickey, one of the main organisers, could not attend tonight but he has put a considerable effort into putting together a detailed bid. He has been selling Ireland and Limerick at every possible

level, highlighting the excellent sporting and cultural facilities we have and the infrastructure, accommodation and other excellent points in favour of Limerick as a city with the potential to host such an amazing event.

It is testament to the considerable work that has been put into the bid already that Limerick managed to be short-listed from such a list of illustrious cities to the final three with London and Paris. A delegation from the Federation of Gay Games will visit Ireland next week between 3 and 8 July. The organisers believe it is crucial at this stage to get the strongest possible political endorsement in order to push the bid over the line. I am aware the Minister of State provided a letter of support, as I did, at the initial bid stage. That is fantastic and the organisers are grateful for his support. They also asked me to acknowledge the support they have had to date from Fáilte Ireland. David Cameron has given a strong personal endorsement to the London bid and has made it clear that the British Government as a whole at the highest possible level would love to see the Gay Games in London. That is why the organisers feel that it would be crucial to have the personal endorsement of the Taoiseach to send the message that this is a political priority for this country, that we see the significance and opportunity involved if the organisers picked Ireland against such tough competition.

I accept the Minister of State has provided an initial letter of support but I urge him to up the ante as the final visit will take place next week and to ask the Taoiseach for his personal endorsement and for the Government to stress the importance of the bid in the coming week as openly and publicly as possible. I urge him also to ensure that a Minister would meet the selection committee during its visit. It is crucial a Minister meets them at the airport or at some point during the four days and says, "Welcome to Ireland. We appreciate that we have reached the final three and the Government would love it if Ireland was picked and would support the bid with the necessary resources". We could then showcase Limerick during the games, making the most of these games.

Minister of State at the Department of Transport, Tourism and Sport (Deputy Michael Ring): I am pleased to have an opportunity to address the Seanad in regard to the bid to host the 2018 Gay Games in Limerick, and I thank Senator Power for raising the matter.

The Gay Games is a major event, with over 10,000 participants and their families expected to travel to the host city. Limerick is very well placed to provide a superb backdrop to what would be the tenth Gay Games in 2018. The city can boast some of the finest sporting facilities in Ireland and a rich heritage and history for all visitors to enjoy. It is clear that others agree, as Limerick has been short-listed as one of three remaining cities to host the games.

Fáilte Ireland's events tourism programme is a key driver of high yield, high value international visitors to the country, a fact recognised in the programme for Government. It is a central component in increasing visitor numbers, as well as promoting the country as a world-class tourism destination, through the international publicity and exposure for Ireland. The programme is made up of three components: corporate events, cultural events, and sports events. To date this year, Fáilte Ireland is supporting 147 conference applications for bids and marketing support for committed conferences. These conferences represent 80,000 international delegates and have a potential estimated business value of €107 million.

Festivals and events are also an important part of the event-based tourism portfolio. They are an integral part of what Ireland offers as a destination while, at the same time, affording an opportunity for increased overseas visitors and revenue. This year Fáilte Ireland will fund over

198 festivals across the country through the festivals and participative events initiative.

The third aspect of event-based tourism, sports, gives us an opportunity to show that a small country can host major sporting events, whether it is the Tall Ships Race in Waterford and Dublin, the Ryder Cup or Solheim Cup in golf, or the co-hosting with Northern Ireland of the Giro D'ltalia bicycle race in 2014. Ireland has shown that it can host these events in an efficient and capable manner and provide a great experience for spectators and participants alike.

In addition to generating direct overseas visitors, hosting significant events allows us to provide a great showcase for Ireland as a country. Many thousands around the world watch major sports events on television and this presents a great opportunity to show a positive image of Ireland. We want people to choose Ireland as a holiday destination and the exposure that key sports events give us helps us to put Ireland on many thousands of travel itineraries for this year and beyond.

Looking beyond this year, the Giro D'ltalia bicycle race in 2014 is the next major international sporting event that we will host on the island of Ireland, with the event being jointly supported by the Northern Ireland Executive and the Irish Government. The visit of the Giro D'ltalia will commence with two stages in Northern Ireland, with the final day starting in Armagh and finishing in Dublin. I wish to pay tribute to the efforts of the Northern Ireland Executive, in particular the Minister for the Enterprise, Trade and Investment, for their determination to secure the Giro D'ltalia 2014, and for the support being provided to the event. I am hopeful that this momentum in securing major events can be sustained in the coming years.

With regard to the bid to host the 2018 Gay Games in Limerick, I was delighted to provide a letter of support endorsing the bid and assuring the organisers of my full support through Fáilte Ireland. Fáilte Ireland, through the Shannon Region Conference and Sports Bureau, has been assisting the bid organiser, Limerick Pride, in its preparation of the bid. This support has included direct financial assistance, as well as working with the local business community in Limerick to raise finance towards submitting the bid.

Limerick has been short-listed along with London and Paris, seeing off competition from Florida and Amsterdam. Tremendous credit for this achievement is due to Limerick Pride and the Limerick 2018 committee. Local business, tourism and sporting interests along with state agencies have been supportive of the bid and this represents a great example of a community coming together to achieve a common purpose.

While London and Paris represent significant competition for Limerick, I wish the organisers the very best of luck and I can assure them of continuing assistance from the State tourism agencies and the Department as the bid process enters the final stages. I will give the Gay Games bid whatever support I can and I am glad to hear the issue will be raised with the Taoiseach next week. If the British Government supports it, we also support it. We love to see major events coming into Ireland because not only does it bring revenue, it shows we can host events. That is why we are helping the IRFU to bring the rugby world cup to Ireland in 2024. It is important we secure those events because we can deliver in terms of spectators and organisation. I hope we can secure this major event for 2018.

Senator Averil Power: I appreciate the Minister of State's support and I recognise that the Department and Fáilte Ireland have been assisting. I would like to impress on the Minister of State the need to ensure personal endorsement at Government level while the selectors are here.

I would ask the Minister of State or the Minister for Transport, Tourism and Sport to meet them during that period and to use their charms to impress on them the fact this is important to the entire Government, it is not just the Department or agencies. In the same way David Cameron is throwing his weight behind it, we must do the same with the Taoiseach and Ministers. It is crucial in making the difference between being in the top three and being selected.

Deputy Michael Ring: I gave an endorsement and the Minister has received an invitation. If that invitation comes to me I will consider it. If they let me know, I will make every effort to attend and support them. I am the Minister of State with responsibility for sport.

Fishing Industry Development

Senator David Cullinane: I raise this matter to elicit information from the Minister of State on the fishing sector in County Waterford and make a case for securing Government support for the sector. Fishing is an important sector for coastal communities in the south east. The most recent Forfás report on the economy of the region, which was published in the wake of job losses at TalkTalk, described agriculture and fishing as two strong sectors in the south east. While it is correct that fishing is very important to the region, it is also the case that restrictions on fishing for certain species on the Waterford Estuary, specifically salmon, bass and eels, have created hardship for fishermen. Some of the decisions to restrict fishing of certain species that have been traditionally caught in the south east were taken for conservation reasons. I support such decisions because I am in favour of a sustainable, financially viable, eco-friendly fishing sector. For these reasons, I would not under any circumstances support fishing which could have an impact on stocks.

A number of studies on the eel sector resulted in the imposition of a ban on eel fishing in 2009. The Department of Communications, Energy and Natural Resources carried out a further evaluation in 2012 which reaffirmed the view that eel stocks were low and recommended that the eel fishery remain closed for the foreseeable future. As the Minister of State will be aware, there is no bass quota this year. That foreign fishermen do not face any similar restriction has caused considerable resentment among Irish fishermen, including in the south east. Foreign vessels may fish for bass in Irish waters, yet bass fishing is banned in the Waterford Estuary and off the south-east coast.

I ask the Minister of State to outline the position regarding fishing in the south east. What research has been done on the various species of fish in the region? Is consideration being given to easing current restrictions in some areas, specifically for bass? Where this is not possible, for example, in eel fishing, what income supports have been provided to fisherman? I am sure the Minister of State will agree that it is not good that fishermen are being forced to go further out to sea, into dangerous waters and conditions, as they seek to make a living because their traditional fishing rights have been removed. Not only were their rights taken from them but they were not given adequate compensation. For example, no social, economic, employment or financial supports were provided either to the fishermen, their families or their communities.

I know many fishermen whose families have fished off the south coast for generations. They almost regard themselves as an indigenous people, yet their rights were taken from them, sometimes for good and sometimes for bad reasons. Many of them left school at 14 or 15 years of age because they loved fishing and the sea. We have abandoned entire fishing and coastal communities. I put it to the Minister of State that what we need is a financially viable

and sustainable fishing sector in the south east. We need a plan and we need to support our coastal communities. We must ensure that where restrictions are put in place for good reasons, adequate supports and compensation are given to fishermen. Where there are possibilities for increasing the catch, and Bass would be an example here, these should be explored. Obviously, that must happen in the context of the reform of the Common Fisheries Policy. I look forward to the Minister of State's response.

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy John Perry): First, let me convey the apologies of the Minister for Agriculture, Food and the Marine, Deputy Simon Coveney, who cannot be here this evening to take this debate as he is involved in CAP negotiations in Luxembourg.

I am conscious, as we speak today about the fishing sector in Waterford and the south east, that this has been a particularly difficult few weeks for the fishing community of that region. The shock of the recent tragedy was felt not just in the south east itself but throughout the country. I know that all of us here today offer our sincere sympathy to the families and loved ones of those involved.

Recent years have seen improvements in some of the key stocks subject to quotas exploited by fishermen in the south east. Of particular interest to fishermen in the Waterford and south east region is the positive news regarding increased stock levels for Celtic Sea herring. This was brought about by the close co-operation between local fishermen, processors and others under the umbrella of the Celtic Sea Herring Management Advisory Committee. This stock is now in a good state and provides an excellent example of the benefits to be reaped from long-term management plans for fisheries, utilising best scientific advice. The management plan has led to the stock recovering from the previous downward trend and a healthy sustainable fishery for the future.

In the wider context, as the Senator will be aware, the Minister for Agriculture, Food and the Marine recently led discussions as part of Ireland's Presidency of the EU which concluded in an agreement to significantly reform the EU's Common Fisheries Policy, CFP. I congratulate Deputy Coveney on this outstanding achievement. The reforms agreed place the concept of long-term sustainability at the core of future fisheries management policy and will, in time, lead to increased fish stocks in Irish waters, providing a more sustainable living for all our fishermen. The new CFP model of fisheries management will see an end to discards and introduce a fisheries management system based on the principle of maximum sustainable yield, MSY. The increases in Celtic Sea herring, mentioned already, provide an excellent example of why we need to ensure that these types of fisheries management arrangements become the norm so that we can ensure a viable living for our fishing communities in the future.

A previous Government, in response to a recommendation of the independent salmon group, made a decision to close the Waterford Estuary as a salmon fishery in 2006 due to serious concern at declining stock levels. The Salmon Hardship Scheme, a fund of €25 million, was subsequently introduced to address the hardship likely to be experienced by commercial salmon fishermen affected by the Government decision. A community support scheme was also put in place. This initiative focused primarily on communities where commercial salmon fishing was a well-established activity and where its withdrawal demonstrably impacted on the economic and social fabric of the area. Salmon stocks in Ireland are managed on an individual river basis because each river contains a genetically distinct stock.

Responsibility for the wild salmon stocks rests totally with the Department of Communications, Energy and Natural Resources. The Department of Agriculture Food and the Marine has no role in the management of the salmon stock. I am advised by the Department of Communications, Energy and Natural Resources that Waterford Estuary is closed to commercial fishing as the estuary would contain migrating fish from each of the three tributary rivers, namely the Suir, Nore and Barrow. It also advises that the river Barrow stock is below its scientifically established conservation limit. Thus, it is only when all three rivers are above their individual conservation limits and generating a sufficient surplus to safeguard stocks that the Department of Communications, Energy and Natural Resources considers that a commercial fishery in the Estuary area can be responsibly contemplated. Annual assessments of each river, including the Barrow, are carried out by the independent standing scientific committee for salmon which advises the Department of Communications, Energy and Natural Resources on management measures.

Commercial fishing by Irish vessels of sea bass has been prohibited since the early 1990s because of serious concerns about the state of this slow-growing stock around Ireland's coast. The European Commission has not yet advised if it intends to pursue a total allowable catch, TAC, and quota regime for sea bass for 2014. The Minister will continue to press Ireland's case at every opportunity at EU level, including at EU Fisheries Council meetings where the issue is discussed and will consider management arrangements for Sea Bass when, and if, the council decides on TACs and quotas for the relevant stocks.

Specific responsibility for eel management rests with the Minister for Communications Energy and Natural Resources. The European eel is now officially classified as an endangered species following significant decreases in stock levels in recent years. Inland Fisheries Ireland, IFI, advises that continued research is required to determine population levels in Ireland and the results of this research will inform any future decisions on the question of the reopening of this fishery. The research priority now is to continue the eel tagging studies undertaken in 2012 into 2013 in areas such as the Waterford Estuary. The IFI has indicated that if further eel survey work is required after the tagging programme, it will again consider a role for fishermen in that context. The Department of Communications, Energy and Natural Resources has advised that the situation will be reviewed again by 2015 as required by the EU Regulation, based on monitoring during the three year review period and on the latest available advice. An essential part of Ireland's eel management plan is that the eel fishery remains closed during the review period to protect this iconic species which is now on the UN's red list of endangered species.

Looking towards future investment in the south and east areas, axis 4 of the European Fisheries Fund, EFF, is an EU initiative for the sustainable development and improvement of the quality of life in fisheries areas. The Irish Government has chosen small fishery communities as the target for its programme and Bord lascaigh Mhara has been tasked with supporting its implementation. In this regard, BIM has identified six coastal regions around which to develop strategies for small fishery communities. In each of these communities a local fishery action group is established to help both develop a fishing community strategy and make decisions as to how the funds may to be spent. Public funds of approximately €1.5 million will be available for the programme period remaining, reflecting the start-up status of the local fishery action groups which were established in 2012. This will fund activities by the groups to foster economic development and diversification in traditional fishing communities around the coast. Allocation of the funding will be demand-led, but an indicative amount of around €250,000 will be available to each group up to the end of 2015. The Fishery Local Action Group, FLAG,

south east delivers on the Axis 4 for counties Wicklow, Wexford and Waterford, including the Waterford Estuary. The south east FLAG is a multi-sectoral partnership of 15 people. Delivery and administrative support of the EFF axis 4 programme by the south east FLAG is facilitated by Bord lascaigh Mhara. Following months of preparation, the south east FLAG, along with BIM, will launch the group's strategy for the economic development of the fishery communities in the south east, including the Waterford Estuary. This event will take place on Friday, 28 June in Dunmore East.

Over the course of the implementation period from 2013 to 2015 the south east FLAG will implement the strategy, including providing grant support to projects that achieve the strategic goals and objectives set out. In addition, BIM continues to support fishermen and the processing sector through a suite of measures contained in the EU co-funded operational programme.

It is important that Ireland's fisheries continue to be responsibly managed, with the principles of conservation and sustainability being central elements. This will enable stock levels to rise and ultimately provide a more sustainable living for fishermen. The success of Celtic Sea herring management shows us how effectively stock management measures can work to deliver real tangible benefits to coastal communities. The new CFP reforms will, in time, usher in a new era ofmore sustainable fishing with the views of fishermen being central to the process. The closure of salmon fisheries was necessitated by declining stocks but this situation is kept under review and is designed to ensure that stock levels recover in future years. Developments relating to other fisheries such as sea bass and eels at EU level will be monitored and discussed at EU Council as they arise, with Irish interests vigorously represented at all times by the Minister for Agriculture, Food and the Marine. The FLAG schemes being put in place by BIM will assist small local coastal communities, in particular, with local communities directly involved in the process.

Senator David Cullinane: I thank the Minister of State for the sympathy he conveyed to the Bulger family which I am sure will be very much appreciated. I am sure he will also agree that fishing families across the south east and the island of Ireland need more than sympathy, rather they need support. We do not have a joined-up approach which delivers sustainable and financially viable fishing opportunities for those fishermen who have lost out because of restrictions which have been put in place for genuine reasons. They have not been properly compensated.

Employment supports have not been put in place. While I welcome the FLAG initiative, the financial contribution is very small. It does not deal with the holistic approach we need to take to examine the sustainability of the fishing sector in the south east. We need a strategy that joins all of that up, but we do not have one. In the absence of that, we are failing coastal communities and fishermen.

Deputy John Perry: I will convey the concerns of the Senator to the Minister, who I have no doubt will deal with them directly.

Schools Building Projects

Senator Martin Conway: I welcome the Minister of State to the House. He dealt with an Adjournment matter on this issue before on behalf of the Minister for Education and Skills.

There are three post-primary schools in Ennistymon, County Clare, providing educational support to approximately 600 students in buildings which are outdated, unsuitable and located in different parts of the town. In order to provide students with the suite of subjects which would be expected in a normal educational environment, students have to commute by foot from one school to another, irrespective of the inclement weather in winter or summer or the time that is wasted in terms of lost academic hours. Of even more concern is the fact that there are serious health and safety issues with children crossing roads to commute between two or three different parts of the town and schools which are located at opposite ends of the town. There are also other health and safety issues. There is always a threat to young people who travel on foot from one school to another. The situation is unacceptable.

Previous Governments promised a new community school would be built which would provide the necessary equipment, such as computers and science facilities, and that students under the one roof would have the same choice of subjects, comfort and educational supports available in many other towns with community schools. Too often an excuse was given that there was an issue with the transfer of land from the religious orders to facilitate the construction of a community school. My understanding from the Sisters of Mercy is that there are no further hurdles preventing the school moving to the design and build phase. I understand all lands which were required to be transferred to the State have been transferred. The matter is now on the desk of the Minister for Education and Skills and the school building unit in Tullamore in terms of moving the project forward.

It is appalling that in this day and age, and given the fact that this school has been promised for over 30 years, teachers, who are doing their very best to provide the best possible support and teaching service they can to students, are still operating out of cramped, overcrowded buildings which are not fit for purpose and students have to commute between one school and another to obtain a choice of subjects, which may not even be an optimum choice. The students in Ennistymon are being discriminated against compared with other towns, not just in County Clare but throughout the country. For the life of me I cannot understand why the project is not proceeding as a matter of urgency. I will continue to raise this matter on the floor of the Seanad until I get a satisfactory response. A working group comprising trustees, teachers and public representatives is now trying to move the process forward. It held a meeting two or three weeks ago and it seems as though the project has stalled. That is unacceptable. It is a pity the Minister for Education and Skills is not here to reply but I look forward to the reply from the Minister of State.

Deputy John Perry: I apologise on behalf of the Minister, Deputy Quinn, who regrets very much that it cannot be here. I thank the Senator for raising the matter as it provides me with the opportunity to clarify the current position in regard to the application for major capital funding for a proposed community school in Ennistymon.

As the Senator will be aware, the three post-primary schools in Ennistymon have agreed to amalgamate on delivery of a new school building. This building project will require a suitable site for it to be progressed. As the Senator will also be aware, a site has been identified for this purpose. The religious congregation which owns the property concerned has offered to transfer the site to the State as part of its offer of a number of properties made in response to the publication of the report of the Commission to Inquire into Child Abuse, the Ryan report.

In that regard, the Oireachtas enacted the Residential Institutions Statutory Fund Act in 2012 and section 42 of this Act, which sets out provisions relating to the charitable status of

contributions by congregations, was commenced in March 2013. Section 42 empowers the Commissioners for Charitable Donations and Bequests for Ireland to authorise property transfers and sales related to the making of contributions by congregations to the residential institutions statutory fund or as contributions towards the cost of the response to residential abuse. The recent commencement of section 42 will facilitate the transfer of properties to the Minister for Education and Skills, such as in the case of Ennistymon.

The Government has agreed to accept the property in question and my Department, through the Office of the Chief State Solicitor, is currently working on finalising the transfer of the property. When it has been completed, my Department will be in a position to consider further how this project could be progressed within the context of the available funding. I thank the Senator for giving me the opportunity to outline the current position regarding the request for funding towards a building project for a proposed community school in Ennistymon.

Senator Martin Conway: My understanding is that all land transfers have taken place. I would like the Minister to establish a clear timeline as to when we can expect the Department to be in a position to move to planning, design and tender. This matter has been kicked down the road by previous Governments. I am sure the issues with the Office of the Chief State Solicitor could have been resolved a lot sooner. We are where we are. The next generation of young people in north Clare who will be educated in Ennistymon deserve a much better service from the Government and Department than they are getting. I want a clear timeline, in terms of months and years, which is realistic and not one which will inevitably be broken, as to when we can expect this to move to the next phase, namely, planning, design and tender.

Deputy John Perry: I am not able to answer that question directly. As the Minister stated, section 42 will facilitate the transfer of the properties, which is very important, and the Government has agreed to accept the property. Section 42 only commenced in March. The Minister said he will be in a position to consider further how the project could be progressed. I suggest the community group dealing with the matter arrange to meet the Minister directly to see how best the matter can be progressed.

Senator Martin Conway: The Minister does not appear to be meeting any group.

The Seanad adjourned at 9.50 p.m. until 10.30 a.m. on Thursday, 27 June 2013.