Vol. 226
No. 3

Wednesday,
24 September 2013

DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

SEANAD ÉIREANN

Dé Máirt, 24 Meán Fómhair 2013

Tuesday, 24 September 2013

Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

Machnamh agus Paidir.
Reflection and Prayer.

Business of Seanad

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

The need for the Minister for Justice and Equality to explain why an upfront fee of €500 is payable for a protective certificate to commence a personal insolvency arrangement.

I regard the matter raised by the Senator as suitable for discussion on the Adjournment and it will be taken at the conclusion of business.

Order of Business

Senator Maurice Cummins: The Order of Business is No. 1, Residential Tenancies (Amendment) (No. 2) Bill 2012 - Second Stage, to be taken at the conclusion of the Order of Business and adjourned not later than 5.45 p.m., with the contributions of group spokespersons not to exceed ten minutes and those of all other Senators not to exceed six minutes; No. 2, statements on Directive 2011/24/EU of the European Parliament and the Council of 9 March 2011 on the application of patients' rights in cross-border health care, to be taken at 5.45 p.m. and conclude not later than 7 p.m., with the contributions of all Senators not to exceed six minutes and the Minister to be called on to reply to the debate not later than 6.55 p.m.; and No 3, statements on the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013 (Commencement) Order 2013, to be taken at 7 p.m. and conclude not later than 8.30 p.m., with the contributions of group spokespersons not to exceed eight minutes and those of all other Senators not to exceed five minutes and the Minister to be called on to reply not later than 8.25 p.m. I know many Senators wish to speak on the Residential Tenancies (Amendment) (No. 2) Bill 2013. We have had requests from Members for debates on the issues of housing and residential tenancies and I have arranged for this debate to be resumed next Tuesday in the event that those who wish to speak do not have an opportunity to do so today. I am sure we will have a very

comprehensive debate on the Bill. I have arranged the debate on No. 3 following requests on the Order of Business last week for such a debate.

Before concluding, I propose that we have a vote of sympathy to the wife and family of former Senator John Blennerhassett, an excellent Member of the House from 1973 to 1983. I extend my condolences to his family at this time.

Senator Marc MacSharry: Will the Leader invite the Minister for Health to come to the House to deal with the issue of discretionary medical cards? All Members of this and the other House, local authority members and GPs throughout the State are aware of the extent to which the provision of such cards has been cut in recent years. We often hear the Minister boast that more medical cards are being given out than ever before, but the reality is different. I cannot understand the disrespectful and dismissive manner in which the authorities are dealing with patients with serious medical conditions such as motor neurone disease, cancer, multiple sclerosis and other seriously debilitating illnesses. Health authorities traditionally had discretion to issue medical cards to such persons where their income was somewhat over the threshold to allow them to meet the increasing cost of tests, medications and so on as they underwent treatment.

This issue should be debated in the House. As a result of the cuts, there are only some 59,000 people now in receipt of discretionary medical cards compared with approximately 81,000 in 2010. Yesterday in Sligo a man in his 40s came to me in tears because his wife had been informed by letter that their discretionary medical card was being withdrawn. The Minister has confirmed in the other House that cancer patients will only receive medical cards under the discretionary arrangement if their condition is terminal. As I am sure Senator John Crown will agree, it is often very difficult to confirm whether a particular cancer diagnosis is terminal. To deny authorities the ability to give medical cards on a discretionary basis for seriously debilitating diseases means that large numbers of people are falling between two stools. I am not saying a review was not warranted in the case of some of the 20,000 or so who have already lost their medical cards, but many are now caught in a terrible situation. The Minister's office is inundated with parliamentary questions on this matter from Members of the other House, as well as representations from Members of this House and others. It is a very serious issue which must be debated in this Chamber.

Will the Leader allow a debate on funding for the Road Safety Authority in the context of the criticisms by its chairman, Mr. Gay Byrne, and his call for increased Garda resources? The response from the Minister for Justice and Equality, Deputy Alan Shatter, to Mr. Byrne's criticisms, as is so often the case with the Government, was to play the man rather than the ball. I call for a debate on these developments, including the Minister's remarkable response in tackling Mr. Byrne on a personal level rather than dealing with the issue, namely, a lack of appropriate resources for the organisation in question to do its work in the best possible way.

Senator Ivana Bacik: I will start with a measure of good news, certainly for Dublin Senators. It was a wonderful result in the all-Ireland final on Sunday. I was among the thousands of people on Merrion Square last night to watch the team come home with the Sam Maguire cup. On a more serious note, it was the culmination of a particularly good weekend in terms of organising communal events that brought large crowds into the city centre. Culture Night took place on Friday night, although it was not confined to Dublin, and was a huge success in urban centres across Ireland in bringing people into city centres, regenerating urban spaces, bringing in families and children and giving a real boost to city and town centre economies. We could

do with more of these initiatives. I commend Dublin City Council for supporting similar initiatives and, in particular, the initiative that has just finished at Granby Park, a pop-up park off Dominick Street. It was initiated by a collective of architects and artists with the support of Dublin City Council on a piece of wasteland in an area that is to be developed. It showed the kind of initiative that could be taken and brought lots of people into the city centre. It was a very positive development. Many colleagues will visit the National Ploughing Championships this week which bring a similar regeneration to rural areas. It is good to see hordes of people flocking to Stradbally.

I ask the Leader to continue the initiative we have taken in debating European directives. I am glad to see that we will debate an EU directive on the application of patient rights in cross-border health care. We had an excellent debate in the House on Thursday on the new directive dealing with measures to combat child sex abuse and, in particular, sex abuse material online on the Internet and pornography. We had a strong debate on it and Senator Jillian van Turnhout and I, and a range of colleagues, participated in it. This is the sort of debate that can bring out important issues and help the Government in deciding how it should go about implementing directives. I am glad to see it and would like to see us inviting more MEPs. We have had a schedule of invitations to MEPs, but some have not yet been here. We might usefully debate with those who have not yet appeared the future direction of European Union economic policy, particularly in th light of the German election result and the possible shaping of a grand coalition between Angela Merkel's Christian Democrats and the Sozialdemokratische Partei Deutschlands, SPD, which could see the social democrats take the finance ministry. This would be likely to present a rather different set of economic policies which would help to determine EU economic policy. It is a good time to have more MEPs visit the Chamber.

I express sympathy, as I am sure most colleagues do, about the stabbings that took place in Dublin over the weekend, some of which were fatal.

Senator Jillian van Turnhout: Last Thursday, in the light of the introduction of a ban by the French Senate, I expressed my opposition to the child beauty pageant due to take place in Dublin. I am delighted to say the hotel where it was planned to be held cancelled the booking and that no other hotel in Ireland would take the event. Eventually, it was a rushed event in a bar in County Monaghan. I thank all of the parents who got behind my call and the hotels that stood firm, for which I thank them, as I realise they are commercial ventures. I also thank the social media which showed their positive use in getting behind the call, as well as my colleagues who supported the call. I have been inundated by messages from across Ireland and it seems to have hit a touchstone with the people. The organisers of the child beauty pageants have said they will be back next year and organise events regionally. This is about the early sexualisation of children, to which I am very much opposed. I have taken the initiative to contact the French Senate to ask for details of its ban and how it put it in place. I ask the Leader and my colleagues in the House to join me in opposing this initiative. This is above party politics and we can work together on the issue. I will shortly bring forward an initiative, but I hope it will be a joint initiative on behalf of Members of the House.

Senator Sean D. Barrett: I welcome the election of the first woman bishop in either the Church of Ireland or the Anglican Communion in the United Kingdom. Bishop Patricia Storey came from Belfast to Trinity College, Dublin, and then went to Derry. She will be coming back to Meath and Kildare. Her appointment is a significant advancement for women and is much to be welcomed. I note that the other House is today discussing the work and life of Seamus Heaney. I will place in the Oireachtas Library correspondence which I have and which deals with

how Seamus Heaney felt about the loss of our colleague, Trevor West, and which also contains good wishes towards this House. Seamus Heaney was named in a list being considered by the Leader and me for an invitation to address the House. He was very interested in the work of this House and I wish to acknowledge him in that way.

I note the shyness of An Taoiseach in that he does not wish to debate the future of this House with Deputy Micheál Martin because it might cause embarrassment. I think he means it might embarrass Deputy Martin but rather it might embarrass the Taoiseach. There is no need for embarrassment. The constituency which I represent has a debating tradition going back well over 200 years and we will afford protection for a maiden speaker like the Taoiseach on the subject of abolishing the Seanad. We will afford him full protection. Sometimes people waive those rights and they are applauded by the attendance. There is no need for the Taoiseach to be the slightest bit embarrassed. It could give him the opportunity to get away from his accident-prone spin doctors who do not know either the functions of this House or the cost.

On the issue of the functions, I refer him to a statement by our Leader in the debate on 26 June 2013 when he stated that blocking legislation is not what the Seanad is about; improving and enhancing legislation is the key contribution we make to the legislative process and the current score is about 550 amendments made by this Seanad. We have sat 110 times for 698 hours. We play a major role. We invited the Orange Order to the House. The House has a citizens liaison group which the Dáil intends to copy, belatedly. All the MEPs have addressed the House as has a Nobel prize-winner in economics and a United Nations speaker on disasters. This Seanad, this Leader and this Cathaoirleach have been effecting change. Only a Member who attends one hour a year would be unaware of that. The one hour a year equates to one minute for each of the 60 Senators whom the Taoiseach wishes to sack.

I welcome the announcement from the Minister for Transport, Tourism and Sport and the National Transport Authority that the railway line connecting Heuston and Connolly stations is to be reopened. We suggested this in the House and the Minister, Deputy Varadkar, took the suggestion on board. I think CIE did not want to reopen the line. It took the Minister on a tour by way of Manulla Junction or some place and said it was too long. However, this view has been overruled. We have a perfect piece of infrastructure which has concreted sleepers installed as well as an electronic signalling system. The Minister and the National Transport Authority will reopen services to reunite the railway system. This all happened here in this House and it is another credit to the way in which this House serves the people, particularly those in west Dublin, where the Socialist Party has many posters saying the Seanad is useless. This railway connection will be a practical benefit to public transport in that area and this should be noted by the people concerned. We should thank the Minister, Deputy Varadkar, for taking notice of what we do say in the Seanad and ignoring the advice of CIE on the matter.

Senator Michael Mullins: I very much welcome the breaking news from Galway of the safe recovery of Mr. Frank Helly, a gentleman who was very involved in sporting and community activities and who had gone missing from a nursing home over the weekend. He was found safe and well. He is very well regarded throughout the county of Galway. Thank God he has been reunited with his family.

I wish every success to two wonderful ladies who spearhead and organise and run the National Ploughing Championships. Some 100,000 people are expected to attend the event this year. The farming community has had a very successful summer and it is hoped the communities in the area will see significant economic benefit from that fine event. It is to be hoped that

the weather will hold and that the event will be bigger and better than ever.

I welcome the publication of the crime statistics for the second quarter of the year. I ask the Leader to organise over the next few weeks a debate involving the Minister for Justice and Equality so we can tease out some of these figures. It is to be welcomed that in 12 from 14 categories there has been a fall in crime figures. There has been an 8.9% drop in burglaries, amounting to a decrease of over 2,500 incidents, and that is a very significant figure. There has also been a drop in the rate of weapons and explosive offences, as well as a big decrease in drugs activity. We cannot become complacent, however, and I share the concern expressed by Senator MacSharry with regard to the increase in road traffic accidents and people driving under the influence of alcohol or other drugs. We must ensure that resources continue in place, with Garda vehicles being of a sufficient standard and quality to ensure the level of community policing and patrolling can be achieved.

I compliment and applaud the Neighbourhood Watch and Community Alert schemes which dovetail so well with Garda operations, and they are having a significant impact in reducing crime levels. Those schemes are providing dividends. Nonetheless, I would like the Minister to come to the Chamber so we can get a reassurance that new procedures and processes are working in all areas of the country. We heard much scaremongering about the closure of Garda stations but that has been misplaced and the additional patrols that have replaced them in the community have worked well. The resources should be in place for the coming year to ensure we can further enhance the schemes that appear to be working well, according to published crime figures.

Senator Terry Leyden: I ask the Leader to arrange for the Tánaiste and Minister for Foreign Affairs and Trade to come to the House in the near future to discuss crucial issues, including the suicide bombing that has killed more than 78 people at the All Saints church in Peshawar in Pakistan. Christians are under attack all over the world, and there is an ongoing siege in a shopping centre in Nairobi in Kenya, which is really an attack on the Christian community. In Syria, Christians are also under severe threat from rebels, strangely enough. There is grave concern around the world with regard to these suicide attacks and other acts by fanatical Muslims.

The European Union and its High Representative for Foreign Affairs and Security Policy, Catherine Ashton, should be more active, as I have seen no condemnation of these acts. The danger is that there is an Irish community in Pakistan and everybody is under threat when two suicide bombers go into a church to destroy so many people. The toll could rise to 200 people before we are finished, so it is a serious issue. There is an ongoing siege in Nairobi, where there are many Irish people, and there are Irish priests working very hard in that country. The Minister should come to the House to outline the Government's view and the action that could be taken by the European Union to protect citizens and Christians throughout the world.

Senator Mary Moran: I commend Senator van Turnhout and the hotel in question on the matter of the child beauty pageant last week. Children are a most precious commodity and I thank Senator van Turnhout for raising the issue in the Seanad last week. It once again demonstrated the value of our Upper House-----

Senator David Norris: Hear, hear.

Senator Mary Moran: -----and how important it is that it should be retained.

I welcome yesterday's launch by the Minister for Education and Skills, Deputy Quinn,

of the public consultation on promoting inclusiveness in primary schools. This consultation process is part of the Minister's action plan in response to the report of the advisory group to the forum on patronage and pluralism, and there is an information leaflet for parents. This is a wonderful opportunity for parents and guardians, as well as everybody involved in the education of young people, to give views and opinions on how they want children to be educated. In recent years many schools have welcomed children of many different cultures, nationalities and religious views, and this is a wonderful chance for parents to share those views. I urge all parents to become involved in the consultation process before the deadline for receipt of submissions on 22 October.

3 o'clock

Let me raise a topic I raise at every opportunity in this House, namely, the question of the Walsh report on symphysiotomy. Could the Minister for Health, Deputy Reilly, be invited to this House to give us a direct answer as to when it will be published?

Senator David Norris: I join my colleague in welcoming the first woman bishop in the church, either here or on the neighbouring island. I welcome also the humane statements of Pope Francis, which show there is compassion and dialogue. There is none in the Government. There is no dialogue whatever and no attempt to meet the people. Every attempt is made to stamp out discussion. The Government is refusing to allow the matter of Seanad abolition near the Constitutional Convention. It is a question of, "Take it or leave it." The people have taken it in that they have taken the tax increases and the mess the Fianna Fáil Government walked us into with the support of the Taoiseach, Deputy Enda Kenny. The current Government is as complicit as anybody else. The Taoiseach voted for every measure that ruined this country. No wonder he is a little bit shy. He refused to debate with me over the past three months - I suppose I am nobody of any great consequence but I am the father of the House – and he refused to debate with Deputy Micheál Martin, the Leader of the Opposition. Tonight he is having a little discussion out in Killiney Castle with Mr. Colm McCarthy, a Government appointee from an bord snip who agrees with him. They should call it after Micheál MacLiammóir: "I Must be Talking to my Friends". It is a question of the Taoiseach not discussing anything and not answering or asking any questions, such as the question as to how many times the Dáil defeated Government legislation.

Senator Thomas Byrne: Never.

Senator David Norris: However, the Government uses the argument against this House. How much taxpayers' money is being squandered? We know Fine Gael gets €5 million in taxpayers' money and that party funds are used in its campaign. Those concerned are paying out of party funds. It is an unequal fight as people on this side have very few resources. They have their hands tied behind their backs and the Government is using every resource of government, civil servant and quango it possibly can to do us in.

Look at the lies the Government tells on its posters - they are wonderful. Could we ever have a little bit of truth? The posters state "Fewer politicians" but I say "No". There should be more honesty, integrity and decency in politics. Let us take the Government's figure that the Seanad costs €20 million per year. Over the course of the remaining two and a half years, the Seanad will cost €50 million.

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

Senator David Norris: Yes. Will the Leader ask the Taoiseach to have a bit of courage, be a bit of a man, face up to the issue and come to this House to listen to the questions that we, his victims, want to ask him. I ask the Leader to write to the Taoiseach today. He will not talk to anybody else. He has a duty to talk to this Parliament. It is an evil thing to set one half of Parliament against another and to divide the nation when we are still facing such a crisis economically. If the people do not know, they should vote "No" and deal the Government a damn good kick where it is needed. It is payback time for all the suffering it has put us through. There are four people running this country: the Taoiseach, Deputy Kenny, the Minister for Finance, Deputy Noonan, the Minister for Public Expenditure and Reform, Deputy Howlin, and the Tánaiste, Deputy Gilmore.

An Cathaoirleach: The Senator is way over time.

Senator David Norris: If they get away with it, they can fire the President and the members of the Supreme Court.

An Cathaoirleach: The Senator is way over time.

Senator David Norris: It is payback time. Let the people rise up and show the Government we are not prepared for tyranny.

There are wonderful slogans, each one of which can be ridiculed, including "One Parliament, One People, One Vote". I know the rhythm of that as I remember it from the 1930s newsreels: *"Ein Volk, Ein Reich, Ein Führer"*.

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

Senator Paul Coghlan: Follow that.

I second and support fully the vote of sympathy proposed by the Leader of the House on the death of the late Senator John Blennerhassett of Tralee.

Senator Sean D. Barrett: Hear, hear.

Senator Paul Coghlan: He was from an outstanding Kerry family, the Blennerhassetts, and he was a long-time councillor. I knew him well, as did Senator Ned O'Sullivan and others. He was a true gentleman, a man who served his people well. He always listened, genuinely and politely. He served his church, vestry and, at diocesan level, synod. I extend my deepest sympathy to Veda and his family.

Culture Night has been mentioned and I support what has been said about it by Senator Ivana Bacik. It was wonderful night, not just in the capital city but also throughout the country. We had some wonderful events in Killarney. A true replica of the Annals of Innisfallen was put on display in the library. The annals are famous, written in the 11th century by monks who lived on the island on that lake of learning. There was also a wonderful event in the offices of the Department in Killarney. In the Malton Hotel there was a lovely talk on the great veteran of the Second World War, the late Monsignor Hugh O'Flaherty. I heard the Leader of the House speak and it is hard to follow him when he is in full flow, but I was described by him, amusingly, as a veteran of the House, although that is beside the point. The cultural event I enjoyed most was held in the Frank Lewis Gallery on Bridewell Lane in Killarney where I saw something I had not seen for years. I saw a magician perform. He was called Silvano and-----

An Cathaoirleach: Is the Senator calling for a debate on the issue?

Senator Paul Coghlan: I want to enlighten Senators.

(Interruptions).

Senator Paul Coghlan: The man mentioned literally makes things disappear.

Senator Ned O'Sullivan: Enda Kenny, perhaps.

(Interruptions).

Senator Paul Coghlan: I would like to bring him here because there are a few people on whom I would like him to perform in both Houses.

(Interruptions).

Senator Marc MacSharry: He would leave Houdini in the ha'penny place.

Senator Diarmuid Wilson: I join Senators Sean D. Barrett and David Norris in welcoming the appointment of the first female bishop of the Anglican Church and look forward to it being the start of many more appointments of women in many other churches, including the one to which I belong.

It is no surprise to me that the Taoiseach has refused to debate with the leader of my party. It is very difficult to defend lies and that is exactly what he would be defending. We all know -----

An Cathaoirleach: That is unparliamentary language.

Senator Diarmuid Wilson: I am sorry, but it is hard to defend the fact that the Taoiseach leads a party that is putting untruthful slogans on posters the length and breadth of the Twenty-six Counties in an attempt to link this House with saving money. It is a disgrace. It has been proved that the amount of money that it is alleged would be being saved is incorrect. The amount would be less than one quarter of the figure on the aforementioned posters. The Taoiseach has also said that with fewer politicians we would have a better democracy, but that is the same as saying that with fewer teachers we would have better schools or that with fewer doctors and nurses we would have better hospitals. What nonsense. In 1916 people fought for the freedom of this country. In 1937 they voted for a Constitution that included this House. I suggest the people in question were far better republicans than the Taoiseach, any member of his Government or any member of this House. This House is needed as one of the three pillars of the Oireachtas and should be maintained. It is a disgrace that the leader of the country is telling and promoting untruths

Senator David Norris: What would people like Kevin O'Higgins think?

Senator Diarmuid Wilson: The Taoiseach is forcing his colleagues in the Lower House to do the same, which is a disgrace.

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

Senator Diarmuid Wilson: I do. As Whip of the Fianna Fáil Party in the Seanad and a representative of that group, I was very disappointed by the very prejudicial article on the Seanad as a body which appeared in a national newspaper yesterday. It did not take account of the long-standing pairing arrangement in this House which facilitates colleagues in attending to parliamentary duties outside the Chamber. Neither did it take into account abstentions and people being absent for personal reasons.

Senator David Norris: Or due to sickness.

Senator Diarmuid Wilson: While that is unfortunate, it is no coincidence.

Senator David Norris: They did not compare it with the Dáil.

Senator Diarmuid Wilson: It is a pity they did not take into account the number of days people are in this House attending to the democratic duties for which they were elected to attend. On one occasion colleagues entered pairing arrangements due to parliamentary business and missed a day on which there were 12 votes. It appears they missed a substantial number of votes but in fact, they missed only one day. I would like to hear the Leader's comments on that.

Senator Lorraine Higgins: I call on the Minister for Finance to come to the House to debate the urgent need to retain the 9% VAT rate for the hospitality industry before any budget discussions on it. The restaurant and hospitality sector, particularly hotels, were particularly badly hurt during the economic downturn. This VAT rate was a very welcome shot in the arm to the industry. By reverting to the 13% rate we risk the decimation of all that good work. We are looking at immediate job losses.

Some 9,000 jobs were created as a result of the 9% VAT rate and there is a real risk they will be lost as a result of reverting to 13%. We would all agree that this will cost more in social welfare payments for those who are let go. There is also a threat to the potential 5,000 jobs that are to be created in the next 12 months. It is a shame that the advances made in reducing the numbers on the live register will be reversed as a result of proposals to reverse the VAT rate reduction back up to 13%. This Government has always been strong on advocating that it wants to get this country back to work, but this would be a very regressive step. That is why I call on the Minister for Finance to come here to discuss this at the earliest possible convenience.

Senator Mark Daly: I ask the Leader to organise a debate on the Irish overseas and the diaspora in light of a comment by the Minister of State at the Department of Finance, Deputy Brian Hayes, in today's *Irish Post*. He said the Irish overseas should not get a vote in the Dáil, if there is to be a reformed Dáil, as they have social media. As one of only four countries in Europe that does not give any votes to its citizens living overseas-----

Senator David Norris: University graduates overseas can vote in the Seanad elections.

Senator Mark Daly: -----it is extraordinary that the Government's idea of reform is to advise people, including the 50,900 who left in the last 12 months, that they have social media and do not need a vote.

In our policy documents we have advocated that the Irish overseas and the diaspora should have a vote and a voice in a reformed Dáil. There is a meeting of the Constitutional Convention this weekend dealing with the issue of giving a vote in presidential elections to the Irish

living outside the State, and rightly so. The Government is telling Irish citizens who have Irish passports and were born in this country, but who have left in the last number of years and live overseas, that they will never have a voice in Leinster House. If the forthcoming referendum is won by the Government, there will be no voice for them in Seanad Éireann. The Ministers and Taoiseach will talk at great length around 17 March about our diaspora and citizens overseas as an asset, but if they will not give a citizens of a republic, regardless of where they live, a voice in Parliament, they are not reforming politics and bringing about that democratic revolution that was promised when the Government came into power. We are being bluntly told that Irish citizens, as defined under our Constitution, will never get a vote in the Irish Parliament. Is this something the Minister is prepared to defend? I ask the Leader to organise a debate with the Minister concerned. I also ask him to comment on the matter.

Senator Catherine Noone: With minds starting to focus on the budget, I join Senator Lorraine Higgins in referring to the 9% VAT rate on tourism products. I welcomed this initiative when it was first introduced shortly after my election to the House. A number of businesses were not embracing the initiative by giving the money back to the consumer. The purpose of the reduction was to stimulate the industry and give value to consumers, including tourists in particular. The initiative has proved highly successful in stimulating business and employment in the tourism sector. Senator Lorraine Higgins referred to the estimate of 9,000 jobs. It is estimated in certain reports that 25,000 jobs have been created through this initiative. There has been extensive discussion on the 9% VAT rate which may be restored to 13.5% in the budget. The urge to increase it is understandable, given that it has cost the Exchequer €350 million per annum. However, the cost to the social welfare budget would be much higher. Other Senators have called for a general debate on the budget, but given the amount of lobbying done on this issue and the effect it will have on the industry, I suggest we hold a debate on this issue with the Minister for Finance if he has time in his diary in advance of the budget.

Senator Ned O'Sullivan: I join the Leader and my County Kerry colleague, Senator Paul Coghlan, in expressing my deepest sympathy to Veda and the rest of the Blennerhassett family on the death of John. He was a good friend of mine, even though we were politically apart. He offered great encouragement to young councillors and was forthcoming with advice. He was highly respected. He came from an historic family with political involvement in County Kerry dating back to Home Rule days. Members of the family were always strongly nationalist and even though they were of a different religious persuasion from the majority of those in the county, they were part of the fabric of society. John's death reminded me of the many great Senators County Kerry had produced over the years from all parties. I will start with my cousin, Kit Ahern, and mention Jackie Daly, a friend and colleague of Senator Paul Coghlan. Others include Jackie Brosnan and Joe O'Toole from the INTO. They all gave great service to County Kerry. When Kerry people go to the polls in the referendum, they will think of the service these Senators gave to their constituency, county and country. That is what will inform the voters of County Kerry and elsewhere around the country rather than the unfair and - I will not use an unparliamentary word - untruthful campaign being pursued by Fine Gael. Instead of apologising and whipping down his posters, the campaign director for Fine Gael, the Minister for Jobs, Enterprise and Innovation, is brazenly ignoring the statements of the chairperson of the Referendum Commission and the Houses of the Oireachtas Commission on his erroneous figure of €20 million. There is something seriously wrong with that attitude, but I do not think the people will fall for it.

I am concerned that the Government has made it clear that if the people, in their wisdom,

decide to vote "No," it will not reform the Seanad, nor will it allow us to do so. That is a threat to the people. Everybody agrees that the Seanad needs reform, but if the people do not go along with the Taoiseach's line, there will be no reform. Talk about throwing the rattle out of the pram.

I have made it my life's work never to comment on the media. The great Benjamin Disraeli once advised some of his colleagues who were upset by the media that they should never explain and never complain. It is a maxim by which I lived until recent reports were printed, mainly in the *Irish Independent*, about the referendum on the Seanad. My colleague, Senator Wilson, referred to the reports and some of them were appalling. One must ask what is the editorial situation in the *Irish Independent*. Why does it constantly bang out articles timed very much to push the electorate to a certain verdict in the referendum? Yesterday's article was a classic example. Somebody was working on it for long time and produced it ten days before the referendum, but it does not give the full clear picture. Not only is democracy under threat from politicians, but we are starting to come under threat from the big media moguls we have seen throughout the world. We also have them in Ireland.

Senator Eamonn Coghlan: If Mayo had won the All-Ireland football final on Sunday more Members of the House would be congratulating the Cathaoirleach and Mayo on a successful win.

An Cathaoirleach: Next year.

Senator Eamonn Coghlan: I congratulate my beloved Dubs. When my dear friend Bernard Brogan put the ball into the net with his fist over the weekend it was reminiscent of the 1963 all-Ireland final when Gerry Davey controversially palmed the ball into the net. I congratulate Dublin, the GAA and the spectators who attended Croke Park on Sunday for a wonderful festive occasion. I was very proud to be Irish and to witness such a wonderful sporting occasion.

Like the rest of the Members in the House I am not particularly happy with the language used by members of the Government with regard to next week's referendum on the abolition of the Seanad, and the amount of false information. Another point, which disturbs me more than anything, is the amount of confusion among the public. People think a "Yes" vote is for retention of the Seanad and that a "No" vote is to get rid of it. Is there a way we can use the media - I do not necessarily mean here in the Seanad - to be much more clear with regard to what "Yes" and "No" mean when it comes to the abolition referendum on 4 October?

Senator Thomas Byrne: I echo the comments of my colleagues with regard to the appointment of the new bishop of Meath and Kildare. Church of Ireland parishioners in County Meath were very anxious that a bishop be appointed. It is a first step and is quite welcome. I will take this brief opportunity to be ecumenical; during the summer my parish priest was ordained a bishop and I congratulate Bishop Nulty. He will be based in Kildare, as Meath and Kildare are still in separate dioceses in the Catholic Church.

I wish to ask about the Valuation (Amendment) (No. 2) Bill. During the Second Stage debate I raised serious concerns about this, because it will mean complete reform of the rates system but it will do nothing to help struggling businesses. I and my colleagues in Fianna Fáil were alone in opposing it at the time and we raised concerns about the constitutionality of the legislation. The Bill last appeared on an agenda in the House in October 2012. We have been

told time and again that the Seanad has not used its powers, and Fine Gael mentions the past 50 years. I contend this legislation is more than likely being improved in the draughtsman's office in the Department of Public Expenditure and Reform. We commit to supporting the Bill if our concerns are addressed. We do not want to block any legislation; we want to improve it. I would be grateful if the Leader outlined the position with regard to what is commonly called the rates Bill, whose official title is the Valuation (Amendment) (No. 2) Bill 2012.

Will the Leader facilitate, in advance of the referendum, a debate on Article 27 of the Constitution? It is the dog that is not barking with regard to the referendum. Article 27 of the Constitution allows one third of Dáil, together with a majority of the Seanad, to petition the President to call a referendum on any matter of national importance. I looked back on the record and saw Sinn Féin called for such a referendum under Article 27 during the NAMA debate, and some of the Leader's colleagues called for such a debate during the summer on abortion. Almost ten years ago, when the Minister of State, Deputy Brian Hayes, was in the Seanad, he called for such a referendum on electronic voting. The provision is concerned with democracy and the will of the people and it has not been debated. Every other amendment to the Constitution proposed in this referendum would simply give the Dáil the power the Seanad has. This provision in the Constitution, which directly relates to the relationship between the President and the people and the will of the people in regard to important Bills, is simply being deleted. It is an issue of major significance for the public that they really have not been aware of. I urge the Leader to facilitate even a brief debate on this before next Tuesday and before the broadcasting moratorium. The people are being badly served by the lack of media debate on this issue. It has been slipped into the Seanad referendum to take away that power to have a referendum in certain cases, which is a most retrograde step.

Senator Terry Brennan: I support the call for the Minister, Deputy Noonan, to come to the House to discuss the very important issue of the possibility of the 9% VAT rate going back to 13%. It has been a great year for tourism, given the success of The Gathering and, as other Senators have noted, some 9,000 jobs created. I would be fearful in this regard. Many businesses have invested substantial amounts in their premises and in creating jobs in the last couple of years. It would be a retrograde step for tourism and would damage the tourism product.

I met a family recently who spent four or five days on the famous Ring of Kerry, where I have never been in my life. I would like to know how a young woman could be charged €3.40 for a glass of tap water in a famous hotel on the Ring of Kerry.

An Cathaoirleach: That is a commercial decision, Senator.

Senator Terry Brennan: I would hate to see VAT going up to 13%, which would make it nearer €4 for a glass of water.

Senator Feargal Quinn: I do not know about having tap water at that price but it would certainly not be helped by a VAT increase on that basis.

I have the same feeling as others that this House should be debating the budget prior to the budget and prior to the making of the decisions before it is announced. I do not understand why, to the best of my knowledge, we have never had that debate. I imagine the Minister for Finance, no matter what party he comes from, has never wanted to have that debate take place beforehand, and we have never been able to achieve it. However, I believe every Member of the House, on both sides, would like to see that debate take place because the whole purpose

and benefit of having extra views it that we are hoping to influence the Minister in making those decisions, rather than just talking about it afterwards. I believe it is too late this year as I doubt we will get such a debate now, but I believe we should.

I want to make a further point on the referendum. If the "No" vote wins, and I am hopeful it will, it will be a real opportunity for the Taoiseach to achieve something which even Eamon de Valera was not able to achieve, namely, a reformed Seanad. I believe he could do that and, whether it is based on either the Zappone Bill or the Crown Bill, it would go a long way in that direction. I believe a "No" vote would give the Taoiseach the opportunity to make a real name for himself. By making sure the Upper House has been reformed, he could look back and say, "This is something that I have achieved".

I have a strong feeling the Constitution has been damaged. A man in Donegal told me of the quote that the Constitution is like a three-legged stool, with the President, the Dáil and the Seanad. If we take away one of those three legs, it becomes a very wobbly stool, and the proposal is that we take away one of those three legs. It would be a very wobbly stool and I do not think we have taken the steps to be able to protect ourselves against that. I believe it is worthwhile having that debate now.

Senator Colm Burke: I join with Senator Leyden in condemning the atrocity in the shopping centre in Nairobi. What is really sad about the matter is the fact that all of those killed are innocent people who had nothing to do with conflict in any of the adjoining countries. What really brought it home to me is that a member of my own family, someone who lives there and who goes to that shopping centre, was in the shopping centre just two days before the attack and was lucky the attack was not on that particular day. Therefore, this attack, although it may have been in another country and on another continent, was not that far away from home. It is important that the people involved in organising it are brought to justice at an early date.

I would also like to raise the issue of the recognition of degrees from third level institutions in Northern Ireland. I was very sad to receive a letter from a graduate from a Northern Ireland institution telling me that having applied to the Department of Health for recognition of their degree, they had been informed that it would be 23 December before a decision would be given. This person is from and lives in my county but happened to go to Northern Ireland to take a particular course. Now they find that after qualifying and receiving a recognised degree in Northern Ireland, they must wait up to six months for recognition for that qualification here. They have a job offer in my county but may lose that job offer because of the Department's delay. Will the Leader raise this matter with the Minister and the Department and inform them that this is not good enough? It is interesting that the letter from the Department uses the term "a non-Irish qualification". I did not realise qualifications from Northern Ireland were considered to be non-Irish. This is something that needs to be remedied immediately.

Senator Rónán Mullen: I support what Senator Feargal Quinn has said about debating budget proposals. New politics must mean treating people and Parliament maturely. One of the problems with old politics during the Celtic tiger years was that there was no real scrutiny of budget proposals. In opposition Fine Gael constantly criticised the practice of handing out budget speeches at the last minute. I remember watching Deputy Richard Bruton furiously scrambling to get his points together in response to budget announcements. That is an example of dysfunctional government. What we ought to do is to lay out clearly what the plans are. The Economic Management Council should reveal what it has already decided will be inc;uded in the budget and we should debate this. We need to hear what people have to say about it. The

horrible thing is that instead of this we have kite flying. We have a situation where Ministers leak certain ideas to the media about withdrawing medical cards or cutting disability benefits so as to gauge the media's and the public's response. Recently we had kite flying in regard to cutting the old age pension. We must consider how disrespectful of people this is, particularly vulnerable persons. Imagine people wondering what bill they can postpone paying in order that they can eat or pay for their basic necessities. It is cynical in the extreme for politicians, civil servants or whoever is in government to be leaking such suggestions which cause distress, fear and anxiety. Why do they leak them? It is in order that they can gauge the reaction or carry on their own internal gamesmanship. This is the type of thing that brings politics into disrepute. It is certainly a reason I believe people are right not to trust the Government when it talks about political reform. There is no apparent sincerity to its claims that it is about political reform.

Senator Martin Conway: I very much regret the breaking news that there will be no criminal complaint by the Central Bank against those who participated in the so-called Anglo tapes. We can all remember the revulsion a number of weeks ago when details emerged of the internal telephone conversations between senior management in Anglo Irish Bank.

An Cathaoirleach: I advise the Senator to be very careful on this issue.

Senator Martin Conway: It is most regrettable that the Central Bank has announced today that there will be no criminal investigation.

Senator David Cullinane: The "What's Left" income survey commissioned by the Irish League of Credit Unions was published today. It shows that almost 500,000 people have no money left at the end of the month after paying essential household bills. The study also shows that people are cutting the amount of money they spend on food simply to pay their utility bills, the mortgage or even just to get through each day. It also states that 1.8 million adults have just €50 or less to live on a month after all the bills are paid. That means that almost 2 million adults are surviving on less than €50 disposable income a month. That highlights the failure of the austerity policies. It is no wonder we have empty shops in our high streets, towns and cities. People simply do not have the money to spend. The budget presents an opportunity to move away from the austerity policies in place.

On a number of occasions, Senators from all sides of the House have asked for proper pre-budget debate so that all the alternatives can be discussed, but again that has not taken place this year. The budget is only a couple of weeks away but I imagine that the Minister has signed off on most of the key proposals, so there is no participatory element, even from those who are elected, never mind all the organisations that are making representations to the Minister. It is a lost opportunity. I therefore appeal to the Leader to ensure that the relevant Ministers come before this House so that we can discuss the income survey and all the alternative proposals made by political parties and organisations.

Senator John Crown: We had a recent discussion and the Seanad sponsored a consultation on lifestyle changes and cancer. If, however, the Seanad is not to leave itself open to an extraordinary charge of hypocrisy in making aphoristic statements, it needs to come to grips with a few things that we in this House and the other House can jointly do. It is important that one of those things is that the important legislation proposed by me and Senators van Turnhout and Daly on banning smoking in cars where children are present is advanced in this term. Second, we must tell the Minister for Finance to ensure that there is a removal or reduction in VAT on sun block products. Those products have the potential to reduce one of the most rapidly

increasing cancers in this country. Third, and for the same reason, we must quickly see - we have talked about the issue and I mentioned it in the previous term on a matter on the Adjournment - legislation to regulate sun beds. I bring up these issues only because when we had our consultation on cancer, I was sitting here pinching myself because the debate was turning into a bunch of people talking about motherhood and apple pie when we can do something about the issue. Let us take action.

Senator Maurice Cummins: The acting leader of the Opposition, Senator MacSharry, raised an important question about discretionary medical cards for people who have serious illnesses. As he mentioned, since 2011, 22,584 individuals who were previously recorded on the medical card register as eligible for those cards are now, because they meet the income eligibility requirements, registered as ordinary medical card holders. As Senator MacSharry stated, the number of discretionary medical cards has been reduced although many of the people who had those discretionary cards now qualify as ordinary medical card holders. The official position, which I have in front of me, is that there is not and never has been an automatic entitlement to a medical card for persons with a specific illness. That has been the position since the Health Act 1970. There is no legal basis for a cancer or motor neuron medical card. I believe that the Government has a moral obligation in cases in which people who have such serious illnesses should be looked after. However, Senator MacSharry's question is answered by the fact that the majority of those 22,000 people qualify for an ordinary medical card.

Senator MacSharry also raised the question of the lack of Garda resources in regard to checkpoints. I understand from the information I have to hand that there were more checkpoints this year than there were in recent years. A request regarding crime statistics was also made. Perhaps we can arrange for the Minister for Justice and Equality to come to the House to discuss the points the Senator raised and the crime statistics requested by Senator Mullins.

Senator Bacik referred to the success of Culture Night, which was very successful not only in Dublin but throughout the country. That point was also made by several other Senators from other constituencies.

On the matter of EU directives, as Senator Bacik stated, we had a formative debate on EU directives last week. It is something we have tried to set out in the Seanad for a long time and we are now doing it without any of the resources that we requested last year. We are doing it from our own resources and will continue to do it in the future, and I thank all the Members for their co-operation in that regard.

Senators van Turnhout, Moran and others raised the issue of child beauty pageants, which was highlighted by Senator van Turnhout in the House last week. I am glad she highlighted it. The fact that the French Senate has banned these pageants is to be welcomed. I compliment Senator van Turnhout on highlighting the situation here last week.

Senators Barrett and Byrne congratulated Patricia Storey on becoming a Church of Ireland bishop. We would all join in congratulating the new bishop on her appointment.

Senator Barrett also alluded to the future of the Seanad, to which other Members also alluded. I understand Senator Barrett will be attending a debate on the issue in Galway tonight. He made some very telling points.

Senator Barrett also made a point regarding the linking of Heuston Station with Connolly Station, an idea which the Minister, Deputy Varadkar, took up and is now going to implement.

That idea came from this House during a debate on a transport Bill. I am glad on another specific item that the Seanad was correct in suggesting that idea to the Minister.

Senator Mullins referred to the safe return of the gentleman from Galway who had gone missing from a nursing home over the weekend. We all welcome his safe return and we wish him well.

Senators Leyden and Colm Burke raised the matter of the carnage in the shopping centre in Nairobi. I am sure we would all like to extend our condolences to the families of all the people who were killed and injured in that horrific terrorist attack. Senator Leyden also mentioned the question of Syria and Pakistan where a number of Christian worshippers were also slain.

Senator Moran welcomed the public consultation process promoting inclusiveness in Irish schools and outlined that it is an opportunity for parents to express their views in this regard. I note the request she made once again. We were told the publication of the Walsh report on symphysiotomy was imminent. I will find out again the position regarding it. I cannot understand why there are further delays in publishing that report when we were told that its publication was imminent several months ago.

Senator Norris gave a robust defence of the Seanad and he is looking for more honesty and decency in politics. He certainly gave his stirring views on the Seanad referendum.

Senator David Norris: Without being impertinent, I ask-----

An Cathaoirleach: The Senator has spoken already.

Senator David Norris: -----if the Leader would reply to the question I asked about inviting the Taoiseach to answer questions and to let us know what his reply will be.

Senator Maurice Cummins: I assure the Senator that the invitation will be extended, but I cannot tell him whether it will be accepted.

Senator David Norris: I thank the Leader for undertaking to extend the invitation.

Senator Maurice Cummins: Senator Paul Coghlan lauded the benefits of Culture Night and joined Senator Ned O'Sullivan in expressing condolences on the death of former Senator John Blennerhassett from Kerry. Senator O'Sullivan praised the contribution of Senators from that county over the decades.

Senator Diarmuid Wilson referred to an article in one of yesterday's newspapers. All I can say is that I am sure the figures cited are correct. I would suggest, however, that the voting figures in themselves do no not present a complete picture of Members' parliamentary contributions. The article takes no account, for example, of absences from the Chamber due to committee work, pairing arrangements, abstentions from votes or illness. I do not agree with the suggestion in the piece that Members simply do not bother turning up to vote. I hope that is not the case and that anybody who is missing has a legitimate reason. I also hope that the newspaper in question, in the interest of balance, will undertake a similar exercise in reference to the other House. It should be done, moreover, prior to the referendum on 4 October.

Senator David Norris: Hear, hear.

Senator Thomas Byrne: If pairing arrangements were discontinued no legislation would

be passed. The Minister should be aware of that.

Senator Maurice Cummins: Another glaring omission in the article was the failure to acknowledge that the Leas-Chathaoirleach cannot vote. I understand a journalist telephoned to ask why the Leas-Chathaoirleach had missed so many votes, clearly unaware that he cannot vote when he is in the Chair. Notwithstanding these glaring omissions, however, we cannot argue with the figures.

Senators Lorraine Higgins, Catherine Noone and Terry Brennan called for the retention of the lower VAT rate for the hospitality sector. The decrease from 13.5% to 9% has undoubtedly been very successful in recent years. I understand, however, that the annual cost to the Exchequer of the reduction is more than €350 million. Any decision must be made in that context. We will have to wait and see what is done in this regard in the budget.

Senator Mark Daly called for a debate on the Irish diaspora. I will try to arrange it in due course.

Senator Ned O'Sullivan referred to claims regarding the cost of running the Seanad. As I said previously, the report of the Oireachtas Commission on the outturn for 2013 and the Estimate for 2014 was circulated to all Members. It showed a direct cost for the wages and expenses of Members and staff of €8.8 million. After that, it is very difficult to see how further costs could amount to the figures that have been indicated. The report contains the facts as presented to us prior to the summer recess.

Senator Eamonn Coghlan referred to possible difficulties for people in voting in the forthcoming referendum, specifically a potential confusion whereby a "Yes" vote might be misunderstood as a vote for the retention of this House. It is very important that people inform themselves.

Senator David Norris: If you do not know, vote "No".

Senator Maurice Cummins: I commend the Referendum Commission on the booklet it has distributed to households. I hope people will ensure they are fully informed of what is proposed.

Senator Thomas Byrne asked about the status of the Valuation (Amendment) Bill 2012. I understand extensive work has been done between the Department and the Attorney General's office and the legislation is expected to be back in this House next month. I have had several queries from members of the public and various bodies as to when debate on the Bill will proceed. The confirmation that we will deal with it next month is welcome. The Senator also asked for a debate on Article 27 of the Constitution. Other Members asked for a debate on Article 29 and how it may be affected. I will give a commitment that I will try to have a debate on that matter next week, but I cannot guarantee it.

I note the comments of Senator Feargal Quinn in respect of a reformed Seanad, should the people vote "No," as in the Bill published by him and Senator Katherine Zappone whom I congratulate on being conferred with an honorary doctorate by UCD over the summer.

Senator Colm Burke referred to the recognition of degrees from Northern Ireland institutions. The delay by the Department is totally unacceptable. I am very surprised at the language used about non-Irish universities. It is a matter that should be addressed and I will bring it to

the attention of the Minister.

I note the comments of Senator Rónán Mullen on political reform.

Senator Martin Conway referred to the Central Bank and the Anglo tapes. As I am not aware of the comments referred to, I will not comment on them at this point.

Senator David Cullinane referred to a report by the Irish League of Credit Unions. I note his points in that regard. The report will be debated in the context of the Social Welfare Bill which will be before the House at the end of October.

Senator John Crown referred to anti-smoking legislation and the regulation of sunbeds. I will find out when it is intended to address the question of anti-smoking legislation. I see no reason it should not be dealt with during this session.

An Cathaoirleach: I join in the vote of congratulations to Senator Katherine Zappone, as I am sure all Members do. I would also like to be associated with the vote of sympathy to the family of the late former Senator John Blennerhassett. I am sure the Leader will arrange for formal expressions of sympathy at a later date.

Order of Business agreed to.

Residential Tenancies (Amendment)(No. 2) Bill 2012: Second Stage

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

Minister of State at the Department of the Environment, Community and Local Government (Deputy Jan O'Sullivan): I am pleased to be in the House to introduce the Residential Tenancies (Amendment) (No. 2) Bill 2012. The Residential Tenancies Act was passed in 2004 and represented the most significant legislative reform in the private rented sector in over a century. Prior to 2004, the rental market operated in a crude and fragmented manner, governed by outdated Victorian legislation. There was little or no security of tenure for tenants and recovery of possession was a nightmare of long and expensive court proceedings for landlords. Even minor disputes arising during the course of a tenancy had no avenue for resolution other than the courts. Standards in rental accommodation were notoriously low and the minimum standards regulations which had been in place since 1993 were out of date and characterised by very low levels of enforcement. The combination of all of these factors resulted in the absence of a rental market that could offer an attractive long-term accommodation choice to people searching for a home. Rented housing at the time represented a last resort. The rental market was viewed as being for student housing or bed-sits. Rented housing was regarded as a short-term solution or a solution for the most marginalised and vulnerable in our society who could not afford anything better.

Thankfully, this is not the private rented market of today. More people are renting than ever before. Figures from the 2011 census show a virtual doubling of the private rented sector since the 2006 census, from just under 10% to 18.5% of the total housing stock. The proportion of overall home ownership, having once peaked at 80%, declined from 75% in 2006 to 70% in 2011 and the rental market now accounts for 29% of the total housing market when local

authority housing and stock in the not-for-profit approved housing bodies sector are taken into account. In the nine years since the passing of the Residential Tenancies Act significant strides have been evident in the development of the private rented market and it is largely unrecognisable from the market at the turn of the millennium.

The Residential Tenancies Act 2004 provided for the first time real security of tenure for tenants in the private rented residential sector. It set out minimum obligations for landlords and tenants and provided access for both tenants and landlords to an inexpensive, informal and independent dispute resolution service. The Act laid out conditions for rent reviews and prohibited the charging of rents in excess of market levels. It set out fair procedures for the termination of tenancies, with mandatory notice periods linked with the duration of a tenancy. The setting aside of a portion of the tenancy registration fees for the enforcement of rental standards resulted in an exponential increase in the number of rental standards inspections carried out by local authorities. Only 2,000 inspections of rented dwellings were carried out by local authorities in 2003, while in 2012 that figure was almost 20,000. This has contributed to a significant improvement in the standard of rental accommodation available to tenants today. The final implementation earlier this year of the 2008 rented standards regulations continues that work. However, the most significant achievement of the Residential Tenancies Act has been to create the conditions for the growth and development of a sustainable well regulated rental market with the result that rented housing today is no longer viewed as a tenure of last resort but as a very viable tenure option.

While recognising the achievements since the passage of the 2004 Act, it is also important to acknowledge that the rental market is far from perfect. For instance, below standard properties continue to be rented out. In addition, a small minority of landlords continue to fail to register tenancies and issues regarding the failure to return deposits and the non-payment of rent create very real problems for tenants and landlords alike.

The Residential Tenancies (Amendment) (No. 2) Bill 2012 builds on what has already been achieved by the Residential Tenancies Act and the Private Residential Tenancies Board. In providing for the further development and regulation of the rental sector the Bill is a key component in the delivery of the Government's housing policy. I refer to the Government's housing policy statement which was published in June 2011 and marked a profound change in the State's approach to housing policy. This short statement was based on a number of fundamental principles and goals which will form the basis for reform. It takes account of the dramatic cycle of growth and collapse in the residential property market and, in that context, charts the way forward for housing policy by placing explicit emphasis on choice, equity across all housing tenures and delivering quality outcomes for the resources invested. This policy is serving as the framework for a sequence of legislative and policy initiatives in the short to medium term. Key to these aims is the move from a focus on the promotion of home ownership to a more equitable treatment of tenures. This crisis has taught us that home ownership need not be the ultimate goal. This does not mean that the Government is turning its back on home ownership or that it is seeking to impede people from realising their valid home ownership aspirations; far from it. For the majority of households, home ownership will continue to be the tenure of choice.

4 o'clock

This is recognised and welcomed by the Government. However, there are other households that may not want or be in a position to own a home. Our goal for such households is to provide choice based on household circumstances and needs rather than the expectation of house price

growth. We now have an opportunity to reassess our attitudes to housing and home ownership. The emergence of rented housing as a real viable housing option is part of this reassessment. A well-balanced housing sector requires a strong, vibrant and well-regulated rent sector, which is an integral part of future housing policy. The Bill before us today is an important step on that journey.

Foremost, we must ensure that we do not return to the unsustainable, unprecedented growth that represented the boom years. On the contrary, we must seek to provide a moderating structure that allows for sustainable and long-term growth. For my part, I am committed to the development of a genuinely sustainable approach to housing policy in the country that will enable all households to access good-quality housing appropriate to their circumstances and in their community of choice. Above all I am committed to a vision of housing where people once again view their house as a place for hearth and home and not as an asset for investment return.

The Residential Tenancies (Amendment) (No. 2) Bill 2012 is part of that vision and I hope that will become clear to colleagues in this House over the course of this debate. The Bill is set out in six parts, with 65 sections, and I will now refer in some detail to the main provisions. Perhaps the most significant achievement of the Bill as it stands would be the extension of the remit of the Residential Tenancies Act to approved housing body dwellings. Approved housing bodies generally provide rental accommodation for families and persons with specific categories of need who are on the social housing list. However, the relationship between these tenants and their approved housing body landlords is not generally provided for in either the Housing Acts or the Residential Tenancies Acts and they operate on the basis of lease agreements, the various Landlord and Tenant Acts and common law. Formal regulation of the tenant-landlord relationship in the sector lags considerably behind the private rented sector; while recognising that the vast majority of tenancies in the sector work very well, there is an urgent need for a modern legislative basis for approved housing body tenancies. The Bill will afford the same rights and obligations afforded to landlords and tenants in the private rented sector to those in the approved housing body sector. This is a logical follow-on from the June 2011 housing policy statement, which set out the key role envisaged for the approved housing body sector in the delivery of social housing. In view of the ongoing development of the approved housing body sector and its greater role in social housing provision, the Government is committed to improving governance and formal accountability generally in the activities of the sector.

Approved housing bodies are at the heart of the Government's vision for housing provision. As part of this process, it is critical that assurance is given to stakeholders in respect of the stability, viability and capability of the sector. Governing bodies, tenants and potential investors must have reassurance that the sector is well-managed and stable and is a good long-term investment. To this end, my Department is committed to the development of a regulatory framework for the sector that will support its long-term growth. The extension of a formalised structure for mediating the tenant-landlord relationship is a logical corollary to this project. A key landmark in this process was the publication in July 2013 of Building for the Future, a voluntary regulation code for the approved housing body sector.

Part 2 provides for the application of the Act to dwellings let by approved housing bodies. The result of the amendment will be to extend the rights under the Residential Tenancies Act to an estimated 20,000 tenancies in the approved housing bodies sector. On foot of the decision to bring the approved housing body sector within the remit of the Residential Tenancies Act and recognising that the legal framework is no longer applying solely to the private rented sector, the Private Residential Tenancies Board will be renamed as the residential tenancies board. Ex-

tending the 2004 Act to approved housing body tenancies will create a unified legislative base for the private rented and approved housing body sectors, assisting movement between tenures and making more efficient use of rental stock across both the public and private sector.

Creating a unified legislative basis will assist in the objective of affording equal treatment to households in similar economic circumstances and is consistent with my belief that broadly similar rights and responsibilities should apply to all forms of rented accommodation. I am seeking to accommodate households on waiting lists in all tenures using excess private housing under leasing schemes and other such initiatives. Movement between tenures for such households is greatly facilitated through a common legislative base.

Of course, this progression towards a rights-based approach in rented tenures raises the inevitable question of how best to deal in the long term with local authority tenancies. While this Bill will not address that issue, it is clear that further specific action will be required in that area, in that a great deal of further thought, research and consultation will be required before proposals are produced in this regard.

The Private Residential Tenancies Board, PRTB, was established as an independent statutory body under the Residential Tenancies Act on 1 September 2004. The principal activities of the PRTB include the registration of private residential tenancies and the resolution of disputes between tenants and landlords. The PRTB has achieved much since it was established, but more remains to be done. It is recognised that PRTB resources are under considerable strain, and it is essential that we supply the board as far as possible with the tools necessary to reduce delays. However, it must also be acknowledged that the number of dispute cases referred to the PRTB has grown by 37% since 2008. At the same time, total staff numbers have decreased by 53% from their peak as a result of the downward pressure on public service numbers. Notwithstanding these challenges, the PRTB is actively pursuing a range of modernisation initiatives, such as the outsourcing of work and shared services. It is hoped that in the longer term this will enable the PRTB to continue to do more with less and significantly reduce delays.

The PRTB's investment in ICT is a key element of its corporate plan and modernisation agenda. A new tenancy management system came on-stream in mid-2012 and it will considerably reduce processing times in 2013. This Bill will also contribute to reducing delays by streamlining procedures wherever possible. However, it must be recognised that there will be considerable challenges for the PRTB in the years ahead in dealing with an increased workload and the addition of some 20,000 AHB tenancies to its remit. These are challenges that the Government is committed to helping the PRTB to meet.

Part three of the Bill provides for the separation of the quasi-judicial and administrative functions of the board and for the reduction in the maximum number of board members from 15 to 12. The purpose of this amendment is to allow the board to focus exclusively on the corporate governance, financial management and wider policy issues affecting it. The 2004 Act provides that the PRTB may offer a mediation service to landlords and tenants who wish to resolve a dispute. Part 3 of the Bill includes amendments to sections 95 and 96 of the 2004 Act. The aim is to encourage the use of mediation. The amendments simplify and streamline the mediation process by removing unnecessary procedural steps. It is hoped that, as the rented sector continues to mature and landlords and tenants work together to sustain long-term tenancies, there will be an increasing interest in the less confrontational mediation stream of the board's dispute resolution processes.

Part 4 of the Bill provides for the merger of the Rent Tribunal with the PRTB. The Rent Tribunal was established under the Housing (Private Rented Dwellings) (Amendment) Act 1983. The role of the rent tribunal is to determine the terms of the tenancies, including the rent of dwellings formally controlled under the rent restrictions Acts. The merger of the Rent Tribunal and the PRTB was announced in 2009 on foot of the Government decision on the rationalisation of State agencies. The merger of these two bodies has been operating on an administrative basis since 1 October 2009. Administrative support services to the Rent Tribunal are provided by the PRTB and the chairman of the latter is the chairman of the tribunal. This Bill gives legislative effect to that administrative arrangement and provides for the dissolution of the tribunal.

Part 5 of the Bill provides for the introduction of the new procedure that will enable the PRTB to deal effectively with tenants who do not pay rent during the dispute process. A dispute between a landlord and a tenant may be referred by either party to the PRTB for a resolution under section 76 of the 2004 Act. Under section 86 of the Act, rent continues to be payable pending the determination of the dispute, and a termination of the tenancy may not be effected during the course of the dispute. However, the provision that a tenancy may not be terminated pending the determination of the dispute has led, in practice, to a small number of tenants withholding rent while their dispute is waiting to be dealt with by the PRTB. The landlord cannot evict the tenant during the dispute process and, as result, may not be paid any rent for a number of months. This can lead to considerable hardship for landlords, who in many cases rely on rental payments to pay the mortgage on the dwelling. These new provisions will allow the PRTB to deal effectively and quickly with tenants who do not comply with their statutory obligation to pay rent during the dispute process. Such applications will be fast-tracked and will deal only with the non-payment-of-rent issue. Any other aspect of the dispute will be dealt with in the usual way at a later date. I am confident that this new procedure will give the PRTB the power to deal quickly and effectively with the small number of tenants who blatantly disregard their obligation to pay their rent.

I was very kindly invited before the House last February for a very worthwhile and interesting debate on the private rented sector. Senators may remember that one of the issues that we discussed during that debate was the establishment of a deposit protection scheme. I announced at the time that I would be introducing legislative provisions for such a scheme on Committee Stage of the Residential Tenancies (Amendment) (No.2) Bill in this House. We are finalising the drafting of these provisions and I am very much looking forward to delivering on this programme for Government commitment in the next few months. The issue of the illegal retention of deposits is one which concerns me greatly. It was a priority I identified when I was appointed as Minister of State with responsibility for housing and it remains so today. I think almost every Deputy who spoke on the Residential Tenancies (Amendment) (No. 2) Bill during the Second Stage debate in the Dáil expressed his or her support for the programme for Government commitment to establish a tenancy deposit protection scheme. I am looking forward to receiving the support of Senators for this very worthwhile initiative. At this point, I must mention Senator Aideen Hayden, in particular, who has worked tirelessly in support of this project for some considerable time. Her contribution has been of significant value. The unjustified withholding of tenants' deposits by a small number of rogue landlords is something we cannot tolerate. The establishment of the scheme will eliminate this practice and contribute to the ongoing regulation and development of rented housing as an attractive and long-term housing option.

I will also be introducing amendments on Committee Stage to strengthen provisions relating to anti-social behaviour in private tenancies. I am on record as stating there is no silver

bullet for tackling this persistent and widespread problem. However, there are positive steps we can take to give greater protection and security to the vast majority of law-abiding households whose quality of life can be seriously affected by anti-social behaviour. Our legislative framework should favour families who want to improve their community and strengthen the bonds that make that community work, not the minority of selfish individuals who do not give tuppence about their neighbours or their locality.

The Residential Tenancies (Amendment) (No. 2) Bill 2012 represents a significant evolutionary step in the development of the residential tenant-landlord regulatory environment. The extension of the Residential Tenancies Act to approved housing bodies is an important step in the development of a wider regulatory framework for the voluntary and co-operative housing sector in the coming years. This will bring greater transparency and accountability to this important sector which is playing an increasingly active role in social housing provision.

Deposit retention and rent arrears cases, taken together, represent almost 70% of all disputes referred to the PRTB. The Bill will deal with both issues effectively and efficiently and provide a solution to the two most significant issues affecting landlords and tenants. This is a forward looking Bill that will help the PRTB to realise operational efficiencies in the delivery of its functions and the broadening of its remit in order to ensure the good working of the private rented sector. Most significantly, the Bill will contribute to the continued development of the rented sector as an attractive, long-term housing option and will be a crucial factor in the development of a sustainable housing policy as we continue on the road to economic recovery. I commend the Bill to the House and look forward to working closely with colleagues in the Seanad as we discuss the legislation.

Senator Mary M. White: I welcome the Minister of State and commend her for the great work she is doing. The aims of the Bill are to speed up the dispute resolution service provided by the PRTB by encouraging mediation and to bring the voluntary and co-operative housing sector under the governance of the Residential Tenancies Act 2004. The Minister of State has indicated that she also intends to deal with tenants who are *in situ* but refusing to pay their rent, as well as setting up a deposit protection scheme. Fianna Fáil has considerable reservations about the capacity of the Bill to achieve these objectives. The main streamlining efforts are simply a renaming of sections of the structure, which will achieve little efficiency. Furthermore, bringing the voluntary sector within the PRTB's remit without sufficient resources will place additional pressure on the board and the sector.

The programme for Government 2011 contains a commitment to establish a tenancy deposit protection scheme to put an end to disputes over the return of deposits in the residential rental sector. The lack of detail about the proposed scheme and the issue of tenants *in situ* refusing to pay rent means it cannot be discussed in detail at this stage, but it must form a vital part of an effective regulatory regime in a modern rental market. The Minister of State with responsibility for housing, Deputy Jan O'Sullivan, has promised to publish the significant amendments to the Bill in the Seanad. Adequate time should be given to ensure Senators have an opportunity to discuss the issues, particularly on the proposals for the deposit retention scheme.

Fianna Fáil introduced the Residential Tenancies Act 2004 with the aim of modernising and professionalising the private rented sector. It set out the rights and obligations of landlords and tenants in a comprehensive way and established the Private Residential Tenancies Board, PRTB, to replace the courts in most disputes in the private rented sector. The Residential Tenancies Act 2004 introduced a measure of security of tenure for tenants and minimum obligations applying

to landlords and tenants, and provided for the establishment of the PRTB. In 2009 we initiated a review of the Act to test its effectiveness in operation and identify problems to be addressed. The recommendations of the review, which had an overall emphasis on streamlining the Act and reducing delays in the services of the PRTB, fed into the present Bill.

The review made recommendations on deposit retention, compliance, governance and the voluntary and co-operative sector. The introduction of a system whereby the landlord will face a mandatory fine if found to have illegally withheld a deposit will act as a deterrent to landlords who automatically refuse to return deposits. An amendment to the Act will allow the landlord to terminate a tenancy during the dispute process in circumstances where the tenant discontinues the payment of rent but remains in occupation of the property. The new legislation will remove the board's direct role in the dispute resolution process and allow it to concentrate specifically on policy and governance. It is also proposed to extend the remit of the Residential Tenancies Act to the voluntary and co-operative sector.

The Bill now needs to be amended to adjust to the changed reality of the rental market in Ireland and the experience of the Bill in operation over the past eight years. The changes in this Bill come against a backdrop of a rapidly changing Irish rental market. The average Irish landlord has between 1.6 and 2.1 properties and less than 1.25% of landlords have ten or more properties, reflecting an undeveloped and amateur market in comparison to the European standard of large landlord companies operating multiple properties. The rental market is rapidly changing, particularly in the context of the collapse of the housing bubble, which is presenting a new set of challenges that the original Residential Tenancies Bill in 2004 did not accommodate. The number of households in rented accommodation increased by 47%, from 323,007 in 2006, to 474,788 in 2011. The overall percentage of households renting their accommodation rose to 29% over the same period, causing home ownership rates to fall sharply, from 74.7% in 2006 to 69.7% in 2011. Across Ireland, about 29% of people now rent, with 18.5% renting in the private sector. What is more interesting is the speed of change. Numbers renting in the private sector have increased 86%, up from 9.9%, since 2006.

The amateur nature of the rental market is highlighted in the 31.72% discrepancy in the number of tenancies registered with the PRTB in December 2010 and the number of tenancies recorded by the State census just four months later. This is symptomatic of a fear of regulation rather than recognition that regulation would strengthen the market, and indeed, rents. An effective regulatory regime will protect tenants and provide greater certainty to landlords investing in properties, generating a stronger overall market to the benefit of both.

Problems with the current legislation include the stunning complexity of the legislation, which means landlords and tenants struggle to identify and interpret relevant legal rules. The rules for termination of tenancies, for example, are a legal minefield. The PRTB dispute resolution procedures are multi-layered and, in many cases, do not facilitate fast outcomes. This is especially frustrating for landlords trying to enforce non-payment of rent or to repossess rented premises, and for tenants whose deposits have been unlawfully withheld by their landlords. Landlords and tenants need a legislative scheme that is user friendly, together with an efficient mechanism for resolving disputes.

The disputes resolution service had a challenging year in 2010, with an unprecedented 2,230 dispute applications being received. This represents an increase of 20% on the 2009 figure. More recent figures from 6 February 2012 indicated that the number of complaints to the Private Residential Tenancies Board had risen by 25% overall. The most common complaints

made by tenants concerned the refusal of landlords to refund deposits, which comprised 72% of all cases taken by tenants in 2010, while the most common complaints made by landlords concerned rent arrears and a breach of other tenancy obligations, which comprised 68% of all cases taken by landlords.

The addition of the voluntary and co-operative housing sector will further stretch the PRTB's scarce resources and it remains to be seen whether the revised mediation rules, if enacted, will lead to a higher take-up of mediation. The voluntary sector will also be placed under pressure with additional logistical demands. Although viewed as tenancies for life, most approved housing bodies' tenancies are, in reality, weekly or monthly periodic tenancies that can be terminated with 28 days notice. There are 700 voluntary and co-operative bodies with approved housing body status. The inclusion of the voluntary and co-operative sector within the remit of the PRTB could result in approximately 185 additional dispute referrals, an additional 128 hearings and 73 determination orders per year. At current staffing ratios, this would require a minimum of 5.5 additional staff in the first year to provide the ongoing services of the PRTB. The main dispute areas are likely to centre on rent arrears, anti-social behaviour, neighbour disputes and maintenance, all of which have the potential to be time consuming for the PRTB to process.

The streamlining efforts of the Bill focus on changing names, the removal of a €25 mediation fee and tinkering around with the number of days given to the process. This does not constitute decisive action in reforming the work of the board and accelerating the process. There is nothing in the Bill to deal with tenants who are in rent arrears. However, it has been indicated that the issue will be addressed on Committee Stage. The Bill does not attempt to simplify the intricate rules governing the content of notices of termination, nor does it attempt to set any statutory timeframe within which a determination order should be issued following an application to the PRTB for dispute resolution. There is no provision in the Bill to clarify the long-standing ambiguity around the interaction between fixed-term tenancy agreements and the provisions governing tenancy terminations set down in the RTA. No changes are proposed to the controversial provisions on anti-social behaviour. Apart from the proposed amendments to the rules on mediation, there are no plans to streamline the dispute resolution process more generally or address the significant problems with practical enforcement of PRTB orders. Fundamental revision is needed, together with adequately resourced supporting measures, to promote awareness of rights and obligations among landlords and tenants in order to reduce the scope for disputes.

A deposit retention scheme on the basis of the model successfully used in the United Kingdom has been promised by the Minister and will be a vital component in a fully functioning, vibrant rental market. When will these changes be forwarded to Senators? Given the high volume of disputes brought by tenants owing to the withholding of a deposit, an effective scheme would have a far greater impact on speeding up the work of the PRTB than any name tinkering. A new system would further stabilise the rental market and bring greater certainty to both tenants and landlords, thereby creating a stronger overall market. The UK scheme is based on two options. The first is the custodial scheme, whereby the landlord pays the tenant's deposit into a central pot. At the end of the tenancy the money, plus a small amount of interest, will be paid back to the tenant from the central pot. The second option is an insurance based scheme, whereby the landlord keeps the deposit but pays a small premium to a dedicated insurance company. If there is a dispute, the insurer will pay the tenant the deposit and then recover it from the landlord. What type of scheme is the Minister of State considering?

Senator Cáit Keane: I welcome the Minister of State to the House. I also welcome the

Bill. As the Minister of State said, it will streamline and simplify Acts and reduce delays in the dispute resolution services of the Private Residential Tenancies Board. The Bill makes provision for the inclusion within the remit of the Residential Tenancies Acts of tenancies in the voluntary and co-operative housing sector and I welcome this.

Amendments were made when the Bill was debated in the other House and I was delighted to hear the Minister of State mention these today. The Bill will amend certain provisions of the Residential Tenancies Acts 2004 to 2009 which govern the private rental sector as well as the Private Residential Tenancies Board. One of its most important functions is the provision of dispute resolution services to mediate, outside the court system, disagreements between landlords and tenants. This is important because we know how clogged up the court system is. The largest category of cases referred by landlords to the PRTB relate to rent arrears, as the previous speaker stated. In 2010 this figure was 31%. Most cases referred by tenants relate to deposit retention, and this accounted for 72% of cases in 2010. Any decision made through the dispute resolution service is legally binding.

The housing rental market, like the wider house market, experienced great change in recent years with the onset of the property crash. For many people, private renting is the only option. New regulations were introduced in February 2013 on the standard of houses and people will be able to obtain good quality private rented accommodation. In other European countries it is the norm for people to rent rather than own. As John B. Keane stated, the field is very important in Ireland, as is homeownership. The Minister of State has said it is still very important for the Government and nothing will change this.

Perception is nine tenths of the law and security is the other one tenth. Given the difficulty in obtaining mortgages, along with a fall in income, many people may never be in a position to purchase their own home. Traditionally such people opted for social housing of one type or another. For middle-income families this is not an option as they earn slightly too much to qualify. However, they have too little to obtain a mortgage under the strict criteria now being enforced by the banks, and which must be enforced because we saw what happened when the banks did not enforce such criteria. The increased demand in private rental housing will inevitably increase to meet this demand. This new market will become more vibrant, and for this reason it is essential the Government lays down guidelines. The Minister of State laid out loud and clear today very clear guidelines on the standard of private residential properties available for rent as I referred to earlier.

The market will provide some safeguard for tenants also. Professional landlords will see the advantage of providing good quality accommodation at a competitive rate along with security of tenure. This in turn will guarantee the landlords stable and long-term rental income. This approach will enable households to access good-quality housing appropriate to their circumstances in a community of their choice.

The Minister of State mentioned during a previous debate that she would bring forward amendments and she also referred to this today with regard to a deposit protection scheme. I await this and advocate it. We discussed it in the Seanad and the Minister of State has provided very positive information on it today.

There is a need for balance, as the Minister of State mentioned, between landlords and tenants. Landlords have an equal right to protection with regard to deposits and the Minister of State mentioned this equality in her statement. Any scheme which seeks to address deposit

retention must fully balance the needs of tenants and landlords and as such language is important. The Bill states the name of the Private Residential Tenancies Board will change to the residential tenancies board. The language used with regard to the deposit retention scheme is also important. Will the Minister of State examine changing the title to a deposit and rent protection scheme, which would be more appropriate given the aims and objectives of the new scheme? This would open a new vista for all parties involved in the private rental contract and should relieve the workload of the PRTB. The purpose of tenants paying a deposit is to facilitate and compensate a landlord for damage caused to the property, fixtures or fittings.

The Property Registration Authority came up with the idea that a viable scheme could be considered with an increase of €5 on the current registration fee. I know some landlords do not register but, very often, it may not be the fee that is putting them off, and there will obviously be unscrupulous people in every field. I have considered this point and thought I would mention it today. In the event of a €5 increase on the current PRTB registration fee, the proceeds should be ring-fenced and placed in an appropriate interest-bearing account. Where a determination order is not complied with by a landlord within one month, the tenant should be compensated from this fund, subject to rent being paid up to the date of vacating the property and this being verified as such. If rent is paid up to date and the deposit is not refunded, immediate enforcement action should be taken by the PRTB against the landlord at the end of the action. Money recouped can be replaced in the compensation fund. Equally, if the amount of deposit paid by the tenant at the start of the tenancy does not cover any damage done to the property or any rent arrears, the fund should compensate the landlord. The PRTB should then initiate immediate legal action against the tenant on the same basis that it already initiates legal action against landlords on behalf of the tenants.

We need to achieve a balance and make people responsible when they are taking on a house to rent so that, if something happens, there are consequences thatthey cannot just run away from. This would lead to more properties being available and would also encourage people to take up that option.

As an alternative to the expenses of higher court actions, the remit of the Small Claims Court could be amended to facilitate PRTB eligibility to process cases in that court. The Small Claims Court currently has a limit of €2,000, which should be adequate for any deposit-related claims. If, in some cases, this is not sufficient to cover rent arrears, it could be dealt with by increasing the limits for the Small Claims Court.

The issue of non-payment of rent by tenants *in situ* during the resolution process was discussed in the other House on Report Stage, and amendments were made to that effect arising from amendments tabled on Committee Stage. These provided for the introduction of a new procedure to enable the PRTB to deal effectively with tenants who do not pay rent during the dispute process, to which the Minister of State referred. The purpose of these amendments, which now comprise the new Part 5 of the legislation, is to specifically provide for the application of that new process by a sub-tenancy. The duties and obligations of the tenancy and the sub-tenancy, of people taking over from tenants and in regard to secondary rent are well outlined in the Bill, which I welcome.

The PRTB was established in 2004 and its main function is to mediate disagreement between landlords and tenants. When the landlord takes on a new tenant, he or she must, by law, register the tenancy. Figures for non-registration were as high as 43,549 in the past, but when warning letters from solicitors were sent, this resulted in high levels of compliance. The new

computer system will further facilitate the following up of all landlords and ensure that all of those with a property to rent register the tenancy with the PRTB.

I do not know if this issue currently arises in the benchmarking of local authorities, under which each one is graded on the amount of work it does in each sector. However, this is one of the benchmarks that should be added to that table so we can know, for example, that X number of landlords are registered, how many rented houses there are in each area, the percentage compliance and so on. This would make local authorities look at one another's data, because if this is possible in one area, it should be possible for all to do it.

The most common complaints by tenants concern the refusal of landlords to refund deposits, which, as another speaker noted, made up 72% of complaints. The main landlord complaints concerned arrears and other breaches of tenancy, with 68% of complaints by landlords on these matters.

Initially the PRTB was funded by the Exchequer, but it has been self-financing since 2010, which is welcome. I compliment the PRTB on the work it is doing. The properties for rent must meet new minimum standards, given that on 1 February 2013 the Housing (Standards for Rented Houses) Regulations came into effect for all residential rented accommodation. This means that all rented accommodation must have its own separate sanitary facilities. In addition, updated requirements regarding heating, facilities for cooking, food storage and laundry will apply to all rented accommodation. This must be enforced. If the Minister of State is to do anything, she should ensure that local authorities have the staff to do this. When I was a member of a local authority myself, I used always say that it was all right to bring in regulations and impose duties on local authorities, but if staff do not have the wherewithal to go out and conduct inspections and do the work, we are on a hiding to nothing. We must lay down a strategy for inspection and enforcement and set out how that will be done so as to ensure all local authorities are playing their part.

I welcome the legislation, which will further improve our system of tenant-landlord regulation and promote mediation and resolution of disputes. The provisions in this regard are particularly welcome. I firmly believe that mediation can give people in dispute a speedy and effective way to resolve issues. The extension of the registration requirement to a large number of voluntary housing tenancies is a major development. People in those tenancies have exactly the same rights as people in private rented accommodation. The Bill is a first step in the process that will see statutory regulation of the voluntary and co-operative housing sector. This will bring greater transparency and accountability to this important sector. As the Minister of State mentioned, this sector is playing a huge role and I welcome its input in regard to the provision of social housing and other accommodation.

Senator Terry Leyden: I welcome the Minister of State to the House. This Bill has been worked on for some time. It goes back to the previous Fianna Fáil Government and some points in it were agreed at that time. The Bill is comprehensive and speaks for itself, but there are some areas about which I have concerns. One concern relates to the position of local authorities in regard to private rented accommodation. I am aware of two particular cases. One family in Lisacull in Castlerea, County Roscommon, was lobbying the county council to get some work done on their house, but as far as I am aware the County Council is not covered under the PRTB and is exempt from it. I suggest the Minister of State should consider bringing local authorities under this legislation.

I have a letter here to a landlord outlining the details of requirements, such as fire blankets and so on, which had not been supplied. However, the council, which issues requirements and carries out inspections, does not get involved in this regard in its own council houses.

Senator Denis Landy: They could not. That is ridiculous.

Senator Terry Leyden: I do not think Senator Landy is the Minister yet.

Senator Denis Landy: It is ridiculous. Senator Leyden was a Minister and should have more sense than to make a statement like that.

Acting Chairman (Senator Michael Mullins): Senator Leyden without interruption.

Senator Terry Leyden: I will put it another way. What appeals system operates in regard to the conduct between a local authority landlord and a tenant? What controls operate in regard to the implementation of work on these houses? In this particular case, the tenants came to me and I went to the local authority to make the case, but there was nobody policing the policemen in this particular regard. However, it is these very local authorities who send out large demands to landlords. The landlords are being issued with requirements by an authority that does not itself comply with good standards. Demands are made on landlords for grass to be cut and sewerage work to be done, etc., but the Residential Tenancies (Amendment) (No. 2) Bill does not take any account of this.

As far as co-operative housing is concerned, I believe there should be some provision for a tenant to become an owner at some stage. Why are tenants excluded from ownership of any of the houses in these co-operative housing schemes? They can be tenants for years and years, but get no opportunity to have a home for life or to buy into their houses. If housing co-operatives could dispose of tenancies this would bring some funding into the system which could be reinvested in further development.

I welcome the fact that NAMA has dealt with some of the co-operative housing schemes and presume the Minister of State was involved in the approval of an application to refurbish approximately seven houses in one of these semi-ghost estates. This is a welcome development. The longer these estates remain empty, the more the properties will deteriorate. Without regular heating, a house will degrade very quickly. If action is not taken now, many of these houses will become uninhabitable. In that context, the Minister of State's approval of the purchase of a certain number of properties by a co-operative organisation is very welcome. These units will now be refurbished and provide decent accommodation for people in need of housing.

There can be little doubt that the cost factor must have discouraged significant numbers from applying to register a tenancy. The Minister of State is aware of the statistics for the numbers of people renting houses and the fact that there is a lower collection rate than is the case with the television licence fee. The information is coming in very strongly to the Department on property tax registrations. The data will show exactly the number of rented properties and whether the tenancies were registered. If an individual was paying the non-principal private residence charge of €200, it is surely obvious that he or she is liable for registration with the Private Residential Tenancies Board.

I note the Minister of State's intention to introduce amendments on Committee Stage. I am sure she is aware that some years ago a Green Party councillor from County Monaghan was appointed to the Private Residential Tenancies Board by the former Minister, Mr. John Gormley.

This individual was obliged to resign from the board and then resign from the council before being reappointed to the board. This practice of excluding local authority members from participation in boards of this type is an issue we have raised in the House many times. The former Minister of State, Mr. John Curran, was one of the few Ministers who provided, in the Charities Act 2009 he brought through the Houses, that local authority members should not be excluded *per se* from such membership. There was to be no right of appointment but neither was their appointment prohibited. As far as I can see, however, that prohibition stands in the Bill. Will the Minister of State comment on this?

I could talk at length about the provisions and benefits of the Bill, but my time is up. I fully support the legislation, the drafting of which began during my party's period in government. There is a clear need for the consolidation of services and the appeals system and these provisions are very welcome. I hope the Bill will proceed quickly through the Houses and that its provisions will be implemented without delay. I look forward to the Minister of State's response to my queries regarding local authority accommodation. In particular, will she indicate whether there is an appeals system within the Department to deal with disputes between tenants and the local authority or if that is a matter entirely for the housing offices of local authorities?

Senator Aideen Hayden: I welcome the Minister of State and congratulate her and her departmental staff on bringing forward this legislation. As she observed, the residential sector, particularly the private residential tenancies sector, is very different from what it was some years ago.

I first became interested in this issue when I worked as a census collector in the mid-1980s during my time in college. My assignment covered the Clarinda Park area of Dún Laoghaire where I encountered a number of properties comprising 13, 14 or 15 bedsits with one shared bathroom between four or five units. When one works as a census collector, it is often necessary to return to certain properties many times, as a result of which I became quite friendly with some of the residents in the area. I recall one particular woman who had retired from a very nice position, as it was at the time, as secretary to a senior partner in a law firm and was then living on a modest fixed pension. She was sharing a property with a number of returned immigrants who had been working on building sites in Britain. They were lovely men but she was afraid to go to the bathroom after 6 p.m. and could not have a bath or a shower without bringing a tub of Domestos with her to clean out the bathroom after the men had used it. I remember thinking it was outrageous that someone could reach their 70s and be living like this. That was the private rented sector in the 1980s. We have come a long way in 20 years, from what was termed the forgotten sector to what is the Cinderella sector today. As the Minister of State pointed out, the sector has grown from just under 10% in the 2006 census to just under 20% today. It is a considerable growth in the rental sector. Part of the growth is due to the fact that successive Governments have taken seriously the regulation of the private rented sector. Much has been done and I will give credit to other Governments for what has been achieved in the area.

The Residential Tenancies Act was a key item of legislation in introducing security of tenure. Previously, irrespective of how long people had been living in rented homes, they could be given 28 days notice to vacate them unless they had leases. Many of the poorest people in Ireland did not live in properties where they had leases. The Act also allowed for out-of-court resolution of disputes, which was critical. Very few poor tenants can afford to access the courts. It also provided for a measure of rent certainty. Members may not remember but during the 1990s, rents increased by 60% in some parts of the country. The Act also clearly laid out the obligations of landlords and tenants in terms of what both parties are obliged to do. It is a two-

sided coin.

At the time, many people said it would destroy the rented sector, with landlords exiting the sector like snow in front of the sun. That is not what happened. The feedback from many people is that legal clarity of regulation has helped to grow the rental sector in Ireland.

Progress has been slow in some areas, such as in the area of standards. Although we have had legislation that has significantly improved standards, in particular the 2008 and 2009 legislation, enforcement of those standards varies. Some local authorities, and I single out Dublin City Council, have been particularly robust in the administration of standards; others have been abysmally poor. As the Minister of State knows, I have called for a certification system, as opposed to the current system, like an NCT for rented housing so that no landlord is entitled to let housing without a certificate outlining the property is fit for purpose and complies with the standards. That would put the onus on the landlord to prove compliance rather than the current situation, which puts the onus on the local authority to prove non-compliance.

A number of points were made by Senator White about the PRTB and, as a former member of the board, I would like to address them. The PRTB has achieved a significant amount of improvement in its performance over the past number of years. When considering the number of cases dealt with by the PRTB in 2010 and the period of time in which it now rectifies disputes, its performance has improved substantially. It is also important to note that there are few disputes in the rented sector. That should be acknowledged. Out of 474,000 tenancies, only 2,230 cases came before the PRTB. This is a compliant sector, with a number of very serious areas where disputes occur. The Government is on track, in dealing with areas where disputes arise. I welcome the commitment in the programme for Government to the introduction of a deposit protection scheme. It remains the biggest single issue for tenants living in Ireland and it is a significant contributor to the increased levels of homelessness that we have seen in the past 12 to 18 months. Although it is not the subject matter of this legislation I also welcome the housing assistance payment which will be introduced by the Minister, Deputy Burton, and the Minister of State, Deputy O'Sullivan. This will give rental payments directly to landlords and will help with the issue of rental arrears, which is one of the two biggest issues along with deposit protection for tenants. The other significant and emerging issue is in the area of accommodation standards and their enforcement. Credit must be given to the PRTB for its work to date and for its achievements, albeit with reduced numbers of staff, as the Minister of State has acknowledged.

I welcome the inclusion of approved housing bodies in the Bill. It is certainly true that there has been a variable standard in the operation of approved housing bodies and it is time for that sector to join with the private rented sector and to adopt modernised regulation. The number of tenancies at 25,000 or fewer will not significantly undermine the PRTB. It is important to recognise that we have moved on as a country in this regard. I am not convinced that we will ever reach 80% home ownership again. Renting, whether social or private sector, is an important aspect of the choices available to people. There is widespread support, in my view, among the approved housing bodies for inclusion in this legislation which contains positive provisions for both landlords and tenants in that sector.

I refer to the more controversial elements such as the inclusion of provisions to facilitate the rapid resolution of cases of rent arrears. The payment of rent is the basic contract between landlord and tenant. I do not think anyone would argue that this is not the case. I have certain observations on the provisions in the legislation and I will make those observations at later

Stages in this Bill. In a time of severe recession and with 30,000 buy-to-let landlords facing repossessions, there is a need for compliance with the requirement to pay rent. The housing assistance payment, HAP, when introduced, will help in that regard.

I welcome the introduction of the provision for deposit protection and that the Minister of State has introduced it in this House. It is a significant measure to which this House will give serious consideration. This Bill will contribute to the development of the private rented sector and also the social rented sector in so far as it is comprised of the voluntary housing associations. I favour its extension to social housing provided by local authorities and I await the Minister of State's comments on how she believes this could be achieved and the timescale for its inclusion. I congratulate the Minister of State for this piece of legislation and in particular for bringing forward measures which have been long awaited by Threshold and other voluntary organisations.

Senator Kathryn Reilly: I welcome the Minister of State to the House and I wish to indicate Sinn Féin's support for this legislation. As other speakers have noted, there is a significant variation in the rights and regulations governing tenancies in the rental sector. For example, three tenants living beside each other in identical houses could comprise a local authority tenant, a housing association tenant and a private rental tenant. The private rental tenant would have, in some respects, greater protection under the law than the tenant in the social housing sector, for example. All three tenants would have different rules and procedures for the most basic aspects of the tenancies, which does not make sense. The law governing tenants and landlords should be the same irrespective of whether a tenancy is private, with a housing association or with a council. It is amazing that there are no regulations outlining the rights and responsibilities of landlords and tenants in social rented housing.

Since the passing of the Residential Tenancies Act 2004, Sinn Féin has been among many voices calling for the uniform application of landlord and tenant regulation right across the rental sector, including social and private aspects. It does not make sense for tenants to have one set of rights while living in the private sector but another while living in local authority or housing association properties. I welcome the fact that the Bill before us brings together thousands of housing association tenancies into the regulatory code, although as I mentioned, I am disappointed that logic has not been followed to include council tenancies as well. I am interested, as Senator Hayden mentioned, in how this could be introduced, and in the meantime we will continue with two different types of protection. That is without justification.

The Minister of State and my colleague in the Dáil, Deputy Ellis, mentioned the deposit retention scheme and I look forward to amendments on Committee Stage in this respect. We all know the arguments regarding the retention scheme are very strong, and although the majority of landlords and tenants have no problems when ending a tenancy and returning a deposit, a significant number of cases may see a dispute. A failure by some landlords to return deposits may, in this day and age, leave a family homeless because of an inability to secure new accommodation without a deposit. Deposits are not cheap and people can struggle, especially if they are looking for a family home because they have small children. Trying to get the money together can be quite difficult. The issue takes much of the Private Residential Tenancies Board's time and resources, and they could be used to better effect. The Bill has many positive developments, such as changing the operation of the dispute resolution process, which will enable speedier resolutions. It will free up the working of the tenancies board.

There is an issue with the resourcing of a reformed residential tenancies board. There is

an increasing reliance on the private rental sector not only among renters but also through the different housing schemes of the State, including rental accommodation long-term leasing schemes. The workload of the Private Residential Tenancies Board is increasing but the self-financing regime may be hampering its ability to fulfil statutory obligations. Perhaps the issue should be examined and the board should find new ways to ensure landlords and tenants get the best protection from this Bill.

We welcome the legislation and support it but we look forward to seeing the amendments relating to the deposit retention scheme.

Senator Deirdre Clune: I apologise for not being here when the Minister of State delivered her speech as I was attending another meeting. I have read the speech and the Minister of State's comments on Second Stage of this Bill in the Dáil. As many people have indicated, this provides an opportunity to focus again on the 2004 Act, the value of the legislation and its provision of security, particularly regarding tenure for tenants. It also addressed standards, which have improved. The Minister of State has today indicated the number of people renting, which has increased considerably; from 2006 to 2011, the figure increased by approximately 29%, while on the other side of the equation private home ownership has reduced. That underlines further the need to ensure proper structures so that tenants and landlords can have a positive relationship, with a statutory support for that relationship.

5 o'clock

The Bill's main purpose is to ensure that approved housing bodies come under the Residential Tenancies Act 2004, and I am in doubt about the importance of doing that given the greater role they will play in housing policy. I have dealt with many of the housing bodies, which I know work closely with local authorities. My experience of working with them, which is limited, has been positive and they are supportive of tenants. The community units in which they are involved tend to be smaller, which works in their favour.

The PRTB, which is to be renamed the residential tenants board under the Bill, was established under the 2004 Act. It has played a strong and important role in ensuring that disputes between landlords and tenants are addressed. In many cases, a dispute can be drawn out. I want a timeframe included in the Bill in which the board should act. The Minister mentioned an increase in referrals at a time when staff numbers have reduced by 53% since 2008. That speaks for itself. Nonetheless, the Private Residential Tenancies Board is an important establishment. When cases of anti-social behaviour have been referred to the board it takes a long time to establish whether the board can deal with them, so there is room for streamlining the types of complaints that go to the board.

As has been said, not all landlords are registered with the Private Residential Tenancies Board. However, Government Departments hold much information, including in Revenue and the Department of Social Protection, about who is and is not a landlord and what properties are registered. That situation could be tidied up. There are moves afoot to do that, but the last time I was involved in studying the issue there was no tie up between the two areas. I do not take data protection issues lightly, but were we able to deal with those, there is much information available that could be used.

On rent reviews and rents in excess of the market value, I welcome the positive impact that the 2004 Act has had in addressing fair procedures for determining rents. However, there

is anecdotal evidence of large rent increases, particularly in the Dublin area where there is a huge demand for properties. In the current climate it will be the landlords who benefit from increasing rents because they are the ones who call the shots in a provider's market. The housing market continues to fluctuate, but rent levels are a serious concern, particularly for young people who are moving into the rental market and trying to establish a home but find themselves in a difficult market in which properties or rooms in accommodation can be taken within five minutes of being advertised on a website.

Senator Denis Landy: I welcome the Minister of State to the House, and I commend her on bringing forward this legislation. The Bill, which we have looked for for a long time, is an important step.

I welcome the Minister of State's announcement to legislate for a deposit protection scheme. We have all had cases in our constituencies in which deposits have been withheld. In some cases, it has been denied that deposits have ever been paid, in others, the people who are relying on those deposits to move house for one reason or other have been denied the opportunity of getting the deposits returned to them. I, therefore, welcome that this issue will be dealt with in the legislation.

I have questions about the legislation. I know that we are in an era in which, for political or other reasons, reductions are called for, but why is the board to be reduced from 15 to 12 members? On the rights of individual residents, Senator Reilly referred to the fact that there could be three different types of tenants - private, voluntary housing and local authority - in one housing estate, all of whom have different entitlements. I am concerned about a situation in which a tenant is involved in anti-social behaviour. Who takes up the case for the neighbours of that tenant? One might argue that is a matter for the Garda - practising politicians often hear such a call made on the ground. However, the Garda can take action only when it is requested to. In many cases of anti-social behaviour, those affected are afraid to report the issues or go to the Garda. Will the legislation be strengthened to ensure that it is not down to the individual tenant to make a complaint?

As has been mentioned, the Bill includes a process for the inspection of private rented accommodation. I have been informed that Dublin City Council has carried out inspections but that inspections have not been carried out across rural areas. How will the legislation strengthen the inspection process? On the question of whether local authorities are doing their job, I was involved in a number of cases that went to the Ombudsman. Taking a case to the Ombudsman is the mechanism used by tenants in local authority houses and I imagine that process will continue. The Ombudsman was very effective in the cases that I was involved in. What is the Minister of State's position on that issue? While the number of cases have grown, the number of staff available to deal with them has not. What are the Minister of State's comments on that issue? Furthermore, although I welcome that the mediation system is to be streamlined and the process improved, how long will people have to wait for the mediation service to be provided?

Senator Michael Mullins: I welcome the Minister of State to the House and I congratulate her and her staff on introducing the legislation, which is a culmination of much work by successive Governments. The legislation is to be welcomed because it will lead to the inclusion of approved housing bodies under the Residential Tenancies Act 2004.

We can all associate with the grim picture of the 1980s painted by Senator Hayden because we knew of the existence of substandard and inappropriate accommodation in our towns. We

have come a long way from those times, as she rightly said. This strengthening of legislation is very much to the benefit of the landlord and the tenant, in particular. It is important, given the current economic circumstances in which many people find themselves that decent accommodation is available to all our citizens at a reasonable rent. It is a basic human right to have good and appropriate accommodation. It is particularly the right and entitlement of a tenant and while the landlord also has rights, he or she has responsibilities. He or she has the right to run a legitimate business and to get paid for it at the end of the day. The strengthening of the legislation, therefore, will be to everybody's benefit.

The Minister of State referred to anti-social behaviour and the need to strengthen provisions in private tenancies. We are all conscious of the problems on local authority estates. Anti-social behaviour is spreading and it is very much evident on private housing estates. As she correctly said, there is no silver bullet but we have a responsibility to give security and protection to the vast majority of our citizens who are law abiding on both local authority and private housing estates. I do not know how we should address this. As Senator Landy said, the Garda can only do so much but more resources, including staff, must be deployed on local authority estates to work towards the elimination of anti-social behaviour. Many elderly people on these estates are frightened and it is not fair that people who behave in an anti-social manner appear to be able to continually re-offend and get away without significant consequences. There are fine local authority housing estates in my part of the country but the local authority cannot secure people who need housing to occupy fine houses because of anti-social behaviour. It is a significant challenge to address.

I welcome the Minister of State's proposed deposit protection scheme because unscrupulous landlords treat tenants badly. In some cases, tenants are prevented from securing alternative accommodation because they cannot get their deposit back. However, we must also recognise the problems faced by landlords when their properties are damaged and rent is not paid.

I would like to raise another issue that is not provided for in the legislation but since the Minister of State is present, I would like to draw it to her attention. House ownership is the ambition of most people and there is discrimination against local authority tenants who wish to buy out their home but who are not in full-time employment. For example, I was approached by a woman whose main income, which is from social welfare, is significant and who would like to buy the house she lives in as she has invested a great deal of money in it over the years. She would like to pass it on to a family member who has a disability but she is prohibited under the scheme in place from acquiring the house. She is paying significant rent for it but she could pay a little more and buy the house outright over a number of years. I am running into a brick wall in trying to crack this issue for her. Will the Minister of State consider these cases? It is in a local authority's best interest to have a fantastic tenant who is prepared to invest her money to make the house comfortable as she enters the later years of her life. She would dearly love to own that house but she is prohibited from doing so because of the criteria related to the purchase of local authority housing.

I compliment the Minister of State on this legislation, which I am most happy to support. I hope it will be implemented as soon as possible.

Senator Rónán Mullen: Ba mhaith liom fáilte a chur roimh an Aire Stáit. She said: "A well balanced housing sector requires a strong, vibrant and well regulated rented sector and the rented sector is an integral part of our housing policy for the future." That is a laudable sentiment. The Bill builds on the work of the Residential Tenancies Act 2004. Perhaps the most

important impact of that legislation was the provision of security of tenure under Part IV, which allows a tenancy to extend to four years. That should be longer, perhaps up to ten years, in order that we can arrive at a more stable model, similar to those on mainland Europe.

However, I perceive a lacuna in the law where there is a change of landlord after a tenant has signed a lease relating to a so-called investment property and a bank appoints a receiver over the property. As a general proposition, the appointment of a receiver is one of a number of means by which a bank can enforce a mortgage. A receiver under a mortgage granted by an individual is often referred to as a fixed charge receiver. I understand such appointments have been commonplace in the UK for many years. They are a recent development in Ireland in the context of residential properties. Where a receiver is appointed pursuant to a mortgage agreement, his or her status will depend on the terms of the mortgage agreement. The question of the appointment of a receiver over a property was considered in a recent High Court judgment in McEnery *v*. Sheahan. The court considered the right to appoint a receiver. The late Mr. Justice Feeney held that the power to do so was acquired by the bank immediately upon the creation of the mortgage and in circumstances where there is no specific power to appoint a receiver in the mortgage deed of property, there is a general right under the conveyancing Acts. Due to the unique relationship created by the appointment of a receiver under the provisions of the mortgage agreement, it is often the case that the receiver acts not as an agent of the mortgagee or lender but as an agent of the mortgager or borrower. Under the unique form of agency created in most standard form mortgage contracts, the lender issues instructions to the receiver notwithstanding the fact that the receiver is not an agent for the lender.

The most pertinent question in this regard is what duty is owed by the receiver towards the tenant whose lease agreement is with the mortgager. There are not express provisions relating to the duty owed by the receiver to the tenant in the 2004 Act. In the UK, the receiver has various duties to the mortgagee and tenants beyond a duty to simply act in good faith and these were established in Medforth *v*. Blake. These include a duty to manage the property under receivership with due diligence. This would be useful if it formed part of Irish law but the position is not clear. Mr. Justice Clarke in Mooreview Developments Limited *v*. First Active PLC in 2009 stated that "it is at least arguable that Medforth *v*. Blake does represent the law in this jurisdiction" but this, the Minister of State will agree, is far from resounding judicial support for a proposition that a receiver owes a duty of care beyond simply acting in good faith to the mortgager and to the tenant where he or she is in effective possession of the property. Who does a tenant go to fix the heating when the landlord with whom he or she has a contract is no longer in control of the property and does not have the keys? There should be a specific provision in the legislation relating to the duties of receivers and banks in these scenarios. I would be grateful for the Minister of State's view on that. Has the Government plans to address this problem? Does she agree there is a potential lacuna in this regard? In consultation with the relevant housing associations the Minister of State decided it was possible to extend the remit of the Act to even more of the approved housing body sector than was originally envisaged, and to provide that there would be no additional exemptions for approved housing body tenancies expect for those provided for in the 2004 Act. The Minister of State correctly identified the next natural question that follows, which is how best to deal in the long term with local authority tenancies, of which there are tens of thousands across the country. Is there a reason the Bill does not address the issue? Is there a single principled reason one class of tenant should enjoy protection under legislation and that another class of tenant should not? The Minister of State referred to further thought, research and consultation. When does she envisage that it will be forthcoming and what is the outcome likely to be?

Minister of State at the Department of the Environment, Community and Local Government (Deputy Jan O'Sullivan): I thank all Senators for their constructive contributions from all sides of the House. I will address the various issues raised, in so far as I can.

Senator White raised the capacity of the Private Residential Tenancies Board, PRTB, to deal with the demands on it. A number of Senators, including Senator Reilly, Senator Clune, Senator Landy and others, also raised the matter. In my initial contribution I recognised the extra workload that is being laid on the PRTB and the requirement that it would do the work with fewer staff. Because we are introducing two major changes that will address the two areas where most of the cases that come before the PRTB arise, namely, deposit protection and non-payment of rent in cases of dispute with a landlord, those measures will help to address the workload of the PRTB. The board has been taking steps itself in terms of addressing the issue, in particular in the ICT area. An ICT system has been set up that is streamlining a lot of the work in the PRTB. Approximately 40% of landlords now register online and there are facilities to do much of the PRTB's business online. The PRTB is addressing the delays. It is conscious of the problem, as we are. The measures in the Bill will help in that regard.

I will address deposit protection as practically every speaker raised the issue. I am committed to introducing deposit protection. It is in the programme for Government. I have said that from the start. I am also pleased that I am introducing it in this House as there has been strong engagement on the issue by Members. I look forward to introducing it on Committee Stage in the Seanad. We have been engaging with the Attorney General's office on the drafting of the amendment. The officials tell me much progress has been made at this stage. We will introduce the amendment. I know Senators will be very interested in engaging on it. Everyone who has spoken on the Bill has referred to the issue.

One of the other main issues that has been raised is the extension of the remit to the voluntary sector and ultimately to local authorities. We are extending the remit to the voluntary sector and that is a substantial element of the Bill. One issue that arises in terms of the workload is that by and large it is a relatively stable sector in that people tend to stay in their tenancies perhaps more than is the case in the private sector. In that sense I hope that the additional workload might not be as much as the additional numbers might indicate. In response to Senator Mullen's specific question, there is no principled objection to adding the local authority sector and we intend to do it in the future. However, one is talking about approximately 130,000 tenancies. It is a big sector and there will be need for time, consultation and capacity before we do that.

To reassure, Senator Leyden, who specifically raised the protection of the rights of local authority tenants, under the Housing Acts they are already required to have minimum standards. They are not without any protection but I agree that eventually we want to include them so that we have the one system for all tenants. It would be too much to do in the Bill before the House but the intention is to do it in the future.

A number of Senators echoed Senator Keane's reference to standards and enforcement. There has been a great deal of improvement in that regard. Enforcement has trebled in recent years. A total of 20,000 inspections take place per annum by local authorities. Some Senators have said inspections are a bit uneven around the country. That is probably true. Dublin City Council is particularly good. It has carried out many inspections and has focused on particular areas where there were problems. That approach has been very successful. A small proportion of the income of the PRTB goes for enforcement to local authorities. If people feel that a local authority is not doing its duty in that regard they should speak up as funding is made available

for enforcement. I have been encouraging local authorities to enforce the standards. We want local authorities to enforce if they have not been doing it already. Standards have greatly improved. I feel strongly that there is not much point in having regulations if they are not implemented and enforced.

In terms of the workload, I wish to emphasise that mediation is an option. People are now beginning to realise that is available rather than having to rely solely on enforcement.

Registration was raised by a number of speakers. The ICT system is helping that. Senator Mullins and others referred to the need to cross-reference information between bodies such as the Revenue Commissioners and the Department of Social Protection. That is happening now. The Department of Social Protection gives information to the PRTB on tenants who are receiving rent supplement. That is improving the registration. The Revenue Commissioners are also involved. A flow of data is beginning to take place and the rate of exchange of information is improving. We wish to ensure that landlords comply with their obligation to register and we will take every action we can in that regard.

Senator Hayden referred to a related issue, namely, the introduction of the housing assistance payment, HAP. Again, that will improve the situation. As I outlined, we have a connection now with the Department of Social Protection. The intention is that when we transfer to HAP there will be much more information flowing and the rent will be paid directly to the landlord so that the situation will not arise whereby a tenant is given rent supplement but does not pass it on to the landlord. That will greatly improve the situation of landlords not being paid. Senator Hayden also referred to the growth of the sector, as I did in my opening contribution. It is a growing sector and it is extremely important that people in the sector are properly protected. That is a central element of the Bill.

Senator Keane referred to sub-tenancies. That is being addressed. Senator Landy asked about the reduction in the number of board members. The intention is that the board will focus solely on governance and strategy and that it would not be involved in dealing with disputes so there is not the same need to have as big a board as we would have had in the past. I consider the number appropriate. Citizens are entitled to go to the Ombudsman if they feel that administration of one kind or another has failed them. I will fully uphold people's right to do this.

With regard to anti-social behaviour, an issue raised by several Senators, it is primarily the responsibility of the Garda. We are seeking to facilitate easier access to the tenancies board for residents affected by anti-social behaviour. This would not necessarily include requiring the individual living next door to a tenant engaged in anti-social behaviour to take a case but a residents' association or a neighbourhood watch scheme instead. There was a successful case in Cork recently which indicates it is possible to raise cases of anti-social behaviour with the board.

Some issues were raised with regard to local authority tenants and anti-social behaviour which are obviously not covered in the Bill. With a housing Bill due to be introduced next year we hope to address a lacuna in this area.

Senator Michael Mullins referred to the incremental purchase scheme which is not part of this legislation. A new scheme is to be introduced soon.

Senator Rónán Mullen raised the issue of receivers and tenants. I have met the Irish Banking Federation which has issued clarification on the role of receivers. We are looking to see if

there is a need for legislation on who is responsible when a receiver is in place. We have clarity with regard to whom one pays rent in such a case, but there are issues with maintenance and so forth.

Most of the points raised are addressed in the legislation. This is an area that covers a large number of our fellow citizens. Senator Aideen Hayden graphically described what the private rental sector was like in the past. Many of us have probably rented at some time in the past and seen the conditions she described. We want to ensure tenants have equality of consideration with regard to their various rights. The legislation aims to address this issue.

I look forward to the next Stages and ensuring this legislation will make a positive contribution for those living in private rental accommodation and voluntary housing. I thank Senators for their contributions.

Question put and agreed to.

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

Senator Cáit Keane: Next Tuesday.

Committee Stage ordered for Tuesday, 1 October 2013.

Sitting suspended at 5.35 p.m. and resumed at 5.45 p.m.

EU Directive on Patients Rights in Cross-Border Health Care: Statements

Minister for Health (Deputy James Reilly): I welcome this opportunity provided by Seanad Éireann to discuss the EU directive on the application of patients' rights in cross-border health care. This directive, commonly known as the cross-border directive, aims to provide clarity on the rights of patients to access health care in another member state. It also sets out the grounds on which a patient may claim reimbursement of the eligible costs of treatment from his or her own state's health system and outlines a number of other areas for co-operation between member states. It also supplements the rights that patients already have at EU level through the legislation on the co-ordination of social security schemes, EU Regulation 883/04.

The directive aims to facilitate access to safe, high-quality cross-border health care and to promote co-operation on health care between member states in full respect of national competencies in organising and delivering health care, facilitate efficient transfer of patient information between member states, facilitate reimbursement of the cost of treatment in other member states, and introduce a system of prior authorisation for certain categories of treatment. In essence, the directive provides rules allowing for the provision of information on health care to patients and, where such treatment is availed of in a cross-border context, for the reimbursement to patients of the cost of receiving treatment abroad, where the patient would be entitled to such treatment at home.

Notwithstanding these aims, the vast majority of EU patients receive health care in their own countries and prefer to do so. This can be easily explained by, among other things, the presence in their home country of family and friends, the absence of language and cultural dif-

ferences, and the absence of need to arrange the more expensive travel and accommodation costs involved in accessing health care in another EEA country. However, in certain circumstances, patients may benefit from receiving their health care in another European country. Examples might include highly specialised care, or health care in centres of particular speciality. Yet, beyond the EU regulation route, which required that the treatment not be available in the patient's home country, no formal mechanisms existed to facilitate such cross-border health care. Bearing these reasons in mind, the need for some formal arrangement for accessing this type of health care became clear, as evidenced by the fact that European citizens have brought a series of cases to the European Court of Justice seeking to assert rights to reimbursement for health care provided in other member states. The directive evolved from calls from both the European Parliament and the Council of Ministers for the Commission to propose a specific initiative on cross-border health care, as it was considered necessary to clarify how the principles established on these specific cases should be applied in general. To this end, and as already stated, the directive seeks to ensure a clear and transparent framework for the provision of cross-border health care within the EU for those occasions on which the care patients seek is provided in a member state other than their home countries.

The following general principles apply to the directive's provisions: there should be no unjustified obstacles; the care should be safe and of good quality; and the procedures for reimbursement of costs should be clear and transparent. This does not negate the fact that the EU recognises that member states are responsible for the organisation and delivery of health services and medical care. They are, in particular, responsible for determining which rules will apply to the reimbursement of patients and to the provision of health care. The directive changes nothing in this respect.

It is important not to forget the EU regulation route for the provision of overseas, or cross-border, health care, which I mentioned at the start of my speech. With the transposition of the directive there will be two potential routes for patients to receive planned health care in another member state which will be paid for by their own member state. These are the established route under EU Regulation 883/2004, otherwise known as the E112 route; and the new route under the cross-border directive. To emphasise this point, the directive makes explicit comment on the fact that patients must be made aware of the existing EU regulation, the E112 form, if and when they make inquiries of the national contact points regarding reimbursement for their cross-border health care. This is because the regulation route may be a more beneficial route in many circumstances - for example, when up-front payment by the patient for the treatment is not required.

There are, nevertheless, differences in the two routes. The key differences between the two routes are that the E112 route relates only to treatment provided in the State health care sector, it is all pre-authorised, the costs are handled between the HSE and the provider - not by the patient - and the treatment must not be available within the Irish system. However, under the directive, patients may seek any health service in another member state that is the same as or equivalent to a service that is available to a patient in his or her own health care system. The patient has the right to have this treatment reimbursed up to the cost of the same, or equivalent, treatment in their own State, or the actual amount, whichever amount is lower. Unlike the E112 route, the patient may also access treatment in another member state in either the state or the private health care sector. Except where the member state opts to have certain treatments subject to prior authorisation - and this provision is limited to particular conditions under the directive - the patient will not be required to receive prior authorisation, but may do so if he or she wishes.

In contrast, under the E112 route all treatment must be authorised in advance.

To further explain the obligations under the directive, it can be said that the working of the directive may be broken down into two main areas. First, it addresses a member state's obligations to its own citizens. Second, it sets out a member state's obligation to provide information to any EU citizen on the accessing of treatment in the member state, the cost of such treatment, and the regulation of providers such as institutions and individual professionals.

For our own citizens, we must ensure that administrative procedures regarding the use of cross-border health care and reimbursement of costs of health care incurred in another member state are based on objective, non-discriminatory criteria which are necessary and proportionate to the objective to be achieved. Any administrative procedure must be easily accessible and information relating to such a procedure has to be made publicly available. Such a procedure must be capable of ensuring that requests are dealt with objectively and impartially. We must set out reasonable periods of time within which requests for cross-border health care are dealt with and make them public.

When considering a request for cross-border health care, we must take into account the specific medical condition, the urgency of treatment, and individual circumstances. We must ensure individual decisions regarding the use of cross-border health care and reimbursement of costs of health care incurred in another member State are properly reasoned, can be subject to review on a case-by-case basis and are capable of being challenged in judicial proceedings. We have the option to offer patients a voluntary system of prior notification whereby the patient receives a written confirmation of the amount to be reimbursed on the basis of an estimate. This estimate must take into account the patient's clinical case, specifying the medical procedures likely to apply.

We may choose to pay the providers of the cross-border treatment directly, similar to the situation under EU Regulation 883/2004. However, if we decide not to put such a mechanism in place we must ensure that patients receive reimbursement without undue delay. We must ensure that where a patient has received cross-border health care and where medical follow-up proves necessary, the same medical follow-up is available as would have been available if that health care had been provided in the Irish health system. We must ensure that patients who seek to receive, or do receive, cross-border health care have remote access to or at least a copy of their medical records, in conformity with, and subject to, national measures implementing EU provisions on the protection of personal data.

For citizens of other member states, we must establish a national contact point, NCP, to provide patients with information about their rights and entitlements and practical aspects of receiving cross-border health care in Ireland - for example, information about health care providers, quality and safety, accessibility of hospitals for persons with disabilities, and, to enable patients to make an informed choice, information about health professionals. The NCP will provide information to patients concerning Irish health care providers, the right to provide services, restrictions on its practice, information on standards and guidelines on quality and safety in Ireland for both private and public providers, their rights as patients, complaints procedures, mechanisms for seeking remedies, and legal and administrative options for settling disputes.

NCPs are to co-operate among each other and with the Commission. NCPs will provide patients with contact details of the NCPs in other member states.

6 o'clock

In short, the NCP must on request be able to provide patients with information on the rights and entitlements which apply to them in an Irish context relating to receiving cross-border health care. This includes the cost of the treatment in Ireland and procedures for accessing and determining those entitlements, as well as appeal and redress procedures if patients consider that their rights have not been respected. In providing information about cross-border health care, a clear distinction shall be made between the rights that patients have by virtue of this directive and rights arising from Regulation EC 883/2004. Health care providers must also supply patients with a copy of their medical records when they return to their member states.

The directive also states that member states and the Commission should co-operate to strengthen their interactions in the field of health care in a number of areas - for example, in the field of e-health, through the development of a European network which will bring together on a voluntary basis the national authorities responsible for e-health. Another example is rare diseases, in which regard the Commission will support member states in co-operating in the field of diagnosis and treatment capacity. Co-operation in these areas is voluntary but member states are being actively encouraged to do so and my Department has become involved in these voluntary networks.

The directive seeks to ensure a clear and transparent framework for the provision of cross-border health care within the EU for those occasions when the care patients seek is provided in other member states rather than in their home countries, while recognising that member states are responsible for the organisation and delivery of health services and medical care, including in particular for determining which rules will apply to the reimbursement of patients and to the provision of health care. I welcome this directive because it provides a coherent and uniform set of rules for patients throughout the EU and will start a new phase of co-operation between 27 national health systems. I hope the directive will contribute towards reducing inequalities in access to care by helping patients to choose their health care provider across the EU and that patients will have greater and clearer access to information on the quality and safety of the care they receive in whichever member state they decide to access their treatment.

Senator Marc MacSharry: I welcome the opportunity to speak on this matter. Will legislation be required to transpose the directive and, if so, what will be the implications thereof? I apologise in advance if I will not be present for the Minister's reply but I will check the Official Report.

Given the co-operation that exists on so many other levels, it stands to reason that we should co-operate on health care. I recently dealt with a Bundoran-based patient who went to a hospital in Fermanagh after being injured and was issued with a substantial bill for the treatment. We have been liaising with the authorities there to deal with the issue. I presume the directive will allow issues of this nature to be resolved.

However, while we are all for co-operation and maximising the potential for better outcomes throughout the European Union, the politics of medicine is akin to the level of chicanery associated with these House in terms of horse-trading and competition among institutions to be the best performing or handle the most procedures. I am also conscious that successive Governments have avoided investing in certain parts of Ireland due to resource issues, particularly over the past ten years. I refer in particular to cancer and cardiac care. Governments have taken refuge in our proximity to our Northern cousins and the Queen's generosity. In my area, Alt-

nagelvin hospital in Derry and the new hospital in Enniskillen are expected to somehow solve our resource needs through cross-Border co-operation. The North-South Ministerial Council is supposedly getting along very well and everything is said to be moving in the right direction. The reality on the ground is that if somebody in Glencolmcille needs radiotherapy, he or she will go to Galway or Dublin. Even if such a patient went to Altnagelvin, he or she would be required to travel a considerable distance. As there is no cardiac catheterisation facility in the entire region and there is no plan to provide one, the new approach to cardiac care does not apply to my part of the country. The only treatment available is thrombolysis, which does not have the same potential to save lives as 24-7 cardiac catheterisation facilities and cardiologists. I do not think anybody denies this. It is not feasible for the north west of the country to have the Mayo Clinic or even St. James's Hospital in Letterkenny, Sligo, Ballyshannon or Tory Island but it is reasonable to expect a scaled-down version of those facilities, including cardiac catheterisation and laboratories, within a commutable distance of three hours. There should at least be potential for achieving the goals of the national cancer control programme, which is centrally developed and locally delivered. Patients could get diagnosis and treatment in the centres of expertise in St. James's, Beaumont and, to a lesser extent, Galway and Cork but we could provide radiotherapy satellite facilities along the lines of the system that the former cancer tsar Professor Tom Keane helped to develop in northern Canada. The town of St. George in Canada has a similar catchment to that of Sligo. If one is being treated in the Beacon Clinic in Dublin for a particularly complex head cancer, its specialists will consult colleagues from sister hospitals in the United States for assistance in deciding what level of radiotherapy to apply. They can look at the scans and suggest doing X or Y. We need to aspire to the roll-out of radiotherapy and cardiology treatment plans which take cognisance of all people in Ireland, not only those who happen to back up the statistical success of a particular clinical programme. The parts of the country that Senator Harte and I represent have unique concerns, but the clinical programmes have only paid lip service to Sligo and Letterkenny.

Altnagelvin is committed to developing a centre for radiotherapy but its cardiac catheterisation facilities remain unused because it does not have sufficient cardiologists. We need to provide a cardiology service to my region that offers people living there the same potential to survive as those in other parts of the country. We are not looking for the five cardiologists necessary for centres of excellence. A similar nine-to-five service to that provided in Limerick might suffice. Equally, we need to develop a plan to provide the operators and back-up resources needed for linear accelerators for the application of radiotherapy. The treatments could be determined based on levels of prescription in the centres of expertise and delivered in a central part of my region. We do not need to revisit pre-election promises, but we must acknowledge that citizens live in this part of Ireland and will continue to do so. They will require a level of service and some Government will have to provide it. Why not this one? I will continue when Minister is finished laughing with his representative.

I am probably being repetitive but we cannot overstate this issue. The Minister was a junior doctor in Sligo General Hospital. While I appreciate that some of the points I am making may be humorous, my aspiration is genuine and achievable. Under the guidance of expertise in cardiology and other disciplines, treatments such as radiotherapy and stent insertion could be provided in this part of the country. The reality is that the business case for doing so will never stack up. According to the guidance of so-called experts in cardiology and other disciplines some treatments, such as radiotherapy or stem provision, could be provided in those parts of the country, but the business case for it will never stack up. If it were up to the likes of the National Centre for Pharmacoeconomics, or if it must specifically stack up economically, there

is no doubt, and I am sure Senator Harte would agree, the west of Ireland would be shut down. Electricity and water would probably be cut off around Mullingar.

I would like to see this transposed in a way which would mean good co-operation in areas such as cardiology and radiotherapy where there are no up and running systems in Fermanagh or Derry. We in the South should not seek to take refuge in spurious plans to put such services in place and instead put in place a plan for ourselves in this jurisdiction, and perhaps be prepared to share it, which may enhance the business case. It still would not be economical but the lives of the people of Donegal, Sligo, Leitrim, Cavan and the rest of the area are no less important or valuable than those in Dublin 2 or Dublin 4.

Senator Colm Burke: I welcome the Minister to the House and thank him for taking the time to deal with this matter and give a very comprehensive overview of the directive. I have a personal interest in the directive. I apologise to Senator MacSharry for remarking to the Minister that Ministers here get off lightly because when this was being dealt with in the European Parliament, more than 400 amendments were tabled to the document drafted by the socialist group. In 2008 and 2009 I fought very hard to have the privilege of heading the European People's Party group at the European Parliament's Internal Market and Consumer Protection Committee which dealt with the directive. During the debate 380 amendments went to a vote and our group, with the assistance of the liberal group, won 370 of them. The directive as drafted by the socialist group was a little different to what we ended up with, which was what we very much wanted.

I also have an interest in the directive because more than 25 years ago I received medical treatment abroad. I was diagnosed with a very serious medical problem and had surgery in Ireland which did not work. The only option available to me was to go abroad. I was very lucky as I was able to receive treatment in Sheffield. The treatment was developed in Stockholm and Sheffield had begun to offer it. I was also very lucky to be able to afford the treatment. It brought home to me very much that there should be no divide or discrimination when it comes to access to health care regardless of where in society one comes or what category of patient one is, and this is a reason I have stayed in politics. With regard to the references made in yesterday's newspaper, all Members of the House are here because they believe in making changes in certain areas. Making changes in health care is about striving to improve it.

The directive is welcome. If one compares Europe and the US, and one considers the size of the US and how information is shared between the states in the US and how progress in made in developing new health care procedures, it emphasises even more why we need a far more comprehensive and structured approach involving all European Union member states working together. This is another step in this direction.

The directive was passed on 9 March 2011 and will come into force on 24 October. The Minister set out quite clearly a full comprehensive explanation of the directive. It developed throughout Europe because for many people living close to borders, the nearest hospital might be only five miles away but it is in another country. A number of cases were taken to the European Court of Justice whereby people accessed medical care in the nearest hospital, which was in another country, and were seeking the right to receive reimbursement from their home state. The directive will also mean the Republic of Ireland and Northern Ireland should further co-operate in sharing and improving services and improving the level of care received by all citizens in the State, particularly those living in the Border region who could obtain a service closer to home on the other side of the Border.

Regardless of the directive, each member state has a responsibility to provide safe, high-quality, efficient and adequate health care in its own territory. The Minister has set out the options available. If health care is not available in one's own member state one has the right to go to another member state, and further options will be available under the directive. At present cross-Border health care is dealt with through the treatment abroad scheme which operates very effectively out of an office in Kilkenny. Sometimes I find it is slow to make a decision and I have come across a number of cases, one of which I remember distinctly, which were referred to the Ombudsman. In this particular case, Germany was identified by the parents of a child under the age of two as the best place for treatment, but the treatment abroad scheme refused to cover the cost of the treatment because they went for a consultation outside of Ireland before making the application. The Ombudsman held in favour of the parents of the child and felt they had acted in a reasonable manner. They wanted to obtain the best care for their child but it was not, and still is not, available in Ireland. The structures must work efficiently and satisfactorily.

In his speech the Minister mentioned making available information to people and this is extremely important. I do not want people to get the wrong message and believe this directive means everyone can go to the UK for treatment. This is not what it is about. It is about ensuring people have access to health care, particularly if it is not available in one's own member state or in the case of undue delay. It is important to provide the correct information to those working in health care as soon as the directive is fully transposed into Irish law. On the most recent occasion I spoke to those working on the treatment abroad scheme, which was a few months ago, they did not seem to be fully up to date with what is involved in the directive. The information must be conveyed to all those working in the health care sector as soon as possible.

Senator David Cullinane: I welcome the Minister to the House. It is good we are discussing an EU directive. It is good practice and we should do more of it. I welcome the directive and the rules which govern cross-border health care in the EU. Such rules are particularly important when one considers the high level of mobility between countries generally, but obviously it is much more prevalent, and I suppose much more useful and relevant to this State, with regard to mobility of patients either side of the Border. In this context, the rules as set out in the directive will hopefully enable access to safe and high quality cross-border health care in the EU. We also welcome that member states are obliged under the directive to ensure patients have access to and receive on request relevant information on safety and quality standards in other member states.

I worked quite a lot with a number of patient groups which are campaigning for better safety standards in regard to hospital acquired infections, and I am sure the Minister has been in contact with many of these campaigning groups. I have attended many seminars across the State, including a number in the south east in recent years where people spoke about the Dutch model and the different approaches and systems in place in different countries. Patients from other countries who had been victims of hospital-acquired infection or who benefited from the better protections they have in those countries spoke at some of the conferences and seminars. This kind of directive gives patients and patient groups the opportunity to get the information on what is best practice and what is happening across the EU.

The ruling also has the potential to facilitate uniformity of practice and to lead to ongoing improvements in standards. While patients, advocate groups and patient groups can obviously benefit from this directive, states and departments can also learn about best practice and uniformity in regard to health care settings. It could also be productive in terms of the sharing of advances in international medical science, in the dissemination of advances in good practice

and in the diffusion of innovations in health technologies. Ireland is in a very good position in regard to health care technology. In my own city of Waterford, the TSSG is now working on innovation and new technologies in health care, looking at the different innovation models that can be used and working towards international best practice.

At a more basic level, the fact the directive clarifies issues concerning reimbursement is also to be welcomed. At a broader level, it is interesting to note the directive states that health systems are a central component of the EU's high levels of social protection and that the values of universality, access to good quality care, equity and solidarity are cornerstones of the EU project, which they are. While all of those are very laudable objectives, however, I imagine that even the Minister would admit we have some way to go to get to a fully universal system here in this State, and we still have some bottlenecks in the system where patients are waiting far too long to be treated.

I take the opportunity to again remind the Minister that, as I am sure he is aware, there is not a day my constituency office does not get a telephone call from some patient waiting for orthopaedic treatment at Waterford Regional Hospital. It happens every day of the week and is a big problem. I offer this as one example that we have a long way to go to get to the type of good quality care, equity and solidarity the directive suggests should underpin health care. For me, that is exactly what the EU should be about. It should be about driving social change, improving systems and working together, where we can, to make sure we have best practice and that we can learn from each other. It is about building a social Europe, and I am very supportive of that model. However, it sometimes rings hollow when we look at how it is practised and what people actually get in reality here in this State. We only have to look at the recent recession and look at the money which is being taken out of health care. We are looking towards a budget where more money will potentially be taken out of the health care system and the impact that will have.

Since 2011, under the current Government, the amount of health care spending accounted for by the public sector has declined. It is interesting to note that the OECD's report and commentary attributes reductions in Irish public spending on health to, first, cuts in wages, second, reductions in the number of health workers and, third, the fact investment in the public health service has been put on hold. I believe that is a very honest reflection of the position of the health service. Investment has been put on hold or cut back and wages have been cut back, which has impacted on the morale of staff and the provision of services. When we raise these issues, the Minister always says it is not just about how much we put into the system but about what we get out the other end, and there is some logic to what he says. However, he cannot with all seriousness say that taking out all of this money does not have any impact on patient care, because it does.

We support the directive and we are pleased to have the opportunity to put that on the record of the Seanad.

Senator Jimmy Harte: I welcome the Minister. The directive is very relevant for those living in Letterkenny and the north west, including Sligo, Monaghan, Cavan and anywhere along the Border, where people have been dealing with this issue for years. Councillor Martin Farren from Inishowen, who is in the Visitors Gallery, will be very familiar with the difficulties for people who live at the top of Inishowen and have to go to Dublin and Galway for treatment rather than to Altnagelvin and Belfast hospitals. These hospitals have the same services but people cannot access them and they drive past them, using an ambulance to go to Dublin,

when, in a perfect world, it would be a 32-county health system. This directive is perhaps a step towards that.

Recently, we all became aware of the impact of flooding in Letterkenny Hospital and the work done in that regard by the HSE. Problems arose when Altnagelvin had to take the overflow of patients, and while these have been addressed, it shows the importance of having a hospital like Altnagelvin on the doorstep of Donegal to alleviate a situation, even if the exact situation may never arise again.

I met one patient recently who had to have a fistula in the arm treated and was sent to the private hospital at Ballykelly in Derry under the treatment purchase scheme. When the patient came home, the fistula was giving problems but the patient was then sent to Dublin because Ballykelly could only do the treatment but not the follow-up. This meant the patient ended up in Beaumont Hospital rather than Ballykelly, so two doctors had to deal with a simple issue. In fact, Ballykelly wanted to take the patient back but it would not be funded for it as the money was not available. Perhaps this is an issue that could be addressed.

It is important that this directive is not just put on the shelf and that it is implemented under the statutory instrument which the Minister said will be brought in. My focus is on the practicalities for people living in, for example, Letterkenny, Buncrana, Moville or Donegal town. I hope they can access treatment and that, in the future, they would feel more confident going to Altnagelvin or Belfast rather than having to go to Dublin or Galway. As part of their family connections, most people in Donegal would have connections across the Border. People living in Killea in Donegal, on the Border with Derry, would even feel more comfortable going to Altnagelvin rather than to Letterkenny Hospital, and certainly to Galway or Dublin. I believe that ten or 20 years down the road, the health system in this country will have no border. This directive will be obsolete because it will be the right thing for the two health systems in the country to operate together.

From talking to professionals, and as I am sure the Minister will be aware, there is medical politics involved between hospitals across the Border, as there is even between hospitals within the Twenty-six Counties. Between Altnagelvin and Letterkenny hospitals, there are services that should be shared, particularly the cardiac service at Letterkenny, with which I am personally familiar as I have been with the cardiologist myself. That cardiologist told me that he has been told that Donegal is out of the loop in regard to the rollout of cardiac services. What he is hearing back from the HSE is that the cardiac service will in the future be looked after by the Northern Ireland health service. However, if one looks at the map of cardiac rollout, Donegal is blank and does not come into the equation. Hopefully, a patient in Letterkenny will in the future be able to access cardiac services in Derry and *vice versa*, because it should be a two-way street. I fully support the directive but the practical benefits must shine through. I believe people with private health insurance should be able to access services at the nearest hospital, for example Altnagelvin Hospital in Derry is nearer to those in Donegal than a hospital providing certain services in the South. People in Derry should be able to do the same. That is the future, whether it happens in my lifetime or the lifetime of this Government is a matter for the Governments in both jurisdictions.

Minister for Health (Deputy James Reilly): I thank the Senators for their contributions. As has been pointed out, the directive will be implemented by statutory instrument. I think North-South co-operation in health has been advanced significantly in the past couple of years. The Northern Ireland Health Minister, Edwin Poots, MLA, and I see eye to eye on many issues

which we are trying to advance. As has been pointed out by a number of speakers, we not only have to deal with North-South politics but with medical politics in the various hospitals. That is not unique to either south or north of the Border. We are concerned about the health of people on both sides of the Border. There is clear understanding between Mr. Poots and me and between our fellow Ministers in Europe that illness and disease are no respecters of either politics or borders. That is the reason we seek to ensure that we co-operate in a way that will maximise the services that are of benefit to people on both sides of our borders, not just on this island but across Europe. I thank them for their co-operation.

I thank Members for their support and I look forward to implementing the directive.

Acting Chairman (Senator Colm Burke): I thank the Minister, Deputy Reilly. That concludes statements.

Sitting suspended at 6.30 p.m. and resumed at 7 p.m.

Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act (Commencement) Order 2013: Statements

Acting Chairman (Senator Terry Leyden): Before the debate begins I remind members that two trials against former senior officials of Angle Irish Bank are pending and that there remains the possibility of further charges arising from other aspects of these matters that are still under investigation. Members should, therefore, avoid comments which might prejudice the outcome of proceedings. It should be remembered that the Seanad is not a court of law and that questions of guilt or innocence are for decision by the courts. In their contributions, Members should also be mindful of the long-standing convention of the House whereby they should avoid criticising or making charges against a person outside the House.

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): I thank Members for facilitating the debate and welcome the opportunity to discuss the new statutory powers in the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013. The Act provides a statutory framework to assist the Houses in conducting inquiries into matters of public importance. On 19 September the Seanad passed a resolution approving the commencement order of the Houses of the Oireachtas (Inquiries Privileges and Procedures) Act 2013. A similar resolution was passed in the Dáil on 18 September. This procedure under section 1 of the Act respects the autonomy of the Houses by enabling both Houses to effectively trigger the commencement of the legislation.

As both motions have now been taken, I am in a position to sign the commencement order for the Act, which will come into force tomorrow, 25 September. This will enable the initiation of inquiries pursuant to the Act to get under way at the earliest possible date. The first such inquiry is likely to be the long-awaited banking inquiry. The Government strongly supports the initiation of a banking inquiry into the events that occurred on the night of the introduction of the bank guarantee and the systemic failures that led to our current economic challenges. I am confident that the legislation has put in place a legally robust framework that can facilitate such an inquiry. I see real potential with this legislation for substantial strengthening of the effectiveness of the Legislature. Inquiries of the type envisaged can not only help us learn vital lessons from past events but also identify the necessary reforms and policy changes essential to ensure that egregious policy errors are not repeated.

Any inquiry must be completed within the lifetime of the current Dáil and Seanad sessions.

The Taoiseach indicated the Government's view that an inquiry should be modular in nature, given the scale and complexity of the issues to be examined. It is up to the Houses now to get this process under way. Under the Act, autonomy rests with the Oireachtas to determine the requirement for a formal inquiry, the terms of reference of that inquiry, the appropriate committee to conduct the inquiry and the procedural and organisational aspects of the inquiry. I understand that work is already well under way by the staff of the Houses of the Oireachtas Service in developing draft standing orders and guidelines which are required to be in place prior to the commencement of an inquiry. These will provide the necessary foundation for an inquiry to operate and include a range of new rules and standing orders and guidelines to govern the establishment of an inquiry and to ensure the effective and efficient operation of an inquiry.

There are a few key steps required before an inquiry can commence. A committee proposing to conduct an inquiry must prepare a proposal for the designated person, which I understand will be the Committee on Procedure and Privileges, of each House in the case of a joint committee proposal. The Committee on Procedure and Privileges must then examine the proposal and prepare a report for the House, and may make recommendations to the House. Standing Orders will set out more fully the role of the Committee on Procedure and Privileges but the Act specifically signals that the report of the Committee on Procedure and Privileges include whether the inquiry should be held and, if so, by which committee and in what manner. The House must then pass a resolution to establish an inquiry and confirm its terms of reference. It is crucial that the terms of reference for an inquiry be narrow and specific to ensure that a focused inquiry can be effectively conducted within the timeframe available. Used effectively, I believe that an inquiry constituted in this manner will facilitate the unfolding of the full narrative of events surrounding the near-collapse of the banking system in Ireland and the events leading up to and including the decision on the bank guarantee.

Given that the Act is in place, there is a strong onus placed on us as parliamentarians to use this legislation well and in a manner that is focused on furthering the public interest. It will require a disciplined approach by Members to ensure that inquiries are fair, balanced and effective. The public will judge us on that. I am confident that the statutory framework provided in the Act provides assistance in this regard by giving clarity to the Houses in relation to their powers and by setting out guidance in relation to matters such as fair procedures, avoidance of bias and so on. This legislation empowers parliamentarians to perform their role as legislators, to bring the full facts of the issue before the people and to hear from those directly involved in key decision making.

One of the best reasons to proceed with a parliamentary inquiry at this stage is that none of the other possible models has been successful at meeting the public demand for a full account of this issue. A tribunal of inquiry would not be a desirable approach given its potential to be a significant drain on resources and time. There was speculation that a Leveson-style inquiry should be adopted in this jurisdiction in relation to the banking crisis. I do not believe this would be desirable as it would most likely be an excessively costly and lengthy process. Furthermore, if one examines the terms of reference of the Leveson inquiry, one will see that Part 1 specifies the making of recommendations in relation to matters of more effective policy and regulatory regimes. This type of approach would be permissible for an Oireachtas inquiry under the Act. Part 2 of the Leveson terms of reference relate to matters of unlawful or improper conduct; however, that part of the inquiry cannot commence until the current police investigations and any subsequent criminal proceedings have been completed.

We have already had a commission of inquiry via the Nyberg report, which, while offering a

macro-analysis of events, has not given the perspective of the individual participants involved. A parliamentary banking inquiry has the potential to provide long-awaited answers for the Irish people, who need and deserve to hear an account from those directly involved. A banking inquiry will be held in public and will be broadcast, allowing everyone to witness the proceedings. I have full confidence that we as parliamentarians can rise to this challenge and conduct inquiries that provide vital answers to fundamentally important questions.

As I outlined during the passage of the legislation through this and the other House, there has been a weakening of trust in our politicians and political systems, and that is not a good thing for our democracy. The Dáil and Seanad are made up of experienced and capable Members motivated to act in the public interest. Our Deputies and Senators represent the people. The holding of an effective banking inquiry is an opportunity to prove that we can be trusted with this important task. It will assist in strengthening the effectiveness of the Oireachtas and enhancing trust in the political system. The Act provides the framework for that work to take place. It is time now for an inquiry to get under way.

Senator Thomas Byrne: I thank the Chair for his admonition at the start of this debate. It is important we adhere to that and that we also maintain complete fairness and impartiality in regard to this inquiry.

Fianna Fáil is looking forward to this inquiry. Towards the end of the previous Government, I as a backbencher called for such an inquiry. While I welcomed the establishment of the Nyberg commission of investigation, the failure to hold public hearings was a missed opportunity. The Nyberg commission looked at tens of thousands of documents relating to the banking collapse and while I would not expect any investigation to come out with different macro findings, the causes of the collapse and what went on are not well known.

I have some concerns about some of the language used by the Minister in his speech today in regard to the need to hear from people directly involved in the situation. In a criminal trial, the witnesses are there to provide information, but the key function of the trial and of any investigation is to get an end answer. There is a repeated emphasis in the Minister's speech on listening to the participants involved and my concern is that it is possible this could turn into a show trial. I do not understand why the Minister has repeatedly put the emphasis on that.

We are looking forward to taking part in the inquiry and believe it is important it takes place. The Minister has dismissed the suggestion of a Leveson type inquiry, but he did not deal with our principal reason for looking for a Leveson type inquiry, which is that it would be held outside of politics. The Leveson inquiry was run by a judge and we could conduct a similar inquiry here if we brought into force the Tribunals of Inquiry Bill 2005 or if we introduced a commission of investigation that could conduct public hearings. All of the commissions of investigation that have been held, excepting the Nyberg investigation, have been universally welcomed on account of their fact-finding. In fact, the conclusions of the Nyberg report itself are pretty shocking and embarrassing for those who were in government at the time. Therefore, I do not believe there was a whitewash in that regard. Many of the answers will be the same.

Whatever investigation takes place, I urge Members of the Committee on Procedure and Privileges who are present to ensure the Seanad is fully involved in this inquiry. I understand it will as it is expected it will be conducted by a joint committee of the Oireachtas, unless it is conducted by the Committee of Public Accounts, a Dáil committee. The Seanad should be involved and there should be a joint approach. I urge the Committee on Procedure and Privi-

leges of this House to keep in touch with events in this regard and to put forward proposals. I urge it to participate in a joint proposal with the other House and suggest that members of the Oireachtas Joint Committee on Finance, Public Expenditure and Reform from this House, such as Senator Barrett, who has expertise and is a fair-minded person, and Senator Zappone who was on the committee at one stage and who is that type of honest, independent broker everybody would trust, would do well on such a committee in terms of getting answers.

I have concerns with regard to keeping Anglo out of the inquiry. I understand the reasons for that, but at the same time Anglo is central to everything that went on. It is not realistic for it to be kept out as it has been at the centre of discussion at political level in regard to this inquiry for some considerable time. The recent added impetus for the inquiry was the release of the Anglo tapes and the Taoiseach's shocking allegations about the Fianna Fáil Party and his so-called "axis of collusion". Therefore, we believe it is ludicrous to omit Anglo from the inquiry.

We need to look at everything. We need to look at the political system and at the night of the bank guarantee. However, we also need to look at what led to the banking guarantee. The banking guarantee was a policy response to a shocking lack of regulation and a shocking dereliction of duty of the regulators, Government, civil servants and the European Central Bank. The policy response to that came in the form of the bank guarantee. This needs to be fully investigated, but I wonder whether whatever committee takes on this inquiry will take the correct steps in this regard.

It is worth putting on the record that there has been much in the media over the past few weeks with regard to the Government's motivation for holding this inquiry. A very strong editorial in *The Sunday Times* at the weekend related to the reasons for it and a number of columnists have suggested the Government has political motivation for establishing this inquiry in the manner it is doing so at this time. These views have been published in respectable newspapers by independent commentators. The only way around this is to get a judge, *à la* Leveson, to conduct a public inquiry. That judge would have far more power, under tribunal of inquiry legislation or commission of investigation legislation, to get to the truth of what went on. He or she could be independent and hold people to account, whether people in government, banks or the Civil Service. Even at this late stage, we repeat our call for this type of inquiry to happen.

Senator Martin Conway: I welcome most of what Senator Byrne has said. However, I refute the charge of political advantage suggested. It is clear the Irish public wants an inquiry, but one that is cost effective and conducted properly by people who are elected and well capable of conducting it. We all spoke on this legislation when it was going through the House and welcomed it as an important step in the right direction.

I remember well the night the guarantee went through. I was on holiday at the time in Naples and the people there were shocked that the banks in Ireland were given a full guarantee. I found it ironic that even they were shocked by it. This indicates the level of international curiosity that followed that particular night in September 2008. The people of Ireland want answers and I believe this is a positive step in the right direction. I have utter faith in colleagues from all sides participating fully in this to try to establish the truth. I believe the Taoiseach's and the Government's preferred modular approach and tight and focused terms of reference are correct. We have all seen the mistakes of previous inquiries, particularly the ones that cost hundreds of millions. Those inquiries made recommendations and so on, but not taking from the work that was done, they were extremely costly. This inquiry will be focused, will have a clear time limit, will be modular in nature and will achieve results.

I agree with Senator Byrne that both Houses should be involved. We are very fortunate here to have somebody of the calibre of Senator Sean Barrett, probably the best transport economist in the country and one of the best economists in the country. He is very fair and he and others would have an important role to play in forensically examining the evidence presented at such an inquiry. I would like to see a swift move on this inquiry. The public clearly wants answers and it expects us, as political leaders, to get those answers. Lessons have been learned from past inquiries and we need to ensure that mistakes made previously are not repeated.

I do not have any questions for the Minister because I am fully confident of his personal commitment to this inquiry and he has always been transparent in politics. I agree with many of his views on political reform and see him as a champion who when he comes into this House speaks with authority and decades of experience. We are very fortunate we have a Minister of his calibre leading the Government charge on this and I look forward to robust engagement with the process and to its conclusion. We all hope that on this occasion the people will find that the political system did not let them down and that the correct results, recommendations and conclusions were brought forward. It will be a very good day for politics if we are able to achieve this, as a united Oireachtas, for the people.

Senator Jillian van Turnhout: The Minister is most welcome. It is very useful to have this opportunity to clarify the provisions we are discussing. People throughout the country are eager to know what form the banking inquiry will take. It is a welcome development that this House is being used as a forum to allow the Minister to set out exactly what is proposed.

I echo Senator Thomas Byrne's comments on the Committee on Procedure and Privileges. It is important that both Houses have a role to play in this investigation. It is also important that we play to the strengths and capacities of individual Members. It may be necessary to set party membership considerations aside and consider individuals' qualifications to participate. We all must keep in mind that our efforts in this area are for the benefit of the people.

I welcome the proposed modular approach and the timeframe that has been set down. All too often we have seen inquiries that dragged on for so long that their original purpose was eventually forgotten. However, while being mindful of the requirement to keep the inquiry tight and focused, we must also remember that we have a responsibility on behalf of the citizens of the State to find out as much information as we can. Senators Sean D. Barrett and Katherine Zappone who were singled out by several speakers for their economic backgrounds would certainly offer an expertise in these matters. I have no doubt, however, that other Senators and Deputies from various professional backgrounds also have qualities and capacities which would make them suitable for inclusion in the inquiry.

Senator Susan O'Keeffe: I welcome the Minister. Although we discussed the legislation in question at some length when it was brought before the House, it is useful, given the level of public interest in the format of whatever banking inquiry is established, to have a further debate today. The Minister's proposals have already been described as a farce, with various faults and failings identified. This level of concern is not surprising, given the universal public desire for accountability. There is a strong belief certain people took decisions which were flawed, faulty or negligent, or even politically motivated or dishonest.

Whatever the reality, the desire for accountability must be met, even though such is often very difficult to obtain. One might well imagine that establishing and managing an inquiry is easy, being simply a matter of bringing a group of people into a room and asking them a lot

of hard questions. However, as somebody with long experience of investigating and asking difficult questions, I am aware that it is, in fact, the most difficult thing in the world, not least because certain individuals might, for instance, have left the country, died or simply refused to attend the hearings. Documents might be missing or have been shredded. People might have faulty memories, something to which we are all susceptible. I am sometimes convinced I have left an item on my desk only to discover it in my car. We all have incredibly deficient memories when it comes to all types of experiences. Even with the best will in the world, matters do not progress as smoothly as the public which is rightly angry and anxious for accountability might like.

The Minister and his Department had the unenviable task of finding a way to proceed on this issue. Many have been very critical about the supposed delay in bringing forward proposals, claiming the Government should have rushed in on day one to establish an inquiry. It certainly could have done so, but any resulting inquiry would have had the wrong format, cost too much or gone on too long or not long enough. As the person who became known as the "beef tribunal girl" because I was allegedly responsible for the establishment of that inquiry and the cost thereof, I can speak quite eloquently on the point that inquiries usually end up being other than what they were intended to be. Everybody who demanded a tribunal of inquiry into the beef industry was sincere in that desire but went around it in slightly the wrong way.

As a result of my past experiences, I am probably more cautious than others in these matters. I like to see that people have taken time and consideration, as I am confident the Minister has done in this instance. As he outlined, we now have a strong statutory framework that will guarantee an effective inquiry. We will never, of course, achieve a perfect inquiry. There will inevitably be people who will refuse to answer the questions they are asked or will employ their lawyers to avoid answering those questions. The idea that parliamentarians are not the right people to ask questions is one I refute. There are many Members of the Oireachtas with the capability to do so and can set aside their party hats. Unless we step up to the plate and start to take responsibility by doing this type of work, we will never be able to look the public in the eye or ever again ask people to trust us. We must stand up and say it is our time and we will do this. Those of us who are involved in the inquiry will undoubtedly be under enormous scrutiny and anybody who appears to be partisan in his or her questions and queries will be singled out very quickly. After all, this will all take place in public.

All of that is welcome and this is our moment to take action. Having taken the time to get everything right, we will have a better inquiry. Senator Martin Conway said he would like to see us proceeding as quickly as possible. I look forward to seeing the format of the committee, whether it will be established expressly for this purpose and so on. On a previous occasion I raised with the Minister the work of the Oireachtas Joint Committee on Public Service Oversight and Petitions and whether it, given its power of scrutiny in the public service, could or should have a role in this particular inquiry. That committee, of which I am proud to be a member, was set up as part of the Government's reform process and has engaged in some very interesting discussions. It might well have a role to play in this debate.

I welcome the Minister's proposals, while sharing some of the concerns expressed. We would all like the inquiry to be as extensive and powerful as possible, but the reality is that we must also have regard to such issues as cost. We must settle on the format that is the most feasible from the available choices. I am confident the Minister's proposal represents the most feasible and applicable option.

Senator Colm Burke: I thank the Minister for his detailed statement on this matter. It is important that we have a proper legislative structure for this inquiry, as provided for in these provisions. I come from a legal background and was active in that profession in the period from 2000 to 2010 when so many changes took place. It is clear that the banking sector was effectively left to run wild as regards to how it gave out money. Some of the activity that took place was frightening. Banks were giving people money to purchase shares in the bank itself. The same bank was giving money to different people to bid against each other at the same property auction. There seemed to be no form of accountability that might have seen an upper limit imposed on any property that came on the market. As we all know, the banking collapse that eventually came saw the Government of the day having to give a guarantee to underpin the entire sector.

It is important that we proceed with this inquiry as soon as possible. The Government is already halfway through its term and the time remaining is short. The inquiry will take time; it is not something that can be done overnight. We must allow it the opportunity to get answers to as many as possible of the issues that remain, including those that are not even in the public domain. A great many poor decisions were taken for which nobody has been held accountable. That is the case not only in the banking sector but also in the realm of the accountancy and legal professions. We had, for instance, situations where property was being bought without deeds of transfer being given, where the vendor became the mortgagor and where no stamp duty was paid. Many such practices were above board within legislation, but-----

Senator Thomas Byrne: No, they were not. I refused to facilitate those types of transfers.

Senator Colm Burke: So did I, but they certainly took place and, unfortunately, were allowed to continue in the absence of adequate checks and balances. I happened to be in China in 2005 meeting an Irish lawyer based in Hong Kong who talked to me about the collapse of the property market in 1997 in Hong Kong, when property prices decreased by 70%. The interesting point is that the number of legal practices in Hong Kong decreased from 6,000 to 2,000. That happened in 1997 but we did not look at how it could happen in Ireland. We did not see the warning signs and we had to wait until the last day when it was too late to take remedial action. An inquiry like this is welcome and it gives the opportunity for questions to be put. Hopefully we can get some answers at an early date. I thank the Minister for his work in the area and I wish whoever sits on the committee every success in trying to get reasonable answers to the questions put.

Senator Lorraine Higgins: I thank the Minister for coming to the House to discuss the item of legislation that provides for the banking inquiry. We must remember that the banking fiasco wiped out so much individual wealth in the country and left people on the breadline. Members of the Oireachtas see this on a weekly basis at constituency clinics. I am on record as being opposed to the banking inquiry being held in the Houses of the Oireachtas. I was fearful, in the first instance, of politicians grandstanding on the issue. That would not do any justice to the Houses of the Oireachtas or a banking inquiry.

Furthermore, the tapes released from Anglo Irish Bank contain overwhelming evidence to form part of a criminal trial if needs be. As a Member of the Oireachtas and a member of one of the Government parties, I support the decision to proceed with the inquiry. If I get the opportunity, I would like to play a part in it.

I also welcome the cost savings in having an Oireachtas committee deal with the issue, com-

pared with the tribunals that took place, the hundreds of millions of euro they cost and the years they took. It made multimillionaires of a number in my profession, the legal profession, and I have a difficulty with it as it came at the expense of the Irish taxpayer. However, the Oireachtas will now carry out the fact-finding function and I ask the Minister to ensure the Joint Committee on Finance, Public Expenditure and Reform will be adequately resourced. I have no doubt it will be but I must stress the point.

We must ensure the full co-operation of all State institutions. Those not co-operating, whether State institutions or individuals, should face some sanction. Some individuals will not be co-operative and there may be elements of mistruths in evidence. Given the provision in the Act that there can be no adverse effect on the reputation of individuals, it ties our hands.

The focus of the committee must be on the recklessness of lending. We need to unearth the reasons that changed the old conservative moneylending regime in Ireland to one of aggressive moneylending. We must know whether international best practice in banking was used and why decisions were made to enlarge commercial property lending and to offer 100% mortgages on tracker rates. We must find out whether strengths, weaknesses, opportunities and threats, SWOT, analysis was carried out by bailed-out banks, whether due diligence was done in many instances and what risk analysis was undertaken. It seems it was limited in the extreme, given what has befallen the country. We must also ensure that not only are members of the banks' boards interviewed but also all members of various credit committees within the banks. They should have the opportunity to be examined by Members of the Oireachtas at the inquiry. We must ask why the regulator, the Central Bank and the Department of Finance were asleep at the wheel while this was going on.

We must also watch out for bias within the Oireachtas. Politics is full of opinions and a number of us in politics are here because we have strong opinions. However, I worry that an inquiry in the Oireachtas could be biased and unfair. We need only look at the fact that there is always political partisanship and patronage in much of what happens here. It would be remiss of me not to mention it. That should be left at the door in the interests of getting the truth out to the Irish taxpayer and to those of us who are here to clean up the mess as a result of what went on in the past number of years.

I continue to support the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act and I welcome it as a first step of Government accountability. I commend the Minister for his work in this regard and for bringing it to the fore at the first opportunity. We must ensure the inquiry is carried out quickly but not with undue haste. I thank the Minister for attending the Chamber and providing us with a good submission in respect of his thoughts.

Senator Paul Coghlan: I welcome the Minister to the House and I welcome what the Minister said. I note what Senator Thomas Byrne said and his words of caution must be taken on board. The Minister is proceeding with caution and I commend what he has done. We want to go speedily but caution is necessary. Terms of reference are vital and I like what the Minister said about the Committee on Procedure and Privileges in each House. There is less possibility of grandstanding by Senators than by certain Deputies. When the Committee on Procedure and Privileges deals with this, the point will be ironed out. I welcome that the Minister is involving both Houses of the Oireachtas because accountability and transparency are vital.

It is essential the terms of reference are tight and confined. We have learned what can go wrong from inquiries in the past. The DIRT inquiry is held up as a great inquiry but the com-

mittee was lucky because it had the report of the Comptroller and Auditor General as a book of evidence. There will be nothing like that in this case, although the Nyberg report and the report of the Governor of the Central Bank will be helpful as a backdrop.

The Minister stresses impartiality, fairness and a balanced approach. That goes without saying and is a *sine qua non*. To get at the matter properly and the people involved, we realise there are three cases in process and we must have regard to them. I am inclined to agree with Senator Thomas Byrne on the point that Anglo Irish Bank cannot be excluded. However, the modular approach must take care of it. With a careful and cautious approach, this matter can be handled sensitively and properly. We are all approaching it that way and we want to be careful. We realise that when this happened on the famous night, a gun was put to the head. We must learn to get behind that. We do not know as none of us was there. I look forward to the inquiry proceeding with caution. The Minister has taken on board all of the lessons that must be learned in approaching this matter. I am pleased it will happen and I look forward to the Committee on Procedure and Privileges in each House getting stuck into it and taking the advice of the Minister and the experts on how to go about it. Hopefully, we can learn something.

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): I thank all Senators for making a contribution. It is no secret that this legislation was not the first option. In the lead-up to the last general election, I wanted a constitutional change to enable a different type of inquiry system to be available to the Oireachtas, analogous to systems elsewhere where findings, including findings of culpability in confined circumstances, can be made. However, I lost that argument with the people and the people made a decision. This Act has delayed the inquiry because the people determined that we must have an inquiry within the constraints of the Constitution. The people are wise and they are also sovereign. We have taken very great care to design this legislation within the confines of the Constitution but learning from all the court cases, the questions of bias and the questions of constitutional entitlements. It is also predicated on a general principle I hold and about which I have always held strong views, namely, that Parliament actually has to do the people's business and we cannot always off-load to someone else. This person is usually a judge who may have been an active politician but who becomes a judge and suddenly, automatically, any notion of bias or party affiliation evaporates from him or her magically. In my view, politicians are absolutely capable of doing the people's business fairly and impartially. The problem now is that we have the challenge to do it. We have to measure up to the requirements of the Constitution and the requirements of the law. In my view, whatever group of parliamentarians from whatever House or Houses will measure up fairly to that challenge. If they do not, they will be excluded from it.

I wish to comment in reply to Senator Byrne's commentary. I agree with the vast bulk of his argument. However, I disagree with some aspects, for example, the issue that we will need, yet again, to off-load the inquiry to a judge or someone else. Senator Byrne took exception to me underscoring that we must hear first-hand from those involved. This is not a trial; there is no pleading that a person will not give evidence against himself or herself. This is simply a process to unveil the truth. I honestly believe there will be no participant who will not want to tell his or her story.

Senator O'Keeffe spoke about people's memories and I know even from reading political memoirs, that people have gone through the same experience as I have but with quite different recollections of events. I do not say that their recollection of events is contrived but rather it is different and that is all. This is what happens occasionally. However, it is important that what we are about here is not a trial but rather it is simply to do the people's business. The people

want to know how it came about that this country faced an economic collapse. They want to know what we need to learn to ensure it does not come about again and what robust measures are needed to be put in place.

I also disagree with Senator Byrne about the motivation of the Government. Senator Byrne may recall that two and a half years' ago we were knocking on doors. I suspect his experience of that was even more searing than my own. The people made a number of basic demands. They wanted to know what happened and they wanted someone to be held accountable. That is part of the process. The criminal process is a separate and distinct accounting process which must follow its course without interference from here. However, we need to have our own accounting process because the vast bulk of what happened is not criminal. Some of the actions might have been wrong, negligent or foolish - all sorts of other words - but not criminal and it will never be unveiled in any criminal process. However, people need to know how it happened, who was involved and who gave it advices.

Senator Conway spoke about a focused inquiry involving both Houses. It is a matter for the Houses now. I deliberately crafted this legislation and recommended it to these Houses and to the Government on the basis that the Executive would not make those choices, not only in the case of the banking inquiry but for any inquiry and that such a choice would be for the Houses to determine, such as the nature of the inquiry, the terms of reference and so on. The work of the oversight committee was raised by Senator O'Keeffe. That was part of the construct of having a constitutional change where the oversight committee would determine what committee would do the work. By design, an Opposition Member was asked to chair that committee for that very reason in order to take away the notion of bias. However, the people determined that this should not be the type of process. It will be a matter for the Houses to determine the clearing house person or committee. It is my understanding that this will be the Committee on Procedure and Privileges but that will be a matter for the Houses.

Senator O'Keeffe made a very strong point which I reiterate. Much has been written externally to criticise an inquiry before the inquiry is up and running. Many have said it is a failure before we start. If we were not to hold an inquiry the same people would be saying it is outrageous not to hold an inquiry. Paper never refused ink but there will be a requirement for the system to measure up to the demand. That means all of us must measure up.

Senator Burke spoke about the remaining time in this Dáil and Seanad session and the issue of accountability. The rule of the world is that we are doomed to repeat our own mistakes. People at the time argued we are not Hong Kong, Japan or Sweden and we will not have a property bubble, that we would have a soft landing as opposed to a crash landing. In truth, the only way we will succeed in not repeating the mistakes is to put in place robust systems. Part of the work on the banking union and the work on the required oversight and the achievement of a fiscal union, is to ensure that we cannot fall into the political trap into which every political party has fallen, namely, to spend in a profligate fashion running up to an election and then to tighten the belts afterwards. We need to have a rational spending profile and to be able to foresee an issue like a property bubble well in advance of it happening.

Senator Higgins referred to her changing view. She said she was jaundiced about the political capacity to hold an inquiry in an impartial manner. I talk to lawyers all the time. I am always taken by lawyers who regard the legal system as the only way and that they are the only people who are, by definition, trained and expert in being impartial. In my view, there is quite an amalgam of talent in these Houses, Members elected by the people who can bring all types

of talent sets to this work.

The issue of bias is important. Although the legislation does not allow for conclusions to be drawn that have adverse consequences, it certainly allows for consequences to fall on the heads of people who are obstructive or who give false information. I refer to section 82 of the Act which states:

> **82.**—(1) A person who provides information to the committee which is false or misleading in a material particular, knowing the information to be so false or misleading or being reckless as to whether it is so false or misleading, is guilty of an offence.
>
> (2) A person guilty of an offence under *subsection (1)* is liable—
>
> (*a*) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months, or both, or
>
> (*b*) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 5
>
> years, or both.

Robust penalties are in place for anyone who sets about obstructing the legitimate work of the parliamentary inquiry.

Senator Paul Coghlan referred to the fact that the most famous inquiry was the DIRT inquiry which was successful because it was grounded in the work of the Comptroller and Auditor General. I agree that the grounding work done by Nyberg is very extensive and it should be the grounding documentation for the inquiry. It will not be necessary to go over in the same detail all the work done by Nyberg as this will be encompassed as one of the base documents of whatever inquiry is in place. I imagine that will be the approach taken by the inquiry. I will have no input into the inquiry nor will I be a member of the inquiry. I do not suppose anyone else here can say that with certainty. I look forward to the commencement of the work. I am confident that in its first outing the inquiry into the banking situation will prove a milestone inquiry that will be talked about for a very long time to come. There will be all sorts of challenges and difficulties, as well as various required disciplines. There will be hiccups along the way but getting this right will set the template for future inquiries and strengthen the role of the Oireachtas as a result.

Acting Chairman (Senator Terry Leyden): When is it proposed to sit again?

Senator Martin Conway: At 10.30 a.m., maidin amárach.

Adjournment Matters

Personal Insolvency Act

Acting Chairman (Senator Terry Leyden): I welcome the Minister of State, Deputy McGinley, to the House.

Senator Jimmy Harte: I welcome the Minister of State. I am asking the Minister for Justice and Equality to explain why an up-front fee of €500 is payable for a protective certificate to commence a personal insolvency arrangement. That is in addition to the fees of €250 and €100 fees, which I see as a tax on people's inability to pay or entering into an insolvency arrangement. This is contrasted with the UK, which has an almost identical service with no fee involved.

I have asked the Minister to explain the €500 charge. According to an expert in the area, this charge is payable before the personal insolvency process can commence. That means that if a young couple meet a personal insolvency practitioner and he or she advises that they take the route of personal insolvency, they would have to pay €500 to get to the next stage. That is in addition to the fee they would have to pay and the VAT on that fee. That is out of line with what is happening across the Border and throughout other jurisdictions. I have already raised the matter of a 23% VAT rate on the fees; such a VAT rate was challenged by a debt settlement agency when it was introduced in the UK and that objection was upheld in the courts in the UK as HM Revenue and Customs did not challenge it. We have almost identical legislation here and if somebody challenges the imposition of VAT, they will win the case. The 23% VAT rate and the imposition of the €500 has come out of the blue.

The statutory instrument was signed on 30 August, when we were on holidays and the House was not sitting, and it was not flagged. I ask the Minister to consider the issue in light of the plight of many young families who must get advice on personal insolvency and if they must pay extra money, it will be an extra burden on most couples. As we know from the findings of the credit union survey this morning, many couples do not even have €20 extra at the end of the month, yet we are asking a couple to pull out the guts of €1,000 before they can even get on the road to getting their affairs settled.

There are many personal insolvency advisers but many are being excluded from this process because of the stringency of the process in becoming a personal insolvency practitioner. It is much more stringent than the process in the UK. We will lose many people who have expertise in the area as a result, and even if these people become practitioners, they cannot advise people who were formerly clients. There are many anomalies to be addressed.

Minister of State at the Department of Arts, Heritage and the Gaeltacht (Deputy Dinny McGinley): I am replying on behalf of the Minister for Justice and Equality, who is unavoidably absent, and I thank Senator Harte for raising this issue.

The Personal Insolvency Act 2012, as amended, introduced three new debt relief solutions. The first arrangement is called a debt relief notice and it will allow for the write-off of qualifying debt up to a value of €20,000, subject to a three-year supervision period. The second arrangement introduced by the new Act is the debt settlement arrangement, which provides for the agreed settlement of unsecured debt with no limits involved over a period normally expected to be five years. The third and final arrangement, the personal insolvency arrangement, will facilitate the restructuring or settlement of secured debt of up to €3 million, a cap that can be increased with the consent of all secured creditors, and the settlement of unsecured debts without limit, over a period normally expected to be six years.

The application fees prescribed by the Insolvency Service of Ireland, ISI, for the three new debt solutions are set out in the Personal Insolvency Act 2012 (Prescribed Fees) Regulations 2013 (SI 329 of 2013) and are application for a debt relief notice of €100; application for a

protective certificate or debt settlement arrangement of €250; and applications for a protective certificate, or personal insolvency arrangement, of €500. The fee is to be paid at the point when an application for a protective certificate in the case of a debt settlement arrangement or personal insolvency arrangement is being made on a debtor's behalf by a personal insolvency practitioner, PIP, or when an application for a debt relief notice is being made by an approved intermediary, AI. The fee is paid by the debtor as part of the application process. Following a consultation with an AI or PIP, the debtor agrees a prescribed financial statement. The debtor must then get the statutory declaration signed and present an invoice to An Post for payment of the relevant application fee, depending on the chosen debt relief solution. The statutory declaration must be signed and the invoice paid before the application for a debt relief solution can be submitted by the Al or PIP to the Insolvency Service of Ireland.

I am advised that the fees being applied by the Insolvency Service of Ireland are a contribution towards the cost of providing an insolvency service, are considered fair and reasonable and are in line or below the comparable fees applied by insolvency services in other jurisdictions. Part of the prescribed fee will be paid to the Courts Service as a contribution towards the legal costs relating to each insolvency application. The remainder of the prescribed fee will make a contribution towards the running and administrative costs of the Insolvency Service of Ireland. It should be noted that the fee in each instance represents only a small fraction of the debt that may be written off for each successful applicant. For example, up to €20,000 of qualifying debt could be written off for someone applying for a debt relief notice where the application fee is €100, assuming that they fulfil all of the relevant eligibility criteria. It might also be noted that approved intermediaries will not charge a fee in respect of assisting an applicant in applying for a debt relief notice.

I would also like to briefly refer to the matter of fees payable to personal insolvency practitioners, which has been the subject of some media commentary. Personal insolvency practitioner fees associated with the development of debt settlement arrangements and personal insolvency arrangements will likely be negotiated with an insolvent debtor by the PIP in advance of a case proceeding.

8 o'clock

Payments to personal insolvency practitioners are ultimately likely to be a charge on creditors as they will reduce the amount available for repayment. Thus, the arrangement put forward to creditors for agreement at the creditors' meeting would normally be expected to include details of the personal insolvency practitioners' fees. It will be a matter for creditors to decide whether these are acceptable or not, and they may seek to negotiate to reduce them.

Any other fee arrangements that might arise are matters to be agreed between the individual debtor and his or her personal insolvency practitioner.

I understand that a number of practitioners and prospective practitioners have indicated that they will not charge an up-front fee for an initial consultation. As I have already indicated, it is not within the remit of the Insolvency Service of Ireland to set the fees of personal insolvency practitioners. This is a matter for both parties to agree.

Senator Jimmy Harte: I thank the Minister of State, Deputy McGinley. There is nothing new in the statement by the Minister for Justice and Equality, Deputy Shatter. It is unfair that a young couple or person going down the road of personal insolvency must pay €500 before

being able to do so. I stand to be corrected in questioning the statement that our procedures are in line with those in other jurisdictions. My information is that there are no fees involved in the United Kingdom. I ask the Minister of State to clarify this. I will check my sources and information to determine whether the Minister of State was correct in making the statement. I have been assured by a practitioner that there are no fees in the United Kingdom. Through the Minister of State, Deputy McGinley, I ask that the Minister for Justice and Equality, Deputy Shatter, clarify the position on fees. I ask the Minister to remove the fee of €500 as it is totally at odds with what we are trying to do. According to the explanation, the fee is to fund the actual service. People in debt should not be asked to fund it again when the banks have already been funded for this purpose.

The Seanad adjourned at 8.05 p.m. until 10.30 a.m. on Wednesday, 25 September 2013.