



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Déardaoin, 14 Samhain 2013

Thursday, 14 November 2013

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

*Machnamh agus Paidir.
Reflection and Prayer.*

Business of Seanad

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

The need for the Minister for Agriculture, Food and the Marine to make a statement on the provision of funding to ensure the dredging of Dunmore East Harbour, County Waterford.

I have also received notice from Senator Deirdre Clune of the following matter:

The need for the Minister for Finance to address the fact that property owners in managed estates are being asked to pay both management fees and the local property tax.

I have also received notice from Senator Mark Daly of the following matter:

The need for the Minister for the Environment, Community and Local Government to consider the retention of the office of mayor of Killarney.

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

Message from Joint Committee

An Cathaoirleach: A message has been received from the Joint Committee on Justice, Defence and Equality to the effect that it has completed its consideration of the motions regarding a proposal for a Council decision on the signature of the agreement between Canada and the

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European Union on the transfer and processing of passenger name record data and a proposal for a Council decision on the conclusion of an agreement between Canada and the European Union on the transfer and processing of passenger name record data.

Order of Business

Senator Maurice Cummins: The Order of Business is No. 1, motion re conclusion of an agreement between Canada and the European Union on the transfer and processing of passenger name record data, back from the committee, to be taken without debate; No. 2, motion re signature of an agreement between Canada and the European Union on the transfer and processing of passenger name record data, back from the committee, to be taken without debate at the conclusion of No. 1; No. 3, motion re Irish Aviation Authority Act 1993 (Amendment of Schedule)(Annex 19 to Chicago Convention) Order 2013, back from the committee, to be taken without debate at the conclusion of No. 2; and No. 4, Companies (Miscellaneous Provisions) Bill 2013 - Order for Second Stage and Second Stage, to be taken at the conclusion of No. 3, with the contributions of group spokespersons not to exceed eight minutes and those of all other Senators not to exceed five minutes. I propose that Nos. 1 and 2 be taken without debate as they were debated comprehensively yesterday for one hour at the Joint Committee on Justice, Equality and Defence. No. 3 has also been debated in committee. If the House insists that we debate them, I am open to doing so. However, I am pointing out that they have been debated comprehensively in committee.

Senator Darragh O'Brien: We discussed this issue last week, that not every item brought before the House be debated. The Leader has mentioned that Nos. 1 and 2 were debated at the joint committee yesterday, following which they are being before us to be passed. Does the House have access to the minutes of the meetings held yesterday, or have they been published yet?

An Cathaoirleach: They are on the website.

Senator Darragh O'Brien: They are already on the website. If they were debated yesterday, they are being brought before the House for us to rubber stamp them. Without seeing the minutes, I do not know what the level of debate and scrutiny was. In the coming weeks we should look at the level of scrutiny that takes place at the joint committees. In some instances, it may be sufficient, while in others, I am certain it is not. On that basis, I oppose taking Nos. 1 to 3, inclusive, without debate. The committees should be cognisant of the fact that the Seanad has a role and they should schedule their meetings around it to enable the Seanad to have access to the minutes to assess the level of scrutiny that takes place at them before we simply rubber stamp motions. On that basis, I oppose Nos. 1, 2 and 3.

I welcome yesterday evening's debate-----

An Cathaoirleach: For clarification, is the Senator opposing the Order of Business?

Senator Darragh O'Brien: I have not put forward an amendment. I have just said I oppose each of the items that are to be taken without debate.

An Cathaoirleach: The Senator cannot oppose them individually.

Senator Darragh O'Brien: I can oppose them after the Order of Business when the Leader puts it to the House that they be taken without debate. I am just putting the House on notice that I intend to oppose them.

I welcome the debate we had yesterday about EirGrid and I welcome the fact that the Minister, Deputy Rabbitte, was here for the full debate, which was useful. In the main, the debate was carried out in the manner in which it should have been, despite obvious disagreement. I commend Senator Mullen on his introduction of the motion. It was a good debate and the vote ran close. It was a terrible shame that the amendment was passed by only one vote and that our Sinn Féin colleagues did not have a full complement of Senators to ensure the vote was lost. However, that is an issue for another day. I hope that when Senator Cullinane is up the Comeragh Mountains next week protesting against EirGrid, he will remind the people of Waterford and people as far as the Border and into Tyrone that he could not even manage to get his troops - all three of them - in here to vote on such an important issue.

An Cathaoirleach: That is not relevant to the Order of Business. Has the Senator a question for the Leader?

Senator Darragh O'Brien: We will revisit that. The Minister, Deputy Rabbitte, took on board some of the points made yesterday. My colleague Senator Byrne raised our concerns yesterday regarding the process that resulted in the appointment of Mr. John O'Connor. Our debate yesterday was useful, but it is a terrible shame that the Sinn Féin Members who are so exercised about this could not ensure-----

An Cathaoirleach: The Senator indicated that he wished to table an amendment to the Order of Business, but he is running out of time.

Senator Darragh O'Brien: No need to worry. It is important to put this on the record.

Will the Leader find out from the Government when the pyrite resolution board legislation will be published? This will put the board on a statutory footing and enable it to accept applications for compensation. This House has done a good job-----

An Cathaoirleach: The Senator is out of time.

Senator Darragh O'Brien: I wish to make a final point on an issue about which Senator Coghlan is always concerned. I welcome the ECB rate reduction of 0.25%, giving a base rate of 0.25%, announced by Mario Draghi the week before last. This is good news for those on tracker mortgages, but the State effectively either owns or has a stake in three main retail banks here, AIB, Permanent TSB and Bank of Ireland. Has the Government made any contact with those banks with a view to insisting they pass on that rate reduction to their variable rate customers, some of whom are paying over variable rates of over 5%? What is the Government's position and what advice is it giving to the banks we have supported?

Senator Ivana Bacik: I would like to remind Members that a coffee morning is being held this morning in aid of the Philippines disaster relief effort from 11 a.m. to 12 noon today. I know everyone would want to support that in light of the terrible reports of the tragedy in the Philippines.

I ask the Leader for a debate on the important issue of EU scrutiny and how it is conducted. Fianna Fáil Senators are taking a somewhat obstructive approach to motions put before the

House. I agree we need transparency and scrutiny of EU matters. However, I was at a meeting of the Joint Committee on Justice, Defence and Equality yesterday at which we had a full debate on the two proposals which are laid before the Seanad today on passenger name record data, the transcripts of which are on the website. Spokespersons from every party are members of that committee.

Senator Darragh O'Brien: When were the minutes published?

Senator Thomas Byrne: The Seanad has the power, not the committee.

An Cathaoirleach: Senator Bacik without interruption, please.

Senator Ivana Bacik: I am trying to explain the process, because people want clarification. We had a full debate with the Minister of State, Deputy Kathleen Lynch. We asked her what constituted passenger name record data, to what use it would be put and so forth. We scrutinised these measures. Some weeks ago, we had the Tánaiste in this House and he explained to us the process for scrutiny of EU matters.

Senator Darragh O'Brien: On a point of order, the area of justice and home affairs is not to do with EU scrutiny, but with primary legislation by the Seanad and the Dáil. These motions cannot be passed without our approval. This is not to do with scrutiny of decisions made by Ministers or by Brussels. It is a function of the Seanad and the Dáil equally.

Senator Ivana Bacik: I do not know where Senator Byrne is coming from with that.

Senator Thomas Byrne: The Constitution.

Senator Ivana Bacik: The point the Tánaiste made was that sectoral committees are now being provided with briefings and material to enable us to have informed debate on matters that come from the European Union that are within our competence and area of expertise. That is a useful and a most effective and efficient way to carry out scrutiny of EU matters. I agree the Seanad and the Dáil must continue to have a role. However, it is ultimately somewhat obstructive if we see every motion that has been the subject of a full debate at a committee meeting being opposed if it is laid on the Order Paper to be taken without debate. Perhaps we will be able to have a debate on these matters and we can rehash the matters we discussed yesterday with the Minister. I believe it would be good for us to decide in the House what matters we feel it is important we should have double scrutiny of, because that is what is happening here. To be fair and helpful, we need to have an agreed procedure with regard to what motions returning from committee, where there has already been scrutiny, need a second layer of scrutiny. I agree there will be motions for which that extra layer of scrutiny is required.

Senator Darragh O'Brien: I agree we need to debate that. We need to set time aside to do that.

Senator Ivana Bacik: We, as Senators, need to decide which motions require that double scrutiny. There is no point in opposing every motion that returns from committee.

Senator Darragh O'Brien: I do not intend to that.

Senator Ivana Bacik: I am glad to hear that.

An Cathaoirleach: Senator Bacik without interruption.

Senator Ivana Bacik: This is also in the interest of Seanad reform. In the debate on Seanad reform, we all said the Seanad should have a greater role in scrutiny. However, let us be clear about our role. Where there is a better way to conduct scrutiny, through sectoral committees and spokespersons on areas of expertise - for example, in the justice and home affairs area - let us use the committees. Let us only bring back to the Seanad issues that are of more general importance for debate.

Will the Leader inquire about the cyber-crime Bill, the heads of which, I understand, have been agreed at Cabinet but have not yet been published? It is imperative we see what is in that Bill and that we have a debate on legislation to regulate cyber-crime, given the serious and worrying data breaches that have occurred this week and the sort of criminal activity that appears to have gone on as a result.

Senator Rónán Mullen: I too would like to express my support for the coffee morning. It is important that we stand in solidarity with the people of the Philippines and that we support charitable giving, which has been the hallmark of Irish life when people are in crisis. Let the message go out from here that a special effort needs to be made across the community for the people affected.

Last night I was in Newbridge at a meeting of the Newbridge credit union action group. I am glad to report there is major determination and a clear preference in the community to see a new credit union in the area. The people do not just want credit union services to be available from some other credit union; they want their own credit union. After what has happened, this House should support the people of Newbridge in that. There is much criticism to be made of the Government. I was very disappointed we did not get the Minister for Finance, Deputy Noonan, into the House to address the issue. We did not get transparency from the Government last week when I raised questions regarding what would happen if the Naas merger proposal failed. Clearly, the Government knew what was coming down the tracks with regard to Permanent TSB, but there was no transparency. Let us at least send the message to the Government and the Central Bank that the people of Newbridge need to be assisted now in establishing own credit union again.

I would also like the Minister for Agriculture to come to the House to inform us of what he intends to do to support farmers and marts. Farmers are extremely concerned about TLT International going into receivership. I understand that from 25 to 35 marts have been affected, that debts of €7 million have been left and that some €3 million is owed to marts across the country. Some marts are down by €300,000 or €200,000. Let us not forget farmers who sold cattle directly to TLT International. Irish marts will be the last to be paid, after banks and Government bodies. If we are willing to bail out banks, we should consider the serious concerns many vulnerable people face as a result of this development. What can the Minister do? Is it possible that some kind of rescue package can be put in place to assist those most severely affected?

I thank Senator Darragh O'Brien for ensuring all Fianna Fáil Members were here to vote on our motion on the pylons. This was an important motion and it is a shame that the amendment was passed by just one vote. I am grateful to the two members of Sinn Féin who were here and grateful to the three Labour Party Senators who abstained.

An Cathaoirleach: That is not relevant to the Order of Business.

Senator Rónán Mullen: No, but the point I want to make is this. We have just had a de-

bate on the retention of the Seanad. There is no point in members of parties jumping up and down at protest meetings around the country if, when the voting starts, they are not here. If the Cathaoirleach will excuse the expression, there is no point in half-bulling the cow. One has to be present to vote when important issues are brought up. There are communities across the country who are disgusted at the lack of consultation and the arrogance of EirGrid. I give Senator Trevor Ó Clochartaigh credit as he was present last night.

An Cathaoirleach: We are not reopening last night's debate.

Senator Rónán Mullen: We need Members to be present to vote when they are protesting.

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

Senator Rónán Mullen: Yes. Does the Leader agree that we need Government parties which follow up on what they state they will do at election time? The disquiet about the quality of politics has to do with two big issues, the first of which is the tyranny of the party Whip system which causes Members to come into the House and either vote against their convictions or abstain-----

An Cathaoirleach: The Senator is way over time.

Senator Rónán Mullen: -----and not to be present to vote on motions with which they disagree. The second issue concerns persons who make promises that they do not intend to keep. Our politics needs to change. It needs to start with listening to communities on matters of major concern to them.

Senator Cáit Keane: I was going to mention the issue of pylons also in the context not of who voted on what but of "Oireachtas Report" which I watched last night and on which there was no coverage of the Seanad, yet the issue of pylons is such an important one. Senators Rónán Mullen and Darragh O'Brien mentioned it also, while the Minister, Deputy Pat Rabbitte, was on radio this morning.

An Cathaoirleach: We have no control over that matter; it is one for RTE.

Senator Cáit Keane: Is it a matter for RTE? Obviously, it has abolished the Seanad, even though it has been saved.

Senator Paul Coughlan: That was only for one day.

Senator Cáit Keane: Was it for one day?

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

Senator Cáit Keane: I do and it is not related to the coverage. It should be the subject of some action and legislation. It concerns the fox population in urban areas in Dublin. I live in Templeogue and every street one goes down, one sees a fox. Senators are laughing, but it is a serious issue. The Mayor of London, Mr. Boris Johnson, spoke about them after a child had been attacked in its pram and lost a finger. I have seen a picture. I had three foxes in my back garden, as has had every second neighbour.

Senator Denis O'Donovan: They must like the Senator.

Senator Darragh O'Brien: She should put the lid on her bin.

Senator Cáit Keane: I have pictures of them. I will not say we need a total cull of foxes, but there is no legislation in place. They are not a protected species, but the wildlife service has stated one needs 150,000. We have no figures for the numbers of foxes there are. Could some study be undertaken?

Senator Terry Brennan: There are two of them in the gardens outside Leinster House.

Senator Cáit Keane: Could we have a study undertaken or ask the Minister to come into the House to outline the position? I will not ask, as a councillor once did when we were debating the control of wild horses in Dublin, that someone go out and shoot them. I am not recommending that.

Senator Paul Coghlan: One needs a licence to do so.

Senator Cáit Keane: Something has to be done. What can we do? Can we debate the issue? Can we have some legislation introduced? Can we have some control? It might seem funny, but it is not when one has a child in the back yard and one must keep an eye on him or her.

Senator Darragh O'Brien: What about badgers?

An Cathaoirleach: There are a good few foxes around here also.

Senator Denis O'Donovan: Will the Leader arrange a debate, certainly before Christmas, on the fishing sector? I raised this matter probably on four occasions earlier this year, but because the Minister for Agriculture, Food and the Marine, Deputy Simon Coveney, was tied up with the European Presidency, I did not push it too much. If at all possible, we should have a substantial debate on the sector, particularly the problem with whitefish quotas. Fishermen have a predicament. It is like asking everyone driving on the motorway to stay within a 30 mph limit. I am sure there would be chaos on the roads. With the restriction on quotas, that is what fishermen are being asked to do.

I concur in principle with the Labour Party leader, Senator Ivana Bacik, on the items my party leader is opposing. I was at the Joint Committee on Justice, Defence and Equality and listened intently to what the Minister had to say. There are two dangers. First, we must be careful not to duplicate the debate. Second, I ask Senators to look at this issue carefully. If there are matters of importance, certainly they should be brought to the attention of the House, but there are so many of these motions coming through that if there was an hour's debate on each of them, it would tie the Seanad to having a rerun of what happened at the committee. There is a real danger of that happening. I urge caution rather than merely playing politics whereby every one of these motions must be doubly or trebly scrutinised. The committee system has been in place for a long time. We give it great praise and credit, yet we are saying the committee did not do a good job yesterday. The matter received a great hearing and the Minister was present. I urge caution in stating every one of these motions should be opposed, especially when they have been debated in committee. If there are specific issues of major importance, certainly they should be brought to the attention of the House, but doing so for the sake of it is not progress as far as this House is concerned.

Senator Aideen Hayden: I raise a matter raised in a report in *The Irish Times* today that we have now discovered a new generation, the sandwich generation. They have been added to the dinkies, minkies and the squeezed middle, but it raises a serious issue. It has to do with a

cohort, particularly of women in their 50s and 60s, who are caring for aged or aging parents at the same time as they are looking after their children. I ask the Leader for a debate on family policy, something that has been raised in the House on a number of occasions. What are we doing, for example, to develop family-friendly work opportunities? What more could we be doing in this regard? How could we be looking at the social welfare system to ensure our policies are family friendly? I note that at the Constitutional Convention there have been a number of discussions about the definition of the family and how, in the 21st century, we need to revisit the issue. It is one, particularly in terms of the role of carers, that we need to take seriously in terms of constitutional reform. In the context of a previous request that we look at some of the issues that have come up at the Constitutional Convention, I again ask the Leader for a debate in this Chamber on some of the recommendations of the convention, particularly in so far as they relate to the family. We should have a specific debate on evolving issues relating to the welfare of the family.

Senator Sean D. Barrett: On Nos. 1 and 2, it is important to note that direct services by the two airlines between Canada and Ireland will start next April. Currently, it is a 12 hour journey and for most Canadians, Ireland is located somewhere around Moscow. If we can facilitate travel to our nearest neighbour to the west, we should do so. I would not like a message to go out to Canadians that the Seanad was opposing these agreements, albeit for procedural reasons.

Last month the Seanad played the classic role of David against Goliath. We did so last night also. Obviously, the ESB and EirGrid are convinced of the merits of using pylons. However, the citizens are not and it was correct that we stood up for them. As has been said, it was an interesting debate. Senior civil servants also think one should have a television licence, regardless of whether one has a television. There were interventions in the debate on the taxi Bill to prevent bus competition because the Department of Transport, Tourism and Sport is intrinsically against competition, either on the road or in the case of subsidies. Today I received a highly contentious statement. The explanatory memorandum to the Health Insurance (Amendment) Bill 2013 which is not meant to be contentious states: "The Health Insurance Acts 1994 to 2012 provide the statutory basis for the regulation of the health insurance market in the interest of the common good". It does no such thing. It does so in the interests of the State monopoly insurance company. We need more David versus Goliath competitions and also a reform agenda with a Government economic service. I put the proposition to the Leader that where civil servants are committed to an issue and they use the Minister as a PR outlet, we must have the necessary data. How much more does wind energy cost us? The latest estimate for the PSO is approximately €150 million. We cannot allow the Government to be colonised by the permanent government to the extent that it has been. Most interestingly, Mr. John McManus wrote in *The Irish Time* only on Monday that as we were out of the bailout programme, we needed a reform agenda. Many of those who put the country on the rocks in 2008 are in the permanent government. We must question them in this House. That will be a role for us. The Government needs an independent economic service to evaluate the policies sent to this House and to put numbers on them.

11 o'clock

What occurred last night was a very useful start in that regard.

I welcome the holding of the inaugural meeting of NI21, a new cross-community party in Northern Ireland, on Saturday. We need cross-community movements to address the concerns of both traditions in Northern Ireland and to promote better relations among all the people of

the island. I wish the new party well.

Senator Michael Mullins: I support the call for the Minister for Agriculture, Food and the Marine, Deputy Coveney, to be invited come before the House at his earliest convenience in order to discuss a number of matters relating to agriculture. One of those matters - to which Senator Mullen referred - relates to the position regarding the cattle export company TLT International. What is happening in that regard is going to leave many marts and farmers in serious financial difficulties.

Another issue I would like to discuss with the Minister is one that is causing anger and frustration in County Galway, where I live - namely, the methods used during the carrying out of inspections. The system appears to be designed to catch farmers out.

Senator Fidelma Healy Eames: Hear, hear.

Senator Michael Mullins: Even minor transgressions can have serious financial consequences for farmers. I am informed that the attitude of some inspectors leaves a great deal to be desired. The farming organisations have called for the establishment of a yellow card system whereby penalties would not kick in until a number of such cards have been accumulated. It is grossly unfair that advance notice of inspections is not provided. As a matter of courtesy, farmers should be given at least 24 hours' notice of inspections in order that they might make themselves available or be present when such inspections are taking place. The vast majority of farmers care for the environment and want to comply with the law. I saw practical evidence of this in Ballinasloe, where I reside, earlier this week when 160 farmers brought oil, pesticides and veterinary products to the mart in the town as part of a pilot scheme organised by Teagasc. This is a sort of bring-centre project designed to facilitate the secure disposal of unsafe substances. Under the inspection system, farmers are being treated like criminals, and that is unfair. I would like a system such as that operated by Health Information and Quality Authority, HIQA, and the Health and Safety Authority, HSA, to be put in place in order that farmers might be given time to deal with any issues relating to non-compliance. If farmers can meet the requirements and ensure compliance within a certain period, then they should not be penalised.

I request an open and frank debate with the Minister, Deputy Coveney. In the aftermath of his most recent visit to the House, every Member was satisfied with regard to the range of topics with which he dealt. It would be good if he could return to the Seanad before Christmas.

Senator Trevor Ó Clochartaigh: I dtosach báire, ba mhaith liom tacú leis an nglaoch atá déanta ag an Seanadóir Ó Donnabháin maidir le díospóireacht ar chúrsaí iascaireachta. A debate on fishing, which the Leader previously promised to facilitate, is long overdue. I am aware that the Minister is open to such a debate and I take this opportunity to request that it take place.

Senator Mullen referred to the presence of Members in the Chamber for a particular vote last evening. From time to time people are not able to be present in the House, either for obvious reasons or as a result of circumstances beyond their control. It was very opportunistic on the part of Senator Mullen - it was also very unlike him - to make a fairly personalised attack on one of the Senators from my party. I categorically do not accept the charge he made. For someone who often states that he is above politics, the Senator appears to becoming very political all of a sudden. There must be a European election in the offing.

It has long been Sinn Féin policy to work towards the creation of a universal health system. We would certainly like to see the development of a public system which would facilitate all pa-

tients and deal with them equally. It is also stated Government policy to work towards that goal. However, we all know the health system is creaking at the seams as a result of the enormous pressure under which it is operating. We are a long way away from witnessing the creation of the ideal in this regard. We have been informed that the HSE plan, which had been deferred, is to be issued tomorrow. Will the Leader clarify whether this will indeed happen tomorrow as planned? If it does happen, will the Leader ensure that at debate takes place on the plan as soon as possible, in light of the serious implications for everyone involved? If the plan is not issued tomorrow and if its publication is again deferred, what will that tell us about how the health system is being managed, the current state of the Department and where the axe will fall in the context of the €666 million in cuts which must be made? Yesterday's announcement to the effect that people with private health insurance are going to be obliged to pay additional fees took many Government Senators by surprise. This matter was certainly not mentioned when the budget and the various cuts to health service funding were being introduced. This development is going to compound the problems being experienced. The health service is creaking at the seams and people can no longer take the pressure. It is important, therefore, that the House engage in a debate on this matter, as early as next week if possible.

Senator Catherine Noone: I welcome Ryanair's announcement in respect of its intention to put in place nine new routes in and out of Dublin in 2014. This development, which will lead to the creation of 300 new jobs and an additional 700,000 passengers flying into and out of the country, is a direct result of the scrapping of the travel tax. Michael O'Leary confirmed the latter when making the announcement. I compliment him on putting his money where his mouth is and on acting so decisively in order to improve matters so greatly for the Dublin region involved. An influx of an additional 700,000 passengers into the region will lead to major benefits in the context of tourism. This is a matter worth highlighting.

Senator Mark Daly: I propose an amendment to the Order of Business to the effect that the Recognition of Irish Sign Language for the Deaf Community Bill be placed on the Order Paper and be taken before No. 1.

I support Senator Darragh O'Brien on the subject of EU scrutiny. We welcome the move in respect of direct flights from Canada to Ireland. The initiative in respect of the latter was started by the Canadian ambassador, who worked with the Dublin Airport Authority and others on it. Trade between countries increases 45-fold when direct connections are established. The development to which I refer must therefore be welcomed. The Leader has worked hard to ensure better scrutiny of EU legislation. The simple fact is, however, that for every one law passed by the Dáil and the Seanad, three are brought into effect by Ministers without ever being referred to either House or to the committees thereof. This was the position with regard to the organ donation legislation. The latter, the first legislation of its kind in the history of the State, was brought in by the Minister for Health and no one had sight of it before he signed it into Irish law. The Minister and his officials made all of the amendments and additions to the legislation, which was not referred to the Select Sub-Committee on Health. No person elected to office by the people of Ireland, other than the Minister for Health, saw that legislation before it was signed into law. That is not the process about which we are arguing now. Literally, what we are being asked to do today is to rubber-stamp something on which the Joint Committee on Justice, Defence and Equality has not yet even issued a report in the context of any concerns it may harbour. Neither has the joint committee put forward any amendments to the legislation or offered any suggestions about how the process might work better. We are being asked to rubber-stamp what is proposed, although I suppose that is a great deal better than what happens

in the case of three out of every four laws in this country, which are implemented by Ministers acting alone. If this were happening in a country in the Middle East, Africa or Asia, we might be discussing whether the UN should go in to assist that poor democracy in which most laws are made by Ministers. Unfortunately, what I am referring to is happening here on this Government's watch, and it also happened on those of previous Administrations. The powers available to Ministers are extraordinary. I ask the Leader to accept the amendment to the Order of Business that I have proposed.

Senator Paul Coghlan: I was slightly amused by Senator Darragh O'Brien's remarks. We all welcome the ECB interest rate reduction, but I must inform the Senator that we cannot continue to babysit or micro-manage the banks. The banks are independent and they must become profitable again in order that the State can be paid all of its money it is owed.

Senator Darragh O'Brien: On the backs of people who are paying-----

Senator Mark Daly: Senator Paul Coghlan is talking about the Central Bank.

An Cathaoirleach: Senator Paul Coghlan, without interruption.

Senator Fidelma Healy Eames: The banks are dependent on the State.

(Interruptions).

Senator Paul Coghlan: Those opposite should not interrupt me.

An Cathaoirleach: Is Senator Coghlan seeking a debate on this issue?

Senator Ned O'Sullivan: The Senator is referring to the Central Bank.

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

Senator Paul Coghlan: The banks must act within the law and the parameters set for them. Senator Darragh O'Brien knows that well. I am just answering him.

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

Senator Paul Coghlan: Of course, I have questions for him. Mention was made on the benches opposite of certain other matters. I am confused by Senator Rónán Mullen's remarks on Newbridge Credit Union. There is a State bailout amounting to €54 million. We want credit union services to be provided in every town in the country within the norms for credit unions but not for €500,000 in loans. Perhaps the Senator might clarify his remarks because the State has done everything and acted properly to ensure credit union services will continue to be provided. They also have to reform themselves.

Senator Marc MacSharry: I second Senator Mark Daly's amendment. On the coverage of the Seanad generally, several years ago I suggested the Leader invite the editors of the main media outlets and whoever was responsible for editorial content in RTE for a chat to find out if they might choose to cover the House with a degree of frequency and consistency for a certain period every night. Coverage is sporadic and the House is sometimes not covered at all when we debate important issues, not least of which was the motion on pylons yesterday evening.

I support Senator Michael Mullins in his call for the Minister for Agriculture, Food and the Marine to come to the House to discuss the issue of inspections. In the west and north west, where small holdings are dependent on single farm payments and disadvantaged area payments to pay critical bills, these moneys are required. Inspectors in ivory towers are going about their business in a way that is holding back critical funds from farm families. Something must be done in this regard.

Senator Thomas Byrne: There appears to be a fundamental misunderstanding of the nature of the motions before us. This is not the type of EU scrutiny in which Senator Mark Daly engaged during the summer of a directive proposed to be implemented without scrutiny. These motions relate to the justice and home affairs functions of the European treaties. Ireland and the United Kingdom secured an opt-out from justice and home affairs measures. We did so mainly because the United Kingdom had opted out. As a result of referendums and having to protect everything, provision was made in the Constitution that if we wanted to opt in to anything in the justice and home affairs sphere at European level, the approval of the Dáil and the Seanad would have to be obtained. This is not a matter of scrutinising legislation that has been debated in Brussels or passed by the European Parliament; it is about our function to approve legislation. We do not have a direct function in regard to many of the directives and regulations that are brought before the House. These motions on justice and home affairs measures and any other motion requiring approval by the Seanad should be debated. I am not seeking a long debate. Scrutiny of EU directives and regulations normally takes place in sectoral committees - the Joint Committee on Finance and Public Expenditure and Reform deals with many of them - but these motions are fundamentally different and deserve an approach in which the Seanad exercises its functions under the Constitution. If they are not passed by the Seanad, they will not enter into law. We do not have a 90 day delaying or an advisory power. We are saying "Yes" or "No" to something that cannot happen without our approval. In respect of the justice and affairs motions which are regularly brought before the House and possibly matters relating to enhanced co-operation which would also require our approval, we should have full debates which do not necessarily need to be long.

Senator Martin Conway: I welcome the announcement by Ryanair that it plans to bring an additional 500,000 passengers through Dublin Airport. With the 300,000 passengers it has committed to bring through Shannon Airport and the 200,000 it plans to bring through other airports, this will mean that Michael O'Leary's airline will bring more than 1 million additional passengers into Ireland in 2014. This is proof that the micro-management of the tourism sector under the Minister for Transport, Tourism and Sport is working.

Senator Fidelma Healy Eames: That is what the banks need.

Senator Martin Conway: The Gathering has been a remarkable success. Small events and festivals have flourished the length and breadth of the country and contributed in no small way to attracting additional tourists. The Gathering will also have an impact in 2014 because the word spread throughout the world that Ireland was a place to visit. Michael O'Leary has to be commended for delivering an additional 1 million passengers. He has put his money where his mouth is. He was forthright in calling for the abolition of the airport travel tax and has delivered on passenger numbers. I look forward to welcoming a significant proportion of the additional passengers to County Clare, where I can guarantee them they will have a pleasant and enjoyable stay for several days. We have numerous attractions that will offer them fond memories and good times.

Senator Fidelma Healy Eames: I support Senator Sean D. Barrett's comment that we need a reform agenda now that we are out of the bailout programme. That is the *raison d'être* of the Reform Alliance. I call for a debate on whether members of the permanent government, including the senior civil servants who work side by side with Ministers, should be on permanent contracts. I question this. It is a deep honour to have such a privilege for the term of a Government. They should be reinterviewed to work with a subsequent Government. The people elect public representatives who become Ministers and the Ministers' agendas should be getting through rather than that of the permanent government. It is time we had a debate on that issue with the Minister for Public Expenditure and Reform.

When will we have a debate on the cost of private health insurance? Health insurance is fast becoming unaffordable. Life is becoming unaffordable. I have just received the bill for health insurance for my family of four. It was €2,500, but the renewal price on 1 December is €3,200. What are we doing? We cannot rely on the public health insurance system. That is wrong. The State must manage this process. If we cannot reliably offer public services, why are we out-pricing ourselves in the private health insurance market? I want the State to manage this issue adequately.

Senator Jim Walsh: Aontaím go hiomláin leis an méid atá ráite ag an Seanadóir Healy Eames on health insurance. It is time the Minister for Health was invited to the House for a full debate on the issue. I am sure the Leader will remind me that legislation will be before us presently on the increase in the health levy. I do not have a great difficulty with that Bill because the principle of risk equalisation is essential to the health insurance market. However, wider issues arise in respect of this topic. Senator Fidelma Healy Eames clearly identified the failure of Government policy to address this issue, given the significant increases in premiums. These increases will apply to varying degrees across the board. This will have the consequence of haemorrhaging people in their 20s, 30s and early 40s from the health insurance market which will lead to the point where health insurance will be unsustainable for the companies concerned because those who draw on insurance policies will be the main body of subscribers. It then becomes an issue of solvency for the insurance companies.

I am asking for a debate, in particular, on the changes that were made apparently without reference to the Minister for Health. It is an indication of exactly how the gang of four within the Government is operating. The members of that gang narcissistically call themselves the Economic Management Council but, as far as I know, there is not a maths teacher among them, never mind an economic consultant. There is a serious issue here. As well as the change in the tax relief provisions, a public bed cost is being applied at something in the order of €950 per night to people who have subscribed throughout their working lives, through income tax, PRSI and the universal social charge, to the funding of these services. The failure to manage the cost of running the health services, which has arisen out of the inefficiencies within the Health Service Executive, is now being imposed on private health insurers, making it unsustainable for them to continue in that business in the long term. This runs totally contrary to the stated policy of Government.

Will the Leader bring the Minister into the House for a debate on this issue? The next step, of course, if significant action is not taken in this area, will be for the Taoiseach to put somebody who has the required aptitude and capability in charge of the health services.

Senator Maurice Cummins: Senator Darragh O'Brien asked when the pyrite remediation Bill will come before the House. That legislation will be brought forward this term and we hope

to have it finished before Christmas.

In regard to Nos. 1 to 3, inclusive, on the Order Paper, it seems there are differences of opinion on the Fianna Fáil benches. I am inclined to side with the Leas-Chathaoirleach on this, on the basis that we should seek to avoid duplication where at all possible.

Senator Ivana Bacik: Hear, hear.

Senator Maurice Cummins: It is a point we have made ourselves in this House, that we do not wish to see a duplication of work.

Senator Thomas Byrne: We will not be doing the work we are obliged to do, in accordance with the Constitution, if we do not debate these particular motions.

Senator Maurice Cummins: If Senator Byrne would, for once, allow me to finish, he would see I am trying to be co-operative. The problem seems to be in regard to Nos. 1 and 2, which were discussed at length yesterday at a meeting of the Joint Committee on Justice, Defence and Equality. I am proposing an amendment to the Order of Business that No. 4, if not completed, be adjourned at 2 p.m. to allow the Minister for Justice and Equality to come into the House for 15 minutes to explain what is proposed by way of these motions. Two minutes will be allocated for each of the group spokespersons, if necessary. As I said, the motions have been dealt with comprehensively by the committee. Nevertheless, the Minister has acceded to Members' requests for a debate and will come to the House at 2 p.m. for that purpose. In return for that concession, I am asking for the co-operation of the House in agreeing that No. 3, which relates to the Irish Aviation Authority Act, be taken without debate. Unfortunately, I am unable to secure the attendance of a Minister or Minister of State to debate it today.

An Cathaoirleach: To clarify, is the Leader proposing that 15 minutes in total be allocated to discuss Nos. 1 and 2?

Senator Maurice Cummins: Yes. The motions are practically the same, both referring to an agreement between the European Union and Canada.

Senator O'Brien referred to interest rate reductions by the banks. I am not aware of any advice to the financial institutions by the Government on this issue.

Senator Bacik referred to the criminal justice (cybercrime) Bill. I will find out when that legislation is proposed to be taken and report back to her. Senator Mullen is clearly getting around his constituency, going from Newbridge Credit Union to farmers to pylons. He is covering a lot of ground, or at least covering a great distance overground.

Senator Rónán Mullen: It is called public service.

Senator Maurice Cummins: I take on board his points regarding the failure of TLT, which was also mentioned by his cousin, Senator Michael Mullins, and Senator MacSharry. It is a very serious matter and I will endeavour to bring the Minister, Deputy Coveney, into the House to discuss it.

Senators Mullins and MacSharry also referred to farm inspections and the difficulties for farmers in this regard. It would be reasonable for some time to be given to farmers to address those problems. The livelihood of small farmers in regard to their single farm payments is at stake. It is another issue I will raise with the Minister, who was in the House only a few weeks

ago to debate a myriad of issues relevant to the farming community. I am sure he will be willing to return. We had debates previously with the Minister, comprising a time allocation of one and a half hours each for fisheries and agriculture. It was felt, however, that we should have focus on specific issues, which we did on the last occasion. A debate on fisheries certainly is long overdue, as called for by Senators Ó Clochartaigh and O'Donovan. Members on all sides praised the Minister for his efforts in the negotiations on quotas last year. I hope he will accede to our request for a debate on these matters in the coming weeks.

In keeping with the agricultural theme, Senator Keane raised another matter I will bring to the attention of the Minister, namely, the fox population in Dublin. I am not aware of this problem myself, although I can confirm that there are quite a few clever foxes in this House.

Senator Denis O'Donovan: Two-legged foxes.

Senator Maurice Cummins: It is not a joking matter, of course. We saw the seriousness of the situation when a child in London was attacked in its pram. I will convey the Senator's concerns to the Minister.

Senator Hayden referred to proceedings at the Constitutional Convention and called for a debate on the welfare of families and related matters arising out of those deliberations. I have requested that the chairman of the convention come into the House for such a debate. I assure the Senator that I will reactivate that request to see how we can proceed on this matter.

Senators Noone and Conway referred to the news of Ryanair expanding its services and creating more jobs. This is a very welcome outcome of the abolition of the travel tax. There is plenty to be said about the chief executive officer of that company but whether we like him or not, he certainly is a man of his word.

Senator Conway also lauded the beauty of County Clare. He is becoming almost as impressive as Senator Paul Coghlan in the latter's affection for Killarney.

I will accede to Senator Daly's request to amend the Order of Business to allow him to place his Bill on the Order Paper. I note Senator Paul Coghlan's point that taxpayers have bailed out Newbridge Credit Union to the tune of more than €54 million. It is a serious issue. On the Order of Business this week it has been pointed out that many people who founded the credit union movement would cringe at credit unions giving out loans of over €3 million, irrespective of whether they were in the Irish League of Credit Unions. In many cases, they gave out loans of over €500,000. These points must be taken into consideration also.

Senator Fidelma Healy Eames raised the matter of the agenda of the Reform Alliance, about which we will hear more in the coming months. She called for reform of the public service. This Government has undertaken greater reform of the public service than any other in the history of the State and will continue to do so. We had the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, in the Chamber yesterday and he will return in the coming weeks when I am sure the Senator can tease out these problems with him.

Senators Fidelma Healy Eames and Jim Walsh raised the issue of health insurance. I hope to have the Minister for Health in the Chamber in the next few weeks, when a Bill dealing with health insurance will be before the House.

An Cathaoirleach: The Leader has proposed an amendment to the Order of Business:

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“That Nos. 1 and 2 be taken at 2.15 p.m for 15 minutes, with the contributions of group spokespersons not to exceed two minutes in each case.” Is the amendment agreed to? Agreed.

Senator Mark Daly has proposed an amendment to the Order of Business: “That No. 15 be taken as the first item of business today.” The Leader has indicated that he is willing to accept the amendment. Is the amendment agreed to? Agreed.

Order of Business, as amended, agreed to.

Recognition of Irish Sign Language for the Deaf Community Bill 2013: First Stage

Senator Mark Daly: I move:

That leave be granted to introduce a Bill entitled an Act to provide for the recognition of Irish Sign Language and for that purpose to set down principles to guide the operations of public bodies; to require public bodies to prepare and implement action plans on Irish Sign Language; to provide for classes for the parents of deaf children; to permit the use of Irish Sign language in legal proceedings; to provide for the making available of sign language interpreting services; to introduce statutory targets regarding the accessibility of television programming; to provide for the regulation of Irish Sign Language interpreters, deaf interpreters and Irish Sign Language teachers and for that purpose to establish the Irish Sign Language Council; to provide for the establishment of registers; to provide for continuing education requirements; to provide for offences; to amend the Broadcasting Act 2009; and to provide for related matters.

Question put and agreed to.

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

Senator Mark Daly: On Tuesday, 19 November.

An Cathaoirleach: Is that agreed? Agreed.

Second Stage ordered for Tuesday, 19 November 2013.

Sitting suspended at 11.35 a.m. and resumed at 11.50 a.m.

Companies (Miscellaneous Provisions) Bill 2013: Order for Second Stage

Bill entitled an Act to amend the Companies (Amendment) Act 1990 with respect to the jurisdiction of the courts in examinerships, to amend sections 7, 17 and 18 of the Companies (Amendment) Act 1986 and section 128 of the Companies Act 1963, to make further provision about the duties and powers of designated officers in circumstances where search warrants have been issued under section 20 of the Companies Act 1990, to amend the Company Law En-

forcement Act 2001 by substituting a new section for section 18 thereof, to amend the Personal Insolvency Act 2012 in relation to section 26(4) of that Act, to amend the Bankruptcy Act 1988 in relation to sections 17(2), 105(2), 130 and 141 of that Act, to enable levies to be imposed on statutory auditors and audit firms with respect to the external quality assurance of certain of their activities in the field of statutory audits, to enable the State to make provision in respect of a matter that Article 2(4) of Commission Decision 2011/30/EU of 19 January 2011 permits Member States to make provision in respect of and to provide for related matters.

Senator Deirdre Clune: I move: “That Second Stage be taken now.”

Question put and agreed to.

Companies (Miscellaneous Provisions) Bill 2013: Second Stage

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

An Leas-Chathaoirleach: I welcome the Minister of State, Deputy Kathleen Lynch.

Minister of State at the Department of Justice and Equality (Deputy Kathleen Lynch): I am pleased to bring the Companies (Miscellaneous Provisions) Bill 2013 before the House on behalf of Minister for Jobs, Enterprise and Innovation, Deputy Richard Bruton, and I thank Senators for facilitating an early debate on the urgent issues it addresses. This is the second Bill which has been introduced this year to amend the Companies Acts. It focuses on making a small number of immediate and targeted changes to company law which are necessary to continue to allow us to respond dynamically and flexibly to opportunities and challenges arising from changes in our operating environment.

Senators will be aware that the full suite of existing Companies Acts - amounting to 16 in all - was the subject of a major reform and consolidation exercise in recent years. The Companies Bill 2012, a landmark legislative project, introduced to the Dáil in April this year, not only consolidates the corpus of company law since 1963 but also overhauls and restructures the legislative framework. The Bill consolidates, simplifies and reforms company law to provide a state-of-the-art framework for all businesses operating in Ireland, whether domestic or foreign. It brings coherence, structure and accessibility to the canon of company law which will greatly assist businesses and others with an interest in these matters. It is the product of a lengthy period of collaboration between officials in the Department of Jobs, Enterprise and Innovation, the Company Law Review Group, CLRG, and the Office of the Parliamentary Counsel.

The CLRG is a statutory body that was set up in February 2000 and its role is to advise the Minister for Jobs, Enterprise and Innovation on the reform and modernisation of company law. The group includes all relevant stakeholder interests, with members from Government Departments, professional bodies - solicitors, barristers and accountants - employer and business interests, regulatory bodies, trade union interests and individual legal and finance practitioners. The Companies Bill 2012 completed Committee Stage in the Dáil on 6 November. I assure Senators that the provisions in the Bill before the House will also be incorporated into the consolidation exercise.

It may seem somewhat unusual that another Bill from the company law stable is being

brought forward while the Companies Bill is still before the Houses. However, given the priority the Government attaches to supporting businesses, it was decided to expedite the measures relating to Circuit Court examinership, as well as a small number of others that are included in the consolidation Bill. In the view of the Minister, Deputy Bruton, it is imperative that these be progressed more speedily than would be the case if they were part of a very large Bill requiring a great deal of consideration on the part of the Oireachtas and which would, as a consequence, be required to be dealt with at a more measured pace. These measures are set out in sections 2 to 5, inclusive, of the Bill before the House and I will outline them in more detail shortly.

The additional measures in sections 6 and 7 are significant in terms of the improvement of audit quality. These will strengthen oversight of the audit process and should provide better protection for shareholders, investors and creditors. It is important that they be progressed at this time, particularly in light of the focus on audit in the aftermath of the financial crisis. The imposition of a levy on relevant statutory auditors and audit firms, auditing public interest entities will enable the Irish Auditing and Accounting Supervisory Authority, IAASA, to defray the costs of carrying out quality assurance on them once this function has been transferred from the recognised accountancy bodies to IAASA. The transfer of the quality assurance function implements an EU recommendation on this matter. Separately, the implementation of the member state option in a Commission decision will enable the competent authority to apply its investigation and penalty systems to a particular cohort of third country auditors. I will now explain what each of the provisions in the Bill is designed to achieve.

The provision on examinership arises from a recommendation made by the CLRG that the Companies Acts be amended to allow small private companies, meeting the criteria which define a “small company” in company law, the option to apply directly to the Circuit Court for examinership.

12 o'clock

A “small company” is one that meets two out of the following three criteria - turnover of a maximum of €8.8 million, balance sheet of a maximum of €4.4 million and 50 or fewer employees. The Companies (Amendment) Act 1990 allows the remission of an examinership from the High Court to the Circuit Court subject to certain criteria. However, the provision in section 2 eliminates the requirement for any High Court involvement with the associated costs pertaining to this. It is hoped that the immediate impact of this change will be lower costs and greater accessibility for small private companies to the examinership process. This means, for example, that companies based outside Dublin will be able to apply for examinership to their local Circuit Court, thus reducing costs and travel time.

Access to a more affordable mechanism for restructuring makes it more likely that more small companies will avail of examinership, thus providing them with a greater chance of economic survival. In particular, businesses with potential for growth and job creation which are being held back by legacy debt problems, are expected to benefit. This, in turn, should feed into an improvement in the general employment and economic situation within the State.

Sections 3 and 4 deal with electronic filing and provide another measure which is being proceeded with ahead of the Companies Bill 2012. This will facilitate the electronic filing of the documents with the Companies Registration Office relating to the financial statements of a company, which a company is required to file with the Companies Registration Office as part of its annual return. Each of the two sections caters for the obligations of a different category of

company, as regards their filing of annual return obligations.

Electronic filing of annual returns has, in a sense, unintentionally, been hampered by the need to file a copy of the accounts related documents which has been certified as a true copy or a true written copy and which contain copies of the signatures of the two directors who signed those accounts. Currently, if a company wishes to file those documents electronically it must manually scan in every page of the hard copy of those documents so that there will be a copy of the signature of the two directors. In the experience of the Companies Registration Office, this discourages electronic take up of company filing.

The amendments proposed here, to provide that a “copy” can now include a document which is signed using typeset signatures, that is typed names of the directors which means that the entire document can be created electronically and which should facilitate a far larger uptake of electronic filing. The proposed amendments also provide for the safeguard that in the case of such submissions, the copy documents must be accompanied by a certificate signed by a director and the secretary of the company stating that the copy of the accounting documents is a true copy of the originals except for the signature. This certificate can be signed either manually or using an electronic signature.

The provision in section 5 on the disclosure of information to the Office of the Director of Corporate Enforcement, ODCE, relating to offences under the Companies Acts by certain regulatory authorities is the final one extracted from the 2012 Bill for more rapid consideration here. It deals with exchange of information between regulatory bodies regarding suspected breaches of legislative provisions and is an essential element to a properly functioning regulatory environment. Under section 18 of the Company Law Enforcement Act 2001, CLEA, the Revenue Commissioners, the Competition Authority and the Garda Síochána are entitled to disclose information to the Director of Corporate Enforcement or an officer of the Director of ODCE, which “*may relate to the commission of an offence under the Companies Acts*”.

However, section 77 of the Finance Act 2011 inserted a new section, section 851 A into the Taxes Consolidation Act 1997 which has impacted adversely on the enforcement activities of the ODCE in that it has unintentionally affected the utility of information exchanges from Revenue to the ODCE. This provision has served to restrict the amount of Revenue information which the ODCE can properly obtain and use; in particular, it is an obstacle to the ODCE in its use of such information in support of its investigative and civil enforcement work under the companies Acts. The impact of the provision in the Finance Act is taken sufficiently seriously to warrant inclusion of this remedial provision in this Bill. The opportunity is being taken in section 5 also to further clarify that information may be disclosed to the Director which would assist the ODCE in investigating whether the grounds for bringing disqualification proceedings against a person, who was a company director, existed at the time the company was struck off the register for failure to file its statutory returns.

Section 6 refers to the levy on statutory auditors-audit firms of public interest entities, PIEs, to defray the costs to the Irish Auditing and Accounting Supervisory Authority, IAASA, of carrying out the functions of external quality assurance in respect of these PIEs. The term “quality assurance” is given to the process of inspection, on a regular basis of statutory auditors and audit firms to ensure that systems are in place that will allow for consistently high quality audits. The scope of inspections includes an assessment of auditors’ compliance with applicable auditing standards and independence requirements, a review of the internal quality control system of the audit firm and the testing of selected audit files.

International best practice as regards the external quality assurance of audits, in particular of those companies classified as public interest entities is that this should be carried out by the public oversight bodies for audit and not by the recognised accountancy bodies of which these audit firms are members. Public interest entities are, in broad terms, “systemic entities” - credit institutions and insurance undertakings, in combination with listed companies. While it is not required by current EU legislation that this scrutiny is an obligation, this matter is being considered under audit proposals at present at EU level.

The Government has decided that Ireland should move to the model of independent inspection of the audit of public interest entities based on the model set out in an EU Commission recommendation in the matter. It was also decided that the Irish Auditing and Accounting Supervisory Authority, IAASA should carry out these functions, instead of the recognised accountancy bodies, so called “RABs”. The RABs currently operate these functions under the powers vested in them by the regulations transposing the latest EU Audit Directive. The EU Commission recommendation referred to specifies that quality assurance inspections must be executed by a public oversight body, either exclusively or together with another appropriate body that is accountable to the public oversight body. Accordingly, it is necessary to provide, through primary legislation, for a levy on the relevant statutory auditors and audit firms auditing public interest entities in order to defray the costs to IAASA for carrying out these functions. Additional functions are proposed to be conferred on IAASA in the Companies Bill 2012, while the balance of the related functions can be provided to IAASA by amendment to existing regulations. The transfer of the important quality assurance function to an independent oversight body such as IAASA will strengthen oversight of the audit process in Ireland as regards these public interest entities.

The transfer of the function to IAASA is to be fully funded by the relevant statutory auditors and audit firms with no cost to the Exchequer, apart from once off start-up costs. This is a very worthwhile project which should greatly assist with raising the calibre, independence and rigour of the audit process and enhance confidence in it and audit reports in relation to public interest entities, and significantly improve Ireland’s reputation in this area.

Section 7, the final item, relates to the application of investigation and penalty systems to certain third country auditors and audit entities which carry out the audit of companies incorporated in specific third countries and territories whose transferable securities are admitted to trading in the State.

The provision is audit based and quite technical. It relates to regimes drawn up by the EU Commission based on evaluations carried out by it on the public oversight, quality assurance, and investigation and penalty systems for auditors and audit entities of particular territories. The evaluation has caused the EU Commission to draw up two lists in respect of certain countries outside of the EU that are deemed equivalent to corresponding EU audit oversight systems and those that are deemed not to be equivalent at the moment but may be deemed so at some future date. On foot of this, the Commission goes on to prescribe in Commission decisions, specific treatments by member states in respect of each of the two categories in question. For the record, the references to these decisions are Commission Decision 2011/30/EU, as amended by Commission Decision 2013/288/EU, that set out regimes to be applied by member states to the auditors, and audit entities, that carry out audits of the annual or consolidated accounts of companies incorporated in certain third countries, whose transferable securities are admitted to trading in the State.

The category of exclusive relevance in the present context is that relating to countries whose audit oversight systems, arising from the EU Commission's exercise, are deemed not to be equivalent to those of the EU. The treatment of these by member states is referred to as a "transitional period" regime and applies for the periods specified in each of the two Commission decisions. The countries subject to this are Bermuda, Cayman Islands, Egypt, Mauritius, New Zealand, Russia, and Turkey.

A member state option is provided in these Commission decisions and the present provision proposes that this option be availed of. Taking the option will allow the competent authority in Ireland responsible for implementing these Commission decisions to apply its investigation and penalty systems to the third country auditors and audit entities that are subject to the transitional period regime.

The audit oversight regimes of the countries in question, based on evaluations carried out by the EU Commission, are not equivalent to that in the EU. Accordingly, the audits of undertakings from third countries that are admitted to trading in Ireland may not be as robust as an audit carried out in Ireland or another member state operating under higher quality oversight systems and practices. This means that for persons investing in, or contemplating such investment in such entities, a greater degree of risk is entailed. Conferring such powers on the competent authority would enable it to pursue the auditors in question and subject them to its investigation and penalty systems, and indeed the prospect of this may focus these auditors on producing high quality audits to avoid the consequences of the application of these powers. That is why it is considered prudent to take this option.

The measure also proposes to provide that where future EU Commission equivalence evaluations are undertaken, that result in a differing set of countries being provided for under a future Commission transitional period decision, the Minister should have the power to adjust the list as currently constituted, thus enabling the competent authority to apply its investigation and penalty systems in line with the revised list of transitional period countries. This is considered a prudent measure that avoids the need for recourse to primary legislation each time the EU Commission draws up a new decision resulting in a change in the composition of the lists.

The Minister for Jobs, Enterprise and Innovation intends to make regulations to confer the role of competent authority to the Irish Auditing and Accounting Supervisory Authority. He considers that it is entirely appropriate for IAASA to be enabled to employ its powers in these instances, thus affording safeguards to parties placing reliance on the audit reports in question.

The approach taken in sections 6 and 7 is consistent with the developments on audit at EU level. The oversight of the audit process in Ireland as regards public interest entities will be strengthened with the transfer of the important quality assurance function to an independent oversight body such as IAASA. Also, it is critical to give greater international credibility to Ireland's audit process, particularly regarding entities that participate on the global stage. Overall, the effect of the two sections is that audit quality and confidence in audit reports will be enhanced.

As I mentioned at the outset, company law must remain dynamic and responsive to meeting emerging opportunities and challenges. In order to meet that goal, I wish to inform Senators that the Minister for Jobs, Enterprise and Innovation intends to bring forward another important proposal on Committee Stage. The amendment will provide for an officer of the director of corporate enforcement to take over the statutory duties set out under section 20(2F) of the

Companies Act 1990, in circumstances where the incumbent designated officer is no longer in a position to carry them out. The duties, under section 20(2F), arise if a named officer of the director has been issued with a section 20 search warrant under which “extended powers of seizure” are exercised. It is proposed that the new section will provide that if a designated officer named in a search warrant has ceased to be an officer of the director of corporate enforcement, or is otherwise unable to act, another designated officer may apply to a judge of the District Court for an order that his or her name be substituted for the original designated officer’s name on the search warrant. The section is contained in the Companies Bill 2012 but is being brought forward to ensure that the process is in place should the need for it arise.

I also wish to inform Senators that the Minister intends to bring forward a small number of technical amendments to the Personal Insolvency Act 2012 and the Bankruptcy Act 1988, designed to improve the operation of those Acts. The amendments are at the request of the Minister for Justice and Equality and are being prepared by the Office of Parliamentary Counsel.

That brings me to the end of this overview of a package of very important measures that the Minister for Jobs, Enterprise and Innovation wished to expedite due to the significant positive and immediate impact they will have for business and the enforcement of company law. There is also scope for the measures to contribute to the enhancement of audit quality in Ireland. I commend the Bill to the House.

An Leas-Chathaoirleach: Go raibh maith agat a Aire. I call Senator Mary White who has eight minutes.

Senator Mary M. White: Go raibh míle maith agat. I welcome the Minister of State here this morning and thank her for representing the Minister for Jobs, Enterprise and Innovation. She has a mega portfolio. I congratulate her on the energy and passion she has shown for her wide range of responsibilities.

In late 2012 the Minister, Deputy Richard Bruton, announced his intention to proceed with legislation to allow small private companies to apply to the Circuit Court for examinership. The provision to give this effect was included in the Companies Bill 2012. Therefore, it was clear that due to the technical and complex nature of the Bill it would take time before the enacting process would be completed.

First, I commend the Minister on bringing forward the Companies (Miscellaneous) Provisions Bill 2013. It fast-tracks the provisions of the Companies Bills 2012 regarding Circuit Court examinership, as well as a number of other provisions highlighted in this Bill. It is clear that such provisions, outlined in this Bill, are of great importance in supporting business, particularly for smaller companies.

I wish to point out that the Companies (Miscellaneous) Provisions Bill 2013 is part of a once in a generation piece of legislation, that is the Companies Bill 2012. The Companies Bill 2012 will make company legislation fit for purpose in this modern era. It is also important to point out that an extensive amount of research, consultation and hard work was conducted by the previous Government in the drafting of the Companies Bill 2012.

I support the Companies (Miscellaneous) Provisions Bill 2013 in principle. However, I have some concerns that I shall raise with the Minister. I support section 2 that will amend existing examinership provisions to provide for the option to allow small private companies to apply directly to the Circuit Court to have an examiner appointed, instead of having to apply to

the High Court as is currently the case. The elimination of the need for High Court involvement will immediately lower costs and provide greater accessibility for small private companies to the process of examinership.

The Department of Justice and Equality has estimated that examinership in the Circuit Court, as opposed to the High Court, will save companies 30% in legal fees alone and there will be potential for further savings. The importance of accessibility cannot be underestimated when one considers that roughly 2,000 companies per year go into insolvency, yet only 30 or so enter the process of examinership.

Increased accessibility to examinership will give more companies the opportunity to restructure their debts and have a fighting change at survival, as opposed to going straight into liquidation. Allowing smaller companies the option of applying directly to the Circuit Court rather than the High Court is a measure that works in theory but may not be as straightforward in a practical context. Judges, solicitors, barristers and accountants will have to be committed to the new process. Practitioners will have to be specifically trained in examinership law and work together in a cohesive system in order for this process to work. I am interested in hearing the Minister of State's thoughts on this aspect of section 2.

Sections 3 and 4 relate to the electronic filing of accounts with the Companies Registration Office and will simplify the process of e-filing annual returns. This will provide for more efficient electronic filing of accounts with the CRO, thereby reducing the associated administrative burden. I welcome this provision, which has the potential to reduce the cost of compliance by making it easier for businesses to file statutory accounts online.

I have concerns about section 6, which allows for a levy on statutory auditors and auditors of public interest entities in order to defray the cost to the IAASA of carrying out functions of external quality assurance in respect of these public entities. Subsection (2) states that "the Supervisory Authority may impose, with the Minister's consent and subject to subsections (4) to (6), one or more levies in each financial year of the Supervisory Authority on statutory auditors and audit firms auditing public-interest entities." Regular inspections of statutory auditors is, of course, important to ensure that systems are in place that allow for consistently high quality in audits, but I ask for clarity on the amounts to be levied and whether a limit will be set in this regard. I also ask for clarity about who will be responsible for paying this levy. Will it be imposed as a burden on the taxpayer?

Section 7 provides for the application of investigation and penalty systems to certain third country auditors. I welcome this section because it will bring us up to scratch with EU standards. No international auditor with an Irish subsidiary should escape reprimand for malpractice simply because it is headquartered in a different jurisdiction.

Fianna Fáil supports the Bill in principle and we commend the Minister for Jobs, Enterprise and Innovation on facilitating its expeditious introduction in order to reduce the costs associated with examinership for small businesses. We must support businesses that have potential for growth, exports and job creation but are crippled by legacy debts as a result of the financial crisis. Small businesses are central to the growth of our economy because they employ 33% of the people who are at work in Ireland. Approximately 200,000 small businesses employ more than 650,000 people. Allowing small companies to apply directly to the Circuit Court for examinership will make it cheaper and easier for businesses to restructure their debts. If smaller companies are given the opportunity to survive their current difficulties, more jobs will

be saved.

Senator Deirdre Clune: I welcome the proactive approach that the Department has taken in preparing this Bill by taking a small number of measures out of the main companies legislation and fast-tracking them in order to help the many small businesses that are in trouble. The Bill is aimed at small businesses with balance sheets smaller than €4.4 million, turnover not greater than €8.8 million and fewer than 50 employees. This sector is facing a difficult trading and economic environment at present. Their stories have been well aired. The examinership provisions will allow cases to transfer to the Circuit Court, thereby making it easier for small businesses to access this type of solution. The Bill will help viable businesses that have the potential to survive by giving them breathing space and putting them into an examinership process so that a solution can be worked out. They will have space from their creditors. Currently the only option for companies is examinership in the High Court, which is an expensive process.

The Companies (Amendment) Act 1990 introduced the current law on examinership under the High Court. The process currently requires a high level of court involvement and can be complex and lengthy. The Department of Justice and Equality has estimated that Circuit Court costs will be 30% lower. It will be interesting to see the impact on businesses. Section 279 of the Companies Act 1963 allow companies to restructure with their creditors or stakeholders under court supervision, but that provision has rarely been used. Individuals can become bankrupt but companies cannot under the Bankruptcy Act 1988. The introduction of the insolvency schemes will make a difference in this regard. The programme for Government stated that legally binding and voluntary debt measures under the supervision of an insolvency expert would be introduced to allow for non-judicial resolutions of debt. The Company Law Review Group stated: “[S]ubject to establishing that the Circuit Court has the necessary resources available to it and the policy agreement of the Department of Justice, the Review Group believes that there is no other reason why the changes proposed to permit all SPCs to bring application directly to the Circuit Court cannot be quickly progressed.”

Our focus should be on protecting jobs. A receivership or insolvency arrangement will not prioritise jobs in the same way that an examinership can. There are approximately 200,000 small businesses, employing 650,000 people, in Ireland. Some of them have the potential to survive and this is what the examinership process will establish. Figures from Hughes Blake on High Court examinerships for SMEs show that 716 SME jobs have been saved in the first three quarters of this year alone. Companies that have made media headlines for successfully exiting receivership in recent months include Trifix Forklift in Kildare and Dublin Gazette Newspapers. Barna Waste managed to save 270 jobs when it emerged from examinership. The examinership process plays an important role in saving jobs.

Small family businesses tend to have a strong business sense, a good track record and loyal customer support but, for various reasons, many of them are in difficulty. They may have been involved in property or they may face a difficult trading situation. They need to be supported in their return to the point at which they can once again become viable businesses that employ people.

The new process has been welcomed by Retail Excellence Ireland and the Small Firms Association. There is an acknowledgement, at the same time, that for some small businesses it might be coming too late. Nevertheless, we need to move forward, and what is proposed here is supported by most business people. The data show that three out of four examinerships are successful. Companies that get to that point have generally tried everything. They have con-

sidered selling non-core assets, examined their cost base, restructured debt and payments and sought more credit from creditors. For many, however, all of that is not enough and they need access to the examinership process.

Leases and high rents are an issue for many businesses. In that regard, the recent decision by the Property Services Regulatory Authority to put its commercial lease database online is most welcome because it gives us an idea of exactly what is happening out there. I was interested to note that only one lease has been issued on Grafton Street since 2010 and only two on Henry Street, which is the busiest shopping street in the country. Elsewhere in the State, no leases have issued on Patrick Street in Cork, as the Minister of State will be aware, or in Galway. It is estimated that 45 Grafton Street is now seeking a rent of €305,000 annually, compared with an estimated €445,000 some years ago. The former HMV business on the same street is now being let to Massimo Dutti, a subsidiary of Zara and a very popular retail outlet. At the height of the boom the rent charged on that premises was estimated at €1.7 million; now we are hearing a figure of €865,000. It seems that sense is finally prevailing in this area. There is no doubt that crippling rents were a major factor in significant numbers of viable businesses going under.

I also welcome the Bill's provision for the simplification of the process of e-filing and the disclosure of information to the Office of the Director of Corporate Enforcement under section 5 of the Company Law Enforcement Act 2001. As it stands, there is no obligation to disclose information to that office. That change is welcome and will give useful additional powers to the director.

The Bill also deals with the issue of statutory audits. There was a very useful discussion on this issue at the Joint Committee on Jobs, Enterprise and Innovation, of which I am a member, at the end of last year. The chairman of the Irish Auditing and Accounting Supervisory Authority, IAASA, raised the question of whether there is a need for direct regulation of the auditors of private interest entities. That discussion came against a background of developments in the area of audit reform at a European level, as the Minister of State mentioned. We must ensure we have independent auditing of our accounting services. We must send out a message to people who might choose to invest in this country that company law is being adhered to in a transparent way. That is the driving force behind all these changes.

On the whole, I welcome the Bill. There are advantages for small businesses in having a cheaper and more accessible examinership process. It will remain the case, however, that the courts will need to be satisfied that there is a reasonable prospect of a company's survival. It is all about protecting viable companies. There will always be a number of businesses that fail, and examinership should not be used to prop up such companies. There is a balance to be struck here. In some cases, a successful examinership process will mean a reduction in payments to creditors, which will have a knock-on effect. In general, these provisions are a very welcome development and their fast-tracking is to be commended.

Senator Sean D. Barrett: The Minister of State is very welcome, as always. I thank my colleagues, Senators Mary White and Deirdre Clune, for their contributions. Senator White pointed out that going to the Circuit Court could result in a saving of 30% on legal costs as compared with proceedings in the High Court. All such savings are very welcome. I echo Senator Clune's comments regarding the reduction in rents on Grafton Street premises. I had the honour of seconding Senator Feargal Quinn's Bill on upward-only rent reviews, which will be coming forward again in due course. As Senator Clune observed, the new examinership process will save jobs. The criteria regarding a turnover of €8.8 million, a balance sheet of €4.4

million and a payroll of 50 employees or fewer are welcome.

Much of the remaining content of the Bill is seeking to deal retrospectively with issues that have arisen in recent years. Indeed, there is a sense of locking the stable door after the horse has bolted. In terms of giving additional powers to the Office of the Director of Corporate Enforcement, many people might reasonably ask where that office has been for the past five years. In regard to auditing, the Bill proposes to transfer powers from the recognised accountancy bodies to a statutory body, namely, the Irish Auditing and Accounting Supervisory Authority. We, as a society, bought several banks on the basis of accounts that were prepared by people who are still walking around. If we are transferring powers from one body to another and the latter has not been particularly active in pursuing the dreaded things we have all had to cope with in this country since 2008 - problems this Government has inherited and in the resolution of which every Senator has tried to assist - then the question arises of whether we have been too mild in putting our faith and confidence in bodies that have done very little to justify that faith and confidence.

There is a serious question mark there. We must ask ourselves why the recognised accountancy bodies failed to identify what was going on among their members. Are the big four accountancy firms beyond rebuke? The State is now taking on the burden of a profession that did not regulate itself. There is a huge moral hazard in that, in the sense that there were no consequences for those bodies for their failure to self-regulate. In cases such as that of Enron, or the Paul Coulson case in this country, in which private companies made acquisitions on the basis of accounts that proved not to be a true and accurate reflection of the entity in question, substantial damages were retrieved by the private companies engaging in those purchases. I ask how much the State might be owed in this context. The former Minister, the late Brian Lenihan, and both Houses of the Oireachtas were told of very low levels of losses in the banks, on which basis we acquired them. As we subsequently discovered, the stated losses proved to be only a fraction of what was eventually imposed on the State.

I support the move away from the recognised accountancy bodies because, as I said, they failed to do their job. The fact remains, however, that we are letting them off the hook very lightly indeed. My experience at the Joint Committee on Finance, Public Expenditure and Reform is that when people from that sector present at meetings, they do not accept liability for having failed to do the job with which they were entrusted. In fact, I suspect they would mostly do the same all over again. The Government must be far stricter in not letting the recognised accountancy bodies off the hook. We must ask the IAASA where it was when all of this was going on. Did any alarms sound?

I will support the Bill, with the caveat that we must see certain people pulling up their socks and performing far better than we have seen them do heretofore. That includes the Office of the Director of Corporate Enforcement, the recognised accountancy bodies and the IAASA.

Senator Mary M. White: And the Central Bank.

Senator Sean D. Barrett: Indeed, and bankers in general. The lack of standards in banking is something every member of the Joint Committee on Finance, Public Expenditure and Reform sees every time representatives appear before it. The Government has had to ask the same questions about Newbridge Credit Union this week. The figure amounts to €54 million, as if the taxpayer is a bottomless pit. Who are the accountants in Newbridge?

From the wider perspective, the Government of the day paid a massive price, with one party being reduced from having 82 seats to 19, while the other which had six was left with none, but it was not a question of political responsibility alone; others must bear responsibility. We are with the Minister of State in reposing trust in bodies that they will perform far better than we have seen heretofore.

I support the Minister of State on the issue of electronic filing, referred to in sections 3 and 4. We are wondering about what electronic filing means and the standards that will apply. We have high standards in both Houses of the Oireachtas, but we are often not given credit for this. Politics is held in low esteem. Some of the other people spoken about have done far greater damage to the country and we must regulate them in the interests of wider society.

Do we have enough strength in quality assurance, referred to in the contribution of the Minister of State? Will we expel people from the accountancy profession if we have a recurrence of what happened in the past five or six years? How good is the public oversight body? We have many such bodies captured by the sectors they are supposed to regulate. We need public interest lawyers and economists rather than insiders in determining these matters. The Minister of State has noted the remarks of EU judges that standards in Bermuda, the Cayman Islands, Egypt, Mauritius, New Zealand, Russia and Turkey are not up to what we regard as appropriate. The Minister of State is taking steps to deal with third country auditors. How do Irish accountants compare with those in New Zealand? This goes back to the point on how easily people have been let off the hook.

Section 5 deals with the disclosure of information. Notwithstanding any other law, the Competition Authority, a member of the Garda Síochána, an officer of the Revenue Commissioners, the Irish Takeover Panel or such other authority or other person as may be prescribed may disclose material to the Office of the Director of Corporate Enforcement. Is there a conflict of interest in this regard? Will the Competition Authority state it is trying to promote competition and has a duty to blow the whistle on what it finds? The Revenue Commissioners jealously guard their secrecy. If they are on board, there may be no conflict, but I raise the point that they may not prove to be useful allies in the work the Minister of State is attempting to do.

I welcome the Minister of State and the legislation, which is necessary. It has just been announced in the Dáil that we are exiting the bailout programme. As part of the reform agenda, we must look at some of the other reasons this country got into trouble. Some relate to the bodies to which the Minister of State is giving extra powers. My verdict on their performance heretofore is that they must do better next time.

Senator Aideen Hayden: Like other speakers, I welcome the Minister of State, Deputy Kathleen Lynch. She is a woman with many talents which extend beyond her ministerial remit. I look forward to reviewing the Companies (Miscellaneous Provisions) Bill 2012. The legislation is long overdue and vital in terms of having a robust company legal structure. I understand the complexities and that it will be 2014 before we can bring the legislation to fruition. I welcome the decision of the Government to bring forward certain provisions of the Bill for practical reasons. I refer, in particular, to the provision whereby small private companies can apply to the Circuit Court for what has loosely been called examinership-lite. The Bill is trying to facilitate low-cost Circuit Court examinership for small businesses. The examinership process can only be accessed through the Circuit Court. I have heard many estimates of the cost of appearing in the High Court for one day and it extends to between €15,000 and €30,000. It is an expensive process.

This is an important day to have the debate. I was struck by the fact that Pamela Scott, a company that exited examinership in May, had opened its fourth new shop on Henry Street. One of the directors of the parent company, Flairline Fashions Limited, noted that it had entered examinership because of the need to bring its cost structure to a sustainable level. Examinership was obviously very successful but also a very expensive process. The director said he welcomed a cheaper, faster option for smaller companies. That is what we are trying to achieve.

In understanding what examinership is about I emphasise that we are talking about small companies the creditors of which are other smaller companies. It is important not to prioritise one category of business to the detriment of another. It is important to emphasise that examinership is a process whereby a company must establish its viability. We are not giving a blanket to a business with no prospect of survival, where granting examinership will only bring other small creditors and businesses to their knees. We are trying to make available to smaller companies a process that has been very effective.

I thank the Library and Research Service for the digest it has prepared on the Bill. I was struck by the statistics for examinership for the period 2008 to 2012. Of the companies that went into examinership, over 50% returned to normal status and are operating as normal. In the period 2008 to 2012 very few companies went into liquidation and a reducing number are still in examinership. We are not talking about an unproven process but one that has been well received by Irish companies. We must acknowledge that one of the significant disadvantages of the process is the cost. There was a commitment in the programme for Government to introduce a legally binding voluntary commercial debt plan structure to allow small businesses to restructure debts without recourse to expensive court procedures. It is important to ask why we did not do this and why we did not go down the non-judicial route rather than working within the court structure.

It is important to acknowledge the work of the Company Law Review Group which in 2012 published a report on reducing the cost of rescuing viable small private companies. Its advice to the Government was that, given that the non-judicial processes available were evolving, having the insolvency service involved in the process administratively was not something it recommended. In contrast, it recommended using the Circuit Court as a means of providing recourse for small companies. It was concluded that there was no reason the envisaged changes could not be proceeded with through the Circuit Court.

Anything that the Government puts forward should be subject to review, and I am aware that although many people have welcomed this proposal, others have questioned whether it would bring about the savings we are trying to achieve or the viability we would like to see for small private companies. I ask that the following matters be kept under review in this process. After a particular period there should be a review, as enshrined in either the legislation or our own minds, to see if the Circuit Court is delivering for small, private companies what we hope it will. I am very concerned that costs should be kept under review as there have been a number of arguments that legal costs will not determine whether the process will be successful. I am also very concerned about keeping the prospect of a non-judicial option under review, including the capacity of the Insolvency Service of Ireland, and particularly its evolving expertise in insolvency that is being rolled out pertaining to personal insolvency rather than commercial and business insolvency. Its capacity to deal on a non-judicial basis should be kept under review.

As a solicitor I have had personal experience of people going through the examinership procedure. There is much expertise within the High Court relating to establishing whether com-

panies have the capacity to remain viable, and I wonder how we can ensure the Circuit Court can be geared to the same function and, as the Company Law Review Group has indicated, is properly resourced to ensure it is capable of delivering this service.

Fortunately, we are exiting a tough time in Ireland, and there is good reason to believe that we are seeing more than green shoots. Many of our export companies are small private companies and 80% of them are predicting that they will expand their businesses quite significantly over the next period. As Senator Barrett has noted, we cannot because we are seeing green shoots walk away from change and what went wrong in the past. We cannot put these issues behind us. This country will have to consider why bodies such as accountancy experts, for example, did not deliver the kind of service they should have for the country.

I welcome what has been proposed but it must be kept under review. We must look back after two years to see if the Circuit Court is delivering what we would like it to for the country.

Senator Feargal Quinn: I welcome the Minister of State, who must be getting fond of us in this House. I am delighted to see her back here again wearing a hat that is different from her normal one. I welcome the basis of the Bill, and the most interesting figure given today is Senator White's claim that Circuit Court costs are 30% less than High Court costs, which means a lot to small businesses ending up in court.

I will examine a little more closely any legislation that is hindering the development of business. Electronic filing for court cases is great but I wonder if we could do much more in this respect for small and medium enterprises. The Bill aims to provide a more efficient electronic filing of accounts with the Companies Registration Office but we must consider electronic filing for court documents in order to lessen the burden on business. We know court cases are an extreme burden on business, as Senator Hayden mentioned a few minutes ago, and this applies in particular to small and medium enterprises, as costs could easily put them out of business.

How could we make the system easier to navigate? The World Bank has raised the case of South Korea, which in 2010 launched an electronic case filing system that enables electronic submission, registration, service notification and access to court documents. In 2012, lawyers filed just over a third of almost 1 million cases electronically. Every month more lawyers are using the new system as they are attracted by its convenience and although we have a long way to go, we can now work much more efficiently than we did in the past. It is said that so called electronic courts, or e-courts, include cost and space savings, increased security, greater transparency and expanded access to justice, with round-the-clock filing and remote access, as people can file documents without having to go to a particular building. Savings from the implementation of an e-court system can be substantial and result in a reduction in the use of paper. I have a hang-up about the outrageous waste of paper in these Houses, as the Order Paper is delivered to us every day in an envelope. We could do much to lessen paper usage here and in business.

The time spent in court, the need for storage space and archiving of documents can be streamlined and made much more efficient than in the past. Data indicates that contract enforcement in economies with e-filing is of great benefit in protecting companies that have run into difficulty. Has the Minister of State comes across that issue? Such a measure would help make things easier and faster for businesses in court cases and give them added protection. It would be worthwhile considering that point and although I do not expect an answer today, we should examine the matter.

The Minister for Justice and Equality may be more involved in this than the Minister for Jobs, Enterprise and Innovation as the issue relates to company law, although it could be expanded at a later stage. Surely an examinership process, for example, would be easier with e-filing? Will the Minister of State indicate if we could include an amendment that would allow the Minister to consider the issue of e-filing of court cases with the aim of reducing the burden on businesses? That amendment might help but it would not tie anything down.

We should also reduce the number of procedures required to set up a business. We need to learn from the best when it comes to reducing red tape and the burdens that imposes on businesses that are being set up. We should make it as easy as possible to set up businesses as if we can encourage that, we will go a long way towards creating employment. According to the World Bank's cost of doing business report in 2014, it takes four procedures and as long as ten days to start a business in Ireland, whereas in Singapore it takes just three procedures and two and a half days, at a cost of approximately €400. New Zealand is even better, taking just one procedure and half a day to set up a business. All a person has to do is register with the companies office on-line, which costs less than €100. That is even better than in Panama, where I visited some years ago. People there told me they were setting out to be the easiest country in which to set up a new business, aiming to do it in seven hours. The country is not in the report as being at that level yet but it has recognised that if it is to create business in Panama, it will have to follow New Zealand and Singapore. We should be learning from that by using e-filing and doing what we can through electronic means, which are now much more secure than they have been.

I thought such means were very secure until this week.

1 o'clock

By the sound of it, the company in County Clare has ended up with a huge disaster in terms of their reports because they had such an amount of information and somebody has been able to hack into it. I do not think that should upset us to the extent of saying that we will think twice. It is possible to solve the problem and we must do something about it. If we can make Ireland a better and easier place to set up a small business, remove red tape and make it attractive in the way we have done with foreign direct investment then we could create a revolution in small business start-ups.

I have travelled around the country a lot in recent years and observed small businesses. Sometimes there is almost a death wish. They think it is very difficult to set up a new business. They have almost got to the point of saying it is no good going to bank to get money because they will not give it to them, yet on the other hand, when they do make a good case the banks have money to lend. We keep hearing it is the other way around, but to a great extent many small businesses are inefficient at making the case for themselves. The Bill, which I welcome, will ensure there is only one step. I also welcome the Minister of State, Deputy Kathleen Lynch, to the House.

Senator David Cullinane: I welcome the Minister of State, Deputy Kathleen Lynch, to the House. I support the Bill. Company Bills are a bit like buses. One can wait for hours and no bus comes and then two come at the same time. The more substantial companies Bill, which I also support, is working its way through Committee Stage currently. I must refer to the different approach being taken by the Government to its programme for Government commitments. I accept that this area is not the portfolio of the Minister of State, Deputy Kathleen Lynch, who

is deputising for the Minister for Jobs, Enterprise and Innovation. However, I wish to make the point that items of legislation to protect workers that are in the programme for Government have not yet been presented to this House - most notably, the reforms in workplace relations. Changes to joint labour committees, JLCs, saw the end of the Sunday premium for low-paid workers. Lots of other issues affecting workers arise on which the Government must legislate, including the need for collective bargaining and trade union recognition. I support the Bill, which deals with an important issue, but I appeal to the Government to consider the introduction of legislation that deals with workers' rights also, especially in the context of the anniversary year of the 1913 Lock-out.

In business as in life we must learn from our mistakes and failures. Not all businesses succeed and many need support at some stage during their establishment and development. That is why we need legal provision for examinership, which is preferable to closure. I welcome the measure in the Bill to make examinership a viable option for SMEs. It is something that will be beneficial to them in the future. While the legislation will ease the process and might reduce some of the legal costs, there are still significant accountant and professional fees associated with the process. I urge the Minister of State to outline the steps the Government will take to address them because they are also important and have an impact on businesses.

There has been increased use of examinership by large retailers as a way to address the upward-only rent scandal and force a write-down. It is a risky strategy because it can result in forced closure and job losses. I would caution the big retail companies against using examinership in that way. It would have been better for the Government to make good on its pre-election and programme for Government commitments and bring an end to such clauses, which are resulting in the closure of businesses and costing jobs. Could the Minister of State provide an assessment of the impact of the new rules on pay and conditions for workers? Will a rush to examinership, for example, force a reduction in the terms and conditions of workers?

The Bill also provides for electronic filing of returns to the Companies Registration Office. That is a common-sense approach that brings practice up to modern standards, and it is something we support. Section 5 deals with disclosure to the Director of Corporate Enforcement of information that might relate to an offence by a company director. Again, that is to be welcomed as it provides additional clarity and promotes compliance and transparency for business, which one must admit was sadly lacking in some companies during the height of the Celtic tiger years. Will the Minister of State consider, in addition, requiring company directors to make a full disclosure to ensure companies are fully compliant with tax provisions and obligations but also with environmental obligations and labour laws, particularly the latter? Many companies apply for grants from the State and I am a firm believer that any company in receipt of such a grant should be fully compliant with labour law and employment law. It would be a help if compliance had to be proven.

Section 7 relates to the auditing of companies registered in non-EU countries. Could the Minister elaborate on the issue? Will it address the full auditing and reporting of the infamous Irish-registered but non-resident companies, which has been a source of contention in recent times? I am disappointed that other legislative measures on workers' rights that are under the remit of the Minister seem to be stuck in the legislative process or have not been developed. I ask the Minister of State to pass on my concerns to the Minister so that he can progress such legislation. I support the Bill.

Senator Colm Burke: I apologise for not being in attendance for the presentation of the

Minister of State. Unfortunately, the Joint Committee on Health and Children was meeting to deal with end-of-life issues in the last of a series of such meetings. In this regard, we are dealing to an extent with the end of life of companies.

I welcome the Bill. One of the problems we have had with commercial law in this country is that it has tended to move completely to Dublin because company liquidation, examinerships and receiverships are all based in the High Court. This is a welcome change which will mean that commercial law does not need to be centralised in Dublin. That in itself is a welcome development.

It is also important that the legislation introduced this morning sets out that the number of companies for which it caters is large. That is an important development. The other issue relates to reducing overall costs. Allowing companies to make the applications in a Circuit Court in the immediate area is a welcome development, because costs will be greatly reduced. The cost of going to the High Court includes the costs of going to Dublin and employing senior and junior counsel, and the change will mean greatly reduced costs.

I also welcome the change with regard to electronic filing of accounts, which is long overdue. We have moved to an electronic age and it is important that companies are able to use such a process. It is about reducing costs and getting the work done in a timely manner. The legislation is welcome. I accept that the Companies Bill 2012, which is being processed currently, represents major reform in terms of consolidating company law in this country, which is welcome. Company law is a complex area, but business moves faster now and the Government must respond accordingly. The current process is moving in the right direction. I hope the consolidated companies Bill will be enacted in a timely manner because it is something we need to encourage and help businesses, but it will also ensure there are a clear set of rules and criteria for how business is carried out in this country. That is a welcome development. I thank the Minister of State for introducing the Bill.

Minister of State at the Department of Health (Deputy Kathleen Lynch): I thank everybody who made a contribution to today's debate. I have a speech in front of me dealing with what was said by Senators yesterday. I am always amazed at how that can happen. It shows how good our Civil Service actually is.

It was very interesting to listen to the various contributions from the eclectic mix of people in the Seanad. It was very interesting, particularly after the convulsions the House has gone through so recently. Senator White clearly has an insight into how businesses are set up, developed and run. Senator Quinn has similar knowledge but on a larger scale. Senator Barrett comes from the purest of places, the untainted grounds of academia and economics. Senator Hayden has a legal background, Senator Clune has an interest in business development while Senator Burke also has a legal background. I found his views on the question of business flowing out from Dublin and into the regions particularly interesting. Senator Cullinane spoke from the perspective of workers' rights and so forth. It was very interesting to listen to the variety of perspectives on this legislation.

I will deal with some of the points raised during the debate. Senator White referred to the question of fees. The companies referred to in this legislation are paying fees to accountancy firms anyway.

Senator Mary M. White: Such fees are often very high.

Deputy Kathleen Lynch: It is intended that the fees will be utilised better, although I am not saying that accountancy firms do not utilise their fees well. This is as much about small firms in this country as it is about our reputation abroad, which is very important. I heard a BBC reporter interviewing John Bruton recently and suggesting that Ireland's tax compliance was not what it should be. Mr. Bruton put up a very robust defence and our reputation abroad, in the context of those considering investing here, is hugely important. In that sense, this legislation is as much about that as anything else. The fees and cost structure have not been worked out yet but that is normal in this context. This is all about our reputation abroad and it is better to be in the club where things are good. I recognise that some countries do not have as robust a system as we do ---

Senator Mary M. White: What about Royal and Sun Alliance? It has brought unwelcome attention to Ireland again.

Deputy Kathleen Lynch: Indeed, there will always be issues like that but the good thing is that the problem was spotted very quickly by RSA's own internal accounting system.

Senator Mary M. White: The fact is that RSA is an English company, not an Irish company.

Deputy Kathleen Lynch: Yes, but things are happening quicker than was the case in the past.

This legislation is about ensuring that small firms know that they can work their way out of whatever crisis they are currently in. Crises can happen regardless of whether the economy is buoyant or in a downturn. It is important that companies know that they can have the comfort of the protection of examinership. That is what this is all about. The news about Pamela Scott was particularly interesting in that regard, as Senator Hayden mentioned earlier. Access to the protection of examinership should not be so difficult as to result in companies not even trying. That is enormously important.

It is always nice to be able to agree with someone who comes from the rarefied atmosphere of economics and I do agree with Senator Barrett. However, this is not rocket science. If one is paying the piper, one can usually call the tune. What is important is that there is now an oversight body that will be held to account and which is charged with ensuring that those who engage in the type of accounting practices we saw in some cases in the past will be brought to book.

It is important that information is shared because the lack of information sharing in the past is what contributed to our situation. Organisation cannot operate in silos and must share relevant information. It could be argued that we are getting better at that, mainly because of the appalling situation we found ourselves in. It is not that we suddenly woke up one morning and decided that we were all going to be very good. We have been forced into this position in some respects but hopefully we will learn from all that has happened. One of my concerns, once we start to emerge from the current crisis, is that we might look back and decide that it was not so bad. That worries me and for that reason we must put a structure in place so that when the alarm bells go off, someone can step in and take charge. Suspected breaches of company law in the past are being investigated, by the way, and the people involved will be held to account. That is as it should be and the debate was interesting from that point of view.

I was smiling when Senator Quinn was talking about electronic filing in the context of the

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justice system because I believe that part and parcel of the administration of justice in this country is the public shaming of wrongdoers. The accused must appear in court and either take the dressing down or be vindicated. There is a section in the Companies Bill which deals with electronic filing. When people become more familiar with such systems, they will become the norm. However, electronic filing is not mandatory but is being encouraged. In the event that it becomes the norm, it could be made mandatory at some future date.

I agree with Senator Hayden's comments regarding reviews. It is always good to take a look back after a year or two to determine what works and what does not. We are doing that already in certain areas in the context of the budgetary process. I will relay Senator Hayden's suggestion to the Minister. Perhaps we need to do something else or perhaps a certain area needs to be tweaked. No one person is the holder of all knowledge and situations and circumstances change. Senator Clune's expertise in this area, having grown up in a business environment, is well known. It is a good day for small business and a good day for our reputation abroad in the context of how we conduct business in this country. That is as important as red tape and other issues.

I commend the Bill to the House and thank Members for their attention.

Question put and agreed to.

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

Senator Deirdre Clune: Next Tuesday, 19 November.

Committee Stage ordered for Tuesday, 19 November 2013.

Sitting suspended at 1.20 p.m. and resumed at 2 p.m.

2 o'clock

Passenger Name Record Data: Motion

An Cathaoirleach: In accordance with a decision of the House today, motions Nos. 1 and 2 will be debated together. Separate decisions will be made on each motion when the debate has concluded.

Senator Maurice Cummins: I move:

That Seanad Éireann approves the exercise by the State of the option or discretion under Protocol No. 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, to take part in the adoption and application of the following proposed measure:

Proposal for a Council Decision on the conclusion of the Agreement between Canada and the European Union on the transfer and processing of Passenger Name Record data,

a copy of which was laid before Seanad Éireann on 6th August 2013.

Minister for Justice and Equality (Deputy Alan Shatter): I am happy to facilitate the Seanad in its consideration of these European Council decisions on the proposed agreement between Canada and the European Union on the transfer and processing of passenger name record data. However, it is unfortunate that the Seanad felt the need to raise this issue because it was discussed at great length at yesterday's meeting of the Joint Committee on Justice, Defence and Equality, a committee which every Member of this House may attend. I am very conscious that the House has other business to do and that the committee is inundated with work and I am not sure we need to duplicate the work on exactly the same matter two days in a row. Nevertheless, I am very happy to be here to deal with it.

Senators Ivana Bacik and Denis O'Donovan attended yesterday's committee meeting out of an interest in the issue. As my colleague, the Deputy of State, Deputy Kathleen Lynch, gave a full presentation at yesterday's committee meeting in my absence as I was at an EU meeting in Lithuania, I do not intend to go into every detail. However, the context in which the proposed agreement arises and the value of Ireland's participation are clear.

The motions are necessary to enable Ireland to participate in this measure in accordance with the provisions of Protocol No. 21 to the Treaty on the Functioning of the European Union, with which Members will be familiar. Prior Oireachtas approval is required, in accordance with the provisions of Article 29.4.7° of the Constitution, to enable Ireland to exercise the option to participate. In the case of this measure, Ireland must signal its participation by 26 November. Because of the nature of the discussion that can be had at the joint committee meeting it is a better forum to allow Members to tease out the implications of measures such as this than either this House or the Dáil.

The agreement will replace the current EU-Canada passenger name record, PNR, agreement which was concluded in 2005 and has been in operation since. Following the entry into force of the Lisbon treaty, the European Parliament requested a renegotiation of this and the PNR agreements then in place with the United States and Australia. Subsequent to the European Parliament's request for a renegotiation of the agreement with Canada, the Council of Ministers authorised the European Commission to conduct negotiations on behalf of the European Union and the agreement now proposed was established.

I will briefly outline the proposed agreement without going into the same detail as yesterday. The agreement provides that air carriers operating flights between the European Union and Canada will provide for the Canada Border Services Agency certain PNR data for passengers flying to or from Canada. PNR data are information on passengers' travel reservations collected and held by air carriers as part of their reservations systems. The data will be provided for the Canadian authorities for the purposes of combating terrorism and serious transnational crime, on the importance of which we all agree. This new agreement will have no new or additional impacts for air carriers as the PNR data are already being provided under the 2005 agreement. However, the new agreement includes comprehensive data protection provisions and safeguards which are built in as part of the agreement. That was not the case with the 2005 agreement, which is why the provisions in this agreement represent a substantial advance.

It is essential to strike the right balance in law enforcement measures such as these, espe-

cially regarding privacy and the protection of personal data. I am very conscious of the need to ensure the rights of citizens are not subject to unnecessary or disproportionate intrusion, notwithstanding the need to protect individuals and society against harm. Accordingly, the agreement contains a number of important, bespoke safeguards regarding the use of the PNR data. The purpose of processing the PNR data is strictly limited to preventing, detecting, investigating and prosecuting terrorist offences and serious transnational crimes. Furthermore, the agreement sets out clearly a series of provisions relating to the arrangements for the secure handling of the PNR data and data protection.

I draw Senators' attention, in particular, to provisions which establish that an individual will have the right to access his or her own data, to have incorrect data corrected and to seek judicial redress, including, if appropriate, compensation, for any violation of his or her rights under the proposed agreement. The PNR data may be retained for up to five years in total. However, they will be depersonalised by the masking out of passenger names after an initial period of only 30 days. Furthermore, full depersonalisation of the data – the masking out of all other identifying information – will take place after two years.

Additional controls are included regarding the processing of sensitive personal data. The processing of this data is limited only to very exceptional cases, subject to strict additional conditions and safeguards and must be deleted after a period of 15 days. The European Union is satisfied that the data protection provisions in force in Canada are sufficiently robust to protect EU citizens.

Ireland has until 26 November to decide whether to opt in to the adoption and application of the proposed agreement. This proposal is one of a number of measures being taken at EU level in the justice and home affairs field which arise from commitments set out in the 2009 Stockholm programme. The Government is determined that Ireland will have a full, active and constructive engagement in bringing forward the European justice agenda. A number of countries, including the UK and the US, have been making use of PNR data for some years now to help tackle transnational serious crimes and terrorism. The data has proved to be a valuable resource in a range of investigations, particularly against terrorism, drug smugglers and human traffickers.

I know Members will appreciate the inherent difficulty of making public the details of sensitive operational methods that are used in such investigations but I know that a flavour of the usefulness and the potential value of PNR data to law enforcement was set out at the joint committee yesterday. I am aware also that the Minister of State, Deputy Lynch, placed particular emphasis on the potential value of PNR data in investigations into drug trafficking and human trafficking. I echo what she said in regard to human trafficking. This crime is a particularly reprehensible abuse of human rights. It is rightly considered to represent the modern equivalent of the slave trade. We are all too aware of the inextricable links to the sexual exploitation and abuse of women in the context of human trafficking.

With regard to terrorism, PNR data continues to be an invaluable support in terms of the data tools available to investigators. Terrorism continues to present a real and persistent threat to the international community and, as legislators in the EU, we have a duty to ensure we take necessary proportionate measures to ensure that police and law enforcement services have the best information available to them in dealing with this area. I have no doubt as to the value of PNR data for those services investigating terrorism and other serious transnational crimes.

It is important that Ireland should opt into this proposed agreement. Our participation in the measure is a clear demonstration of our continued support and solidarity with our EU and other international partners in the fight against these transnational criminal activities, and is a clear commitment that we have to ensure transnational crime and terrorism is addressed and dealt with, and that the wider public are protected. I have no doubt Members of this House will share my views in that regard.

Senator Thomas Byrne: I thank the Leader for facilitating this debate and I thank the Minister for his presence. The Seanad, following the referendum, is very conscious of its functions under the Constitution and I am particularly conscious of our functions in regard to the justice and home affairs sector. It was put into the Constitution that both Houses of the Oireachtas would have to approve our opting into any of these measures and it is important the Seanad has a full, if short, debate on these matters. While the Minister may believe the Seanad is replicating the work of the joint committee, in fact, the opposite is the case in that the joint committee is doing work on behalf of the Seanad. However, the Seanad is the place where the decision must be taken on this issue - not the Government or a committee but the Seanad and, separately, the Dáil.

We will be supporting both motions today and we support what is sought to be achieved here. The Minister mentioned data protection issues, which are of huge concern. What I did not get from the Minister's speech was what our input was into the debate on this legislation we are now opting into, and whether we had particular concerns. It is important that, in future, we take the time to deal with all of these matters. The reality is that if something goes wrong with any of these laws, people will look back and ask what we did. The answer for this Chamber in most cases would be "Not very much".

Senator Maurice Cummins: I fully accept this matter was dealt with comprehensively by the justice committee yesterday. I accept its deliberations and the recommendations that these motions would be passed, as I expect them to be. I share the Minister's support for the motion.

Senator Ivana Bacik: As the Minister said, I was present as a member of the joint committee on justice yesterday, as were other colleagues from this House, when we gave very comprehensive consideration to the motions before us. Indeed, we had received extensive advance briefings on those motions and we engaged with the Minister of State, Deputy Kathleen Lynch. The Minister of State was asked about matters such as the content of the PNR data and she gave appropriate and full responses. I am very satisfied we gave these measures comprehensive and proper consideration yesterday.

Senator Sean D. Barrett: I welcome the Minister. Like Senator Byrne, I support the Minister on both of these motions. I lived in Canada for a number of years and know the human rights record there is extremely good, so there is no fear the data would be misused, and Canada would share our abhorrence of terrorism, drugs and human trafficking. As I said on the Order of Business, it is important that we do this now because we do not want to send out any wrong signals. Direct flights between Ireland and Canada are due to resume in April and, without them, a flight takes 12 hours and involves three security checks in Heathrow. We must be part of the international movement to preserve the safety of air travel. The impact of 9/11 on North Americans in both Canada and the United States has been extremely serious so we have to cooperate. They still face these problems every day. Communications and travel that are safe and the preservation of human rights are two goals that coincide. Both are encompassed here and I will certainly be supporting both motions.

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Senator Trevor Ó Clochartaigh: Cuirim fáilte roimh an Aire. Ach an oiread lenár gcomhleacaithe, tá Sinn Féin i bhfábhair an dá rún seo. I have been briefed by Deputy Pádraig Mac Lochlainn, who is our spokesperson on these issues and was also at the meeting yesterday. He said there was a very good and robust debate around the issues and the fact we certainly need to give the necessary capabilities to the authorities to combat terrorism, drugs smuggling, human trafficking and so on but we also need to achieve a balance with human rights. Our opinion is that this does go another step from the 2005 agreement because it puts in place extra guarantees that passengers can now access their own data on these issues. In addition, other data protection issues are dealt with in the motions.

It is an important message we are sending out from the Seanad today. Our relations with Canada tend to get overshadowed by our relationship with the United States but Canada is a very important partner to us internationally. I have been to Canada on a number of occasions, and particularly on my first trip I spent some time just trying to get through the system when I landed initially, I appreciate why this is a very important move. In addition, however, the message we are sending to our comrades in Canada is very important and I welcome it on that basis. Beidh Sinn Féin ag tacú leis an dá rún.

Deputy Alan Shatter: I want to thank Senators for the contributions they have made to the debate.

Question put and agreed to.

Passenger Name Record Data: Motion

Senator Maurice Cummins: I move:

That Seanad Éireann approves the exercise by the State of the option or discretion under Protocol No. 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, to take part in the adoption and application of the following proposed measure:

Proposal for a Council Decision on the signature of the Agreement between Canada and the European Union on the transfer and processing of Passenger Name Record data, a copy of which was laid before Seanad Éireann on 6th August, 2013.

Question put and agreed to.

An Cathaoirleach: When is it proposed to sit again?

Senator Maurice Cummins: At 2.30 p.m. on Tuesday, 19 November 2013.

Adjournment Matters

Harbours and Piers Development

Senator David Cullinane: I welcome the Minister of State, Deputy Tom Hayes, and thank him for taking this Adjournment matter. I have tabled a number of matters on this issue in recent years and it is important to get an update from the Department on the current position. The Minister of State will know there is a need to dredge the harbour at Dunmore East. It is accepted this needs to happen because the lack of dredging restricts the ability of ships to berth at Dunmore East, which causes problems. The Department has recognised the need, which is important. Many vessels can only land at the harbour at high tide due to the build-up of silt, which restricts the type of vessels that can land. Given that Dunmore East is a fishing village and a harbour that needs a turnover of vessels, I believe the Minister of State will accept this is a situation that would cause concern. It is also the case that a number of the larger vessels are unable to berth at low tide, so they are stuck off the harbour for a couple of hours, waiting for the tide to rise before they can come. This causes concern for a number of different reasons, including increased costs. In addition, if there was a medical emergency, the boats need to get in and anything that delays them and keeps them out at sea for hours on end is not good. I also understand that, at times, there is a difficulty with the lifeboat being able to get out of the harbour at low tide, which is a further concern. It is important that the Minister of State sets out the Government's priority. I know the Department has invested in the harbour over the past number of years, which is welcome.

The last time I raised the issue, the Department said it had commissioned a report to examine the cost involved. As there is tributyltin in the sediment, there will be an increased cost in disposing of dredged material, and I accept that its disposal will incur a cost. On the last occasion on which I met the Minister he confirmed that the engineering division of his Department had engaged consultants to examine and report on a number of alternative options in terms of the structuring of the works and the outlay involved. I wonder if the Minister of State is in a position to update us on the matter. Also, I ask him to clarify what the Governments intends to do for the area.

Minister of State at the Department of Agriculture, Food and the Marine (Deputy Tom Hayes): I thank Senator Cullinane for giving me an opportunity to clarify the Department's position on the harbour.

The harbour at Dunmore East is one of the six designated fishery harbour centres that are owned by the State and managed and maintained by my Department. Their primary purpose is to provide facilities and services for the fishing industry and fisheries-related activities. Capital funding is made available on an annual basis by my Department to the fishery harbour centres, including Dunmore East, via the fishery harbour and coastal infrastructure capital development programme.

I am happy to advise that my Department has over the years continued to support the development of Dunmore East fishery harbour centre and provided significant funding for maintenance, development and upgrading works each year. Approximately €4 million in capital expenditure under the programme has been invested in Dunmore East Harbour from 2007 to 2012. In 2013, €827,000 was approved under the programme. The expenditure is in recogni-

tion of the valuable contribution the harbour makes not only to the fishing industry but also to the local community, through the support the harbour infrastructure provides to the development of the tourism industry and the local economy generally.

Dunmore East fishery harbour centre provides a dedicated and essential service to our fishing fleet. Both local and visiting fishing vessels, including vessels of significant dimensions, are currently availing of the harbour facilities at Dunmore East. However, larger vessels have difficulties accessing the harbour when laden with fish. Due to the accumulation of silt in the harbour there are only two suitable berths that have sufficient depth to cater for them when unloading.

From a general perspective, investment in Dunmore East fishery harbour centre in recent years is bearing fruit and the data provided to me by the Sea Fisheries Protection Authority indicates a year-on-year increase in fish landings in recent years.

The need for dredging works at the harbour has been recognised by my Department. It is acknowledged that further commercial development of the harbour, particularly to attract increased landings from fishing vessels, is and will remain restricted until the present situation with accumulated silt is resolved. The silting of the harbour has occurred gradually over time. Reports commissioned indicate that 80% of the harbour sediment contains TBT. Unfortunately, the costs associated with the disposal of dredge spoil containing TBT is significantly higher than for uncontaminated material. The most recent estimates for dredging the harbour and disposing of the dredge spoil material in an appropriate manner are estimated to be in the region of €4 million, subject to a tendering process. This represents a significant expenditure in the current economic environment. Any decisions on progressing works will be taken in the context of available Exchequer funding and other national priorities.

My Department has engaged consultants to examine and report on a number of alternative options in terms of the structuring of the necessary works and the potential expenditures involved. On 13 March 2013 the consultants provided the Department with their report. My officials have examined the report in detail to determine the most appropriate approaches to the project. Final decisions will be taken in light of the capital budget for 2014 and having consideration of the best strategic use of those funds nationally.

In the meantime, my Department will continue to invest in the Dunmore East fishery harbour centre facilities. More than €800,000 was allocated under the 2013 capital programme, a large proportion of which was spent on the much-needed slipway extension and widening that is now substantially complete. The project is an indication of the importance the Government places on developing Dunmore East fishery harbour centre. When the project has been completed, harbour users will have a fit-for-purpose facility that is required to provide for the increased level of fishing and leisure activities in the harbour.

I am cognisant of the need to be kept fully aware of the requirements of harbour users at Dunmore East fishery harbour centre on an ongoing basis. My Department's officials regularly host a harbour users' forum and meet local stakeholders and harbour users. The forum provides a platform for harbour users to air their views. It gives my officials an opportunity to hear at first hand the concerns and suggestions of people using the harbour facilities.

To conclude, Dunmore East fishery harbour centre will continue to be important in the consideration, preparation and roll-out of future fishery harbour and coastal infrastructure develop-

ment programmes. Funds, subject to budgetary constraints, will continue to be made available for necessary maintenance and improvement of the facilities in Dunmore East and for the betterment of the port, its users, and the local economy.

Senator David Cullinane: I thank the Minister of State for his reply. I welcome the fact that €800,000 was made available under the capital programme to extend and widen the slipway. The real issue is the €4 million necessary to dredge the harbour and dispose of the spoil material. I accept that the project must be conducted in an appropriate manner due to the presence of TBT.

The Minister of State acknowledged that there is a difficulty with the port's activity because it has been hampered by the need to dredge. Perhaps today is a good day to ask for €4 million. The funding would benefit the economy in two ways. First, there would be increased tourism, leading to greater numbers of people using pleasure crafts and so on. Second, a greater number of fishing vessels would use the harbour. Both improvements would mean that State would get back its €4 million investment very quickly. I appeal to the Minister to make the money available because the harbour at Dunmore and the wider economy will benefit from the investment.

Deputy Tom Hayes: I reassure the Senator that the Government is committed to providing the funding as soon as it has the money. He has made a good case for the project and officials in my Department will continue to monitor same. I have no doubt that the case made by the Senator and others will be successful. I shall endeavour to help the project in any way I can, within the Department, to make sure the project succeeds. Obviously an investment would be money well spent. I know the area myself and I understand how the harbour will benefit. The Senator has my full support in securing funding. I have no doubt, in the current climate and as we leave our economic difficulties behind, that money will become available. Stand-alone projects such as this one which can create money for a local community and area need to be supported. I give the Senator my commitment that my Department will provide support at all times.

Property Taxation Application

Senator Deirdre Clune: I welcome the Minister of State at the Department of Finance, Deputy Brian Hayes. I want to discuss the local property tax. People who live in properties or estates must pay a management fee and the local property tax. The issue of paying twice for local services has been raised with me on at least three occasions over the past number of weeks.

I wish to point out, and I am sure the Minister of State will do the same, that anyone who lives in an apartment complex pays management fees on the entire structure - that is, for internal lighting, lifts and so on, as well as for the external space, which has roads and lighting. Inhabitants must make a contribution and pay a maintenance fee. In some housing estates there is a combination of apartments and houses but all of the inhabitants must pay a management fee. I am aware the local property tax is deemed to go towards local services which may not be in the immediate vicinity of the development but could be in the greater local area. It raises the question of the need for local authorities to take in charge local housing estates as many of them are not taken in charge. If they are paying management fees do the Minister for the Environment, Community and Local Government and the Minister for Finance have plans to ensure that councils can move forward in taking in charge these housing estates because the residents consider that as they are paying the local property tax they are at a disadvantage compared to their neighbours? That is an issue that should be progressed and it should be established that

there is a norm for everybody. For too long I have witnessed in my area councils not availing of the opportunity to take in charge housing estates, perhaps, because the developer did not propose it but they should be more proactive in that area. The roads and the internal services in those housing estates can deteriorate and a point is reached where the taxpayer cannot take it on. It becomes a vicious circle. To answer those people, do we have a plan and, if so, where is it, given that they consider they are paying twice for local services and that they are a disadvantage *vis-à-vis* their neighbours?

Minister of State at the Department of Finance (Deputy Brian Hayes): I thank the Senator for raising this important this matter and highlighting an issue that is of concern not only in her area but in my area because of the proliferation and number of housing units where a management company is already in place.

The introduction of a property tax is part of a broader approach to the taxation of property which aims to replace some of the revenue raised from transaction based taxes, which have proven to be an unstable source of Government revenue, with an annual recurring property tax, which international experience has shown to be a more stable source of funding. The local property tax was designed on the principles of equity, transparency and simplicity. Under the local property tax, a liability applies to all owners of residential property with a limited number of exemptions. Limiting the exemptions available allows the rate to be kept to a minimum for those liable persons who do not qualify for an exemption.

There is no specific relief from the local property tax for the payment of management fees, and there are no plans to introduce such a relief. Issues such as ability to pay are addressed through a system of deferrals, subject to meeting the qualifying conditions. Those who are liable for management fees to property management companies may be exempt or eligible for relief from the local property tax for another reason, or may be entitled to avail of a deferral arrangement under the provisions contained in the legislation.

Generally, properties in managed estates, to which such fees apply, would have been purchased by their owners in the knowledge that they would be taking on commitments to partake in and to fund the management of the estate, and that it was the intention that many such estates would not be taken in charge by local authorities, nor would it be appropriate for local authorities to do so. Management fees in these estates may, in some instances, include services such as refuse collection, maintenance of common areas and a sinking fund for certain repairs to the buildings. These are costs which homeowners in many other developments would have to fund themselves for their own properties.

In certain circumstances private estates will be taken in charge by local authorities in accordance with the relevant section of the Planning and Development Act 2000. This is a matter for the Minister for the Environment, Community and Local Government and the relevant local authorities. For those in unfinished estates, the Finance (Local Property Tax) Act 2012, as amended, provides that a residential property shall be exempt from the local property tax where it is situated in an unfinished housing estate that is specified in a list prescribed by the Minister for the Environment, Community and Local Government for the purposes of the Act.

The Minister for the Environment, Community and Local Government has prescribed and published this list, which is set out in the Schedule to the Finance (Local Property Tax) Regulations 2013 and was compiled by local authorities utilising the categorisation employed for the purposes of the national housing survey 2012.

For purposes of preparing the final list of developments to which the exemption from the local property tax would apply, local authorities were asked by the Department of the Environment, Community and Local Government to confirm or update the then existing list as appropriate. The local property tax is a self-assessment tax based on the market value of the property. In the first instance it will be a matter for the liable person to calculate the tax due. Liability to management fees and the scale of the fees due would be one of the factors that a property owner would take into account in valuing the property.

The introduction of the local property tax provides an opportunity for political reform at local government level. The local property tax will provide a stable funding base for local authorities and it can be altered into the future. This is a good reform in local democracy for the first time whereby funds will be ring-fenced for local authorities. We have not had that since the abolition of rates in 1977. Revenue from the local property tax will accrue to local authorities and will support the provision of local services.

Local authorities provide a broad range of services in the public realm the proper functioning of which are important for the wellbeing of every community and household. These include fire and emergency services, road maintenance and cleaning, street lighting, spatial and development planning etc. The net issue is that the local property tax applies to everybody no matter where one lives. Irrespective of the position in which some people find themselves in owning property in managed estates it is not envisaged that there would be a special category or a special exemption for them. That is not the position of the Government.

Senator Deirdre Clune: I had anticipated that type of response. The Minister of State said it was the intention that many such estates would not be taken in charge nor would it be appropriate for local authorities to do so. It is probable that the residents of the estates I have in mind did not know they would not be taken in charge. There is another category of estates where the process of taking in charge has not been addressed or is on the long finger. I know the Minister of State said it is a matter for the Minister for the Environment, Community and Local Government. This is an area that needs to be tidied up and a statement made in terms of progressing the issue.

Deputy Brian Hayes: Obviously, this is an issue for the Minister for the Environment, Community and Local Government. For people living in apartments and flats, their position is entirely different from that of those living in a housing estate where one can walk out the front door and on to a pavement and public access. In the boom times, local authorities used this as a cash cow by which to levy additional funds from those communities. Of course, those people obtain certain services by paying the maintenance fees. I think there are two different situations here and we need to look at this very closely. Ultimately, some new policy position has to be formed for people living in housing estates, as I do and I do not pay management fees. Why should one pay management fees in a housing estate that happened to be built at the wrong time? I do not think that applies to apartments because they are separate builds-----

Senator Deirdre Clune: Not apartments but generally-----

Deputy Brian Hayes: -----with common stairwells and sinking funds and so on.

Senator Deirdre Clune: I accept all that.

Deputy Brian Hayes: There are several arguments. If we could make some progress in this area it would be very useful.

Senator Deirdre Clune: I thank the Minister of State.

Local Government Elections

Senator Mark Daly: I thank the Minister of State for taking the time to come to the House to address the concept of retaining the office of mayor of Killarney. He will be aware that in Waterford where the city council is merging with the county that a mayor will still be elected in the local electoral area. Will Killarney and elsewhere, which will lose their town councils, be allowed to have an election among local authority members in their local electoral areas, where there are currently mayors, following the change in legislation?

Deputy Brian Hayes: I thank the Senator for raising this matter. I apologise that the Minister for the Environment, Community and Local Government, Deputy Phil Hogan, cannot take this Adjournment matter. As Members are aware the Government's action programme for effective local government published in October 2012 sets out Government policy in this area. It is recognised that towns have a strong affinity with the ceremonial title of mayor. The Government is also strongly of the view, however, that there is a need to protect and enhance the status of the title of mayor. In this context, it is the Government's view that, for example, the extension of the mayoral title to counties is not appropriate and does not conform to general, though not I concede universal, practice internationally, whereby the title of mayor applies mainly to certain urban areas. Accordingly, the Government decided, in the context of the action programme for effective local government, to reserve the title to cities and municipal towns containing former borough councils or towns with a population of at least 20,000 people. Local authorities accorded specific status under current legislation, such as borough councils and cities, will retain the option of using the title of mayor. This decision is reflected in the provisions contained in the Local Government Bill 2013, which is currently on Second Stage in the Dáil.

The Bill provides that the default position is for the chair of the local authority or municipal district to be titled "Cathaoirleach", with the option for the elected members to adopt the title of mayor in the case of cities, the merging city and county authorities in Limerick and Waterford and municipal districts containing former boroughs or towns of 20,000 or more population. I am satisfied that the Bill's provisions reflect appropriately the status and relevant application of the mayoral title. The population threshold of 20,000 is reasonable and reflects no downgrading of towns such as Killarney, but rather the need to enhance the status of the mayoral title by confining its application to districts containing large centres of population. If the Minister was here, he would mention international experience in this area and the Government's new agenda, in terms of rationalising local authorities as a means of enhancing local government and ensuring we get stronger local government in the future by making it more streamlined and effective.

Senator Mark Daly: I thank the Minister of State for providing the Minister's response and I will bring it back to the people of Killarney. I agree we do not need to read through the full response.

The Seanad adjourned at 2.45 p.m. until 2.30 p.m. on Tuesday, 19 November 2013.