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DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

Dé Máirt, 17 Meitheamh 2014

Tuesday, 17 June 2014

Chuaigh an Cathaoirleach i gceannas ar 14.30 p.m.

Machnamh agus Paidir.
Reflection and Prayer.

Business of Seanad

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

The need for the Minister for Health to have Fampyra, a medication used by multiple sclerosis patients, covered under the GMS long-term illness drug payment scheme.

I have also received notice from Senator John Crown of the following matter:

Recognising both the personal, social and economic impact of stroke and the cost of stroke to the State, the urgent need for the Minister for Health to prioritise the development of community rehabilitation services, for example, the early supported discharge programme currently running from the Mater Hospital, and to publish an implementation plan in respect of the National Policy and Strategy for the Provision of Neuro-Rehabilitation Services in Ireland 2001-2015.

I have also received notice from Senator Mary Ann O'Brien of the following matter:

The need for the Minister for Education and Skills to consider joining Ireland to New York Academy of Sciences global network.

I have also received notice from Senator Trevor Ó Clochartaigh of the following matter:

The need for the Minister for Transport, Tourism and Sport to outline the plans for developing the N59 between Oughterard and Clifden in Galway, the present position in relation to the development and the timeline for completion.

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

Senator Maurice Cummins: The Order of Business is No. 1, motion regarding arrangements for the address to Seanad Éireann by Ms Catherine McGuinness, on 19 June 2014, to be taken without debate at the conclusion of the Order of Business; No. 2, Companies Bill 2012 - Committee Stage, to be taken at 3.45 p.m. and to adjourn no later than 9.30 p.m. This business will be interrupted at 6.15 p.m. and will resume at 7.30 p.m.; No. 4, Public Health (Sunbeds) Bill 2013 – Committee and Remaining Stages (resumed). We have need a few minutes to complete this Bill. No amendments have been tabled. I hope it will be concluded in a short time and, therefore, it will be taken at 6.15 p.m. and conclude no later than 6.30 p.m., if not previously concluded; and No. 3, Public Health (Standardised Packaging of Tobacco) Bill 2014 – Order for Second Stage and Second Stage, to be taken immediately following the conclusion of No. 4 and to adjourn no later than 7.30 p.m., with the contributions of group spokespersons not to exceed eight minutes and those of all other Senators not to exceed five minutes.

Senator Denis O'Donovan: What lines of communication has the Leader with his peers in the Lower House? We felt the banking inquiry issue had been put to bed last week but, as a result of statements made yesterday by the Minister for Finance and earlier by the Minister for Public Expenditure and Reform, the escapade regarding what happened at the meeting of the Committee of Selection and in this House seems to have grown legs. The Tánaiste and Minister for Foreign Affairs and Trade accused us of pulling a stroke last week and, thankfully, the Leader clarified the position on the record of the House, which I appreciate. Yesterday, I was amazed when listening to the news to hear the Minister for Finance repeating the word "stroke". Today, it had developed into a coup, according to the Minister for Public Expenditure and Reform.

Each one of the politburo within the Government-----

An Cathaoirleach: We cannot discuss last week's business again this week.

Senator Denis O'Donovan: The banking inquiry is the most current issue we have to discuss.

Senator David Norris: Hear, hear.

Senator Denis O'Donovan: The politburo of the Taoiseach, Tánaiste and the Ministers for Finance and Public Expenditure and Reform has colluded to try to damage the reputation of the House and the Committee of Selection. It has scored a spectacular own goal, which no own goal in the World Cup will rival. In scoring this own goal, they have tried to attack individuals in this House. There was an attempt to assassinate the character of one of the nominees, Senator MacSharry. There were also attempts to damage the workings of the Committee of Selection and to say the House did not know what it was doing. Has the Leader a line of communication open to the politburo in the Lower House? I am sure the Taoiseach was involved in this appointment. The Tánaiste, the Ministers for Finance and Public Expenditure and Reform and the Taoiseach are smarting and hurting because of the own goal that was scored. The committee system was set up more than 20 years ago and it is unprecedented to enlarge the membership of a committee to ensure the politburo gets it way, has a majority and can dictate the terms of the reference of the inquiry. They will try to project and gauge the outcome of the inquiry and set it out in such a way that it will be politically damaging to Fianna Fáil more so than others.

There was a suggestion that the membership of the inquiry committee would reflect the

numbers in both Houses. If that was the case, why were the 14-member Fianna Fáil group, Sinn Féin, the Independents and others not consulted about who should be the Opposition spokesperson? While I do not want to go down that road, it is imperative that we get to this because the banking inquiry has been damaged in the eyes of the public. The continuing remarks, which are offensive to me and many other Senators, by the Tánaiste and the Ministers for Finance and Public Expenditure and Reform, who are all within the politburo of the Government, are trying to do down what happened at the Committee of Selection and this is only adding to the fact that they were caught out trying to engineer the inquiry. They have spectacularly failed and the public will state that to them.

I would like to put on record my admiration for Deputy Donnelly for having the wisdom, good faith and trust to stand down from the committee, which has a particular agenda and motive.

An Cathaoirleach: The Senator is over time.

Senator Denis O'Donovan: The Government is now stating the Whip will not be imposed, but that is a damp squib at this stage. I am proposing an amendment to the Order of Business that the Minister for Finance, Deputy Michael Noonan, who yesterday made a vicious attack on this House and the Committee of Selection, come and explain to the House where he got this notion of a stroke. This would not have happened if there had been proper communication between the Fine Gael and Labour Party groupings and the Leader, for whom I have great respect and whose integrity is certain. I want the Minister to come and explain what is going on and clarify his remarks in order that this House will no longer be dragged ine this mire that the Government has created. That is the least that could be done. The Minister should come before the House today as a matter of urgency to clarify his remarks and stop codding the people and trying to throw the blame for something it created. The Government should wake up and state: "We tried to engineer this banking inquiry. We will dictate the results."

An Cathaoirleach: The Senator is way over time.

Senator Denis O'Donovan: It is not going to get away with it. The Minister for Finance should come before the House today.

Senator Ivana Bacik: I know that the Leader will respond to Senator Denis O'Donovan on the banking inquiry issue. I will just say this. I hope the members of the inquiry team or, to be correct, the committee that has been set up to establish the terms of reference for the banking inquiry can be left to get on with their important work. It is hugely important and urgent that we see terms of reference set for the banking inquiry in order that the hearings proceed as envisaged.

Senator Fidelma Healy Eames: It is work which has already been discredited.

Senator Ivana Bacik: I thank the Leader in what is a busy week in legislative terms for setting aside a short time at 11.45 a.m. tomorrow for statements on the 750th anniversary of the first Irish Parliament. I thank my Trinity College Dublin colleague, Mr. Paul Horan, for bringing this to my attention. I mentioned at the Committee on Procedure and Privileges that 18 June marked the 750th anniversary of the earliest known Irish Parliament for which there is a definitive record. It met on 18 June 1264 at Castledermot, County Kildare. There is an article by Mr. Horan in this month's edition of *History Ireland*. While we will talk more about the issue tomorrow, I thank the Leader because it is nice that we are able to mark this anniversary.

As I am sure others will, I record my condemnation of the shooting of a six year old boy in Dublin on Friday evening. The Minister for Justice and Equality, Deputy Frances Fitzgerald, also issued a statement condemning the shooting. It was particularly heinous and appalling to see a young boy literally caught in crossfire. I know that everyone will wish to share in that condemnation.

I commend the former President, Mrs. McAleese, for her comment that it would be "completely bonkers" to ask 150 male celibates to review Church teaching on family life and the Catholic Church. Former President McAleese was pulling no punches with her words which certainly have resonance for many of us here.

Senator David Norris: I have come from my convalescent bed today for one purpose, that is, to demand that the Minister for Finance, Deputy Michael Noonan, stop lying about the decision of the Committee of Selection to nominate the members it chose in a democratic, proper and appropriate fashion to sit on the banking inquiry committee. I second Senator Denis O'Donovan's proposal that the Minister be invited to address the House to clarify the matter. He must know. I issued two statements on it last week and Senator Denis O'Donovan has clarified it. I pay a particular tribute to the Leader of the House who made it absolutely clear what the situation was. Nobody can criticise him. He laid his reputation on the line. I am demanding that they stop lying. It was my vote. Fianna Fáil Members were quiescent. They sat there and it obvious that it was a fix-up. We had this ludicrous voting where, instead of voting in one election for two out of three candidates, we voted for all three. What utter nonsense. When we did this, we put in first Senator Sean D. Barrett who was the person my group and I wished to see there because he was an international expert and respected by the Government. When we went to vote again, I naturally voted for Senator Marc MacSharry because I wanted to see a fully independent Oireachtas inquiry, not a Government inquiry. The Taoiseach had already muddied the waters months ago by prejudging the outcome of the whole matter; therefore, his hands are already sullied. It was most definitely not a Fianna Fáil stroke.

I welcome the fact that Deputy Joe Higgins has been recommended because I believe somebody from the hard left is required to ask the difficult questions. The Irish people did not frolic *en masse* and engage in gambling and misbehaviour. This is happening now in order to pay the gambling debts of German banks to the tune of some €47.5 billion. In the same vein, the debts of French and British banks are €27.5 billion and €12.5 billion, respectively. We are stuck with the bill for this even though we did not run it up. I want to know how and why this happened. I reiterate that I did not realise the Minister for Public Expenditure and Reform, Deputy Howlin, was in on the act in this squalid way. However, on three occasions I heard the Minister for Finance, Deputy Noonan, say on RTE radio news that this was a Fianna Fáil stroke. It was nothing of the kind and I demand that he retract this and reflect on the truth of what happened.

Senator Martin Conway: It is worth noting that it is a beautiful day and many Irish citizens are in good humour because of the fine weather. With this in mind I request a debate on an industry that is doing very well and that the Government has got right. I speak of the tourism industry. We have seen numerous initiatives in the area, including the retention of the 9% VAT rate in the hospitality sector. This rate was initiated and retained by the current Government, which is significant. The travel tax has been abolished and this has resulted in hundreds of thousands more passengers entering the country through Shannon Airport alone, not to mention Dublin Airport, Cork Airport and Knock Airport, all of which have benefited greatly. There has been a significant increase in the number of tourists coming to Ireland and spending money here, so I would like a debate on the future of the tourism industry. The past three years have

seen remarkable year-on-year growth in the sector and I believe this is only the beginning and that tourism will ultimately transform the economy. Ireland is one of the most beautiful countries in the world and it is even more beautiful when the sun shines. We must seek to increase investment in tourism and create further initiatives in the tourism sector. It may not be popular to mention, but I suggest bringing back tax incentives as they will encourage small towns to develop tourism initiatives. Such incentives would be wise and would bring great benefit. I ask the Leader to organise a debate on tourism with the Minister for Transport, Tourism and Sport, Deputy Varadkar.

Senator Terry Leyden: I second the motion to amend the Order of Business.

An Cathaoirleach: That was already done by Senator Norris.

Senator Terry Leyden: I reiterate that. I welcome Senator Norris back to the House and wish him a very speedy recovery. The timing of his return to the Committee of Selection was impeccable and I commend him on this. He has spoken the truth about that meeting and has set the record straight. The Government has made a serious effort to use public relations to downgrade that meeting and Senator Norris has explained the situation very well. We in this House should be proud that David Norris is a Senator. He is a national treasure.

I request that the Tánaiste and Minister for Foreign Affairs and Trade, Deputy Eamon Gilmore, appeal to the kidnappers of the three teenagers taken near Ramallah in Palestine. I was in that city - it was a city under siege - with the late Deputy Tony Gregory, Deputy Eamon Gilmore, now Tánaiste, former Deputy John Gormley, Deputy Aengus Ó Snodaigh and Deputy John Paul Phelan. It is certainly a tinderbox in relation to what will happen in the Middle East. One young man, Ahmed Sabarin, has already been shot by the Israelis; he is one of the first to be shot in that regard. It is certainly an eye for an eye and a tooth for a tooth. I ask the Tánaiste to appeal to whoever is responsible, whether it be Hamas or some other element in Palestine, not to incite the wrath of the Israeli army at this particularly sensitive time. The Tánaiste would have influence in that regard. He was there with me as a guest of the Palestinian Liberation Organization and we met all of its leaders at the time. He is in a strong position to appeal to those responsible for the kidnapping of the three teenagers to restore them to their families without further delay.

Senator Aideen Hayden: There are some 150 families in the Dublin region living in hotels because they are homeless, at a substantial cost to the State and with significant distress caused to them. I want to bring the attention of the House to a new initiative launched today as part of a campaign to prevent families from becoming homeless in the Dublin region. It is a collaboration between the housing charity, Threshold, with which I am involved, and the four Dublin local authorities. As part of this service, Threshold will operate a freephone helpline for families who are worried about losing their rented homes. It will work with these families and the local authorities to make sure as a matter of priority that they do not become homeless. One of the interesting things about the scheme is that an agreement has been reached with the Department of Social Protection to increase the amount of rent supplement that such families will receive where it is not possible to keep them in their rented homes because of increases in rents. It is a most welcome initiative which will prevent a number of families in the Dublin region from becoming homeless.

This is the tip of the iceberg. I am conscious about the fact that, while the initiative relates to Dublin families, there are many single people in the Dublin region who are at risk of home-

lessness. Threshold is a national service and we know that many families outside the Dublin region are also experiencing this problem. As a matter of urgency, similar services need to be rolled out across the country. I suppose one could say this is like putting a finger in the dyke. We need to look at issues such as rents going up at a dramatic rate, by 20%, 40% and 50% in some cases. There has been a lot of debate in the media about rent controls. I ask the Leader for a similar debate in this House. We should also look at the supply of housing, particularly for low-income families because there is no doubt that housing for such families is a major issue, particularly in urban Ireland.

Senator Sean D. Barrett: Last Thursday a six year old boy, Jake Brennan, was killed by a car near where he lived in Kilkenny. One does not want to draw any imputation from that incident, but it brings up the wider issue of the safety of children in residential neighbourhoods. I briefly met the Minister, Deputy Phil Hogan, in whose constituency the dreadful event happened. He believes we need to look at planning law, but, even on existing residential roads, could we not have traffic calming measures and impose restrictions on vehicles in order that children are able to play on those streets? In extending sympathy to Jake Brennan's mother, father, brother and sister, perhaps the House might like to address how we can make residential roads safer for such six year old children. I note Senator Ivana Bacik's concern about another six year old. The House owes a duty to young citizens.

3 o'clock

I am concerned that the vital post of Secretary General at the Department of Finance is to be filled without open competition. According to *The Irish Times*: "This reflects concern within the Government that a newcomer would not have enough time to learn the brief while preparations intensify over the summer for the October budget."

Senator David Norris: And the election.

Senator Sean D. Barrett: The problem, according to the Wright report on the financial crisis, was that the Department of Finance was distinctly short on qualified economists. While I hope the situation has been rectified so that it no longer needs open competition, in general we should favour open competition. This is a vital appointment.

Senator David Norris: Hear, hear.

Senator Sean D. Barrett: Mr. Wright found that in the Canadian Government in Ottawa, approximately 60% of senior staff had qualifications in economics at masters level and above compared to only 7% in the Department of Finance in Dublin. Has this deficit been rectified and is it a good idea that we do not have open competition for this vital post? Perhaps we could have a debate in the House with the Minister for Public Expenditure and Reform, Deputy Howlin, and discover whether there has been a policy change. He seemed to favour more outside representation for the top level appointments committee, TLAC.

Senator Michael Comiskey: I welcome the great news that broke over the weekend that Lissadell House in Sligo is to reopen. My colleague, Senator Conway, mentioned the tourism industry, and this will have a major impact on it. Lissadell used to attract approximately 40,000 visitors when it was going well. Unfortunately, the case was before the courts and the house closed for approximately five years. The Taoiseach will reopen it on Friday, which is very good. The Minister for Arts, Heritage and the Gaeltacht, Deputy Deenihan, will come to the Seán MacDiarmada Summer School on Friday evening and this will have a major impact on

tourism in the west and north west as we approach 2016. Hopefully, it will bring large numbers of people into the area, and the two events combined will be very positive.

I welcome the announcement this morning that those who lost their medical cards will have them returned.

Senator Trevor Ó Clochartaigh: Tacaím le moladh an Seanadóir Hayden maidir le díospóireacht faoi chúrsaí tithíochta. I support Senator Hayden's call for a debate on housing. Many of the Senator's points indicate an abject failure by her Government colleague, the Minister of State, Deputy Jan O'Sullivan, to resolve these issues after three years in government.

I concur with Senator Comiskey in welcoming the Government's announcement today that it will review the medical card issue and restore the cards. It has been a long time coming. I spent most of yesterday afternoon with a family whose card expired in February and who have spent the last few months living from hand to mouth trying to cover medical bills. One of their children has a very serious health issue and they were in a very distressed state. Today's announcement should not be seen as putting the issue to bed. The Minister has not addressed the issue the Ombudsman brought to light when the review was announced, that the medical card reports done initially in each of the local areas are missing. The Minister should explain how it happened that when the medical card system was centralised, the files were not centralised. We need to find out where the files are.

I would also like the Leader to try to clarify the status of the HSE report on the procurement of maternity services in the West-North West Hospitals Group and whether a copy can be made available. The Minister should come here and explain his actions around the report.

Can we have the Minister here to discuss these issues? When the Minister for Children replied to me about a €10,000 cut to therapeutic language services in Ballinasloe, he said these cutbacks must be made, yet we are not tackling the disgraceful top-ups being made to people in the HSE. The Minister needs to come here and explain why essential services for children such as therapeutic language services in Ballinasloe, are being cut back although the money involved is relatively small and we can still pay top-ups to senior executives in the HSE. It is a disgraceful situation.

Senator Mary Moran: I join my colleagues in welcoming the Cabinet's decision to reverse the decision on medical cards and to ensure people who had discretionary medical cards will have them reinstated. It is great news and something I and my fellow colleagues have been seeking. We all have many stories like Senator Ó Clochartaigh's of families and people in dire need with serious medical conditions who unfortunately had their medical cards withdrawn. I welcome the move to reinstate them.

I spent the weekend at the Special Olympics Ireland Games in Limerick in the company of some of the most amazing and dedicated people I have ever met, ranging from the parents to the volunteers to the Special Olympics staff, the local and national community and, most importantly, the athletes who took part. I witnessed friendship, sportsmanship, compassion, competitiveness and hard work that cannot be captured or replicated anywhere else. It was a truly unique event. I was very impressed with the number of volunteers at the event over the weekend. Up to 3,000 volunteers from all professions and walks of life gave of their time. The athletes were provided with a free eye examination and health check. All the health care professionals provided an excellent free and voluntary service to the athletes and their families,

which I know was very much appreciated by all those present. I would also like to commend the Army whose personnel volunteered and collected and transported the athletes' luggage to the train station. All of this was a pure reflection of the goodness and generosity of the people - people who were doing things that nobody even knew about - in this country. I commend the Special Olympics staff and volunteers on the excellent organisation of the national games. The work they do is second to none and it is appreciated by all 1,500 athletes and the others who were present.

On a related matter-----

An Cathaoirleach: The Senator is way over time.

Senator Mary Moran: I do not think I am - I need only a further minute. On a related matter, I welcome the announcement by the Minister for Communications, Energy and Natural Resources, Deputy Rabbitte, yesterday that he will be reviewing the television coverage of designated sporting events and events of national importance, which is something I have raised. I asked that live coverage of events at the Special Olympics or Paralympics be aired.

Senator Jim Walsh: I ask the Leader to consider conveying to the Government the two great lessons of digging. The first is that when one is in a political hole the best thing to do is to stop digging. Unfortunately, we saw the debacle last week initiated by the Taoiseach but carried on by his Minister for Finance, by the Tánaiste, and now by the Minister for Public Expenditure and Reform. The public have seen through this. While spin may have got the Government through its first few years in office, it is obvious now that the public have seen through it. It has worn thin. Unless they cop on to that, the Government is on a very short leash indeed.

I suggest that the second lesson is the one raised by Senator Hayden. We have seen a complete lack of a housing policy from this Government, which is now in its fourth year in office. The number of homeless people has grown significantly. The number of people on waiting lists in every council area has increased enormously and very worryingly. There is no coherent policy to tackle these issues. We have a situation now in which people in the public service are advising those who are young that they should not aspire to owning their own homes. In very difficult times back in the 1930s, more difficult than today, we had a good policy under a Fianna Fáil-led Government. Much of the local authority housing stock was constructed throughout the 1930s, 1940s and 1950s when there was real economic hardship. Many of the people who occupied those houses could never have aspired to owning their own homes in those days but subsequently, through tenant purchase schemes, they were able to achieve that. Many of them moved on to take up other schemes and moved into private housing. We need to get back and start digging foundations for new houses. It is not only the Minister of State with responsibility for housing, Deputy Jan O'Sullivan, who should take the blame. The Minister for Public Expenditure and Reform, Deputy Brendan Howlin, is extremely culpable in this regard. He was the one who cut public capital expenditure as a softer option instead of dealing with the overspend in current expenditure. That has led to a situation where in the past few years when we could have invested in the construction of a housing programme which would have provided jobs for those who needed them in the industry at the time, we would now be dealing with what has become a crisis. I join with Senator Hayden in calling for an urgent debate in this regard.

Senator Paul Coghlan: The Government's decision this morning in respect of medical cards is tremendous news and we all welcome it.

I agree with and endorse the comments of the Leader in respect of Senator O'Donovan's chairmanship of the Committee of Selection. He acted above reproach in every respect. Let that be clearly said.

Senator David Norris: Hear, hear.

Senator Paul Coghlan: We are all grown adults. We all know what was envisaged or anticipated or meant to happen that one would be selected from each side. I think I proposed that at the committee but in any event people were missing. It was an incomplete committee as we know. We have two from each side now.

Senator David Norris: Four.

Senator Paul Coghlan: I know of course. Senator Norris explained part of it. I am glad to see him back and glad he enjoyed Bloomsday. We now know that people on the Committee of Public Accounts, the Joint Committee on Finance, Public Expenditure and Reform and all the other committees act independently. We all act independently once we are in there. We wear our labels lightly on our sleeves, in fact, we do not wear them at all at committees.

Senator Jim Walsh: Let us go back to the abortion Bill.

Senator Paul Coghlan: There will be no dictation whatsoever and there is no politburo. With respect, I think Senator O'Donovan aimed at the wrong party in regard to the politburo but be that as it may.

Senator Diarmuid Wilson: Does the Senator mean they misled him?

Senator Paul Coghlan: I say, let us calm it, rather than turn it into a bit of a scata bullán.

Senator Fidelma Healy Eames: Let us pretend there is nothing wrong is essentially what the previous speaker has just said. It is a fact that we need a banking inquiry but we only need one that is credible and has the confidence of the public. This one has lost all of that.

Senator Paul Coghlan: The Senator may not want it to have the confidence of the public.

An Cathaoirleach: Senator Healy Eames to continue without interruption, please. The Senator has just spoken.

Senator Fidelma Healy Eames: I thank the Cathaoirleach.

Senator Paul Coghlan: Senator Healy Eames has been provocative.

An Cathaoirleach: Senator Coghlan, please. Senator Healy Eames, I allowed some latitude to the people who are on the committee. We are rehashing last week's business again today.

Senator Fidelma Healy Eames: I thank the Cathaoirleach. I would appreciate if the snide remarks from the other side of the House were cut short.

Senator Paul Coghlan: What about the Senator?

An Cathaoirleach: Senator Healy Eames to continue without interruption, please.

Senator Fidelma Healy Eames: Unless the Taoiseach honours the original result of the Committee of Selection and reverts to that, the only credible option is to ask all Opposition

members to step down from the banking inquiry. This has lost the entire confidence of the country. I was shocked by what the Minister for Finance, a man for whom I have huge respect, said yesterday. He said that it was normal practice for a Government to add extra members. It is not normal practice that a democratic outcome to a vote would be ignored.

Senator David Norris: Enda is a control freak.

Senator Fidelma Healy Eames: Instead of a democratic revolution-----

Senator Paul Coghlan: Codswallop.

Senator Fidelma Healy Eames: -----what we are actually getting is an autocratic revolution. On top of this the Taoiseach is the Minister for Defence as well. Let us think of the power that is there.

Senator Ned O'Sullivan: Why?

Senator Fidelma Healy Eames: This is very worrying. It is outrageous.

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

Senator Fidelma Healy Eames: This is a man whom I supported to be the Taoiseach and leader of this country.

Senator David Norris: We forgive the Senator.

Senator Fidelma Healy Eames: What I am trying to say is this.

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

Senator Fidelma Healy Eames: Are we in a parliamentary democracy or not? If so, let us accept democratic outcomes. I do not want an autocracy but, currently, that is what we are getting. We are getting fixing and tampering and the Taoiseach has attempted to abolish this House and to ignore a committee of this House. I repeat my call that unless we revert to the original result from the Committee of Selection for the members who were democratically elected to the banking inquiry, I ask in the interests of credibility and restoring public trust, that all Opposition members stand down.

Senator Michael Mullins: I welcome the Cabinet's decision this morning to make €13 million available to the HSE so that it might reverse its decisions in 2011 on discretionary medical cards. Some weeks ago, I was critical of the fact that people with lifelong medical conditions, acute illnesses and disabilities had had their discretionary medical cards withdrawn. I welcome the fact that approximately 15,000 people will benefit from this morning's decision. Their cards will be restored within three weeks or so. However, I am still cross that it took this long to get the issue sorted and that some good councillors lost seats as a result of the debacle.

I welcome the publication this morning of the Global Entrepreneurship Monitor report for Ireland for 2013. It showed that 32,000 people started businesses in Ireland in 2013 and that one in 11 of the adult population was engaged in some form of early-stage entrepreneurship. The latter represents an increase from 6.8% in 2012 to 9.2%. Ireland is ranked second across the EU 15 and ninth among the EU 28 countries. This is particularly good news in terms of employment prospects. Will the Leader arrange for a further update from the Minister for Jobs, Enterprise and Innovation on the Action Plan for Jobs, if not before the end of this session, then

early in the next session, given the fact that some 8% of early-stage entrepreneurs can expect to become employers?

I will renew my call from a couple of weeks ago for an early debate with the Minister for Justice and Equality, Deputy Fitzgerald, on serious crime, given the case raised by Senator Bacik of the six-year-old who was shot last weekend. I heard an horrific story at lunchtime about a young person who had three fingers amputated as a result of criminal activity in the Dublin area. Serious crime is horrendous in Ireland, and particularly so in Dublin. An early discussion with the Minister would be welcome.

Senator Ned O'Sullivan: I lend my support to the statement by the acting leader of the Opposition, Senator O'Donovan, regarding the banking inquiry. I commend my fellow Kerryman, Senator Paul Coghlan, on his honest statement, which echoed last week's equally honest statement by the Leader.

Recently, I was in the company of a friend, a punter who had been having a bad day at the horses. He had backed four or five losers in a row. I offered him some information that might have been of assistance in balancing the books, but he told me that he would quit while he was behind. The three most senior Ministers other than the Taoiseach should take a lesson from this comment and quit while they are behind. They put their feet in it at the weekend and reopened a debate that we had robustly concluded in the Chamber last week. No more on that.

On a more positive note, I commend the Minister for Education and Skills, Deputy Quinn, and his Department on the comprehensive circular we recently received about the 2014 leaving certificate. It made for interesting reading and will benefit those students who sat the exam as well as their parents and teachers. It explained how the system operated, the integrity of the people who set and marked the papers and the probity of the system. For many years as a teacher, I was an examiner of higher level English papers in the leaving certificate. The first lesson one learns when attending the Department's two- or three-day marking conference in Athlone is not to open one's mouth to anyone about how the system operates, particularly the media, or bring anything back to one's school principal or students that might benefit them in any way. It was a top secret *omertà*. Woe betide anyone that breaks that rule. The partition has since been broken down and students now know how the system works. The more information they can get, the better. It is a good day's work.

Senator Terry Brennan: Tourism has been mentioned by a number of colleagues in the House. The Garth Brooks concerts are proving to be the secret weapon of the tourism industry this year. I understand 100,000 of the 400,000 tickets for the concerts were bought by people abroad. This will provide a great boost for trade and tourism and, no doubt, generate further tourism in the years ahead. The Minister for Transport, Tourism and Sport, Deputy Leo Varadkar, is also trying to have an American football become a regular fixture at Croke Park. Members will be aware that the Notre Dame v. Navy American football fixture in 2012 brought a €60 million dividend to the country and was a tremendous success. Last week in the lift of a hotel I met two visitors from the United States who, when I asked if it was their first visit to Ireland, responded that they had been in Ireland almost two years ago for the Notre Dame *v.* Navy American football match and had returned on this occasion with four or five neighbours. I am pleased to announce that on 30 August a fixture between the University of Florida and Penn State will be held at Croke Park. Given the natural affinity between Ireland and the United States and our mutual love of sport, I would love to see Ireland hosting American football games on a more regular basis with, perhaps, some taking place in Cork, Galway, Dundalk and so on. It is good

news for the tourism industry.

Senator Brian Ó Domhnaill: I acknowledge the contribution of Senator Denis O'Donovan not alone today on the Order of Business but as Chairman of the Seanad Committee on Selection. How dare those who hold the highest public office in the country try to denude or take away from his integrity in his role in that regard in the past two weeks or so. I also acknowledge the return to the Seanad of Senator David Norris who looks re-energised and ready for battle. During the past week to ten days, some people in politics have done the State a disservice. They have done the bankers a great service, but they have done the people and the State a disservice. Last weekend I met people in my constituency clinics who were struggling to hold on to their homes. The banks are riding roughshod over the code of conduct on mortgage arrears and using loopholes in that process to allow them to repossess family homes, even though people are trying to repay some of their mortgage liability. All the while, the Government which is supposed to govern and promised before the last general election that the bankers would be taken to task is engaged in political games. Three years plus on, not one banker has faced the barrel of scrutiny by the Government, yet in the establishment of a committee of both Houses to facilitate an inquiry into the banking sector political games of sabotage are being played. How dare the Taoiseach and Ministers who over the weekend, through various media outlets, sought to damage the credibility of the inquiry play into the hands of the bankers. The credibility, independence and usefulness of the banking inquiry has been called into question. I am not so sure whether it is useful to proceed with the banking inquiry in its current format or whether it should be scrapped.

Senator Jim D'Arcy: The Senator never wanted it.

An Cathaoirleach: I call Senator Colm Burke.

Senator Brian Ó Domhnaill: The words I used during the course of the debate on the establishment of the banking inquiry were that I felt it could serve no purpose, because politics could infiltrate the banking inquiry.

An Cathaoirleach: The Senator is way over time.

Senator Brian Ó Domhnaill: It has been shown that this is what happened. A High Court judge should head up the inquiry now. This would be preferable to the political games being played by the Government at the moment.

Senator Colm Burke: I welcome the decision to reverse the decision on the removal of discretionary medical cards. It is important to understand that since January 2011 the number of people with medical cards has increased from 1.733 million to over 1.95 million. In fact, once the discretionary cards are restored we will probably exceed 2 million medical cards, which means that more than 43% of the population will have one. It is important to realise that there is a cost factor involved. It is also important to realise that the Government, in dealing with the issue, must come forward with a comprehensive review of how discretionary cards are granted into the future and that the decision is reached at a very early stage.

It is important to hold a debate on the housing issue, and I support my colleague, Senator Hayden, in her call for the debate.

I wish to remind Senator Walsh that from 2000 to 2010, while his party was in Government, fewer local authority houses were built than in any of the previous six decades. During that

period, more than 90,000 houses were built per year, but very few of them were local authority houses. That was at a time when the Government received €44,000 from every €100,000 paid by a house purchaser. What did his party do with the money during that ten-year period?

Senator Brian Ó Domhnaill: The Senator wanted more of it to be spent.

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

Senator Colm Burke: Then the Senator came into this debate and started alleging-----

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

Senator Jim D'Arcy: Answer the question.

Senator Jim Walsh: The Senator must be doing no political work whatsoever.

Senator Colm Burke: We have not dealt with this issue.

Senator Jim Walsh: No serious recommendations have been made. I wish to make a point of order.

An Cathaoirleach: On a point of order.

Senator Maurice Cummins: The Senator has given no consideration to what he is saying, obviously.

Senator Jim Walsh: If Senator Colm Burke does not know about homelessness and the housing issue then he is not doing his work as a politician.

An Cathaoirleach: That is not a point of order. I ask the Senator to resume his seat.

Senator Jim Walsh: There is not a person here who does not know people who are homeless.

An Cathaoirleach: The Senator was allowed a point of order. He has already spoken, and I ask him to resume his seat.

Senator Jim Walsh: There is a crisis.

Senator Colm Burke: There is.

An Cathaoirleach: I ask the Senator to resume his seat, please.

Senator Jim Walsh: For the first time in the history of the State, we have a housing crisis.

An Cathaoirleach: I ask the Senator to resume his seat. He has already spoken.

Senator Jim Walsh: Yes.

Senator Colm Burke: Yes; there is a crisis.

Senator Jim Walsh: And the Senator's party has ignored housing advisers and has done absolutely nothing about it.

Senator Colm Burke: The reason the crisis-----

An Cathaoirleach: I ask Senator Burke to resume his seat. He is way over time.

Senator Jim Walsh: For goodness' sake.

Senator Colm Burke: I fully support the call for a debate on this matter.

Senator Jim Walsh: Did the Government not learn anything from the election?

Senator Colm Burke: It is important.

Senator Jim Walsh: The people feel abandoned.

An Cathaoirleach: I ask Senator Walsh to resume his seat, please.

Senator Jim Walsh: Totally ignored.

Senator Colm Burke: In any future housing policy we must clearly stick to a certain percentage of local authority houses.

Senator Rónán Mullen: I do not have an axe to grind for any political party in this House. So far as the banking inquiry is concerned, I have already stated my concern and scepticism as to whether elected representatives in this country, or any country where the party whip and party political system are so entrenched, can conduct an inquiry of this kind impartially. The best thing the Government could do at this stage is to call the whole thing off-----

Senator Fidelma Healy Eames: Hear, hear.

Senator Rónán Mullen: -----before more money is wasted-----

Senator Fidelma Healy Eames: Hear, hear.

Senator Rónán Mullen: -----and before politics is brought into further disrepute in the eyes of people.

We have had several reports into what happened. I defy the Leader to identify a single net issue this afternoon whose answer could possible surface without rancour or allegations of bias. What may be needed is some kind of independent forum where people who do not have an axe to grind are in a position to ask hard and searching questions. Even then, one wonders whether they could come up with answers that other bright, well-intentioned and capable people, such as Mr. Nyberg, have not been able to find already. Deputy Stephen Donnelly was right to pull back from the inquiry in light of what happened last week, but I believe the Government should call the whole thing off. I say that without having any party's interests, vested interests or fears in mind.

I note Senator Bacik's growing fascination with the Catholic Church. If I were in her position-----

Senator David Norris: The Senator would be a woman.

Senator Rónán Mullen: -----I would be looking up something such as the rite of Christian initiation for adults. I do not believe this House is the forum to engage in theological debates or to take cheap shots against churches of which she is not a member. However, there is something she could do to use her time constructively. As a non-believer who purports to believe in human rights, she might raise repeatedly with the Government the cause of Meriam Yahia

Ibrahim, a Sudanese woman who has been condemned to death for changing her faith. Those are the problems we are facing in the world-----

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

Senator Rónán Mullen: -----and it is the type of issue we should all address. Has our Government done anything about this terrible case? This woman has been sentenced to 100 lashes and death by hanging. This is the situation in our world where people do not enjoy freedom of religion. I call on Senator Bacik, instead of taking cheap shots or rubbing her hands gleefully at somebody else's gibe at the forthcoming synod, to take an interest in human rights-----

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

Senator Rónán Mullen: -----and the cause of people who face the death penalty because they might change their religious belief.

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

Senator Jim Walsh: It is a very important issue.

Senator David Norris: It is a heap of tripe.

An Cathaoirleach: I call Senator Bradford.

Senator David Norris: This is from somebody who cannot say the former President, Mary McAleese, is not a good Roman Catholic.

Senator Jim Walsh: This is a woman who had her babies in chains and this human rights activist dismisses it.

Senator Paul Bradford: Senator Norris has certainly returned in strong voice.

There is a request that there be further clarification of the composition of the banking inquiry and the role of this House and the Committee of Selection in the process. It is regrettable that this must be the case at this stage, but the rather ill-advised and factually incorrect information put on the public record by both the Minister for Finance and the Minister for Public Expenditure and Reform is deeply regrettable and must be clarified.

Senator David Norris: Hear, hear.

Senator Paul Bradford: Did either of the Ministers examine the composition of the Seanad Committee of Selection? Did they acknowledge the fact that six of the 11 members of the Committee of Selection are non-government Members? Do they understand basic arithmetic? I hope we can move on from this issue, but it might be necessary, as has been requested, for clarification to be given in the House. We are advised that the big step forward now is the so-called removal of the whip for committee members by one or two of the political parties. It is extremely ironic that when the Taoiseach and some of his Cabinet colleagues have a political difficulty, they believe the whip should be removed. However, 12 months ago in this House and the Dáil, when numerous colleagues had a serious political issue of conscience, the same Cabinet did not believe in the removal of the whip-----

Senator David Norris: Absolutely.

Senator Paul Bradford: -----and simply drove its political will through the House. It is ironic that when it is in difficulty it tries to play silly games with the whip. It surely cannot expect that the public will be conned by such games.

Senator David Norris: Well said.

Senator Maurice Cummins: Last week I gave a clear and unequivocal statement on the committee. I stand by that explanation, and that is the position. That answers a number of Members-----

Senator David Norris: It is not the Government.

Senator Maurice Cummins: -----who have raised that question this afternoon.

Senator Bacik referred to the shooting of a six-year-old boy last Friday, which was a dreadful act, and asked that we have a debate on crime. Senator Mullins also requested such a debate.

Senator Conway spoke about the increased tourist numbers, which will be welcomed by all. They are due in part to the VAT reductions initiated by Government and the abolition of the dreadful travel tax which prevented people coming to the country. The future of the tourism industry is a matter we should debate and I will try to arrange a session with the relevant Minister in early course.

Senator Brennan also raised questions on tourism with particular reference to concerts taking place in Dublin for which more than 100,000 tickets have been sold to people from outside the State. He referred also to sporting events including American football, which are coming to Dublin. They all add to the tourism product we have and are to be commended. Senator Comiskey referred in the context of tourism to Lissadell House. It will certainly be a major boost to tourism in the area. There were more than 40,000 annual visitors to the house in years gone by.

Senator Leyden referred to the three Israeli youths who were kidnapped in Ramallah. I assure the Senator that the Tánaiste will do everything in his power to assist in any way in the matter.

Senator Hayden raised measures to assist people who face homelessness. I commend the work of Threshold. Senator Hayden pointed out that a great deal of work is being done on rent allowance. I remind the House that we will take Second Stage of the Housing (Miscellaneous Provisions) Bill 2014 tomorrow when the Minister of State, Deputy Jan O'Sullivan, will attend. Quite a number of people were looking for a debate on housing and there is no better opportunity for them to come in to speak than when legislation comes to the House.

Senator Barrett raised the safety of children in residential areas. We express our deepest sympathy to the family of the six-year old child who was killed in Kilkenny. The safety of children in residential areas is primarily a matter for local authorities. One can see that many of these areas have speed ramps and children-at-play signs. Everything that can be done should be done to allow people to play safely in their areas.

On open competition for senior positions in the Department of Finance, I will certainly convey the matter. It is something the Minister for Public Expenditure and Reform, Deputy Howlin, has advocated in the House previously. I will bring it to his attention once more.

Senators Comiskey, Ó Clochartaigh, Mullins and Burke referred to the restoration of discretionary medical cards. The HSE will restore cards issued on a discretionary basis to persons with serious medical conditions to well in excess of 15,000 people who held medical or GP visit cards which were lost on completion of an eligibility review between 1 July 2011 and 31 May 2014. The HSE will review its records and restore cards automatically. The HSE estimates that the process will be completed in a three-week period. That is to be welcomed by all. It is a matter which has been raised in the House on many occasions by many Senators. It should be welcomed as it was by Members who spoke today. Senator Ó Clochartaigh referred to the files. That issue will have to be resolved. If files are missing which did not get from the initial health board area to the centralised point, it will have to be ascertained where they are. I agree completely with the Senator on the matter.

Senator Moran raised the matter of the Special Olympics and praised the voluntary effort by everybody involved. All Members will concur with her remarks. Senator Walsh referred to housing as did Senator Burke. Despite the adverse economic circumstances in which the country finds itself, the Government will add approximately 5,000 homes to the social housing stock this year. This will be achieved through a variety of means, including direct construction, renovation of vacant buildings and leasing and other schemes. This year sees a return to the construction of mainstream social housing for the first time in many years. It is on a small scale as it reflects the state of the public finances but it is also an important statement of the Government's intent in respect of housing. I think Senator Colm Burke also pointed out that very little social housing was built during the boom, which is a very relevant point.

Senator Mullins spoke about the Global Entrepreneurship Monitor report, which found that more than32,000 people set up their own businesses in Ireland last year. That is a wonderful statistic that should be discussed with the Minister for Jobs, Enterprise and Innovation in a debate on the action plan for jobs.

Senator O'Sullivan complimented the circular from the Minister for Education and Skills regarding the 2014 leaving certificate. As the Senator said, it is opening up the system and creating greater transparency in an area where light did not shine for many years.

Senator Ó Domhnaill spoke about the code of conduct for mortgage arrears. If banks are not complying with that, they should be reported and the matter should be investigated. If he has information about those cases, there is a mechanism with which to appeal those decisions.

Senator Colm Burke also said that almost two million people will be in receipt of a medical card in due course.

In respect of Senator Mullen's comments, freedom of religion is a cornerstone of the Government and is written into our Constitution so there should be no ambiguity with regard to that matter.

I think I have addressed the other matters addressed by Senators relating to the banking inquiry.

An Cathaoirleach: Senator O'Donovan has proposed an amendment to the Order of Business: "That a debate with the Minister for Finance on his recent statement concerning the Seanad Committee of Selection be taken today." Is the amendment being pressed?

Senator Denis O'Donovan: Yes. In view of the fact that the Ministers for Foreign Affairs

and Trade, Public Expenditure and Reform and Finance have been peddling mistruths about the workings of this House and the Committee of Selection, a vote on bringing the Minister for Finance to the House might apprise this House of the true facts. It would be worthwhile to bring him in so, consequently, I am pressing the amendment.

Amendment put:

The Seanad divided: Tá, 19; Níl, 26.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Byrne, Thomas.	Brennan, Terry.
Crown, John.	Burke, Colm.
Leyden, Terry.	Coghlan, Eamonn.
Mac Conghail, Fiach.	Coghlan, Paul.
Mooney, Paschal.	Comiskey, Michael.
Mullen, Rónán.	Cummins, Maurice.
Norris, David.	D'Arcy, Jim.
Ó Clochartaigh, Trevor.	D'Arcy, Michael.
Ó Domhnaill, Brian.	Gilroy, John.
Ó Murchú, Labhrás.	Hayden, Aideen.
O'Donovan, Denis.	Henry, Imelda.
O'Sullivan, Ned.	Higgins, Lorraine.
Power, Averil.	Keane, Cáit.
Quinn, Feargal.	Landy, Denis.
Reilly, Kathryn.	Moloney, Marie.
Walsh, Jim.	Moran, Mary.
White, Mary M.	Mullins, Michael.
Wilson, Diarmuid.	Naughton, Hildegarde.
	O'Brien, Mary Ann.
	O'Donnell, Marie-Louise.
	O'Keeffe, Susan.
	O'Neill, Pat.
	Sheahan, Tom.
	van Turnhout, Jillian.
	Whelan, John.

Tellers: Tá, Senators David Norris and Diarmuid Wilson; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared lost.

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

Address to Seanad Éireann by Ms Catherine McGuinness: Motion

Senator Maurice Cummins: I move:

That Seanad Éireann agrees with the recommendation of the Committee on Procedure and Privileges that, in accordance with Standing Order 57(2) of the Standing Orders relative to Public Business, Catherine McGuinness be invited to address Seanad Éireann on 19 June 2014 and that the following arrangements shall apply. The proceedings which shall not exceed one and a half hours shall consist of a speech by the Cathaoirleach welcoming Ms McGuinness, an address by Ms McGuinness, a contribution not exceeding five minutes by the spokesperson of each group and a contribution not exceeding two minutes from a Sinn Féin Senator, at the conclusion of which Ms McGuinness will reply to questions which shall not exceed one minute in each case from Members in accordance with the schedule below and a concluding contribution by the Leader of the House.

Schedule

Fine Gael Senators: 2 questions.

Fianna Fáil Senators: 2 questions.

Labour Party Senators: 2 questions.

Taoiseach's Nominees: 2 questions.

University Senators: 2 questions.

Sinn Féin Senators: 1 question.

Question put and agreed to.

Companies Bill 2012: Committee Stage

An Leas-Chathaoirleach: I welcome the Minister of State to deal with this neat and compact Bill.

Section 1 agreed to.

SECTION 2

An Leas-Chathaoirleach: Amendments Nos. 127, 128 and 180 are related to amendment No. 1 and they will all be discussed together.

Senator Feargal Quinn: I move amendment No. 1:

In page 63, between lines 24 and 25, to insert the following:

" "accountant" means an individual that stands approved as an accountant with the Irish Auditing and Accounting Supervisory Authority (IIASA);".

As the Leas-Chathaoirleach said, this is a small Bill. There used to be an advertisement on television which used the tag, "It is a short name but quare stuff". This is certainly quare stuff.

The amendment is intended to ensure the Bill clarifies the definition of "accountant" once and for all to provide better protection for the customer, both businesses and individuals.

4 o'clock

The fact is we do not currently have legislation regulating the term "accountant", and the amendment aims to rectify this. I also have a later associated amendment which proposes to impose fines on people who misrepresent themselves as accountants.

There are a number of problems in this area, including the fact there are a number of accountants who have been expelled from professional bodies but who are still offering their services to the public. That is not correct and I do not believe we knew it was happening. While there are strict standards within accountancy bodies, such as codes of practice, they are in essence voluntary. We then have those operating outside of the system, and even someone with a criminal conviction can set up a business and offer his or her accountancy services to the public without the public knowing. This is not a proper situation and Ireland is unlike many other EU member states which give much-needed protection.

What I am calling for from the Minister of State is some form of mandatory regulation within the Bill to cover the term "accountant" in order to provide better protection for the customer. Specifically, I strongly believe the term "accountant" should only be allowed to be used by those accountancy professionals who are supervised or authorised by the Irish Auditing and Accounting Supervisory Authority. This makes perfect sense. The amendment would merely ensure that an accountant is someone who is properly accredited, nothing more, nothing less.

I should emphasise there would be no cost involved due to this measure. It would simply give more protection to businesses and individuals against fraud, deception and poor performance. From speaking to businesses on a regular basis up and down the country, I am well aware how some of them have suffered in part due to not getting a properly accredited person. This is particularly important for smaller businesses, which may not have the funds to employ an accountant and must hire an external professional.

This is something we should all welcome. I urge the Minister to accept the amendment and my later amendment, which I will discuss later. It aims to curtail people who misrepresent themselves and who could do damage to their customers on that basis. The Leas-Chathaoirleach mentioned two other amendments.

An Leas-Chathaoirleach: There are three. Amendments Nos. 127, 128 and 180 are related and we will discuss them together.

Senator Feargal Quinn: I did not know we were discussing them at this stage but I would be delighted to do so. Do I speak only once on the amendments?

An Leas-Chathaoirleach: No. As it is Committee Stage, you can come back in when the

Minister of State has responded. It is only on Report Stage that you are curtailed.

Senator Feargal Quinn: In that case, I will let the Minister respond.

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy Sean Sherlock): I do not support the amendment. The primary objective of the Companies Bill is to be business-friendly and to reduce red tape or unnecessary regulation where possible. Supporting this amendment would result in the introduction of an onerous regulation which would disproportionately affect business and will fail to adequately address the cardinal problem which the accountancy bodies allude to. New regulations should only be introduced where there is clear evidence of market failure or very damaging consumer harm. That has not been established factually as being the position here.

We must bear in mind that it is also possible that new layers of regulation could also stultify further growth and innovation. When the matter was reviewed by the Department at the time of drafting, the conclusion was there was no case for introducing a system of regulation for the profession generally. On the contrary, it was felt that introducing such a system would put at risk the flexibility of the profession and its ability to respond to client needs, be it in traditional areas such as tax advice or management accounts, or in emerging fields such as succession planning. Regulation could also stultify further growth and innovation. Having examined the issue from the standpoint of the principles of better regulation, the Competition Authority concluded there was no public interest case requiring legal protection of the term "accountant". That is the Government position.

Senator Feargal Quinn: I am disappointed because I have spoken to many accountancy bodies and almost all support this as they believe there is a real problem. This is the ideal opportunity to solve the problem and I urge the Minister of State to rethink before Report Stage as I believe it is worthy of consideration. I believe the words I have used are correct but I had some problems with the term "turf accountant" and was not sure how it would be dealt with. Some customers are concerned about this matter and have experienced difficulties in the past.

Deputy Sean Sherlock: For the record of this House, we note the concerns expressed by accountancy bodies. The Minister for Jobs, Enterprise and Innovation, Deputy Bruton, has agreed to undertake an assessment of the issues by consulting with key stakeholders such as the professional bodies mentioned by Senator Quinn, consumer representatives, small business representatives, regulators, the Revenue Commissioners, the Companies Registration Office and other official bodies with an interest. It is not as if we are ignoring issues, it is merely the case that for the purposes of this Bill we do not support the amendment. This is not to say that there is not an ongoing consultation process with the very bodies Senator Quinn mentioned.

Senator Feargal Quinn: I thank the Minister of State but it seems a shame to me that it took around 11 years to construct this Bill yet the intention is to leave things that have not been dealt with until later. I will not push the issue but I ask that a stronger term be used.

I will now address amendment No. 127 which applies to section 879 of the principal Act and states "A person commits an offence if they make any misrepresentation whether oral or otherwise as to their status as an accountant unless they stand approved as an accountant with the Irish Auditing and Accounting Supervisory Authority, IIASA". This is very similar to the original amendment.

Amendment No. 128 relates to section 880 of the principal Act and states:

"A person guilty of an offence under *section 879* is liable to a fine**.-**

(a) on summary conviction to a Class A fine, or

(b) on conviction on indictment to a fine not exceeding €50,000 or imprisonment for a term not exceeding 3 months or to both.".

It sounds as though the Minister of State will not accept these amendments at this Stage but I feel it is important to give these matters serious consideration. I believe the Companies Bill should not become law while the Government says it intends to address its flaws only after enactment. I hope the Minister of State will do something about this.

When discussing amendment No. 1, I explained how harmful it can be to individuals and businesses when a person misrepresents himself or herself as an accountant so these amendments aim to provide a concrete disincentive to persons who present themselves to the public, without accreditation, as offering so-called accountancy services. After all the years that went into the production of this formidable and worthy Bill that deserves our support it would be a shame to leave something out on the basis that the Minister will examine it later. I urge the Minister of State to consider these amendments, if not today then before Report Stage.

An Leas-Chathaoirleach: Is Senator Quinn addressing amendment No. 128 also?

Senator Feargal Quinn: Yes, I will come to it in a moment.

Deputy Sean Sherlock: I will take the sections together. I have previously advocated the view that it is within the remit of the accountancy profession to engage in an awareness campaign informing the public of the advantages of engaging the services of only fully qualified and properly regulated accountants. Similar public awareness campaigns have been run, for instance, in relation to electrical contractors, and they have proven successful.

It is worth restating that the primary objective of the Companies Bill is to ensure that Ireland has a company law code that will enhance its international competitiveness, help improve ordinary business and make it easier for companies throughout the country to establish and operate.

On a technical drafting matter, this amendment would be ineffective, as it would impact on others - for example, as the Senator has mentioned, those practising as accounting technicians or as turf accountants. It also fails to cover all details which would be required in terms of qualifications, standards and so on. For those reasons, it would not be appropriate to support the amendment. The accountancy profession is in general adaptable and agile, and is able to respond to new market opportunities and directions. That is to a great extent because it is not tied down by layers of regulation. There are detailed statutory provisions relating to auditing and, to a lesser extent, insolvency practice. The Competition Authority holds the view that this is the way things should stay. Additionally, my Department is committed to reducing the level of Government-imposed red tape on business. To this end, significant progress has been made by my Department in reducing administrative burdens by 25% in areas including company law. If this amendment is supported without proper consideration being given to its impact, it could have an adverse consequence for business by creating an additional layer of regulation and, in doing so, would fail to advance consumer protection. For those reasons, we do not support the amendment.

Senator Feargal Quinn: I thank the Minister for his words, but the accountancy bodies

remain concerned. They are particularly unhappy at the fact that somebody who has been expelled from the accountancy bodies for "misbehaviour" and has been found to be a criminal will now be able to go back into the profession and continue to act as an accountant. That is a dangerous situation. I do not like it being left to persist any longer. The Companies Bill gives us an ideal opportunity to get it resolved. I am sorry to see the amendment being put on the long finger. I urge the Minister to resolve this matter in this Bill rather than leave it to a later Bill.

Amendment No. 180 relates to section 1430 and is about restricting the number of partners in a partnership to 20. It is on a similar theme to that of the previous amendment. In particular, there is a problem with subsection (1)(*c*), which aims to give some relief to accountancy firms constituted as partnerships. However, this relief will be ineffective, as the Bill refers only to "statutory auditor". In the modern day, individuals in accountancy firms cover a wide range of areas and many of them have on board what I call "non-audit specialists" - for instance, taxation or financial analysts. A partnership will often cover people who do not have an audit background or who do not hold a professional accountancy qualification. With the Bill as it stands, some accountancy firms may not be able to avail of the relief on offer in section 1430, which may be seen as unfair. We should aim at a level playing field. Some accountancy firms may even have to engage in more red tape and bureaucracy to get their affairs in order at great administrative cost for no concrete benefit. It is a clear case of "less is more", and that is why I propose to delete the part of the Bill that stipulates all partners should be limited to a partnership of 20. It is worthy of consideration.

Deputy Sean Sherlock: The section is partly new and derives from a wide range of statutory provisions, including section 376 of the Companies Act 1963 and section 13(1) and 13(2) of the Companies (Amendment) Act 1982 and various statutory instruments. Provisions in secondary legislation relating to thoroughbred horse breeding and providers of investment in loan finance have been brought into primary legislation. I do not know if the Senator refers specifically to that industry. Provision is made for the Minister to make further exceptions to the 20-partner limit by order in consultation with the Company Law Review Group, CLRG. Exceptions are made in respect of limited partnerships and investment limited partnerships. I am not sure if that fully addresses the point and perhaps I am missing a trick in terms of the Senator's argument.

An Leas-Chathaoirleach: The Senator has the right to discuss it further now or on report Stage.

Senator Feargal Quinn: I will raise it again on Report Stage.

Deputy Sean Sherlock: It is existing law and as the Minister has the power to change it for individual cases, flexibility is built in.

Senator Feargal Quinn: I see.

Deputy Sean Sherlock: Forgive me for setting the debate back.

An Leas-Chathaoirleach: I fully understand. As a student, I used to dread the Companies Act 1963. Thank God I am not studying this.

Deputy Sean Sherlock: We are on the right side of it.

Amendment, by leave, withdrawn.

Government amendment No. 2:

In page 67, line 34, to delete "and" and substitute the following:

"(f) the Companies (Miscellaneous Provisions) Act 2013; and".

Deputy Sean Sherlock: The purpose of the amendment is to incorporate the Companies (Miscellaneous Provisions) Act 2013 in the definition of prior Companies Acts in the Bill. All provisions of this Act will be carried over into the Companies Bill 2012.

Amendment agreed to.

Government amendment No. 3:

In page 69, to delete lines 31 to 39 and substitute the following:

"(8) In this Act a reference to a company having a sole director is a reference to its having, for the time being and for whatever reason, a single director (and this applies notwithstanding a stipulation in the constitution that there be 2 directors, or a greater number).".

The purpose of the amendment is to include a clear definition of a sole director company or a company with a sole director. The aim is to ensure that if, for example, an unforeseen eventuality results in a company having just one director, the company will be entitled to be considered as a sole director company.

Amendment agreed to.

Section 2, as amended, agreed to.

Sections 3 and 4 agreed to.

SECTION 5

Question proposed: "That section 5 stand part of the Bill."

Deputy Sean Sherlock: I am considering introducing an amendment to section 5 on Report Stage to reference any provision of a former enactment in subsection (3), and the purpose would be to further clarify the section rather than make any substantive change.

Question put and agreed to.

Sections 6 to 14, inclusive, agreed to.

SECTION 15

Question proposed: "That section 15 stand part of the Bill."

Senator Ivana Bacik: I wish to raise a brief point on the section even though there are no amendments tabled to it.

An Leas-Chathaoirleach: The Senator is quite entitled to do so.

Senator Ivana Bacik: I thank the Leas-Chathaoirleach. I raised this point about the transition period and specific issues about it on Second Stage. I welcome the Minister of State to

the House and thank him for responding in his Second Stage speech to some of the comments I made. Since Second Stage I have received correspondence from Mr. Brian Walker, who I know has been in touch with many of us to helpfully give us some thoughts on his experience. He is a barrister and has been travelling around the country presenting seminars on the Bill and has met many accountants. He has a question following on from what I said on Second Stage about the transition period and in particular about the commencement date. Clearly, the transition period in section 15 means the period expiring 18 months after the commencement of this section. I realise that section 1 deals with the commencement but can the Minister of State clarify if a commencement date has been set? The Companies Office, according to Mr. Walker, appear to gearing up for a commencement date of 1 January 2015 but I am not sure if that has been agreed or confirmed anywhere.

The reason that is important is that while most practitioners agree the 18-month transitional period is ample and sufficient to allow companies avail of the transition period, they are anxious that many aspects of the Bill would come into force sooner rather than later. Section 16 allows for the extension of the transition period and there is some concern about uncertainty about the actual time period. That is a particular issue.

The other issue of interest is that Mr. Walker points out that there may not be a substantial number of companies making the application to convert over to the new limited company since they may take the view that if it is going to happen automatically at the end of the transition period, it may be simpler to allow the default to occur. Those are some of the issues I raised about the transition and the practical impact of it and I thought it would be worth raising them again under this section.

An Leas-Chathaoirleach: Does the Minister of State wish to respond?

Deputy Sean Sherlock: I note the Senator's points. There is general agreement that the 18-month period was the best period. We will aim to have a specific date as soon as possible, which I appreciate does not give the Senator too much comfort. There is a recognition of the need to aim for a specific date as soon as possible and we are very cognisant of that.

Senator Ivana Bacik: Thank you.

Question put and agreed to.

Sections 16 to 18, inclusive, agreed to.

SECTION 19

An Leas-Chathaoirleach: Amendment No. 4 is a Government amendment, amendments Nos. 4, 5, 134, 135, 142, 143, 152, 153, 159, 160, 176 and 177 are related and may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 4:

In page 78, between lines 5 and 6, to insert the following:

"(c) that the liability of its members is limited;".

Deputy Sean Sherlock: The purpose of these amendments is to ensure consistency with the model constitutions. For example, the model constitution of Schedule 1 contains a clause

to the effect that the liability of its members is limited and the amendment ensures that both the section and Schedule 1 are uniform. The other amendments grouped under this section aim to achieve the same result with regard to the section and Schedule reflecting one another.

Amendment agreed to.

Government amendment No. 5:

In page 78, between lines 23 and 24, to insert the following:

"(3) Where, subsequent to its registration, an amendment of the constitution is made affecting the matter of share capital, or another matter, referred to in *subsection (1)*, that subsection shall be read as requiring the constitution to state the matter as it stands in consequence of that amendment.".

Amendment agreed to.

Section 19, as amended, agreed to.

Sections 20 to 26, inclusive, agreed to.

SECTION 27

Government amendment No. 6:

In page 83, between lines 4 and 5, to insert the following:

"(3) *Subsection (1)* as it relates to the use of the word "limited", or any abbreviation of that word, shall not apply to a society registered under the Industrial and Provident Societies Acts 1893 to 1978.".

Deputy Sean Sherlock: The purpose of this amendment is to provide an exception from the prohibition that neither a body that is not a company nor an individual shall carry on any trade, profession or business under a name which includes as its last part the word "limited" or the words "company limited by shares" for industrial and provident societies, as initiated. Only volume 1 companies are permitted to end their name with "Limited". This amendment is necessary to provide for the approximately 900 industrial and provident societies in existence which have the word "Limited" in their name. I am also considering introducing an amendment on Report Stage to provide that the provisions of this section will not apply to an external company.

Amendment agreed to.

Section 27, as amended, agreed to.

Sections 28 to 31, inclusive, agreed to.

SECTION 32

An Leas-Chathaoirleach: Government amendments Nos. 7, 17, 23, 42, 45, 47, 49, 53, 60, 62, 65, 68, 69, 95, 96, 98, 99, 101, 106, 109, 110, 115 to 117, inclusive, 121, 126, 132, 158, 165, 170, 171, 173 and 174 are drafting amendments and may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 7:

In page 86, line 2, to delete "company" where it firstly occurs and substitute "company,".

Deputy Sean Sherlock: These amendments are typographical in nature and do not have a substantive impact on the Bill.

Amendment agreed to.

Section 32, as amended, agreed to.

SECTION 33

Government amendment No. 8:

In page 86, line 27 to delete "therein" and substitute the following:

"therein;

(i) any copy of a winding up order in respect of the company;

(j) any copy of an order for the dissolution of the company on a winding up;

(k) any return by the liquidator of the final meeting of the company on a winding up;

(l) any notice of the appointment of a liquidator in a voluntary winding up of the company.".

Deputy Sean Sherlock: The purpose of this amendment is to incorporate the provisions of regulation 4 of SI No. 163/1973 - that is, European Communities (Companies) Regulations 1973 - into the Bill and to impose a publication notification requirement in respect of the few items listed in the amendment. These are: any copy of a winding up order in respect of the company; any copy of an order for the dissolution of the company on a winding up; any return by the liquidator of the final meeting of the company on a winding up; and any notice of the appointment of a liquidator in a voluntary winding up of a company.

This section provides that the registrar shall publish in the CRO Gazette notice of the delivery to or the issue by the Registrar of certain documents and particulars listed. The section requires such a notice to be published within ten days after the date of the relevant delivery or issue.

Amendment agreed to.

Section 33, as amended, agreed to.

Sections 34 to 37, inclusive, agreed to.

SECTION 38

An Leas-Chathaoirleach: Amendments Nos. 9 and 10 in the name of Senator David Cullinane are related and may be discussed together, by agreement. Is that agreed? Agreed.

Senator Kathryn Reilly: I move amendment No. 9:

In page 88, line 34, to delete "privileges." and substitute the following:

"privileges,

in so much as such action does not undermine or take precedence above a person's right and entitlements as provided for in existing legislation or international treaties and agreements to which Ireland has signed up.".

What struck me was the size of the explanatory memorandum. One would almost need an explanatory memorandum just for that. One of the most striking but largely unremarked changes is that section 38 proposes to give a company the same capacity and authority as a human person. The idea behind the change is to remove the danger of *ultra vires* and the necessity for lengthy object clauses. Our concern is whether the provision of full and unlimited capacity for a company to carry on and undertake any business or activity or to act or enter into any transaction, having the full rights, powers and privileges of a human being, is going too far.

As to amendment No. 10, it is difficult to determine the ultimate use companies and directors could make of the provision in the Bill. In the US, this type of right has resulted in companies claiming a breach of their human rights when they are, for example, required to allow workplace inspections or, in terms of free speech, to abide by advertising rules or laws on unfair labour practices. Could this provision muddy the waters as regards the human rights obligations of those companies to which State services have been outsourced? It would be an unintended consequence, but we would be naive not to anticipate the possibility that companies could attempt to take every advantage of their newfound full and unlimited capacity, rights and privileges and seek to maximise same in their favour.

Like ICTU, Sinn Féin is of the view that this section of the Bill should be referred to the Irish Human Rights Commission, IHRC, for an assessment and recommendation. What is the Minister of State's opinion in this regard?

Deputy Sean Sherlock: I propose to respond to the two amendments together. I am not in favour of them. I draw the House's attention to section 38(2), which reads: "Nothing in subsection (1) shall relieve a company from any duty or obligation under any enactment or the general law." This safeguard prevents an argument to the contrary being made. In such circumstances, amendment No. 9 is already provided for in the Bill.

Amendment No. 10 is misconceived in law. It is contrary to the Constitution and the principles of natural justice generally to provide that, in the case of a clash of "rights and privileges", a natural human being's rights and privileges must always take precedence over those of a company. Companies are legal persons and, as such, have a number of rights that must be protected. Therefore, I am not in favour adopting these amendments.

I will avail of this opportunity to clarify that section 38 grants private limited companies the full legal capacity to enter into transactions and undertake business activities. Section 39 provides that a company, should it wish to do so, may authorise a person to bind it, that is, act on behalf of its board of directors. The provision contained in section 38 is new while section 39 is drawn from section 6(3) of the European Communities (Companies) Regulations 1973, although this is not a direct re-enactment. Section 38 is modelled on section 16(1) of the New Zealand Companies Act 1993. The rationale for the innovation in section 38 is to prevent its use in the avoidance of corporate contractual responsibility to the detriment of a particular creditor. Under current law, if a company does something outside the scope of its objects, it has

committed an *ultra vires* act. This means that, if a company has entered into a contract and is subsequently found to have acted outside its powers, that contract will be deemed to have never existed.

This section reflects the reality that 90% of Irish companies are closely held ones, that is, companies in which the shareholders and management often consist of the same people. Thus, in circumstances where the demarcation of management and shareholders is virtually non-existent, the doctrine of *ultra vires* has little meaning. I am satisfied that section 38 will add certainty to the law and is to be welcomed. As a result of this provision, any contract that a company enters into will be legally binding on that company. Therefore, I am satisfied that the introduction of section 38 does not mean that the company somehow can usurp the human rights of any person or ignore its legal obligations. A company is a legal person that has rights and duties of its own. It is not possible or proper to insert a provision that would undermine these rights.

An Leas-Chathaoirleach: An bhfuil tú sásta leis an freagra sin?

Senator Kathryn Reilly: I thank the Minister of State for his reply in which I think he ruled out any possibility of this section being referred to the Human Rights Commission for consideration as, in his opinion, to do so would not be proper or right. Will he confirm that he has ruled out referral of this section to the Human Rights Commission for assessment and recommendation? I do not propose to press the amendments at this point as I would like to revisit them on Report Stage, in particular amendment No. 10 in the light of the Minister of State's statement that what is proposed would be in contravention of the Constitution. I reserve my right to resubmit the amendments on Report Stage.

Deputy Sean Sherlock: In regard to amendment No. 10, suggesting we ought to set out in statute that a person's rights would, regardless of circumstances, always take precedence over a company's rights is misconceived in law. Like human beings, companies have rights which must be protected. For example, a company can enjoy the right of freedom of speech and be afforded a nationality. While I appreciate that this section has been interpreted as somehow strengthening the corporate personality at the expense of human beings, that simply is not the case. It is not appropriate to attempt to introduce a hierarchy between various rights in statute law. It is a matter for the courts to interpret the facts of a particular case and apply the law. It ought to be appreciated that rights are not limited and that it is normal that different rights conflict with one another. It is on that basis that I cannot accept amendment No. 10.

Amendment, by leave, withdrawn.

Question proposed: "That section 38 stand part of the Bill."

Senator Ivana Bacik: Section 38 is innovative in that it does away with the need for the objects clause. That is a hugely important and significant step in reducing paperwork and red tape for the small companies referred to by the Minister of State. The purpose of this provision is to do away with that need and provide capacity for companies not to be hidebound by specific objects and an objects clause.

Question put and agreed to.

Amendment No. 10 not moved.

Section 39 agreed to.

Section 40 agreed to.

SECTION 41

Question proposed: "That section 41 stand part of the Bill."

Deputy Sean Sherlock: I am considering introducing an amendment to this section on Report Stage in order to bring it into line with the Powers of Attorney Act 1996 and the Land and Conveyancing Law Reform Act 2009.

Question put and agreed to.

Sections 42 to 49, inclusive, agreed to.

SECTION 50

An Leas-Chathaoirleach: Amendments Nos. 11 and 12 are related and will be discussed together.

Government amendment No. 11:

In page 94, line 33, to delete "being an agent who has an office in the State and who is" and substitute "being a company formed and registered under this Act, or an existing company, and which is".

Deputy Sean Sherlock: The purpose of these amendments is to clarify that where a company is availing of an agent for the purposes of the Companies Registered Office, such an agent must be a company registered in Ireland. This section requires a company to have a registered office within the State to which all communications must be addressed.

Amendment agreed to.

Government amendment No. 12:

In page 94, line 38, to delete "of his or her office" and substitute "of the agent's registered office".

Amendment agreed to.

Section 50, as amended, agreed to.

Sections 51 to 55, inclusive, agreed to.

SECTION 56

Question proposed: "That section 56 stand part of the Bill."

Deputy Sean Sherlock: I am considering introducing an amendment to this section on Report Stage to provide that credit institutions and insurance companies are compulsorily required to register as designated activity companies. This is necessary as these companies cannot under section 18 of the Bill be private companies limited by shares.

Question put and agreed to.

Sections 57 to 62, inclusive, agreed to.

SECTION 63

Government amendment No. 13:

In page 104, between lines 15 and 16, to insert the following:

"(7) If the existing private company had not registered articles and, by reason of *section 58*, the regulations in Table A are, immediately before the making by the company of an application under *subsection (3)*, deemed to be its articles, then each of the references in the preceding subsections of this section to articles shall be disregarded, but in such a case the application under *subsection (3)* shall be accompanied by a statement in the prescribed form that the articles of the company comprise those regulations.".

An Leas-Chathaoirleach: Amendments Nos. 13 and 14 are related and may be discussed together by agreement.

Deputy Sean Sherlock: Given the number of sections in this Bill at Committee Stage and the fact that I must stand up and down considerably for them, would anybody be offended if I remain seated? I hope my request is not a breach of protocol.

An Leas-Chathaoirleach: I have no difficulty with the Minister of State's request and the Members have agreed.

Deputy Sean Sherlock: Thank you.

An Leas-Chathaoirleach: In view of the very warm weather, we would not like to leave him exhausted, particularly with an election to come.

Deputy Sean Sherlock: Amendment No. 13 has been grouped with amendment No. 14. The purpose of these amendments is to correct an oversight in relation to companies that re-register as designated activity companies. The amendment will preserve the model of regulation of Table A to the Companies Act 1963, for companies limited by shares. Table A will continue to apply to these companies save to the extent that it is contrary to mandatory provisions in the Bill.

Amendment agreed to.

Government amendment No. 14:

In page 104, between lines 28 and 29, to insert the following:

"(9) If, by reason of *section 58*, an existing private company was, immediately before the making by the company of an application under *subsection (3)*, governed (in whole or in part) by the regulations contained in Table A, then for the purposes of this section and in addition to the other cases where their continuance in force for a particular purpose is provided for by this Chapter, those regulations shall, despite the repeal of the Act of 1963, continue in force and upon the issue of the aforementioned certificate of incorporation the articles of the designated activity company shall be deemed to comprise the whole of those regulations or, as the case may be, to include the parts concerned of those regulations, but—

(a) this is save to the extent that those regulations are inconsistent with a mandatory provision;

(b) those regulations may be altered or added to under and in accordance with the conditions under which the designated activity company's articles are permitted by *Part 16* to be altered or added to; and

(c) references in those regulations to any provision of the prior Companies Acts shall be read as references to the corresponding provision of this Act.

(10) Subject to *paragraphs (b)* and *(c)* of that subsection, the regulations referred to in *subsection (9)* shall be interpreted according to the form in which they existed on the date of repeal of the Act of 1963.".

Amendment agreed to.

Section 63, as amended, agreed to.

Sections 64 and 65 agreed to.

SECTION 66

Government amendment No. 15:

In page 108, line 10, to delete "Save to the extent that its constitution provides otherwise, *subsection (6)*" and substitute "*Subsection (6)*".

Deputy Sean Sherlock: The purpose of this amendment is to remove the discretion from the private limited company in relation to its duty to require a member, or transferee of shares, to furnish the company with information as to the beneficial ownership of any shares. This subsection (7), like Regulation 7 of Part I of Table A of the Companies Act 1963, provides that a company is not bound by or compelled to recognise the beneficial ownership of its shares even if it has notice of it.

As the Bill stands, subsection 7 goes on to provide that unless its constitution provides otherwise, subsection 6 does not preclude a company from requesting information as to the beneficial ownership of shares when reasonably required.

Amendment agreed to.

Section 66, as amended, agreed to.

Sections 67 and 68 agreed to.

SECTION 69

Question proposed: "That section 69 stand part of the Bill."

Deputy Sean Sherlock: I am considering introducing an amendment at Report Stage to deal with previously allotted shares. The Office of the Parliamentary Counsel has indicated that it may need to further refine the wording.

Question put and agreed to.

Sections 70 to 82, inclusive, agreed to.

SECTION 83

Government amendment No. 16:

In page 125, line 9, after "capital" to insert ", other than the share premium account".

An Leas-Chathaoirleach: Amendments Nos. 16, 19 to 22, inclusive, and 28 are related and may be discussed together by agreement.

Deputy Sean Sherlock: The purpose of these amendments is to clarify the position with regard to a resulting credit when there is a reduction in the nominal value of a share. These amendments bring the provisions into line with existing law. The proposed amendment also satisfies the requirements of the fourth company law directive.

Amendment agreed to.

Section 83, as amended, agreed to.

Sections 84 to 88, inclusive, agreed to.

SECTION 89

Government amendment No. 17:

In page 131, line 15, to delete "*section 88*" and substitute "*section 88*,".

Amendment agreed to.

Section 89, as amended, agreed to.

Sections 90 to 98, inclusive, agreed to.

SECTION 99

An Leas-Chathaoirleach: Amendments Nos. 18, 114, 144, 188 and 189 are related and may be discussed together. Is that agreed? Agreed.

Government amendment No. 18:

In page 137, lines 33 and 34, to delete "or the seal kept by the company by virtue of *section*".

Deputy Sean Sherlock: The purpose of these amendments is to re-enact the existing law. It is public companies only, not private companies, that will have an official seal which is a facsimile of the common seal and which has on its facsimile the word "securities" or the Irish language equivalent. This amendment is necessary to revert to the existing law.

Amendment agreed to.

Section 99, as amended, agreed to.

Sections 100 to 104, inclusive, agreed to.

SECTION 105

Government amendment No. 19:

In page 142, line 40, to delete "undenominated capital" and substitute "share premium account".

Amendment agreed to.

Government amendment No. 20:

In page 143, line 1, after "company's" to insert "share premium account or other".

Amendment agreed to.

Section 105, as amended, agreed to.

SECTION 106

Government amendment No. 21:

In page 144, line 36, after "company" to insert ", other than its share premium account".

Amendment agreed to.

Section 106, as amended, agreed to.

Section 107 agreed to.

SECTION 108

Government amendment No. 22:

In page 145, line 36, after "capital" to insert ", other than the share premium account".

Amendment agreed to.

Section 108, as amended, agreed to.

Sections 109 to 118, inclusive, agreed to.

SECTION 119

Government amendment No. 23:

In page 153, line 35, to delete "*subsection (1)(a)*" and substitute "*subsection (1)(a)*,".

Amendment agreed to.

Section 119, as amended, agreed to.

Section 120 agreed to.

SECTION 121

Question proposed: "That section 121 stand part of the Bill."

Deputy Sean Sherlock: I am considering introducing an amendment on Report Stage. The Office of the Parliamentary Counsel has advised that the wording might need to be refined to clarify that "properly prepared" refers to statutory financial statements and not also to the "initial" and "interim" financial statements.

An Leas-Chathaoirleach: The Minister of State's intentions are noted.

Question put and agreed to.

Section 122 agreed to.

SECTION 123

An Leas-Chathaoirleach: Amendments Nos. 24 and 25 are related and may be discussed together.

Government amendment No. 24:

In page 157, line 8, after "provision;" to insert "and".

Deputy Sean Sherlock: The amendments amend the definition of "distribution" by eliminating as an exception the reduction of the liability of shareholders. The reduction in the liability of shareholders will, therefore, now fall within the definition of a "distribution" and be subject to the normal rules of requiring distributable reserves. This is consistent with section 117(3) which provides that a company shall not apply an unrealised profit in paying up debentures or any amounts unpaid on any of its issued shares.

Amendment agreed to.

Government amendment No. 25:

In page 157, to delete lines 9 to 12.

Amendment agreed to.

Section 123, as amended, agreed to.

Sections 124 and 125 agreed to.

SECTION 126

An Leas-Chathaoirleach: Amendments Nos. 26 and 27 are related and may be discussed together.

Government amendment No. 26:

In page 159, lines 19 and 20, to delete "arising on a revaluation of all the fixed assets of the company".

Deputy Sean Sherlock: The purpose of amendments Nos. 26 and 27 is to include all revaluation reserves in the definition of "relevant sum". This is consistent with EU directives which provide that revaluation reserves may be capitalised. The purpose is to correct an inconsistency in the Bill.

Amendment agreed to.

Government amendment No. 27:

In page 159, to delete lines 24 to 31 and substitute the following:

"dividend and in the same proportions in or towards paying up in full unissued shares of the company of a nominal value equal to the relevant sum capitalised (such shares to be allotted and distributed credited as fully paid up to and amongst such holders and in the proportions as aforementioned).".

Amendment agreed to.

Government amendment No. 28:

In page 160, line 22, after "capital" to insert ", other than the share premium account".

Amendment agreed to.

Section 126, as amended, agreed to.

Sections 127 and 128 agreed to.

SECTION 129

An Leas-Chathaoirleach: Amendments Nos. 29 and 149 are related and may be discussed together.

Government amendment No. 29:

In page 161, to delete lines 19 and 20 and substitute "secretary has the skills or resources necessary to discharge his or her statutory and other duties.".

Deputy Sean Sherlock: The purpose of the amendments is to clarify that a company secretary has the skills or resources necessary to discharge his or her statutory and other duties. As the provision stands, it could be interpreted incorrectly to prevent the outsourcing of legal services. This is not intended.

Amendment agreed to.

Section 129, as amended, agreed to.

Sections 130 to 136, inclusive, agreed to.

SECTION 137

An Leas-Chathaoirleach: Amendments Nos. 30 to 33, inclusive, are related and may be discussed together.

Senator Kathryn Reilly: I move amendment No. 30:

In page 163, line 31, to delete "one, at least," and substitute "a majority".

Amendments Nos. 30 to 33, inclusive, deal with the bond of €25,000 applying in circumstances where no director is resident in Ireland. In these circumstances it would fall back on

the State to make the payment from the insolvency fund. The purpose of the amendments is to save the Exchequer money. One of the Government's policy objectives is to ensure employees are protected in every case. Similarly, the Government seeks to limit the State's exposure to potential shortfalls in the context of redundancy or insolvency. Unpaid remuneration in these times of contraction is all too common. We have seen a plethora of employees having to fight very hard to ensure they get what they are entitled to. The amendments seek to ensure workers who have expended their energies, efforts and brain power to make profits for companies or businesses would be protected. I urge the Minister of State to consider them.

Deputy Sean Sherlock: I am not in favour of adopting the amendments which propose unduly oppressive conditions on legitimate businesses. The suggestion that a majority of directors be EEA resident might particularly dissuade foreign direct investment companies from doing business in Ireland. This is bad for Ireland and Irish commerce generally.

Second, section 137, which re-enacts existing law, ensures that companies that do not have at least one director who is resident in an EEA state must put in place a bond in the prescribed form that becomes payable to a person nominated by the registrar or the Revenue Commissioners. The purpose of the bond is to discharge any fine imposed on the company in respect of an offence committed by it and prosecutable by the registrar and-or for the purposes of discharging certain fines and penalties imposed on it by the Taxes Consolidation Act 1997. The moneys can also be used to cover expenses that are reasonably incurred in the collection of said penalties. The bond cannot be used for any other purpose. Therefore, the amendments proposed do not achieve any legitimate policy goal. Their sole effect is to create an arbitrary restriction on non-EEA companies trying to do business in Ireland. It is on that basis that I do not support the amendments.

An Leas-Chathaoirleach: Is amendment No. 30 being pressed?

Senator Kathryn Reilly: Yes.

Amendment put and declared lost.

Senator Kathryn Reilly: I move amendment No. 31:

In page 163, line 34, after "€25,000" to insert "or 4 per cent of turnover or the total wages paid, whichever is the greater".

Amendment put and declared lost.

Senator Kathryn Reilly: I move amendment No. 32:

In page 164, line 2, to delete "purpose" where it secondly occurs and substitute "purposes".

Amendment put and declared lost.

Senator Kathryn Reilly: I move amendment No. 33:

In page 164, line 6, after "accordingly)" to insert the following:

"or in the case of unpaid remuneration the amount payable under the redundancy and insolvency schemes".

Amendment put and declared lost.

Section 137 agreed to.

Sections 138 and 139 agreed to.

SECTION 140

An Leas-Chathaoirleach: Amendments Nos. 34 and 35 are cognate and may be discussed together by agreement. Is that agreed? Agreed.

Senator Kathryn Reilly: I move amendment No. 34:

In page 166, line 28, after "on" to insert "and managed and controlled".

The aim of this amendment is to provide further protection for employees. I would be interested in hearing the Minister of State's response.

Deputy Sean Sherlock: These amendments propose to insert the words "managed and controlled" into this section of the Bill. The objective appears to be to cause all companies registered in Ireland to be tax-resident in Ireland. As Minister of State in the Department of Jobs, Enterprise and Innovation, I am not in a position to consider the full impact or consequences of any change to tax law. Such an exercise is within the functions of the Minister for Finance.

Additionally, the proposed amendments are illegal both under EU and international law. The provisions would fall foul of the EU law on freedom of establishment, which is a core aspect of EU law. Compliance with this is closely monitored by the European Commission. Ireland has recently been required by the Commission to change a provision of Irish law which required that at least one director of an Irish company be resident in Ireland. This provision would go much further, effectively requiring all management activities to occur within the State. This is clearly a hindrance to cross-border trade within the EU and significantly trammels the ability of a company from another EU member state to establish in Ireland.

Furthermore, this proposal would put Ireland in breach of obligations under double taxation agreements with other countries. This is completely unprecedented and would be highly prejudicial to Irish commerce and Ireland's reputation internationally so it is on that basis that I am not in favour of accepting the amendments.

An Leas-Chathaoirleach: Is amendment No. 34 being pressed?

Senator Kathryn Reilly: In light of what the Minister has said, we will not be pressing it.

Amendment, by leave, withdrawn.

Amendment No. 35 not moved.

Section 140 agreed to.

5 o'clock

Sections 141 to 147, inclusive, agreed to.SECTION 148

Government amendment No. 36:

In page 173, to delete line 17 and substitute the following:

"(b) the health of the director is such that he or she can no longer be reasonably regarded as possessing an adequate decision making capacity; or".

Deputy Sean Sherlock: The purpose of the amendment is to delete language which could be interpreted in a discriminatory manner. This refers to the somewhat outdated term "unsound mind". While the term is legally sound, it does not represent everyday language and understanding of situations where a director is no longer, for medical reasons, capable of fulfilling his or her functions as a company director. The wording proposed is more in line with the wording used in the Employment Equality Act. This section provides that the office of director is vacated if a director becomes bankrupt or disqualified and, unless the constitution provides otherwise, where the director resigns, can no longer be reasonably regarded as possessing an adequate decision making capacity, is restricted, sentenced to a term of imprisonment for an indictable offence, or is absent for six months without permission. This section substantially imports model regulations 91 of Part I of Table A of the First Schedule to the Companies Act 1963. A new requirement that the conviction must give rise to a sentence and to a term of imprisonment - actual or suspended - has been inserted.

I pay tribute to Mr. Jim Breen from Cycle Against Suicide, who brought the issue to our attention. On foot of representations made specifically by him and people close to him, we sought to change the wording and reflect language that is more caring and apt for the society we live in. On the basis of some consciousness-raising, we introduced this amendment. I acknowledge the work of our officials in bringing it forward. It represents a positive change in how we use language about issues such as this.

Amendment agreed to.

Section 148, as amended, agreed to.

SECTION 149

An Leas-Chathaoirleach: Amendments Nos. 37 and 38 are consequential on amendment No. 39. Amendments Nos. 37 to 39, inclusive, may be discussed together.

Government amendment No. 37:

In page 173, line 30, after "*subsection (4)*" to insert "and *section 150(11)*".

Deputy Sean Sherlock: The purpose of these amendments is to grant the Minister powers to make regulations in regard to the non-disclosure of residential addresses on the public register kept by the registrar. In certain limited circumstances, company officers will be granted an exemption from listing their residential address on the public register. Such addresses will be kept separately by the registrar who, in turn, will be granted powers to release such addresses to relevant authorities, for example, the Revenue Commissioners and An Garda Síochána. The purpose of the amendment is to ensure competitiveness as certain company officers may be reluctant to locate in Ireland unless they are, for legitimate reasons, given an exemption in respect of publication of their residential addresses.

Amendment agreed to.

Government amendment No. 38:

In page 174, line 13, after "*subsection (6)*" to insert "and *section 150(11)*".

Amendment agreed to.

Section 149, as amended, agreed to.

SECTION 150

Government amendment No. 39:

In page 177, between lines 8 and 9, to insert the following:

"(11) The Minister may make regulations providing that any requirement of this Act that the usual residential address of an officer of a company appear on the register referred to in *section 149(1)* or the register kept by the Registrar shall not apply in relation to a particular person who is such an officer if—

(a) in accordance with a procedure provided in the regulations for this purpose, it is determined that the circumstances concerning the personal safety or security of the person warrant the application of the foregoing exemption in respect of him or her; and

(b) such other conditions (if any) as are specified in the regulations for the application of the foregoing exemption are satisfied.

(12) Regulations under *subsection (11)* may contain such incidental, consequential and supplemental provisions as appear to the Minister to be necessary or expedient, including provision—

(a) so as to secure that there is not otherwise disclosed, by virtue of this Act's operation, the usual residential address of a person in respect of whom the exemption referred to in that subsection applies; and

(b) limiting the regulations' application to a usual residential address that, but for the regulations' operation, would fall to be entered, on a register referred to in that subsection, on or after a date specified in the regulations.".

Amendment agreed to.

Section 150, as amended, agreed to.

Sections 151 to 180, inclusive, agreed to.

SECTION 181

Government amendment No. 40:

In page 196, to delete lines 6 to 9 and substitute the following:

"(3) Where notice of a meeting is given by posting it by ordinary prepaid post to the registered address of a member, then, for the purposes of any issue as to whether the correct period of notice for that meeting has been given, the giving of the notice shall be deemed to have been effected on the expiration of 24 hours following posting.".

Deputy Sean Sherlock: The purpose of the amendment is to reflect existing law and to provide certainty. As the Bill stands, the words "unless the contrary is proved" could lead to uncertainty and could be interpreted as permitting deemed service of notice to be set aside at a later date, which could cause uncertainty in respect of business conducted at every relevant meeting.

Amendment agreed to.

Section 181, as amended, agreed to.

Sections 182 to 192, inclusive, agreed to.

SECTION 193

An Cathaoirleach: Amendments Nos. 41, 43, 44, 138, 139, 148, 155 and 163 are related and may be discussed together.

Government amendment No. 41:

In page 203, lines 16 and 17, to delete "Part or in *Parts 1* to *3* or *5* to *14*" and substitute "Act".

Deputy Sean Sherlock: The purpose of the amendments is to address any ambiguity as to the part to which these provisions apply. This section concerns unanimous written resolutions and is partially new. Unanimous written resolutions are permitted as the default, that is to say, there is no need for the constitution to allow them. The section implements the recommendations in the first report of the Company Law Review Group with regard to written resolutions and procedures for their execution.

Amendment agreed to.

Government amendment No. 42:

In page 204, line 6, to delete "proceeding" and substitute "proceedings".

Amendment agreed to.

Section 193, as amended, agreed to.

SECTION 194

Government amendment No. 43:

In page 204, line 28, to delete "Part or *Parts 1* to *3* or *5* to *14*" and substitute "Act".

Amendment agreed to.

Government amendment No. 44:

In page 205, line 8, to delete "Part or *Parts 1* to *3* or *5* to *14*" and substitute "Act".

Section 194, as amended, agreed to.

SECTION 195

Government amendment No. 45:

In page 206, line 34, to delete "proceeding" and substitute "proceedings".

Amendment agreed to.

Section 195, as amended, agreed to.

SECTION 196

Government amendment No. 46:

In page 207, line 9, after "member" to insert the following:

"(and this applies notwithstanding a stipulation in the constitution that there be 2 members, or a greater number)".

Deputy Sean Sherlock: The purpose of this amendment is to clarify that there can be a sole member company notwithstanding a stipulation in the constitution that there be two members or a greater number. This will ensure any confusion is avoided.

Amendment agreed to.

Section 196, as amended, agreed to.

Sections 197 to 210, inclusive, agreed to.

SECTION 211

Government amendment No. 47:

In page 217, line 36, after "after" to insert "the".

Amendment agreed to.

Section 211, as amended, agreed to.

Sections 212 to 217, inclusive, agreed to.

SECTION 218

Government amendment No. 48:

In page 224, line 8, after "Act" to insert ", or of the company's constitution,".

Deputy Sean Sherlock: The purpose of this amendment is to provide that the subsection relating to the serving of notice on members applies where a provision of the Bill so requires or authorises a notice to be served but also where the Constitution so requires. As the Bill stands, the Constitution would have to be amended to provide for this and this is not intended.

Amendment agreed to.

Government amendment No. 49:

In page 224, line 9, to delete "a company" and substitute "the company".

Amendment agreed to.

Government amendment No. 50:

In page 224, lines 10 and 11, to delete "of the company".

Deputy Sean Sherlock: The purpose of this amendment is to provide that the subsection relating to the serving of notice on members applies where a provision of the Bill requires or authorises a notice to be served but also where the Constitution so requires. As the Bill stands, the Constitution would have to be amended to provide for this and this is not intended.

Amendment agreed to.

Government amendment No. 51:

In page 225, to delete line 8 and substitute the following:

"despatch,

but this subsection is without prejudice to *section 181(3)*.".

Deputy Sean Sherlock: The purpose of this amendment is to provide a cross-reference to section 181(3) concerning the receipt of notice of general meetings when availing of ordinary post.

Amendment agreed to.

Section 218, as amended, agreed to.

Sections 219 to 224, inclusive, agreed to.

NEW SECTION

Senator Kathryn Reilly: I move amendment No. 52:

In page 230, between lines 15 and 16, to insert the following:

"225. The Act of 1990 is amended by inserting the following in Part X:

"205E. (1) In this section—

'amount of turnover' and 'balance sheet total' have the same meanings as in section 8 of the Companies (Amendment) Act 1986;

'relevant obligations', in relation to a company, means the company's obligations under—

(a) the Companies Acts,

(b) tax law, and

(c) any other enactments that provide a legal framework within which the company operates and that may materially affect the company's financial statements;

'tax law' means—

(a) the Customs Acts,

(b) the statutes relating to the duties of excise and to the management of those duties,

(c) the Tax Acts,

(d) the Capital Gains Tax Acts,

(e) the Value-Added Tax Act 1972 and the enactments amending or extending that Act,

(f) the Capital Acquisitions Tax Act 1976 and the enactments amending or extending that Act,

(g) the statutes relating to stamp duty and to the management of that duty, and

(h) any instruments made under an enactment referred to in any of paragraphs (a) to (g) or made under any other enactment and relating to tax.

(2) This section applies to—

(a) a public limited company (whether listed or unlisted), and

(b) a private company limited by shares,

but it does not apply to a company referred to in paragraph (a) or (b) that is of a class exempted under section 48(1)(j) of the Act of 2003 from this section or to a company referred to in paragraph (b) while that company qualifies for an exemption under subsection (9).

(3) The directors of a company to which this section applies shall, as soon as possible after the commencement of this section or after this section becomes applicable to the company, prepare or cause to be prepared a directors' compliance statement containing the following information concerning the company:

(a) its policies respecting compliance with its relevant obligations;

(b) its internal financial and other procedures for securing compliance with its relevant obligations;

(c) its arrangements for implementing and reviewing the effectiveness of the policies and procedures referred to in paragraphs (a) and (b).

(4) The directors' compliance statement (including any revisions) must—

(a) be in writing,

(b) be submitted for approval by the board of directors,

(c) at least once in every 3 year period following its approval by the board,

be reviewed and, if necessary, revised by the directors, and

(d) be included in the directors' report under section 158 of the Principal Act.

(5) The directors of a company to which this section applies shall also include in their report under section 158 of the Principal Act a statement—

(a) acknowledging that they are responsible for securing the company's compliance with its relevant obligations,

(b) confirming that the company has internal financial and other procedures in place that are designed to secure compliance with its relevant obligations, and, if this is not the case, specifying the reasons, and

(c) confirming that the directors have reviewed the effectiveness of the procedures referred to in paragraph (b) during the financial year to which the report relates, and, if this is not the case, specifying the reasons.

(6) In addition, the directors of a company to which this section applies shall in the statement required under subsection (5)—

(a) specify whether, based on the procedures referred to in that subsection and their review of those procedures, they are of the opinion that they used all reasonable endeavours to secure the company's compliance with its relevant obligations in the financial year to which the annual report relates, and

(b) if they are not of that opinion, specify the reasons.

(7) For the purposes of this section, a company's internal financial and other procedures are considered to be designed to secure compliance with its relevant obligations and to be effective for that purpose if they provide a reasonable assurance of compliance in all material respects with those obligations.

(8) Where the directors of a company to which this section applies fail—

(a) to prepare, or to cause to be prepared, a directors' compliance statement as required by subsections (3) and (4)(a) to (c),

(b) to include a directors' compliance statement in the directors' report as required by subsection (4)(d), or

(c) to comply with subsections (5) and (6), each director to whom the failure is attributable is guilty of an offence.

(9) A private company limited by shares qualifies for an exemption from this section in respect of any financial year of the company if—

(a) its balance sheet total for the year does not exceed—

(i) €7,618,428, or

(ii) if an amount is prescribed under section 48(1)(l) of the Act of 2003 for the purpose of this provision, the prescribed amount,

and

(b) the amount of its turnover for the year does not exceed—

(i) €15,236,856, or

(ii) if an amount is prescribed under section 48(1)(l) of the Act of 2003 for the purpose of this provision, the prescribed amount.

205F.(1) The auditor of a company to which section 205E applies shall undertake an annual review of—

(a) the directors' compliance statement under subsections (3) and (4) of that section, and

(b) the directors' statement under subsections (5) and (6) of that section,

to determine whether, in the auditor's opinion, each statement is fair and reasonable having regard to information obtained by the auditor, or by an affiliate of the auditor within the meaning of section 205D, in the course of and by virtue of having carried out audit work, auditrelated work or non-audit work for the company.

(2) The auditor shall—

(a) include in the auditor's report appended to the company's annual accounts a report on, and the conclusions of, the review undertaken under subsection (1), and

(b) where any statement reviewed under subsection (1) is not, in the auditor's opinion, fair and reasonable—

(i) make a report to that effect to the directors, and

(ii) include that report in the auditor's report appended to the annual accounts.

(3) Where, in the auditor's opinion, the directors have failed—

(a) to prepare, or to cause to be prepared, a directors' compliance statement as required by section 205E(3) and (4)(a) to (c),

(b) to include a directors' compliance statement in the directors' report as required by section 205E(4)(d), or

(c) to comply with section 205E(5) and (6), the auditor shall report that opinion and the reasons for forming that opinion to the Director of Corporate Enforcement.

(4) Section 194(6) applies, with the necessary modifications, in relation to an auditor's compliance with an obligation imposed on him by or under this section as it applies in relation to an obligation imposed by or under section 194.

(5) A person who contravenes this section is guilty of an offence.".".

For a long time we have talked about red tape, regulation and costs. By its nature, regulation involves extra costs and creates a level of red tape for businesses. No one is arguing that we should get rid of regulations totally, but Irish businesses would be more competitive if they were not required to write health and safety statements or if we were to get rid of all regulations to prevent problems and ensure firms adhered to their responsibilities to their staff, the environment, the community and the Government. However, the point we are trying to make which has been echoed by other organisations, including the Irish Congress of Trade Unions, is that there is a balance to be struck between the responsibilities to the greater community and the responsibilities to make a profit for shareholders. There is a need to strike the balance between these competing ends. The belief that the Bill is a watered-down version of what is required has been stated. According to the ICTU, the majority of its concerns and those of other organisations were ignored. In my experience, we have seldom seen such strong statements from three disparate organisations in critiquing this element of the legislation in terms of the need for regulation. If we are to learn anything from the collapse in recent years, it should be that regulation, when necessary, is valuable, that it saves money in the long term and reduces the cost burden on the State.

The new section proposed is rather large. I seek the opinion of the Minister of State on whether he sees particular problems with it or whether the section could be improved. Perhaps any alteration could be addressed on Report Stage.

Deputy Sean Sherlock: This section contains the form of directors compliance statement as recommended by the Company Law Review Group. Having analysed the provisions contained in the 2003 Act, the group determined that such extra duties as set out would do little to increase compliance and merely result in an increase in red tape at considerable cost to Irish businesses. The set-up costs for a business were estimated at €90,000 and the ongoing annual costs at €40,000. A streamlined version of the directors compliance statement proposed by the Company Law Review Group removed the requirement that the statement include a declaration that the company had complied with all other enactments which could affect its financial performance. This was found to be the most burdensome aspect of the statement and also the least relevant since companies were already legally obliged to comply with all Acts of the Oireachtas and their inclusion in the directors compliance statement did not add substantive duties.

A wide majority of the Company Law Review Group, that is, more than 80% of the members, including members representing the Financial Regulator and other public bodies, agreed to a more balanced version of the directors compliance statement. There is a strong European Union impetus towards less unnecessary regulation to make EU businesses more competitive. The amendment would create unjustifiable and disproportionate costs for Irish businesses without adding value in terms of protection. It would disadvantage Ireland competitively as it would move beyond other countries. The directors compliance statement, as it stands, has broad support. For these reasons, it is intended to preserve the directors compliance statement as it stands within the Bill. On this basis, I am not in favour of adopting the amendment.

Amendment put and declared lost.

Section 225 agreed to.

Sections 226 to 249, inclusive, agreed to.

SECTION 250

Government amendment No. 53:

In page 248, line 26, after "to" to insert "in".

Amendment agreed to.

Section 250, as amended, agreed to.

Sections 251 to 262, inclusive, agreed to.

SECTION 263

An Cathaoirleach: Amendments Nos. 54 to 59, inclusive, are related and may be discussed together.

Government amendment No. 54:

In page 258, line 6, to delete "*subsection (3)*" and substitute "*subsection (3)* and *(5)*".

Deputy Sean Sherlock: The purpose of this amendment is to remove the unintended requirement in the Bill for the disclosure of directors' interests in share options granted by parent companies. When a 1% or less share option is granted, it is not required that it be reported to the company.

Amendment agreed to.

Government amendment No. 55:

In page 258, line 11, to delete "subject to *subsection (5)*,".

Amendment agreed to.

Government amendment No. 56:

In page 258, line 31, to delete "extend to the matters referred to in *paragraph (b)* of it" and substitute "arise".

Amendment agreed to.

Government amendment No. 57:

In page 259, line 6, to delete "*subsection (8)*" and substitute "*subsection (8)* and *(10)*".

Amendment agreed to.

Government amendment No. 58:

In page 259, line 11, to delete "subject to *subsection (10)*,".

Amendment agreed to.

Government amendment No. 59:

In page 259, line 28, to delete "extend to the matters referred to in *paragraph (b)* of it" and substitute "arise".

Amendment agreed to.

Section 263, as amended, agreed to.

Sections 264 agreed to.

SECTION 265

Government amendment No. 60:

In page 260, line 34, to delete "rising" and substitute "rise".

Amendment agreed to.

Section 265, as amended, agreed to.

Sections 266 to 270, inclusive, agreed to.

SECTION 271

Question proposed: "That section 271 stand part of the Bill."

Deputy Sean Sherlock: I am considering introducing an amendment to this section on Report Stage in order to bring it into line with existing law. I am also considering introducing an amendment to Chapter 15 on Report Stage in order to bring the audit exemption criteria in line with Article 52 of Directive 2013/34/EU. The aim of this directive is to simplify the accounting requirements for small companies and improve the clarity and comparability of companies' financial statements within the Union. The new directive takes the small company or group as the starting point and imposes additional requirements on medium-sized companies and groups and even further requirements on large companies and groups, as well as on public interest entities. Essentially, the latter are listed companies, banks and insurance undertakings, whether listed or not, regardless of size. This is described as a "think small first" approach. Directive 2013/34/EU must be transposed into national law by July 2015.

Question put and agreed to.

Sections 272 and 273 agreed to.

SECTION 274

Senator Kathryn Reilly: I move amendment No. 61:

In page 266, between lines 37 and 38, to insert the following:

"(d) a certificate of tax compliance,".

This amendment relates to an issue which arose in the context of a young man with a young family who set up a construction company and subcontracted work to a contractor. Over a period of seven or eight years he allowed the contractor to build up a level of credit on the understanding that the latter was tax compliant. Halfway through the period the young man invested a considerable amount of money in his business before discovering that the contractor had not been tax compliant for six or seven years but was still trading. The young man's business collapsed as a result of the level of exposure that had built up. It is important that we ensure that companies operating in these areas are tax compliant. This amendment provides that

companies that are making annual returns must provide certificates of tax compliance as part of that process. It is also designed to ensure that a company may not continue to be registered if it is not fully tax compliant. There is an issue with regard to syncing annual returns with tax returns but it is intended that tax compliance certificates be available for the most recent year. This would be a positive development because it would give confidence to those along the supply chain that there will be no danger of those whom they are dealing with exposing them to future risk.

Deputy Sean Sherlock: I have sympathy for the situation of the person to whom the Senator refers but I cannot accept the amendment. What is proposed would not be a logical inclusion in companies' financial statements. Such statements relate to companies' financial performance and not to their tax obligations. Fiscal accounting address tax obligations. If the Government were to consider a requirement to oblige businesses to obtain and publish certificates of tax compliance, the appropriate place to do so would be in tax law rather than company law in order that both company and non-company businesses, which also pay taxes, would be contemplated. The introduction of the suggested requirement would be entirely without precedent across the European Union. It is on this basis that I am not in favour of accepting the amendment.

Senator Kathryn Reilly: On the basis of what the Minister of State said, I am not going to press the amendment. I will examine the position further and I may, perhaps, consider resubmitting the amendment on Report Stage.

Amendment, by leave, withdrawn.

Section 274 agreed to.

SECTION 275

Government amendment No. 62:

In page 272, line 8, to delete "EEC" where it secondly occurs and substitute "EC".

Amendment agreed to.

Section 275, as amended, agreed to.

Sections 276 to 281, inclusive, agreed to.

SECTION 282

An Cathaoirleach: Amendments Nos. 63 and 64 are related and may be discussed together by agreement. Is that agreed? Agreed.

Senator Feargal Quinn: I move amendment No. 63:

In page 275, to delete lines 23 to 27.

Section 282(2) has the potential to be very confusing for businesses. Senator Reilly referred to red tape and bureaucracy and I am aware that the Minister of State has a campaign to avoid these. The section states: "if those records are not kept by making entries in a bound book [I have never heard that term before] but by some other means, adequate precautions shall be taken for guarding against falsification and facilitating discovery of such falsification, should it occur." This implies that having something written down in a bound book is somehow a pro-

tection against fraud. It sounds like a contention a law firm might have put forward 50 or 100 years ago. Bound books are no longer used in this, the age of the computer. I would love to see the introduction of the mandatory recording of activities in the banks by outside agencies in order to protect against another collapse. If we use the software which is now available, we could protect taxpayers against another collapse similar to that involving the former Anglo Irish Bank.

Section 282(2) offers no concrete definition with regard to what might actually constitute the detection and prevention of fraud. This aspect is already adequately covered in section 282(1), which states that adequate accounting records should "correctly record and explain the transactions of the company". The word "adequate" implies no falsification of a company's records. My amendment aims, therefore, to simplify the legislation by deleting section 282(2), which adds nothing in the context of combating falsification but which encourages those who keep bound books - I love that term - to take fewer precautions against falsification. This part of the Bill is quite strange. What is proposed could have unintended and potentially risky consequences for smaller companies in particular because it implies that they can take more risks if they keep bound books. I hope the Minister of State understands where I am coming from and I hope he will accept the amendment because it makes a great deal of sense.

Amendment No. 64 proposes the deletion of section 282(6), which states that "any computer (the "server computer") that provides services to another computer, being services the provision of which to the latter is necessary so that the accounting records, and the other foregoing information and returns, stored in the latter can be accessed at all times, shall be kept in a place in the State." It is sometimes not feasible for companies with operations in a number of locations across the globe to keep in the State a computer on which accountancy files are stored. There are other technical issues which arise, including the emerging area of cloud computing. The latter is rapidly expanding and allowing data to be accessed from any computer in any location across the globe. That fact may make the requirement contained in the legislation redundant in just a few short years. I wish to strongly emphasise the fact that it is likely that no other country has such a provision. Thus, we are putting ourselves at a disadvantage compared to our competitors, even those across the Border. We are making Ireland less attractive as a place in which to do business, especially to big multinationals. The latter is something we should avoid at all costs. I know the Minister of State and I have similar views on this matter. The purpose of the amendment is to delete the requirement to keep bound books and thus place Ireland on a level playing field with its competitors.

I urge the Minister of State to accept the changes to section 282 which I am proposing. He could not accept earlier amendments in my name but he did indicate that he intended to give further consideration to the matters to which they relate. I am of the view that he should give serious consideration to these amendments and I hope he will accept them.

Deputy Sean Sherlock: I shall take the two amendments together, if I may. I am unclear as to why the Senator has proposed the deletion of subsections (2) and (6), particularly as the proposal does not include any replacement texts. I can only surmise that he is opposed to the Bill making provision for alternative methods for the storing and managing of accounting records, rather than the requirement to keep accounting records on a continuous and consistent basis. Perhaps he will clarify the matter.

The purpose of subsections (2) and (6) is, respectively, to ensure that accounting records must be kept on a continuous and consistent basis, and that they must be available for inspection

in the State. This stems from existing law, specifically section 202 of the 1990 Companies Act. It ought to be noted that the requirement to keep proper books is not an obligation to act as a passive custodian of books, but rather a positive and continuing obligation to create books and records in a particular form and with specified content. The provision has to be general in some respects because technology may change and one cannot be over-prescriptive at the same time.

Subsection (2) in the Bill is cognisant of the fact that ledgers exist in electronic form and, therefore, requires that such ledgers must also be updated and safeguarded from falsification, in a positive manner. It is important that the Bill reflects the realities of the majority of modern company practices. I am not in favour of deleting existing law from this section, on that basis.

The Companies Bill anticipates that where such records are kept, other than book form, safeguards shall be taken to guard against falsification. Subsection (6), subject to the provisions of subsection (7), ensures that where accounting records, other information and returns are kept on a computer that the computer shall be kept in the State. This is another positive duty that recognises that many modern companies no longer rely on ledgers and paper when maintaining or recording any transactions.

I cannot support a proposal to remove references and safeguards relating to technological innovations from this section. This Bill aims to strike a balance between good regulation and the need to ensure that the operating environment for companies in Ireland is informed by the realities of modern companies. Record management is a crucial aspect for modern companies. The rationale behind these provisions is to ensure that the companies availing of modern technologies shall take certain precautions to ensure that said records are accessible and authentic.

With regard to the second point made about records, we could take a look at that on Report Stage. I also take the point that the Senator made in relation to cloud computing which is something we must have due regard for. Perhaps we could come back to it at a later stage in the proceedings, if that is okay with the Senator.

Senator Feargal Quinn: I thank the Minister of State for his response. It was the term "bound book" that got me because I thought it sounded like something from Dickens or whomever. I was also struck by how cloud computing is so big. This morning I dropped into the Springboard demonstration or launch taking place at Customs House Quay. It was amazing to witness hundreds of attendees meeting organisations and colleges from around Ireland and, very often, they were selling cloud computing. I spoke to one man who had travelled all the way from Waterford to the event because he had got a job but wanted to locate a specific course. Another person asked him what he could do and he promptly demonstrated his cloud computing skills. That person said to him, "I need you immediately, will you start next week?"

That scenario reminded me how strange it would be for us to include a provision stipulating that the information must be kept in a bound book and kept in the State. To the best of my knowledge, this provision does not apply in other countries. We should change the provision in order to make us more competitive. I was happy to hear the Minister of State say that the matter would be given consideration. It is one of the amendments that needs further consideration before we reach the Final Stage. I was pleased to hear that the Minister of State has agreed that he will do so.

Amendment, by leave, withdrawn.

Amendment No. 64 not moved.

Section 282 agreed to.

Sections 283 to 285, inclusive, agreed to.

SECTION 286

Question proposed: "That section 286 stand part of the Bill."

Deputy Sean Sherlock: I am considering introducing an amendment to section 286 on Report Stage to provide for a more precise penalty for not maintaining adequate accounting records.

Question put and agreed to.

Sections 287 to 290, inclusive, agreed to.

SECTION 291

Question proposed: "That section 291 stand part of the Bill."

Deputy Sean Sherlock: I am considering introducing an amendment to this section on Report Stage. It is considered that further refinement of the wording, regarding the penalty, may be required as it may not be specific enough.

Question put and agreed to.

Sections 292 to 306, inclusive, agreed to.

SECTION 307

Government amendment No. 65:

In page 298, line 36, after "of" to insert "the".

Amendment agreed to.

Section 307, as amended, agreed to.

Sections 308 to 310, inclusive, agreed to.

SECTION 311

Government amendment No. 66:

In page 305, line 30, to delete "bank" and substitute "institution".

An Cathaoirleach: Amendments Nos. 66 and 67 are cognate and may be discussed together by agreement. Is that agreed? Agreed.

Deputy Sean Sherlock: The purpose of these amendments is to delete the reference to a "bank" and replace with the word "institution". This will result in a uniformity of language throughout the Bill and is in line with EU law. It is a technical drafting amendment.

Amendment agreed to.

Government amendment No. 67:

In page 306, line 19, to delete "bank" and substitute "institution".

Amendment agreed to.

Section 311, as amended, agreed to.

Sections 312 to 316, inclusive, agreed to.

SECTION 317

Government amendment No. 68:

In page 313, line 19, to delete "scheme" and substitute "scheme,".

Amendment agreed to.

Section 317, as amended, agreed to.

Sections 318 to 321, inclusive, agreed to.

SECTION 322

Government amendment No. 69:

In page 317, line 5, to delete "EEC" and substitute "EC".

Amendment agreed to.

Section 322, as amended, agreed to.

Sections 323 to 334, inclusive, agreed to.

SECTION 335

Government amendment No. 70:

In page 325, line 31, after "that" to insert "2 or more of".

An Cathaoirleach: Amendments Nos. 70, 72 to 80, inclusive, 82, 86 and 87 are cognate and may be discussed together by agreement. Is that agreed? Agreed.

Deputy Sean Sherlock: This is a significant amendment and arises as a consequence of the CLRG's recommendation in 2013 that company law be amended to allow companies that meet two of the three criteria relating to balance sheet total turnover and number of employees, to qualify for audit exemption. The intention here is to use the available provisions in EU law to help small companies. The Bill, as it stands, incorporates section 32(3)(*a*)(ii) and section 32(3)(*a*)(iii) of the Companies (Amendment) (No. 2) Act 1999. It provides that a private company limited by shares that meets three specified criteria may be exempted from the general rule that the annual accounts of a company must be audited. The three criteria and their current thresh-

olds are: the annual turnover does not exceed €8.8 million; the balance sheet does not exceed €4.4 million; and the average number of employees does not exceed 50. The current thresholds were set in August 2012 and are given effect in two statutory instruments: the European Union (Accounts) Regulations 2012, SI No. 304 of 2012; and the Companies (Amendment) No. 2 Act 1999 (Section 32) Order 2012, SI No. 308 of 2012. This legislation transposes into Irish law elements of the fourth Council directive on the annual accounts of certain types of companies, which provides that member states may exempt companies from the obligation to conduct an annual audit where they meet at least two of the three criteria. When introducing this provision into Irish law in 1999, the Oireachtas chose to require companies to meet all three. The Bill, as initiated, carried forward the existing legislative provisions on audit exemption and now proposes to extend the scope of the exemption. In this regard, the Bill also provides for the application of the exemption for the first time to companies limited by guarantee. It provides that a company may be either a parent or subsidiary applying the three criteria to the group as a whole and not to individual companies within the group. This also proposes the application of the audit exemption to a dormant company.

Amendment agreed to.

Section 335, as amended, agreed to.

Sections 336 to 342, inclusive, agreed to.

SECTION 343

Government amendment No. 71:

In page 333, line 36, to delete "The court" and substitute the following:

"In respect of an annual return that is to be delivered on or after the commencement of this section, the court".

Deputy Sean Sherlock: This amendment is to clarify the District Court's jurisdiction and that the extension of filing period applications in respect of annual returns is limited to returns that are delivered to the CRO on or after the commencement of this section. This would preclude companies that have already filed annual returns from seeking extensions of time and other misuses of the section, such as seeking refunds of late filing penalties. An application to the District Court can be made only by companies with outstanding returns at the time of the Bill's commencement.

Amendment agreed to.

Section 343, as amended, agreed to.

Sections 344 to 357, inclusive, agreed to.

SECTION 358

Government amendment No. 72:

In page 346, line 10, after "satisfy" to insert "at least 2 of".

Amendment agreed to.

Government amendment No. 73:

In page 346, line 16, after "satisfied" to insert "at least 2 of".

Amendment agreed to.

Government amendment No. 74:

In page 346, line 22, after "satisfy" to insert "at least 2 of".

Amendment agreed to.

Government amendment No. 75:

In page 346, line 28, after "satisfied" to insert "at least 2 of".

Amendment agreed to.

Government amendment No. 76:

In page 346, line 40, after "satisfied" to insert "at least 2 of".

Amendment agreed to.

Section 358, as amended, agreed to.

Section 359 agreed to.

SECTION 360

Government amendment No. 77:

In page 348, lines 19 and 20, to delete "one or more of the conditions" and substitute "one or both of the relevant conditions".

Amendment agreed to.

Section 360, as amended, agreed to.

SECTION 361

Government amendment No. 78:

In page 349, line 18, after "that" to insert "2 or more of".

Amendment agreed to.

Government amendment No. 79:

In page 349, line 22, after "that" to insert "2 or more of".

Amendment agreed to.

Section 361, as amended, agreed to.

SECTION 362

Government amendment No. 80:

In page 349, line 39, after "that" to insert "2 or more of".

Amendment agreed to.

An Cathaoirleach: Amendments Nos. 81 and 83 to 85, inclusive, are related and may be discussed together, by agreement.

Government amendment No. 81:

In page 350, line 2, to delete "Schedule." and substitute "Schedule, or if it is a relevant securitisation company.".

Deputy Sean Sherlock: The purpose of these amendments is to exclude securitisation-type companies from the audit exemption criteria. Securitisation companies are companies that are either registered financial vehicle corporations within the meaning of Article 1.2 of FVC Regulation (EC) No. 24/2009 of the European Central Bank or financial vehicles engaged solely in activities where economic participation is by way of debt or other corresponding instruments which do not provide ownership rights in the financial vehicle as are provided by the sale of units or shares.

Amendment agreed to.

Government amendment No. 82:

In page 350, line 3, after "that" to insert "2 or more of".

Amendment agreed to.

Government amendment No. 83:

In page 350, line 8, to delete "Schedule, or" and substitute "Schedule, or if it is a relevant securitisation company, or".

Amendment agreed to.

Government amendment No. 84:

In page 350, line 13, to delete "Schedule, or" and substitute the following:

"Schedule,

(iv) a relevant securitisation company, or".

Amendment agreed to.

Government amendment No. 85:

In page 350, between lines 15 and 16, to insert the following:

"(3) In this section "relevant securitisation company" means—

(a) a qualifying company within the meaning of section 110 of the Taxes Consolidation Act 1997; or

(b) a financial vehicle corporation ("FVC") within the meaning of—

(i) in the period before 1 January 2015, Article 1(1) of Regulation (EC) No. 24/2009 of the European Central Bank of 19 December 2008 concerning statistics on the assets and liabilities of financial vehicle corporations engaged in securitisation transactions; or

(ii) subject to *subsection (4)*, in the period on or after 1 January 2015, Article 1(1) of Regulation (EU) No. 1075/2013 of the European Central Bank of 18 October 2013 concerning statistics on the assets and liabilities of financial vehicle corporations engaged in securitisation transactions (recast).

(4) If a Regulation is made by the European Central Bank concerning statistics on the assets and liabilities of financial vehicle corporations engaged in securitisation

transactions that—

(a) contains a different definition of financial vehicle corporation ("FVC") from that referred to in *subparagraph (ii)* of *subsection (3)(b)*, the reference in that provision to that definition shall be read as a reference to the definition contained in the Regulation so made, or

(b) amends the definition so referred to, the reference in that provision to that definition shall be read as a reference to that definition as it stands so amended.".

Amendment agreed to.

Section 362, as amended, agreed to.

SECTION 363

Government amendment No. 86:

In page 350, line 17, after "that" to insert "2 or more of".

Amendment agreed to.

Section 363, as amended, agreed to.

SECTION 364

Government amendment No. 87:

In page 350, line 38, after "that" to insert "2 or more of".

Amendment agreed to.

Section 364, as amended, agreed to.

Sections 365 to 407, inclusive, agreed to.

SECTION 408

Government amendment No. 88:

In page 380, to delete line 14 and substitute the following:

"(c) shares, bonds or debt instruments,".

Deputy Sean Sherlock: The purpose of this amendment is to refine the definition of "charge". It is appropriate to have "shares, bonds or debt instruments" contained in a distinct sub-clause.

Amendment agreed to.

Government amendment No. 89:

In page 380, between lines 19 and 20, to insert the following:

"(2) Any exclusion provided in *subsection (1)* to what is defined in that subsection as constituting a "charge" may be varied by order made by the Minister if the Minister considers that it is necessary or expedient to do so in consequence of any Community act adopted after the commencement of this section relating to financial collateral arrangements.".

Deputy Sean Sherlock: The purpose of this amendment is to provide that the definition of "charge" could be altered by statutory instrument in the future to ensure continued alignment with a financial collateral arrangement under the European Community's financial collateral arrangements regulations.

Amendment agreed to.

Section 408, as amended, agreed to.

SECTION 409

Government amendment No. 90:

In page 381, line 27, to delete "is created in the State but".

Deputy Sean Sherlock: The purpose of this amendment is to align the Bill with existing legislation. The words "is created in the State" are redundant and do not serve any useful purpose, particularly in light of the fact that subsections 99(3) and 99(5) of the Companies Act 1963 are not repeated here.

Amendment agreed to.

Section 409, as amended, agreed to.

Sections 410 and 411 agreed to.

NEW SECTION

An Cathaoirleach: Amendments Nos. 91 to 93, inclusive, are related and are to be discussed together by agreement.

Government amendment No. 91:

In page 382, between lines 18 and 19, to insert the following:

"Priority of charges

412. (1) For the purposes of this section—

(a) "relevant rule of law" means a rule of law that governs the priority of charges created by a company, and for the avoidance of doubt, any enactment governing the priority of such charges is not encompassed by that expression,

(b) the reference in *subsection (2)* to any priority that one charge, by virtue of a person's not having notice of a matter, enjoys over another charge or charges shall be deemed to include a reference to any priority that an advance made on foot of a charge, by virtue of a person's not having notice of a matter, enjoys over a subsequent charge or charges.

(2) On and from the commencement of this section, any relevant rule of law shall stand modified in the manner specified in *subsection (3)*, but not so as to displace any priority, whether before or after that commencement, that one charge, by virtue of a person's not having notice of a matter, enjoys over another charge or charges.

(3) That modification is that, for the part of the rule that operates by reference to the time of creation of the 2 or more charges concerned, there shall be substituted a part that operates by reference to—

(a) the dates of receipt by the Registrar of the prescribed particulars of the 2 or more charges concerned, or

(b) if the date of receipt by the Registrar of the prescribed particulars of the 2 or more charges is the same, the respective times, on the date concerned, of receipt by the Registrar of those particulars.

(4) References in *subsection (3)* to the date, or time, of receipt of the prescribed

particulars are references to—

(a) if the procedure under *subsection (3)* of *section 409* is complied with in relation to a particular charge, the date, or time, of receipt by the Registrar of the prescribed particulars, in the prescribed form, of the charge, or

(b) if the procedure under *subsection (4)* of *section 409* is complied with in relation to a particular charge, the date, or time, of receipt by the Registrar of the notice, in the prescribed form and containing the prescribed particulars, in relation to the charge under *paragraph (a)* of that *subsection (4)*.

(5) *Subsections (2)* and *(3)* shall not affect any agreement between persons in whose favour charges have been created in relation to the priority that those charges shall, as between them, have.

(6) Subject to *subsection (7)*, in relation to particulars of a charge received by the

Registrar pursuant to *section 409(3)* or *(4)*, the following provisions apply so far as those particulars consist of particulars of a negative pledge, any events that crystallise a floating charge or any restrictions on the use of any charged asset (and particulars of any such matter are referred to subsequently in this subsection as "extraneous material"):

(a) the Registrar shall not enter in the register under *section 414* particulars of the extraneous material pursuant to that section;

(b) the fact that the Registrar has received the particulars of the extraneous material shall have no legal effect; but nothing in the foregoing affects the validity of the receipt by the Registrar of the other particulars of the charge.

(7) *Subsection (6)* does not apply to particulars of a negative pledge included in particulars of a floating charge granted by a company to the Central Bank for the purposes of either providing or securing collateral.

(8) In this section "negative pledge" means any agreement entered into by the company concerned and any other person or persons that—

(a) provides that the company shall not, or shall not otherwise than in specified circumstances—

(i) borrow moneys or otherwise obtain credit from any person other than that person or those persons,

(ii) create or permit to subsist any charge, lien or other encumbrance or any pledge over the whole or any part of the property of the company, or

(iii) alienate or otherwise dispose of in any manner any of the property of the company,

or

(b) contains a prohibition, either generally or in specified circumstances, on the doing by the company of one or more things referred to in one, or more than one, provision of *paragraph (a)*.".

Deputy Sean Sherlock: The purpose of these amendments is to provide for a modification of the rules governing priority of charges. "Priority of charges" refers to where two or more successive mortgages are created over the same property. The current rule of priority is that the first mortgage has priority over the subsequent mortgage, subject to an exception where the second mortgagee gives notice to the first of the creation of the second mortgage, in which case the second mortgage will have priority over amounts secured by the first mortgage advanced after the date of such notice. This is known as the tacking of further advances. As far as charges on land are concerned, the exemption is contained in section 111 of the Land and Conveyancing Law Reform Act 2009 and section 75 of the Registration of Title Act 1964. However, there is no equivalent legislation which governs assets other than land, rather the same result is arrived at under common law.

As the Bill stands, section 412 provides that unless their priority is otherwise governed by another enactment, charges will rank in priority in accordance with their date of registration in the CRO and makes no provision for the tacking of further advances. Accordingly, if the section is enacted in its current form, the position on the tacking of further advances will vary, according to whether the assets charged are land or assets other than land. The holder of a second charge over land will be able to get priority over further advances, whereas the holder of a second charge on other assets will not as there is no legislative provision for it. This would not be a desirable outcome.

The purpose of the further amendments is to bring the chapter in line with the recommendation made in the CLRG's second report to exclude a notice of crystalisation of a floating charge, events giving rise to crystalisation or provisions for dealing with payments of proceeds to be made into a special designated account from the particulars of a charge received by the registrar and entering into the register. Subsection (5) sets out provisions filed in form C1 which should not be taken for filing to cut down on the work of the CRO in preparing the form while retaining the requirement to file details of charges. Negative pledges are excluded under section 412, but notice of crystalisation events, a floating charge, events giving rise to crystalisation or provisions dealing with payments or proceeds to be made into a special designated account should also be excluded. This was recommended in the CLRG's second report.

The section contains various transitional provisions relating to priorities and ensures priority as between charges created just before commencement but not registered until after and charges created just after commencement will be determined according to the rules of sections 412 and 413, not according to existing law.

Amendment agreed to.

Section 412 deleted.

Sections 413 to 418, inclusive, agreed to.

SECTION 419

Government amendment No. 92:

In page 387, line 9, after "commencement" to insert the following:

", and the foregoing reference to the time allowed under those provisions includes the time allowed under those provisions as extended by an order (if such has been made) under section 106 of the Act of 1963".

Amendment agreed to.

Section 419, as amended, agreed to.

NEW SECTION

Government amendment No. 93:

In page 387, between lines 9 and 10, to insert the following:

"Transitional provisions in relation to priorities of charges

420. (1) In this section "charge to which the special transitional case applies" means a charge referred to in the case set out in section 419(2).

(2) Subject to subsection (3), the modification by section 412 of any rule of law there referred to (in this section referred to as the "section 412 rule modification") shall not apply in relation to the issue of the priority of any charge (within the meaning of Part IV of the Act of 1963), created before the commencement of this Part, as against a charge falling within this Part created on or after that commencement.

(3) The section 412 rule modification shall apply in relation to the issue of the

priority of a charge to which the special transitional case applies (as against a charge falling within this Part created on or after commencement of that Part) if the first-mentioned charge has not been registered under Part IV of the Act of 1963 before that commencement.

(4) For the purposes of the application of the section 412 rule modification to the issue of priority falling within subsection (3), references in section 412# to the date, or time, of receipt of the prescribed particulars shall, in relation to a charge to which the special transitional case applies, be read as references to the date, or time, of delivery to, or receipt by, the Registrar (under and in compliance with Part IV of the Act of 1963, as continued by section 419) of the matters that are required by that Part to be so delivered or received for the purposes of registering the charge thereunder.

(5) Non-compliance with the requirement in the second sentence of section 102(1) of the Act of 1963 shall be disregarded for the purposes of subsection (4).".

Amendment agreed to.

Section 420 deleted.

Sections 421 to 448, inclusive, agreed to.

SECTION 449

Government amendment No. 94:

In page 406, line 21, after "representing" to insert "at least".

Deputy Sean Sherlock: The purpose of the amendment is to clarify that "special majority" means a majority in number representing at least 75% in value of the creditors, class of creditors or members or class of members, as the case may, will be present and voting in person or by proxy at the scheme meeting. The section defines a number of terms for the purposes of this Part.

Amendment agreed to.

Section 449, as amended, agreed to.

Section 450 agreed to.

SECTION 451

Government amendment No. 95:

In page 408, line 3, to delete "seems" and substitute "sees".

Amendment agreed to.

Section 451, as amended, agreed to.

Sections 452 to 454, inclusive, agreed to.

SECTION 455

Government amendment No. 96:

In page 411, line 2, after "out" to insert "in".

Amendment agreed to.

Section 455, as amended, agreed to.

Sections 456 to 470, inclusive, agreed to.

SECTION 471

An Cathaoirleach: Amendments Nos. 97 and 100 are related and may be discussed together.

Government amendment No. 97:

In page 426, to delete lines 13 and 14.

Deputy Sean Sherlock: The purpose of the amendments is to remove the obligation to make documents available for physical inspection where documents are available on the website of the company free of charge.

Amendment agreed to.

Section 471, as amended, agreed to.

Sections 472 to 475, inclusive, agreed to.

SECTION 476

Government amendment No. 98:

In page 428, line 35, to delete "is" and substitute "are".

Amendment agreed to.

Section 476, as amended, agreed to.

Sections 477 to 479, inclusive, agreed to.

SECTION 480

Government amendment No. 99:

In page 430, line 21, after "of" where it thirdly occurs to insert "the".

Deputy Sean Sherlock: I am considering introducing an amendment on Report Stage to cater for the consequences of a merger on real or immovable property. It may be possible to improve the language of these provisions to increase certainty with respect to the property transactions and thus reduce the paperwork and costs to business associated with a merger.

Amendment agreed to.

Section 480, as amended, agreed to.

Sections 481 to 494, inclusive, agreed to.

SECTION 495

Government amendment No. 100:

In page 443, to delete lines 16 and 17.

Amendment agreed to.

Section 495, as amended, agreed to.

Sections 496 to 498, inclusive, agreed to.

SECTION 499

Government amendment No. 101:

In page 445, line 18, to delete "is" and substitute "are".

Amendment agreed to.

Government amendment No. 102:

In page 445, line 22, to delete "*subsection (2)*" and substitute "*subsection (1)*".

Deputy Sean Sherlock: The purpose of the amendment is to correct a subsection reference.

Amendment agreed to.

Section 499, as amended, agreed to.

Sections 500 to 525, inclusive, agreed to.

6 o'clock

SECTION 526 Government amendment No. 103:

In page 465, line 30, after "him" to insert "or her".

Deputy Sean Sherlock: The amendment merely purports to insert a female pronoun into this section.

Amendment agreed to.

Section 526, as amended, agreed to.

Sections 527 to 566, inclusive, agreed to.

SECTION 567

An Cathaoirleach: Amendments Nos. 104, 105 and 111 are related and may be discussed by agreement. Is that agreed? Agreed.

Senator Kathryn Reilly: I move amendment No. 104:

In page 488, between lines 26 and 27, to insert the following:

"(5) Where a breach of employment law is committed by a body corporate or by a person acting on behalf of a body corporate and is proved to have been so committed with the consent, connivance or approval of, or to have been attributable to any neglect on the part of, a person who, when the breach was committed, was a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, that person (as well as the body corporate) shall be liable to be proceeded against as if guilty of the breach committed by the body corporate.".

The first amendment seeks to insert a form of words to increase responsibility. It pretty much does what it says on the tin and holds people to account. This Bill offers us the opportunity to strengthen employee rights and ensure that individuals who have been mistreated have an opportunity to hold these companies to account for reasonable amounts of money in the wind-up process and elsewhere. While an approach to the court would be a very unwieldy and difficult activity for an individual to proceed with, the very fact that employees' rights are written in law would encourage most companies to take these rights more seriously. The law in its own right does serve as a guideline for the proper functioning of society. It would only be necessary to pursue the matter through the courts in a small minority of cases.

In respect of amendment No. 111, I know the total amount payable was already increased in the legislation but in reality, it would be very low and we could increase it. The figure of €40,000 that we provide is an example and is just above the average industrial wage.

Deputy Sean Sherlock: I am not in a position to adopt these amendments. The Bill is concerned with company law only. In general terms, company law concerns itself with the fiduciary duties that a director owes to the company alone while recognising that a director ought to "have regard to the interests" of his or her employees. It would be wholly inappropriate to include the proposed provisions in the Bill. Legislation governing employee rights should be considered in the context of employment law. By addressing such a matter in a company Bill, the provision is not providing protection for all employees such as sole traders and those working in partnerships.

Second, employment law already provides for redress in less cumbersome and costly fora than the High Court. Equally important, it must also be borne in mind that company law must balance the rights of all creditors, many of whom are employers in their own right, in winding up situations. I appreciate that the Senator is attempting to achieve laudable goals here but the simple fact is that company law is not the correct vehicle for these ambitions and it is on that basis that we are not in favour of the amendments.

In addition to the general objections previously noted, amendment No. 104 would fail in substance as prosecutions thereunder would be doomed to fail due to the ambiguity of the phrase "breach of employment law". There is no indication as to what is meant by this. No such provisions are workable but only in the context of a specific and appropriate enactment where the transgressions are clearly identified or identifiable. Finally, the amendment proposes that the separate legal personality of the company would be breached for a transgression of civil law rather than criminal law. In all the other circumstances where this phrase is used, for example, in health and safety legislation, it requires a criminal offence.

Amendment No. 105 suggests that a company may be wound up in court where it owes an employee or a group of employees more than €1,500. The Bill sets a limit at €10,000 as it was considered that greater balance and proportionality must be achieved in circumstances where

the sanction of wind up is potentially so severe. The section does not distinguish between an employee and any other creditor. In the circumstances, any creditor is entitled to issue a letter demanding payment and if after 21 days, such payment has not been received, the creditor is entitled to petition the High Court. I am sure the Senators present appreciate that petitioning the High Court is not a simple or low-cost exercise. It would have to be questioned whether winding up was really the most effective way to settle a debt for €1,500. It must also be borne in mind that there are provisions in both employment and health and safety law alongside common law remedies that already provide for the type of situation described. For example, the Payment of Wages Act 1991 provides more efficient remedies for employees who have not been paid their wages than an attempt to have the company wound up in the High Court with all of the associated costs.

An Cathaoirleach: Is amendment No. 104 being pressed?

Senator Kathryn Reilly: In light of what the Minister has said, I will withdraw the amendment.

Amendment, by leave, withdrawn.

Section 567 agreed to.

Sections 568 and 569 agreed to.

Amendment No. 105 not moved.

Section 570 agreed to.

Sections 571 to 579, inclusive, agreed to.

SECTION 580

Government amendment No. 106:

In page 493, line 32, to delete "the" where it firstly occurs.

Amendment agreed to.

An Cathaoirleach: Amendments Nos. 107 and 108 are related and may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 107:

In page 494, to delete lines 27 to 32 and substitute the following:

"(6) The provisions of this section shall be read and shall operate so that a members' voluntary winding up under this section may be carried on at a time falling before compliance with the requirement of subsection (5) that a copy of the declaration there referred to be delivered to the Registrar; however – should a failure to comply with that requirement occur – that failure then invalidates the carrying on of that activity, but this is without prejudice to the power of validation conferred on the court by subsection (7).

(7) On application to it by any interested party, the court may, in any case where there has been a failure to comply with subsection (5), declare that the carrying on of the members' voluntary winding up shall be valid for all purposes if the court is satisfied that

it would be just and equitable to do so.".

Deputy Sean Sherlock: The purpose of this amendment is to clarify the court's discretionary powers in circumstances where a company fails to comply with a requirement to deliver within 14 days after the commencement of the members' voluntary winding up a copy of the declaration to the registrar.

Amendment agreed to.

Section 580, as amended, agreed to.

Sections 581 to 585, inclusive, agreed to.

SECTION 586

Government amendment No. 108:

In page 497, after line 37, to insert the following:

"(4) Where a company has passed a resolution for it to be wound up as a creditors' voluntary winding up, it shall, within 14 days after the date of the passing of the

resolution, give notice of the resolution by advertisement in *Iris Oifigiúil*.

(5) If default is made in complying with *subsection (4)*, the company concerned and any officer of it who is in default shall be guilty of a category 3 offence.

(6) For the purposes of *subsection (5)*, the liquidator of the company shall be deemed to be an officer of the company.".

Amendment agreed to.

Section 586, as amended, agreed to.

SECTION 587

Government amendment No. 109:

In page 498, line 37, after "be" to insert "the".

Amendment agreed to.

Section 587, as amended, agreed to.

Sections 588 to 594, inclusive, agreed to.

SECTION 595

Government amendment No. 110:

In page 504, line 4, after "is" to insert "in".

Amendment agreed to.

Section 595, as amended, agreed to.

Sections 596 to 620, inclusive, agreed to.

Amendment No. 111 not moved.

Sections 621 and 622 agreed to.

NEW SECTION

Government amendment No. 112:

In page 528, between lines 2 and 3, to insert the following:

"Unclaimed dividends and balances to be paid into a particular account

623. (1) Where a company has been wound up, and is about to be dissolved, the liquidator shall, in such manner as may be prescribed, lodge to such account as is prescribed by the Minister the whole unclaimed dividends admissible to proof and unapplied or undistributable balances.

(2) An application to the court by a person claiming to be entitled to any dividend or payment out of a lodgment made in pursuance of *subsection (1)*, and any payment out of such lodgment in satisfaction of such claim, shall be made in the prescribed manner.

(3) At the expiration of 7 years after the date of any lodgment made in pursuance of *subsection (1)*, the amount of the lodgment remaining unclaimed shall be paid into the Exchequer, but where the court is satisfied that any person claiming is entitled to any dividend or payment out of the moneys paid into the Exchequer, it may order that that dividend or payment be made and the Minister for Finance shall issue such sum as may be necessary to provide for that payment.

(4) Where moneys invested or deposited at interest by a liquidator form part of the amount required to be lodged, pursuant to *subsection (1)*, to the account referred to in that subsection, the liquidator shall realise the investment or withdraw the deposit and shall pay the proceeds into that account.".

Deputy Sean Sherlock: The purpose of this amendment is to ensure that the Minister may prescribe the most cost-effective manner in which the courts service can maintain unclaimed dividends and balances.

Amendment agreed to.

Section 623 deleted.

Sections 624 to 632, inclusive, agreed to.

SECTION 633

Government amendment No. 113:

In page 537, to delete lines 9 to 18 and substitute the following:

"(I) having been—

(A) employed in relevant work by a person who at the relevant time fell (or, if this

section had been in operation at that time, who would have fallen) within *paragraph 1*, *2* or *3*; or

(B) engaged on his or her own account in relevant work;

or

(II) having practised in an EEA state (not being the State) as a liquidator;

(ii) the person is, in the opinion of the Supervisory Authority, after consultation with the Director, a fit and proper person to act as a liquidator; and

(iii) the person does not fall within *paragraph 1*, *2*, *3* or *4*.".

Deputy Sean Sherlock: The amendment is typographical in nature and does not have a substantial impact on the Bill.

Amendment agreed to.

Section 633, as amended, agreed to.

Sections 634 to 643, inclusive, agreed to.

SECTION 644

Government amendment No. 114:

In page 544, line 35, to delete "seal" and substitute "(which seal".

Amendment agreed to.

Section 644, as amended, agreed to.

Sections 645 to 686, inclusive, agreed to.

Progress reported; Committee to sit again.

Public Health (Sunbeds) Bill 2013: Committee Stage (Resumed) and Remaining Stages

Sections 6 to 25, inclusive, agreed to.

Title agreed to.

Bill reported without amendment and received for final consideration.

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

Minister for Health (Deputy James Reilly): I thank all Senators for their support. Some 850 new cases of melanoma are diagnosed every year and 150 people die every year from melanoma. Data from the HSE indicates that the cost of treating it ranges from €6,000 to €10,000 per patient but new treatments that have recently come on stream range from €50,000 to €100,000. The passage of this Bill is timely.

Men's health awareness week ran from 9 to I5 June and according to Men's Health Forum in Ireland, men experience a disproportionate burden of ill health and die too young. In this context the National Cancer Registry Ireland has indicated that in the next 25 years the incidence of melanoma is projected to rise by 175% for women and by a whopping 327% for men. We can change those horrifying projections by taking very simple measures. I would encourage everybody to take action to minimise their exposure to UV radiation.

I thank the Irish Cancer Society, the Marie Keating Foundation, the Environmental Health Association of Ireland, and let me restate what I said at their conferences, they are the unsung heroes of our health service. The work they do is below the radar but it saves many lives. This Bill will further enable them to protect our children against the danger of sunbed use.

I thank the industry representatives, the officials of my Department, the Environmental Health Service, the HSE, the National Cancer Control Programme, the members of the National Implementation Group and colleagues in both Houses. The contribution of all Members and that of the groups I have listed has ensured that we will have a robust tool to protect children and to inform adults about the dangers of sunbed use and the need to protect ourselves from deadly UV radiation.

Senator Colm Burke: I thank the Minister for Health for bringing forward this Bill. I thank the departmental officials and all who were involved in pushing forward this legislation.

I join the Minister in thanking the Irish Cancer Society and all the organisations involved in promoting the need to be careful about our health. What has happened in the past 25 years is that conditions are being diagnosed much earlier. We need to get the information into the public domain. The Bill regulates sunbed use for children. In the way we are getting information on the dangers of smoking into the public domain, the dangers of the use of sunbed must come into the public domain.

This welcome Bill is long overdue. I thank the Minister for his work in this area.

Senator Jillian van Turnhout: I too thank the Minister. It is not often that we discuss the prevention measures required for health. This Bill is exactly what is needed when we want to ensure measure are in place for prevention and early intervention. I too wish to thank the Irish Cancer Society, and some of their members are in the Visitors Gallery, and all the other great organisations that are the unsung heroes of our health service. They do not often get public recognition, because it is about prevention.

The Minister and Members have done a good day's work in the passage of this Bill in the Seanad.

Senator John Crown: Ba mhaith liom comhghairdeas a dhéanamh leis an Aire ar an Bhille. It is great news that the Bill has passed. In addition to the practical implications of protecting young people against the harmful effects of unnecessary ultraviolet radiation, it gives us a great opportunity to hammer home the message that Ireland's gene pool has the highest incidence of malignant melanoma. Irish people who live in sunny places such as Australia have the highest demographic of this disease anywhere in the world. This is an emergency problem facing Ireland. The Minister has outlined the numbers, 400 cases in 1998, 800 cases in 2008 and 1,100 this year. The incidence of melanoma is rising very dramatically. There have been, as the Minister pointed out, extraordinary advances, probably bigger advances in the treatment of this cancer in the past two years than of any other cancer. They will give us unique health economic

challenges in the next few years when very expensive and effective new drugs are presented for health technology assessments to HIQA. Virtually all cases of metastatic melanoma can be prevented if people were diagnosed early. It must be stated that the key problem is diagnosing the disease when it is confined to the skin, when it has an extremely high rate of cure.

Having successfully shepherded this laudable and worthwhile Bill through the Seanad, the next challenge is to ensure that we have dermatologists in the south east region and that Ireland is lifted off the bottom of the league table of dermatologists per head of population of any country in the OECD, which is a distinction that we do not need. In addition, we need to make as major an educational effort on wholly avoidable excess sun exposure, sunburn, dangerous UV radiation exposure as he and others have done successfully with tobacco. We need to make this a major priority.

When I was a medical student and studying oncology, we thought of melanoma as a terrible but a very uncommon disease. It is not uncommon any more. Melanoma is now more common in Ireland than many of the other cancers which have much higher profiles. As a cause of death from cancer, melanoma is no longer rate. It is becoming a major problem which must be tackled on all fronts, prevention by this worthwhile legislation and education, facilitating early diagnosis by having adequate numbers of skin specialists. We need to be ready for the challenge we will face when the new drugs come on the market.

I congratulate the Minister and say well done for shepherding this Bill through this House.

Question put and agreed to.

Public Health (Standardised Packaging of Tobacco) Bill 2014: Order for Second Stage

Bill entitled an Act to provide for standardised packaging of tobacco and tobacco products; to give effect in part to Directive No. 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC; and to provide for related matters.

Senator Colm Burke: I move: "That Second Stage be taken today."

Question put and agreed to.

Public Health (Standardised Packaging of Tobacco) Bill 2014: Second Stage

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

Minister for Health (Deputy James Reilly): I thank the Senators for beginning this Bill in the Seanad. It is appropriate, given that we have just finished another public health Bill which will protect our citizens, particularly our children, from malignant melanoma, which, as Senator Crown said, is highly preventable. The Bill we are now discussing is another that will

lead to a great reduction in the incidence of cancers in this country, particularly lung cancer, which in the vast bulk of cases is entirely preventable.

I will begin with a few quotes to give a sense of what we are dealing with here. "We don't believe it's ever been established that smoking is the cause of disease," "I'm unclear in my own mind whether anyone dies of cigarette smoking related diseases," and "I do not believe that nicotine is addictive." These statements were made, under oath, by the vice president of the Tobacco Institute, Murray Walker, the chairman of Philip Morris, Geoffrey Bible, and the chief executive of Brown and Williamson, Thomas Sandefur, as recently as 1994 and 1998.

The tobacco industry has a dark track record of hiding the truth to protect its profits. Do not expect it to change now. Its internal documents clearly show its own scientists were warning that smoking causes cancer since the early 1950s and that smoking is addictive since the early 1960s. For five decades, the industry deliberately concealed these facts in an attempt to deceive Governments and the public of the dangers of smoking. Now, it is using bogus arguments about illicit trade to terrify responsible retailers into opposing this legislation. I believe its arguments today remain as bogus and as dishonest as they have been for the past five decades.

The consequence of this legislation is clear. It will protect our children from marketing gimmicks that trap them into a killer addiction. If the tobacco industry did not get our children addicted, the industry would disappear within a generation. We all know that to be true and so does the industry. To replace the smokers who quit and, sadly, those who die, the tobacco industry needs to recruit 50 new smokers in Ireland every day just to maintain smoking rates at their current level. Given that 78% of smokers in a survey said they started smoking under the age of 18, it is clear that our children are targeted to replace those customers who die or quit.

Research has shown that, when consuming cigarettes from the standardised packs which we intend to introduce, smokers are 66% more likely to think their cigarettes are of poorer quality, are 70% more likely to say they found them less satisfying and are 81% more likely to have thought about quitting at least once a day and rate quitting as a higher priority in their lives. This Bill will regulate the appearance of tobacco packaging and products. The aim is to make all tobacco packs look less attractive to consumers, to make health warnings more prominent and to prevent packaging from misleading consumers, particularly children, about the harmful effects of tobacco. The Bill will also implement some aspects of the newly adopted tobacco products directive of the European Union and it will give effect to Ireland's obligations under the World Health Organisation Framework Convention on Tobacco Control.

What is standardised packaging? It means that all forms of branding - trademarks, logos, colours and graphics - would be removed from tobacco packs. The brand and variant names would be presented in a uniform typeface for all brands, and the packs would all be in one plain, neutral colour.

I will now take the House through the Bill section by section to clarify its provisions. The Bill is divided into four parts. The first part of the Bill deals with preliminary and general provisions and covers sections 1 to 6. Section 1 of the Bill makes standard provisions setting out the Short Title of the Bill, the collective citation for the Public Health (Tobacco) Acts and arrangements for its commencement.

Section 2 deals with the interpretation of the Bill and defines the meanings of some of the terms used for the purposes of the Bill. Section 3 deals with regulations, allowing the Minister

for Health to make regulations to bring the legislation into operation. Section 4 is a standard provision dealing with expenses.

Section 5 clarifies that nothing in the Bill operates to prohibit the registration of a trademark, or will be grounds for the revocation of the registration of a trademark. It also makes clear that nothing in the Bill will affect the law in regard to tax stamps.

Section 6 makes transitional provisions which will allow retailers and manufacturers time to comply with the new measures. Current packets may be manufactured until May 2016, and there will then be a one-year period to sell outstanding stocks. Non-compliant retail packaging may not be manufactured from May 2016 and may not be sold after May 2017.

Part 2 of the Bill deals with the retail packaging and presentation of tobacco products and covers sections 7 to 14. Section 7 sets out the requirements for the retail packaging of cigarette packets. The Bill specifies that cigarette packets must be a prescribed matt colour on the outside and inside, not have any decorative features, such as ridges or embossing, or coloured adhesives, and may not have any marks or trademarks other than a barcode or similar identification mark. Packets may not have anything inserted or affixed to them, apart from items prescribed by law. The colour and decorative feature provisions will not apply to the health warnings that must be printed on packaging or to other items prescribed by law.

The Bill allows for the brand or company or business name and a variant name to be printed on the packet, but regulations will set the font type, size, colour and positioning of these. The wrapper must be transparent, not coloured, and must not have any decorative features, marks or trademarks, or affixed items apart from those provided for by law. It may have a tear-strip, which will be prescribed for in regulations. These provisions will apply to retail packaging of all cigarettes intended for retail sale in the State.

This section also transposes provisions of the 2014 EU tobacco products directive which must be applied to those products for sale in the EU: namely, the cigarette packet must be cuboid in shape, although it may have rounded or bevelled edges; it must be made of carton or soft material; and may only have a flip-top or shoulder box hinged lid.

Section 8 lays down the requirements for the appearance of cigarettes. These must be white, with a white or imitation cork tip. They may have a brand or business or company name and a variant name printed on them, but in accordance with regulations which will set the colour, font, size, positioning and appearance. It will be an offence to manufacture, import or sell non-compliant cigarettes. These provisions will apply to all cigarettes intended for retail sale in the State.

Section 9 provides the specifications for the appearance of roll-your-own tobacco packets. These are similar to the requirements for retail packaging of cigarettes. These provisions will apply to retail packaging of all roll-your-own products intended for retail sale in the State.

This section differs from section 7, however, in that it allows a unit package of roll-your-own tobacco to be either cuboid in shape - similar to a cigarette packet - or cylindrical, or in the form of a pouch. As before, these provisions were included as they transpose parts of the 2014 EU tobacco products directive and, therefore, must be applied to packaging of all cigarettes for sale in the EU.

This section also sets out how the brand or business or company name and variant name is

to be printed on different-shaped packs. They must be printed in a colour, font and size to be laid out in regulations.

Section 10 provides specifications for the retail packaging of tobacco products other than roll-your-own tobacco and cigarettes - for example, pipe tobacco and cigars. It contains the same features as sections 7 and 9 pertaining to colour, decorative features and so on, and allows for cuboid and other shaped packets.

Section 11 deals with the linings of unit packets of tobacco products and provides that, where a lining is present, it shall be of a prescribed colour and material. Section 12 provides that the tar, nicotine and carbon monoxide content shall not be printed on any form of retail packaging of tobacco products. As this is, again, transposing part of the 2014 EU tobacco products directive, it applies to all tobacco products for sale in the EU.

Section 13 deals with the general appearance of tobacco products and, again, transposes in part the 2014 EU tobacco products directive. As before, therefore, it must be applied to the packaging of all cigarettes for sale in the EU. It is an offence to manufacture, import or sell tobacco products that do not comply with section 13.

Section 14 prohibits sound effects and sense features that alter appearance after sale.

The third Part of the Bill sets out the offences, proceedings and penalties and covers sections 15 to 19, inclusive. Section 15 sets out the offences under the legislation. It will be an offence to package, manufacture, import or sell tobacco products that do not comply with section 7 or sections 9 to 14, inclusive. However, the Bill provides for a defence if a person can show the he or she made all reasonable efforts to comply with the legislation.

Under section 16 there are three types of penalties for offences under the Act. For a first offence a person may be liable to a class B fine or six months imprisonment or both. For subsequent offences a person may be liable for a class A fine or 12 months imprisonment or both. On conviction on indictment a person may receive a fine, or eight years imprisonment or both. A person convicted of an offence may also be ordered to cover prosecution costs and expenses.

Section 17 sets out provisions relating to offences committed by bodies corporate and their directors, managers or officers. Section 18 states that proceedings under the Act may be brought and prosecuted by the Health Service Executive.

Section 19 sets out provisions relating to evidence brought before proceedings. It states that tobacco products or packaging bearing the name or trademark of an importer or manufacturer will be used as evidence that the products were manufactured or imported or packaged by that person unless the contrary is proved.

Part 4 of the Bill deals with miscellaneous matters. Section 20 amends section 5A of the Public Health (Tobacco) Acts. The legislation will now provide that if a person registered to sell tobacco under section 37 of the Public Health (Tobacco) Acts is found guilty of an offensive under the current legislation he or she may be removed from the register for a specified period.

Section 21 amends section 37 of the Public Health (Tobacco) Acts so that offences committed under the current legislation will be taken into account when a person applies to register to sell tobacco products.

Section 22 amends section 48 of the Public Health (Tobacco) Acts, as amended. Section 48

will now provide the Health Service Executive with the necessary powers to enforce the current legislation.

This is a killer product. It kills some 5,200 Irish citizens and 700,000 European citizens every year. It will kill one in two of the children seduced by its packaging and gimmicks into taking up the killer habit. We cannot, must not and will not allow this to happen. I commend the Public Health (Standardised Packaging of Tobacco) Bill 2014 to the House.

Senator Mark Daly: I welcome the Minister and thank him for introducing this Bill, which we support. As the Minister pointed out, some 5,200 people die as a result of tobacco products every year and this is equivalent to the population of Tipperary town. Some 22% of the Irish population is hooked on the drug and it costs taxpayers €500 million per year to deal with the health problems tobacco causes. The main question to ask is whether this Bill will work. Will plain packaging have the desired effect of helping move us towards a tobacco-free society? Australia is the country that implemented this measure most recently and tobacco consumption there has fallen by a third. In total, Australians have spent $1 billion less on tobacco since the introduction of plain packaging. Some 81% of smokers there said plain packaging would make them consider quitting and, as the Minister said, this means they are considering it more often than those using branded products.

We must examine what the tobacco companies are doing as they perceive this measure to be a threat to their profits. Profit is their only motive. As the Minister pointed out, they are instigating a huge campaign around the world to rubbish the idea that plain packaging will have any effect in reducing tobacco consumption. Numerous red herrings have been used, including a supposed potential increase in smuggling and consequent loss to the taxpayer. They allege that plain packaging will make the activities of smugglers easier. However, as the Minister and Ms Shanta Dube have pointed out, the tobacco companies have lied for 50 years so why would they stop now? They will not stop lying but they will not stop lobbying either and this may be more worrying as we are used to lies but not so much to lobbying. In the US, prior to the hearings on Capitol Hill, the chief executive of Brown and Williamson, Thomas Sandefur, made the famous statement that he did not believe nicotine to be addictive. In fact, the people in question had evidence nicotine was addictive. The more nicotine in cigarettes the more addictive they are. It is hard to believe the chairman of Philip Morris, Geoffrey Bible, said he was unclear in his own mind whether anyone dies of cigarette smoking related diseases when his own company's research showed it caused the death of millions of Americans. This suggests that whatever lobbying and research is carried out by tobacco companies they will continue to perpetuate lies. Any lobbying by tobacco companies and their public relations firms should be taken with a grain of salt.

The ban on smoking in the workplace has had a very positive effect on people's health, especially those employed in the service industry in bars, restaurants and so on. It is hard to imagine someone lighting a cigarette on an aeroplane or entering a public building clouded in a haze of smoke. This is all thanks to the Government and the health industry slowly pushing back against the tobacco industry. I support this Bill. It may require technical amendments but it is welcome. It will be attacked by the extremely wealthy tobacco industry but we must fight for the greater good. We must think of the 5,200 people that die as a result of tobacco products every year. More important, children targeted by the tobacco industry take up smoking in Ireland at a younger age than in any other European country. We are fighting for the health and well-being of the children of this State and it is a cause worth fighting for.

Senator Colm Burke: The introduction of this Bill is welcome and long overdue. The Minister has already outlined the difficulties faced in this country and, along with my colleague, Senator Daly, pointed out that tobacco kills some 5,200 Irish citizens and 700,000 European citizens every year. It is amazing that these figures neither deter people from starting smoking nor encourage them to stop. The death of 5,200 people per year translates to 100 deaths per week and this is a lot of people. Yet some young people are still attracted to smoking and become addicted at a young age. We must address the issue of the number of young people who are smoking and ensure the information is circulated so that the number falls. Not long ago three out of ten people were smokers but more recent figures show this has fallen to 2.2 out of ten. There is still a long way to go. Much progress has been made with young people and the introduction of this legislation is very welcome.

In the early 1960s the surgeon general in the US identified the clear connection between smoking and cancer. Yet, 50 years on, the product is still for sale and people willingly spend a substantial amount of money on it every day of the week. Much research has been done over the years and the direct connection between smoking and the various health issues that arise from it is unchallenged.

Not long ago, major film stars advertised that the only way to be popular was to smoke a particular product. It took a substantial time before we were able to restrict advertising and move forward, and this is another major step in taking on the challenge of the tobacco industry. It has been argued that introducing standard packaging will increase smuggling, but let us face that challenge if it arises. Smuggling and the illegal importation of cigarettes happens and the Garda and customs officials have a major challenge on their hands but are being very proactive in dealing with it. It is important that we all assist them by ensuring that any information we or the public have is made available to them to reduce smuggling and the trade in illegally imported cigarettes. We all have a part to play in that. It is not just about the tax revenue but about health.

I have raised the issue that there is nothing in the legislation to prevent the production of holders for cigarette packets. We need to keep a watchful eye on it because people will be only too willing to produce these holders that will cover the negative message highlighting the dangers of smoking which we want to give out through the packaging.

I welcome the legislation and it is important that we enact it. There is a three-year time period, up to 2017, for the full enforcement of the provisions in the Bill. Although there is a likelihood of legal challenges if we enforce it too quickly, it is a substantial time period and I wonder if it can be brought forward. Because it is a health issue, we should re-examine the timeframe. Overall, I welcome the Bill. It is the right step forward and will make a substantial contribution over the coming years to reducing the number of people whose health is adversely affected by smoking.

Senator Jillian van Turnhout: The Minister is very welcome and I thank him for bringing this Bill to the Seanad to begin its work. As a member of the Oireachtas Joint Committee on Health an Children I had an opportunity to participate in an excellent series of hearings on the heads of the Bill, and I thank Deputy Buttimer for his chairing of those hearings. We heard from a wide range of witnesses, including health experts, advocacy groups, children's rights organisations, legal representatives, and representatives of the business and retail sectors and the tobacco industry. In preparing for each of these hearings I studied the submissions and presentations, and I will share with my colleagues the experiences I had of sentences repeatedly

jumping off the pages of a number of submissions. The footsteps of the tobacco industry over certain submissions were clearly evident. Submissions cited many reports, such as the KPMG Star report, the Transcrime Factbook on Illicit Trade in Tobacco Product, LECG, the report on the impact of plain packaging of cigarettes in Australia, and the SKIM report on the impact of plain packaging on the illicit trade in the UK. All of those reports were commissioned by the tobacco industry.

Senator Sean D. Barrett: Shame.

Senator Jillian van Turnhout: I read the reports. I also read the Roland Bergen report, which is often cited. Surprise, surprise - it was commissioned and funded by the tobacco industry. I studied it very carefully because it said we would have job losses if we introduced the legislation, and we are all concerned about job losses. The figures are based on estimates rather than evidence. The Australian data comes from the trade and not from official figures. The report drew from other reports, the ones I have already mentioned that were funded by the tobacco industry. Therefore, I urge my colleagues, when evidence is put before them, to ask who funded it and what research it is drawn from.

Senator Colm Burke mentioned the warnings on health hazards from the US Surgeon General 50 years ago. The report of the US Surgeon General released in January 2014 shows that cigarette smoking is even more hazardous than previously thought. The report documents that, by a wide margin, smoking causes even more diseases, kills even more people and costs the nation even more in medical bills and other economic losses than has previously been reported. As we heard during the hearings, tobacco is the only product that kills when used as intended.

My colleagues have talked about the number of people who die of smoking-related diseases each year. We heard very compelling testimony from Dr. Finbarr O'Connell, who stated that 95% of lung cancer cases in Ireland are directly related to tobacco. Everybody can think of somebody they know who has had lung cancer. Consequently, that startling figure brought home to me the realisation that it is within our grasp to improve people's health. My colleague, Senator Crown, will be able to give more information on the health aspects.

As the Minister said, in Ireland tobacco companies need 50 people a day to take up smoking in order to replace those quitting or dying. Given that research shows that 78% of people start before the age of 18, the target is 39 children every day. At the committee hearings the tobacco industry representatives told us it does not aim products at children. I clearly told them that either they are getting the marketing wrong or they are targeting children, because that is way past any margin of error. If anybody heard of a polling company that had a 78% margin of error, we would question its figures. Irish people begin smoking at an earlier age than in other European countries. Let us be clear that the tobacco industry's biggest growth market is children. At the hearings we heard very clear support from children and children's rights organisations for the legislation.

The warnings about smuggling are scaremongering. At the hearings we heard from representatives of the Garda, who cited the European Anti-Fraud Office, OLAF, the Revenue Commissioners and Customs and Excise. They stated that there is no evidence to indicate that the introduction of plain packaging will lead to an increase in the illicit trade of tobacco products. The only independent research on smuggling rates in Ireland has been carried out by the Revenue Commissioners and the HSE's national tobacco control office. It shows a smuggling rate of 13% in Ireland, which would alarm one until one examined it. One percent of this involves

"illicit whites", cigarettes that are produced illegally but are not counterfeit.

7 o'clock

Some 1% is counterfeit and 11% of the product is from legal industry. Of that 13%, 11% comes from the industry. It is clear from evidence given in 2002 before the United Kingdom Committee of Public Accounts by ASH UK that exports of tobacco to Andorra, for example, increased from 13 million in 1993 to 1,520 million in 1997. To put it simply, the amount of cigarettes being supplied to Andorra in 1997 meant that every man, woman and child would need to smoke 130 cigarettes a day, every day. They oversupply certain countries in order to supply other countries. That is absolutely clear.

Last October, the Rt. Hon. Margaret Hodge appeared before the UK Committee of Public Accounts and stated that the supply of some brands of hand-rolling tobacco to some countries in 2011 exceeded legitimate demand by 240%. The evidence is there for us to see. In November 2013, the Minister for Finance, Deputy Michael Noonan, said in the Dáil, "I have a suspicion that the legitimate trade is involved in the production of illicit cigarettes". We need to be careful in this debate that we throw around the word "illicit". I believe the tobacco companies are fuelling this market. It must be remembered that of 13%, 11% is from legal product. The words "smuggling" or "counterfeit" are to make us all feel worried and they are to disarm us, but we need to make sure that we say clearly that these figures cannot be substantiated. It is in the interest of the period in which we are debating the Bill that the tobacco industry will be able to point to smuggling and job losses. We will have all that scaremongering. They themselves are fuelling this market.

The only criticism I have of the Bill is that it is not taking effect soon enough and, in particular, the transitionary measures. Australia used two months as a wash-through period for retailers to exchange the cigarette products. From the time the Bill is enacted, the Minister is allowing 12 months for it to go through the system. I will table an amendment on Committee Stage to reduce that period to three months. Three months is ample time, given the lead-in time that will be available. The Minister has my unequivocal support. Clearly, this is a children's rights issue. In supporting this Bill we are protecting our children and young people from taking up smoking. We do not need any more reports to tell us how much smoking kills. The evidence is there. I thank the Minister for bringing the Bill before the House.

Senator John Gilroy: I welcome the Minister. It is appropriate that the Minister has introduced the Bill in the Seanad on the same day that we concluded legislation to prohibit the use of sunbeds to those under the age of 18 years. Those are two pieces of legislation which undoubtedly will save many lives into the future. His introductory comments where he quotes senior members of the tobacco industry, as recently as ten years ago, who blatantly deny the great harm that tobacco does are worth noting. They point to the lengths to which the industry will go to protect its profits. Truthfulness or integrity does not enter into it where profits of such large proportions are being made. Some 50 new smokers are required every day to maintain the current customer base and one third of those customers are required to replace customers who have died by the use of it. That is worth reflecting on.

Senator Jillian van Turnhout has pointed to the fact that tobacco is the only product we know of where its intentional and stated use is to shorten one's life and kill one prematurely. We know that children under 18 years of age are the most likely cohort to target to replace customers who have died. It is the same cohort that is most amenable to advertising. It makes perfect sense

that we should do everything possible to reduce the number of children who start smoking. The Minister said that 76% of people start to smoke before the age of 18 years. We have a good history in Ireland with regard to pioneering legislation when it comes to harmful products. We can point to the Minister's predecessor who was responsible for banning smoking in the workplace. At the time the industry issued all kinds of dire warnings and said the sky would fall in on our heads if this was done. We did it and life just carried on very much the same as before. The industry raised hares that were not accurate in its efforts to maintain market share.

The tobacco industry is acting a little more insidiously this time, rather than directly confronting the Minister and the Department. This time, it is raising red herrings and things that are not directly affected. On the issue of smuggling, I would point to Andorra as Senator van Turnhout has done. The industry does not care where the tax is being paid. The differential in prices is what makes it worth smugglers' time doing it. The industry receives a profit from Andorra and places where low taxes apply. That they are subsequently shipped across borders illegally is of no concern to the industry but it is a matter of great concern to us. Smuggling is the great red herring that is being raised.

I have heard it stated many times that the Bill will not work. On TV3 the Minister gave an interview in which he said he was confronted with the argument that there was no evidence that this will work. Other arguments put forward suggest that if one is serious about doing anything about reducing tobacco consumption, one should do something else. Those who say that singularly fail to point out what the "something else" might be. There are many reasons the tobacco industry can put forward such as, there are other things in society that are more harmful than cigarettes. The point has been made about sunbeds that if one was serious about preventing cancer, one would ban sunbeds. At least we did that. That is one argument that can no longer be made to us. The evidence is contained in this and 76 reports and reviews and in Australia where the demonstrable effects or benefits are there for all to see.

I commend the Minister on his work in this and many other areas. He has been a pioneering and reforming Minister in this area. Let us do it.

Senator John Crown: I welcome the Minister. This is a very good day for him. I laud his efforts in public health and I think he will be remembered for the good work he has done on these two Bills, among other aspects of his good work.

Some 5,000 per year is the figure. Let us put a perspective on that. This is a little country of 4.5 million people and we lose 5,000 per year from smoking. We are all aware of the appropriate level of national introspection the US has had over the loss of its young military men and women in two wars in Iraq and Afghanistan, wars it has collectively referred to as the "war on terror". In ten years, the US has lost approximately the same number of people as we lose every year from smoking. That is a country of roughly 80 times our population. Therefore, it puts a perspective on the scale of the loss. Everybody has to die. Some of the folks who die from smoking are old folks who may get other illnesses within a few years in any case but many deaths are from preventable causes. Many of them, by definition, are premature causes of death. This sets the context.

We are in a war against terror, the terror of the tobacco industry. We are and should be implacable and irreconcilable foes. There is nothing they want that we do not want to oppose. There is no partnership, no meeting of minds, no common ground. The fundamental core of what they want to do is opposed to what we, as thinking members of society charged with the

well-being of the public, want to do. They want people to smoke whereas we want them to stop. There is no common ground. We must be blunt about this. The lack of common ground extends all the way down the tobacco chain. What do we want for the tobacco companies? The answer is bankruptcy. We want them gone. We want them out of business. If they do not have the wisdom and the good judgment to reinvest their financial and capital assets into other areas we would prefer if every one of them went out of business tomorrow. If collectively the entire world had a colossal burst of messianic insight tomorrow and stopped smoking and not one more cigarette was sold tomorrow and all that tax revenue and all those jobs disappeared and all people had to find other employment, it would be better for the world. It would be better for everybody if that happened. None of us is trying to protect any part of this industry. We want it gone. We want the retailers on the corners to sell something else. I cannot make this happen, but as a backbencher I would love to bring in legislation which would allow the Government to give financial incentives to shops that declare themselves to be ethical, tobacco-free businesses or I would like to ensure that shops, pubs, hotels, restaurants and whole shopping centres that would declare they would sell nothing that contains tobacco on their premises would have a lower rate of VAT on everything they sell, be it jeans, food, clothes, pharmaceuticals or whatever. I would like to be able to do that, but we cannot.

I am trying to get money for research in order to look at a very interesting area of cancer biology, heterogeneity diversity, which is the amazing ability tumour cells have to keep mutating or this bad trick they can do to stay ahead of our smart bomb treatments by their ability to mutate and change their genotype. This research would look at ways of linking this to what causes cancer. I have been advised by some of the smart cancer scientists with whom I work that we should exclude tobacco from the equation altogether, because the mesmeric, breathtaking list of things in one puff of cigarette smoke which cause cancer is so complicated that it is almost impossible to study it or to make any kind of sense of it. In addition, its ability to induce that kind of genetic instability, at the earliest stage in the cancer process, may be unique, in comparison with other things which cause cancer. With tobacco, we know we are dealing with a phenomenally bad product which is sold by phenomenally bad people and bought by people because they are addicts. Rational people do not act against their self interest, but addicts do. This is why people who overwhelmingly know tobacco is bad for them, continue to smoke.

This brings me to this plain packaging legislation. It is extraordinary how this coalition has emerged - the coalition of the tobacco companies and their various front organisations. Looking out the window of this Chamber, I can see the Royal College of Physicians of Ireland, which some months ago unknowingly and unwittingly ended up hosting an indirectly tobacco company funded symposium on how to stop smoking. This was sponsored by an organisation called the Institute of Economic Affairs, which I believe is a paid gunman for the tobacco industry, and by local PR companies such as Red Flag.

This tells us something about the lengths tobacco companies will go to try to stop the Minister in his tracks. Why is this? They say plain packaging does not work and there is no evidence that it will make any difference. If it does not make any difference, why are they investing so many millions of euro into lobbying, PR and, probably, bribes at European level, to try to thwart the attempt to get the legislation passed? It is because they know it does work. They would have us believe that it is because they are trying to block smuggling. Those of us who watched the World Cup every night this week, soccer fans like me who worshipped Bill O'Herlihy for years, are sad now to see him and know that he organised a meeting of leading tobacco company executives with members of the Government to try to persuade everybody that their con-

cern was smuggling. We know the tobacco companies love smuggling. Most of the product smuggled is product they sell. Our primary means of controlling their activity is through our tax laws. Smuggling is a way for them to outsmart our tax laws. Smuggling is a weapon they use against us.

It is important to realise this is a war. Anything the tobacco companies oppose, we propose. Anything they propose, we oppose. They are our implacable foes and we want them gone. We would like to offer them the olive branch of asking them to do something else, but if they do not, we would prefer to see them on the bread line. That is what we want for these companies, because they are making their money out of the misery they inflict on our fellow citizens. I believe the Minister will be in the firing line on this, but no better man. As he has been forged in the steel of various firing lines over the past several years, I believe he will be able to bat these puny challenges aside.

However, it is critical we look at the international context in terms of what these companies are capable of doing. Why did Ukraine take a World Trade Organisation case against Australia over plain packaging? It is widely recognised that some tobacco interests got to the Ukrainians and persuaded them this is something they should do. Why did the world tobacco organisations gang up on little Uruguay, whose GDP is less than the revenues of Philip Morris International? Thankfully, Mayor Bloomberg came to Uruguay's defence and provided a legal defence fund which enabled it to try to deal with the problem.

This is a call to war and we will support the Minister in his declaration on it. I will put forward some amendments to the Bill, because like my colleagues I see no reason we cannot do this tomorrow. I have looked at the data from Australia and am convinced this initiative will result in some decrease in the number of people who smoke. Sometimes people will be put off by the plain packaging, but this is another opportunity for us and the Minister to get the debate on smoking going. Every time the debate becomes public, more people think about the effects of smoking and are motivated to stop. The plain packaging has one other spin-off benefit. If it hurts the companies, that is a good enough reason to do it.

Senator Paschal Mooney: I wish to share my time with Senator Ó Domhnaill.

I welcome the Minister. I wish to endorse everything that has been said. This Bill is probably as significant, in terms of the impact it will have on the general health of the population, as that of the former Minister, Deputy Micheál Martin, which introduced the smoking ban and hopefully that legacy will remain for all time and the Minister will be remembered for it.

Much comment has been made on the Australian experience. I agree the three-year period seems long and will support amendments to reduce it. In the context of the significance of packaging, a study in France which monitored the eye movements of people when shown a plain pack of cigarettes and a branded pack showed that people spent longer looking at the health warnings on plain packs. In Canada, research has shown that people remember health warnings better from plain packs than from branded packs. Plain packaging eliminates the last great marketing tool for the tobacco industry, which is why the industry is fighting a rearguard action as has been pointed out by Senator Crown and others.

The Minister has commented on what standardised packaging will do in the context of the impact on smokers. Currently, cigarette companies use design-heavy packaging and colours, imagery and design are used to attract smokers and reduce the impact of on-pack health warn-

ings. In 2010, a trade magazine tobacco reporter ran a series of articles on the importance of packaging to the industry's business. This stated:

> In many countries, the cigarette pack is now the only remaining avenue of communication with smokers. This development is challenging packaging suppliers to be creative.

The extensive legal challenges to standardised packaging in Australia show how effective the tobacco industry expected standardised packaging to be at reducing the take-up of smoking among young people.

Due to the short time available for my contribution, I just wish to endorse everything that has been said. I will conclude with an anecdote in the context of people's perception on smoking. The late Nat King Cole, who died of lung cancer, smoked what he believed to be a product that helped to give timbre to his voice, so he smoked menthol cigarettes. That was then, but some people still believe that different cigarettes may be less harmful. This legislation will ensure we now have a level playing field. The tobacco industry must now shape up or ship out. I agree with Senator Crown that this is a war we must win.

I agree with the comments made by Senator Burke in regard to cigarette holders. This is something the legislation should examine. If the tobacco industry, it is not only ingenious and vile, but a creative industry and it will fight tooth and nail to ensure it keeps its share of the market. Therefore, anything that in any way helps that cause should be stopped in its tracks.

Senator Brian Ó Domhnaill: I commend the Minister on bringing this legislation to the House. Today is a good day for the public health of the nation in terms of the passage by the Seanad of the legislation governing the use of sunbeds and the introduction of this legislation. I congratulate the Minister on bringing forth both pieces of legislation. It is disheartening to hear that the average smoker began smoking at around 16 years of age. The health consequences of that throughout a person's life are horrendous. It was mentioned that 5,200 people die as a result of smoking. Many other people are also affected, including relatives, friends and others who often suffer respiratory illness and poor health as a result of second-hand smoke. In addition to those who lose their lives there are knock-on consequences for many others.

This legislation is a major step in the right direction. I do not believe that the Government, the Minister or the Irish people should be bullied by the tobacco industry. In terms of my use of the word "bullied", I believe that is what the tobacco industry is doing. I agree with Senator van Turnhout that the smuggling issue is a red herring being floated by the industry. I contributed to the previous debate in this House on cigarette smoking, following which I received a request from representatives of the industry to meet with me to discuss some of my commentary. I met with them but the only item on the agenda was the smuggling issue, which is being fed by the industry because it produces the cigarettes. While some of the smuggled cigarettes are produced in factories which are not regulated, the vast majority of them are made in regulated factories. In terms of the smuggling issue, the industry is flying a red herring.

The Minister might when responding indicate whether European approval is required before this legislation can be implemented. I agree with Senators van Turnhout, Mooney and others that the sooner this legislation is implemented the better. The lead-in period should be only two or three months. I again congratulate the Minister on the introduction of this legislation. It is not often Members on this side of the House praise Ministers. However, today we praise the Minister for Health, Deputy Reilly.

Senator Trevor Ó Clochartaigh: This Bill is another element in the legislative framework designed to combat tobacco smoking. It gives us the opportunity to again focus on the enormous damage tobacco smoking does to the health of people and the huge cost to society of tobacco smoking. It also provides us with an opportunity to address the ongoing campaign to reduce and, hopefully, eventually eliminate this practice, creating a smoke free society.

There will always be a remnant of smoking among a small minority but for maximum effect the aim has to be a smoke-free society in Ireland. Much progress has been made. Measures undertaken by successive Governments and the campaigning work of the Irish Cancer Society, the Irish Heart Foundation, ASH Ireland and others have greatly reduced the number of people smoking and have unquestionably hugely improved public health. A combination of public education and pricing measures has ensured the reduction in the number of people who smoke.

It is still a startling statistic that just under 25% of the population in Ireland are smokers. The number of young people taking up smoking and becoming addicted at an early age must be continually addressed. It is estimated that smoking causes well over 5,000 deaths each year, mainly as a result of conditions such as lung cancer, heart disease, stroke and emphysema. Almost one third of cancer deaths and 90% of lung cancers in Ireland are attributed to smoking. The cost to society in human and financial terms is enormous. One estimate of the cost to the State in health service provision in a single year is €1 billion, approximately one third of which goes on hospital admissions. It is estimated that if smoking continues to increase at the current rate it will be the single biggest cause of death worldwide before the middle of this century. This is because the tobacco industry's greatest area of expansion is developing countries that have not yet put in place the preventive measures that have been provided for in developed countries such as Ireland.

The tobacco industry is an industry of death and it is exploiting the most disadvantaged people on our planet. However, there are still people who lobby on its behalf, including in this country, happy to benefit from the enormous profits reaped by these multinational drug pushers. It has been rightly said that if the tobacco drug was first developed in our time it would never have been authorised for sale and would have been banned outright. That is not an argument for a ban on smoking, as prohibition would be unworkable and would merely drive it underground, thus benefitting organised crime. However, the point does underline the lethal nature of this drug.

In terms of legislation, the ban on smoking in enclosed workplaces has been a huge success. As well as improving the health of workers and those visiting premises, the knock-on effect of making smoking less socially acceptable has been profound. It is now common for people who smoke, especially those with children, to do so only outside their homes. This Bill provides for plain, standard packaging for tobacco products and as such is a welcome addition to the legislative framework. It will not, of itself, I believe, lead to a dramatic reduction in consumption but it has to be seen as another element in the campaign to reduce smoking.

The tobacco industry spends enormous sums on product design and presentation. It is also opposed to legislation of this type, which is reason enough to support it. Guím gach rath ar an reachtaíocht seo agus tá súil agam go dtiocfaidh sé chun cinn chomh tapaidh agus is féidir.

Senator Sean D. Barrett: I wish to share my time with Senator Walsh.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Senator Sean D. Barrett: I welcome the Minister to the House. It is symbolic that on the day we debated in this House legislation governing the use of sunbeds, we do not need them in Ireland. The Minister is now, in terms of the legislation currently before us, proving we do not need tobacco either. I hope this is a double triumph for the Minister.

On 10 June, the *British Medical Journal* contained an article in the name of 600 specialists in the United Kingdom which was in favour of measures such as those in the legislation the Minister is proposing today. An article in today's edition of the *British Medical Journal* in the name of 100 of those specialists relates to the dangers of e-cigarettes. I have no doubt that overwhelmingly the evidence supports what the Minister is proposing here today. I wish him every success in that regard.

I note the ingenuity of the tobacco industry in having strawberry and bubble gum flavours added to the nicotine in e-cigarettes. The Minister will be aware that e-cigarettes are due for categorisation by the World Health Organization in October under the general controls on tobacco. I wish him well in that endeavour. I often pass the Player Wills building on the South Circular Road, which is derelict. It was previously a major centre of the tobacco industry but is no more. I hope, too, that that is symbolic of what we are trying to do. As we move towards becoming a smoke-free society, we should no longer permit cigarettes to be sold in food shops, petrol stations or duty-free shops. That is not the type of introduction we want for people coming to our country. In addition, EU subsidies to the tobacco industry should be abolished.

Like other Senators, I propose to table amendments to the Bill on Committee Stage. Section 12 provides that tar, nicotine and carbon monoxide content shall not be printed on the unit package. I would put the alternative proposition that that information be included on the package so that people can see how damaging the product is. I will discuss the matter further with the Minister on Committee Stage.

In the UK, there is support for what the Minister is proposing today in terms of the Chantler report. As I understand it, the issue is currently being considered by the British Minister with responsibility for public health, who is supported by the Labour Party shadow Minister. Many tactics are being used against what is being proposed. I will like to deal briefly with two of them. On the claim that the legislation infringes people's intellectual property rights, it does not. Only the wrapping is being changed. It will still be possible to produce this type of poisonous product and to derive profits from doing so. A change to the wrapping is not an infringement of intellectual property rights. I am sure the tobacco firms will bring a legal case against the Minister in that regard.

On the claim that what is proposed interferes in the free trade of the European common market, that is not true. It will still be possible to export these products. I recommend nobody consume them. The only change is to the packaging. From now on the packaging will be plain but the product remains exportable. I am sure the tobacco industry will be hiring the best brains in the Law Library to take a case against the Minister. I may also table amendments to provide that neither the right to engage in free trade nor one's intellectual property rights are infringed by plain wrapping. I wish the Minister the best of luck with this legislation.

Senator Jim Walsh: I applaud and support the Minister in his efforts in this regard. In my view, the tobacco industry is evil. People say it is a bad industry but I believe it is an evil industry second only, in my opinion, to the abortion industry in that abortion directly targets the life of the baby while in this instance the lives of people are being directly targeted. Some

50% of people who smoke will die from a tobacco related illness. This is an industry which for many decades has been well aware of the risks and dangers of tobacco. As has been said, it has continued to exploit people, particularly poor people, across the world who through marketing and advertising became addicted to this product. As a consequence, many of them have lost their lives. The Minister should not allow himself to deviate from his intention as a result of propaganda arising from the tobacco industry. It will happen.

Smuggling was mentioned. Yesterday I was in Belfast to attend a hearing of the sovereign committee of the British-Irish Parliamentary Assembly and heard that there has been an increase in smuggling in Australia since the introduction of these packets. I do not know whether that is true; it may well be propaganda. However, the Minister should look at the packaging to see what can be done to counterfeit-proof it, in so far as he can, and the industry should be made pay for the initiative. We provide that extra security for currency and other things. There must be some way for us to add something to the package that will make it very difficult for anybody involved in illicit activities to tamper with them.

Finally, the Minister might consider - whether as a next step or as part of this Bill - a requirement for the tobacco industry to enclose within cigarette packages some sort of information leaflet which would detail every single chemical ingredient in the cigarettes, and outline the risks and effects that each ingredient will have on the health of an individual who uses the product. We do that with medication, with the co-operation of the pharmaceutical industry. The risks and effects are clearly set out and attached to medication and we could do the same for tobacco products. The tobacco industry uses a wide variety of chemicals and we could make it a very strongly punishable offence not to name every ingredient. The tobacco industry needs to be taken on, and taken on strongly, and the Minister has the full support of this House in doing so. It is great to see that the House is unanimous on this live issue, and I wish we had had such unanimity in the past. We have it now, so we should harness it and back the Minister in what he is doing.

An Leas-Chathaoirleach: It is past 7.30 p.m. and the Companies Bill is due to resume. I remind Members that we must be conscious that another Minister is waiting outside the Chamber. Do Members wish to allow the Minister a few minutes to respond and finish Second Stage? Agreed. I shall let him know when five minutes have elapsed.

Deputy James Reilly: The Leas-Chathaoirleach knows how close this matter is to my heart. As I have said elsewhere, it is political, it is professional and it is personal.

I thank all the Senators for their very supportive views and comments this evening. I also thank and acknowledge the Irish Cancer Society, the Irish Heart Foundation, the Asthma Society of Ireland, the organisation dealing with chronic obstructive pulmonary disease, ASH Ireland and many others for their support.

Let us remember why we are here this evening. Ireland has been to the fore, as others have said, with tobacco control measures. We can be proud that the measures we have introduced to date are working. There has been a decrease in the number of people smoking. In 1998 the percentage of people smoking was 33%, but the most recent figures we have indicate that 21.5% of Irish adults now smoke, and data on school-aged children also indicates a clear downward trend. However, we cannot be complacent. To achieve the target set out in Tobacco Free Ireland, a lot of work needs to be undertaken. This includes the ongoing development of educational initiatives, media campaigns and cessation services. It also includes further legislative

initiatives such as the smoking in cars legislation, developed by Senators of this House, which I hope to initiate in the Dáil in the very near future.

It is important that we de-normalise smoking and educate parents as well. There is nothing more conflicting and confusing for a child than to learn in school, from a teacher he or she trusts, that cigarettes kill, only to get a contradictory message when he or she goes home and sees a parent or parents smoking.

Senator Jim Walsh: Hear, hear.

Deputy James Reilly: To those who argue that standardised packaging will not reduce smoking prevalence I say that this measure, together with all of the other measures in the past and future, will have the impact of reducing the incidence of smoking. It will also de-normalise how society views tobacco and smoking.

We are not alone in pursuing standardised packaging. As people have said, Australia has introduced standardised packaging; the UK will consult in the near future on the introduction of legislation in this area; and New Zealand has started the legislative process for standardised packaging. The initiative is steadily being embraced globally.

There is a wealth of evidence to support the introduction of standardised packaging. In preparing the legislation, my Department commissioned an international expert in the field, Professor David Hammond, to carry out an evidence review on standardised packaging of tobacco products. The review unequivocally found that tobacco packaging is a critically important form of tobacco promotion, particularly in countries such as Ireland which have comprehensive advertising and marketing restrictions. The review outlined the strong evidence base in existence for the initiative.

A legal challenge by the tobacco industry cannot be ruled out, and I say that with tongue in cheek because it is inevitable as far I am concerned. However, I am confident that the research available to us demonstrates that standardised packaging will have a positive impact on health and, importantly, is a proportionate and justified measure. The threat of legal challenges should not be an obstacle to our making progress on public health policies. We must press on with our mission to make Ireland tobacco-free. Ireland is a small country, like Uruguay, so the tobacco industry thinks it can bully us and influence public health policy. It will not do that, especially when it comes to the life of our children. Many other countries are watching us and holding back to see how Ireland gets on. The tobacco industry operates by intimidating one country, thus intimidating other countries by proxy. That ploy will not succeed, as the Members of this House have shown their unanimous support, and I am sure we will have tremendous support in the other House as well. Also, to comply with our European and international obligations, the Bill has been notified to the EU and the World Trade Organization.

In response to one of the few issues that were raised, smuggling will be unaffected, according to the Revenue Commissioners. A classic ploy by the tobacco industry is to pivot away from the real issue. It kills one out of every two customers it creates by getting them addicted to its products, and talks about something else like smuggling in order to sanitise the situation.

The time period for implementation is three years, and there are reasons for that which we can go into at a later date. People have talked about job losses here and we have talked about it in the European Parliament. It should never be a case of job losses versus loss of life, because it is totally in a different league.

Senator Crown made a lot of points about the industry and said we were in a war. It does resemble a war, because people die in wars and people are dying in this war. Our citizens are dying and our European friends are dying as well. Therefore, we must protect children and remind adult citizens that what they are doing harms their health.

Senator Jim Walsh: Hear, hear.

Deputy James Reilly: I have already pointed out how plain packaging has increased awareness and people's willingness to give up tobacco products.

With regard to stating the carbon monoxide and tar content of cigarettes on packages, the reason it is not allowed is part of the EU directive and the rationale behind the policy is that it allows the industry to pretend that one cigarette is less harmful and better for one's health than another type. However, they all kill, and that is the point we are trying to get across.

Counterfeit products were mentioned. I can assure the Senators that the packets are counterfeit-proof. They will be more counterfeit-proof now because they will have a tax stamp.

In closing, I wish to express my gratitude again to the Chairman of the Oireachtas Joint Committee on Health and Children, Deputy Jerry Buttimer, and members of his committee. The public hearings held by the committee in February informed the composition of the Bill. I thank the committee for its invaluable contribution to the issue and for the assistance it provided to me and my officials. I also thank my Cabinet colleagues for their support on this initiative. We have some heavy hitters from abroad leaning on the Government.

I commend the Bill to the House and look forward to working closely with my colleagues in the Seanad as we discuss the legislation in the House. I thank Senators again for their support.

Question put and agreed to.

An Leas-Chathaoirleach: When is it proposed to take Committee Stage?

Senator Colm Burke: At 2.15 p.m. on Thursday.

An Leas-Chathaoirleach: I thank the Minister and wish him well. The sun has shone on him this week.

Deputy James Reilly: Go raibh maith agat. It is a different type of heat that I am feeling, so.

Committee Stage ordered for Thursday, 19 June 2014.

Companies Bill 2012: Committee Stage (Resumed)

An Leas-Chathaoirleach: I welcome the Minister for Jobs, Enterprise and Innovation to the House. So far we have dealt with 686 sections.

SECTION 687

Government amendment No. 115:

In page 569, line 22, after "as" to insert "the".

Amendment agreed to.

Section 687, as amended, agreed to.

Sections 688 to 736, inclusive, agreed to.

SECTION 737

Government amendment No. 116:

In page 592, line 34, to delete "of" and substitute "for".

Amendment agreed to.

Question proposed: "That section 737, as amended, be agreed to."

Deputy Richard Bruton: I am considering introducing an amendment to this section on Report Stage. The purpose of the amendment is to change the reference from the Minister for Finance to the Minister for Public Expenditure and Reform and to reflect the reality that functions under the State Property Act 1954 transferred in July 2001 to the Minister for Public Expenditure and Reform under the Ministers and Secretaries Act.

Question put and agreed to.

Section 738 agreed to.

SECTION 739

Government amendment No. 117:

In page 594, line 9, to delete "of" and substitute "for".

Amendment agreed to.

Section 739, as amended, agreed to.

Sections 740 to 746, inclusive, agreed to.

SECTION 747

An Leas-Chathaoirleach: Amendments Nos. 118 and 119 are related and may be discussed together. Is that agreed? Agreed.

Government amendment No. 118:

In page 598, lines 18 to 20, to delete all words from and including "at" in line 18 down to and including "*350*" in line 20 and substitute the following:

"in respect of the latest financial year of the company that has ended prior to the date of the making of the application under this section, fell to be treated as a small or medium company by virtue of *section 350*".

Deputy Richard Bruton: The purpose of these amendments is to make provision for the

reduction of audit exemption criteria. It is a technical amendment which is required to complement the changes introduced by the Companies Bill 2013.

Amendment agreed to.

Government amendment No. 119:

In page 598, between lines 24 and 25, to insert the following:

"(7) For the purpose of *paragraph (b)* of *subsection (6)*, if the latest financial year of the company concerned ended within 3 months prior to the date of the making of the application concerned, the reference in that paragraph to the latest financial year of the company shall be read as a reference to the financial year of the company that preceded its latest financial year (but that reference shall only be so read if that preceding financial year ended no more than 15 months prior to the date of the making of the application concerned).".

Amendment agreed to.

Section 747, as amended, agreed to.

Sections 748 to 758, inclusive, agreed to.

SECTION 759

Government amendment No. 120:

In page 604, lines 35 and 36, to delete "and on payment of the prescribed fee ".

Deputy Richard Bruton: The purpose of this amendment is to remove the requirement for a person to pay a fee for a copy of an inspector's report to the court. A person should not have to pay a prescribed fee for a document that is deemed necessary for them to possess.

Amendment agreed to.

Section 759, as amended, agreed to.

Sections 760 to 785, inclusive, agreed to.

SECTION 786

Government amendment No. 121:

In page 618, line 33, to delete "*subsection (3)*" and substitute "*subsection (3)*,".

Amendment agreed to.

Section 786, as amended, agreed to.

Sections 787 to 790, inclusive, agreed to.

SECTION 791

Government amendment No. 122:

In page 627, between lines 28 and 29, to insert the following:

"(e) for the purpose of the performance by a commission established under the Commissions of Investigation Act 2004 of any of its functions;".

Deputy Richard Bruton: The purpose of this amendment is to update the Bill to include a reference to the Commissions of Investigation Act 2004. This section provides that any information, book or document relating to a company that has been obtained under certain sections of the Bill may be published or disclosed without the consent of the company if, in the opinion of the Director of Corporate Enforcement, publication or disclosure is required under specific circumstances.

Amendment agreed to.

Section 791, as amended, agreed to.

Sections 792 to 814, inclusive, agreed to.

SECTION 815

Government amendment No. 123:

In page 643, line 20, to delete "*subsection (2)*" and substitute "*subsection (1)*".

Deputy Richard Bruton: This amendment is typographical in nature and involves the updating of a cross reference that is incorrect in the Bill.

Amendment agreed to.

Section 815, as amended, agreed to.

Sections 816 to 864, inclusive, agreed to.

SECTION 865

An Leas-Chathaoirleach: Amendment No. 124 is a Government amendment. Amendments Nos. 124 and 125 are cognate and may be discussed together by agreement.

Government amendment No. 124:

In page 674, line 27, to delete "*section 343(10)*" and substitute "*section 343(11)*".

Deputy Richard Bruton: This amendment is typographical in nature and involves the updating of the cross-references without a substantive impact on the Bill.

Amendment agreed to.

Section 865, as amended, agreed to.

SECTION 866

Government amendment No. 125:

In page 675, line 13, to delete "*section 343(10)*" and substitute "*section 343(11)*".

Amendment agreed to.

Section 866, as amended, agreed to.

Sections 867 to 871, inclusive, agreed to.

SECTION 872

Question proposed: "That section 872 stand part of the Bill."

Deputy Richard Bruton: I am considering introducing an amendment to sections 872 and 873 on Report Stage. The purpose of these amendments is to clarify the position on fixed penalty notices. I am advised that the Office of Public Works believes there is a need to further refine and clarify the language of this section.

An Leas-Chathaoirleach: Subject to the Minister's intentions on Report Stage, is it agreed that section 872 stand part of the Bill?

Question put and agreed to.

Sections 873 to 875, inclusive, agreed to.

SECTION 876

Government amendment No. 126:

In page 681, line 26, to delete "offence" where it firstly occurs.

Amendment agreed to.

Section 876, as amended, agreed to.

Sections 877 and 878 agreed to.

NEW SECTION

An Leas-Chathaoirleach: Amendment No. 127, which proposes a new section, is in the name of Senator Quinn.

Senator Diarmuid Wilson: On behalf of Senator Quinn I wish to withdraw the amendment and resubmit it for Report Stage.

An Leas-Chathaoirleach: Senator Quinn will have the liberty to resubmit the amendment.

Amendment No. 127 not moved.

Section 879 agreed to.

Amendment No. 128 not moved.

Sections 880 to 886, inclusive, agreed to.

SECTION 887

Question proposed: "That section 887 stand part of the Bill."

Deputy Richard Bruton: I am considering introducing amendments relating to Part 15 on Report Stage. The purpose of these amendments is to ensure that the supervisory authority, the IAASA, has the appropriate powers in regard to the qualification of liquidators as set out in section 633. Furthermore, I am considering introducing an amendment arising from a European Commission recommendation relating to third country auditors.

An Leas-Chathaoirleach: Subject to the Minister's intentions for Report Stage, is it agreed that section 887 stand part of the Bill?

Question put and agreed to.

Sections 888 to 890, inclusive, agreed to.

SECTION 891

An Leas-Chathaoirleach: Amendment No. 129 is a Government amendment. Amendments Nos. 129 to 131, inclusive, are related and may be discussed together by agreement.

Government amendment No. 129:

In page 692, lines 10 and 11, to delete "and disclosed within 21 days after the date of receipt of the complete documentation regarding those changes" and substitute the following:

"and that such entering is done (normal circumstances prevailing) within 21 days after the date of receipt of the complete documentation regarding those changes".

Deputy Richard Bruton: The purpose of the amendment is to transpose the necessary elements of Article 3 of Directive 212-17 of the European Union. The directive imposes an obligation on member states to link their companies' registers electronically with one another.

Amendment agreed to.

Government amendment No. 130:

In page 692, to delete lines 12 to 15 and substitute the following:

"(6) The Registrar shall make available, as soon as practicable, through the system of interconnection of registers, information on—

(a) the opening and termination of winding up or insolvency proceedings of a company on the register;

(b) the opening and termination of a receivership applicable to a company on the register; and

(c) the striking-off of a company from the register.".

Amendment agreed to.

Government amendment No. 131:

In page 692, between lines 15 and 16, to insert the following:

"(7) The Registrar shall ensure that the following particulars relating to a company on the

register are available, free of charge, through the system of interconnection of registers—

(a) its name and legal form;

(b) the address of its registered office, including the fact that it is registered in the State; and

(c) its registration number on the register.".

Amendment agreed to.

Section 891, as amended, agreed to.

Sections 892 to 896, inclusive, agreed to.

SECTION 897

Government amendment No. 132:

In page 694, line 15, to delete "an such" and substitute "such an".

Amendment agreed to.

Section 897, as amended, agreed to.

Sections 898 to 904, inclusive, agreed to.

SECTION 905

Question proposed: "That section 905 stand part of the Bill."

Deputy Richard Bruton: I am considering introducing amendments to section 905 on Report Stage. These amendments relate to the deletion of certain existing but uncommenced functions from the supervisory authority's remit.

An Leas-Chathaoirleach: Subject to the Minister's intentions on Report Stage is it agreed that section 905 stand part of the Bill?

Question put and agreed to.

Sections 906 to 941, inclusive, agreed to.

NEW SECTION

An Leas-Chathaoirleach: Amendment No. 133 is a Government amendment proposing a new section. Acceptance of this amendment involves the deletion of section 942 of the Bill.

Government amendment No. 133:

In page 727, between lines 11 and 12, to insert the following:

"Confidentiality of information

942. (1) A person shall not disclose information that—

(a) comes into the possession of the Supervisory Authority by virtue of the perfor-

mance by it of any of its functions under this Act; or

(b) comes into the possession of the Supervisory Authority in the course of a meeting of the Authority held in private at which he or she is present.

(2) *Subsection (1)* shall not apply to—

(a) a communication made by a member of the Supervisory Authority, a member of its staff or a director of it in the performance by him or her of any of the Authority's or his or her functions under this Act or any other enactment, being a communication the making of which was necessary for the performance of the function concerned; or

(b) the disclosure of information in a report of the Supervisory Authority or for the purpose of any legal proceedings, investigation, enquiry or review under this Act or any other enactment or pursuant to an order of a court of competent jurisdiction for the purposes of any proceedings in that court; or

(c) the disclosure by a member of the Supervisory Authority, a member of its staff or a director of it to any member of the Garda Síochána of information which, in the opinion of the first-mentioned member, member of staff or, as the case may be, director, may relate to the commission of an offence.

(3) A person who contravenes *subsection (1)* shall be guilty of a category 2 offence.".

Deputy Richard Bruton: The purpose of this amendment is to introduce greater clarity with regard to confidentiality of information. As the Bill stands, the operation of the section is problematic as it could lead to the restriction of the release of all information regardless of whether such information is confidential or not.

Amendment agreed to.

Section 942 deleted.

Sections 943 to 968, inclusive, agreed to.

SECTION 969

Government amendment No. 134:

In page 744, between lines 14 and 15, to insert the following:

"(d) that the liability of its members is limited,".

Amendment agreed to.

Government amendment No. 135:

In page 745, between lines 4 and 5, to insert the following:

"(4) Where, subsequent to the registration of the constitution, an amendment of the memorandum of association is made affecting the matter of share capital, or another matter, referred to in *subsection (2)*, that subsection shall be read as requiring the memorandum to state the matter as it stands in consequence of that amendment.".

Amendment agreed to.

Section 969, as amended, agreed to.

Sections 970 to 973, inclusive, agreed to.

Section 974 deleted.

Sections 975 to 984, inclusive, agreed to.

SECTION 985

Government amendment No. 136:

In page 756, line 38, after "*sections 212*," to insert "*453*,".

Deputy Richard Bruton: This amendment is typographical in nature and involves the insertion of a cross-reference. It does not have a substantive impact on the Bill.

Amendment agreed to.

Section 985, as amended, agreed to.

Sections 986 and 987 agreed to.

SECTION 988

An Leas-Chathaoirleach: Amendment No. 137 is a Government amendment. Amendments Nos. 137, 147, 154 and 162 are related and may be discussed together by agreement.

Government amendment No. 137:

In page 757, between lines 12 and 13, to insert the following:

"(2) Nothing in *Parts 1* to *14* that makes provision in the case of a company having a sole director shall apply to a DAC.".

8 o'clock

Deputy Richard Bruton: The purpose of this amendment is to include a clear definition for a sole director of a company or for a company with a sole director. The aim is to ensure that if, for example, an unforeseen eventuality results in a company having just one director, that company will be entitled to be considered a sole director company.

Amendment agreed to.

Section 988, as amended, agreed to.

Sections 989 and 990 agreed to.

SECTION 991

Question proposed: "That section 991 stand part of the Bill."

Deputy Richard Bruton: I am considering an amendment to this section on Report Stage to clarify that a single member of a DAC may dispense with the holding of an AGM in accor-

dance with existing law. This will correct an unintended omission from the existing law.

Question put and agreed to.

SECTION 992

Government amendment No. 138:

In page 757, line 30, to delete "Part or in *Parts 1 to 3* or *5 to 14*" and substitute "Act".

Amendment agreed to.

Section 992, as amended, agreed to.

SECTION 993

Government amendment No. 139:

In page 758, line 1, to delete "Part or in *Parts 1 to 3* or *5 to 14*" and substitute "Act".

Amendment agreed to.

Section 993, as amended, agreed to.

Sections 994 and 995 agreed to.

NEW SECTION

An Leas-Chathaoirleach: Amendments Nos. 140, 150, 156 and 164 are related and will be discussed together.

Government amendment No. 140:

In page 758, between lines 15 and 16, to insert the following:

"Modification of definition of "IAS Regulation" in the case of DACs

996. *Section 1117* (modification of definition of "IAS Regulation") shall apply in the case of a DAC as it applies in the case of PLC.".

Deputy Richard Bruton: The purpose of these amendments is to provide for the modification of the definition of "International Accounting Standards, IAS, regulation" in the case of designated activity companies, PLCs, CLGs, PUCs and PULCs.

Amendment agreed to.

SECTION 996

An Leas-Chathaoirleach: Amendments Nos. 141 and 157 are related and will be discussed together.

Government Amendment No. 141:

In page 758, between lines 22 and 23, to insert the following:

"(2) *Section 350(11)(b)* shall apply to a DAC as if the words "(in so far as applicable to

a private company limited by shares)" were omitted.".

Deputy Richard Bruton: The purpose of these amendments is to correct an omission in the Bill as initiated. The amendments clarify, in accordance with European law, that a designated activity company or a company limited by guarantee cannot avail of the audit exemption if it falls within any provision of Schedule 5, namely, that it is a company that is an authorised market operator.

Amendment agreed to.

Section 996, as amended, agreed to.

Sections 997 to 1004, inclusive, agreed to.

SECTION 1005

Question proposed: "That section 1005 stand part of the Bill."

Deputy Richard Bruton: I am considering introducing an amendment on Report Stage to provide for the inclusion of a provision to reflect section 55 of the Companies Amendment Act 1983. This section concerns the requirement to publish certain matters in the CRO gazette. This was an unintended omission from the Bill as published. I am also considering introducing amendments on Report Stage to further refine the previous amendments in respect of bearer shares.

Question put and agreed to.

Sections 1006 and 1007 agreed to.

SECTION 1008

Government amendment No. 142:

In page 766, to delete line 25 and substitute the following:

"(c) its objects,

(d) that the liability of its members is limited, and".

Amendment agreed to.

Government amendment No. 143:

In page 767, between lines 3 and 4, to insert the following:

"(4) Where, subsequent to the registration of the constitution, an amendment of the memorandum of association is made affecting the matter of share capital, or another matter, referred to in *subsection (2)*, that subsection shall be read as requiring the memorandum to state the matter as it stands in consequence of that amendment.".

Amendment agreed to.

Section 1008, as amended, agreed to.

Sections 1009 to 1018, inclusive, agreed to.

SECTION 1019

Government amendment No. 144:

In page 773, between lines 15 and 16, to insert the following:

"(3) Where a company has such an official seal as is mentioned in *subsection (1)*, then *section 99(1)* shall apply to the company as if after "common seal of the company" there were inserted "or the seal kept by the company by virtue of *section* 1019".".

Amendment agreed to.

Section 1019, as amended, agreed to.

Sections 1020 to 1035, inclusive, agreed to.

SECTION 1036

Government amendment No. 145:

In page 791, line 19, after "person" where it secondly occurs to insert the following:

", but, in a case falling within *subparagraph (ii)*, compliance with this paragraph may be waived in writing by such members and the relevant person".

Deputy Richard Bruton: The purpose of this amendment is to allow the members to decide unanimously to waive the requirement for 21 days notice of the resolution and report.

Amendment agreed to.

Section 1036, as amended, agreed to.

Sections 1037 to 1072, inclusive, agreed to.

SECTION 1073

Government amendment No. 146:

In page 817, between lines 20 and 21, to insert the following:

"(a) an acquisition by a PLC of its own shares shall not be made otherwise than in respect of those of them that are fully paid;".

Deputy Richard Bruton: The purpose of this amendment is to provide an express reference that an acquisition by a PLC of its own shares shall not be made, otherwise than in respect of those of them that are fully paid. This is in line with EU law and Directive 2012/30/EU.

Amendment agreed to.

Section 1073, as amended, agreed to.

Sections 1074 to 1089, inclusive, agreed to.

SECTION 1090

Government amendment No. 147:

In page 827, between lines 19 and 20, to insert the following:

"(2) Nothing in *Parts 1* to *14* that makes provision in the case of a company having a sole director shall apply to a PLC.".

Amendment agreed to.

Section 1090, as amended, agreed to.

Sections 1091 to 1094, inclusive, agreed to.

SECTION 1095

Government amendment No. 148:

In page 828, line 33, to delete "Part or in *Parts 1* to *3* or *5* to *14*" and substitute "Act".

Amendment agreed to.

Section 1095, as amended, agreed to.

Sections 1096 to 1113, inclusive, agreed to.

SECTION 1114

Government amendment No. 149:

In page 837, to delete lines 25 and 26 and substitute the following:

"secretary has the skills or resources necessary to discharge his or her statutory and other duties and".

Amendment agreed to.

Section 1114, as amended, agreed to.

Sections 1115 and 1116 agreed to.

NEW SECTION

Government amendment No. 150:

In page 838, between lines 16 and 17, to insert the following:

"Modification of definition of "IAS Regulation" in the case of PLCs

1117. The definition of "IAS Regulation" in *section 274(1)* shall apply in the case of PLC as if "and a reference to Article 4 of that Regulation is, where the financial statements concerned are entity financial statements or the company concerned is not a traded company (within the meaning of *section 1368*), a reference to Article 5 of that Regulation" were substituted for "and a reference to Article 4 of that Regulation is, in the case of a private company limited by shares, a reference to Article 5 of that Regulation".".

Amendment agreed to.

Sections 1117 to 1173, inclusive, agreed to.

SECTION 1174

Government amendment No. 151:

In page 884, line 14, after "*Part 9*," to insert "or".

Deputy Richard Bruton: This is to amend a typographical error. It does not have a substantive impact on the Bill.

Amendment agreed to.

Section 1174, as amended, agreed to.

Section 1175 agreed to.

SECTION 1176

Government amendment No. 152:

In page 884, between lines 29 and 30, to insert the following:

"(d) that the liability of its members is limited, and".

Amendment agreed to.

Government amendment No. 153:

In page 885, between lines 13 and 14, to insert the following:

"(4) Where, subsequent to the registration of the constitution, an amendment of the memorandum of association is made affecting a matter referred to in *subsection (2)*, that subsection shall be read as requiring the memorandum to state the matter as it stands in consequence of that amendment.".

Amendment agreed to.

Section 1176, as amended, agreed to.

Sections 1177 to 1193, inclusive, agreed to.

SECTION 1194

Government amendment No. 154:

In page 896, between lines 4 and 5, to insert the following:

"(2) Nothing in *Parts 1* to *14* that makes provision in the case of a company having a sole director shall apply to a CLG.".

Amendment agreed to.

Section 1194, as amended, agreed to.

Sections 1195 to 1207, inclusive, agreed to.

SECTION 1208

Government amendment No. 155:

In page 899, line 30, to delete "Part or in *Parts 1* to *3* or *5* to *14*" and substitute "Act".

Amendment agreed to.

Section 1208, as amended, agreed to.

Sections 1209 to 1212, inclusive, agreed to.

NEW SECTION

Government amendment No. 156:

In page 900, between lines 28 and 29, to insert the following:

"Modification of definition of "IAS Regulation" in the case of CLGs

1213. *Section 1117* (modification of definition of "IAS Regulation") shall apply in the case of a CLG as it applies in the case of PLC.".

Amendment agreed to.

Sections 1213 to 1216, inclusive, agreed to.

SECTION 1217

Government amendment No. 157:

In page 901, between lines 27 and 28, to insert the following:

"(2) *Section 350(11)(b)* shall apply to a CLG as if the words "(in so far as applicable to a private company limited by shares)" were omitted.".

Amendment agreed to.

Government amendment No. 158:

In page 901, line 30, after "to" to insert "in".

Amendment agreed to.

Section 1217, as amended, agreed to.

Sections 1218 to 1231, inclusive, agreed to.

SECTION 1232

Government amendment No. 159:

In page 911, after line 34, to insert the following:

"(4) Where, subsequent to the registration of the constitution, an amendment of the memorandum of association is made affecting the matter of share capital, or an-

other matter, referred to in *subsection (2)*, that subsection shall be read as requiring the memorandum to state the matter as it stands in consequence of that amendment.".

Amendment agreed to.

Section 1232, as amended, agreed to.

SECTION 1233

Government amendment No. 160:

In page 912, between lines 20 and 21, to insert the following:

"(4) Where, subsequent to the registration of the constitution, an amendment of the memorandum of association is made affecting a matter referred to in *subsection (2)*, that subsection shall be read as requiring the memorandum to state the matter as it stands in consequence of that amendment.".

Amendment agreed to.

Section 1233, as amended, agreed to.

Sections 1234 to 1241, inclusive, agreed to.

SECTION 1242

Government amendment No. 161:

In page 918, line 13, to delete "*Section 1020*" and substitute "*Section 1019*".

Deputy Richard Bruton: This is to correct a typographical error. It does not have any substantive impact on the Bill.

Amendment agreed to.

Section 1242, as amended, agreed to.

Sections 1243 to 1254, inclusive, agreed to.

SECTION 1255

Government amendment No. 162:

In page 922, between lines 16 and 17, to insert the following:

"(2) Nothing in *Parts 1* to *14* that makes provision in the case of a company having a sole director shall apply to an unlimited company.".

Amendment agreed to.

Section 1255, as amended, agreed to.

Sections 1256 to 1260, inclusive, agreed to.

SECTION 1261

Government amendment No. 163:

In page 924, line 8, to delete "Part or in *Parts 1* to *3* or *5* to *14*" and substitute "Act".

Amendment agreed to.

Section 1261, as amended, agreed to.

Sections 1262 to 1264, inclusive, agreed to.

NEW SECTION

Government amendment No. 164:

In page 924, between lines 27 and 28, to insert the following:

"Modification of definition of "IAS Regulation" in the case of PUCs and PULCs

1265. *Section 1117* (modification of definition of "IAS Regulation") shall apply in the case of a PUC and a PULC as it applies in the case of PLC.".

Amendment agreed to.

Sections 1265 to 1280, inclusive, agreed to.

SECTION 1281

Question proposed: "That section 1281 stand part of the Bill."

Deputy Richard Bruton: I am considering bringing forward an amendment on Report Stage to clarify the re-registration arrangements for semi-State companies.

Question put and agreed to.

Sections 1282 and 1283 agreed to.

SECTION 1284

Government amendment No. 165:

In page 933, line 20, after "after" to insert "the".

Amendment agreed to.

Section 1284, as amended, agreed to.

Sections 1285 to 1296, inclusive, agreed to.

SECTION 1297

Question proposed: "That section 1297 stand part of the Bill."

Deputy Richard Bruton: I am considering introducing an amendment on Report Stage to change the reference which is currently to the 1968 directive to the recast directive on public disclosure of certain companies' information.

Question put and agreed to.

SECTION 1298

Government amendment No. 166:

In page 947, line 9, to delete "and" and substitute "or".

Deputy Richard Bruton: The purpose of the amendment is to correct a typographical error and it has no substantive impact on the Bill.

Amendment agreed to.

Section 1298, as amended, agreed to.

SECTION 1299

An Cathaoirleach: Amendments Nos. 167 and 168 are related and may be discussed together by agreement.

Government amendment No. 167:

In page 950, lines 16 and 17, to delete "has been struck off" and substitute "has been wound up, dissolved or otherwise removed from".

Deputy Richard Bruton: The purpose of these amendments is to transpose the necessary elements of Article 3 of EU Directive 2002/17. The directive imposes an obligation on member states to link their company registers electronically with one another.

Amendment agreed to.

Government amendment No. 168:

In page 950, lines 17 to 22, to delete all words from and including "without" in line 17 down to and including "office" in line 22 and substitute the following:

"as soon as practicable, enter in the register, in respect of each branch recorded in the register, the fact that the company has been so removed from the first-mentioned register save that this subsection shall not apply in any case in which the company has been so removed as a result of any change in the legal form of the company, a merger or division, or a cross border transfer of its registered office".

Amendment agreed to.

Section 1299, as amended, agreed to.

Sections 1300 to 1304, inclusive, agreed to.

NEW SECTION

Government amendment No. 169:

In page 954, after line 38, to insert the following:

"Notice of delivery to be published in CRO Gazette

1305. The Registrar shall publish in the CRO Gazette, within 21 days after the date of such delivery, notice of the delivery to the Registrar under this Chapter of any document.".

Deputy Richard Bruton: The purpose of the amendment is to provide for the requirement of notification of publication of filings in the CRO gazette for an external company which has a branch in the State. This is a requirement under regulation 10 of SI 395/1993.

Amendment agreed to.

Sections 1305 to 1307, inclusive, agreed to.

SECTION 1308

Government amendment No. 170:

In page 957, line 29, to delete "constitution" where it firstly occurs and substitute "constituting".

Amendment agreed to.

Section 1308, as amended, agreed to.

Sections 1309 and 1310 agreed to.

SECTION 1311

Government amendment No. 171:

In page 958, line 32, after "of" to insert "this".

Amendment agreed to.

Question proposed: "That section 1311, as amended, stand part of the Bill."

Deputy Richard Bruton: I am considering introducing a further amendment to the section on Report Stage to clarify that industrial and provident societies can utilise the section.

Question put and agreed to.

Sections 1312 to 1343 agreed to.

SECTION 1344

Government amendment No. 172:

In page 977, line 23, to delete "€2,500,000" and substitute "€5,000,000".

Deputy Richard Bruton: The purpose of this amendment is to amend the definition of "local offer" to reflect the increase in the threshold from "€2,500,000" to "€5,000,000" made by the Prospectus (Directive 2003/71/ EC) (Amendment) Regulations 2012.

Amendment agreed to.

Section 1344, as amended, agreed to.

Sections 1345 to 1365, inclusive, agreed to.

SECTION 1366

Government amendment No. 173:

In page 991, line 34, to delete "not to do," and substitute "not to do".

Amendment agreed to.

Section 1366, as amended, agreed to.

Sections 1367 and 1368 agreed to.

SECTION 1369

Government amendment No. 174:

In page 994, line 6, to delete "director's report" and substitute "directors' report".

Amendment agreed to.

Section 1369, as amended, agreed to.

Sections 1370 to 1373, inclusive, agreed to.

NEW SECTION

Government amendment No. 175:

In page 996, between lines 25 and 26, to insert the following:

"DAC or CLG that is a traded company may not file abridged financial statements

1374. Sections 350 to 356 shall not apply to a designated activity company or a company limited by guarantee that is a traded company.".

Deputy Richard Bruton: The purpose of this amendment is to provide that a DAC or a CLG that is a traded company may not file abridged financial statements. These companies cannot avail of the exclusion, exemptions and special arrangements with regard to public disclosure of financial information.

Amendment agreed to.

Sections 1374 to 1381, inclusive, agreed to.

SECTION 1382

Question proposed: "That section 1382 stand part of the Bill."

Deputy Richard Bruton: I am considering introducing an amendment on Report Stage to revert to the existing law and disapply section 225 for Part 24 companies.

Question put and agreed to.

Sections 1383 to 1386, inclusive, agreed to.

SECTION 1387

Government amendment No. 176:

In page 1005, between lines 27 and 28, to insert the following:

"(d) that the liability of its members is limited; and".

Amendment agreed to.

Government amendment No. 177:

In page 1006, between lines 10 and 11, to insert the following:

"(4) Where, subsequent to the registration of the constitution, an amendment of the memorandum of association is made affecting the matter of share capital, or another matter, referred to in subsection (2), that subsection shall be read as requiring the memorandum to state the matter as it stands in consequence of that amendment.".

Amendment agreed to.

Section 1387, as amended, agreed to.

Sections 1388 and 1389 agreed to.

SECTION 1390

Question proposed: "That section 1390 stand part of the Bill."

Deputy Richard Bruton: I am considering introducing amendments on Report Stage to reflect the provisions of the AIFMD regulations.

Question put and agreed to.

Sections 1391 to 1394, inclusive, agreed to.

NEW SECTION

Government amendment No. 178:

In page 1010, between lines 33 and 34, to insert the following:

"Statutory financial statements

1395. (1) To the extent that the use of any alternative body of accounting standards does not contravene any provision of *Part 6* (as that Part applies to investment companies)—

(a) a true and fair view of the assets and liabilities, financial position and profit or loss of an investment company may be given by the use by the investment

company of those standards in the preparation of its Companies Act entity financial statements, and

(b) a true and fair view of the assets and liabilities, financial position and profit or

loss of an investment company and its subsidiary undertakings as a whole may be

given by the use by the investment company of those standards in the preparation of its Companies Act group financial statements.

(2) In this section—

"alternative body of accounting standards" means standards that accounts of companies or undertakings must comply with that are laid down by such body or

bodies having authority to lay down standards of that kind in—

(a) United States of America;

(b) Canada;

(c) Japan; or

(d) any other prescribed state or territory;

as may be prescribed;

"relevant financial statements" means Companies Act entity financial statements or Companies Act group financial statements.

(3) Before making regulations for the purposes of subsection (2), the Minister—

(a) shall consult with the Central Bank and the Supervisory Authority, and

(b) may consult with any other persons whom the Minister considers should be consulted.

(4) Regulations made under section 3(3) of the Act of 1990 prescribing, for the purposes of the definition of "alternative body of accounting standards" in section 260A(4) of the Act of 1990, bodies having authority to lay down standards of the kind referred to in that definition, and which regulations are in force immediately before the commencement of this section, shall continue in force as if they were regulations made under section 12 for the purposes of *subsection (2)* and may be amended or revoked accordingly.".

Deputy Richard Bruton: The purpose of this amendment is to correct an anomaly with regard to statutory financial statements for investment companies. The section as it stands in the Bill, by virtue of its interaction with sections 291 and 293, bypasses the requirements of sections 292(3)(*a*) and (*c*), allowing investment companies to prepare what are in effect Companies Act entity financial statements using a body of accounting standards other than IFRS and without being subject to the transposed provisions of the accounting directives.

Amendment agreed to.

Section 1395 deleted.

Sections 1396 to 1409, inclusive, agreed to.

SECTION 1410

Government amendment No. 179:

In page 1023, line 6, to delete "to pay its debts as" and substitute the following:

", at the time of the application, to pay its debts (being the debts identified for the purposes of subsection (2)(b)) as".

Deputy Richard Bruton: The purpose of this amendment is to link the subsection (1) with subsection (2) of this section by providing that where an application is made either by a migrating company to be registered in the State or by a company seeking to migrate out of the State, a director of the company must make a statutory declaration that the entity is solvent at the time of time of making the declaration and not more than three months before the date of that making.

Amendment agreed to.

Section 1410, as amended, agreed to.

Sections 1411 to 1429, inclusive, agreed to.

Amendment No. 180 not moved.

Section 1430 agreed to.

Sections 1431 to 1434, inclusive, agreed to.

SECTION 1435

Question proposed: "That section 1435 stand part of the Bill."

Deputy Richard Bruton: I am considering introducing an amendment to this section on Report Stage. The purpose of this amendment is to ensure that the existing law in respect of public auditors is maintained. The proposed amendment relates to the prohibition on connected persons acting as auditor of a society at present covered by section 187(3)(a) to (f) and (4)(a) to (d) of the 1990 Act.

Question put and agreed to.

NEW SECTION

Government amendment No. 181:

In page 1031, between lines 26 and 27, to insert the following:

"Certain captive insurers and re-insurers: exemption from requirement to have audit committee

1436. Regulation 91(9) of the European Communities (Statutory Audits) (Directive 2006/43/EC) Regulations 2010 (S.I. No. 220 of 2010) is amended by inserting after sub-paragraph (d) the following:

"(da) a captive insurance undertaking or captive re-insurance undertaking (in each case within the meaning of Article 13 of Directive 2009/138/EC) which satisfies the following conditions—

(i) it is not owned by a credit institution within the meaning of Article 1(1) of Directive 2000/12/EC or by a group of such institutions, and

(ii) it has not issued transferable securities admitted to trading on a regulated market within the meaning of point 14 of Article 4(1) of Directive 2004/39/EC, or".".

Deputy Richard Bruton: The purpose of this new section is to facilitate the exemption of a specific category of captive insurers and re-insurers (of insurance-reinsurance companies) from the obligation under Article 41 of Directive 2006/43/EC to have an audit committee. Captive insurance is considered to be inherently an exercise in self-insurance by a corporation and as such the inherent risk profile of most captive insurers is significantly different from other insurers thereby removing the need for an audit committee. An obligation on such an entity to have an audit committee is not considered to serve any real purpose, and thus places an undue and significant demand on these undertakings.

Amendment agreed to.

Section 1436 agreed to.

NEW SECTION

Government amendment No. 182:

In page 1031, between lines 26 and 27, to insert the following:

"Assurance company holding shares in its holding company

1437. In the case of—

(a) a designated activity company,

(b) a public limited company, or

(c) an unlimited company,

that is an assurance company within the meaning of section 62 of the Insurance Act 1989, neither *section 113* nor *section 114*, other than *subsection (2)(b)(i)*, shall apply to shares subscribed for, purchased or held by it in its holding company pursuant to that *section 62*.".

Deputy Richard Bruton: The purpose of this amendment is to align the Bill with existing law as section 224(6) of the Companies Act 1990 allows a subsidiary of an insurance company to hold shares in its holding company when done pursuant to section 9(1) of the Insurance Act 1990. As the Bill stands this provision is omitted and this was not intended.

Amendment agreed to.

Section 1437 agreed to.

NEW SECTION

Government amendment No. 183:

In page 1031, between lines 26 and 27, to insert the following:

"Realised profits of assurance companies

1438. (1) In the case of—

(a) a designated activity company,

(b) a public limited company, or

(c) a company limited by guarantee,

carrying on life assurance business, or industrial assurance business or both, any amount properly transferred to the profit and loss account of the company from a surplus in the fund or funds maintained by it in respect of that business and any deficit in that fund or those funds shall be respectively treated for the purposes of Chapter 7 of Part 3 as a realised profit and a realised loss, and, subject to the foregoing, any profit or loss arising on the fund or funds maintained by it in respect of that business shall be left out of account for those purposes.

(2) In *subsection (1)*—

(a) the reference to a surplus in any fund or funds of a company is a reference to an excess of the assets representing that fund or those funds over the liabilities of the company attributable to its life assurance or industrial assurance business, as shown by an actuarial investigation, and

(b) the reference to a deficit in any such fund or funds is a reference to the excess of those liabilities over those assets, as so shown.

(3) In this section—

"actuarial investigation" means an investigation to which section 5 of the Assurance Companies Act 1909 applies or provision in respect of which is made by regulations under section 3 of the European Communities Act 1972; "life assurance business" and "industrial assurance business" have the same meaning they have as in section 3 of the Insurance Act 1936.".

Deputy Richard Bruton: The purpose of this amendment is to reflect existing law and to provide that in respect of a designated activity company, a public limited company or a company limited by guarantee carrying on life assurance business, industrial assurance business or both, any amount properly transferred to the profit and loss account of the company from a surplus in the fund or funds maintained by it in respect of that business and any deficit in that fund or those funds shall be respectively treated for the purposes of Chapter 7 of Part 3 as a realised profit and a realised loss and, subject to the foregoing, any profit or loss arising on the fund or funds maintained by it in respect of that business shall be left out of account for those purposes.

Amendment agreed to.

Section 1438 agreed to.

NEW SECTION

Government amendment No. 184:

In page 1031, between lines 26 and 27, to insert the following:

"Amendment of section 30 of Multi-Unit Developments Act 2011

1439. Section 30 of the Multi-Unit Developments Act 2011 is amended, in subsection (1), by

inserting "or, as the case may be, the Companies Registration Office Gazette" after "*Iris Oifigiúil*".".

Deputy Richard Bruton: The purpose of this amendment is to facilitate the bringing of notice in the Companies Registration Office Gazette in circumstances where a company - to which the Multi Unit Developments Act applies - is struck off the register under section 311 of the 1963 Act or section 12 of the 1982 Act to have the company restored to the register.

Amendment agreed to.

Section 1439 agreed to.

Schedules 1 to 5, inclusive, agreed to.

SCHEDULE 6

An Cathaoirleach: Amendments Nos. 185 to 187, inclusive, are related and may be discussed together by agreement.

Government amendment No. 185:

In page 1085, line 3, after "Minister" to insert "may".

Deputy Richard Bruton: The purpose of these amendments is to insert a missing word in the text. The text ought to indicate that the "Minister may by regulations do anything...". The second amendment in this grouping is grammatical in nature and does not have a substantive impact on the Bill.

Amendment agreed to.

Government amendment No. 186:

In page 1085, line 4, after "to" to insert "the Minister to".

Amendment agreed to.

Government amendment No. 187:

In page 1085, between lines 17 and 18, to insert the following:

"Application of paragraph 12 to companies whose dissolution is declared void

13. *Paragraph 12* shall, with any necessary modifications, apply to a company the dissolution of which is declared under *section 708* to have been void as it applies to a company restored to the register under an enactment referred to in that paragraph (but subject to any order the court may make under *section 708* in making such a declaration).".

Amendment agreed to.

Schedule 6, as amended, agreed to.

Schedules 7 to 13, inclusive, agreed to.

SCHEDULE 14

Government amendment No. 188:

In page 1100, to delete line 19.

Amendment agreed to.

Government amendment No. 189:

In page 1102, between lines 13 and 14, to insert the following:

Official seal and sealing securities	Section 1019

Amendment agreed to.

Schedule 14, as amended, agreed to.

Schedules 15 to 17, inclusive, agreed to.

Title agreed to.

Bill reported with amendments.

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

Senator Michael Mullins: Tomorrow, Wednesday 18 June.

An Cathaoirleach: Is that agreed? Agreed.

Report Stage ordered for Wednesday, 18 June 2014.

An Cathaoirleach: When is it proposed to sit again?

Senator Michael Mullins: Tomorrow at 10.30 a.m.

Adjournment Matters

Drugs Payment Scheme Coverage

An Cathaoirleach: I welcome the Minister for Health, Deputy James Reilly.

Senator Colm Burke: This Adjournment matter concerns the drug Fampyra which is used by multiple sclerosis patients. It has been brought to my attention by a patient using the drug

on a trial basis with positive effects that it is not covered by the GMS or drugs payment scheme. The patient's consultant, Dr. Brian Sweeney in Cork, has recommended that she continue using the drug, but it is costing her approximately €250 per month. She does not qualify for a refund and the expense is causing her problems. The advantage of the drug is that it improves mobility and reduces fatigue, although it does not work for everyone. That said, it works for a large number of patients and many consultants have recommended its use. It is recognised in many other European countries and I ask the Minister to consider recognising it here, too, in the GMS, the long-term illness scheme and the drugs payment scheme.

Minister for Health (Deputy James Reilly): I ask for guidance from the Chair. I will respond to Senator Colm Burke. When he has responded to me, will I have a further opportunity to respond?

Acting Chairman (Senator Michael Mullins): Yes.

Deputy James Reilly: That is fine. I actually dealt with this issue earlier today but thank Senator Colm Burke for raising it in this House.

The HSE has statutory responsibility for decisions on pricing and reimbursement of medicinal products under the community drug schemes in accordance with the provisions of the Health (Pricing and Supply of Medical Goods) Act 2013. The executive received an application for the inclusion of Fampridine or Fampyra in the GMS and community drugs schemes. The application was considered in line with the procedures and timescales agreed by my Department and the HSE with the Irish Pharmaceutical Healthcare Association, IPHA, for the assessment of new medicines. In accordance with these procedures, the National Centre for Pharmacoeconomics, NCPE, conducted a pharmaco-economic evaluation of Fampridine and concluded that, as the manufacturer was unable to demonstrate its cost-effectiveness in the Irish health care setting, it was unable to recommend reimbursement of the product. The report is available on the NCPE's website. The HSE assessment process is intended to arrive at a decision on the funding of new medicines that is clinically appropriate, fair, consistent and sustainable. In these circumstances, the HSE has not approved the reimbursement of Fampridine under the community drug schemes.

I understand studies are ongoing to assess the wider impact of Fampridine on both walking and quality of life for persons diagnosed with multiple sclerosis. The results of these studies will contribute to the evidence base demonstrating the clinical effectiveness of Fampridine which can be used to support future applications for its inclusion in the lists of reimbursable items supplied under the community drug schemes. In this context, it is open to the manufacturer, at any time, to submit a new application to the HSE for the inclusion of Fampridine in the community drug schemes. The manufacturer has indicated to the HSE that it intends to submit a revised application for Fampridine and it is my understanding the company may actually have done so this morning.

The HSE and I fully understand patients are very anxious that this product be made available under the community drug schemes. Therefore, the HSE will reconsider the application on receipt, in line with the agreed procedures and timescales for the assessment of new medicines, in order that the matter will be addressed and dealt with as quickly as possible.

Senator Colm Burke: I thank the Minister for his comprehensive reply. I fully understand the position of the HSE and the Department on this issue and accept that pricing is important in

the context of drugs being accepted for inclusion in the community drug schemes. In this case the drug has already received approval in a number of other European countries and evidence to support its effectiveness is available, although I am open to correction on this. The patient to whom I referred is responding well to the drug and experiencing obvious beneficial effects, particularly a reduction in fatigue. She contacted me because the drug was proving so successful. She will probably continue to use it, but because it has not received HSE and departmental approval, she will have to fund the treatment herself.

Deputy James Reilly: This particular drug costs approximately €6,000 per year. As I understand it, many of the people who are using it are being supplied by the manufacturer on a trial basis. Approximately 7,000 people in this country have multiple sclerosis, which would equate to a bill of €42 million per annum. Fampridine does not work in all cases - far from it. It is estimated that it will only be effective for 20% to 25% of multiple sclerosis sufferers. Admittedly, for those patients for whom it does work, the effects can be dramatic, with the ability to carry out the activities of daily living greatly improved to the point where they can go to work and lead a much more normal life. We would dearly love to be able to provide the drug for them, but we cannot do so at its current costing. We have a limited pot of money available and €42 million would be an enormous sum to take out of it. What other items would we sacrifice to do this? The price of the drug must be more realistic.

I call on the pharmaceutical industry, as I did earlier in Dáil Éireann, to enter into risk sharing with the Government, on behalf of the taxpayer, for whom we are trying to provide services and medication. There is no risk sharing. For example, there is no arrangement whereby we could agree and pay a certain price for those patients for whom the drug is working. In the first instance, we must demonstrate that the drug works, as it clearly does for some. We also need to have a sense of the type of patient for whom it is likely to work and limit its prescribing to such patients. Subsequently, we would like to enter into a risk-sharing agreement with the drugs companies that reflects, in a more realistic and affordable way, the cost of medications that we want to make available to our people.

The pharmaceutical industry is hugely important to this country, employing tens of thousands of people directly and more than 100,00 indirectly. We are very proud of that industry and supportive of research and innovation to develop new drugs. However, all parties, including policy makers, physicians, patients and drug companies must accept that there is a limited pot of money and if we take a large amount out for one area, that means other areas will suffer. Unfortunately, unlike the United States of America, we cannot engage in printing money or "quantitative easing" as they call it.

Senator John Crown: One of the saddest things I can recall is seeing my own father recovering from one cerebrovascular accident but making a poor recovery from a second one which took his life many years ago. During the recovery phase after his first stroke he was blessed in that he had wonderful sisters, Florence and Betty, who really took him on board as a project and rehabilitated him. I would like to take this opportunity to acknowledge their wonderful memory. All of them have sadly passed away.

We have 30,000 stroke survivors in our republic. Ireland's national audit of stroke care in 2007 identified rather substantial deficits in the services available to those who survived acute stroke. The main deficits were in the areas of discharge planning, rehabilitation and secondary prevention. There were also many criticisms of communication with both patients and their families in the context of services that were in place. In response, a group of investigators from

the Royal College of Surgeons, led by Frances Horgan, Mary Walsh, Chris Macey and Cliona Loughnane performed a national survey of stroke survivorship in 2013 on 200 patients. They found very substantial physical, emotional and psychological problems in the survivors of this dreaded medical catastrophe. Fully 83% of those surveyed had severe mobility problems. In roughly equal proportions, others had fatigue, arm problems, memory problems, unsteadiness leading to falls, emotional problems, concentration difficulties and sphincter problems. Around half of those surveyed said they felt that their problems had not been addressed and that appropriate help was not available to them.

The Minister for Health has an excellent track record in terms of attention given to acute stroke treatment, stroke units and so forth. I ask him to look to the next stage, which is the development of early supported discharge programmes such as those piloted by the Mater Hospital. Can we look at rolling out plans like that nationwide? Can we also look at the implementation plan in respect of the national policy and strategy for the provision of neuro-rehabilitation services in Ireland 2011 to 2015? Given his interest in community-based care, I ask that the Minister devotes his attention and skills to improving the community-based rehabilitation services. Specifically, I ask him to outline the time lines for the implementation of the excellent recommendations of the national policy and strategy.

Deputy James Reilly: I thank the Senator for providing me with the opportunity in Seanad Éireann to speak on the subject of rehabilitation services for stroke survivors and neuro-rehabilitation services.

Since the publication in 2010 of the national cardiovascular health policy, significant improvements have been made with regard to access to acute treatments for coronary heart disease as well as the development of stroke units across the country. New and existing stroke units have been provided with additional therapy, nursing and consultant posts. Thrombolysis is now available to acute hospitals admitting stroke patients, 9.5% of whom are being thrombolysed, which compares extremely well with the best European figures. Senator Crown is aware that no less a man than Don Berwick, President Obama's main health advisor, made special mention of the stroke programme here and what can be achieved in a country in pretty dire financial constraints. We have gone from the bottom of the league in Europe to the top in terms of thrombolysis and patient care. All hospitals which accept stroke patients now have stroke units which has improved outcomes hugely.

The stroke programme estimates that the number of people with enduring disabilities as a result of stroke has decreased as the percentage of patients with stroke discharged from acute hospitals to nursing homes has dropped from 17.3% in 2009 to 14.5% in 2012. The percentage of patients discharged directly home has increased from 49.4% in 2009 to 51.1% in 2012. The stroke foundation education programme developed by the stroke programme is leading to improved patient experience of stroke service provision. Patients requiring more intensive rehabilitation are referred to the nearest available rehabilitation service.

The establishment of managed clinical rehabilitation networks for neurological and prosthetic rehabilitation services in each of the four HSE regions contributes to rehabilitation services. The National Rehabilitation Hospital provides specialist stroke rehabilitation as a national hub and links in with regional services. There are plans for a hub and spoke development across the country.

The Department of Health's national policy and strategy for the provision of neuro-rehabil-

itation services in Ireland, in collaboration with the national clinical programme for rehabilitation medicine provides for improved access to and quality of services for patients requiring rehabilitation. The rehabilitation medicine clinical programme and the HSE disability services division are developing an implementation plan for the neuro-rehabilitation strategy.

A certain percentage of stroke patients will be suitable for early supported discharge, which involves intensive specialised stroke rehabilitation provided in the patient's home for up to eight weeks. This reduces the length of hospital stay, reduces long-term dependency and the risk of further disability after six months, as well as reducing the number of patients requiring long-term care. Early supported discharge services are currently funded in a number of locations, including the Mater Hospital. The feasibility of implementing this model in geographically dispersed populations is limited. The National Clinical Programme for Stroke, NCPS, continues to provide funding to these sites.

Primary care also plays an important role in stroke rehabilitation. The HSE's National Service Plan 2013 provided for additional funding of €20 million to strengthen primary care services and provides for additional primary care posts. As of 6 June 2014, 221.5 of the 264.5 whole-time equivalent posts in the primary care teams have been filled or start dates agreed. The HSE is striving to have the remainder of the posts filled as soon as possible in 2014. Taken together, all these developments show that we have made significant progress in preventing stroke and its complications. Nonetheless, I hear the Senator loud and clear - there is more to be done. I agree that more needs to be done but we face extreme challenges in the health service in the context of our budget which curtail our ability to expand our services in the way we would like.

Senator John Crown: I thank the Minister for his response. Obviously, with our aging population and the demographic risks we are facing, including the obesity epidemic, diabetes and high blood pressure as well as the smoking problem, cerebrovascular disease will continue to be a huge issue in this country. Not only is it very humane to treat terribly vulnerable people who are at their lowest ebb in terms of the betrayal of their own bodies by their circulation, it also makes great economic sense to try to rehabilitate and treat them as efficiently and quickly as we can. The downstream effects of having bad rehabilitation services in the community for our stroke patients are seen everywhere. Not only do patients get less good care if they are being looked after for extended periods of time in an inappropriate setting, where they run the risk of acquiring hospital infections and so forth, others who could use those hospital services more appropriately are denied them. A vicious cycle can set in. We must try to identify those patients who are good candidates for early, appropriate, humane, well-looked-after, rehabilitation-focused discharge.

Deputy James Reilly: Again, I thank the Senator for raising this issue. My own father suffered a stroke at the age of 66 and was left with cortical blindness for his remaining 14 years.

9 o'clock

I am acutely aware, therefore, of the impact on families and the stress caused for them. He was a smoker and a doctor.

We have made great progress. The principle underlying health policy is that patients should be treated at the lowest level of complexity that is safe, timely, efficient, and as near to home as possible. Early intervention is part of this to allow for better outcomes for the patient

and more treatment nearer to home. We need to develop stroke rehabilitation services in the context of primary care. I have opened many health centres in the past three years. We have opened them at a rate of one a month. Many of them have physiotherapy and occupational therapy facilities; therefore, the service is evolving. I look forward to us continuing to improve outcomes for patients. However, the Senator is correct that prevention is better than cure and in moving from hospital-centric services to primary care we also have to move resources. There is only one pot of money which is constrained, but we continue to move as much of the service as possible out of the hospital into the community where it is more cost effective and convenient for patients to use it.

International Bodies Membership

Senator Mary Ann O'Brien: I thank the Minister of State for attending. Will the Minister for Education and Skills consider joining Ireland to the New York Academy Global Network and attending the global science, engineering, technology and mathematics, STEM, alliance international launch? This is due to happen at the United Nations next September. We all regularly speak about the importance of education and skills and focusing on science, engineering, technology and mathematics. The future of the global economy relies on the education of our children today and the technology and intelligence that can make the planet a better place for us all. A colleague in America mentioned that I was serving as a Senator and I was approached by a staff member of the New York Academy of Sciences. This is a no-brainer. The children of the country would be able to interact and discuss science, technology and mathematics with their counterparts around the world and participate in mentoring relationships with the most brilliant early career scientists through this alliance. I have all the details and I am interested in what the Minister has to say.

Minister of State at the Department of Transport, Tourism and Sport (Deputy Michael Ring): I thank the Senator for raising this matter and giving me the opportunity, on behalf of my colleague, the Minister for Education and Skills, to outline the current position to the House.

The Department of Education and Skills recognises the need to provide ready access to STEM career role models-pathways-information for young people. This is the ethos underpinning the Smart Futures programme, the recently launched Government-industry initiative coordinated by Science Foundation Ireland. The Government is incorporating STEM for students in primary and post-primary schools across the country, through curricular reform at junior and senior cycle, for example, through the high profile Project Maths initiative.

The ICT action plan 2014-18 was developed as a direct response to specific skills shortages in the ICT sector. It outlines a range of short, medium and long-term measures to develop a sustainable domestic supply of high quality ICT graduates to support the further expansion and development of the ICT sector and support innovation and growth across other sectors of the economy. Ireland's education system will have a critical role to play in the coming decades as we seek to build an innovative, knowledge-based economy that will provide sustainable employment opportunities and an informed citizenship. Central to this is a commitment to build on our provision of STEM in primary, post-primary and third level education. We also need to strengthen and expand the entrepreneurial partnerships that are evolving between industry and schools which will make STEM become a reality for students, not just an academic curiosity.

Competitions such as the BT Young Scientist Exhibition and SciFest give students an opportunity to showcase their knowledge.

The Government is promoting science, technology, engineering and maths to students in primary and secondary schools across the country. The message is beginning to get through to school leavers and other potential students that there are increasing employment opportunities for high quality graduates in these disciplines. Such is the priority accorded to it, my colleague, the Minister of State with responsibility for research and innovation, Deputy Sean Sherlock, has responsibility through both the Department of Education and Skills and the Department of Jobs, Enterprise and Innovation for promoting STEM. The Department of Education and Skills considers it to be a priority to focus on the current national initiatives such as the promotion of STEM in schools and the Smart Futures programme in industry and academia which aim to motivate young people's interests and aspirations in the STEM areas. Given the ongoing range of work, it is not considered timely to join the NY Academy Global Network. However, the Department is supportive of this initiative and will be interested to hear about its progress.

Senator Mary Ann O'Brien: I thank the Minister of State for his reply, but I am a little disappointed. I admire the work being done in the STEM area and acknowledge the focus the Department has put on it. I have a little girl aged 14 years and I am well aware of the focus on STEM in the education system. However, this is low hanging fruit. I am sometimes critical of the Internet and the effect it might have on young people, but this is a global social network for highly gifted students to be mentored and network among each other. If the Minister of State does not mind, I will pursue the Department and keep in touch in this regard. In recent weeks the United Kingdom, China, Qatar, Kuwait, Serbia and Nigeria have joined the alliance. I fail to understand why Ireland will not do so and will not sent representatives to attend the launch at the United Nations in September because it is for the good of young people.

Deputy Michael Ring: The bottom line is that the Department is supportive of the initiative and asked to be kept informed of progress in this regard. The door is half open. I leave it up to the Senator to make sure it will be opened fully.

Road Projects Status

Senator Trevor Ó Clochartaigh: Cuirim fáilte roimh on Aire State. I am sure both of us would prefer to be back in the west in the sun, but we have to do our business in the House.

The issue I raise relates to the N59 between Galway and Clifden which passes through Moycullen and Oughterard, with which the Minister of State will be familiar. I appreciate work is being done on the road and acknowledge that planning for the Moycullen bypass has been advanced. However, I refer to the section of the road between Oughterard and Clifden which passes through Maam Cross in Connemara. What is the state of play in this regard? There have been two An Bord Pleanála hearings on the section between Oughterard and Maam Cross. The route chosen differs from the current one and there are concerns in the community that this might prove detrimental to the area. Environmental concerns have also been raised and we might be in bother at European level if we are not careful. During the An Bord Pleanála hearings the National Parks and Wildlife Service was not as vocal as it should have been.

Given that the Minister of State is from Westport, he will be well aware of the Delphi bridge disaster which happened a number of years ago. Mayo County Council got into a little bother

because the European Union felt the habitats directive had not been fully complied with by the council and that insufficient account had been taken of the ecological issues raised by experts at the time. The Government got into trouble over the issue. There is a sense that we might take the same route on the section of the N59 between Oughterard and Maam Cross if the Government is not careful. I would welcome the Minister of State's thoughts on that.

Issues are also being raised about the failures and the completeness of the environmental impact statement, EIS, and the Natura impact statement, NIS, as well as the fact part of this will be a DBO project. The nature of a DBO project means the plan is not available when the EIS is being prepared, so it is hard to gauge from an ecological point of view what the impact is going to be. This could lead to problems on an environmental level and, although this might have gone through the national planning process, it could be appealed to Europe. I want to know where we stand if that happens.

We all want to see the improvement of the road. It is very important for the people of south and north Connemara that we have good road routes to make the area accessible. Given the Minister of State's own involvement with the Wild Atlantic Way, he will be very aware we need to try to get people through the area in a proper manner but we also need to be very careful that we do it in the best way ecologically and in keeping with the needs and wants of local communities.

Deputy Michael Ring: I thank the Senator. In a personal capacity, it is an area I love. It is the most beautiful part of Ireland, as far as I am concerned, and I have an interest in the place. With the walks and other projects for which we are providing funding, it has a very bright future. It is one of the most beautiful parts not just of Ireland but of the world. We must make sure we protect it in whatever way we can.

I thank the Senator for the opportunity to discuss this issue in the House on behalf of the Minister, Deputy Varadkar. I am sure all Members of this House will now be well aware that the Minister for Transport, Tourism and Sport has responsibility for overall policy and funding in regard to the national roads programme. The construction, improvement and maintenance of individual national roads, such as the N59, is a matter for the National Roads Authority under the Roads Acts 1993 to 2007, in conjunction with the local authorities concerned.

I am aware that the route in question is well known as one of the most important tourist routes in the country and is the principal access to and through Connemara and the many tourist attractions of the region, including Kylemore Abbey, Connemara National Park, the iconic landscape that envelopes the N59 route and the numerous towns and villages that draw tourists from home and abroad.

The N59 Oughterard to Clifden scheme originally consisted of a 44 km upgrade of the existing road. I understand that, due to environmental issues, it was decided in June 2012 to divide the scheme into two sections, namely, the N59 Oughterard to Maam Cross section and the N59 Maam Cross to Clifden section. The preliminary design, environmental reports and compulsory purchase drawings for the N59 Oughterard to Maam Cross section were prepared first and submitted to An Bord Pleanála for approval in October 2012. As regards the Maam Cross to Clifden section of the scheme, further environmental studies are required before environmental reports can be produced. It is anticipated that this section of the scheme will be submitted to An Bord Pleanála in July 2014. Oral hearings into objections to the N59 Oughterard to Maam Cross section were held in February 2013 and re-opened in August 2013 to revisit some aspects

of the environmental impact statement, as well as compulsory purchase order-related issues that arose at the first hearing.

An Bord Pleanála approved the N59 Oughterard to Maam Cross project on 23 December 2013. The highly sensitive and protected environment of Connemara, combined with traffic volumes of fewer than 5,000 vehicles per day, have made it difficult to justify significant re-alignments. In regard to improvements or realignments to the route, Galway County Council has procured consultants to prepare design and contract documents for the 10 km section of this project between Bunnakill and Claremount. An allocation of €1 million has been provided to Galway County Council for the N59 Clifden to Oughterard scheme in 2014. In addition, stimulus funding of €200,000 has recently been provided to Galway County Council for advance works on the Bunnakill to Claremount section ahead of construction of the N59 Oughterard to Maam Cross scheme. The advance works will include ground investigation, archaeological works, fencing of acquired lands, works on a section of the Connemara greenway and other areas of work related to peat restoration areas and advance bridge works.

As regards the timeframe for completion of the scheme, future progress on this scheme is subject to both the outcome of the decision of An Bord Pleanála on the second section of the project and the availability of future funding. It should be noted that the section of the N59 from Oughterard to Clifden is part of the overall route to Clifden and, of course, the most heavily trafficked section is from Galway to Oughterard. Within a constrained budget, the Department and the NRA continue to improve facilities for both motorists and cyclists along this route. In this regard, my Department recently announced a grant of €2 million for a greenway between Galway city and Moycullen. As part of the recent stimulus moneys, the NRA will shortly commence works on widening a 1.1 km section of road south-east of Moycullen village at a cost of €1.5 million.

Senator Trevor Ó Clochartaigh: I concur with the Minister of State's fine words about the intense beauty of the area in question. I thank him for the full report on the development. To follow on from that, the Minister of State might go back to the Minister and ask whether he is concerned that certain people believe the NPWS took a hands-off approach to the second An Bord Pleanála hearing and that its full input was not given to that hearing. Therefore, there may be questions around the ecological aspect of the development between Oughterard and Maam Cross in particular, which may be challenged at a European level. This could have a serious impact on the development of the road. Parallels are being drawn between what happened in the Delphi bridge disaster and what could happen close to Oughterard. Is the Minister concerned about this and will he address those concerns?

Deputy Michael Ring: I will bring the Senator's concerns to the Minister's attention. As I said, it is an area I know very well and which I would like to see developed. While making progress, however, we have to retain its natural beauty. People in the area depend on tourism and the jobs it brings. The one thing we have in the area is its natural beauty, for example, at Kylemore and in the Connemara National Park - one could go on and on. We also need to develop infrastructure and roads, however, and I would like to see that happen. If the Minister has anything to correspond to the Senator in this regard, I will ask him to do that.

The Seanad adjourned at 9.20 p.m. until 10.30 a.m. on Wednesday, 18 June 2014.