



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

Business of Seanad	2
Order of Business	2
Direct Provision System: Motion	23
Civil Registration (Amendment) Bill 2014: Committee Stage	55
Adjournment Matters	71
Departmental Staff Redeployment	71
Heritage Projects	73
Defence Forces Retirement Scheme	75

SEANAD ÉIREANN

Dé Céadaoin, 17 Meán Fómhair 2014

Wednesday, 17 September 2014

Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

*Machnamh agus Paidir.
Reflection and Prayer.*

Business of Seanad

An Cathaoirleach: I welcome everyone back to the Seanad. I have received notice from Senator Paschal Mooney that, on the motion for the Adjournment of the House today, he proposes to raise the following matter:

The need for the Tánaiste and Minister for Social Protection to respond to media reports that a section of her Department located in Tubbercurry, County Sligo, would be relocated to the social protection office in Carrick-on-Shannon, County Leitrim, following the decision of the Department of the Environment, Community and Local Government to relocate its staff to County Mayo.

I have also received notice from Senator Thomas Byrne of the following matter:

The need for the Minister for Defence to ensure that Defence Forces personnel subject to a 1994 contract be enabled to stay in the Defence Forces until the age of 50 or 55 subject to annual medical and fitness tests.

I have also received notice from Senator Fidelma Healy Eames of the following matter:

The need for the Minister for Transport, Tourism and Sport to ensure that Fáilte Ireland would consider providing a licence to the Yeats Thoor Ballylee society to enable fundraising to begin so that Thoor Ballylee, the former home of W.B. Yeats, can be opened in time for his 150th birthday in June 2015.

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

Order of Business

Senator Maurice Cummins: The Order of Business is No. 61a, Private Members' business, to be taken at 3.45 p.m. and to conclude not later than 5.45 p.m.; and No. 1, Civil Registration (Amendment) Bill 2014 - Committee Stage, to be taken at 6 p.m. and to adjourn not later than 8 p.m. if not previously concluded.

Senator Darragh O'Brien: I welcome everyone back to the Seanad. I do not know whether Members met the group of former IBRC mortgage holders outside Leinster House today. Many of the 13,000 loans are performing and have no protection under Irish legislation. Those concerned have no protection under Irish legislation since their mortgages were sold on. The Minister for Finance, Deputy Michael Noonan, stated that he would introduce legislation to protect such people in 2015. Our understanding is that legislation will not be retrospective and will deal with future sales of mortgage books to international vulture funds. I have raised this issue on a number of occasions in the House. Colleagues on both sides share my concern. There are 13,000 mortgage holders in Ireland who had the protection of the Central Bank and the watered down code of conduct on mortgage arrears. I would like the Leader to ask the Minister, Deputy Noonan, what his intention is in that regard, when he will publish legislation, and not to forget those who have already had their legs taken from under them because their mortgages have been sold on. We can do some work in this regard to ensure everyone gets the protection they need.

I raised the issue of the MS drug Fampyra a number of times before the recess and had hoped the matter had been resolved. I wrote on numerous occasions to the previous Minister for Health and raised the issue with the current Minister in the House. Hundreds of MS sufferers across Ireland were availing of the drug which improved their mobility and gave them back their independence. Since 1 July this year they have not been able to access the drug. I wrote to the Minister for Health, Deputy Varadkar, and he said the drug company had sent a revised proposal to him on 22 July. We are now in the middle of September. I have received e-mails from people who are no longer working and I know of two women who cannot work because their mobility is so bad. The drug costs only €270 a month. I ask the Leader to use his good office to lean on the HSE to make a decision in regard to this drug immediately. I would welcome the intervention of the Leader.

I give a guarded welcome to the announcement yesterday from the Minister for Justice and Equality, Deputy Fitzgerald, on the civilianisation of immigration services in Dublin Airport. The Minister stated this will free up 125 gardai for front line duty with the transfer of staff from her Department to look after immigration in the airport. My initial reaction is that this is a good move. I ask that the Minister come before the House to take questions on this issue.

We are all aware, however, that a large number of Garda stations, not only in rural locations but also in urban areas, have had their staff numbers reduced or part-time staffing introduced, while others have been closed. Within a short distance of Dublin Airport, for example, Malahide and Howth Garda stations close at 9 p.m., and Whitehall and Rush stations have been closed. In regard to the 125 gardai the Minister has indicated will be released to core policing duties, it would be helpful to have details of the roll-out, including where and how soon they will be posted. It would be welcome if the Minister uses those resources to beef up Garda numbers in areas where the previous Minister reduced them. Will the Leader arrange for the Minister to come in at the earliest opportunity to outline her plans in this regard and answer questions on the proposed civilianisation of immigration services at Dublin Airport?

Senator Ivana Bacik: I welcome colleagues back and hope they all had a refreshing break. Will the Leader facilitate debates in anticipation of the budget, which will be announced in four weeks time? This budget comes in the context of the positive economic figures we have seen in recent months, particularly the continued fall in unemployment, which everybody welcomes. I likewise welcome the publication today of the Government's new legislative programme, which focuses on job creation measures and securing economic recovery. In the course of this

session we will debate industrial relations legislation, a credit guarantee (amendment) Bill and legislation relating to the European Stability Mechanism, among other Bills dealing specifically with supporting the wider economy. In addition, I hope we also will have extensive debates on legislation that is coming forward in the area of social recovery. For example, the Government will publish Bills on the Judicial Council, children and family relationships, gender recognition and climate action. A significant portion of this legislation deals with issues that were carried over from the previous Government - the climate change Bill being an obvious example - and which it will be good to see finally on the legislative agenda.

Notwithstanding our busy legislative schedule, I ask the Leader to accommodate a debate on penal policy in light of the launch today by the Minister for Justice and Equality, Deputy Frances Fitzgerald, of the final report of the strategic review of penal policy. That report is a culmination of a review of prison and sentencing policy initiated by the former Minister, Deputy Alan Shatter, and fed into by the Joint Committee on Justice, Defence and Equality. It proposes overarching and very progressive reforms of penal policy and the prison system. We already have seen several positive steps in this area, with the moving of young offenders out of St. Patrick's Institution and so on. A full debate, now that the final report from the Department is available, together with the report from the Oireachtas committee, would be useful.

Senator Jillian van Turnhout: In July, the fourth periodic review of Ireland's compliance under the United Nations International Covenant on Civil and Political Rights took place in Geneva. On 24 July, the UN Human Rights Committee published its report of concluding observations on Ireland's record in fulfilling its treaty obligations. Several of the committee's recommendations relate to issues in respect of which colleagues and I have spoken about in this House and advocated for change, such as asylum and direct provision, trafficking, institutional abuse of women and children, symphysiotomy and a ban on corporal punishment of children in all settings by removing the common law defence of reasonable and moderate chastisement. Will the Leader facilitate a full debate on the committee's concluding observations? We are well placed to offer guidance on how best the State can follow up and comply with the UN committee's recommendations.

I take the opportunity to mark the wonderful news that the planned child beauty pageant to be staged in Belfast by Universal Royalty this Saturday will not go ahead. While the reason for the cancellation is unclear, I suspect that Northern Ireland did not afford Universal Royalty's boss, Ms Annette Hill, the warm welcome she had anticipated. The all-island consensus on opposition to child beauty pageants is a victory for common sense and people power. I warmly thank everybody on both sides of the Border, including Members of this House, who have been so vocal in their opposition. I thank, too, the hotels and venues that stood fast in tough economic times against the hosting of such pageants on their premises.

On foot of the report by the Inspector of Prisons and Places of Detention, Judge Michael Reilly, An Overview of Mountjoy Prison Campus with particular emphasis on the Separation Unit, which was published last Friday, the Minister for Justice and Equality, Deputy Frances Fitzgerald, has confirmed the closure of that unit. This is another victory for penal reform in Ireland and I look forward to further advances under the Minister's tenure.

Senator David Norris: I would like to strongly support the Minister for the Environment, Community and Local Government, Deputy Kelly, in his decision to take on the bin companies, particularly in Dublin. Privatisation was a great mistake. If six companies, or thereabouts, can make a profit out of the bins, why on earth can the employees of the State not make a profit

17 September 2014

out of one company? That should have been insisted upon by the city authorities. One of the companies to which they granted a contract was found guilty of fraud and had to repay Córás Iompair Éireann, CIE, over €1 million. Its financial records are secreted in the Isle of Man so nobody knows how much profit it makes. The situation has become just like that created by the Neapolitan mafia with parks where collection vehicles are bombed and burnt out, yet nothing seemed to have been done until the Minister appeared to go in and act.

I speak with some passion on this because I live in the heart of the city in a street that is 98% residential but for some reason is classified as city industrial. As a result there is a collection every day of the week until 1.30 a.m. with trucks that make an enormous noise and disturbance. I constantly listen to official spokespeople saying nobody lives in the city but here we are. We are not just the restorationists. What about their own bloody constituents? What about the people put in local authority housing all over the city? Are they not human? Do they not live in the city? Do they not have rights?

In the north inner city we have had enough. Enough is enough of being ignored and regarded as a dumping ground for every self-help organisation for people with alcohol and drug problems or who are homeless. I have spoken passionately on these issues and I am on the side of the underdog and this is not NIMBYism. I am not saying “Not in my backyard”. I am serving notice on the authorities: our backyard is full.

Recently Dublin City Council planned to take over the Bunkhouse Hostel on the corner of North Great George's Street and Parnell Street to house homeless people. How much respect does that show for homeless people, that they can be put in tiered bunks in temporary accommodation? How much responsibility does it show towards people like us who live there? It is not NIMBYism. Our backyard is full. Let us see the next drug or alcohol rehabilitation centre, or the next homeless centre, located in Ailesbury Road. I understand there is plenty of property there as a result of the financial collapse that would be well able to accommodate some of these unfortunate people where they could get the kind of treatment they need in the kind of circumstances to which they are entitled.

Senator Michael Comiskey: I welcome the appointment of the new Commissioner for Agriculture and Rural Development, Phil Hogan. This is very important for Ireland. The new Commissioner will be able to deliver for farmers in the future. I call on everybody to put on the green jersey and support the new Commissioner because it is important to do so.

I also welcome the farm safety initiative launched by the Minister for Agriculture, Food and the Marine, Deputy Coveney, on Monday in Athlone. Approximately 21 people have lost their lives on farms this year. That is 21 too many. The figure is up on last year. It is important to encourage farmers to become more aware of the dangers on farms. I especially welcome the grant for farmers who want to upgrade and put in place safety measures on their farms.

Senator Marc MacSharry: We welcome the appointment of an Irish Commissioner for Agriculture and Rural Development. My colleague, Deputy Eamon Ó Cuív, and I went in person to meet with the officials there while on a trip to Brussels last week. I would like to call for a debate on the beef crisis. Throughout the summer months, the Minister, Deputy Coveney, seemed to abdicate his responsibility, sadly, in order to focus on the important issue of the Golani Heights. The reality is that the differential between the price paid to producers and the price paid by consumers in supermarkets throughout this country is as high as 1,600%. There is no question that the Minister's decision to hold round-table talks among representatives of proces-

sors, producers and multiples was a welcome development. However, it is not good enough in itself for the Government to call for better communication between those interests.

When we visited the European Commission last week, we were reminded that Article 39 of the Lisbon treaty guarantees that farmers are entitled to a fair price in the market. They are not getting that. Through the Minister, Deputy Coveney, we will be calling from this House on the Commissioner-designate - I am sure Mr. Hogan will get through next week's hearings and have his appointment confirmed - to champion this cause and take a leading role in ensuring Article 39 is put into practice to assist farmers throughout the entire EU. Up to now, we have abdicated our responsibility to ensure farming families throughout this country get a fair price without official barriers being put up by multiples and processors throughout Britain and Northern Ireland to manipulate a scenario. The effect of this scenario is that farmers throughout the country, particularly in the Border counties represented by Senator Comiskey and me, are subsidising the profits of multiples.

Senator Aideen Hayden: I welcome my colleagues back. I must say that some of them do not seem to be as relaxed as others.

Senator Ned O'Sullivan: The Senator can speak for herself.

Senator Aideen Hayden: I would like to point out to Senator Norris that in my local area, the bins are collected at 5.30 a.m. While there is some chance of me being up at 1.30 a.m., there is no chance of me being up at 5.30 a.m.

Senator David Norris: Well if you like it, bully for you, honey.

Senator Aideen Hayden: I do not think inner-city dwellers are as badly served as the Senator might think.

Senator David Norris: I think we are.

Senator Aideen Hayden: I would pray for my bins to be collected every day.

Senator Norris also raised the issue of homelessness, about which I am very concerned, as Members know. I fully accept the Senator's bona fides about the location of homeless services. At the same time, there are 153 families living in hotels at the moment and the bottom line is that we need homeless accommodation.

Senator David Norris: It is no use putting them in tiered bunks.

Senator Aideen Hayden: That is very unfair on the Dublin region homeless executive. The Senator spoke about the location of services for homeless people and others. The fact is that most of these services are located in the inner city because that is where the people who need them are located. It is not just a question of "not in my back yard", it is also a question of the fact that the people who need these services have to access them. Public transport is an issue in that context. There is a bona fide reason for locating these services in the city centre.

While I am on this point, I would like to ask the Leader to arrange a debate on the growing problem of homelessness and the growing difficulty with the whole issue of housing in this country. Indeed, this is linked to the shortage of housing. There is a need for a debate with the new Minister on housing, homelessness, the construction sector and the general issues we are going to have to tackle if we are to ensure homelessness does not become an even greater

problem than it is at present. The President intervened on the issue during the week. I would like the Minister to come to this House to talk about his strategy for dealing with this problem in the near future.

Senator Katherine Zappone: I welcome everyone back. I hope everyone is rested. We have so much to do. There is not very much time to do it all. If we are to do it properly, we must see the deep thinking and robust debate that the people deserve from the Houses of the Oireachtas. Why are only two Bills scheduled for debate in the Seanad this week?

Senator Fidelma Healy Eames: Hear, hear.

Senator Katherine Zappone: There has been a good long break since the last time we sat. Given that the budget debate is central now, I would like the Leader to ask the Minister for Finance to come to the House for a discussion. Last weekend, I participated in a great public debate at the Kennedy Summer School with the Minister, Deputy White, and Deputies Sean Fleming and Creighton. Such debates should be happening inside these Chambers as much as they are happening outside them.

All of the political parties have finished their think-ins and have significant resources available to them. Civil servants in various Departments have had the summer to focus on their work and on the legislative agenda without being too bothered by the work generated when both Houses are sitting. Notwithstanding the welcome that Senator Bacik gave to the legislative programme, I would like know where the long-promised legislation on immigration, residence and protection is. Where is the long-promised Bill to amend the Criminal Law (Sexual Offences) Acts? Where is the long-promised legislation on gender recognition? We still only have a revised version of the draft scheme of gender recognition that was published this summer. It is not a Bill.

I suggest that the Minister for Finance share with us prior to the budget where the debate is at with regard to the international tax regime and whether we will be jumping first or at least that we would be first in the bunch of countries to get our house in order and to let go of the “double Irish” as it is termed. As Feargal O’Rourke said on the radio this morning, we do not yet have a full vision of the full facts so how can we represent the Irish public debate adequately on such a central issue if we do not have that?

While I respect very much the Leader’s efforts towards internal reform of Seanad Éireann, even if we follow all of his proposed reforms, most of which are in place, surely he could not argue that this is an adequate legacy of Seanad reform for the people. The people’s “No” vote meant reform.

Senator Darragh O’Brien: Hear, hear.

Senator Katherine Zappone: Let me ask, then, on behalf of the Irish people where is even the legislation for reform of the university constituencies of the Seanad? If we do not finish this within the next few months even the university community will not have been reformed when some very few Irish people, mostly politicians, vote for the 25th Seanad.

Senator David Norris: The universities will be deformed.

Senator Sean D. Barrett: I thank the Leader for organising the debate on Gaza during the recess. It was very well received. Justine McCarthy said in *The Sunday Times* that sitting

Seanad Éireann

beneath the Chamber's Wedgwood blue carved ceiling listening to some of the finest oratory ever to reverberate there, one could only feel grateful to the Irish people for saving the Seanad from extinction.

Senator David Norris: Good.

Senator Sean D. Barrett: That was a commendable initiative by the officers of the House.

Could I also express sympathy to Eileen Paisley and Kathleen Reynolds on the loss of their husbands - two stalwarts of the peace process? We remember Albert Reynolds warmly in my constituency. He received us all in 1992 when it was the 400th anniversary of TCD. He and his family were most kind to us in Dublin Castle at a reception. His family also chose Brendan Kennelly's poem, "I See You Dancing, Father" for part of his memorial service. There has been some revisionism about the Reverend Paisley and I suppose that is inevitable, a Chathaoirligh, but as a biblical man himself he would appreciate that the labourer who entered the vineyard of the peace process at the eleventh hour was rewarded along with all those who had been there all the time, such as John Hume, President Clinton and Prime Minister Blair.

Senator Darragh O'Brien: Bertie Ahern.

Senator Sean D. Barrett: People no longer kill each other for political reasons on this island and that is the debt we have to Mr. Paisley.

Could I also draw the attention of the House to the statement today that the Minister for Transport, Tourism and Sport has written to the airport authorities in favour in increasing their charges. You might recall, a Chathaoirligh, that increases took place under the previous Minister, Deputy Varadkar, and we asked him that they would not happen. The regulator has decided the charges in Dublin Airport are too high but the DAA has gone behind the back of the referee and gone to the Minister to get them raised again.

Senator David Norris: Hear, hear.

Senator Sean D. Barrett: The airport is handling 3.5 million fewer passengers than in 2007. A new terminal was built to handle 15 million passengers. The DAA wants €30 million for a runway and €38 million for seating capacity at terminal 1. The airport needs passengers. The Government helped the DAA by abolishing the travel tax. It looks like the airport authorities have yet again achieved regulatory capture over the Department of the Transport, Tourism and Sport, which at this stage ought to know better, and participate in the national efforts to develop the country as a competitive economy attracting greater numbers of tourists. It is most regressive that the Dublin Airport Authority has reverted to its old ways of sneaking in behind a regulatory body which has a judicial function and that decided against it. I am sorry it did not like the decision but it was made in the wider national interest. Those charges should come down. They went up the last time by more than 40%. A 22% reduction was recommended and it must happen.

Senator Michael Mullins: I rise today to seek the support of the Leader and the Minister for Foreign Affairs to have an inquiry into the circumstances surrounding the death of a Galway man in Germany reopened. Matthew Fitzpatrick from Portumna in County Galway was aged 34 when he was found dead in his flat in Mannheim on 11 December 2010. The autopsy conducted by the German authorities indicated that he died by self-inflicted strangulation.

3 o'clock

The family, however, had its suspicions and conducted its own inquiries and investigations. A second autopsy was conducted in Dublin on 18 December of that year when Matthew's body was repatriated. It was carried out by the deputy State pathologist and raised several troubling questions which convinced the Fitzpatrick family that Matthew did not die by suicide but may have been the victim of a violent assault, given the range of injuries found on his body during the autopsy in Dublin.

The police investigators in Mannheim initially closed the case in December 2010 but, after much pressure from the Fitzpatrick family, the investigation was re-opened. In June of this year, the Mannheim authorities concluded there was no reason to change their view of what happened to Matthew. The public prosecutor in Mannheim disregarded most of the evidence submitted by the Fitzpatrick family but, more important, dismissed several aspects, including the autopsy conducted by the deputy State pathologist, Dr. Khalid Jaber.

The Fitzpatrick family want the Government to put pressure on the German authorities to further review the circumstances surrounding the death of Matthew who planned to be at home with his family in Portumna, County Galway, for Christmas 2010. The family is certain he did not take his own life in his apartment in Mannheim. They are determined to get justice for Matthew and would appreciate the support of this House and the Government in asking the German authorities to re-open this case.

Senator David Cullinane: I welcome all Members back after the summer recess. Much has happened over the past few weeks and months in many areas. We could raise a whole range of issues but the change in health policy by the Government is one that most merits debate in the House.

The big ideas and plans for health reform of the former Minister, Deputy Reilly, have been turned on their head by the current Minister, Deputy Varadkar. We seem to be rowing back on commitments made in the programme for Government and the centrepiece of the health reforms of Fine Gael and the Labour Party. The former Minister for Health, Deputy Reilly, talked tough when it came to dismantling the HSE and replacing it with a more democratic structure. That has not happened. Now we are told it may not be possible at all.

Universal health insurance was also a priority for the former health Minister. Anytime he was questioned on its modalities and logistics, as well as when it would happen, we were told it was all a work in progress. Briefings given to the current Minister now show it is not progressing very well at all and may no longer be policy.

We were told in last year's budget that there would be free-GP care for the under-fives. We are still waiting for that. How will it be rolled out? The medical card fiasco, on which everyone in the House was agreed before we left for the recess, has still not been sorted out with many people still left without their medical cards. There are uncertainties about how effective the hospital trusts and groups set up across the State are with some positions in them that have not been filled. There are a significant number of issues in the health services, most especially the change in policy and the direction the current Minister will take, which need to be discussed.

I am not going to move an amendment to the Order of Business today as it would be unreasonable to expect the Minister for Health to come into the House on the first day back. However, will the Leader arrange for a debate on health, as it is an important issue for everyone and

it is important we hear directly from the Minister on all the issues involved?

Senator John Gilroy: Recently, we heard reports that some contractors working on the schools building programme are employing sub-contractors who are paid substantially less than industry-wide agreed rates. This morning there was a protest at the gates of Leinster House and many colleagues will have met members of the trade union involved. This is not a recent phenomenon and has been ongoing for a considerable time. Contractors have a responsibility, irrespective of who they employ as sub-contractors, to adhere to industry-wide agreed rates of pay and conditions. Will the Leader get a comment on this from the responsible Minister or Ministers? Contractors who do not pay agreed rates should not be awarded any contracts in the schools building programme.

I will be raising this issue with the Minister, along with many of my Labour Party colleagues. I would be more than happy if the Leader could facilitate the Minister for Education and Skills and the Minister of State at the Department of Jobs, Enterprise and Innovation, Deputy Nash, to comment in the House on this issue?

Senator Terry Leyden: Will the Leader arrange an early debate on the proposed water charges coming into force which will place enormous pressure on families? A Fianna Fáil Private Members' Bill will be discussed in the Dáil today which will elicit extra support. This morning on Shannonside radio the Fine Gael candidate in the forthcoming by-election, which I understand will be held on 10 October, informed the public that Fine Gael would not place charges on those with water unsuitable for human consumption-----

Senator David Cullinane: Fianna Fáil is in favour of water charges.

Senator Terry Leyden: -----and that there would be a 100% concession over three months, but this has been retracted and only 50% will be allowed and there will be a charge for the discharge side.

Senator Thomas Byrne: Why was she not given that information by the independent regulator anyway?

Senator Terry Leyden: Let her clarify whether she was, but we should clarify it in the House. I understand that when introduced, the charges could cost as much as €500 per house. It will be a major burden for families and we must deal with exemptions. Fianna Fáil has a Private Members' Bill on our policy in this regard. I am sure the Cathaoirleach will not mind me saying-----

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

Senator Terry Leyden: I have asked my question, but as he comes from rural Ireland, I am sure the Cathaoirleach will allow me to state that at the weekend, the farm of John Hanley in Kilbegnet, Creggs, County Roscommon, hosted the international sheepdog trials. He is chairman of the IFA in the county and of the committee which worked very hard. It brought 25,000 people to the area. It was real agritourism and everyone in the area benefited, including a certain establishment up the road. It created employment and opportunities in the area. John Hanley and the committee which ran the festival, held between 12 and 14 September which involved more than 150 stewards and saw every room within 25 miles occupied-----

An Cathaoirleach: Is the Senator seeking a debate on dog trials?

17 September 2014

Senator Terry Leyden: We should speak about agritourism and its benefits for Ireland, including events such as the ploughing championship.

An Cathaoirleach: The Senator is way over time.

Senator Terry Leyden: I thank the sponsors, Devenish Nutrition, FBD, the IFA and Roscommon County Council, who all deserve to take a bow. I was delighted to host the Fianna Fáil think-in in the Abbey Hotel on 14 and 15 September-----

An Cathaoirleach: We are not allowing political broadcasts.

Senator Terry Leyden: Unlike the other political parties we brought the think-in to our own town.

Senator Hildegarde Naughton: In light of last weekend's Red C poll, it is encouraging to see that 60% of the population now agrees the economic policies of the Government over the past three years were correct and the same percentage thinks the country is now moving in the right direction. Should that poll have been taken after the Government secured the refinancing of our IMF debt, I imagine the figure would have been higher. It is not a time for congratulations but for redoubling our efforts to put the economy on a sound footing. In this regard I call for a debate on the economy and more specifically on policies to ensure the old boom and bust cycle does not take hold again. Perhaps the Leader will invite either the Minister for Finance, Deputy Michael Noonan, or the new Minister of State, Deputy Simon Harris, to come to the Seanad to debate these issues.

Senator John Crown: It is good to be back. Clearly, the most important, and from the point of view of the average citizen of the country the most far-reaching, development in politics and public governance over the summer was the announcement that the long-promised cup of health service reform has been dashed from the lips of people campaigning for this reform for many years. I have been campaigning for health service reform for 20 years. I lived through the old Department of Health, the HSE, the health boards, the Eastern Health Board, the regional health authority, the diversification of administrators and the centralisation of administrators, but every time there was a failure actually to grapple with the fundamentals of reform, something we need to do if we are to bring in a health service which addresses the three core issues of the health service, namely, its generally poor quality - it is not terrible but it is mediocre and not as good as it should be for a modern and fairly affluent north-western European country; its extreme degree of structural unfairness in the way it has been designed; and the extraordinarily inefficient way it wastes precious health service resources. For those who are of a fiscal rectitude bent I have said before and I will say it again that our health service is not underfunded particularly, although it is in some areas; it is malfunded. The funding of the health service is applied in a way which does not encourage equity, quality and efficiency so we do need this reform. It was for this reason I felt I had had a near religious experience when we had an aspirant Minister for Health, who had a realistic prospect of ascending to the office prior to the last election, stating that regarding the policy of the incoming Government, one of the five Fine Gael points was that there would be a specific reform of the health service aimed towards the introduction of a model based on universal health insurance, which I hope to modify a little and get it more interested in universal social insurance. Is that bell for me?

An Cathaoirleach: It is Senator, yes.

Senator John Crown: A lot happened to me over the summer; I forgot what the bell means.

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

Senator John Crown: I am more used to taking orders now.

When a Government stuffs a letter into every post box in a constituency stating that a hospital service will not be closed but then goes ahead and does it within the first six months of assuming office, and when it comes in here and states that one of the five key points of its policy is that it will bring in universal health insurance and then starts back-tracking and finally announces four years later that it found out three years ago it could never do it because the real Government, the permanent Civil Service, said it was not feasible, that is similar to a bunch of turkeys telling the butcher that Christmas dinner will not be feasible this year. This is a reform we were promised, that the Government was elected on and that people like me endorsed it on. Unlike my gentle colleague, Senator Cullinane, I will propose an amendment to the Order of Business so that the Minister, Deputy Varadkar, can come into the House to outline this one key failed reform, which would have had more of an impact on the lives of citizens than any banking inquiry.

An Cathaoirleach: The Senator is not taking any notice of this bell anyway.

Senator Paul Coghlan: The other one is a more effective bell.

Senator John Crown: To show my docile temperament I will sit down but I propose an amendment to the Order of Business that the Minister for Health, Deputy Varadkar, would come into the House today to outline, first, the sequence of events in the Department which led to the decision being made that this was not feasible in the short term or at all and, second, his intentions to introduce it.

Senator Denis Landy: Step 1, taking orders; step 2, acting on orders. I welcome everybody back to the Chamber. We had a great summer, and a great sporting summer. Last November I raised concerns about Hayes' Hotel in Thurles but I am pleased that, ten months on, Hayes' Hotel was purchased yesterday by a Tipperary man who intends to develop the hotel as an iconic building incorporating all the history of the GAA. During this summer we have seen what were probably the greatest GAA games in the history of the association. We also saw the opportunity given to people not living in this country to enjoy the GAA through Sky Television, etc. We marvelled at the comments of people across the water in particular about the meaning of hurling and how it is played.

We also witnessed during the summer what was probably one of the finest marketing achievements of this State, namely, the Wild Atlantic Way and the number of people it attracted to Ireland. I spent my summer holidays in Clare and in Galway and on one stretch of road, 90% of the cars coming towards me were hired cars being driven by visitors from America and various other parts of the world. The Wild Atlantic Way has been a success but I ask the Leader to request the Minister, Deputy Heather Humphreys, to work on a new project - the GAA way. Across the country we have places such as Cusack's home in Clare, the Lowry Maher centre in Kilkenny, the Maurice Davin monument in Carrick-on-Suir, the museum in Croke Park and also the Rackard monument in Wexford, to name just a few. There is a fantastic opportunity now for this country to get working on utilising the benefits of the world opening its eyes to what the GAA is about. I would ask the Leader to ask the Minister to come to the House to discuss the development of Hayes' Hotel. The GAA at local level are fully supportive and will co-operate on this. I have been in discussions already with the organisation since yesterday. We

17 September 2014

need the help of the Minister and Tourism Ireland.

Senator Ned O'Sullivan: I also welcome everybody back to this term.

Senator Paul Coghlan: It is good to see my colleague, Senator Ned O'Sullivan, flying again.

Senator Ned O'Sullivan: I am sure the Leader, like many others, will have seen an article in Monday's *Irish Independent* - a front page and a two-page spread exposé-type article within - on the redundancy arrangements for retiring county, city and town councillors. The journalist in question described these payments as controversial, and he anticipated that there would be a public outcry about them. I fear that his prediction is unfounded because the people know quite well the level of work that former town councillors and city and county councillors do 24 hours a day, seven days a week throughout the year and that they would not for one minute begrudge those redundancy payments to the recipients. In fact, I calculated that the redundancy packages, where some of the more senior and long-serving councillors are concerned, would amount to less than €30 per week for those who in some cases have given over 40 years' service. I doubt if any journalist or reporter in the country would accept that as a redundancy package.

However, it gives rise to an issue which I hope the Leader can address. We might be able to have the Minister for the Environment, Community and Local Government in the House in due course to discuss a revised regime of payments to the new county councillors, many of whom represent constituencies twice the size of those they had to represent previously. The workload has not got any lighter. The Minister also should look at introducing a contributory pension for serving councillors whereby they would make a contribution which the local authority would match in order that these councillors would get a meaningful and proper pension when they finished their long years of service instead of being held up to what is an attempt at ridicule of the aggregated sums of some of the bigger earners.

Senator Michael D'Arcy: I want to raise the issue of the OECD report, that is, the base erosion and profit shifting, BEPS, report, that was published this morning. It is important we understand that it is part of a process that will not conclude until this time next year, and why should we move at an early stage until we know exactly where we are moving? The important point to remember about the taxation issues for some multinationals which trade in this way is that the issues are international tax issues. They are not merely an Irish tax issue. The so-called double Irish is an American tax code issue rather than an Irish tax code difficulty. It is really important that we have a full and open debate and people know and understand what is being discussed in relation to profit shifting rather than that on every occasion this matter comes up, the Irish taxation code is raised as a difficulty. It is not a difficulty. Everything that is done is correct and above board, but, unfortunately, we seem to be the poster boy at every level everywhere in this regard. It would be helpful if we could have a debate with the Minister for Finance on this matter in order that we can inform the Irish public of what is happening and what is due to happen this time next year. I also put on the record that whatever the Government is prepared to do to ensure that we are part of the solution, we should do it with every other country in the world, not on our own. We should not act unilaterally, especially when we do not know what will come this time next year.

Senator Fidelma Healy Eames: I welcome back colleagues. It is good to be back and it is time to start working. Over recent weeks and during the next month, there has been and will be much speculation about the budget and its contents. People will be worried and so on, and

for this reason I seek to have No. 26 on the Order Paper debated in the Chamber. It is my own Bill on reform of the budgetary process and is called the Ministers and Secretaries (Amendment) Bill 2014. This Bill has two key aims which are very simple, the first of which is that the Minister for Finance would lay one report before the Houses of the Oireachtas mid-year to lay out a clear plan and a clear account of the State's finances. The second aim, which is really important in view of the mess Members have seen with regard to health, is for each Minister to state his or her target outcomes and costings for the services and programmes he or she plans to deliver within his or her Department for the year in question. Had this been done, the fall-out experienced in respect of health would not have occurred, because the former Minister for Health, Deputy Reilly, would have been obliged to be accountable for the promises he made with a clear roadmap and costings. Moreover, they would have been agreed by the Cabinet but obviously this was never achieved.

I have been refused Government time on this Bill, which as a parliamentarian in this House I consider to be a terrible shame. As Senator Zappone noted, the schedule of work this week is quite slack and there is no reason this Bill could not have been on the Order of Business tomorrow afternoon, for example. Moreover, were a division on the Bill to arise, I would be more than happy for it to be postponed until another day. I ask the Leader to have a word with the Minister for Finance and his Department with a view to having this Bill debated before the budget. I will not push a vote today and will wait to hear from the Leader tomorrow. Were he to agree to this, I would be most grateful because it is important to consider better ways in which to undertake the budgetary process. Moreover, because of a European Union directive and the IMF, there is a requirement on the Government that at least 50% of what is in my Bill be implemented by it. The Minister, Deputy Noonan, agreed with me in this Chamber on that.

Senator Paul Coghlan: On this pleasant welcome-back day I am glad to join, I also wish to welcome a most exciting project. It perhaps is the biggest single tourism project in the State-----

Senator John Gilroy: Is it in County Kerry?

Senator Paul Coghlan: -----due to open next year, namely, Killarney House and gardens. This is a stunning venue-----

Senator Darragh O'Brien: Wherever it is.

Senator Paul Coghlan: -----located, as it is, within both the town and Killarney National Park, which is our foremost national park, and it will contain a comprehensive introduction to the national park. The gardens themselves, which are spread over 35 acres, will be a most attractive feature and I believe they will be Killarney's own St. Stephen's Green. I believe they will surpass it.

Senator Darragh O'Brien: Steady now. The Senator should not lose the run of himself.

Senator Paul Coghlan: The house has a rich and interesting history and, of course, it was the home of the earls of Kenmare and Lord Castlerosse, and much of the history of the town and area is bound up with that family. It also was the home of Mr. John McShain, the man who built America. Many Members will remember him, as well as that horse, Ballymoss, and many others trained by Vincent O'Brien. He was associated with many outstanding buildings in Washington, including the Pentagon and others.

An Cathaoirleach: Does the Senator have a question?

Senator Paul Coghlan: Yes, but before I come to the question, I wish to state that he was the man who gifted to this nation Ross Castle and Innisfallen Island. It is thanks to Mr. McShain and others such as Lord Castlerosse's niece, Mrs. Grosvenor, and Arthur Vincent, from whom the Bourn Vincent Memorial Park Act 1932 followed, that we now have this foremost national park, namely, Killarney National Park. I look forward to the Minister, Deputy Heather Humphreys, advancing this great project and this exciting work.

Senator Trevor Ó Clochartaigh: Ba mhaith liom chuile dhuine a fháiltíú ar ais. Cuirim fáilte freisin roimh an gceapachán atá déanta ag an Rialtas go mbeidh Aire tuaithe againn.

I welcome the appointment of a Minister with responsibility for rural affairs. Having attended the Teagasc rural development conference this morning, it is quite obvious there is a great need for a Minister to work in this area because of the huge dichotomy in farm incomes, particularly in the west and Border areas. I call for a debate on rural areas, rural affairs and how the Government is looking to implement the CEDRA initiative. I note that this morning the Minister said all policies and strategies by State agencies are to be rural-proofed. What I have called for, and what I call for again today, is that the Minister talks to her Cabinet colleagues to ensure all budget announcements are rural-proofed also because that is where everything starts.

Coming back today was likened by many to coming back to school, but at least during the break we got to catch up on some things we do not normally do like reading books. I would like to let people know about a book I read over the summer, called *Abuse of Power: Because Councils Can*, by Julie Grace. I recommend it to every Member of the Seanad. It is a very serious book which deals with the death of Bríd Cummins in Galway a number of years ago and the situation in which she found herself. It talks about the abuse of power of a council, in particular by unelected members. It is important we have a debate around the powers of CEOs, in particular, of the local authorities.

Bríd Cummins died in a very tragic circumstance. There had been issues around her being put out of a council house in the city. It was an absolute scandal. At the time, the now President said it was absolutely understandable in the light of the terrible event and the many unanswered questions which the family had that it should request a public inquiry into the distressing nature of Bríd Cummins's passing, and I would agree with him. There is a need for a public inquiry into what happened and anybody who reads the book will agree there are huge issues.

Has anybody in the Department of the Environment, Community and Local Government read this book? What is being done about this? Has anybody apologised to the family of Bríd Cummins and what is the status of the whistleblower in this case, Julie Grace, who wrote the book?

The main question is whether the Minister has a role in investigating the issues highlighted there. The Leader might say it is a question for an Adjournment debate but the power of CEOs and unelected people in local authorities is the core issue we should debate because a number of the characters who appear in the book have gone on to much bigger and better things in Irish Water and have become CEOs of other county councils in this State whereas this poor woman suffered very badly at the hands of the local authority, as is alleged in the book. As was said, the people who instigated that have gone on to much bigger and better things and have been rewarded for their work.

Senator Jim D'Arcy: Ba mhaith liom ar dtús fáilte a chur roimh ceapachán Phil Hogan

mar Choimisinéir talmhaíochta san Eoraip. Agriculture continues to be a major part of life in Ireland and its economy, and especially with Food Harvest 2020 coming up, it is a great appointment.

Will the Leader invite the Minister for Agriculture, Food and the Marine to the House to discuss two items? Food Harvest 2020 is coming up but there is a statistic that we have more farmers over the age of 85 years than under 25 years. We must look at an enhanced system of land transfer so that the younger and more productive farmers can take over farms sooner.

Senator Comiskey referred to the launch of the farm safety initiative by the Minister in Roscommon yesterday. It is a tragic fact that for each of the past five years, on average more than 20 people have died on our farms as a result of accidents while many more have been injured. The main causes are tractors, machinery and drowning. We have identified the problems but we need the solutions. I spoke to Louth IFA farmers today and they are working in conjunction with the young farmers in Macra na Feirme on a county-based initiative. I would like the Minister to come to the House to discuss and brief us on those two very important aspects of farming.

Senator Thomas Byrne: Today in my local media I raised the whole issue of wheelchair provision by the HSE. The House would do well to debate the matter. I have come across a significant number of cases, especially during the summer months, of wheelchairs not being provided or, where they have been provided, either after a long delay or without meeting the appropriate specifications.

I was saddened to meet two ladies outside today - I believe they are sisters named Kenny from Greystones, County Wicklow - who have experienced serious problems securing the correct equipment from the Health Service Executive. This is a major issue which is bubbling up under the surface. People in need of a wheelchair sometimes do not speak out because they are in a vulnerable position or have intellectual disabilities which preclude them from speaking for themselves. Earlier this summer, my office dealt with a case involving a five year old boy who was waiting for a new wheelchair having outgrown his old one. It is disgraceful that any child should be in such a position. It occurred to me when I met the two ladies outside the House today, as most Senators will have done, that this is a national problem which the House should debate.

When will the companies Bill be taken? A number of community groups have contacted me on the issue of audit exemptions, which are not yet in force. I understand the Bill has not yet been passed by the House. I ask the Leader to enlighten me on the position.

Senator Martin Conway: I welcome Senators back to the House and commiserate with the Cathaoirleach and the people of County Mayo. The Mayo team gave a good performance but once again this was not its year.

The prospect of having a GAA way, as suggested by a previous speaker, is intriguing. If such an initiative were to enjoy even some of the success of the Wild Atlantic Way in generating tourism not only for County Clare but for the entire west coast, it will be a remarkable success. I ask the Government to increase the marketing budget for the Wild Atlantic Way in 2015 and subsequent years. The €10 million spent on marketing it abroad has had a significant impact on tourism. I am pleased to note that, for the first time ever, the Cliffs of Moher visitor experience in County Clare will have in excess of 1 million visitors this year. As one of our iconic tourism

17 September 2014

attractions, the centre's success is indicative of how tourism is performing overall. Surpassing 1 million visitors this year will augur extremely well for the tourism sector.

An action plan is needed to deal with a scourge that affects the Wild Atlantic Way from County Donegal to County Cork, namely, illegal dumping and the habit of leaving rubbish on beaches. The by-laws on litter are clearly not working. Either they are not sufficiently strong or they are not being enforced properly. It seems a high level of proof is required before prosecutions can proceed. We need to initiate a war on litter. I ask that the Minister for the Environment, Community and Local Government address the House on what action he can take to strengthen the law on litter and what resources he will provide to identify the culprits who are destroying our beaches. We have a wonderful country and a great tourism product. We must ensure the countryside is not littered.

Senator Paschal Mooney: I compliment the United States Administration on announcing yesterday that it will send 3,000 military personnel to help fight the ebola crisis in Liberia and Sierra Leone. This initiative demonstrates the humanitarianism at the heart of the American psyche, which is sometimes undervalued internationally, particularly by people who constantly criticise the United States in other areas. In that context, the former Minister of State and current chief executive of GOAL, Mr. Barry Andrews, has written an article in which he calls on the Government to do more in this area. He has urged it to provide greater financial assistance as well as logistical support by seconding to the region more HSE staff, specifically clinicians, and sending military personnel. I ask the Leader to convey these sentiments to the Minister for Foreign Affairs and Trade. Will the Leader indicate what response the Minister will have to what is now a growing international concern about the spread of ebola in east Africa?

Could I use the platform of these Houses to ask the Russian and Chinese ambassadors - from two of the major countries with representatives on the UN Security Council, which is trying to co-ordinate humanitarian assistance - to have their countries step up to the plate? I rarely see any reference to either China or Russia providing humanitarian assistance on the scale provided by the United States. Are the people in these countries any less human than the rest of mankind? Do people sit in Beijing and Moscow with their heads under the parapet while at the same time furthering their own national interests? This is particularly salient with regard to China, which has advanced its own interests on the African continent. Will these countries step up to the plate and provide humanitarian assistance internationally rather than remaining silent? I do not think anybody in this House can remember hearing of Chinese or Russian personnel engaging in humanitarian activities along the lines of what the Americans have initiated in the past 24 hours. I hope this issue might be conveyed to the Minister for Foreign Affairs and Trade. It would be interesting to hear what Ireland, as a small country, can do. Like the Americans but unlike the Russians and Chinese - unless I hear evidence to the contrary - we have a big heart.

Senator Mary Moran: I join my colleagues in welcoming everybody back to the Seanad today. I also welcome back the students, teachers and staff who returned to school, along with those who started in schools in the past few weeks. It is important at this time to call for the prioritising of newly-qualified and unemployed teachers when filling substitute teaching positions that may arise in the school year. I regularly raise this issue both in this House and at meetings of the education committee. I have done so with the former Minister, Deputy Quinn, and the current Minister, Deputy Jan O'Sullivan. At the start of 2013, schools were advised to prioritise newly-qualified graduates for substitute positions. Although some schools have taken this on board, the issue remains a major problem nearly two years on. In a tough but improving employment market, substitute positions are crucial for newly-qualified and unemployed teach-

ers to gain and maintain their experience.

Senator Ó Clochartaigh referred to a list of books he read during the summer and I will add to the suggested reading list for Members. On holidays I read *Sworn to Silence*, written by a Dundalk man, Mr. Brendan Boland. He highlighted dreadful clerical abuse carried out on him by Fr. Brendan Smyth. I recommend that everybody read the book so they can understand how a young boy's innocence was so brutally robbed. Shortly after reading the book, Cardinal Brady offered his resignation and it was accepted by the Pope in recent weeks. Having read the book, I would argue the resignation should have come years earlier. It is a brutally frank and honest account of clerical abuse at its worst, and I publicly thank Mr. Boland for his honesty in coming forward.

The Special Olympics European Games are taking place this week in Antwerp, Belgium, with 46 special Irish Olympians participating in seven sports. The games are due to close on Saturday and the athletes will be returning home in glory on Sunday. Again, there has been little or no coverage provided of these athletes and their terrific achievements. I highlighted these problems for the national games in June. Since turning in my petition to RTE earlier this summer, I have continued to work on the issue of broadcast coverage, and I will continue to maintain pressure on the issue. I request that we have a debate on broadcasting of minority sports at the earliest opportunity.

Senator Feargal Quinn: It is good to be back after the summer and it is good to have something to celebrate, particularly that we have had a wedding in the House. Senator Crown did not go outside the House to find his bride, unlike Senator Bradford, who did so a couple of years ago. I congratulate Senator Crown on this joyous occasion. We wish him very well. As a little wedding present, I will second his amendment.

Senator John Crown: On a point of information, a more traditional wedding present would also be welcome, but that is fine.

Senator Feargal Quinn: May I also use this opportunity to urge the Leader to accept the Bill proposed by Senator Fidelma Healy Eames? I ask that we do not wait until after the budget because this is an important Bill that must be discussed. I urge the Leader to find time in the near future because the budget is only a month away.

I previously raised the issue of the amount of paper we use here and my annoyance continues. The Danish Agency for Digitisation has ensured that many government agencies there do not use paper and in Britain it is planned that all medical reports will be digitised by next year. Things that can be digitised easily include applications, reports, letters and much else. The Department of Finance is strongly urging the abolition of cheques and the Government is taking the first steps on this. If we are to move towards digitisation can every citizen have a formal State e-mail address? This would speed things up and help a great deal. It might not be a popular measure with An Post but that business will be helped by post codes, which are forthcoming. We can take these steps. We should discuss them to see what we can do. We should set an example showing the rest of the world that Ireland is a modern nation.

An Cathaoirleach: I inform Senator Crown that in my younger days a clock was a great wedding present.

Senator Paul Bradford: I support the request made by Senators Healy Eames and Quinn that the motion on budgetary matters be debated at the earliest possible stage. It is fair to say

that in the past decade every party and politician has raised the need for a more comprehensive budgetary policy. The Minister for Finance, Deputy Noonan, responded to an Adjournment matter raised by Senator Fidelma Healy Eames on this issue some months ago and they seemed to be at one. I am sure it is not possible to deal with it today but it would be useful for the budgetary process if it could go on the agenda.

I ask that the Leader request the Minister for Foreign Affairs and Trade, Deputy Charles Flanagan, come before this House at his convenience to discuss the situation in Northern Ireland. The Minister is engaged in dialogue with parties in the North but there is a concern that progress is slower than it should be. We must keep moving forward on the Northern Ireland peace process. The Minister has an extensive record of engagement with all parties across the divide in Northern Ireland and he could usefully address the House on the matter.

On an issue somewhat related to Northern Ireland, tomorrow the people of Scotland will vote on their future. We have no entitlement to encourage them to vote one way or the other and we will respect the decision made. It is worth noting, however, that if the people of Scotland choose independence nobody will have been killed, kidnapped or blown up in the process. If Scotland becomes an independent country it will have done so without terrorism and by democratic means. Perhaps we can learn from this. We should not look back in anger, because anger is a waste of time. We should look back in sorrow at the loss of the people who died in the conflict on this island. We can learn from what is happening in Scotland that politics, negotiation and dialogue work, whereas bombs, bullets and terrorism never work.

Senator Jim D'Arcy: Well said.

Senator Maurice Cummins: I am glad nobody lost his or her voice over the summer recess. I believe 30 Senators spoke on the Order of Business today and I will try to address each as quickly as possible. Senator Darragh O'Brien raised the issue of Irish Bank Resolution Corporation, IBRC, mortgage holders and asked when there will be further legislation. I will certainly try to find that out. The Senator also raised the issue of drugs for multiple sclerosis sufferers. I gave a very comprehensive report on that matter when he first raised the matter here but I will ask the Minister about the up-to-date position in that regard. The matter of immigration staff at our airports and the redeployment of gardai was also raised by Senator O'Brien but he knows that such redeployment is a matter for the Garda Commissioner and not the Minister.

Senator Bacik welcomed the very positive economic indicators of recent weeks and months and commented on the Government's ambitious legislative schedule. She called for a debate on the review of penal policy which was announced recently and I will try to facilitate such a debate. Senator van Turnhout spoke about the periodic review of human rights in Geneva and called for a debate on its recommendations. I will make inquiries of the Minister in that regard. I note the points she made regarding child pageants and I join her in welcoming the fact that such pageants will not be held here or in Northern Ireland in future. The Senator also raised the report from the Inspector of Prisons and welcomed the announcement by the Minister for Justice and Equality of the closure of the separation unit in Mountjoy Prison.

Senator Norris welcomed the review of waste collection services announced by the Minister for the Environment, Community and Local Government and also highlighted the plight of residents in city centre areas in that context. Senators Comiskey and Jim D'Arcy welcomed the appointment of Deputy Phil Hogan as EU Commissioner for Agriculture and Rural Development. They also highlighted the importance of safety on farms and called for a debate with the

Minister for Agriculture, Food and Marine on the issue.

Senator MacSharry called for the Minister for Agriculture, Food and the Marine to come to the House to debate the beef crisis. The Minister is certainly doing everything possible within existing laws and regulations to address this matter and will continue to do so. Senator Hayden spoke about the need for accommodation for the homeless. She pointed out that there are currently 153 families in hotels and other temporary accommodation and called for a debate on housing and our housing strategy. I will certainly invite the Minister of State to the House to discuss that matter, which is a very pressing one. I understand that the Government will be making a policy announcement in that regard in the coming weeks.

Senator Zappone raised the matter of legislation in the House. She pointed out that we have only one Bill before us today and another one tomorrow. We will have three or four legislative items to deal with next week. She asked for a progress report on several Bills in particular. She also called for a debate on international tax regimes and the OECD report, as did Senator Michael D'Arcy. On the university legislation, we had a debate on the heads of that Bill before the recess and I have been assured that the legislation dealing with the Seanad elections will be ready early in the new year.

Senator Barrett commented on our recent debate on Gaza which was very constructive. The Minister indicated to me yesterday that he was willing to come back to the House and report progress on the matters we debated and I have asked him to slot such a debate into his diary as soon as possible. Senator Barrett also expressed his condolences to the Reynolds and Paisley families and I am sure all Members of the House would wish to be associated with that. The Senator also raised the issue of the airport authorities and what he described as the "regulatory capture" by those authorities. He called for the Minister for Transport, Tourism and Sport to come to the House to address the matter.

Senator Mullins outlined the disturbing circumstances surrounding the death of a Galway man in Germany. I would urge him to consider tabling an Adjournment motion on the matter so that he can get a clear response from the relevant Department.

Senators Cullinane and Crown referred to universal health insurance. Legislation was introduced to provide free medical cards for those aged under six years and there will be legislation, as outlined in the Government programme, for those aged over 70. I assure the Senators that universal health insurance has not been abolished, rather these are moves towards that.

Senator Gilroy referred to contractors employing subcontractors for the construction of a school in Dublin who are paid only €5 an hour. If that is correct, it is absolutely disgraceful. I am sure the Minister for Education and Skills will take this matter up with the contractors. Paying workers that type of wage is totally unacceptable and any right-thinking person would consider it unacceptable for contractors to be allowed to get away with it.

Senator Leyden called for a debate on water charges. We had a very comprehensive debate on Irish Water in the House over a number of days. I remind the Senator that people would have paid a €400 charge for the past two years if Fianna Fáil had managed to get back into power. That is what it signed up to.

Senator Naughton outlined progress on the economic front, on which I am sure we will have debates in the coming weeks.

17 September 2014

Senator Landy referred to the sale of Hayes Hotel in Thurles. It is good news that the history of the GAA will be maintained, as outlined by Senator Landy. He also outlined the success of the Wild Atlantic Way and the need for a GAA way as a means of progressing tourism in other areas of the country.

Senator O'Sullivan referred to retirement payments for county councillors. As he correctly pointed out, the long-serving members received an amount equivalent to €30 a week. They do not receive a pension, contrary to what was said by some commentators. We will invite the new Minister to come to the House to discuss revised payments. Conference payments have been almost totally abolished by the Minister. It is something we should discuss with the Minister in the House.

Senator Michael D'Arcy referred to the OECD report on taxation issues and called for a full and open debate in the House. I will inquire as to the availability of the Minister to come to the House to discuss the matter.

Senator Healy Eames has tabled a Bill on the Order Paper, namely the Ministers and Secretaries (Amendment) Bill 2014. The normal process is for Private Members' Bills to be done through groups. I understand the Senator will try to do that and she also indicated she will contact the Minister, Deputy Noonan. It might help me if he said he would like to take the Bill.

Senator Paul Coghlan outlined, as is normal, the benefits of Killarney House and gardens, the tourism aspect of Killarney and how beautiful it is. We will have to make him an ambassador for Killarney. I am sure the Minister for Transport, Tourism and Sport, who is in the Gallery, will take on board everything the Senator said.

Senator Ó Clochartaigh welcomed the appointment of the Minister of State with responsibility for rural affairs and called for a debate on the CEDRA initiatives. We will try to arrange that. As regards the powers of the CEOs in local government, it was part of the local government Bill which we recently debated comprehensively in the House. However, I take on board the Senator's comments in that regard. If he wishes to raise the case he mentioned on the Adjournment, I am sure the Cathaoirleach will accommodate it.

Senator Jim D'Arcy referred to the importance of Food Harvest 2020 and the need for a system of transfer of land to bring more young people into the agricultural industry.

Senator Thomas Byrne raised the provision of wheelchairs by the Health Service Executive. My understanding is that when a person is fitted for a wheelchair, it can take up to 11 months before such is delivered by the HSE. That is crazy. A person expects to receive a wheelchair within a reasonable timeframe once his or her needs are identified. Having to wait 11 months is not in any way reasonable. I certainly will bring this matter to the attention of the Minister.

On Senator's Byrne's query regarding the Companies Bill 2012, Report Stage of that important Bill will be taken in the coming weeks.

Senator Martin Conway outlined the success of the Wild Atlantic Way initiative and the huge increase in visitor numbers to the locations it incorporates. He also called for a war on litter and emphasised the need for greater enforcement and the introduction of new laws, if necessary, to tackle litter problems.

Senator Paschal Mooney called for more logistical assistance from Ireland to combat the

Seanad Éireann

Ebola virus and complimented the United States President, Mr. Obama, on his country's efforts in that regard. The Senator referred to the need for a better international response and mentioned other countries such as China and Russia in this regard. I am sure GOAL will be in contact with the Minister to outline its concerns on this issue. I am sure, likewise, that the Government will be forthcoming in its efforts in that regard.

Senator Mary Moran referred to newly qualified and unemployed teachers and the necessity of their being allocated any substitute work. This is an issue the Senator has raised on previous occasions and we would all agree that such teachers should be prioritised. I also note her comments regarding a book on child abuse. She referred, in addition, to the need for more coverage of minority sports. Senator Moran has referred in the past to the Special Olympics and the Community Games for people with special needs and disabilities. I agree there should be better coverage of these sports.

Senator Feargal Quinn spoke about the need to reduce paper usage by Government agencies and Departments. As he noted, the Department of Finance is taking action in that regard in respect of cheques. The idea of allocating an e-mail address to every person resident in the State is a very good one.

Senator Paul Bradford asked that the Minister for Foreign Affairs and Trade come to the House for a debate on the situation in Northern Ireland. I will try to facilitate that debate. The Senator referred to the importance of democratic debate, as we have seen in action in Scotland. We all anxiously await the result of the referendum there.

An Cathaoirleach: Senator John Crown has proposed an amendment to the Order of Business: "That the Minister for Health come to the House for a debate on the sequence of events leading to the decision that it was not feasible to introduce a universal health insurance policy, which is one of the Government's five key reform promises, and his present policy on this matter." Is the amendment being pressed?

Senator John Crown: Yes.

Amendment put:

The Seanad divided: Tá, 20; Níl, 27.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Crown, John.	Brennan, Terry.
Cullinane, David.	Coghlan, Eamonn.
Healy Eames, Fidelma.	Coghlan, Paul.
Leyden, Terry.	Conway, Martin.
MacSharry, Marc.	Cummins, Maurice.
Mooney, Paschal.	D'Arcy, Jim.
Mullen, Rónán.	D'Arcy, Michael.
Norris, David.	Gilroy, John.
O'Brien, Darragh.	Hayden, Aideen.
O'Donovan, Denis.	Henry, Imelda.
O'Sullivan, Ned.	Higgins, Lorraine.

Ó Clochartaigh, Trevor.	Keane, Cáit.
Ó Domhnaill, Brian.	Landy, Denis.
Ó Murchú, Labhrás.	Mac Conghail, Fiach.
Power, Averil.	Moloney, Marie.
Quinn, Feargal.	Moran, Mary.
Reilly, Kathryn.	Mulcahy, Tony.
Walsh, Jim.	Mullins, Michael.
White, Mary M.	Naughton, Hildegarde.
	O'Brien, Mary Ann.
	O'Donnell, Marie-Louise.
	O'Neill, Pat.
	Sheahan, Tom.
	van Turnhout, Jillian.
	Whelan, John.
	Zappone, Katherine.

Tellers: Tá, Senators John Crown and Feargal Quinn; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared lost.

Order of Business agreed to.

Direct Provision System: Motion

Acting Chairman (Senator Michael Mullins): Before we begin, I welcome the Minister of State, Deputy Ó Ríordáin, to the House. It is his first visit since his recent promotion on which I congratulate him and wish him well.

Senator Rónán Mullen: I move:

That Seanad Éireann—

- notes the continuing operation of the 'Direct Provision' régime applying to those persons seeking asylum in the State;

- notes recent Reception and Integration Agency data which shows that the average length of application process for an individual asylum seeker is 48 months and that an average stay in the direct provision régime is 52 months;

- notes that, with the exception of Lithuania, Ireland is the only EU member State to deny asylum seekers the possibility of obtaining employment;

Seanad Éireann

- notes the provisions of Article 4 and Article 7 of the European Charter of Fundamental Rights and the rights recognised therein of all persons in the State;
- recognises that, as a signatory to the International Covenant on Economic Social and Cultural Rights, Ireland is obliged to ensure that accommodation centres for asylum seekers in direct provision are ‘adequate’;
- recognises that Ireland, as a signatory of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, should ensure the availability of services to assist persons fleeing torture in their home countries, in accordance with the guidelines published by the United Nations Committee Against Torture;
- affirms that those who arrive in this State fleeing persecution, indiscriminate violence, war and torture should be accorded respect for their human dignity and fundamental human rights and should be housed and treated accordingly; and
- commends the report prepared by the Free Legal Advice Centres entitled ‘One size doesn’t fit all’, which highlights many of the serious issues affecting the health and welfare of asylum seekers within the direct provision system;

and calls on the Government–

- to ensure that the environment of each direct provision reception centre is such as to ensure the security, safety and comfort of each resident;
- to ensure that full consideration is given to Ireland’s international legal obligations by the newly established Review Group for Direct Provision in its work;
- to take measures to establish female-only and family-only reception centres so as to ensure the protection of children and due regard for the rights of families;
- to grant asylum seekers the right to seek and secure paid employment, subject to reasonable conditions;
- to provide, or ensure the provision of guidelines, to ensure appropriate treatment for survivors of torture; and
- to establish immediately a review mechanism for those people who have been housed in direct provision for four years or more, with a view to allowing such persons compassionate leave to remain in the State.

Cuirim fáilte roimh an Aire go dtí an Teach freisin. I also would like to welcome the various guests in the Visitors Gallery from the Mosney and Montague reception centres, as well as representatives from the Spiritan Asylum Services Initiative, SPIRASI, and the Jesuit Refugee Service and others who are engaged by this important issue.

This is not the first time that the direct provision regime has been debated in this House. The regime has been in place for nearly 15 years, during which it has visited significant suffering and degradation on those people who have had the ordeal of living in the system and those unfortunate enough to find themselves still trapped in the bleak limbo of direct provision. It is a matter of great concern and shame to all of us that the Government continues to defend the

operation of the system in practice and in principle, although I acknowledge where the Minister of State's sympathies lie which he has expressed clearly. It gives me cause to wonder whether the State is letting people languish in the system, so as to deter other possible arrivals in the country. If that were the case, then it is immoral and unacceptable. If the system is designed to effectively treat people as human shields against a feared influx of immigrants, then it is truly disgraceful and a perverse course of action when one considers the war zones from which some of these applicants come.

There are currently 4,353 asylum seekers in 34 centres across the State under contract to the Reception and Integration Agency, RIA, with 727 new entrants to the direct provision system between 2012 and 2013. Between 2005 and 2013, the RIA has spent €690 million on the direct provision system. Looking beyond the simple statistics, it is the system's treatment of children that I find particularly abhorrent. None of the children in the system are responsible for their situation. They are forced to grow up in conditions of extreme abnormality. No civilised country should stand over this, in particular considering our recent constitutional amendment on children's rights. It is abnormal for a child to grow up in a situation where their parents cannot work to give them the basic necessities of life or not to know what it is like to have a family pet because of the way the system operates. This brings home the bizarre nature of this existence for so many. Addressing the immediate concerns raised today should not prevent the Minister making a principled commitment to abolish the direct provision system in its entirety, although my motion does not go that far. Ireland has most recently been criticised by the UN Human Rights Committee. Although I find that committee somewhat corrupt in its direction on some issues, I nonetheless note its criticisms of Ireland on direct provision. The UN Committee on the Elimination of Racial Discrimination and the UN Committee against Torture have levelled serious criticisms of our State in its treatment of people seeking asylum. Reports have noted the unreasonable periods of time which asylum seekers have spent in the direct provision system and have expressed concern at the potential negative impact the policy has had on the welfare of asylum seekers. They highlighted in particular the lengthy process and the poor living conditions.

It is a matter of concern to me that conditions seem to vary a great deal from one reception centre to another. Some have the ability to give people a key to their own room and their own family space while others require people to live in close quarters and share rooms with people from another country and another culture whom they never met before, with possible consequences for their sense of security and safety, and certainly with consequences for their sense of human dignity which is not respected in such situations. Joining the concerns of the United Nations, Council of Europe commissioners for human rights have queried our approach to asylum seekers. In 2011, the former commissioner, Thomas Hammarberg, noted the lack of progress made on the Immigration, Residence and Protection Bill and encouraged the State to update the law as a matter of urgency.

In addition to the concerns of the UN and the Council of Europe, we have had criticism closer to home, perhaps most damningly, from the Northern Irish High Court in August last year, in the case of B. and C. Mr. Justice Stevens ruled an applicant family from Sudan seeking subsidiary protection in Northern Ireland could not be returned to this State under the Dublin II regulation as sought by the UK Border Agency, because he noted the significant hardship asylum seekers in Ireland face, including their inability to work on pain of criminal sanction, the low rate of subsistence allowance, communal accommodation, meals, a hostile environment towards family life, isolation and health problems.

Last Sunday night in Portlaoise I spoke to a person who week after week has to spend more than 30% of her allowance on prescription charges. These amount to €7.50 out of a payment of €19.10. We know how prescription charges roll on from week to week and they are not just a once off. This may seem a minor issue but it illustrates how awful the system is for people. Mr. Justice Stevens held that the best interests of the applicant children would not be protected if they were returned to the direct provision system here. This should make troubling reading for any Minister. He noted that if the applicants were returned to Ireland their mother would be unable to work in the Republic but could possibly work in the North. The family members would be forced to live in a communal direct provision hostel in the Republic but in Northern Ireland they would have their own accommodation and budget and could cook their own meals. The minor children, B and C, could develop their own sense of belonging and separate identity in Northern Ireland, which they could not do in direct provision centres in the Republic of Ireland. The judge noted there are significant physical and mental health issues among asylum seekers in Ireland due to the significant amount of time they must spend in the system.

As I stated, comparing the various centres where people are accommodated one sees some can provide basic amenities such as a key, while in others people live in close quarters. Is the Government doing this on the cheap? On what basis is it decided to use one particular centre or another? I would be very worried if financial reasons were invoked to deprive people of a bare minimum of respect for their human dignity that they might at least enjoy in a better centre. It is shameful that findings such as the above were made by our neighbours on this island, and it is an indictment of the manner in which direct provision operates that a High Court judge in the North would have such a scathing criticism to make about how we protect vulnerable children in this State. One year on we await the outcome of legal challenges mounted in our courts.

Family and female friendly centres are essential and this is the first reform I propose. It features in the motion. This would ensure the protection of children and due regard for the rights of the family. I do not need to recite our constitutional provisions on the family. During my recent visit to the centre in the Montague Hotel in Emo, a point raised again and again by those I met was the length of time asylum seekers must endure living in a state of limbo in the centres. I saw conditions whereby a family of two adults and two children were expected to share one room accommodation. This type of living arrangement is what we once had in rural cottages and the urban slums which prevailed in Ireland in the 19th century. It was not healthy then and it certainly is not healthy now. The lack of privacy can lead to quarrels and occasionally violent incidents due to the lack of space. The most obvious element missing is respect for human dignity. This system robs people of that. People in jail who also have rights at least have a date on the door. Many people in the direct provision system do not have that certainty about what will happen to them in the future. That is a source of enormous stress and is not good for their mental well-being.

The Government-appointed Special Rapporteur on Child Protection, Dr. Geoffrey Shannon, recommended that the system should be examined with a view to establishing whether it is detrimental to the welfare and development of children and, if appropriate, an alternative form of support and accommodation to be adopted that was more suitable for families, particularly children. The idea that a family would be denied the space to have family time with children, to cook a meal for their children, to have a normal relationship between parents, and between parents and children, is remarkable. It does not work in this day and age and it should not have worked in any day and age.

A key measure for reform which ought to be adopted immediately is the establishment of an

independent complaints mechanism through the Ombudsman for Children, although my motion does not deal with that today. A simple amendment to section 11 of the Ombudsman for Children Act 2002 would give the ombudsman's office the power to investigate asylum-related matters. That would go some way towards showing a changed approach from Government.

The treatment of women in the system is deplorable. There are several male-only reception centres but there are none which provide solely for women. Many women who seek asylum in the State are fleeing the most gruesome and unimaginable conditions, sometimes involving sexual abuse or rape, and for those victims to be placed in a system where there is an underlying fear, perhaps in some cases of a recurrence of abuse, is shocking.

I will refer briefly to the three other issues in the motion on which I want to focus, one of which is the right to work. I understand people's concerns about the challenges our economy faces but the right to seek work is a core element of human dignity. Asylum seekers in this country come with a variety of talents and a multiplicity of skills. Lithuania is the only country apart from Ireland that does not grant the right to seek work at some stage during the asylum process. That must change, and that is not mentioned in the Government's amendment.

I call on the Government to provide guidelines to ensure appropriate treatment for the survivors of torture and also that there would be a review mechanism for long-term residents. On the basis of compassion it should be possible for people who are at least four years in direct provision to be given leave to remain in the State. Yesterday, I met the man who describes himself as the "king of Mosney". He is from Iraq and he is nine years in the system. Nobody will be sent back to Iraq. Let us have reality and acknowledgement of the basic requirements of human dignity. Let us change this awful system.

I thank the many heroes including the asylum seekers who have honoured us with their presence here today but also the agencies working closely to bring change. There are positive elements in the Government, and I include the Minister and others, but we need to see delivery now. We do not need a working group to tell us much more about what needs to change; we know it already.

Senator Paul Bradford: I second the motion. I welcome the Minister of State to the House. I saw the Minister on television last Sunday night playing soccer on a pitch in Dublin but I hope his amendment is something more than political football. I have heard the Minister, and many others, describe himself as a believer in progressive politics. The word "progressive" is often abused but I ask the Minister to reflect on the fact that this amendment was put down by the Government. Perhaps it is a weakness of our political system that the Government seems to be unable to accept any idea, suggestion or proposal it does not make but has the Minister any objection to any word or sentence in Senator Mullen's motion? I am sure he does not. Is there anything in the amendment which adds to the motion? I do not believe that is the case. That the Minister of State and the line Minister are in agreement is not exactly news. Telling us what is contained in the revised programme for Government is not news. I do not blame the Minister for the amendment. Sadly, this is how politics works in this country, the Government must proclaim it is always right and the Opposition is always wrong. We all are demeaned by this sort of amendment. I still look forward to the Minister of State's comments because he has expressed strong - I hope genuine - views on this issue of direct provision.

Senator Mullen outlined clearly the case for the motion and it is impossible to disagree with anything he said. In particular, I support his latter comments about the possibility of allowing

Seanad Éireann

the asylum seekers to work. We all recognise that the question of work is central to the economy. It is central to politics. Tragically, there are too many unemployed in this country, but it is immoral beyond words that asylum seekers are in reception centres for three, four or five years, or as in the case illustrated earlier, nine years, without an entitlement to at least seek a job. What sort of message does that send? How will it be reflected on, reviewed and written about in ten, 20, 30, 40 or 50 years' time? It will be yet another stain on the soul of society. Unlike the Ireland of the 1930s, 1940s and 1950s in *The Valley of the Squinting Windows*, there is no hidden valley here. We all know what is and what is not going on, and it is simply not good enough.

Those in the reception centres across the country have come from tragic places; I am sure they are not here by choice. They never expected to end up as asylum seekers. Their stories are horrific. We have a moral responsibility to improve the conditions in which they live. The staff providing the services are doing the best they can. Their hands are equally tied; the budgets are extremely limited. How can we support a concept of a person living on an income of €19 per week, with no prospects, no future, no certainties, no idea as to when or what his or her future will be? It certainly is not good enough in a so-called modern republic.

I appreciate that the Minister of State's hands are perhaps politically tied and that he must propose and advocate his amendment. I hope he can suggest a timeframe for action. I want to put on record, obviously, my full support for the motion, but also my disappointment that there was even contemplation by Government of amending this motion because no Member of this House could disagree with any of the words of the motion or any of the sentiments of Senator Mullen in proposing it. Senator Mullen's motion must cause all of us to ask what type of society we want to create, what sort of message we want to send out and what sort of Ireland we want to inhabit. I ask the Minister of State, even at this stage, to consider withdrawing the amendment and accepting, in the spirit of humanity, the motion as presented. It would be a positive step forward and it would show the seriousness with which the Minister of State, his senior colleague and the Government are taking this issue.

Senator Martin Conway: I move amendment No. 1:

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

"recognising that –

- the current system of Direct Provision has existed for 14 years;
- that the Minister and the Minister of State in the Department of Justice and Equality having visited several centres both agree on the need to review the current system; and
- that a key concern identified by those working in the sector is the length of time people spend in the system with over half of the residents being in the system for over four years;

welcomes the commitments in the Statement of Government Priorities 2014 - 2016 to:

- establish an independent Working Group to report to Government on improvements with the protection process, including Direct Provision and supports for asylum seekers; and

- to reduce the length of time the applicant spends in the system through the establishment of a single applications procedure, to be introduced by way of a Protection Bill as a matter of priority.”.

I am quite happy to put on record that it is with a heavy heart that I am in a position where I have to propose a motion counter to that put down by my colleagues, all of which I agree with. All of the sentiments expressed by the two previous speakers are accurate and are a true reflection of what goes on in direct provision. I visited the centres with my colleague and friend, Senator Ó Clochartaigh, and others. I visited a number of centres and I was shocked and appalled at the inhumanity with which the State is treating citizens of the world.

It is simply disgraceful. I welcome the people in the Gallery and while I do not know them, I suspect some at least of them are residents of direct provision centres and they are most welcome. I wish to apologise on my own behalf as a Member of the Oireachtas for the manner in which they have been treated. It is totally unacceptable. Incidentally, before I continue, I wish to pay particular tribute to Carl O'Brien of *The Irish Times* and Brian O'Connell of the “Today with Sean O'Rourke” programme for their work over the summer in highlighting this shame on our nation.

Senator Jillian van Turnhout: Hear, hear.

Senator Martin Conway: However, in Deputy Ó Riordáin, we have a Minister who has called it as it is. His is a fresh face and a welcome, honest face in respect of signing up to not defending the indefensible, because he is not doing so. Consequently, I am quite happy to support a counter-motion in the knowledge that there is in place a Minister of State who I believe will act in this regard. He has made it a clear platform of reform on which he intends to see action in the next 18 months. This House owes him support by getting behind him in what will not be an easy endeavour. However, it is an endeavour he will fulfil and achieve. I simply have a feeling that given the events of the summer, the publicity and the light that has been shone into this part of our society, coupled with the appointment of a new Minister of State, matters are coming together and change will take place.

I personally believe the direct provision centres should be closed. When I visited one such centre in Galway, officials from the Reception and Integration Agency, RIA, were present and to state they were defensive in the face of my questioning would be an understatement. I felt quite intimidated by the level of defensiveness displayed on that occasion. However, I will leave that where it is. I get annoyed when I see that this society is making the same mistakes in 2014 that it has made over the years. There have been investigations into what has happened in various institutions. There have been commissions and inquiries and Members' former colleague, Martin McAleese, carried out a comprehensive inquiry recently. However, in my heart and soul, I know that in 20, 30 or 40 years' time, people will be in this Chamber discussing commissions of investigation and public inquiries into the way in which people have been treated in such centres. It absolutely will happen when these children grow up and start to tell their stories, having become citizens of this country as I know they will. In 20 or 30 years' time, when the young people and the older people get freedom and citizenship and start to tell the stories of how they were treated and what happened on a daily or hourly basis in the centres, just as people in institutions during the 1960s, 1970s and 1980s have done with such eloquence lately, there will be a national outcry that will result in a public inquiry. Moreover, the Taoiseach of the day, whoever he or she may be, will be making a public apology in Dáil Éireann on behalf of the people of Ireland. In my heart and soul, I have absolutely no doubt but that this will happen.

Consequently, as legislators, Members have a responsibility to stop the rot and to deal with it. We have done enough talking as this has gone on for 14 years. The present Government has been in government for three and a half years and at most has another 18 months remaining to it. Let us do the right thing and it always is proper to do the right thing. All one needs is the political will, which I believe exists, and I look forward to this issue being dealt with. There are issues such as not being able to work and that is a no-brainer. Some residents in direct provision centres are extremely talented people and with their hands, brains, creativity and imagination would make an enormously positive contribution to this society, were they facilitated, encouraged and fostered. It is shocking to think that children who attend school, sit the leaving certificate examinations and can get maximum grades and points are then not encouraged or supported to go on to university. That is reprehensible and inhumane. When somebody reaches that level in academia but is not allowed to go on to university like those with whom he or she was in school, it is like cutting a flower before it has grown. What normal society does that? A society which calls itself an independent and respectful one does not do that.

Acting Chairman (Senator Michael Mullins): You have one minute left.

Senator Martin Conway: I could speak for the day on this issue.

Acting Chairman (Senator Michael Mullens): I know you could.

Senator Martin Conway: It is very simple. There should be an amnesty for anybody who is here for more than two years. That should be facilitated. It will probably not happen but let us at least deal with the direct provision issue, close down these centres and come up with a better model.

Senator Denis O'Donovan: I welcome the Minister of State and wish him every success in his new brief. Hopefully, he will bring a fresh face and a fresh approach to many of the problems, in particular this one. There is an old maxim in law that justice delayed is justice denied. In this case, justice has been denied to these people.

Somebody asked me maybe two years ago why the State would not do something emphatic about this situation, namely, either send these people back to their original homes, which may not be feasible or would probably be totally improper at this late stage, or let them stay here. When I was a Government Deputy and a Government Senator, I was lambasted, in particular by members of the Labour Party, following inward migration and people looking for asylum and so on in the late 1990s. Around 1995, there was a trickle of people coming into this country. As a nation, we are historically known for outward migration and for travelling to different parts of the world.

This became a serious issue and there were queues and so on. Instead of the number being a couple of hundred per year, it was at one stage 1,300 or 1,400 per month. The number has eased off but it is absolutely appalling that people who are here for a long time are not being dealt with compassionately, sympathetically and fairly.

My party, Fianna Fáil, supports the motion and shares a number of the concerns surrounding the policy of direct provision, in particular excessively long waiting times when an asylum application is made. It is clear there is a significant problem surrounding the length of time a person spends in direct provision. It is important to put the following facts on the record. Currently, 46% of residents are there for three years or more. A further 14% have been there for seven years or more. This is clearly unacceptable, in particular for children whose early

years are being impacted by the unsuitable living conditions of the direct provision facilities for families.

My party also sought to pass legislation in 2010, the Immigration, Residence and Protection Bill, which allowed for a new single integrated process of application for protection which would replace applications for refugee status, subsidiary protection and leave to remain. This legislation, unfortunately, has not yet been implemented. The Department of Justice and Equality has stated that the main factor that contributes to that upward trend is the length of time taken in the protection-humanitarian leave determining process, including legal proceedings. Another factor affecting the time delay is the lack of a single application process for asylum. At this stage, putting forward these positions is no longer an excuse.

According to the RIA's annual report for last year, by the end of 2013, 68.2% of RIA residents had first claimed international protection in Ireland three or more years previously. The percentage in 2012 was 59.4%. The report also reveals that 148 child protection referrals were made to the HSE last year by the RIA's child and family services unit which was notified of 182 incidents. Most were reported by the relevant centre's designated liaison officers while 24 were third party referrals, such as by the HSE or teachers. By contrast, the RIA received just six official complaints from asylum seekers throughout the country, four of which were upheld, which is a substantial ratio. I am sure the Minister of State is well aware of them and I urge him to take them into account. Last year, 4,360 people were living in 34 direct provision centres. The figure was 10% lower than the figure in 2012 and 2013 was the fifth year in a row that the direct provision population had decreased. It is not the case, therefore, that the issue is snowballing. The report also reveals that the number of people spending long periods in direct provision is increasing. The average length of stay is 48 months, with 1,686 residents having spent a minimum of five years in the system. Of these, 604 have been in direct provision for seven years or more, which is an appalling statistic.

The average time spent in the asylum seeker system, at 52 months, is longer still. In Mosney, 53% of the 600 residents have been in direct provision for at least 60 months, while one quarter of 236 residents in the State-owned facility in Athlone have been living there for 84 months or more. The Athlone facility, the only centre in the State that is comprised of mobile homes, does not have a crèche, despite accommodating 50 children aged four years or younger and another 75 children aged between five and 12 years. Of the residents in the Ocean View direct provision centre in County Waterford, 31% have been in direct provision for a minimum of 72 months. Last year, expenditure on the 26 commercially-owned direct provision centres amounted to €45.7 million, which is an appalling waste of money. This funding could be put to better use.

I concur with previous speakers that we must grasp the nettle and deal with this issue sooner rather than later. We become worked up and worried about Irish people living in the United States, Canada and other countries, some of them illegally. They can work, socialise and send their children to school unlike asylum seekers living in our direct provision system. As a society, we should be appalled by this. We must place on record our view that this disgraceful position should not be allowed to continue. It is a festering sore and I urge the Minister of State and Government to deal with it swiftly and give the individuals in question their rights. As the previous speaker argued, an amnesty is required and the waiting lists for decisions must be eliminated. People must be moved out of the appalling conditions in which they live and the children in question must be afforded the rights Bunreacht na hÉireann confers on our own citizens. I hope the Minister of State will take heed of the virtually unanimous view of the House.

Senators are unhappy with the current position.

Senator Ivana Bacik: I am pleased to have an opportunity to welcome the Minister of State, Deputy Aodhán Ó Ríordáin, to the House in his new capacity. As other speakers acknowledged, he has an impressive track record in speaking up in a highly critical fashion about direct provision and for the rights of those in direct provision centres. I have great confidence in his ability to make changes to the system in his new capacity.

I welcome those in the Gallery who have come to hear this debate. The Seanad debated this issue previously. As Senator O'Donovan noted, the Seanad speaks in a united fashion on this issue and all Senators have been highly critical of the system of direct provision. Senators Ó Clochartaigh, van Turnhout, Mac Conghail and others have a long track record in speaking out about direct provision and condemning many aspects of the system. On 23 October 2013, a motion on direct provision tabled by Senator van Turnhout and a number of her colleagues was not opposed by the Government side because we wanted to work together in a spirit of constructive criticism to find out how improvements could be made to the system. It is in that spirit, one in which none of us seeks to defend the indefensible, that I will second the amendment. All of us agree with the sentiments expressed in the motions tabled by Senators Mullen and Bradford and I commend both Senators on raising the issue. The amendment essentially seeks to give space to the Minister for Justice and Equality, Deputy Frances Fitzgerald, and Minister of State, Deputy Ó Ríordáin, both of whom were appointed in the period since the debate took place in October 2013.

I remind colleagues that since the new ministerial team was appointed, the Government, on 11 July 2014, issued a statement of priorities which specifically addresses the direct provision system and acknowledges that it must be made more respectful to the applicant and less costly to the taxpayer. The Government agreed in its statement to reduce the length of time applicants spend in the system through the establishment of a single applications procedure and an independent working group. The amendment to the motion acknowledges the problems with the system of direct provision. As we know, it has existed for 14 years and was introduced by a previous Government. We were rightly critical when in opposition of that Government because of the flaws in the system but it was introduced in order to meet what was seen as a very short-term crisis in housing. It was not envisaged at the beginning that people would remain in direct provision for more than approximately six months. A key concern is the length of time so many people spend in the system, particularly families and children. The amendment acknowledges this and that the Ministers have agreed on the need to review the current system. It is also noted that over half the residents in the system have been there for over four years, which is clearly unacceptable.

The motion, as amended, would welcome the solid commitments to establish the independent working group. I know the Minister of State, Deputy Ó Ríordáin, will speak more about that, and there is to be a preliminary roundtable meeting to get the group up and running this Thursday. That will involve non-governmental organisations and those who are involved on the front line. It is envisaged that there will be a very short timeframe to report on improvements to be made in the system, and I hope issues like the right to work will be dealt with, as I anticipate they will, within that working group. I welcome that measure.

I also welcome the commitment to introduce a protection Bill as a matter of priority. There are three issues for all of us concerned with this issue. The first takes in the conditions in direct provision centres about which others have spoken so eloquently. These conditions are unac-

ceptable, particularly for families and children. There is a lack of cooking facilities and so little privacy and space, as has been highlighted by Mr. Carl O'Brien and others familiar with the system. The conditions must be addressed as a matter of urgency and any centres providing inadequate accommodation, particularly for children and families, should be closed. As I have said, we should also consider moving families with children out of direct provision centres altogether and into independent accommodation. Some facilities operate on a self-catering basis, as the report from the Reception and Integration Agency, RIA, notes. We should consider improving that system, allowing people to have their own cooking facilities and greater privacy and space. We are addressing this matter of conditions in centres and the amendment to the motion gives the Government space to do so. In the Seanad we should look to hold the Government to account on that and ensure the matter can be addressed within a short timeframe.

The second issue concerns the length of time involved, and other colleagues have spoken eloquently about this as well. It is unacceptable that people spend this length of time in the system. I know there has been discussion of children born into direct provision who are now eight or nine years old; they have lived all their lives in the system, which is unacceptable. The matter can be addressed through the mechanism described in the amendment of a single protection procedure to be introduced through a piece of legislation which will essentially be taken from the immigration, residence and protection Bill and fast-tracked through these Houses. I hope we will hear something about the timeline of that process. The legislative programme states that this will be introduced early in 2015 and I anticipate it should be passed by Easter 2015. Perhaps the Minister of State will speak to it.

The absence of a single protection procedure has been a major problem within the Irish system and Ireland remains out of step with the rest of the EU because there is a procedure of refugee status determination divorced from subsidiary protection. That slows the process and has made it extremely cumbersome and difficult for applicants within the system. That has contributed extensively to delays. The Irish Refugee Council produced an excellent document last year setting out the history of direct provision, pointing out that the single protection procedure is important and that steps to bring it forward are very welcome. Its absence has meant that people have spent far longer in direct provision than they should.

A third issue is more long term and it must be acknowledged in the debate. The overall process is deeply flawed, as has been acknowledged not just by this Government but also by the previous Government. We need to seek to progress and expedite the bigger immigration, residence and protection Bill so as to ensure our system of determination of claims is fair. There is much concern about the low numbers of people who receive positive declarations of refugee status through the Office of the Refugee Applications Commissioner, ORAC. I considered the RIA report, which states that over the ten years from 2002 to the end of December 2012, only 6% of those who made applications for declarations of refugee status received positive recommendations. There have been international critiques of Ireland's low rate of recognition of refugee status. It is important that we provide for a single protection procedure to speed up the process but we must also ensure the process is fair and people will get a fair hearing. There has been much concern in the past about the absence of a fair hearing and what seemed to be a rather dismissive rejection of applications. Improvements have been made to the ORAC system but we must acknowledge the need for reformed legislation. I am conscious that litigation exists on this and a judgment is due in the High Court by December this year. The CA and TY case challenges the legality of direct provision and will have an impact on the report of the working group in terms of conditions in direct provision and the mechanism itself.

All of us want to see this system changed. If we cannot abolish it we must ensure direct provision is in place for as short a period as possible. People, especially families with children, must be dealt with swiftly and there should be a single protection procedure. The conditions in centres must be adequate so that people are treated humanely and with the sort of privacy and dignity we all deserve and require.

Senator Jillian van Turnhout: I thank the Minister of State and welcome him to the House along with the visitors who are here today. I appreciate the constraints inherent to the Minister of State's office but I am confident he recognises and is committed to tackling the weaknesses and failures of the direct provision system in Ireland. The first conversation I had with the Minister of State after his appointment was on this issue.

I know the Minister of State is aware that Members of this House, particularly the founding members of the Seanad cross-party group on direct provision, Senators Trevor Ó Clochartaigh, Martin Conway and I, have been at pains to raise the issue of direct provision over the past number of years. I take children's rights as my entry point to the issue and I remain extremely concerned that the administrative system of direct provision is detrimental to the development and welfare of children. Among my own interventions, including an unopposed motion on direct provision in October 2013 and five adjournment debates, I have raised a plethora of concerns including the dubious legality of direct provision, the denial of the right to work and the fettering and erosion of normal family dynamics. Young asylum seekers have no prospect of post-secondary education and this is like hitting the pause button for an indeterminate but lengthy period. Direct provision has a negative impact on the health, particularly the mental health, of adults and children - those of us who have visited centres do not need to read the research to know this because we can see it first-hand.

I thank Senators Mullen and Bradford for tabling this motion today as every opportunity to discuss direct provision is welcome. I also thank the media as investigative reporting has shone a light on direct provision, particularly in recent months, and this has enabled a better understanding as the term "direct provision" does not convey the horrors involved. Many people have approached me over the summer to discuss the issue, though I have been raising it for some time.

I have asked on many occasions in this House whether we should fix the system now or wait 20 years for a damning report that will shame us. I have written about direct provision in a number of outlets, including the *humanrights.ie* blog, which has excellent contributors to the matter. I have also contributed through the media and social networks but I am sometimes disappointed by the reaction of some members of the public. Some people suggest the direct provision system is very generous when viewed in light of growing poverty and homelessness in the Irish population. People suggest we should get our own house in order before worrying about others and I would like to address this notion.

I agree that poverty, homelessness and the increasing number of families at risk of homelessness through mortgage arrears and spiralling rents in the private rental sector are real and significant concerns and I will advocate in support of relief in these areas in the forthcoming budget. However, we cannot impose a hierarchy of priorities when it comes to the health and welfare of human beings. We are all equal and entitled to live with dignity no matter where we are born. Concern relating to direct provision does not have to come at the expense of concern relating to other issues. The world is full of injustice and we must strive to tackle it. I am confident that the majority of Irish people agree and this is why Ireland ranked highest in the recent

17 September 2014

Good Country Index. Per head of population and per euro of GDP, Ireland contributes more to the common good of humanity than any other country in the world but we must live up to this accolade on our home soil. We cannot only speak of what we do in other countries. The ultimate failing of direct provision is the length of time asylum seekers remain in the system, waiting for their claims to be processed.

5 o'clock

That was echoed recently in the concluding observations of a committee that I, unlike Senator Mullen, respect, the UN Human Rights Committee. The long-term solution has got to be a streamlined status determination system that will deliver a speedy, and robust, yet fair and transparent process. I hope this will be delivered through the Immigration, Residence and Protection Bill 2013 and through the single protection procedure. My colleague, Senator Zappone, will address exploitation and trafficking.

I welcome the Government's recent announcement that a working group is to be established. I insist that the right to work be discussed. Senator Mac Conghail will elaborate on this issue. I hope the working group is made up of people with wide-ranging expertise in areas such as health, education, justice and social work. I have written to the Minister of State and to the Minister for Justice and Equality with a recommendation on this. I hope the Government makes recommendations by the end of December. We also need to give resources to the system, such as the single protection procedure and whatever system is put in place.

In the interim I remain steadfast in my call on the Government to immediately establish an independent complaints mechanism, for example, through the Office of the Ombudsman, and to commence the independent inspections of direct provision centres where children reside. The Health Information and Quality Authority, HIQA, inspects all other centres but when I ask for this I am told to hold on, HIQA inspects centres where children are in the care of the State, not being cared for by the State. This is semantics. These children do not have a normal family life. Whatever way one wants to talk about it, one only has to go and see it. It is not a standard family life. A person is seconded from the Child and Family Agency to the Reception and Integration Agency, RIA, to consider child protection complaints. I have no question about the bona fides of that person but no one would go to RIA with a concern about child protection because it is perceived as the agency dealing with one's application. We need an independent complaints mechanism and drop-in inspections. These are profit-making centres. They are not doing this out of good will. This is not Crosscare, an organisation for which I have great respect. These people are making a profit out of the misery of people in Ireland.

I am opposed to direct provision but I take the Minister of State at his word. I want to see a timely report. I will be back very soon if not. I have a track record of returning to the issue. We need to respect people's right to private life and family life. We need to find a way to do that. It has been done in the United Kingdom in an appropriate manner. I do not want us to deal with it piecemeal. I can understand the need for direct provision for three to six months in a more humane system because we have to process the applications but it cannot be tolerated for any longer. We will support the Minister of State but we have a record of coming back on issues.

Senator Hildegarde Naughton: I welcome the Minister of State to the House and I welcome this debate. My overwhelming reaction is that it is incredible that our system operates at such a snail's pace and that it takes such a long time for someone to come out the other end. I note that the Refugee Applications Commissioner and the Refugee Appeals Tribunal, given

the fall in numbers in recent years, are processing cases rather speedily. I note also, however, that asylum applications are up 40% in the year to date. The difficulty arises it appears both from judicial reviews of decisions made and applications for subsidiary protection and appeals through the courts. In the circumstances it is quite understandable that there is disquiet among support organisations involved about the mental and physical well-being of the people who spend such a long time in the system. Nobody can say there are no problems. The Government accepts there are and the Minister of State will tomorrow host a round table with officials and non-governmental organisations, NGOs, working in the asylum field. They will discuss the matter and allow the working party's terms of reference to be set in light of the NGOs' concerns.

Senator Mullen's motion is not being acceded to as it seeks to pre-empt the working party's deliberations. In order, however, to properly assess the issue it is necessary to consider some facts. The appeals refused figure from the Refugee Appeals Tribunal has hovered around 90% for the past ten years. Sometimes the impression is given that we are discussing actual refugees when the majority of cases are those of economic migrants or those applying for some other form of leave to remain. Additional to this is the fact that over 50% of those in direct provision have judicial review proceedings pending or in train, have deportation orders pending or are applying for leave to remain for non-protection reasons. It is also the case that of those in the system longer than four years, the overwhelming majority, be it the applicant or a family member have legal proceedings pending either because they have been ordered to be deported or are appealing decisions not to grant them leave to remain.

In response to the specifics of the motion I do not believe that we should allow those who claim asylum as opposed to those who are granted asylum the right to work. It is important to consider this matter carefully before accepting such suggestions. This would have the effect of adding several thousand to our dole queues.

As regards accommodating those seeking asylum or protection in centres, I very much welcome the required improvements. The current conditions are unacceptable and I cannot support them. The simple solution to these issues which we have never managed to grasp is that we should provide a simple, fair and quick system for determining applications for both asylum and subsidiary protection. During the time they spend here, people should be treated humanely in appropriate accommodation, the lack of which seems to be the main bone of contention. The Government is committed to providing such a system and will do so. It will introduce a protection Bill by the middle of next year. This new legislation will provide a single application procedure which will be more simple and streamlined than the current multi-faceted and complicated system. Additional to the institutional reforms in the application and decision-making process, there are continual delays in our court system which increases the problem. I have mentioned the long delays in the superior court and it is to be hoped that the new court of appeal will assist greatly in that regard although it is something that we should discuss in this House as a single topic at a future date.

We can all agree that anyone who has been granted refugee status or another form of protection in this jurisdiction should be welcomed into our communities and those awaiting a decision should get it in the shortest time possible and should be treated humanely in the interim. The system is at fault and needs to be urgently fixed. I welcome the decision of the new Minister of State to establish a review group and his wish to provide a process that takes no more than 12 months from beginning to end. That is far too long. Six months should be sufficient. That can be discussed when the Bill comes before the House.

Senator David Norris: I welcome the Minister of State to the House and congratulate him on his appointment. I think he will be a good Minister of State. His heart is in the right place on this matter. That leaves me a little bit puzzled by the flaccid amendment the Government has put down. I do not think it is necessary. The world would not collapse if this motion went through. I compliment my colleagues on putting down this important motion.

Senator Naughton referred to economic migrants. They have a very good case. I cannot think of a better reason for getting out of a country than being subjected to grinding poverty, misery and squalor. Many of the refugees drifting towards Italy and being drowned are coming because of grinding poverty. In some circumstances we caused that poverty. This country built the largest factory trawler on earth, *The Celtic Dawn*. When it was banned from European Union waters it was sent to Senegal where it destroyed the indigenous fishing industry. The Senegalese then came to Europe where they were dismissed as economic migrants. We caused a situation and then blamed the victims. I would be happy to include them.

Of course this small island cannot take in all the world's refugees but it is noticeable that we are very sympathetic when a famine occurs in Ethiopia or elsewhere but when it gets a bit closer to home we hear stories about people sponging. I have heard respectable people say they get free cars and cigarettes from the State. That is absolute rubbish and balderdash. When this was introduced in 1999 it was to be for a period of six months. Now people are there for ten or 12 years, and not allowed to work. This is the only country apart from Transylvania or some place in Europe that does not allow people to work, which is stupid. They are excluded from social housing and from social welfare. They receive €19.50 a week whereas the providers of this accommodation which is contracted out earn €50 million. There is a hell of a contrast between €50 million and €19.50.

The fact that people have been here for so long means they need education. There are several young people, including a young woman I read about, who is ready to go to university, like all her colleagues at school but she is not entitled to free university education. She has been told that as a foreigner she must pay three times the amount an Irish person has to pay, €10,000. How does one get that on €19.50 a week?

Some 4,360 people were being accommodated at the end of 2013. Some 2,872 of them were being accommodated in 851 family units. What is a family unit when one cannot cook, use one's own cultural traditions, eat the food one is used to or see one's parents cooking? Although the numbers have declined by 46% since the peak in 2005, the average length of time spent by residents has increased. We have a decrease in the number of people applying and an increase in the amount of time they are kept in the system. That is very worrying. Almost 70% of the people - the exact figure is 68.2% - have been in the system for three years or more.

I would like to speak about the most extraordinary situation in Mount Trenchard. I applaud Mrs. Justice Harding Clark for drawing attention to this matter. As a result of a protest that was organised, some of the inmates were transferred within ten minutes. That was obviously a punishment. A group of people who went in to see the situation were denied entry by the owner of the facility, Mr. Hyde. What does the contractor have to do with people's human rights? The same concerns apply in respect of the issue of health care. There is no provision for the Department of Health to have any responsibility or oversight for the welfare of people in this situation. It is alleged that some women are being forced into prostitution to make money to look after their families. The Ombudsman for Children, Ms Emily Logan, who is a highly respected person, has complained strongly about it.

I wish to put a number of recommendations to the Government. They are not my own - they come from other sources. First of all, we need to know the facts. There should be an audit. We should forget about all these commissions of inquiry. That sort of stuff is wearying because it always means the issues get kicked into touch. It would be simple enough to do an audit to ascertain whether our provision of asylum care meets our international human rights obligations. Those who are still awaiting a decision after a year should be entitled to supplementary welfare allowance, as any other destitute person in this State would be. Various sections are quoted in the briefing document that has been provided to me. If the full rate of supplementary welfare allowance is not granted, the rate paid to asylum seekers should be increased to €65 a week for adults and to €38 a week for children. When the Government guillotined the Social Welfare and Pensions (No. 2) Bill 2009 as it was going through the Dáil, it axed the habitual residence provision. I believe this should be opened up again. It is not tolerable that a significant provision in this sensitive area of human rights and welfare was guillotined without being debated in either House of the Irish Parliament. I put it to the Minister of State that this should be opened up for examination.

Before I make a final point as an addendum to the very important Northern Ireland case, I would like to pick up on Senator Mullen's hope that the Government is not afraid on policy grounds to improve the current situation, which it accepts is disastrous, on the basis that it might prove an allurement to other people to come here, particularly from the United Kingdom. Such an attitude would be a very nasty one, but it seems to be reflected in the current policy. I would like to refer to a recent article by Carl O'Brien in *The Irish Times*, which quoted from a 12-page Government document on this issue:

Although the system is “not ideal”, any improvements raise the risk of asylum seekers from the UK moving here to avail of better conditions ... “Leaving aside the considerable difficulty in putting in place alternative reception conditions for those asylum seekers already here ... the biggest concern would be the ‘pull factor’ involved,” the papers say.

It is an established fact that the Government had set its face against making improvements in case they would attract more asylum seekers. There has been a decline in the figures in question because our punitive system, which is against people, makes it less attractive to be here. I have spoken to some asylum seekers. I compliment them on being here today. They are dignified and well presented. Some of them come from my own native land - the Congo. When I asked one of them where he comes from, he said he comes from Mosney. It is an awful thing to have to say that one comes from Mosney. When I was a kid, Mosney was a holiday camp.

I will conclude by speaking about the Northern Ireland case with reference to a sentence from the judge's deliberations that was not quoted by my colleague, Senator Mullen. The judge in that case quashed a request from the United Kingdom Government to send a Sudanese asylum seeker and her three children back to Sudan. He said, in addition to what was quoted by Senator Mullen, “that the well-being, both emotionally and financially of the primary care giver and the importance of that to the well-being of the children in her care would point significantly to the best interests of the children being to remain in Northern Ireland”. The authorities 90 miles up the road are so significantly better than us at providing conditions for those seeking asylum that a High Court judge decided to quash an order from the United Kingdom Government. That is a reproach to all of us. I know the Minister of State's heart is in the right place. He must be reassured by the fact that virtually every speaker, with differing degrees of passion or commitment, has spoken about the need to reform this area of Irish life.

Senator Averil Power: I welcome the Minister of State to the House. I think this is his first visit since his elevation to ministerial office. He is very welcome. He has certainly hit the ground running over the past few weeks. I have been reading in the newspapers about the various commitments he has been making. I would like to wish him all the best in his new role. I know he has a genuine interest in this area. I hope he will be given an opportunity to make a real difference. I am sure this portfolio will keep him very busy. I will be happy to help in any way by picking up the slack in Dublin Bay North while he is going around the country fulfilling his various duties.

Senator Martin Conway: That is very decent of the Senator.

Deputy Aodhán Ó Ríordáin: I thank her for the offer.

Senator Averil Power: I commend Senators Mullen and Bradford on the tabling of this motion today. We have discussed this matter in the House on several occasions over the past two years. I have been working with Senators van Turnhout and Ó Clochartaigh and other members of the cross-party group on this issue for some time. We have been trying to get a cross-party consensus to deal with it. I think issues of human rights are bigger than all of us individually or politically. There should be a genuine bipartisan consensus on how we address such issues. We need to ensure people are treated with dignity.

I have to say I was heartened to read in the newspaper about the Minister of State's comments on the need to tackle this problem. The last time we discussed the issue, in the presence of the former Minister, Deputy Shatter, we got fairly cold comfort that anything was going to be done. I am glad that shortly after his appointment, the new Minister of State singled this out as an area he would like to address. Having read the amendment to the motion before the House, I have to say I share the concerns expressed by some Members about whether there is a broader commitment beyond the Minister of State's office - at the Cabinet table, in particular - to deal with this issue. I do not see anything remotely objectionable in the Private Members' motion that has been proposed. It is really disappointing that the Government has tabled a bland amendment to that motion instead of accepting it. The amendment merely restates the commitment that was made in 2011, and repeated earlier this year, to the effect that this area will be reviewed and changes will be made.

When the legislative programme was published earlier today, I was disappointed to note that the Immigration, Residence and Protection Bill 2010 is still listed as awaiting Committee Stage debate. That has been the case since November 2010. That was how far it reached under the last Government before it fell. It was reinstated by this Government but nothing has happened on it for three years. It has been suggested that the Bill will be progressed sometime in 2015. That is the only indicative date we have been given. No more information than that was given in today's legislative programme. I hope the Minister of State will give us some more information. I know he has not spoken yet. Maybe he will have more to say when he makes his remarks. I think this is an area in which we need to move beyond expressing concern in this House. We need to move towards action. The former Supreme Court judge, Mrs. Catherine McGuinness, has said a future Government will end up apologising for the direct provision system and in particular the conditions for children in those centres in the same way as the current Government and its predecessors have apologised for torture that was visited upon people in residential institutions and Magdalen laundries in the past. This is an area in which we need to see much greater urgency and commitment. Like many other Members, I visited the exhibition across the street curated by the Immigrant Council of Ireland and the Migrant Rights Centre

Ireland. A mock room from a direct provision centre was created to show the typical conditions in which people live. One could have five or six people – an entire family of two adults and four children - in a tiny space that is probably half the size of the Minister of State's office. No peaceful space was allocated for teenagers studying for exams nor was there any room for small children to play in comfort. No privacy was available to parents. Communal toilets and shower facilities presented another risky situation as children shared them with other adults. Such a situation raises obvious child protection issues. The conditions are appalling and it is beyond time that something was done about it.

Overall, two things must happen. First, we must tackle the length of time people wait for a decision. That is a large part of the cause for the long stay in direct provision accommodation. It should not take years for somebody to get an initial decision on his or her asylum application and for them to fight appeals and take court cases. We need a streamlined process. That is what the Immigration, Residence and Protection Bill was intended to bring about. I urge the Minister of State to progress the legislation as soon as possible. People should not spend longer than the originally intended six months in direct provision centres. Child protection risks must be addressed even in the case of sharing such a cramped space for a short period, be it a day, a month or a year. We must ensure facilities are safe for children and women, especially single women who do not have any family backup or another adult to look after them. The Immigrant Council of Ireland has pointed out that some women have come from situations where they have been raped and subjected to the most horrific sexual violence and then find themselves in mixed facilities where their safety is put at risk. People whom the Garda believe are victims of trafficking are also put into centres where the traffickers know where they are and can make contact with them through other individuals and put pressure on them. Such a situation is scandalous.

Regardless of how long a person is in a centre, the conditions should be safe and fair. Nobody should be there for more than six months. People should be given the right to work after a reasonable period, for example, a year is typical in most European countries. We must devise a system that is fair to everybody. The country is entitled to have a robust immigration system and to control who comes in and out but we also have responsibility as a humane nation to ensure that people who flee torture and persecution have the right to build a life in this country and to do everything we can to integrate them and not institutionalise them in an environment into which none of us would bring our families.

Senator Aideen Hayden: I congratulate the Minister of State, Deputy Ó Ríordáin, on his appointment and welcome him to the House. His bona fides on the issue are not in any way questionable. Shortly after his appointment he was on record as saying the system is inhumane and the conditions in which people are expected to live is intolerable. He also said that the length of time people spend in the centres is outrageous and that new legislation would limit the periods a person spent in the system to between six months and 12 months. He further said that he believed in the extension of the right to work and that it should be an option to work after a certain period because if people who spend a long period in another country are not allowed to work, they either retreat into themselves or find a parallel economy in which they use their skills in the same way as the vast majority of EU member states allow. As someone who has had strong views on direct provision for a long period, I was very proud of those comments. I am proud of the record of the Labour Party on the issue.

I very much welcome the announcement of the review group. I agree with my colleague, Senator Naughton, that the review group should report within a short period. I accept there are two issues at stake, namely, direct provision itself and the facilities involved, and also the length

of time people spend in the system before their right to remain in this country is adjudicated upon.

I am also conscious of the fact that judicial proceedings are ongoing – the CA and TY judicial review, which has and does challenge the legal basis of direct provision – and also the right to work and whether family and private life rights are being respected in the direct provision scheme. I do not know why that is meant to be a question because the answer is quite clear. They are not respected in the direct provision scheme and neither are some of the other questions being considered in the legal challenge questions *per se*. They might be legal questions but they are certainly not questions. At the Tom Johnson summer school – Labour Youth's summer school – a lady and her two children gave a very harrowing account of their time in direct provision. The older girl had just sat her leaving certificate and she explained how her family went to bed at 7 p.m. every night so that she could study. She got an excellent leaving certificate and as has already been pointed out, she has no future in the education system in this country. That is not acceptable in a civilised society. Like many other Senators, I will hold the Minister of State to account for what he has said and for what I believe he will do to alter the situation in this country.

I wish to focus on an issue I would very much like the Minister of State to address in the review. Much has been said about housing for people in direct provision. We had a debate a number of months ago and at the time I noted that the *The Irish Times* had published the reports of inspections across accommodation centres in the previous 12 months. They found numerous breaches regarding fire safety, blocked emergency exits, breaches in child protection with older children minding younger children, residents being served cold food due to inadequate kitchen facilities, bedrooms in need of repair, leaks, faulty heating systems and rotten floor boards. The list went on and on. As someone who believes strongly in the right to a home for everybody living in this country, I urge the Minister of State to ensure the review group would consider closely and seriously the housing situation of people in direct provision. Nobody living in direct provision should be subjected to accommodation that does not meet the minimum standards for housing in this country. I refer the Minister of State to the minimum standards for private rented housing, which are minimum standards. No accommodation provider in this country should be allowed not to meet the standards. I urge the Minister of State to make that one of the requirements for the review group.

It is of concern that we have spent so much money on non-State providers of direct provision accommodation. Serious amounts are involved. I am open to correction but not one provider's contract in this country has ever been terminated. That is not good enough considering what we know to be the criticisms that people have made of their accommodation. I would like the matter to be investigated. It appears that in this situation two and two does not equal four. We must show serious concern for the right to a home for people living in direct provision, their right to have a family life, for their children to be able to study, for them to be warm, and to be able to cook their own food. They are basic, fundamental human rights that we do not need any court in the land to adjudge as we know them to be true.

Senator Katherine Zappone: I welcome the Minister of State, Deputy Ó Ríordáin, and congratulate him on his appointment. Like many others, I believe he can bring about change in this arena. I welcome the visitors. Their presence makes a difference to us. It also makes a difference to the debate and I believe it will make a difference to the impact of the debate. I thank the visitors for being present.

Seanad Éireann

We are all aware of the fact that this is a very timely debate. I thank Senators Mullen and Bradford for tabling the motion. The issue is one that places people in an extremely vulnerable position. It has been the focus of the campaigns of many human rights groups and is causing great concern across the country. I also want to acknowledge the leadership of Senators Ó Cloghartaigh and van Turnhout on discussions on this issue, as well as that of other Members in the Seanad cross-party group on direct provision.

The Seanad held public consultation hearings on Ireland's compliance with the International Covenant on Civil and Political Rights in May 2014. We heard then the devastating evidence from civil society groups working in this area. The Seanad submitted a report to the UN committee on human rights expressing our concern about the impact the system of direct provision is having on the physical and moral integrity of asylum seekers, as well as their right to private and family life, points about which other Members have already spoken eloquently.

Other Members have spoken about the failure of the State to put in place an independent appeals mechanism available to persons living in direct provision to ensure independent and transparent oversight. I welcome the fact the Government has appointed an independent working group that will review direct provision and the protection process soon.

I want to acknowledge the tremendous work of groups such as Nasc in Cork, Doras Luimní in Limerick, the Irish Refugee Council and the Immigrant Council of Ireland on the complex issues involved. They have highlighted the conditions for people in direct provision and particularly the children who are growing up in the centres. I concur with Senator Mullen's recommendation of an amendment to the Ombudsman for Children Act 2002 to ensure it is clear and indisputable that the Ombudsman for Children can scrutinise what happens in these centres and receive complaints concerning child welfare. I also concur with Senator van Turnhout's recommendation for an independent complaints mechanism in this regard.

One point that is often forgotten, although Senator Power raised it earlier, is the placing of suspected victims of human trafficking in direct provision centres. That is simply wrong. It leaves some of the most vulnerable women in Ireland in great danger. In the case of suspected victims of trafficking, we are talking about women who are traumatised, who have often been tricked into coming into the country with false promises of a dream of a new life, job or marriage only to find out in a car park in Dublin Airport that they are destined to a life of threats, abuse and rape. The lucky few will at some stage manage to escape that abuse. However, far from meeting our international obligations to provide these trafficking victims with somewhere safe and secure, they are placed in the mixed accommodation of direct provision. This raises many serious concerns.

Immigration and asylum agencies such as the Immigrant Council of Ireland agree that the placing of victims of multiple rapes in mixed accommodation can add to the trauma women face and can place them in immediate danger of further abuse. Neither does the direct provision system place the victim beyond the reach of her abusers. She can be contacted and intimidated into withdrawing testimony to the Garda or even forced back into prostitution again. It is essential these victims, whose experience in many cases have triggered important criminal investigations, get the chance to reflect and recover in safe, private and secure accommodation, as well as being allowed to co-operate with the authorities without any fear associated with the role of witness.

The Immigrant Council of Ireland, together with its partners which provide sheltered hous-

ing, have made a submission to the Department of Justice and Equality to resolve some of the issues I have outlined and which will be made public in the coming days. The document sets out in detail how trafficked victims could avail of a range of accommodation types and a better guarantee of confidentiality and security, particularly in view of the stigmas associated with trafficking for commercial sexual exploitation. Will the Minister of State ensure these proposals are considered by the independent group which will examine the direct provision system?

Senator Trevor Ó Clochartaigh: Ba mhaith liom fáilte a chur roimh an Aire Stáit agus comhghairdeas a dhéanamh leis as a cheapachán. Fáiltím go mór leis na ráitis atá déanta aige maidir leis an ábhar seo ón am a cheapadh é. Mar a deirimid i nGaeilge, ní ionann caint agus gníomh. Beimid ag súil leis na gníomhartha réasúnta luath.

I want to acknowledge the great people I have met since I started campaigning on this issue and welcome all those present in the Gallery for this debate. I have met astrophysicists, doctors, nurses, scientists, musicians, hairdressers - not that I need one - mechanics, carpenters, bakers, teachers, businesspeople, lawyers, etc.

A few red herrings have been thrown into the debate. The direct provision system is not acceptable for anyone. The Minister of State is a former school principal. Imagine if he found himself sharing a room with four other males of the same age from different backgrounds for nine years, not knowing when he would get out. This is simply unacceptable.

It is important he clarifies the Government's policy on this issue. We are hearing mixed messages, even today, from several spokespersons. For example, we referred to amending the Ombudsman Act. Sinn Féin brought the amendments to the House when this legislation was recently debated so that the oversight issues, raised by Emily O'Reilly and her successor, Peter Tyndall, could be addressed. However, they were opposed by the Minister responsible, Deputy Howlin, and Labour Party Members. I hope this has changed and the Minister of State can clarify the Government's policy on the oversight issue.

Claiming this issue can only be dealt with by the IRP, immigration and residency protection, Bill is a red herring. Obviously, there is a need to reorganise the law around asylum-seeking. However, there are two different issues at stake. There needs to be a legal basis for dealing with those seeking asylum in this country. Second to that, there needs to be a system of accommodating those people while they are here. This is the issue that needs to be reformed immediately. The IRP Bill will take time but I understand the Minister can change the direct provision system quickly because it has no legislative basis. Direct provision, from my understanding, was a Fianna Fáil Government solution, done on the back of an envelope to deal with an asylum situation in which it found itself. It is a privatised system. Private companies, some of them cleaning companies, are making millions of euro out of this system. Up to €53 million a year is spent on the direct provision system when the refugee accommodation system in Portugal only costs a fraction of that, €2 million a year. How many houses could be built for €53 million a year? What kind of mortgage could the Government leverage to build social housing with such funds? I wager it would be more than enough to house the numbers seeking asylum in this country.

There is also an issue around the contracts for providing direct provision services and their procurement. We need clarification on how often they are done. Is it by public tender? How come it seems to go to the same companies all the time? There is the possibility of non-gov-

overnmental organisations teaming up to provide a new accommodation system which needs to be addressed too.

The conditions of the direct provision system are unacceptable for the majority of people in it. We do not have to wait for the IRP legislation to determine the legal status to reform direct provision. I welcome the Minister of State's earlier comments on that. The privatisation of the system from day one was the wrong approach to this issue. There are good people running the centres. I have met many of the managers, good people trying to do a good day's work. However, they are only there to put a roof over people's heads and feed them. The food in many centres is totally unsuitable and many are not allowed cook for themselves. There is also an issue of the training of those running these centres. Many of those in the system have come from traumatic experiences and could have severe mental health issues. Those who run the centres do not have specific training in dealing with such issues which is unacceptable.

We saw much unrest over the summer in centres in Foynes, Athlone and Cork. The right for those in direct provision to work should be an absolute right that should be put in place. I was taken aback by the statement over the summer by the Minister for Justice and Equality, Deputy Frances Fitzgerald, that she was surprised there was a prostitution issue in some of these centres. This has been brought to attention in the Seanad and the Dáil previously.

On the topic of education, there have been issues around school books being provided for children and grants being made available for children who have done the leaving certificate examination but what about the adults in the system who want to further themselves in education? They must be dealt with also.

How much has it cost to fight legal cases over the years? How much has the State paid to fight the asylum seekers in the courts and who has profited? That is a huge question that needs to be answered. What about the funding for support groups which has been systematically reduced? Those in direct provision are not looking for anything extra. The argument is often put forward that they are trying to cream the system and take things away from the Irish. That is a spurious argument and is unacceptable. What these people are looking for is a right to dignity, a right to parent their children and a right to fulfil their own potential. I will support the Minister of State - we do not always agree on everything - if he fights for that objective.

Acting Chairman (Senator Paschal Mooney): The Senator's time has expired.

Senator Trevor Ó Clochartaigh: I will finish very quickly. I agree with Mrs. Justice Catherine McGuinness, former Ombudsman Emily O'Reilly, Mr. Peter Tyndall, Ms Emily Logan and all the Senators who have contributed. Tá sé in am gníomhanois. Beimid ag tabhairt go leor tacaíochta don Aire Stáit. Tá súil agam nach bhfaighimid an freagra céanna a bhfuaireamar ón Teachta Shatter nuar a bhí sé anseo mar Aire an t-am deireanach a phléamar an ábhar seo. Tá mé cinnte nach bhfaighimid.

Senator Ivana Bacik: I wish to move an amendment to the Order of Business to extend the time for this debate. It was due to conclude at 5.45 p.m. but given that it started late, the two hours is not due up until 6.17 p.m. I propose that the time for the debate be extended to conclude not later than 6.17 p.m. if not previously concluded.

Acting Chairman (Senator Paschal Mooney): Is that agreed? Agreed.

Senator Labhrás Ó Murchú: Cuirim fáilte roimh an Aire Stáit. Tréaslaím leis ar a chea-

pachán. Tá súil agam go gcabhróidh an díospóireacht atá ar siúl anseo inniu leis san obair atá idir lámha aige. Tréaslaím freisin leis an Seanadóir Mullen toisc an suim atá léirithe aige san ábhar seo. Cabhraíonn an bunobair agus an taighde atá déanta aige linn uilig anseo.

I am pleased the debate is taking place today. I do not believe any of us has a monopoly of compassion in this area. The debate is about one thing only - how we can help the Minister of State, the Department and the Government in this very important area. A term that comes to mind immediately is human dignity. That has to be the foundation of whatever we might do for these visitors who come to our country, whether we call them asylum seekers or by any other title. I always think of Irish people who emigrated in the past to America or Britain and realise there is absolutely no difference in the story of Ireland and emigration and that of the asylum seekers we are talking about. There was good and bad in regard to the Irish story at that particular time. The deficiencies and the inadequacies which existed are still part of our folklore today. We still hear how Irish people were treated in the countries of their adoption. We should learn from that and ensure a similar situation does not apply when we have the opportunity, the power and the resources to do what is right in this case.

I have seen many asylum seekers who have integrated well into Irish society and have found them to be an enriching influence on ourselves. It is clear from our history that the same thing happened when people came to Ireland down through the centuries. It was they who made up the story of Ireland that we have today. The people we are talking about can make a very positive contribution to our way of thinking, our views on life and our interaction with other countries. That is from where we must start. We must not see them as a nuisance or as a chore that we have to go through. We should extend a céad míle fáilte to them and do everything possible to give them the opportunity to realise their aspirations and ambitions in life not only for themselves, but their children. That is very important.

We must look at the case histories at our disposal today for all the good that has been achieved. We must acknowledge that and if we fail to do so we are playing politics with the subject itself. However, we must also look at the other side. That people find themselves in a limbo for, say, 60 months is not acceptable under any circumstances. Just as a person might find himself or herself institutionalised in another situation, there is an aspect of institutionalisation in this instance, when a person lives in those conditions for five years which does not give one the opportunity to use whatever resources are available because of the way one has been treated. There is also a mindset which is exceptionally important. If people believe they are not considered to want to make a contribution in the country of their adoption, emotionally there will be certain constraints on them from day one. There is another aspect to it also. Let us think of the community in which they are residing. If they are residing in what is basically an institutionalised state, how does the community view them? In the past we have seen how badly Travellers have been treated and stigmatised and demonised. We knew it was wrong at the time and we have always known it was wrong. Later we saw what came out of that. There were certain excesses on the side of Travellers which was not fair to them.

I am aware the Minister of State intends to have a hands-on involvement in this area. I would say to him if it is a matter of resources that we are not talking about huge resources. If it is mismanagement of resources, as one Senator mentioned, that should be looked at, but above all else the culture of welcome is important. The case histories which we could all enumerate for the next couple of hours may be the exceptions, although I do not think they are the exceptions but whatever they are they should be tackled.

The media coverage of people who are being prepared to be sent out of the country is absolutely heart rending and heart breaking. They are people who have been here for a while, have settled down and worked with their neighbours and are respected and admired and have made a contribution to society. They are being taken from Ireland and exported rather than deported, often back to a dangerous environment again. That is not good for Ireland, our morale or our mindset that this should be happening on our island in our name when we can do something about it. I wish the Minister of State well. This issue is not a political football and it should not be a political football. We should all work together through the agencies and the spokespersons for the asylum seekers whom I have found to be very tolerant, well researched, focused and realistic. That is a good starting point.

Senator Fiach Mac Conghail: Ba mhaith liom fáilte chaoi a chur roimh an Aire Stáit, an Teachta Ó Ríordáin ar a chéad turas go dtí an Seanad. Molaim é agus molaim Páirtí an Lucht Oibre toisc an portfolio atá curtha le chéile acu. Tá meascán maith suimiúil idir pobail nua, cultúr agus comhionannas sa phost nua atá aige.

I welcome all our guests in the Visitors Gallery. This is not the first time the Seanad has discussed this horrendous human rights issue around direct provision in Ireland. I welcome the motion from the Senators as a timely one. The Seanad can be proud of itself as continually keeping the issue of direct provision on the political agenda. Twelve months ago our group of Independent Senators, including Senators Jillian van Turnhout and Katherine Zappone, proposed a motion in this House which was accepted by the Government. What we need to see now is action. The Minister of State has been a breath of fresh air since his appointment and his statements and opinions on direct provision for asylum seekers are welcome. We have faith in him, although he will have a short time in office and the clock is ticking. We do not have to convince the Minister of State as we had to convince the former Minister for Justice and Equality, Deputy Shatter, and some of the civil servants in the Department who resisted change. I look forward to supporting the Minister of State in this debate and there are questions about timing. We do not want prevarication as this is not a political issue, as Senator Ó Murchú so eloquently mentioned. We have interested visitors in the Gallery and I know the Minister of State has integrity with this issue.

I accept that not all asylum seekers have a just or reasonable case to seek asylum in this country. The process in addressing or assessing these applications must be quick, as the delays in the process of asylum claims and prolonged accommodation of asylum seekers in direct provision centres leads to the dehumanising of persons. As recently as 23 July 2014, the United Nations Human Rights Council in its observations of the Civil Society Report to the Fourth Periodic Examination of Ireland under the International Covenant on Civil and Political Rights expressed concern at the lack of a single application procedure for the consideration of all grounds of international protection, leading to delays in the processing of asylum claims and prolonged accommodation of asylum seekers in direct provision centres, which is not conducive to family life. The committee also regretted the lack of an accessible and independent complaints mechanism for direct provision centres, as mentioned by my colleague, Senator Zappone.

The committee recommends that the State would take “appropriate legislative and policy measures” to establish a single application procedure with a right of appeal to an independent appeals body without further delay, including the adoption of an immigration, residence and protection Bill. It should also ensure that the duration of stay in direct provision centres is as short as possible and an accessible and independent complaints commission should be intro-

17 September 2014

duced for direct provision centres. We are looking for time-related action.

I welcome the Government's amendment and I disagree with some of the criticism in the motion. I will give this Minister of State a chance until the end of January. This Minister of State has been extraordinarily vocal over the summer, which is welcome, and he has been unequivocal in his work. I welcome the Government's amendment, which indicates its priorities. These are to reduce the length of time an applicant spends in a system through the establishment of a single application procedure, to be introduced by way of a protection Bill as a matter of priority. The clock is ticking. The Government today published the legislative programme for the autumn session, however, and I am concerned that such a Bill does not appear to be a priority. Will the Minister of State clarify how the publication of the legislative programme ties in with his timescale? I want to consider that before deciding how to vote.

As I have mentioned in previous debates, particularly the Seanad discussion last October, I have visited two direct provision centres; the Orwellian language labels them as "reception and integration centres". It is an unnatural and lifeless experience which sees young people and children being raised in sterile, unimaginative and inert environments where there is no joy. Imagine growing up in Ireland with no joy. We know about this and people are experiencing that today. It is an environment where no family life that might be described as normal can be achieved. This is a dehumanising process in which children have no proper role models in how to behave normally in a functional society. They are reared with no evidence of participation in family rituals such as cooking a meal. We know there are more than 1,600 children residing in direct provision.

My time is running out. I believe this system should be abolished, as it is a fresh wound that will fester in our Republic. It is not a scab from previous injustices but it is currently festering on the body politic of our Republic. I congratulate those in the media, including Mr. Carl O'Brien, Ms Sinead O'Shea and Mr. Brian O'Connell, for pushing this issue. The motion, as proposed, calls on the Government to grant asylum seekers the right to seek and secure paid employment, subject to reasonable conditions. I would like to see the Minister of State's response to the right to work. We know every member state of the European Economic Area, except the Republic of Ireland and Lithuania, grants asylum seekers the right to work at some point in the application process. The UK grants the right to work after 12 months if an applicant is still awaiting a decision, although the job must be on a list. Will the Minister of State confirm if the right to work is part of the terms of reference for the working group? Will he revert on the timescale? Asylum seekers are denied the right to work, leading to further stigma and a reduction of integrity and dignity that asylum seekers should have as they try to integrate into the Republic.

Senator Thomas Byrne: I wish to share time with Senator Mooney.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Senator Thomas Byrne: I thank Senators Mullen, Bradford and Norris for raising this very important issue. As somebody who lives besides the Mosney centre and who has visited it, although not recently, I know it is certainly not a place one would want to send people. The Government amendment is somewhat unfortunate, although I accept that the Minister of State has good intentions. Blaming the previous Government may be fair enough but maybe it is not in the spirit of what we are trying to get done. We recognise that there is a concern being recognised, particularly the length of time involved in this process. The amendment differs from

the original motion with regard to employment and the female-only and family-only reception centres.

It must be said that the State has a legitimate interest in a robust immigration policy but it also has international obligations. When the Refugee Act 2006 was passed, it was certainly a topic of conversation in my college, as it was seen as a very progressive piece of legislation. The new Bill is urgently required. One of the key reasons for delays in asylum centres is the length of time it takes for a court challenge, and the Government will not be able to legislate those out of existence. The Irish Constitution allows for such challenges. Courts will have to do their business much more efficiently, and efficiency in the courts system will have an impact as well.

Those already in the system must get the right to work. In the other House, my colleague, Deputy Ó Fearghail, called for an amnesty, which is worth considering. The people in the system have been in it for too long. Apart from our international obligations to refugees, which are solemn and important, we have an interest in having a robust immigration policy. It is a legitimate concern of the State, which should be balanced while considering the sheer hardship and trauma that many of the people living in these centres have experienced over many years.

Senator Paschal Mooney: I am very grateful to Senator Byrne for allowing me a couple of moments to speak. This is an important debate and I am glad to have the brief opportunity to make a contribution. I echo all the comments made in welcoming to the Gallery those who are interested in this issue. I had particular interest in Senator Ó Clochartaigh's contribution, in which he spoke about the diversity of occupations involved. That leads me to think that even if the Government allowed asylum seekers currently waiting for their application to be processed to work, there may be registration problems for many professions. I have experience of professions in Ireland resisting those who have trained outside this country or who have qualifications from another country. It adds another dimension to the issue.

My main focus is why it takes so long to process applications. I am first to concede, as Senator Ó Clochartaigh mentioned, that this asylum programme was initiated in the midst of chaos. We were experiencing the beginning of the Celtic tiger in 1997 and 1998 and the country had a pull factor. It became an economic paradise for people.

6 o'clock

They regarded Ireland rather than other countries that traditionally receive asylum seekers as the country to come to. I fully accept that many of them have probably been here since that time or beyond.

The Minister of State is now the person in charge. He has made certain commitments. I agree with Senator Mac Conghail that he should be given time to work them through. I also appreciate what Senator Byrne, as a working solicitor, has said that there are legal problems. However, I fail to understand why it takes seven, eight or nine years for people to have their applications processed. They should either be shipped out of the country or kept in the country, but this halfway house has led to everything we have heard this afternoon. If the Minister of State did nothing else, he should try to speed up the process. I do not know what that involves and he might clarify why it is taking so long. I understand part of the reason relates to the legal context in which these applications are made and the continual appeals. I do not believe those continual appeals are acceptable. Surely there should be some legal mechanism to ensure a

speedy resolution.

The proposers and the Government amendment both agree that there should be some sort of time limit in this regard. I have some sympathy with the last elements of the proposers' motion which states that we should establish a mechanism for those people who have been housed in direct provision for four years or more, with a view to allowing such persons compassionate leave to remain in the State. There should be some sort of halfway house there.

As I said at the outset I do not want in any way to impugn the credibility or human dignity of those living in direct provision. However, there is a responsibility on the Government. This is not something new, as can be seen from the debates on the matter going back over ten or 12 years. The Government has a responsibility to have a speedy and efficient process under which those who are seeking asylum are either turned down and sent back to where they came from or they are allowed to stay. There is no other halfway house. This is the greatest challenge the Minister of State is facing in his new job, in which I wish him very well.

An Leas-Chathaoirleach: I call the Minister of State. I ask him to bear in mind we are due to finish at 6.15 - it has already been extended by four minutes - and then Senator Mullen has four minutes to respond. We are totally against the clock but it is not the Minister of State's fault.

Minister of State at the Department of Justice and Equality (Deputy Aodhán Ó Ríordáin): Gabhaim buíochas leis na Seanadóirí uilig as ucht an fáilte a chur said romham um thráthnóna. I welcome those in the Visitors' Gallery who have come from Mosney and Portlaoise. I am sure I recognise at least one person from Hatch Hall and representatives of SPIRASI.

I have been asked by my colleague the Minister for Justice and Equality, Deputy Fitzgerald, to respond to this motion by supporting the Government amendment, which states:

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

"recognising that –

- the current system of Direct Provision has existed for 14 years;
- that the Minister and the Minister of State in the Department of Justice and Equality having visited several centres both agree on the need to review the current system; and
- that a key concern identified by those working in the sector is the length of time people spend in the system with over half of the residents being in the system for over four years;

welcomes the commitments in the Statement of Government Priorities 2014 - 2016 to:

- establish an independent Working Group to report to Government on improvements with the protection process, including Direct Provision and supports for asylum seekers; and
- to reduce the length of time the applicant spends in the system through the establishment of a single applications procedure, to be introduced by way of a

Protection Bill as a matter of priority.”.

I welcome this opportunity to respond to the points raised in this Private Member’s motion and to speak more generally about the subject in order to assist Members gain a fuller understanding of the issues involved.

It is no secret that I personally have many difficulties with the direct provision system as it currently operates. I have described the system as inhumane and I do not resile from that description.

Senator Martin Conway: Hear, hear.

Deputy Aodhán Ó Ríordáin: I am entitled to hold that view even if it may conflict with the views of others in Government. A debate on this subject is long overdue and is now taking place at a serious level not just because of what I have been saying but because of the long and persistent questioning of the system by NGOs, international bodies and by many Members of the Oireachtas, especially Members of Seanad Éireann.

I congratulate members of the media who have been highlighting this issue. The House will know from recent media reports that there is an ongoing series of protests in asylum accommodation centres. I want to make it clear that while I fully respect the rights of residents to protest, I cannot condone the targeting of individuals working in certain direct provision centres or the stopping of people going about their lawful work. I have visited a number of centres and while my concerns about the system are unabated, I fully accept that persons there, as well as in the Reception and Integration Agency, are working on a day-to-day basis in the interests of the residents and bring a high level of commitment to their work.

This system has been in operation for 14 years and no click of my fingers is going to end it immediately. The system is a creature of Government and depending on the outcome of the review it will require Government approval to change it. Nonetheless, I can say to this House and to those outside it that change can take place more rapidly than anyone previously thought through the working group review mechanism referred to in the Government counter motion.

Quite apart from these political developments, there has been activity on the legal front, as already mentioned in the debate. The six-week hearing in the CA and TY judicial review proceedings in the High Court challenging, *inter alia*, the legality and constitutionality of the direct provision system ended on 28 July 2014 and a reserved judgment is awaited. This judgment may also affect the future of the system.

My job as Minister of State is to ensure that the commitment to a review is honoured. An important first step in setting up this working group will be convening a roundtable consultation tomorrow morning, 18 September. The purpose of this roundtable consultation is twofold. First, it is to engage with non-governmental organisations active in the area to enable them to outline the key issues for them with the State’s current arrangements for asylum seekers. Second, the output of the consultation will be used to inform in more detail the terms of reference of the working group.

A number of themes and issues which are reflective of the current debate on the State’s arrangements have been identified for discussion at the roundtable consultation. These include the material needs of applicants in direct provision, including the direct provision allowance and exceptional needs payments, limitations on the length of time persons spend in direct pro-

vision, education and delays in the international protection determination process. It will also address the issue of the right to work. In other words, all the calls made on the Government in Senator Mullen's motion can be addressed through this working group in a calm, considered and detailed way. I expect the group will have three months in which to come up with its recommendations and I want to stick to that. Nobody wants a group that sits for six or nine months. I believe three months is a realistic target for a report to be issued.

Regardless of the changes that need to be made to the way we deal with asylum seekers, I need to acknowledge that the direct provision system has enabled the housing and other needs of over 51,000 asylum seekers to be met since it was introduced. No one has ever been made homeless.

Nonetheless, people spend too long in direct provision. There are very many reasons for this. Approximately 50% of persons in the direct provision system have judicial review applications pending, are the subject of deportation orders or are seeking leave to remain in the State for non-protection reasons. A recent examination of cases in the direct provision system suggested that in the overwhelming majority of cases in the system longer than four years - the cut-off date suggested in Senator Mullen's motion - the applicants or their family members have legal proceedings pending, having exhausted all the processes in the protection system.

With regard to the protection process more generally, the Government counter motion acknowledges the commitment to introduce a separate protection Bill to establish a single application procedure for the investigation of all grounds for protection. This reform will simplify and streamline existing arrangements and provide applicants with a final decision on their protection application in a more straightforward and timely fashion. It will also, as a consequence, reduce the length of time that applicants spend in the direct provision system. The aim is to have the Bill passed through the Oireachtas by Easter 2015, with the heads of the Bill to be approved and published in January.

The independent working group process which I commend to the House is a sensible one. It allows for necessary change to be identified and managed effectively without the dangers which would be generated by peremptory actions. I acknowledge that the system of direct provision was created to avert a homelessness crisis. It is important any outcome of a review of the system does not serve to re-create the crisis which led to its establishment in the first place. Many suggestions to reform the direct provision system have an underlying assumption that numbers coming into the State seeking asylum will continue to fall and that it is a static not a dynamic issue. So far in 2014, asylum claims are running 40% higher than in 2013.

I have been heartened, as I am sure many in this House will have been, by the public outcry on the issue, which is in marked contrast to some of the emotions that may have been witnessed ten years ago. I believe we are on the side of public sympathy on the issue. I have been invigorated and energised by the debate that has taken place here today. As part of my role as Minister of State in the Department of Arts, Heritage and the Gaeltacht I have responsibility for commemorations as well. The Proclamation we will be discussing, celebrating and commemorating in two years' time weighs heavily on my shoulders, as it does on the Members of this House. We must be honest with ourselves. We cannot commemorate, celebrate and acknowledge that document if we do not sort out issues such as direct provision. We cannot have a republic that has lesser children. While the system remains in its current form, we are destined to have within our country children who are considered to be lesser. We cannot stand over that and I will not stand over that. I have been visiting centres throughout the country. I am mindful

of the comments that have been made about issues around trafficking, sexual assault, rape and torture that people within the system have suffered. I met the expert team in Beaumont Hospital who have confirmed this to me and stated their concerns about the people they have been treating from the reception centre in Balseskin in Finglas, who after a period of treatment then move to a centre in places such as Mayo. That is not the best care for people who have suffered such trauma and abuse in the country from where they have come. Many issues must be addressed.

People have also discussed the issue of education. I am a great believer that education is a great liberator. No matter what happens in one's life, whatever trauma or setback one gets, such as losing a job, a relationship break-up or having to travel from one country to another, education will always help one to bounce back. We must ensure within the working group that the issue of access to education is addressed. The comments of the Minister for Education and Skills, Deputy Jan O'Sullivan in this regard are to be welcomed.

I think everybody across this House has said that this is not a party political issue, that it is an issue on which we can work to achieve together. I will return to this House when the report from the expert group is issued, and from there we will have a process to achieve a system that collectively we can be proud of and not one of which we are ashamed.

Senator Rónán Mullen: Ba bhreá liom mo bhuíochas a ghabháil le gach Seanadóir agus, dar ndóigh, leis an Aire Stáit. Measaim go raibh díospóireacht fíor-suimiúil againn. Is léir go bhfuil an-suim ag na Seanadóirí uilig sa cheist seo. Gabhaim buíochas leo as ucht an taighde agus gach rud eile atá déanta acu le cur leis an díospóireacht ar an gceist fiorthábhachtach seo.

I welcome the speech by the Minister of State, Deputy Ó Ríordáin. As I said at the outset I appreciate his commitment to dealing with direct provision. I thank the 15 or 16 Senators who contributed to this debate. I single out Senator Zappone's speech and I welcome what she had to say on trafficking. We are very much at one on those issues. I am glad she raised this issue which is one of profound concern and goes to the heart of what human dignity is all about. I acknowledge Senator van Turnhout's previous motion on this issue last year and her comments today. I note that last year the Government accepted that motion and I am disappointed that despite the Minister of State's bona fides on this issue, which I do not question, it remains the fact he is a junior minister so far and we have good will expressed by Government and by previous Ministers who have supported reform and yet have been unable to deliver it.

To my colleagues who are considering whether they should support the Government's counter-motion, it disregards all specifics we have proposed in our motion. It specifically excises any issue of opening up the possibility of people being able to work. That came across very strongly in Senator Hildegarde Naughton's comments, which were disappointing. It is quite clear that there is a strong resistance to any revisiting of the issue about whether people should be allowed to work. I remind Members that the only other country where asylum seekers are denied the possibility of seeking work at some stage in the asylum process is Lithuania. It also excludes the specific recommendations in terms of guidelines for the support of victims of torture and the recommendation that there would be female-only and family-friendly reception centres. There can be no good reason for excluding those specifics.

I simply do not buy Senator Bacik's idea that this counter-motion is to allow space to the working group. What does that mean? Is it not the prerogative and indeed the duty of the Oireachtas to agree on what we think the working group should be going with? If it were the other way around and the working group came out with proposals, we would be quoting the

proposals we agreed with. It makes absolutely no sense for us as elected representatives not to make specific recommendations about desiderata, about things we think are necessary and essential. I note and I welcome that the Minister of State said that the working group would include the issue of work. I notice that was not included in his script. I wondered why that was. I wonder whether I should read any significance into the fact that he added by way of a verbal addendum the notion that the working group would look at the issue of the right to work. That did concern me. I am not in any way questioning him on the issue.

I believe the Minister of State is deeply concerned about this issue. I advise him not to be afraid to walk on an issue of principle should he have to. There is a precedent, a Minister of State did vote in accordance with her conscience in the recent past and the Minister of State should not be afraid to do so either. I would be very concerned if I were the Minister of State by the inadequacy and the vagueness of the counter-motion before us today. He does not have to take a lecture from me on the matter as I know he is concerned. When one considers that the clothing allowance for children, which is given twice a year, has been cut from €75 to €50, it brings home the meanness in the current system. We have not followed through on the European asylum system directive on receptive conditions, which lays down minimum standards, and this reveals a lack of commitment to getting things right. This must change. We, the Seanad Members do not need to wait on the outcome of the deliberations of the working group. I wish the Minister of State the very best of luck with the round-table. It is very important that it is happening but we should certainly be clear that what we are recommending needs to happen and needs to happen soon. That is the reason I am pressing the motion.

Amendment put:

The Seanad divided: Tá, 27; Níl, 19.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Brennan, Terry.	Byrne, Thomas.
Coghlan, Eamonn.	Crown, John.
Coghlan, Paul.	Cullinane, David.
Comiskey, Michael.	Healy Eames, Fidelma.
Conway, Martin.	Heffernan, James.
Cummins, Maurice.	Leyden, Terry.
D'Arcy, Jim.	MacSharry, Marc.
D'Arcy, Michael.	Mooney, Paschal.
Gilroy, John.	Mullen, Rónán.
Hayden, Aideen.	Norris, David.
Henry, Imelda.	O'Brien, Darragh.
Higgins, Lorraine.	O'Sullivan, Ned.
Keane, Cáit.	Ó Clochartaigh, Trevor.
Landy, Denis.	Ó Domhnaill, Brian.
Mac Conghail, Fiach.	Ó Murchú, Labhrás.
Moloney, Marie.	Power, Averil.
Moran, Mary.	Reilly, Kathryn.
Mulcahy, Tony.	Walsh, Jim.

Seanad Éireann

Mullins, Michael.	
Naughton, Hildegarde.	
O'Donnell, Marie-Louise.	
O'Keeffe, Susan.	
O'Neill, Pat.	
Sheahan, Tom.	
van Turnhout, Jillian.	
Zappone, Katherine.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators Rónán Mullen and David Norris.

Amendment declared carried.

Question put: “That the motion, as amended, be agreed to.”

The Seanad divided: Tá, 27; Níl, 19.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Brennan, Terry.	Byrne, Thomas.
Coghlan, Eamonn.	Crown, John.
Coghlan, Paul.	Cullinane, David.
Comiskey, Michael.	Healy Eames, Fidelma.
Conway, Martin.	Heffernan, James.
Cummins, Maurice.	Leyden, Terry.
D'Arcy, Jim.	MacSharry, Marc.
D'Arcy, Michael.	Mooney, Paschal.
Gilroy, John.	Mullen, Rónán.
Hayden, Aideen.	Norris, David.
Henry, Imelda.	O'Brien, Darragh.
Higgins, Lorraine.	O'Sullivan, Ned.
Keane, Cáit.	Ó Clochartaigh, Trevor.
Landy, Denis.	Ó Domhnaill, Brian.
Mac Conghail, Fiach.	Ó Murchú, Labhrás.
Moloney, Marie.	Power, Averil.
Moran, Mary.	Reilly, Kathryn.
Mulcahy, Tony.	Walsh, Jim.
Mullins, Michael.	
Naughton, Hildegarde.	
O'Donnell, Marie-Louise.	

O'Keeffe, Susan.	
O'Neill, Pat.	
Sheahan, Tom.	
van Turnhout, Jillian.	
Zappone, Katherine.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators Rónán Mullen and David Norris.

Question declared carried.

Civil Registration (Amendment) Bill 2014: Committee Stage

An Leas-Chathaoirleach: I welcome the Minister of State to the House. We must conclude at 8 p.m. to take matters on the Adjournment.

Sections 1 to 5, inclusive, agreed to.

SECTION 6

Government amendment No. 1:

In page 11, line 38, after “is” to insert “not”.

Minister of State at the Department of Social Protection (Deputy Kevin Humphreys): This is a technical amendment due to a typographical error. It inserts the word “not” into the existing text of the published Bill.

Amendment agreed to.

Question proposed: “That section 6, as amended, stand part of the Bill.”

Senator Jim Walsh: I welcome the Minister of State to the House. I understand it is his first time here.

Deputy Kevin Humphreys: It is.

Senator Jim Walsh: I wish him well in his new-found position and hope he will succeed in the short time he has left. It is to be hoped he will be one of the Ministers who come to the House who are very receptive to amendments and will use a degree of political discretion and independence in making decisions with regard to some issues.

I welcome the provision that a mother, when she attends alone, must provide information as to the name and contact details of the father, and that that must be included in the birth certificate. There is a provision for exceptional circumstances where this will not apply. I would be interested in hearing some examples from the Minister of State of the type of exceptions he envisages where an application would not include information on the father.

I also note that where the mother furnishes evidence in a statutory declaration that the father is not the father of the child, the registrar is then obliged to contact the father of the child. I come from a disposition where I feel every child has the right to know who his or her mother and father are. It is often the case that only later in life it will become a very important issue for people, and many television programmes now specialise in tracing the parents of children who were adopted or whatever else and did not know who their parents were. It is a step in the right direction.

I can understand why a mother may not wish to have the name of the father on a birth certificate. The mother may have rights but we have to balance them with the rights of the child. Precedence should be given to the rights of the child because, unless the State defends and protects him or her, he or she is not in a position to do it. Is there any provision where a conflict arises as to the rights of a child for DNA evidence to be provided? The Minister of State might comment on that.

I wish to raise an important issue. We now have a lot of debate about surrogacy and similar matters. There has been a practice over quite a number of years in other jurisdictions whereby people, women in particular, have availed of sperm donors. A well-known activist - I understand her name is Joanna Rose - gave talks here and in Britain and has campaigned strenuously for the rights of children conceived through sperm donation to be able to access the names and health records of those who donated sperm in order that they could be born. Her story is illustrative. She spent a considerable number of years trying to track down the sperm donor involved in her conception. Eventually, after great difficulty, she discovered who her father was. It transpired that he was a student who was obviously paid to donate his sperm and to her alarm she discovered she had approximately 300 brothers and sisters. The consequences of this from a societal point of view are considerable. I do not know if the new provision in the registration of births will capture that kind of scenario. I would like to think that it would because it is a major issue.

There was a case in Britain in the past 12 to 18 months where a couple who married subsequently discovered they were brother and sister. Now is the time for us to consider these types of eventualities. I do not know if this Bill has considered encompassing the scope of the issues I have raised, but if it has not, some effort should be made to do so. I am interested in hearing the response of the Minister of State.

Senator Paschal Mooney: I echo the warm welcome offered by Senator Walsh to the Minister of State. I wish him well and congratulate him on his term in office.

I am particularly pleased that Senator Walsh has raised this issue because it led to considerable debate with the Tánaiste on Second Stage. I was not at all happy with one of the exemptions which relates to the proposed amendment to section 22 which states that:

(1D) A mother may furnish to a registrar a statutory declaration made by her and relied on by her to satisfy the registrar that one or more than one of the following compelling reasons exists so as to exempt her from her duty to furnish to the registrar required particulars in so far as they relate to the father of the child:

(a) she does not know the identity of the father of the child;

I can understand circumstances in which that may be the case. However, there seems to be no onus whatsoever on the State to assist in any way in establishing the identity of the father.

Senator Walsh referred to DNA. There could be a range of possibilities which the mother could consider. A mother may not be absolutely sure which individual is the father of her child but modern technology and DNA could narrow the search.

Of much more relevance is another exemption where the mother does not know the whereabouts of the father of the child. This seems suspicious as it leaves open a situation where a child will have no rights or recourse, to paraphrase Senator Walsh's concerns. Had they such rights they could apply them in later life. On page 10, in section 6(1)(c)(iii), the principal Act is amended to include the following paragraph:

if the mother, person, or the child to whom the registration relates, if he or she has attained the age of 18 years and so requests the registrar in writing and produces to him or her a document purporting to be a declaration made under section 35 of the Status of Children Act 1987 or an order made by a court in proceedings referred to in section 45 of that Act and to be certified by or on behalf of the court to be a true copy of the declaration or order that the person is the father of the child.

Correct me if I am wrong but it seems to me that this means when a child has reached 18 years of age he or she may have discovered new information leading to the identity of the father.

I appreciate that many fail-safe issues are built into this section - for example, if the registrar is not satisfied, having considered the statutory declaration furnished by the mother, the mother has a right of appeal to the superintendent registrar. I appreciate the building blocks that have been inserted and give the impression that every effort has been made to ensure the identity of the father is on the birth certificate. I am concerned about the issue of not knowing the whereabouts of the father of the child. Why has the onus been left on the mother? Surely the State, in framing the legislation, has some responsibility to help. After all, legal aid is provided to those who cannot afford legal representation. I am not suggesting this area can be revisited and the Act changed but I am interested in hearing the comments of the Minister of State on this aspect of the exemptions.

General concerns relating to the looseness of the exemptions were raised on Second Stage. This does not relate to mothers as a mother could say she knows who the father is but does not know where he is. Imagine a child became aware that this was the reason his or her mother made a statutory declaration and was exempt from including the father's name on the birth certificate. This could be a matter of some distress to the child, adolescent or adult, given that in such a scenario the mother knows who the father is. The child might know the name of his or her father but it would not be on the birth certificate. This is abstract and I do not expect the Minister of State to do anything about it but I am interested in his observations on the context in which these subsections were framed.

Deputy Kevin Humphreys: The points raised by Senator Walsh on reproduction are not framed in this Bill because this is the Civil Registration (Amendment) Bill and those points fall under the remit of the Department of Justice and Equality and relate to the setting of policy. They are interesting points and I thank the Senator for raising them - they could be raised when policy is being developed.

I thank Senator Mooney for his good wishes as we have known each other for some time - I was a good friend of his brother.

Senator Paschal Mooney: Everyone in Athlone was happy the Minister of State was pro-

moted.

Deputy Kevin Humphreys: There are exceptional circumstances and these are framed in the legislation with the protection of the child in mind. Some of the examples are abstract, such as assisting in tracking down a father when a mother cannot give sufficient details. I will consider the Senator's points and return to him in the next week with a detailed answer. I am not trying to avoid the questions.

Senator Paschal Mooney: I do not wish to put the Minister of State under pressure.

Deputy Kevin Humphreys: The questions came out of left field and I am happy to discuss these matters with the Senator at a later date.

Question put and agreed to.

Sections 7 and 8 agreed to.

SECTION 9

Question proposed: "That section 9 stand part of the Bill."

Senator Jillian van Turnhout: Section 9 refers to the failure to agree a surname and the subsequent registration of a surname. It is welcome that this section is in the Bill but, having read the Bill and discussed it with some groups, I feel time limits might apply to registering a child's surname. I am raising this point now in case I table an amendment on Report Stage. A child could be registered with one name at a football club and at a school with another. This could lead to confusion, particularly for the child involved, in terms of names and identity. Could the State consider a protocol on double-barrel surnames, as other states have? Where both parents' surnames are taken will the maternal or paternal name come first? I raise this today so the State might consider it - as a keen genealogist I would welcome such a measure. When tracing family lines it is very helpful when there are clear rules on such matters. I am raising this on Committee Stage in case I table an amendment on Report Stage.

Senator Marie Moloney: I welcome the Minister of State, Deputy Kevin Humphreys, to the House and I know he is off to a running start. Over the summer he visited Intreo offices all over the country and came to grips with his brief at the Department of Social and Family Affairs. I never understood why there was previously no Minister of State at that Department, given the workload. I agree with Senator van Turnhout on section 9. I know of many cases where couples registered the name of a child's father as the child's surname but later split up. In such circumstances, if the father leaves, the mother's child will have a different surname from her and any children she has subsequently. Often mothers in such circumstances change the name of the child unofficially to the mother's maiden name. A passport will have the child's official name but schools and GAA clubs may have a different one. This can lead to great confusion and the issue should be clarified so that a child has one surname only, be it the mother's or father's.

Deputy Kevin Humphreys: I thank Senator Moloney for the warning. Only when discussing this today did I remember that I knew my childhood next-door neighbour as Mr. O'Toole but, on his death, learned his name was actually John McCormack. In case people are concerned, I have not used real names. Everyone knew him by his wife's name. When I ran for election in 1999 I introduced myself as Humphreys but everyone thought I was a Davis as I am

Kathleen Davis's son.

There has always been confusion on surnames and the section aims to deal with this. I accept the comments made and it can be a complicated area but we must lay down a mechanism to deal with surnames.

Question put and agreed to.

Sections 10 and 11 agreed to.

7 o'clock

SECTION 12

An Leas-Chathaoirleach: Amendments Nos. 2 and 3 are related and may be discussed together. Is that agreed? Agreed.

Senator Jim Walsh: I move amendment No. 2:

In page 21, between lines 29 and 30, to insert the following:

“(3) Where the pregnant mother of an unborn child dies and that death results in the death of the unborn child, the Superintendent Registrar in whose registration area where the death occurred, must register the death of that unborn child.”.”.

An addition to that amendment would be that the Bill would abolish the definition of still-birth and replace it with a definition of unborn children to include stillbirths, to allow for registration in the register of deaths.

The Minister of State will be familiar with the general issue, as are many here. There have been many instances when a pregnant woman has died or been tragically killed in an accident. In some instances the baby survives and in others it does not. In those sad circumstances where mother and baby expire, we want some way that the family can ensure the baby’s life is recognised on the death certificate. This has been discussed in the Lower House and there have been parliamentary questions on the issue. Last February the Tánaiste and Minister for Social Protection said in a reply:

While understanding that the loss this family suffered is a tragic one it would not be workable to establish and maintain a separate register of deaths in such cases. It is not intended, therefore, to amend the Civil Registration Act, 2004 to allow for the registration of deaths without a medical certificate or a coroner’s certificate stating the cause of death.

Since February a specific case, which clearly highlights the need for this amendment, has been brought to the Minister’s attention and she has met the grandfather and other relatives of a child who died in such circumstances. I know she has seen a photograph of the child which the Minister of State also has seen. In this case a young mother was tragically killed in an accident and her daughter of seven months gestation was dead when taken from her mother’s body. The baby’s name was Molly Enright and the coroner issued a certificate of fact of death.

I and others in the Oireachtas have been particularly touched by this case and the need to have it addressed. The response I received from the Registrar General states that when a death occurs, it is registered on foot of a certificate of cause of death supplied by a medical practitioner. Where a death is referred to a coroner, the death is registered by a registrar on foot of a

coroner's certificate. He said that the coroner's certificate, a copy of which we had sent to him, was an interim certificate of the fact of death. It is interesting that the certificate does not in any way mention that it is interim. It is also interesting that a certificate of cause of death supplied by a medical practitioner would be sufficient to have the death registered. The certificate of fact of death which the Registrar General describes as interim does give the cause of death. There may be a technical impediment but not a substantive one to registering these births. The baby's grandfather, David Walsh and her aunt, Hilary, are here and they are campaigning strongly. They feel this is an injustice to the memory of Molly who, unfortunately, was involved in this accident when she was in her mother's womb.

Section 28 of the Civil Registration Act 2004, which we are amending here, provides for the registration of stillbirth and the Act states “‘stillborn child’ means a child who, at birth, weighs not less than 500 grammes or has a gestational age of not less than 24 weeks and shows no sign of life”. I am not sure about this baby's weight but she meets the other criteria because she had reached a gestational age of 29 weeks or seven months. I appeal strongly to the Minister of State to consider these amendments. They are tabled for a good reason. I am open to the Minister of State's views on the parameters around them. These very sad circumstances, particularly where there is evidence of the baby's having been taken from the mother when she was dead, are akin to a stillbirth. It is hard to see a major difference other than the cause of death. That is why these two amendments have been tabled. I look forward to hearing the Minister of State's response and I hope he can give them serious consideration.

Today the child's grandfather and his daughter and sister-in-law, who are with him, spoke to the Tánaiste and Minister for Social Protection who was sympathetic and said she would take another look at this case. I encourage the Minister of State to make a positive response and I hope we can agree to include either the wording I have tabled or another wording that better fits the legal requirement. I urge the Minister of State and the other side of the House to subscribe to the principle behind the amendment.

Deputy Kevin Humphreys: I thank the Senator and I sympathise with the family involved. Deputy Ciara Conway also spoke to me today on this matter. The circumstances are very tragic. I do not want to say anything during this debate that would add to the family's distress. The photograph the Senator showed me before I came into the House will stay with me for a long time. I can well understand the family's distress. While they will never forget, I hope it gets a bit easier for them as the days go by.

I do not propose to accept the amendment. The procedure governing the registration of deaths is provided for under Part 5 of the Civil Registration Act 2004 and under section 41 where a death is referred to a coroner and the death is registered by a registrar on foot of a certificate provided by the coroner containing the required particulars of the death. The registrar is a lay person. I do not want to get too tied up in the wording.

My Department has also brought this case to the attention of the Department of Justice and Equality. Coroners are independent but the service comes under the remit of that Department. The Senator has written to the Department which will reply shortly.

I will not accept amendment No. 3. The registration of stillbirths was first provided for in the Stillbirths Registration Act 1994. The definition of a stillbirth contained in the Act was carried forward to the Civil Registration Act 2004 and the registration of stillbirths is provided for in section 28 of that Act. The Senator read out the definition and I do not propose to read it out

again because I do not want to create any distress for anybody here today. I will meet the Senator and speak to him again but I am not proposing to accept the amendments.

Senator Jim Walsh: I respect the tone of the Minister of State's response. I commend him for being sympathetic to the family and showing empathy with them. Everybody in the House would send their good wishes to anybody in these circumstances. We hope time will help the Enright and Walsh families to heal their sense of loss. Nothing would be of more help in that process than if they were to be able to register the death of this child.

I have heard what the Minister of State is saying, just as the family heard the Tánaiste's response today. I am happy to accept the Minister of State's invitation to sit down and speak with him. Would he be prepared to consider this matter in advance of Report Stage next Wednesday? If so, I will withdraw these amendments and reintroduce them at that Stage.

The Minister of State has relied considerably on the correspondence and on the current statutory position under Part V. Obviously, I accept that he has to deal with the legislation as it stands. On a practical basis, what is the difference between a death in this situation and a stillbirth? I cannot see any substantive difference. We should be given a reason for treating an unfortunate death of this nature differently when it happens within the parameters of what is set out to govern stillbirths.

I appreciate I had not raised this issue with the Minister of State before we discussed it in the lobby before the start of this debate. I would like an opportunity to continue that conversation. I hope we can have that discussion before next Wednesday. I hope the Minister of State will be in a receptive mood and prepared to accept these amendments when we come back next Wednesday. I cannot see any ramifications or implications within the amendments, other than that they will benefit this family and other families when similar situations occur in the future.

We are talking about cases in which there is a coroner's certificate that clearly sets out the cause of death and the fact of the death. That is more or less what is required to register deaths anyway, even if it is in a slightly different format. There is a compelling case to be made - that is all. Would the Minister of State be prepared to have that discussion between now and next Wednesday, when we will debate this again on Report Stage? I hope the Minister of State's view on these amendments might change in the meantime.

Senator Paschal Mooney: In case there is a sense that Senators on this side of the House are silent on the contribution made by my colleague, I would like to emphasise that we fully support this amendment. It seems to me from a reading of section 12 of the Bill that it would simply be a matter of a change of wording. Section 12 provides for cases in which "the death occurs during the first 7 days of life of a child born alive". All that is needed is a change in the wording. I fail to understand why there would be resistance to that, particularly in light of the information provided by Senator Walsh in this case, which sadly mirrors similar cases that will happen in the future. I hope there will not be many such cases.

I appreciate that the Minister of State is relatively new to this position. I understand from long experience in this House that new Ministers and Ministers of State tend to tread carefully when legislation is being processed in the Oireachtas. I do not mean to cast any reflection on the Minister of State when I say that. It is a natural reaction to ensure one does not make any mistakes or commit to something that is not feasible or legally possible. I would be exactly the same and I am sure everybody else would be.

I plead with the Minister of State to consider this. It seems that even though we are pushing against an open door on a personal basis, the Minister of State, wearing his ministerial hat, is somewhat resistant to Senator Walsh's argument. I feel there is merit in reflecting on the contribution he has made. Equally, there is merit in going back to the legal draftsman to look at the wording of this legislation. That would offer some crumb of comfort to the family that is immediately concerned about this, but also to other families involved as well. I do not wish to over-egg the pudding in this regard.

Senator Trevor Ó Clochartaigh: Cuirim fáilte roimh an Aire Stáit. Gabhaim comhghairdeas leis as a ardú céime. I do not wish to speak on the amendments *per se*. I simply want to say that Sinn Féin will be abstaining on them, while reserving the right to introduce amendments on Report Stage.

Deputy Kevin Humphreys: I thank both Senators for their good wishes. Go raibh míle maith agaibh. This is an important and detailed Bill. Of course I will tread carefully. There is a need to tread carefully. I want to be extremely sensitive to the family members who are here. I understand why Senator Walsh is probably being a little emotional. If one is a father, one cannot help being emotional when an amendment like this comes in. I would certainly be happy to sit down to examine the international comparisons. I do not want to give out a false ray of hope by suggesting I will change the position in response to the amendments that have been proposed. One of the international comparisons to which I refer is the WHO's recommendation about the way stillbirths should be defined. We can sit down and talk about that. I do not want to give Senator Walsh the impression that I will be amending the Bill in this respect. This is a very important Bill. We should be cautious. I accept that these amendments were not submitted until a relatively late stage. I discussed them briefly with the Senator. I will be quite happy to discuss them with him again over the coming week.

Senator Jim Walsh: I recognise what the Minister of State is saying. His comments do not give me any comfort or confidence that he intends to accept these amendments. I ask him to approach this matter in an open-minded way, just as I will. I have not heard any valid reasons. We can discuss this privately between us. I am not looking for stillbirths to be redefined. That could be an issue with the WHO. I am looking specifically at the circumstances I have outlined, particularly in cases in which the coroner is able to issue a certificate. I accept that it will be an interim certificate. Such certificates are accepted in many other cases, including for social welfare purposes. I cannot see any compelling or reasonable argument explaining why this should not be done. I respect the Minister of State's position. I accept that these amendments were not submitted until Monday. I am happy to give some time. We might get together at a convenient time - perhaps next Tuesday, if that suits - to go through this issue. On that basis, I am happy to withdraw these amendments, with leave to re-enter them.

Amendment, by leave, withdrawn.

Amendment No. 3 not moved.

Section 12 agreed to.

Section 13 agreed to.

NEW SECTION

An Leas-Chathaoirleach: As amendments Nos. 4 to 6, inclusive, and 14 to 16, inclusive,

are related, they may be discussed together.

Government amendment No. 4:

In page 23, between lines 29 and 30, to insert the following:

“Amendment of section 45 of Principal Act

14. Section 45 of the Principal Act is amended by the insertion of the following definition:

“‘place that is open to the public’ has the meaning given by section 51(2A);”.”.

Deputy Kevin Humphreys: Recently, there has been some uncertainty about the definition of a “place that is open to the public” with regard to where marriages and civil partnerships may take place. Legal advice has clarified that outdoor venues are included under the current Act. The Department conducted a consultation process with the relevant stakeholders. The opinions put forward have been considered in the context of the drafting of these amendments, which provide a definition of a “place that is open to the public”. They provide clarity about what constitutes a venue in which a marriage or civil partnership may take place. They provide for the following meaning of a “place that is open to the public”, with regard to where a marriage ceremony or civil registration ceremony may take place:

In subsection (2) ‘place that is open to the public’ means—

- (a) a building that is open to the public, or
- (b) a courtyard, garden, yard, field or piece of ground that is open to the public and lying near to and usually enjoyed with the building referred to in paragraph (a).

In order to protect both parties to the marriage or civil partnership, the outdoor venue should be readily accessible to the public to avoid the possibility of coercion, fraud or lack of capacity on the part of a party to a marriage or civil partnership, to prevent marriages or civil partnerships taking place in secret, and to provide an opportunity for objections.

The amendments further provide that where the registered solemniser and the couple agree to a place for the solemnisation of the marriage, the place shall be a place that is open to the public as defined. The amendments also provide that registrars may perform ceremonies in places other than their offices, to include outdoor venues, as appropriate, for marriages and civil partnerships. The relevant amendments provide further refinement to the principal Act to ensure that where a solemnisation takes place out of doors, the chosen location is one which is truly “open to the public”.

The final amendment under the group of amendments is a technical amendment to section 59D of the principal Act. It provides that the registrar is no longer required to issue a copy of the civil partnership registration form. That is to avoid duplication. Following the ceremony the registrar is currently required to issue a copy of the civil partnership registration form, along with a copy of the civil partnership certificate. The amendment will provide for only one document, namely, the civil partnership certificate to be issued.

Senator Ivana Bacik: I welcome the Minister of State, Deputy Kevin Humphreys. This is my first opportunity to do so. I very much welcome the series of amendments which in effect

clarifies something that had become an issue in the past year and that had been raised in particular by the Humanist Association. We passed legislation in the Seanad initiated by me and the Labour Party group to ensure that the Humanist Association would be able to conduct legal wedding ceremonies. The Minister for Social Protection, Deputy Burton, dealt with the legislation. It then transpired not just for the humanists but for others who sought to conduct weddings and civil partnership ceremonies in, for example, the gardens of hotels that the interpretation of the Act was unduly restrictive. I am pleased we have now clarified the position and that a place that is open to the public includes a garden in a hotel and other such places. That will be of great comfort to many couples who seek to have weddings or civil partnership ceremonies in such places. Senator van Turnhout and I both raised the issue in the Seanad. We said we would work with the Minister on the legislation. I thank the Minister of State, Deputy Humphreys, and the Minister for Social Protection, Deputy Burton, for tabling the amendments.

Deputy Kevin Humphreys: I thank the Senator for the work she has carried out on the matter. I also thank the Seanad for the constructive manner in which it dealt with the legislation in the past, especially in terms of civil partnership. For most Senators it was a job well done.

Amendment agreed to.

Section 14 agreed to.

NEW SECTION

Government amendment No. 5:

In page 23, after line 40, to insert the following:

“Amendment of section 51 of Principal Act

15. Section 51 of the Principal Act is amended by the insertion of the following subsection after subsection (2):

“(2A) In subsection (2) ‘place that is open to the public’ means—

(a) a building that is open to the public, or

(b) a courtyard, garden, yard, field or piece of ground that is open to the public and lying near to and usually enjoyed with the building referred to in paragraph (a).”.”.

Amendment agreed to.

Section 15 agreed to.

NEW SECTION

Government amendment No. 6:

In page 23, after line 40, to insert the following:

“Amendment of section 52 of Principal Act

16. Section 52 of the Principal Act is amended by the insertion of the following subsection after subsection (2):

17 September 2014

“(2A) In this section a reference to a place means a place that is open to the public.”.

Amendment agreed to.

SECTION 16

An Leas-Chathaoirleach: Amendments Nos. 7, 9, 10, 11, 12, 13, 17, 18, 19, 20 and 21 are cognate and may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 7:

In page 25, line 40, after “embassy” to insert “or diplomatic mission”.

Deputy Kevin Humphreys: The published Bill inserts a new section 58A into the principal Act which allows for the validation under Irish law of marriages which took place in embassies in Ireland. The amendment provides that a marriage which took place in a diplomatic mission is also included in the validation process.

The published Bill also inserts section 591A into the principal Act. The new section allows for a validation, under Irish law, of civil partnerships which took place in embassies in Ireland following the enactment of the Civil Partnership and Certain Rights and Obligations of Cohabiteants Act 2010. The further amendment provides that civil partnerships which took place in a diplomatic mission are also included in the validation process.

Amendment agreed to.

Government amendment No. 8:

In page 26, lines 9 and 10, to delete “, a decree of divorce *a mensa et thoro*”.

Deputy Kevin Humphreys: The amendment relates to the deletion of a decree of divorce *a mensa et thoro* from the list of decreed eligibilities.

An Leas-Chathaoirleach: It means from the table and the bed.

Senator Paschal Mooney: Could the Minister of State explain that?

An Leas-Chathaoirleach: From the Latin I learnt in my schooldays, I translate it as from the board or the table and the bed.

Deputy Kevin Humphreys: It refers to bed and board.

Senator Paschal Mooney: Why is the reference being deleted?

An Leas-Chathaoirleach: I will not attempt to answer the question. I will leave that to the Minister of State.

Senator Paschal Mooney: Does the Minister of State have any explanation? I do not wish to put pressure on him but I am curious. I am not a legal person and I am interested to hear the reason for the deletion.

Deputy Kevin Humphreys: I cannot find the information in the notes. The officials are struggling to find it.

Senator Paschal Mooney: It is quite all right.

Deputy Kevin Humphreys: It is due to a crossover which happened because of embassy marriages. The new section allows that where a marriage has ended by way of a decree of divorce a *mensa et thoro* or a decree of nullity, the amendment will not operate as to validate those marriages that no longer exist. The amendment is to deal with the changeover in legislation. A decree of divorce does not dissolve a marriage and therefore those marriages require validation. As a result it is necessary to delete a reference of this type of decree from section 54A(3)(b) so as to allow the marriages to be deemed valid. If Senator Mooney wants a further note on the matter I am happy to provide it.

An Leas-Chathaoirleach: It might be interesting if we could dig up the archives from the debate on that from 2,000 years ago in the old Roman Senate.

Amendment agreed to.

Government amendment No. 9:

In page 26, line 31, after “embassy” to insert “or diplomatic mission”.

Amendment agreed to.

Government amendment No. 10:

In page 26, line 37, after “embassy” to insert “or diplomatic mission”.

Amendment agreed to.

Government amendment No. 11:

In page 27, line 18, after “embassy” to insert “or diplomatic mission”.

Amendment agreed to.

Government amendment No. 12:

In page 27, line 22, after “embassy” to insert “or diplomatic mission”.

Amendment agreed to.

Government amendment No. 13:

In page 27, line 33, after “embassy” to insert “or diplomatic mission”.

Amendment agreed to.

Section 16, as amended, agreed to.

NEW SECTION

Government amendment No. 14:

In page 27, after line 40, to insert the following:

“Amendment of section 59A of Principal Act

17 September 2014

17. Section 59A of the Principal Act is amended by the insertion of the following definition:

“ ‘place that is open to the public’ has the meaning given by section 59D(1A);”.”.

Amendment agreed to.

Sections 17 and 18 agreed to.

NEW SECTION

An Leas-Chathaoirleach: Acceptance of amendment No. 15 will involve the deletion of section 19. Government amendment No. 15:

In page 28, between lines 16 and 17, to insert the following:

“Amendment of section 59D of Principal Act

19. Section 59D of the Principal Act is amended by—

(a) the insertion of the following subsection after subsection (1):

“(1A) In subsection (1) ‘place that is open to the public’ means—

(a) a building that is open to the public, or

(b) a courtyard, garden, yard, field or piece of ground that is open to the public and lying near to and usually enjoyed with the building referred to in paragraph (a).”,

And

(b) in paragraph (c) of subsection (6) by the deletion of “give the parties a copy of the form referred to in paragraph (a).”.”.

Amendment agreed to.

Section 19 deleted.

NEW SECTION

Government amendment No. 16:

In page 28, between lines 19 and 20, to insert the following:

“Amendment of section 59E of Principal Act

20. Section 59E of the Principal Act is amended by the insertion of the following subsection after subsection (4):

“(5) In this section a reference to a place means a place that is open to the public.”.”.

Amendment agreed to.

Section 20 agreed to.

Seanad Éireann
SECTION 21

Government amendment No. 17:

In page 30, line 20, after “embassy” to insert “or diplomatic mission”.

Amendment agreed to.

Government amendment No. 18:

In page 31, line 4, after “embassy” to insert “or diplomatic mission”.

Amendment agreed to.

Government amendment No. 19:

In page 31, line 26, after “embassy” to insert “or diplomatic mission”.

Amendment agreed to.

Government amendment No. 20:

In page 31, line 29, after “embassy” to insert “or diplomatic mission”.

Amendment agreed to.

Government amendment No. 21:

In page 32, line 1, after “embassy” to insert “or diplomatic mission”.

Amendment agreed to.

Section 21, as amended, agreed to.

Sections 22 and 23 agreed to.

SECTION 24

Government amendment No. 22:

In page 34, between lines 17 and 18, to insert the following:

“(a) the deletion of “, after consultation with the Minister for Social and Family Affairs.”.”.

Deputy Kevin Humphreys: The Civil Registration Act 2004 was previously under the remit of the Department of Health. Consequently, section 2 of that Act defines that “Minister”, means Minister for Health. In 2007, the civil registration functions were transferred to the Department of Social Protection by way of statutory instrument. This order provided that, where the 2004 Act refers to Minister, it should now be read as the Minister for Social and Family Affairs.

Section 66 of the Act was excluded from the order at that time, so that legislative changes were not required to be made, with regard to the meaning of Minister, within the section. This technical amendment provides for section 66 to be amended so the reference to the “Minister

17 September 2014

for Health” is changed to the “Minister for Social Protection”.

Amendment agreed to.

Section 24, as amended, agreed to.

Sections 25 to 30, inclusive, agreed to.

NEW SECTION

An Leas-Chathaoirleach: Amendments Nos. 23 and 25 are related and will be discussed together.

Government amendment No. 23:

In page 36, after line 14, to insert the following:

“Amendment of Civil Partnership and Certain Rights and Obligations of Cohabits Act 2010

31. Section 5 of the Civil Partnership and Certain Rights and Obligations of Cohabits Act 2010 is amended by the insertion of the following subsections after subsection (1):

“(1A) For the purposes of subsection (1), a legal relationship entered into in an embassy or diplomatic mission of a state under the laws of that state shall be deemed to have been entered into in that state.

(1B) Subsection (1A) shall not apply to a legal relationship entered into in an embassy or diplomatic mission in the State on or after 1 January 2011.”.

Senator Trevor Ó Clochartaigh: We will abstain from voting on these amendments but reserve the right to return with amendments on Report Stage.

Amendment agreed to.

Senator Jillian van Turnhout: I move amendment No. 24:

In page 36, after line 14, to insert the following:

“Amendment of Adoption Act 2010

31. Section 89 of the Adoption Act 2010 is amended in subsection (2) to now read “A certificate referred to in subsection (1) must disclose that the person to whom the certificate relates is an adopted person.”.

I thank the Minister’s officials for dealing with several issues I raised on Second Stage on this matter and for the comprehensive replies from them.

This proposes an amendment to the Adoption Act 2010. I thank my colleagues, Senators Fiach Mac Conghail, Marie-Louise O’Donnell, Katherine Zappone and Mary Ann O’Brien, for supporting this amendment. I have been in contact with the Minister of State and his officials over the past several days on this matter. I thank them for their co-operation. I also want to thank Treoir which raised this issue with me, as well as other individuals.

Prior to the 2010 adoption legislation, an adopted person applying for a birth certificate would receive it from the adopted children's register, clearly indicating he or she was adopted. In 2010, it was provided that the State may not disclose that somebody was adopted. While I accept we will discuss the right to identity when we debate the information and tracing legislation, the right to know one was adopted is absolutely core to the UN Convention on the Rights of the Child. Article 8 states:

States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognised by law without unlawful interference.

Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

The time a child learns he or she is adopted should never be an issue; they should always know. It is a fact and they should grow up with knowing it, instead of adding any stigma to it. If the family of a 14 year old apply for his birth certificate for a passport application, for example, it will not appear on the certificate that he was adopted. What about the case of people who discover they were adopted through applying for their original birth certificate, however? It would be a failure on the part of the State that it covered up such a fact. There should be no stigma about adoption.

Why are we making it the case with this cover-up? We have a shameful enough past with adoption and we still have a long way to go in dealing with it. A child being adopted in Ireland today is still denied the right to his or her identity. We still have a closed adoption system. The situation for Philomena Lee is still in place and we still cover up. An adopted child has no right to ever know who his or her natural born parents are. We should, at the very least, give a signal from the civil registration legislation that an adopted child has the right to know his or her identity. There are many other reasons an adopted person needs to know his or her parents such as genetic medical conditions and so forth.

I have dealt with several cases since the 2010 Act came into place. It does not need to be in headlights. However, it is important the birth certificate lists that the parents listed are adopted parents in such cases. This anomaly must be addressed. I accept the original provision in the 2010 Act was introduced with good intentions but the unintended consequences were overlooked. It is important that adopted people know for sure if they were adopted. There must be some way to note it discreetly while asserting there is no stigma to being adopted.

Senator Ivana Bacik: I commend Senator van Turnhout for tabling this amendment. She brought it to my attention earlier today and I had not been aware of this issue. It is a valid point and I look forward to the Minister's response.

Deputy Kevin Humphreys: I compliment Senator van Turnhout on the constructive manner in which she has dealt with this matter with my officials. While I do not propose to accept this amendment on this Stage, I will engage further with the Senator on it for Report Stage to ensure we do the right thing in this regard.

Senator Jillian van Turnhout: I appreciate the constructive approach from the Minister. I will reintroduce it on Report Stage. We must ensure that people know they were adopted.

17 September 2014

Amendment, by leave, withdrawn.

TITLE

Government amendment No. 25 :

In page 5, line 6, after “2003;” to insert “to amend the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;”.

Amendment agreed to.

Title, as amended, agreed to.

Bill reported with amendments.

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

Senator Hildegarde Naughton: Next Tuesday.

Report Stage ordered for Tuesday, 23 September 2014.

An Leas-Chathaoirleach: When is it proposed to sit again?

Senator Ivana Bacik: At 10.30 a.m. tomorrow.

Adjournment Matters

Departmental Staff Redeployment

Acting Chairman (Senator Pat O'Neill): I thank the Minister of State, Deputy Humphreys, for attending.

Senator Paschal Mooney: I thank the Minister of State for taking this matter, which arose as a result of media reportage that there is to be relocation of State jobs from the facility in Tubbercurry in County Sligo, which comprises civil servants from the Departments of the Environment, Community and Local Government and Social Protection. Following media comments local councillor Jerry Lundy raised the issue on local and national media because he had been given to understand from those working in the facility that it is effectively going to be shut down and that all of the jobs in Tubbercurry will be transferred.

The background is that as Minister with responsibility for rural development in 2006, Deputy Éamon Ó Cuív decentralised sections of the Department comprising 101 jobs to what was referred to as a temporary facility in Tubbercurry pending the building of a permanent facility at Charlestown, County Mayo. Naturally enough as time went on Tubbercurry became very comfortable with the notion it had so many State jobs, particularly as the area has a history of industrial production. The late James Gallagher, who was a Deputy for Sligo-Leitrim, created 450 jobs as a result of his entrepreneurial skills, with Basta locks being the best known product, but sadly this shut down. Tubbercurry has a background of fruitful, positive and productive employment so one can understand the reaction when the news started to circulate in the area.

The Department of Social Protection has a number of jobs there, and the suggestion is these will be relocated to either Sligo or Carrick-on-Shannon, where Department of Social Protection offices operate. When I made inquiries the Department was unable to clarify exactly what the position is. I and Councillor Lundy are operating on rumour and hearsay. I have confirmed the Department of the Environment, Community and Local Government is being relocated. What will happen to the Department of Social Protection work force? It is important the staff are reassured, and it is for this reason I seek clarity on the situation, which I hope the Minister of State will be able to provide.

Minister of State at the Department of Social Protection (Deputy Kevin Humphreys): I thank the Senator for bringing this matter to my attention. I was not aware of it earlier. The Department of Social Protection has ten staff based in Government buildings on Teeling Street. Is the figure of 101 the total figure?

Senator Paschal Mooney: It was the original figure in 2006.

Deputy Kevin Humphreys: There are only ten departmental staff working there. The Department office in Teeling Street is not a public office, and the Senator is probably aware of this. It administers the Gateway scheme, the rural social scheme, Tús and the community services programme. With 20% occupancy, the Department of Social Protection is the minor tenant in the building on Teeling Street and the Department of the Environment, Community and Local Government is the major tenant. The Department of Social Protection has recently been advised of Department of the Environment, Community and Local Government plans to permanently relocate its staff from Tubbercurry in the short term.

The Department of Social Protection is examining potential alternative locations to which the work being undertaken by staff in Tubbercurry can be relocated. Locations in Mayo, Sligo and Leitrim are being explored but no decision has been made. The option will be available to staff based in Tubbercurry to move to the location to which the work is relocated, if they so wish. Every effort will be made to ensure that the staff located in Tubbercurry are accommodated with suitable alternative work locations. There will be no impact for customers as a result of the decision.

Senator Paschal Mooney: Inevitably the news was not going to be very good. Has any consideration been given to retaining the ten jobs in another location in Tubbercurry? They will be lost to the town. I understand it is possible, not only with regard to the Department of Social Protection but also the Department of the Environment, Community and Local Government, that there may be requests for transfers to other Departments in the region which would suit people. The town of Tubbercurry is losing valuable State jobs which will be exceptionally difficult to replace. The Minister of State spoke about options being available, but the impression I have from the response is the decision has been taken in principle to move the ten staff out of Tubbercurry and it is a question of where they will go. Perhaps the Minister of State will confirm this, but it seems to be the view. All I can do at this stage is plead on behalf of the people of Tubbercurry that perhaps the Department might consider retaining the ten jobs there in a smaller location, which I am sure would not be beyond the capacity of the Department to identify. I hope the reasons they must move out of Tubbercurry are not because of the Department of the Environment, Community and Local Government, which is the anchor tenant in the modern and purpose-built building which will now be left completely vacant. Is there any hope for retaining the jobs in Tubbercurry?

Deputy Kevin Humphreys: I thank Senator Mooney for raising this issue. As I outlined in my initial response we are quite the minor tenant in the building. I will do my best to take on board the Senator's questions on whether there is a possibility and how far the decision-making process has gone. My concern is that the service provided by the staff would maintained and that the current staff are treated in a proper manner. I have heard very clearly what Senator Mooney has said and will certainly explore in any way I can the alternatives he has pointed out to me.

Heritage Projects

Acting Chairman (Senator Pat O'Neill): I understand Senator Healy Eames is sharing time.

Senator Fidelma Healy Eames: Senator Susan O'Keeffe will probably take one minute of the time. She thought my matter was being taken after Senator Byrne's, as a result of which she has just left the House. Perhaps someone could give her a call.

Acting Chairman (Senator Pat O'Neill): She was here and saw that this was the third matter, but the Minister for Senator Byrne's matter is not here so we are proceeding with this one.

Senator Fidelma Healy Eames: That is not a problem. The Minister of State is very welcome. We are facing into a wonderfully big year in the life of W.B. Yeats, as next year will be the 150th anniversary of his birth. My motion asks the Minister for Transport, Tourism and Sport to ensure Fáilte Ireland would consider providing a licence to the Yeats Thoor Ballylee society, of which I am chair, to enable fund-raising to begin in order that Thoor Ballylee, the ancestral home of W.B. Yeats, can be opened in time for Yeats's 150th birthday in June 2015.

A year ago we set up this local committee and I was asked to chair it. It aims to celebrate the life of W.B. Yeats, specifically as it concerns Thoor Ballylee which is situated in south Galway, near Gort, Lady Gregory's Coole Park and the Kiltartan museum. That entire area is dedicated to the life of W.B. Yeats and the trials and tribulations of the man in south Galway. We set up this committee to reopen Thoor Ballylee because it was closed in 2009 after the flooding. It is now under the remit of Fáilte Ireland, which cannot afford to reopen or run it. However, it is on our committee and it is very committed to handing it over to a group such as Galway County Council in conjunction with ourselves, a community group. The newly named Yeats Thoor Ballylee society is made up of myself, Ronnie O'Gorman, who is the secretary, a number of local businessmen and real community activists, Fáilte Ireland, Galway County Council, and Galway Rural Development Company Limited. At our last meeting we had Senator Susan O'Keeffe visit, who is the national chair of Yeats's 150th birthday, so she knows what we are trying to achieve.

According to Fáilte Ireland, we need about €400,000 to reopen the monument. We have had it assessed by people in the know who would be tendering for this. They do not believe we need anything like that sum. I just toured it myself and it is in great shape. It needs cleaning and maintenance. However, we do not dispute that money is needed, not just to open it, but to run it. We have umpteen offers of money from America, the UK and Ireland, but we cannot accept them unless we have a licence to run it. We are asking the Minister of State for a licence for one year to enable us to fund-raise in order that we can get past the 150th anniversary, have

Seanad Éireann

Thoor Ballylee open, not just for Ireland but for the world, and join Sligo in the overall picture for Yeats. We are quite convinced that we will hand back Thoor Ballylee to Fáilte Ireland, Galway County Council or whoever and that we will work with them in a community-based, linked initiative to ensure this is run. We have an army of people ready to do this. We are totally committed and I am delighted the Minister of State is here to listen to this.

Senator Susan O'Keeffe: I thank Senator Healy Eames. The Minister of State will be aware of the 150th anniversary celebrations and will know that we gave a commitment to the Taoiseach, the Department of Arts, Heritage and the Gaeltacht and the Department of Transport, Tourism and Sport that this would be a nationwide endeavour. People visiting from other places in the world do not care about the border between Galway and Sligo. They just want to go and see the places associated with Yeats. I support this request for Thoor Ballylee to be given into the care of the community for the year in order that we can open it in 2015 and allow people to come and enjoy the place as a beautiful place in its own right and as part of the Yeats story. In so doing, as well as raising the funding, the profile of the site will be raised and the tower will be restored for the nation and the world.

Minister of State at the Department of Transport, Tourism and Sport (Deputy Michael Ring): I thank both Senators. I am pleased to attend the Seanad to discuss the future of Thoor Ballylee and to hear from Senator Healy Eames the progress that has been made locally to open Yeats's former home. As Senators will be aware from previous debates on this topic, Thoor Ballylee is the former holiday home of W.B. Yeats. He purchased the property in 1916 and it is only a few miles from Coole Park, the home of his life-long patron and friend, Lady Gregory. The tower house was given by Yeats's son, Michael Yeats, to Ireland West regional tourism authority, and it transferred to Fáilte Ireland in 2006 when the regional tourism authority was merged with Fáilte Ireland.

On taking over the regional tourism authority, Fáilte Ireland also took on the operation of the network of tourist information offices throughout the country. The management and staffing of these offices, their opening hours and their locations are a matter for Fáilte Ireland and its management. Given the pressures on the public finances and in response to changes in the needs of tourists, Fáilte Ireland, like many other State agencies, continues to reshape its services. It is also prioritising the locations where tourist information offices are provided. As part of this, Fáilte Ireland has been working in partnership with local communities. To date, approximately 40% of tourist information offices have been taken over by local authorities, chambers of commerce and community groups. Fáilte Ireland does not operate tourism attractions, and where it has inherited attractions, it has sought to dispose of its interest at an appropriate stage.

In respect of Thoor Ballylee, Senators will be aware that this area of Galway was badly affected by flooding in 2009. The tower house was badly damaged by this flooding and has been closed ever since. In 2012, Fáilte Ireland spent €200,000 in weatherproofing the building and protecting its fabric, and further works will be required if the building is to open again. However, this future investment would not represent value for money for Fáilte Ireland. This is because the number of visitors who sought tourist information when the house was open was too small to justify spending scarce resources on reopening the building as a tourist information office. In that light, Fáilte Ireland has been exploring other options for its future operations and seeking the involvement of interested parties to operate the tower house. I contacted with Fáilte Ireland yesterday regarding the Yeats Thoor Ballylee society, and I understand the agency has written today to say that it is agreeable to granting the society a licence subject to clarification of a number of issues. I would encourage the society to work with Fáilte Ireland and I wish it

17 September 2014

the best of luck. I hope we have a very successful outcome.

Senator Fidelma Healy Eames: I am very grateful to the Minister of State. This is good news. It is the first day of the new term of Seanad Éireann, the House in which W.B. Yeats served from 1922 to 1928, and in which his son served subsequently. This is a great way to honour his memory. I have been feeling quite unwell all day but suddenly I am feeling great. I appreciate this because it is the way things should proceed. I thank Senator O'Keeffe for supporting this as well. Together we can move this forward.

8 o'clock

Senator Susan O'Keeffe: In addition, we commit on behalf of Yeats 2015 that it is to be a national and international celebration. We would love to see the numbers for Thoor Ballylee increase as the current numbers are too small for Fáilte Ireland to do the work itself. We hope that in two, three, or five years time this will change, as we make it part of the Yeats story. We are all delighted with that news and I thank Senator Healy Eames for her support.

Deputy Michael Ring: I am pleased because this is important work, coming at an important time in the history of our country. My family has taken its part in the foundation of this state, my grand-uncle having died fighting for the Free State side in 1921, and so I am pleased that this happened today. I wish Senator O'Keeffe well. I know that she has a difficult job to do, and I hope she receive the support she deserves.

Defence Forces Retirement Scheme

Acting Chairman (Senator Pat O'Neill): The next matter has been raised by Senator Thomas Byrne. I welcome the Government Chief Whip, Minister of State at the Department of Defence, Deputy Paul Kehoe. Senator Byrne has four minutes.

Senator Thomas Byrne: Go raibh maith agat, a Chathaoirligh, agus go raibh maith agat as ucht an deis a thabhairt dom an t-ábhar tábhachtach seo a léiriú sa Seanad anocht. I am grateful for the opportunity to raise the issue of the 1994 Defence Forces contract, which is like a train coming down the tracks at many members of our Defence Forces.

Approximately 124 members of the Defence Forces were recruited in 1994 and will be summarily dismissed in April next year because of a contract from 1994 which sets a maximum service limit of 21 years for private and corporal personnel. I believe the upper service limit should be greatly increased, and the Permanent Defence Force Other Ranks Representative Association, PDFORRA, has also advocated for this, subject to the necessary medical and fitness tests. The future employment prospects of many of these people, who have done the State great service, would be quite poor. There would also be a significant additional cost to the State next year in terms of the modest gratuities and pensions that would have to be paid out, as well as the probable costs of hiring new members of the Defence Forces.

I have met members of the families of the Defence Forces members affected by this contract and they are very distressed. They do not see any rational reason for this, and they would be grateful if the Government should consider opening up this issue and changing it because it is an unfair and indeed disastrous situation for them to be in. It does neither them nor the State any good. I appeal to the Minister of State to say that this will be changed by next April, or that

there are significant moves afoot to enable it to change at this time. Go raibh maith agat.

Minister of State at the Department of Defence (Deputy Paul Kehoe): I thank Senator Byrne for raising this issue. The Minister for Defence, Deputy Simon Coveney, sends his apologies for his absence this evening, and would like to advise the Senator that he will be taking questions on this issue tomorrow morning in the Dáil.

I will commence by outlining the background to the present upper service limits applicable to personnel who enlisted in the Permanent Defence Forces, PDF, post-1 January 1994. Due to the robust nature of many military operations and their attendant physical training regimes, personnel are exposed to a unique range of challenging environments. In these circumstances, it is vital that the age and health profile of personnel be such as to ensure that operational capability and effectiveness are not compromised. In 1990, the Gleeson Commission commented on the unsatisfactory age and fitness profile of the PDF. Thereafter, an in-depth study of the Defence Forces by Price Waterhouse Consultants in 1994, commissioned by the Efficiency Audit Group, EAG, expressed severe criticism of the age profile of the Defence Forces.

The EAG's report was accepted by the then Government in 1995. It reflected the serious concerns which the military authorities had held for a number of years in relation to the age profile of the Defence Forces. The present terms of enlistment for general service recruits arose from the criticism in the EAG Report. One of the key areas identified for urgent action by the EAG was the development of a manpower policy with an emphasis on lowering the age profile of PDF personnel. In an effort to alleviate the situation, the Government had already decided in 1993 to enlist personnel on a five-year contract basis, following consultation with PDFORRA.

In 1997 an agreement was reached with PDFORRA on a new manpower policy for the Defence Forces. This policy, applying to personnel enlisted after 1 January 1994, provided that service for private soldiers would initially be for five years with the option of being extended to a maximum of 12 years, subject to meeting standards of mental and physical fitness and conduct. Longer periods of service were envisaged for non-commissioned officers.

In 2004, PDFORRA submitted a claim under the conciliation and arbitration scheme for a further review of the terms of service applying to personnel enlisting in the PDF after 1 January 1994. A set of criteria was agreed with PDFORRA to provide longer careers for those who enlisted post-1 January 1994 while continuing to address the Government's objective of having an appropriate age profile to meet the challenges of a modern Defence Force. The criteria require that any person re-engaging after 12 years' service must be able to continue to operate at their current level both at home and overseas on an ongoing basis. Re-engagement is subject to the individual soldier meeting specified criteria in regard to physical fitness, medical category, successful completion of military courses of instruction, service overseas and conduct ratings. The maximum service period for these personnel is as follows: enlisted personnel, up to and including the rank of corporal (and equivalent Naval Service rank), may not serve beyond 21 years service; enlisted personnel, in the rank of sergeant (and equivalent Naval Service rank), may be permitted to continue in service up to the age of fifty years; and enlisted personnel in all higher ranks may serve to the age of 56.

As military life places unique physical and psychological demands on individuals it is necessary that members of the PDF be physically and mentally prepared to meet the challenges of all military operations and be in a position to undertake their duties on deployment overseas. In these circumstances it is vital that the age and health profile of personnel be such as to ensure

17 September 2014

that operational capability and effectiveness are not compromised. As such, in order to maintain the age profile of the Defence Forces to carry out the operational tasks required by Government, it is necessary to have a constant input of recruits into the Defence Forces. The maximum age for personnel who have enlisted in the PDF post-1 January 1994 provides the mechanism through which a satisfactory age profile can be achieved.

With the approach of 2015 the first effects of the agreement, whereby privates and corporals may not serve beyond 21 years, will be felt by PDF members in those ranks. A claim has been received from PDFORRA for a further review in regard to this matter. In accordance with normal industrial relations procedures, the claim by PDFORRA is being dealt with under the conciliation and arbitration scheme for members of the PDF. I understand that discussions have been taking place with PDFORRA under a special subcommittee of conciliation council. As discussions are confidential to the parties involved in accordance with the terms of the scheme, I do not in any way want to prejudice them or impact upon their outcome.

However, in dealing with this issue the manpower and operational needs of the Defence Forces must be the primary consideration. The need for continuing recruitment to the Defence Forces of young, fit men and women, so that the Defence Forces can discharge all the roles assigned to them by Government, both at home and overseas, is an issue of which I need to be cognisant. It was for this reason that this policy was introduced in the first place.

I understand the concerns this matter raises for enlisted personnel due to be discharged, and their families. I am sure that all matters raised during the discussions taking place with PDFORRA are being comprehensively examined as part of the discussions at conciliation council. I would not like to pre-empt or second guess the outcome of current discussions at conciliation council and it would be totally inappropriate for me to comment publicly on the matter at this time.

Senator Thomas Byrne: Does the Minister have any idea as to when the conciliation process will conclude?

Deputy Paul Kehoe: The process is currently under way and I expect that it will take approximately eight weeks. We may not have a final decision at this stage but I hope that in eight weeks' time we will have some form of decision, as I know that this is a matter of concern both for the officers concerned and their families, as we are rapidly approaching early 2015, when they are due to be discharged. I hope that the Department, the military authorities and PDFORRA can work together in the conciliation process.

Acting Chairman (Senator Pat O'Neill): I thank the Minister of State for attending the House, and I thank Senator Byrne for raising the matter.

The Seanad adjourned at 8.10 p.m. until 10.30 a.m. on Thursday, 18 September 2014.