



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

Business of Seanad	160
Commencement Matters	161
Bovine Disease Controls	164
Energy Prices	167
Community Care Provision	170
Order of Business	173
Universities (Development and Innovation) (Amendment) Bill 2015: First Stage	187
Appointments to State Boards: Statements	187
Direct Provision: Statements	204
Central Bank (Amendment) Bill 2014: Order for Second Stage	217
Central Bank (Amendment) Bill 2014: Second Stage	217
Central Bank (Amendment) Bill 2014: Committee and Remaining Stages	227

SEANAD ÉIREANN

Déardaoin, 22 Eanáir 2015

Thursday, 22 January 2015

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

*Machnamh agus Paidir.
Reflection and Prayer.*

Business of Seanad

An Cathaoirleach: I have notice from Senator Trevor Ó Clochartaigh that, on the motion for the Commencement of the House today, he proposes to raise the following matter:

The need for the Minister for Jobs, Enterprise and Innovation to outline what steps he intends to take to bring the level of jobs created in the western region up to and above the national average in light of the Western Development Commission, WDC, report on trends in agency-assisted employment in the western region.

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

The need for the Minister for Agriculture, Food and the Marine to comment on the punitive cost to farmers in complying with the compulsory national bovine viral diarrhoea, BVD, eradication programme and, in particular, to comment on the need for monitoring for a period of three years in herds that have tested negative in previous years.

I have also received notice from Senator Tom Sheahan of the following matter:

The need for the Minister for Communications, Energy and Natural Resources to contact the Commission for Energy Regulation to highlight the lack of a price decrease in the cost of electricity in line with the decrease in the cost of energy generally.

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

The need for the Minister for Health to provide an update on plans to construct a 100-bed geriatric care community nursing unit facility on the grounds of St. Patrick's Hospital, Waterford, the stage these plans are at, whether a design team has been appointed, when a planning application will be lodged and what capital funding has been earmarked and ring-fenced for the project.

I regard the matters raised by the Senators as suitable for discussion they will be taken now.

Commencement Matters

An Cathaoirleach: I welcome the Minister of State, Deputy English.

Senator Trevor Ó Clochartaigh: Cuirim fáilte roimh an Aire Stáit. I am raising this matter in light of the recently published and very good report of the Western Development Commission, WDC, on trends in agency-assisted employment in the western region. The employment created by businesses that receive support from one of the main enterprise agencies - which are usually export-oriented in outlook - is termed “agency-assisted employment”. The report of the WDC presents data on these businesses in the western region for the period 2004 to 2013 in the interests of providing useful insights regarding enterprise, job creation and regional development policy. The report indicates that in 2013 there were 49,217 permanent, full-time jobs and 7,405 temporary or part-time jobs in agency-assisted companies in the western region, approximately 16% of all such jobs in Ireland. The report also indicates that in 2012 growth in the region was measured at only 0.13%. This compares with a figure of 3.2% in the remainder of the State in the same period. The rate relating to assisted jobs, as a percentage of the region’s total employment, stands at 18.2%, which is below the figure of 19.1% which obtains in the remainder of the State. Of the five sectors of employment, modern manufacturing is the region’s largest, followed by traditional manufacturing, information and communications, and agrifood. Business, financial and other services is the smallest sector. In the western region, 62.1% of permanent assisted jobs are concentrated in the top two sectors, compared with just 49.2% in the remainder of the State. This highlights the reliance on these key sectors and the need for increased diversity in the region’s assisted sector.

Of the seven western counties, Sligo, Leitrim and Clare experienced declines in total assisted employment in 2013 whereas the other four all experienced growth. County Roscommon enjoyed the best level of performance, followed, in descending order, by Mayo, Donegal and Galway. At 38.1%, Donegal has the lowest foreign ownership share in the region. In the national context, western counties tend to have relatively high shares of foreign ownership, which is the legacy of foreign direct investment, FDI, across the region over a period. Agrifood is the second largest sector, accounting for just over a quarter of assisted employment in the large rural counties of Mayo, Donegal and Roscommon. In a national context, however, the sector does not play a particularly big role in western counties as the region’s agriculture sector is not as strong as those which obtain in the south west and the south east. Roscommon and Leitrim have not benefited as much from recent jobs growth as other counties. One of the clearest patterns identified in the report is the extent to which assisted employment plays a larger role in cities.

Of the seven western counties, Sligo and Clare incurred greater job losses than gains between 2012 and 2013, leading to a net decline in both in assisted permanent full-time employment. In Sligo’s case, job losses were 162% of job gains in 2013. For total assisted employment, permanent full-time and temporary part-time, the western region experienced a 6% decline between 2004 and 2013. In contrast, the rest of the State had 4% growth in the same period.

Among the western counties, Galway and Mayo were the only counties with higher total

assisted employment in 2013 than ten years earlier, Galway growing by 5.3% and Mayo by 1%, Leitrim suffered the largest decline of 43.5% followed by Roscommon, Donegal, Clare and Sligo having similar performances to each other declining by 10%. Overall, the region had 2.8% growth, which is below the 3.9% in the rest of the State. One of the common patterns is a high concentration of employment in the two largest sectors. Modern manufacturing is the largest assisted employment sector in the western region. However, in a national context the agrifood sector does not play a particularly large role in western counties. We also have figures for Galway and other areas. It is quite obvious that any upturn in the economy, apart from Galway city, is not being felt by western and rural regions. What strategy has the Government in place to reverse these trends?

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy Damien English): I welcome the opportunity to discuss this report and what is being done in the overall area. We must bear in mind that the report covers some of the growth and boom years from 2004 to 2013, thus highlighting many issues in the regions, but it stops short of including this year when we are seeing much growth throughout the country.

Significant progress has been made since 2011 in restructuring and transforming Ireland's economy and in reforming the way we support business and job creation in Ireland. I am pleased to report that this growth in employment is now in evidence across all sectors of the economy and across all regions. It is clear from the data for the past two or three quarters that there is a regional spread. There would have been a concern a year ago or even less that much of the new growth was in Leinster and certainly in Dublin. It is clear from the past two or three quarterly reports that it is now pushing out to all regions and we must ensure we build on that. The analysis by the Western Development Commission on Trends in Agency Assisted Employment in the Western Region for the period 2004 to 2013 highlights some of the progress achieved in this regard across the western region.

I am also pleased to record that the enterprise development agencies, Enterprise Ireland and IDA Ireland, in their end-of-year statements for 2014 have highlighted the continuing trend of growth in employment across all regions. The full results by regions will be published by my Department in the coming weeks and hopefully that will provide us with more data on which we can work. We are working hard to sustain that level of jobs growth and recovery in the coming year, in particular to sustain the growth in modern manufacturing and internationally traded services recorded in the western region in recent years, which as the Senator said is an issue in the western region and we need to build on that.

The Action Plan for Jobs is at the heart of the Government's approach to growing jobs in the economy through creating the best environment for enterprises to start, grow, scale and create employment. The annual action plans are developed on a co-ordinated basis across Government by my Department, and we have established a process of quarterly monitoring and reporting in detail on the implementation of measures in the Action Plan for Jobs to support the transformation of the economy, with a success rate of over 90%.

Now in its fourth year, the Action Plan for Jobs process continues to have an impact. Almost 80,000 have been created in the private sector during the past three action plans for jobs. The next action plan, which is due in the next couple of weeks, will set more targets covering all regions and involve all the agencies. This year's plan comes in the context of improving economic and employment data. The rate of unemployment has declined from a peak of 15.1% at the start of 2012 to 10.6% at the end of 2014. Data for the regions mentioned show that the

22 January 2015

unemployment rates are coming down but we want to get the rate down much more quickly. We also recognise that it is a work in progress.

One of the factors that has made the Action Plan for Jobs process such a success has been the input, support and partnership with business and others in developing and progressing the plans for all the regions. We have consulted extensively in recent months with all Departments and with other stakeholders and organisations. The next action plan should help the spread of job creation into the regions.

In terms of regional economic development and ensuring every region can fulfil its potential, we will build on the progress made in 2014 in establishing a process to design and implement regional enterprise strategies. These regional enterprise strategies are akin to action plans for jobs for every region. The formulation of regional enterprise strategies will enable us to identify the sustainable competitive strengths of each region, which have also been highlighted in the report, and to better integrate the efforts of the enterprise development agencies and other regional stakeholders in supporting enterprise growth and jobs in areas of potential. We hope to publish these strategies by mid-year.

I believe that for every region to achieve its potential, a partnership approach is essential among all the key stakeholders, public and private. Each of the regional enterprise strategies will set out the investment and job creation targets being set for the enterprise development agencies for the regions for the coming five years. In addition to setting out the regional commitments by the development agencies and the local enterprise offices, we will also seek to encompass the supporting actions of the full range of stakeholders, including local authorities, education and training providers and representative bodies, to the common goal of enterprise, growth and jobs in the regions to get to the target of full employment by 2018.

I think the Action Plan for Jobs concept has worked because it has focused people's minds across all agencies and Departments. If we can mirror that plan at a regional level to bring all the various agencies together, including the chambers of commerce and organisations, to focus their minds with a list of actions, that will benefit each region and will concentrate on the strengths and weaknesses of each region. I am conscious that the regions covered by this report will not necessarily match up with the regions which we are trying to cover as an enterprise. There will be three or four regional strategies. It is important that we try, as locally as possible, to target certain areas. This has worked in certain places, such as in Waterford, and we are building on it. The idea is right and with some luck it should address some of the Senator's concerns and, hopefully, there will be involvement by all stakeholders.

Senator Trevor Ó Clochartaigh: Based on what the Minister of State has said, we are going to get an outline of a strategy in the coming months which probably will not see much action before the end of the life of the Government. Would the Minister of State agree that the Government is failing our region given that we have fallen so far behind the other regions, resulting in rural decline and a lower rate of employment than any of the other regions and we are far too dependent on foreign direct investment such that the indigenous sector has not seen any growth worth talking about? Therefore, the strategy of the Government has failed the western region in this regard.

Deputy Damien English: I would not say the Government has failed. The issue in recent years has been to get jobs into this country and to create new jobs. It is fair to say that much of the original growth and new jobs happened in the east and in some of the larger cities, such as

Cork, Galway and Dublin. Our first aim is to try to stabilise that position and to win new jobs and then to try to address the regional imbalance. Many of the regions need extra attention. That is the reason we are responding with specific strategies for each region. The drop in unemployment across the board is about 4%. That is common in the western region. It is coming from a higher base but the percentage drop is the same.

Senator Trevor Ó Clochartaigh: It is just emigration.

Deputy Damien English: It is not.

Senator Trevor Ó Clochartaigh: It does not stand up.

An Cathaoirleach: The Minister of State to continue without interruption.

Deputy Damien English: We always say the levels on the unemployment register have dropped due to a combination of reasons, such as people leaving the country, moving around and also taking up a job. It is clear from the number of jobs created in the past three or four years that the number of additional people at work is 80,000. It is not a case that everybody has left. There are new jobs. In the early years the jobs were concentrated in the east and in Dublin city but in the past year, according to a review of the figures from recent months, there has been a push out to the regions. We are going to try to build on that and the only way we can do it is to have a regional strategy. Otherwise it will not happen. The strategy tries to bring together all the local talents to focus our minds. This has worked in other areas and in other regions. If the Senator does not want to be part of it, that is his choice.

Senator Trevor Ó Clochartaigh: I want it more quickly.

Deputy Damien English: It will not be a case of putting this aside for a couple of years. We had the first regional strategy before Christmas, which covered part of this area. It was quite beneficial and there will be planning for that in a couple of months. We will not make plans and leave them sitting for two years. The Action Plan for Jobs has been an annual plan with a 90% success rate each year. Likewise the regional plans will show annual targets every year. It is not a case of producing a plan that will be allowed sit there for six or seven years. That is not going to happen.

Senator Trevor Ó Clochartaigh: It took four years to get it.

Bovine Disease Controls

An Cathaoirleach: I welcome the Minister of State, Deputy Tom Hayes, to the House.

Senator Martin Conway: Cuirim fáilte roimh an Aire Stáit. This issue was brought to my attention some months ago by a young farmer who had recently inherited his father's farm. We are all asked by Government and farming associations to encourage people to transfer family farms to young people who, perhaps, would be more efficient in terms of how they do their business and who are committed to farming and to improving farming practices. Much has happened in recent budgets to facilitate the transition, and inheritance, from fathers to sons or daughters.

This situation that I bring to the attention of the Minister this morning relates to bovine viral

diarrhoea, BVD, testing. For a myriad of reasons, it is important that BVD testing is done. For any particular herd, there is two-year compulsory BVD testing and then there is optional yearly testing. In this case, the father did the BVD testing on the herd in 2012 and 2013, and his son, who inherited the same cows in 2014, was required to repeat the process and do another two years of BVD testing. I know this family well. They are based in a part of County Clare that has extremely good-quality farming practices. It is a bureaucratic nuisance and an unnecessary financial burden to require a son to do testing, at some expense, on a closed herd that has already been tested by his father.

These are the types of bureaucratic problem that we need to deal with. There is no need for it. The herd had complied with the BVD testing requirements at a cost to the young man's father, yet when this young man, who has gone through third-level farming colleges and has his certificates - he is a good farmer - inherits the farm he must repeat the process simply because his father decided to sign over the farm to him. It seems grossly unfair and unnecessary because it involves the same cattle. Traceability has resulted in this country having an extremely impressive reputation abroad. Why are we requiring a son to turn around and repeat the process that has been done in a closed herd, that has been fully traced and is fully accounted for? It seems ridiculous. At this late stage, in this particular case, the details of which I will give the Minister of State afterwards, is there some way of giving a rebate or even a partial rebate to a farming family who are just starting out with good intentions and are doing their business correctly? They inherited a herd for which the business was done right. Surely a common-sense approach must be adopted here. More fundamentally, because there is money involved, the policy needs to be changed. It needs to be rectified and it needs to be streamlined.

Minister of State at the Department of Agriculture, Food and the Marine (Deputy Tom Hayes): I thank Senator Conway for giving me the opportunity to come to the House this morning to address this important issue.

The Senator highlighted the case of a particular individual, a young farmer. One must bear in mind at the outset, before I get into the exact detail, that never before in the history of the State have so many concessions for young farmers been introduced in a budget.

Senator Martin Conway: I accept that.

Deputy Tom Hayes: In fact, only last week I addressed a meeting in Tipperary where the hall was packed. It was addressed by persons who have considerable ambition for the agricultural sector, and one of the issues they spoke about was how to produce food - meat, such as beef, or milk - not only in a cost-effective manner but in such a way that one could sell it on to the world market, where there is demand, and get a high price, which Ireland is now demanding and getting all over the world.

The introduction of the industry-led national BVD eradication programme on 1 January 2013 came after a number of years of careful planning by Animal Health Ireland and after the implementation of a voluntary scheme in 2012. This compulsory phase required farmers to tag and test calves born after that date for all breeding herds. Under the programme, where positive results are detected, herds are required to undergo further testing, particularly to clarify the status of the dam of the positive calf. Some 80,000 breeding herds are now participating in the programme, of which approximately 7,200 also took part in the voluntary phase of the programme in 2012.

The experience of the first two years of the BVD eradication programme has been very encouraging. The rate of compliance with the requirement to test for BVD has been almost perfect, with just fractionally less than 100% of calves born in those years having been tested for the disease.

From the outset, Animal Health Ireland has made it clear that the eradication programme will fall into two three-year periods. In the first of these periods, all herds are required to tag and test calves with the aim of achieving negative test status. Negative test status can be achieved by identifying and removing animals that are persistently infected with the BVD virus from herds, or through accumulation of negative test results. Already, more than 4,000 herds that entered the programme in 2012 have achieved negative herd status.

During the second three-year period, the emphasis of the programme will be on monitoring to ensure that herds that have achieved a negative herd status remain free of infection while dealing with remaining herds where infection is still present. It is intended that this monitoring will be available at a reduced cost relative to that available in the first three years of the programme, and it is already the case that herds that have achieved negative herd status can avail of testing at a rate approximately 25% less than that previously required of them. Work is ongoing to investigate alternative methods of monitoring that will offer further cost savings, and it is hoped that these will be available for the 2016 calving season.

The need for continued monitoring is all the more vital in light of the retention by a minority of herd owners of persistently infected animals that have been identified in the programme to date. In addition, while the overall level of engagement by farmers with the programme has been exemplary, the failure of a small number of herd owners to participate poses a further risk to the programme achieving its goals in a timely fashion. My Department is conscious of the financial burden that the testing regime imposes on farmers, but the position is that the presence of persistently infected animals in a herd necessarily reduces the profitability of the herd on an ongoing basis and the eradication programme is designed to remove the source of this income loss on a permanent basis. That is the key. This is a cost factor, a negative cost on farmers. If the disease was eradicated it would improve their profit margins, particularly in light of difficult financial circumstances such as the fall in beef prices in September and October last.

I should express my gratitude to the BVD implementation group for its solid contribution towards the development and management of this eradication programme, which is of great significance to the farming community. I ask the BVD implementation group to renew its efforts in advancing the programme in the course of 2015, as farmers do not want a prolonged or drawn-out programme. My Department will be glad to support the group in the implementation of the additional necessary measures.

Finally, it should be noted that while farmers bear the cost of testing in the programme, and the testing period may appear to some farmers to be unduly long, the end result for farmers is worthwhile because analysis has shown that the annual benefits to farmers of the eradication of BVD are estimated to be in the region of €100 million.

That is a considerable amount of money in the overall context of agriculture. It is all about profitability. It is in everybody's interests to reduce the costs and to make farming more and more profitable. It is of the utmost important that disease is eradicated and that the associated cost is reduced. I accept the point made by Senator Conway and I would be only too glad to

22 January 2015

meet with Senator Conway to speak about the constituent in question in order to see whether we can help. In terms of the overall good, one cannot focus on one particular individual. The issue relates to the agricultural industry and farmers in general - a considerable number of people. The current approach has been fully backed by the veterinary profession and it is good for agriculture in general and for farmers. That is the reason the testing process is in place.

Senator Martin Conway: No one disputes that. I wish to make two very quick points that I omitted to make in my opening remarks. The first is that the gentleman's father voluntarily participated in the scheme in 2012, along with the 7,500 other farmers in the country who were involved. Second, his herd was shown to be negative for the disease. With respect to the officials who prepared the Minister of State's script, who did it very well in terms of giving us an overall analysis of BVD, the point I made related to the double charging of a father and son with a specific closed herd that was tested in 2012, 2013 and 2014, and the fact that they must now repeat the process for another two years.

An Cathaoirleach: Senator Conway has gone way over time.

Senator Martin Conway: An additional cost is being incurred. The farming family in question will incur double costs through no fault of their own following the transfer of the farm from father to son. Surely to God the Minister of State would agree that is not fair.

Deputy Tom Hayes: Irrespective of whoever prepared the script, I know something of the matter. As someone who inherited a farm myself, I know that the first thing one must do is to transfer the herd number. It would be grossly unfair to select one person and to say that because a farm was transferred the family should be relieved of their responsibilities and duties. The responsibility lies with the herd keeper, be it an old person or a young person. The herd is monitored on the basis of the herd number. Senator Conway is not correct in the assertion he made about the transfer of the farm from father to son. The same animals are at issue but under a different herd keeper. The disease must be monitored and checked. One could not accept the argument made by Senator Conway that the family in question should be exempt from the scheme because the farm has passed from father to son. That would be silly and wrong.

Senator Martin Conway: But they should-----

Deputy Tom Hayes: I ask the Senator to wait a moment. It is akin to saying that following the transfer of the farm from father to son the herd should not be tested for TB.

Senator Martin Conway: But they should not be penalised financially for doing it.

Energy Prices

An Cathaoirleach: I welcome the Minister of State, Deputy Joe McHugh.

Senator Tom Sheahan: I also welcome the Minister of State, Deputy Joe McHugh. The issue I raise relates to the energy regulator. Heretofore, the only time I was aware of the energy regulator was when the ESB or Bord Gáis applied to it for a price increase. The regulator was seen to do its job in that when Electric Ireland applied for a 21% increase in charges it was only allowed to introduce an increase of 14%. The energy companies do not have it all their own way. However, I have become concerned in recent months in particular. Approximately 40% of this country's electricity is produced from gas. The price of gas has dropped by approxi-

mately 30%, yet there has been no reduction in the cost of electricity to the consumer. That is the reason I call on the Minister to intervene. I understand the regulator is an independent entity, but energy producers can seek price increases from the regulator, and on behalf of the people I ask that the Minister seek a decrease in price from the regulator, given that the price of gas, from which 40% of electricity in this country is produced, has fallen by approximately 30%. Accordingly, there should be a decrease in the cost of electricity to the consumer. I cannot understand why that has not happened.

Minister of State at the Department of Communications, Energy and Natural Resources (Deputy Joe McHugh): I thank Deputy Sheahan for raising this timely issue, especially in light of the publication of a new climate change Bill this month. If and when enacted, it will become the first climate change Bill this country has ever had. We are looking to 2020 and 2050, at our energy mix and our reliance on fossil fuels. It is important that we begin this conversation.

The Government is acutely aware of the financial challenges faced by families and businesses from high electricity prices. However, it is important to note that the electricity and gas markets are commercial, liberalised and competitive and they operate within national and European regulatory regimes, supported by legislation.

Responsibility for electricity and gas market regulation is a matter for the Commission for Energy Regulation, CER, which is an independent statutory body. The CER is focused on actions to mitigate costs for business and residential consumers, such as rigorous scrutiny of network costs, deeper integration with European energy markets and the delivery of a truly competitive market in the interest of customers. The commission continues to monitor the electricity and gas markets to ensure that competition continues to develop and that customers benefit from competition. The Department liaises with the CER on these matters on an ongoing basis.

At a national level, electricity and gas prices are no longer regulated by the CER. The competitive energy market results in choice for consumers and businesses in terms of suppliers, products and prices, and this exerts downward pressure on prices.

The reduction in wholesale gas prices since the beginning of 2014 has led to a reduction in the wholesale electricity price. It should be noted that wholesale electricity prices tend to reflect the price-setting fuel in the market, which is natural gas, not crude oil. It is worth noting that only 1% of electricity was generated from oil in 2012. Lower wholesale gas prices in 2014 compared to 2013 should have a knock-on impact on retail prices, and that is reflected in the latest EUROSTAT figures published by the Sustainable Energy Authority of Ireland, SEAI, on 9 December last. However, I should caution that wholesale gas prices have been rising since the summer of 2014 and this rise is likely ultimately to feed through to retail electricity and gas prices.

The SEAI report shows that all business consumption bands in electricity and gas experienced reductions in average prices in the first half of 2014, ranging from 0.7% to 4% for electricity and 6.7% to 12.9% for gas. Similarly, in the first half of 2014, EUROSTAT figures show a reduction of 5.7% in the average price of gas in the residential consumption band with the largest share of the market. The average price of electricity in the residential consumption band with the largest share experienced a reduction of 1.3%.

22 January 2015

Electric Ireland, the larger supplier of electricity in this country, reduced its unit rate for domestic customers by 2% in November 2014. Consumers can, and in many cases have, mitigated electricity and gas prices by shopping around to get the best possible price and service deal from suppliers. I encourage people to continue to do so. Measures such as comparison websites, approved by the regulator, are there to assist people in this endeavour. Even if customers wish to remain with their existing supplier, they should contact that supplier and insist that they be placed on the best possible offering.

I realise that energy supply companies have not automatically passed savings on to their customers, but I expect that savings will feed through to domestic prices in due course. However, all supply companies offer competitive deals to customers who switch or engage with their suppliers. For example, a customer can go online today and achieve a discount of approximately €150 per annum by switching from the standard rate electricity offering. A customer can achieve a discount of more than €150 on gas by switching from the standard rate. That equates to a saving of more than €300 a year by switching electricity and gas suppliers. However, I fully appreciate that some customers, particularly older and more vulnerable people, are reluctant to switch or feel unable to do so. In this situation I urge all stakeholders, including the energy companies and the regulator, to make the more vulnerable customer categories aware of the most competitive offerings available and to facilitate their transition to the best value deals in the market.

The Minister for Communications, Energy and Natural Resources is scheduled to meet the chief executive officers of the various energy supply companies next week to outline the Government's concerns regarding these matters and to impress on them the need to offer their customers the best value available in a competitive, liberalised market. I will convey the Senator's observations and suggestions to the Minister in advance of that meeting which will provide an opportunity to have a broad-ranging discussion. As the Senator correctly pointed out, if prices in certain sectors are going down there has to be a knock-on effect for customers. I thank the Senator for raising this matter.

Senator Tom Sheahan: The Minister of State said in his reply, "The CER is focused on actions to mitigate costs for business and residential consumers". My problem is that this is not being done for the consumer. I refer to the recommendation that consumers should switch providers. In my understanding of economics and business one does not chop and change because there is an expectation that the supplier will look after its customers. I note that the Minister of State urges that more vulnerable customer categories should be made aware of the most competitive offerings available to facilitate the transition to the best value deals in the market. That is not looking after the customers and that is my concern and complaint. Reductions are not being passed on. For example, gas prices have fallen by 27%. I could line up 100 people in the morning and I do not think any one of them will tell the Minister of State that his or her electricity bill has dropped. I have documentation from a constituent which shows that his electricity bills have gone up. I refer to the Minister of State's remarks that some customers, in particular, older and more vulnerable people, are reluctant or feel unable to switch. They should not have to switch. The Commission for Energy Regulation, which is there to mitigate costs for business and residential customers, should insist and ensure that the electricity companies pass on the benefits of the reduced costs of gas.

Deputy Joe McHugh: I will provide the 2013 figures for the number of customers who switched providers. A total of 266,224 electricity customers and 117,002, gas customers switched providers. I take the Senator's point that certain categories of customers are used to

working with their supplier and we should facilitate them. There is a role for the Commission for Energy Regulation to raise awareness for them. The Senator has been of assistance by raising this matter today.

The difficulty with the geography and the type of energy mix in this country means there is a significant 85% reliance on fossil fuels. We are working towards the target of a 40% increase in the use of indigenous renewables by 2020. However, the reality is that we are still relying 85% on fossil fuels, including gas and peat. For example, Italy has a similar reliance but it also relies on hydroelectricity for 25% of its fuel. Holland has a similar trajectory but it has its own oil and gas supplies.

While these are constraints, they are not excuses. We need to make a determined effort to ensure that we work towards a future use of a renewable mix. I attended a conference this morning in Carton House, Maynooth, which dealt with the topic of how to introduce more competition and how we can work with our counterparts. I was involved in efforts to set up a bilateral agreement between the United Kingdom and Ireland in my capacity as Co-Chair of the British-Irish Parliamentary Assembly. This did not come to pass but I do not think we should give up on the subject of interconnectivity, be it on a British-Irish basis, on a European basis or a connection with France. We need to consider all this mix. We must be conscious of the opportunities as well as the constraints. We have a single, all-island market which is creating more competition. Scottish and Southern Energy plans to launch a plant in County Wexford this year, next to Senator Cullinane's part of the world. There is a plant in Cork, next door to the Senator's county, at Aghada and Whitegate, which was opened in 2010. The vast bulk of our purchase of gas comes from the United Kingdom. These are the challenges but they are not excuses in that we must continue to work towards facilitating more competition to ensure a downward pressure on prices for customers.

While the economy is moving in the right direction, people are still getting bills through the door. Senator Sheahan knows well the challenges faced by people. They will have a few more pounds their pockets at the end of this month but they still have bills such as car insurance, the tax bill, the television licence fee and the electricity bill. The Senator has raised a very important issue and I thank him.

Senator Tom Sheahan: The word should go out from here this morning that more people changing their supplier is the only way to bring down the cost of electricity.

An Cathaoirleach: We are way over time. This matter has taken 14 minutes.

Community Care Provision

Senator David Cullinane: I welcome the Minister of State to the House. I hope he is the bearer of good news for Waterford with regard to this matter. I seek an update from the Minister for Health - I am sure the Minister of State will give this on his behalf - about plans to build a 100-bed community nursing unit in the grounds of St. Patrick's Hospital in Waterford. I will provide an update of the situation and a brief history of the issue.

In 2008, HIQA carried out inspections in St. Patrick's Hospital and as a result of those inspections, it advocated that St. Brigid's ward in St. Patrick's Hospital should close, with the result that 19 beds were lost to the system. At the same time, the HSE carried out a review and

the Prospectus report was published which dealt with bed capacity for geriatric care facilities in the State and for community nursing units.

The review was completed in 2012 and the Prospectus report examined bed capacity up to 2013. This informed the Minister's multi-annual capital plan which runs from 2014 to 2018. At the time when St. Brigid's ward was closed, the then Minister for Health promised that a replacement 50-bed unit would be built to replace those 19 beds but also to bring additional beds into the system. Like a number of capital funding promises, along came the crash and this project was put on hold. A further review was carried out and a new purpose-built 100-bed unit was promised. However, this does not provide any additional beds because this 100-bed unit is assigned to replace further wards and beds in the existing St. Patrick's campus. The Minister will be aware that there are HIQA inspections of a range of community nursing units and geriatric care facilities across the State. What I want to achieve, and what I hope the Minister wants to achieve, is that this unit be built as quickly as possible, given that there are going to be further HIQA inspections. Notwithstanding my concern about bed capacity generally, and that this is the only geriatric care facility and community nursing facility in Waterford city, I welcome the commitment to build this 100-bed unit on the St. Patrick's campus grounds. Has the design team been appointed? Have the tender documents been completed? Has planning permission been sought? Is capital guaranteed for this project under the HSE's multi-annual capital plan, which runs up to 2018? The most important and direct question is, when will work on the ground start? When will we see work happening? There are a lot of capital projects promised for Waterford. A palliative care unit is another example of a facility that we were promised, and we are being told that there is commitment, that we are moving in the right direction, that it is a long process and that we are on the next stage. People want to know when they will see diggers on the ground and work happening to make this a reality.

Deputy Joe McHugh: I had a good conversation with the Minister, Deputy Varadkar, yesterday evening, and, as the Senator knows, I am taking this commencement matter on his behalf. Community hospitals are a critical and integral component of the overall health system. Even at the beginning of this month, when the conversations were focused very much on general hospitals and trolleys and blockages at accident and emergency departments, a key component was filtering and fluidity between the hospital and the primary community hospitals. For example, when I was in Letterkenny General Hospital last Friday we got a statistical breakdown of the demographics, which revealed that the vast majority of patients were over 75 years of age. It is important that we keep a firm focus on the critical need for community hospitals and that the Minister for Health is acutely aware of that.

I would like to thank Senator Cullinane for raising this issue, as it enables the Minister for Health to provide the House with an update on the plans for a new community nursing unit for Waterford. As Senators are aware, it is Government policy to support older people to live in dignity and independence in their own homes and communities for as long as possible. Where this is not feasible, the health service supports access to appropriate high-quality long-term residential care, including the provision of financial assistance under the nursing homes support scheme. Providing public residential care for older persons forms a significant and crucial part of the services. The overall objective is to protect the viability of as many units as possible within the funding and staffing resources available. Therefore, improving the supports available for older persons is a significant commitment in our programme for Government.

As we are aware, all developments must be addressed in light of the resources available and based on priority of need. HIQA has indicated that a number of units do not fully meet the

standards one would expect to find in a modern nursing home. This is not surprising, given the age and structure of many of our public nursing homes. Currently, funding for the community nursing unit programme focuses on the upgrading and refurbishment of existing facilities to achieve HIQA compliance.

The Health Service Executive is responsible for the delivery of health and personal social services. This includes provision of the appropriate infrastructure to support service delivery, such as the facilities at St. Patrick's Hospital. Given that demand for capital finance for the community nursing unit programme far exceeds the funding available, investment must be allocated as objectively as possible based on the HSE's assessment of priorities of needs.

The HSE has identified Waterford city as a priority location for a new community nursing home unit. The design team has been appointed. Currently it is projected that a planning application could be lodged with the local authority in the second quarter of 2015. Following the award of planning permission, it is expected that the project will progress to the tendering and construction phases in late 2015.

As with all capital projects, the community nursing unit infrastructure programme, which includes this project, must be considered within the overall capital envelope available to the health service. There will always be more projects than can be funded by the Exchequer. There is limited funding available for new projects over the next multi-annual period 2015-2019, given the level of commitments and the costs to completion already in place. Therefore, the reason capital funding is not ring-fenced by project is to ensure the HSE has the flexibility to manage within its voted capital allocation in the event that one or more of the hundreds of construction projects under way at any time do not progress as scheduled. Indenting rather than ring-fencing enables the HSE to leverage its capital allocation efficiently, so that it delivers the maximum number of priority projects for the funding available.

Senator David Cullinane: I welcome the fact that the design team has been appointed, that a planning application will potentially be lodged in the second quarter of this year, and that towards the end of the year we could move to construction. At the same time, there is a caveat in the Minister's response, in that it is subject to capital funding which has not been ring-fenced. My understanding of what the Minister for Health is saying is that it is based on priority in terms of need, and that HIQA has identified a number of facilities which are not, as they see it, up to standard. The obvious question is whether Waterford is one of those areas. The Minister said that HIQA had identified a number of units that do not fully meet the standards one would expect to find in a modern nursing home. I would imagine from that, then, that the Minister is looking at those facilities to make sure we do not end up with a situation in which units are closed, leaving older people without facilities, because we did not build the new units that are needed.

While there seems to be good news in this, there is a strong caveat as well in that we cannot guarantee that the funding is there at this point in time, but the expectation is that towards the end of the year we will move to construction. It is my responsibility as an Opposition Oireachtas Member in Waterford to push Waterford's case. Again, the question to the Minister is, in light of those HIQA inspections and with the Minister working on a priority basis, has HIQA identified Waterford and St. Patrick's Hospital as belonging to one of those areas where there are potential problems with the existing facilities?

Deputy Joe McHugh: I thank the Senator and will convey his question to the Minister for

22 January 2015

Health. The important thing that is stated in black and white here is that Waterford city, as the Senator has correctly pointed out, has been identified based on priority. That is the first important component. The Minister for Health has outlined the reasons why the voted allocation of capital funding does not happen at this stage but must go through a process. No doubt the Senator's own role as an Opposition spokesman on this issue and as a Waterford Senator means he will be keeping this on the agenda. No doubt his good colleagues in the Government will be heard loud and clear as well. The fact is that it has been identified and prioritised. I will pass on the question regarding whether HIQA has a hierarchy of priority nationally, or where it fits into HIQA's schedule, to the Minister for Health and will ask him to contact the Senator directly.

Sitting suspended at 11.30 a.m. and resumed at noon.

Order of Business

Senator Maurice Cummins: The Order of Business is No. 1, statements on appointments to State boards, to be taken at 1.15 p.m. and to conclude not later than 2.45 p.m., if not previously concluded, with contributions of all Senators not to exceed six minutes and the Minister to be called on to reply to the debate at 2.40 p.m.; No. 2, statements on direct provision, to be taken at 2.45 p.m. and to conclude not later than 4.15 p.m., if not previously concluded, with contributions of all Senators not to exceed six minutes and the Minister to be called on to reply to the debate at 4.10 p.m.; and No. 3, Central Bank (Amendment) Bill 2014 - all Stages, to be taken at 4.15 p.m., with the contributions of group spokespersons not to exceed eight minutes, those of all other Senators not to exceed five minutes, the Minister to be given five minutes to reply to the debate on Second Stage, and Committee and Remaining Stages to be taken immediately thereafter.

Senator Marc MacSharry: I call for an urgent debate in the early part of next week, and I will explain the reason for this request. The Taoiseach is in Davos today with all the hobnobs of the world discussing the future for the subordinates who happen to be the people. Quite comically, the main focus of the Taoiseach's address, together with some other leaders from Finland, the Netherlands and the Deputy Chancellor of Germany, was what he called a chasm of disconnection. He said that the chasm of disconnection cannot continue. That is rich and comical coming from the man who was so connected to his people that he took medical cards from people who were dying. He was so connected to his people that 350,000 students are not at school today preparing for their examinations, as they should be. He was so connected to his people that when the waiting lists are announced throughout the country today, we will see an increase. He is so connected to his people that there is the indictment in the Central Statistics Office announcement this morning that one child out of every eight is starving and has no heat. This is the man who champions the promotion of ridiculing the chasm of disconnection in a European context when he is totally and completely disconnected from what the people want. He patted himself on the back for bringing great stability faced with the challenges, having followed the Brian Lenihan plan for stabilising the economy, yet he went to an earlier global gathering in Davos and said how the people were reckless and everybody partied. This is the man who champions the ridiculing of the chasm of disconnection when he is the epitome of what disconnection has meant for the people.

While the hobnobs of Europe discuss quantitative easing and printing money to the tune of €50 billion per month to buy government debt, the question and the nature of debate required

in this House next week with the Taoiseach in attendance, if he has the manners and courtesy to come here for a third time in four years, is what is in it for the people. What are the people getting from this Government whose leader is swanning around Europe, accepting the accolades for the late Brian Lenihan? If one was listening to questioning at the banking inquiry in recent days, not to prejudge in any way information that is being given at it, one would have heard very senior and experienced people say that if the Irish debt crisis and banking crisis had not been contained, it would have collapsed the euro. We on this side of the House have stated many times that the Irish people saved the euro. That is a fact and it is internationally accepted as a fact but still the people's children starve as we see in the CSO report today. Some 350,000 students are out of school today and many thousands of people are still unemployed. The IBRC was put into liquidation and it is now recovering debts from struggling families throughout the country by selling their homes out from underneath them. I am dealing with one case where I am negotiating for the family. The bank is forcing the people out of their house without giving them the full suite of measures in terms of work-out solutions such as split mortgages, much trumpeted on the airwaves. That is a chasm of disconnection. The Leader should tell the Taoiseach to do this House and the people the courtesy to begin to practice at home what he preaches internationally, start getting rid of the chasm of disconnection in this country and start listening to the people and giving them the benefit of the so-called recovery.

Senator Ivana Bacik: I strongly welcome the publication yesterday of the referendum wording for the marriage equality referendum by the Government. It was an historic day to see the straightforward, clear and concise wording put forward. It received an almost universal welcome, certainly from across the political spectrum, and also in a joint press release from the Gay and Lesbian Equality Network, the Irish Council for Civil Liberties and Marriage Equality. Those three NGOs, which have been to the fore in campaigning for marriage equality, have very much welcomed this wording. Hopefully, it will be passed in May. Many of us will work very hard to ensure that it is and we very much hope it will be. If passed, it will lead to full equality for all our people. I look forward to the debate on that in this House and I strongly welcome the wording.

Yesterday we also had an historic day with the introduction of the Gender Recognition Bill in the Seanad, an important step forward for recognition of transgender and intersex persons in Ireland. Many of us welcome the fact that the Tánaiste decided to initiate the Bill here in the Seanad. The Visitors' Gallery was full of people who had a direct interest in the Bill and we had an excellent debate. We look forward to the debate resuming next week.

I wish to refer to another strength of the Seanad - cross-party motions. I commend Senator van Turnout, in particular, on the motion she tabled on Childline. I was happy to second her motion. It received unanimous support in this House and heavily influenced a change in tack in terms of renewed funding for Childline.

Yesterday, Senator Leyden referred to the *Charlie Hebdo* massacre and other Senators referred to the Boko Haram massacres in Nigeria. I wonder if we could table a cross-party motion condemning the massacres. That might be an appropriate way to mark them in this House.

Senator Terry Leyden: That is a very good idea.

Senator Ivana Bacik: I am happy to work with other Senators on the motion.

I congratulate Patricia King on her appointment as head of ICTU to replace David Begg in

March. I welcome the decision, as she will make an excellent leader of the Irish Congress of Trade Unions. As other Members did yesterday, I commend the appointment of Kevin Vickers as the new Canadian Ambassador to Ireland. He received his credentials yesterday from President Michael D. Higgins.

Finally, I look forward to the ECB announcement today on the stimulus package and on quantitative easing. There have been various reports about how much the package will cost. It seems that it will cost €1 trillion, but the bank will spend €50 billion per month on buying bonds and seeking to stimulate the European economy. That is a welcome development and I look forward to a debate here on the economy and the influence the decision will have on the ECB.

Senator Sean D. Barrett: I ask the Leader to amend the Order of Business as I would like to introduce No. 14 on the Order Paper - the Universities (Development and Innovation) (Amendment) Bill 2015. I also propose that Second Stage be taken on 28 January.

I wish to express concern about the poverty numbers issued by the Central Statistics Office yesterday. They indicate we have a major task ahead of us in the Parliament and as legislators. The figures show that the median disposable income has fallen from €20,000 to €17,000 since 2008. Figures by the European Anti-Poverty Network tell us that 31% of the population suffer from deprivation and that figure is up from 14% in 2008. The statistic is based on not being able to afford two or more items from a list of 11 basic items. Also, 37% of children suffer from deprivation, and that percentage is up from 18% in 2008. These figures show that we need to focus on the people who have been left behind, as the Taoiseach and Senator Norris have said.

In the evidence given to the Joint Committee on the Banking Inquiry by Governor Honohan, he stated that he felt he was too optimistic and that the bank guarantee and rescue, and the €40 billion net that was required for same, was visited substantially on low-income people. This House needs to address the matter. Perhaps we should have fewer universal benefits and more selective schemes for people who experience poverty. The number of people affected by poverty has been indicated to be rampant, and this is evidenced in the figures published by the Central Statistics Office yesterday.

Senator Michael Mullins: The issue I wish to raise today has serious implications for agriculture, the integrity of the institutes of technology and, most importantly, the employment prospects of college graduates. I refer to the refusal by the Department of Agriculture, Food and the Marine to recognise graduates of the honours degree in rural enterprise at the Galway-Mayo Institute of Technology, at Mountbellew Agricultural College, for employment as farm advisory service planners for the new GLAS scheme due to commence in February.

The Department has said that the problem is due to the lack of a soil science module in the GMIT-Mountbellew Agricultural College programme. A detailed appeal by the principal of Mountbellew Agriculture College outlines that the subject is covered under modules of a different name. However, the Department now only recognises the courses delivered by UCD and WIT. In fact, the WIT BSc in land management and the GMIT-Mountbellew BSc in agricultural and environmental management commenced in the same year and were designed together in 2000-2001 with the same objectives in mind.

Mountbellew Agricultural College, which has been in existence for 100 years, became a partner with GMIT in 1987 in the delivery of agricultural education. GMIT and the Mountbellew college collaborated with Teagasc in the design and content of FETAC and HETAC

courses. A strong emphasis is placed on practical and work experience. Many GMIT-Mountbellew graduates are already employed by Teagasc and other environmental agencies and work on REPS and other agricultural and environmental schemes.

The decision taken by the Department has major implications for graduates of GMIT-Mountbellew, because they will be excluded from the employment opportunities presented by the new GLAS scheme. Teagasc has contracted out much planning work to the Farm Relief Services and it wants to employ some GMIT graduates. Interestingly, in recent weeks, while the GMIT-Mountbellew appeal was being considered, the Department of Agriculture, Food and the Marine provided training on the new GLAS scheme for their graduates.

I ask the Leader to urge the Minister for Agriculture, Food and the Marine to get involved in this matter as a matter of urgency. The course should be recognised and, if necessary, some minor adjustments made to the syllabus in future years. The fact is that students want to attend colleges and work in their own regions, so it is critical that the qualifications at GMIT-Mountbellew make graduates eligible for employment as farm advisory service planners. This is a particularly serious issue for the west of Ireland and for all graduates who, having graduated, understood they would qualify to be farm planners for this new scheme. I ask that the Minister get involved and resolve this matter over the coming weeks.

Senator Terry Leyden: I second Senator Barrett's amendment.

Senator Sean D. Barrett: I thank the Senator.

Senator Terry Leyden: I agree with Senator Bacik's proposal to table a joint motion on the issues that arose in regard to Islamic State and the activities of terrorists. When one goes abroad to attend Council of Europe meetings one learns that motions passed by Parliaments are very significant. Sometimes we take such things for granted and deem them not so significant, but I know these motions are significant and attract international attention. Therefore, it is important that this House table a motion. I ask Senator Bacik to arrange such collaboration through her office and I can confirm that my colleagues are delighted to be associated with the motion.

I commend Senator MacSharry on his clear and concise speech, which I hope gets widespread media coverage. He spoke an awful lot of truth, particularly about the euro.

I appeal to the ASTI, the TUI and the Minister to come together. It is outrageous that on a day in 2015 as many as 350,000 students are not at school and that 27,000 teachers feel so strongly about the issue that they chose to give up two days of work. Let us remember that teachers are under pressure to pay their mortgages, yet they have chosen to take industrial action. I am married to a very experienced teacher who took early retirement. When I discussed this matter with her she said that a teacher is a pupil's advocate and that their job is to teach a pupil to the best of their ability but not to be judge and jury in an exam situation. We must also remember that in rural areas teachers live in the same communities in which their students and the students' parents reside. Therefore, it is extremely difficult for them to conduct an assessment that will affect the future of a student. It must be an outside assessment, but 40% is far too much. There are 730 schools closed today, which shows the intransigence of the Government, and now it is not prepared to negotiate. It has been called on to resolve the dispute forthwith.

I wish to welcome two students from Athlone here today. As their teachers are on strike, they decided to travel with their father to see Leinster House in action. It is a good use of their time and I hope they will learn a lot about this House.

Senator Aideen Hayden: I echo the concerns expressed by my colleague, Senator Sean Barrett, on the EU Statistics on Income and Living Conditions report on poverty in Ireland. I refer in particular to the finding that one in eight children now live in poverty. We are pulling ourselves out of recession and there is hope on the horizon. Yesterday, it took me more than one hour to get home but there are some prices to be paid for the improvement in the economy. However, one quarter of our population are not able to afford to heat their homes and the deprivation rates are higher than they have been since 2008. I would like a debate with the Minister for Social Protection on poverty and our priorities for addressing it.

I refer to quantitative easing. Before we get all excited, we must remember that no firm deal has been done yet, in particular around how the risk is to be spread. There is a difference of opinion between Germany, for the sake of argument, and Ireland and Italy as to how this will play out in terms of risk-sharing. We are back to some of the debate happening in the banking inquiry as to where we are going in Europe in terms of burdens and risks and who will take them.

In that context, I have concerns not only about the whole issue of quantitative easing, because I am sure some deal will be struck at the end of the day, whether it is €50 billion on monthly basis, a round figure of €1 trillion or whatever it happens to be, but the bottom line is that Europe, in spite of devaluation, of low oil rates and of a euro that is effectively at parity with the dollar, has not been able to pull itself out of recession. I ask the Leader for a debate on this issue. One of the biggest pieces of evidence of that is in terms of the Europe 2020 Project, in particular around the poverty figures in Europe. More people are experiencing poverty in the European Union now than when the Europe 2020 strategy began. I would like a debate on the whole issue of Europe, in particular looking at the Latvian Presidency and its priorities and on the wider issues, not just of quantitative easing but of the wider European programme and the whole issue of solidarity among European countries.

Senator David Norris: I join Senator Bacik in commending the Government on its very clear and concise wording for the amendment, which leaves no doubt. However, I do not think the amendment was necessary because it seems to me that the Constitution is perfectly open to same-sex marriage and, as I have said, this was demonstrated many times in this House and as long ago as 1967 by the then Attorney General, Declan Costello, who pointed to the fact that the vagueness of the wording left it open to marriage of persons of the same gender. There has been some case law but the Constitution is a developing organism and continues to live and reflect the conditions. It does not reflect the conditions simply of 1937.

When 80% of the Irish people want same-sex marriages to be approved, one has the overwhelming bulk of popular opinion supporting this. I am glad there will be a debate and I hope it will be an informed and reasonable one. I heard our colleague, Senator Rónán Mullen, on the wireless yesterday. He raised the issue of children and this do not hit me with a baby in my arms kind of thing. However, 25% of children are born outside marriage. Grandmothers and mothers, two women, raise children and nobody loses their wig over that one, so I am not sure what he is talking about. He said he was all in favour of equality but I did not notice that when he spoke on the civil partnership legislation and when he, with some of his other colleagues who disgraced themselves, tabled some of the most obscene amendments I have ever seen in this House. I remember hearing him on RTE saying that gay people wanted children as fashion accessories. That may be his idea of a balanced argument but it is certainly not mine.

I look forward to a debate and I hope people will register to vote and that young people will

come out to vote because I do not buy this 80%:20% figure as a final result of the referendum. I think it could be lost by people being apathetic, by people on the other side raising all kinds of scares and by the intervention of the church. I appeal to people to get active in this debate, to register to vote, to talk to their families and to make contacts in the country where there is a resistance to this kind of idea. I think it would be very good in the 21st century that Ireland at last joins the growing number of countries which accept this practice.

Senator Michael Comiskey: I agree with my colleague, Senator Michael Mullins, in regard to the graduates from GMIT. It is vitally important that those graduates are recognised because we will need them in the spring. There will be jobs there for those people, so this is vitally important. This issue was raised earlier this morning with the Minister for Agriculture, Food and the Marine, Deputy Coveney, who is looking at it. We will all continue to work with him to ensure this problem is resolved.

I welcome the good news early in the new year that the US beef market has been opened up to us, having been closed since 1996. This is very good news, in particular as 2014 was a very difficult year for the beef sector in Ireland. Since the market has opened up, we can see an improved price for store cattle and for beef.

I also welcome the progress made on the rural development programme. We hope GLAS, about which I spoke earlier, will open up in the springtime. That is when we will need those students to help farmers prepare their plans for GLAS. I hope 2015 will be a very positive year for the farming sector.

Senator Mary M. White: I was not able to attend myself but yesterday the Joint Committee on Education and Social Protection heard senior people in the ESRI speak about the cost of child care prohibiting parents, in particular single parents, from getting back to work. I am hosting a public forum on child care challenges on 13 February in Sandyford community centre. The whole issue of child care is still under the radar and many other issues related to child care are not being vented.

We heard all the praise the Government got from Madame Lagarde on how brave we are, etc. but we really must highlight the Government's failure to protect so many people who are in poverty. Yesterday the CSO launched its Survey on Income and Living Conditions 2013. Some 1 million people are living in poverty. That is a key issue for this House to address and we have an opportunity to do so.

On Saturday last, I attended a conference held by Single Parents Acting for the Rights of Kids, SPARK, and I was quite taken aback to know that there are 40,000 single-parent families. The figures the CSO announced yesterday are no surprise to SPARK because yesterday the Department of Social Protection was preparing to send out 58,000 letters to one-parent families informing them of changes which will happen in July and will result in a further loss of €86 per week for one-parent families. I do not know how the Minister, Deputy Burton, can call herself a Minister for Social Protection because she is taking a brutal sledgehammer approach to dealing with lone parents. I would like to know what it is about. SPARK is focusing on the whole issue of kids because the single-parent issue on its own is not getting the traction required. That organisation believes the cuts and changes introduced in budget 2012 led directly to increased poverty among one-parent families, which came through very blatantly in the CSO report yesterday.

22 January 2015

I call for an urgent debate on the CSO Survey on Income and Living Conditions 2013 and I support this group, SPARK, which is an outstanding, articulate and brilliant group. I am putting my heart and soul into helping it.

Senator Marie Moloney: I pay tribute to and congratulate Ms Patricia King, the general secretary-elect of ICTU. She will be the first woman to take over this role and she was the first woman to serve as a national officer of SIPTU when she was appointed vice president. She is a very formidable woman who was a lead negotiator in the Croke Park and Haddington Road agreements and is also a member of the body tasked with the implementation of the Haddington Road agreement. She also played a role in the Irish Ferries dispute in 2005-2006, and in subsequent negotiations saw the overhaul of employment rights legislation and the establishment of the National Employment Rights Authority. I wish Patricia the very best in her new role. I know that she will be a formidable woman and that she will be very involved in collective bargaining in any new future agreements. She will always represent the rights of workers in this country.

Senator Feargal Quinn: A very interesting debate is due to take place in the other House tomorrow. It concerns the parliamentary representation and conscience Bill. It would be worthwhile paying attention to what happens in that debate tomorrow. If passed, the Bill will introduce a new section into the Constitution stating:

The Members of each House of the Oireachtas [that includes us, of course] shall be representatives of the whole people, not bound by orders or instructions, and responsible only to their conscience.

I mention this because one of the disadvantages we have had in both Houses over the years is when people stand up and say they agree entirely with the Opposition but they are going to vote in a different way. I believe that is incorrect. Four countries that I know of - New Zealand, Australia, Germany and the Netherlands - have such a conscience clause in their legislation. There have been examples in this House of people saying they were going to vote against their conscience because they had been told to do so. It is a topic that is worthy of discussion and it will be interesting to see what happens to that legislation tomorrow. Regardless of whether it is passed, it is a topic that deserves attention. We have had too many instances in this House and the other House where people have said they disagree, that they are going to vote against their conscience and that although they were elected by a group of people, they are going to vote against their wishes. That is not good parliamentary representation and we should consider how to get that changed in the years ahead. It is not an urgent matter at this stage, but we should keep our eye on what happens tomorrow in the other House. We should then decide whether to have that debate in this House at some point in the near future.

Senator Cáit Keane: I wish to raise the issue of children living in poverty, which was also raised, rightly, on the Opposition benches. We had a good debate yesterday on child care and what it provides, particularly for children from disadvantaged areas. The Minister for Education and Skills attended the House yesterday and child care and preschool education come within her brief. An intergovernmental group has been established to bring together all those dealing with child care, health care and education. In this regard, the Minister for Health and the Minister for Children and Youth Affairs should co-ordinate their efforts concerning the report of that intergovernmental group.

In schools, there is one inspection by the Department of Education and Skills, while it is proposed that there should be two inspections for preschools. Heretofore, only child care and welfare facilities were inspected. Now, however, the Minister for Education and Skills is rightly setting up a new inspectorate to inspect the educational side, but the two should be joined together. I am seeking a full debate on these matters.

We had a good, fruitful debate with the new Minister yesterday, but I want a further debate to ensure that inspections are co-ordinated and synchronised. We should also debate national payscales and continuing professional development for preschool teachers. The best way of taking a child out of poverty is to ensure that they are able to get, and that every one of them gets, a preschool education.

It has been said that the single parent benefit was linked to the provision of preschool facilities, especially for deprived children. A previous speaker referred to a chasm of disconnection, but we cannot afford to have a chasm of amnesia either. We do not want to cut anybody's benefits. Some €7.5 billion was paid off our debt of €180 billion this year.

Senator Marc MacSharry: That was for servicing the debt, not paying it at all.

Senator Cáit Keane: There will be extra money to ensure that something is done for preschools and all children who need it, and that something is done about poverty.

Senator Mary M. White: We started free child care.

An Cathaoirleach: No interruptions.

Senator Cáit Keane: As I said, we paid €7.5 billion back on the debt in 2014.

Senator Marc MacSharry: That was an interest payment.

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

Senator Cáit Keane: We can afford it this year because we have €2 billion.

Senator Marc MacSharry: The chasm of disconnection is contagious in Fine Gael. It is not just the leader.

An Cathaoirleach: Senator Keane, without interruption.

Senator Cáit Keane: We can go back to addressing priorities.

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

Senator Cáit Keane: I have. First, the Minister for Children and Youth Affairs and the Minister for Health should co-ordinate with the Minister for Education and Skills on inspections, training, continuing professional development, and the intergovernmental group that is tasked with examining child care and preschool education.

Senator Marc MacSharry: There is a disconnection within the Government.

Senator Kathryn Reilly: Yesterday's CSO survey on income and living conditions has been the topic of much discussion, including in this House. It revealed that more than 1 million people suffered enforced deprivation in 2013, which was more than double the figure prior to the economic crash. Suddenly, for the media and many politicians, poverty and deprivation

sprang back up on the radar.

However, I raised this issue with the Minister of State, Deputy Simon Harris, during the debate on the Finance Bill last year. I reminded him that behind all the statistics and announcements of growth and job creation, lay a grim reality that does not feature very much in parliamentary discourse, unless a report like that released yesterday arises. We often see, however, that such reports are swiftly forgotten once the headlines die down.

Recent European Commission data show that Ireland has much higher levels of deprivation and poverty than most other comparable EU countries. At present, material deprivation in Ireland is around 58% higher than the EU-15 average. A quarter of Ireland's population live in material deprivation. When I raised this issue with the Minister of State at that time, I recalled Michael Taft's blog. He said the fact that 1 million people are living in deprivation and nearly one in three children suffers deprivation is an economic, social and moral indictment of the priorities of a Government that privileges tax cuts over poverty reduction.

Last year, an ESRI report showed that those on the lowest incomes have lost the greatest amount of household income as a result of budget 2015. We are seeing a terrible picture emerging. The ESRI report said that budget 2015 will have its greatest impact on the 10% of households with the lowest incomes. It is impossible for us to enhance growth if we are burdened with these deprivation levels. We need to prevent the further development of a two-tier economy. In light of yesterday's CSO survey, will the Leader arrange a debate on poverty, income distribution and material deprivation? It is important to have such a debate as soon as possible.

Senator Terry Brennan: In three days' time, we will recall the second anniversary of the callous killing of Detective Garda Adrian Donohoe in the community of Lordship in north Louth. It is only right, proper and appropriate for us to do so. It is difficult to believe that two years have passed since that happened. *Tempus fugit*, time flies. It is difficult to accept that the callous killers are still at large. The Minister, Deputy Frances Fitzgerald, and the Garda are totally committed and focused on ensuring the killers and perpetrators are tracked down as soon as possible. We are all aware that the killing of a detective garda in the course of his or her duties is a callous and serious crime.

Senator James Heffernan: Hear, hear.

Senator Terry Brennan: The investigation is ongoing on a daily basis. The Garda is totally focused. Once again, I appeal to anyone who has information that could bring this investigation to fruition to speak up. Co-operation between the Garda and the PSNI is to be applauded but we need the help and support of individuals in south Armagh and in north Louth. They can use the confidential lines to ensure the perpetrators are brought to justice as soon as possible.

Senator James Heffernan: I join with Senator Brennan in calling on the public of south Armagh, north Monaghan and north Louth who have information about the killers of Detective Garda Adrian Donohoe or the brutal murder of young Paul Quinn not to be intimidated by the criminal gangs operating in the area and to come forward and help the Garda and the PSNI with their investigation. Those monsters cannot be tolerated in any modern civic society. They have no place in it. The same is true of those who callously murdered Garda Jerry McCabe in Adare in my constituency and who tried their best to murder Garda Ben O'Sullivan when both men were carrying out their duties as members of the police force. Those people have no respect for law and order. They are a law unto themselves. They operate with impunity through intimi-

dation and psychological harassment. That cannot be tolerated as it has no place in society. I commend Senator Brennan on bringing this issue to the fore. I support his appeals to the people of those areas not to be afraid and to come forward with information that will nail the people who carry out such acts.

Senator Martin Conway: Yesterday, I called for the Minister with responsibility for the Office of Public Works to come to the House to outline what exactly is involved in retaining protected structures. I have spoken to many in the north Clare area in the past 24 hours since the news broke about the National Roads Authority's decision to make €6 million available to demolish homes and businesses in order to eliminate what is probably the biggest bottleneck in the country at the moment, namely, Blake's Corner on the N67. However, there is an alternative to all of that, namely, to build a bypass of the town of Ennistymon. For some time an area has been reserved in the County Clare development plan to facilitate a bypass of Ennistymon, which would facilitate the 1 million plus visitors every year to the Cliffs of Moher and the many hundreds of thousands visiting our coastal communities of Fanore, Doolin and as far as Mil-town Malbay. For the sake of an extra few million, a bypass of the town of Ennistymon must be put back on the agenda. I call on the Leader to request that the Minister for the Environment, Community and Local Government or the Minister for Transport, Tourism and Sport come to the House to outline how he intends to deal with the biggest bottleneck on the N67 and to give an indication of why the NRA would not consider a bypass of the town of Ennistymon. A bypass is definitely back on the agenda and I would be interested to hear what the Minister has to say about it. We have dealt with the major primary road infrastructural projects. The bypasses of Ennis, Tuam and Gort are all well under way at this stage. We must identify towns that have been choked as a result of traffic, particularly rural towns that do not have the benefit of large populations. A million people visit the Cliffs of Moher every year but, unfortunately, the town of Ennistymon is not benefitting to the degree it should from that, simply because of the bottleneck on the N67. A bypass of the town would be most appropriate at this time.

Senator James Heffernan: It is time to knock down the bridge.

Senator Rónán Mullen: Before the Christmas break I raised on the Adjournment the issue of procurement anomalies in the West-North West Hospitals Group, now known as Saolta. Various issues arose in regard to the group and the awarding of particular contracts. Connections subsequently emerged between the recipients of those contracts and management at the highest level of Saolta. The Leader will remember that an issue arose in regard to a report on the provision of maternity services and later it emerged that the Northgate Public Services organisation was awarded a lucrative contract. Again, there appeared to be a connection with the senior management of the group.

An Cathaoirleach: That is clearly identifiable.

Senator Rónán Mullen: The matter is already on the record in this House in the context of the matter I raised at the time. I do not ask the Leader to address the issue formally but ask that he kindly inquire of the Minister. The Minister for Health, Deputy Varadkar, assured me that an investigation that is under way by the HSE into the events would be completed by the end of December. That date was relevant because I said the outgoing CEO of Saolta should not proceed to his new role in the north-east region or at least that the appointment should be suspended until it is clearly established-----

An Cathaoirleach: That is clearly identifiable. Does the Senator have a question for the

Leader?

Senator Rónán Mullen: I would be grateful if the Leader would find out what has happened to the HSE report which we were told would be completed by the end of December. What are the results and findings of the report and what are the implications for the personnel involved? This is a serious matter because it relates to the spending of public money.

Very briefly and finally, I support every word of what Senator Feargal Quinn said about the Parliamentary Representation and Conscience Bill in the other House. We are facing into a period of Irish politics when, with all the debate that is going on about the new politics we need, the need for politicians to be accountable to their electorate and not to make promises-----

An Cathaoirleach: Senator Mullen is way over time.

Senator Rónán Mullen: -----before an election and then break them. With the forthcoming referendums, there is a real chance in the coming weeks and months for the Government to say it will put the legislation to the House so that when it comes to a referendum each Member will be free to give whatever direction he or she sees fit to the electorate without fear of reprisal from the party leadership.

Senator Maurice Cummins: Senator MacSharry spoke about connection to the people and the Taoiseach's lack of such connection. I suggest to him that the Taoiseach and the Government have cleared up the mess his Government left them-----

Senator Marc MacSharry: What about the people?

Senator Maurice Cummins: -----and are creating jobs, which is of paramount importance. When one sees 80,000 jobs-----

Senator Marc MacSharry: I charged him with disconnection from the people.

Senator Maurice Cummins: -----created since the Government came into being-----

Senator Marc MacSharry: Jobs for the boys.

Senator Maurice Cummins: A total of 250,000 jobs were lost in the private sector in the three years.

Senator Marc MacSharry: Senator Mullen was right.

Senator Maurice Cummins: I know Senator MacSharry does not like to hear the facts, but it is the case that 250,000 jobs were lost in the past three years of the Government of which Fianna Fáil was a part. I suggest there was a very big disconnect between the Government and the people, and the people showed that that was the case.

Senator Marc MacSharry: The people have adjudicated in the election. We must now hold the Government to account.

An Cathaoirleach: The Leader should be allowed to respond without interruption.

Senator Maurice Cummins: Senator MacSharry has a neck to talk about a disconnect.

Senator Marc MacSharry: I do not need a neck; I have a mandate, just like Senator Cummins.

An Cathaoirleach: The Leader should be allowed to speak without interruption.

Senator Maurice Cummins: Senators Bacik and Norris welcomed the Thirty-Fourth Amendment of the Constitution Bill. As Senator Norris indicated, the Government approved the wording yesterday. That wording runs to the effect that “Marriage may be contracted in accordance with law by two persons without distinction as to their sex”. The referendum is about equality, extending the equal right to marry to all couples and removing the barriers which deny some couples the opportunity to marry and have relationships that are constitutionally protected. The proposal to be put before the people will not in any way affect the current constitutional position regarding marriage. I agree with Senator Norris in respect of opinion polls showing an 80-20 split among people on this issue. I do not believe the final outcome will be anything like that. A very strong campaign is going to have to be fought - I am sure this will be the case - on both sides. I am of the view that the proposal is a very worthy one and we will have ample opportunity to discuss the Bill when it comes before the House.

Senators Bacik and Moloney welcomed the appointment of Patricia King as the new president of the Irish Congress of Trade Unions, ICTU. I am sure we all wish Ms King well.

I accept the amendment to the Order of Business proposed by Senator Barrett, namely, that No. 14 be taken before No. 1. We look forward to discussing the Senator’s Bill next week.

Senators White, Reilly and-----

Senator Marc MacSharry: And MacSharry.

Senator Maurice Cummins: -----others commented on poverty and on the report published yesterday. The best way to tackle poverty is to get people back to work.

Senator Mary M. White: Yes and to facilitate that, the cost of child care must be reduced.

Senator Maurice Cummins: A comprehensive debate on this matter took place at yesterday’s meeting of the Joint Committee on Education and Social Protection. I am informed that no Fianna Fáil or Sinn Féin representatives were present at that meeting.

Senator Marc MacSharry: Is that a fact? There are so many Government Members in the Dáil they are falling all over each other. Fianna Fáil only has 18 Deputies.

Senator Maurice Cummins: The Senator is calling for a debate in this House-----

Senator Mary M. White: He certainly is.

Senator Marc MacSharry: This is the forum-----

An Cathaoirleach: The Leader, without interruption.

Senator Marc MacSharry: -----in which it should be discussed.

(Interruptions).

An Cathaoirleach: The Leader, without interruption.

Senator Maurice Cummins: Fianna Fáil cannot have it every way.

Senator Marc MacSharry: On a point of order-----

22 January 2015

An Cathaoirleach: Senator MacSharry on a point of order.

Senator Maurice Cummins: The Senator is not going to raise a point of order.

Senator Marc MacSharry: -----it is only fair that the Leader should acknowledge that we have passed motions to show-----

An Cathaoirleach: The Senator should resume his seat. That is not a point of order.

Senator Marc MacSharry: -----that Senators on this side are committed, in the first instance, to the business of this House.

An Cathaoirleach: The Senator should resume his seat.

Senator Marc MacSharry: That is how they will be involved. As the Leader well knows, the only exception is the banking inquiry.

Senator Maurice Cummins: If the Senator were a Deputy he would know a lot about it.

An Cathaoirleach: Senator MacSharry should resume his seat.

Senator Marc MacSharry: It is not a matter for the Leader's party to decide what can or cannot be debated in this House. The Seanad is representative of the people and, regardless of whether Fine Gael likes it, Senators are entitled to engage in debates on behalf of the people.

An Cathaoirleach: Senator MacSharry should resume his seat and show respect for both the House and the Chair.

Senator Maurice Cummins: Senators Mullins and Comiskey referred to farm advisory service planners and the difficulty which has arisen regarding Galway-Mayo Institute of Technology, GMIT, and qualification requirements. I was delighted to hear from Senator Comiskey that a meeting took place with the Minister for Agriculture, Food and the Marine earlier today and that the latter is going to try to resolve this issue.

Senator Leyden referred to the teachers' strike. It has been agreed by all sides that the Minister has come a long way in the negotiations. This House has called for those negotiations to continue. The Minister is open to further negotiation. However, both unions are going to have to come some way as well in the context of the negotiations. It is in no one's interests to have children out of school and teachers on strike. I hope there will be fruitful negotiations in early course in order to try to resolve this problem.

Senator Hayden called for a debate on the priorities for addressing poverty. I note her comments in respect of quantitative easing. I am sure the House will debate that matter in early course.

Senator Comiskey referred to the reopening of the US markets to Irish beef exports. This development is already giving rise to positive results for farmers.

Senators Quinn and Mullins referred to a Private Members' Bill, the Thirty-fourth Amendment of the Constitution (Members of the Houses of the Oireachtas) Bill 2014, which relates to parliamentary representation and conscience. I am sure that if this legislation is passed by the Dáil, the Seanad will have ample opportunity to discuss it. Alternatively, similar legislation might be introduced here at some point and that would allow us to debate the matters to which

the Bill in question relates.

Senator Rónán Mullen: We would like to hear the Leader's views on those matters.

Senator Maurice Cummins: I assure the Senator will hear my views when any such debate takes place here.

Senator Keane requested a further debate on child care. The House engaged in a very good debate on that early years education yesterday. I note the points she made to the effect that inspections should be co-ordinated and synchronised. I will try to get the Minister for Education and Skills to come before the House to discuss the matter to which the Senator refers.

Senator Cáit Keane: The Minister for Children and Youth Affairs should come before the House to discuss it.

Senator Maurice Cummins: The Senator also mentioned the interest on the State's debt, which is significant. Some €7.5 billion in interest was repaid on our debt in the past year. The Government is placing emphasis on the need for balanced budgets in order that we might achieve a surplus and thereby increase our level of investment in child care and many other worthy areas.

Senators Brennan and Heffernan referred to the Garda investigation into the murder of Detective Garda Adrian Donohoe. Both indicated that the case remains open and urged members of the public to provide information to the Garda. There is no doubt that many people have information relating to this matter and are not giving it to the Garda. Senator Heffernan also referred to the murder of Paul Quinn, in which several individuals were involved.

Senator James Heffernan: The same people.

Senator Maurice Cummins: As the Senator indicated, those people have no respect for either law and order or the lives of others. It is of paramount importance that people should stand up to intimidation that is obviously occurring in the part of the country to which Senators Brennan and Heffernan refer and throughout the Border counties in general. As a mark of respect to Garda Adrian Donohoe and Paul Quinn, it would be appropriate if citizens provided any information they may possess to the Garda in order that the monsters who perpetrated their murders might be brought to justice.

Senator Conway referred to the retention of protected structures. Yesterday, the Senator suggested that such structures should be knocked down.

Senator Martin Conway: That is still the case.

Senator Maurice Cummins: He is also seeking the provision of a bypass at Ennistymon.

Senator Diarmuid Wilson: And a bypass of Fine Gael.

Senator Maurice Cummins: It is clear the Senator is doing his work because he referred to three or four bypasses in the area in which he lives that are currently under construction.

Senator Diarmuid Wilson: He is a man of principle.

Senator Maurice Cummins: I am sure consideration will be given to the possibility of a bypass for Ennistymon. This matter can also be addressed by the Joint Committee on Transport

and Communications.

Senator Martin Conway: That is a good point.

Senator Maurice Cummins: Senator Mullen referred to procurement anomalies in the west-north west hospitals group. The Minister for Health suggested that an investigation into this matter was under way. I am not sure whether that investigation has been completed. However, I will ask the Minister when it will be brought to a conclusion, whether any findings will be published and what action will be taken.

An Cathaoirleach: Senator Barrett has proposed an amendment to the Order of Business, “That No. 14 be taken before No. 1.” The Leader has indicated that he will accept the amendment. Is the amendment agreed to? Agreed.

Order of Business, as amended, agreed to.

Universities (Development and Innovation) (Amendment) Bill 2015: First Stage

Senator Sean D. Barrett: I move:

That leave be granted to introduce a Bill entitled an Act to amend the Universities Act 1997, to develop the operation of the universities, to encourage education, innovation, research and scholarship in the universities, and to make provision for related matters.

Senator Diarmuid Wilson: I second the motion.

Question put and agreed to.

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

Senator Sean D. Barrett: On Tuesday, 27 January 2015.

Second Stage ordered for Tuesday, 27 January 2015.

Sitting suspended at 1 p.m. and resumed at 1.15 p.m.

Appointments to State Boards: Statements

An Leas-Cheann Comhairle: I welcome the Minister for Public Expenditure and Reform, Deputy Howlin, to the House.

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): I welcome the opportunity to come to the House today to set out the details of the Government’s recently revised arrangements for ministerial appointments to State boards and to report on the progress we have made in implementing the new arrangements.

The revised model for State board appointments that was agreed last September is one of a number of measures that have been adopted or are being brought forward by the Government to create a new openness and transparency in the operation of public life. The overarching aim of these measures is as follows: to deliver greater accountability in the activities of all bodies and

agencies charged with delivering services to the citizen; to promote greater efficiency and effectiveness in the public sector; to rebuild public trust in our system of Government; to encourage enhanced participation; and to strengthen our democracy.

In regard to appointments to State boards, Senators will be aware of the arrangements already introduced by the Government in 2011. Under these arrangements, Departments were required to invite expressions of interest from the public on their websites when filling board vacancies in the bodies under their aegis. The intention was that all members of the public could apply for appointment and be considered for such vacancies. A new website portal, *state-boards.ie*, was created by the Public Appointments Service to offer a single dedicated point of contact to all Departments as a support to the existing selection procedures. In addition, persons being proposed for appointment as chairpersons of State boards were required under these arrangements to make themselves available to the appropriate Oireachtas committee to discuss the approach they intended to take in their new role.

I am informed that approximately 2,500 expressions of interest were received under these arrangements and 220 appointments were made from the applications received. Nevertheless, while these new arrangements were successful in opening up the appointments process for State boards and increasing transparency, the Government felt that even more could be achieved, and during the course of last year I brought a further memorandum to Government on this matter.

In September 2014, the Government agreed to introduce a new system for State board appointments, building on the earlier innovations we introduced in 2011. This revised approach has the following three key principles at its core: the promotion of wider access to opportunities on State boards; the establishment of detailed and comprehensive criteria for these roles; and the introduction of transparent and rigorous assessment of candidates under these criteria. In broad terms, the Government's objective was to have more openness and transparency in a process that encourages the best candidates to apply.

The September 2014 decision required the Department to prepare guidelines on the new process to be agreed by Government. In preparing these guidelines, officials sought the views of all Departments. They also met a number of interested parties, such as TASC and the National Women's Council, and engaged closely with the Public Appointments Service. The new guidelines, which were approved by the Government in November, set out clearly how the new appointments process for State boards is to work in practice. They contain requirements that apply to all State board appointments in terms of, for example, the calibre and quality of candidates and more open access to opportunities to serve on State boards, as well as broader public policy considerations relating to matters such as gender equality. The guidelines make it clear that, in the end, it is the responsibility of the relevant accountable Minister to make appointments, and the Public Appointments Service will support Ministers in this function by seeking to ensure the Minister receives a sufficient list of suitable candidates from those who have submitted expressions of interest to the Public Appointments Service to enable the Minister to exercise his or her choice from the names submitted.

Where, notwithstanding the Public Appointments Service efforts, its process has not yielded the number of suitably qualified candidates required or if an exceptional alternative candidate is separately identified by the Minister, the guidelines are clear that it remains open to the Minister to ultimately appoint board members other than those that emerge from the Public Appointments Service process, provided that candidates separately identified by the Minister are assessed by the Public Appointments Service and meet the criteria laid down for the specific

State board role.

I am confident that these guidelines will assist all Departments in engaging effectively with the Public Appointments Service to draw up clear specifications for board roles. Positions on State boards can then be openly advertised and expressions of interest sought from the widest possible pool of candidates, from which the Public Appointments Service can then assemble a shortlist for Ministers' consideration.

Although the guidelines have been in force only since last November, I understand that a number of appointment processes are already progressing within the new framework. These include, for example, appointments to the low pay commission and the Irish Fiscal Advisory Council, as well as the appointment of the chair of the new board of St. James's Hospital.

A number of clearly defined exceptions to the scope of the guidelines have been allowed. These relate, most notably, to entities such as the North-South bodies, which are governed under the Belfast agreement. Arrangements have been also made to accommodate the statutory role that the Oireachtas has already given to NewERA in regard to certain State board appointments. Let me take this opportunity to clarify the NewERA arrangements.

The House will recall that NewERA is the entity established by the Government to manage the State's shareholder function in regard to a number of commercial semi-State companies, for example the ESB, Ervia, Coillte Teoranta, Bord na Móna, EirGrid and Irish Water. The programme for Government contains a commitment to give NewERA statutory responsibility to advise relevant Ministers on appointments to the boards of the NewERA companies. This commitment was fulfilled, in statute terms, in the National Treasury Management Agency (Amendment) Act, passed by the Oireachtas during the course of last year.

NewERA and the Public Appointments Service have discussed their respective roles and have worked out a protocol that can apply to appointments to the boards of the NewERA companies I set out. These discussions were very much informed by the parallel process of seeking to fill vacancies on the board of Ervia using the new guidelines. It was agreed that these appointments will be subject, as much as possible, to the arrangements set out in the published guidelines, with appropriate modifications to take account of NewERA's statutory role, as set out in law. I intend shortly to bring the protocol arrangements between the Public Appointments Service and NewERA to Government for agreement, and publish it thereafter.

In conclusion, I wish to assure the House that the changes to the process of ministerial appointments to State boards that I have set out today are more than merely cosmetic. They are clear and substantial progress on the Government's reform agenda. In future, while Ministers will retain the legal authority to make the actual appointments, such appointments will be drawn from a list of qualified candidates selected on foot of a transparent and fair process administered by the Public Appointments Service.

There will, of course, be issues thrown up by the new arrangements. We have travelled further in reforming this process in the past three years than was achieved in the previous 90 years. To ensure the success of the new process, the Government has decided that a review will be carried out and completed within 18 months of these new arrangements coming into force in order to assess whether the revised model has been truly effective.

Senator Thomas Byrne: That was an extraordinary speech by the Minister. It was full of hope and promise and, of course, there was no mention of the ghosts at the banquet, namely, Mr.

McNulty and Senator Craughwell, which brought this process to light. We were told this was the most reforming Government in the history of the State. The public rejected the old ways in the election in 2011, but we saw more of the same.

We saw Fine Gael and the Labour Party, on a 2:1 ratio, appoint their friends, cronies, supporters, ex-councillors and relations to State boards. We see similar things happening in the Judiciary. There is no mention of it today, and I want the Minister to answer a question. Does the 2:1 ratio, which has been confirmed by a number of people on the record, apply to judicial appointments? What efforts will be made to reform that process?

This all came to light in September, as the Minister said, because of the shame and embarrassment caused by the shocking and unprecedented appointment of a person with no artistic experience onto the board of the Irish Museum of Modern Art, IMMA. In the months before and after that, we saw the former Minister, Phil Hogan, appoint quite a number of former Fine Gael and Labour Party councillors onto boards. Former Fine Gael councillors were appointed to the western development commission on €5,985 a year. Bord na Móna and NewERA, which the Minister mentioned, received political appointments over the summer, who were two people who failed to be elected in the local elections. The IMMA board showed the 2:1 process in operation. There were two Fine Gael appointments made, Mr. McNulty and a woman from Limerick, as well as a former Labour Party councillor who apparently had some experience in the arts. I will not fight that battle, but it was part of the 2:1 deal, which is on the record as being in place in this Government.

That is what has happened and what has been the record of the Government, despite the fact that the public rejected what went on before. Most of us thought it was deplorable and I never had a role in any State board appointments. I found some Ministers in the last Government were genuinely on the lookout for good people to do jobs, something I accept also happens in this Government. However, there is evidence that many of the bad practices have continued and will continue.

Let us consider the judicial appointments process. It was reformed many years ago, but the reforms have not worked. Towards the end of the last Government not many Fianna Fáil supporters were appointed, because there were not many left. That is the reality. The process started again in February 2011 when the current Government started putting people onto the judicial benches, many of whom were identified by party label. That is a fact. Some, but not all, were identified in newspapers. I am not saying they were not worthy, but it would be good if the Minister put on the record whether the 2:1 deal between Fine Gael and the Labour Party applies to judicial appointments. The lack of clarity does not do any good for the Judiciary. I am not making any comment about whether judges are good, bad or indifferent.

The Government was shamed and embarrassed by the activities of the Fine Gael Party in making a ridiculous appointment to the board of IMMA. The problem with the appointment is that it passed through a statutory procedure to see whether someone was qualified to run for the Seanad. On paper, the person was qualified because he was a member of the board of IMMA. When a Minister, using his or her powers, finds a fantastic candidate from outside the process, how will the Public Appointments Service tell him or her it does not think the person is qualified? It would be a brave group of people which would reject candidates for office after a Minister has suggested they be put on a board.

I am afraid what will happen will be similar to the Judicial Appointments Advisory Board,

and names will be put forward and the process will be completed but the Minister will be still able to put through other names. There will be a veneer of transparency and respectability. I am sure for very important boards, such as the board of St. James's Hospital, a Minister will be able to say fantastic people have been appointed.

I am certain the Fiscal Advisory Council cannot operate without people who have a relevant qualification, and the current Fiscal Advisory Council is an example of that. Such a board would never have been politically stuffed because it, by its very nature, requires people who are experts in the field. That is probably written in law.

I would like the Minister to comment on the 2:1 deal. Is it still in place? How does it operate in the context of the new arrangements? Is it in place for judicial appointments, which the Minister did not mention in his speech?

Senator Tom Sheahan: Following its meeting on 30 September, the Government announced a revised model for ministerial appointments to State boards. From 1 November, all appointments to State boards must be advertised openly on the State boards portal, *stateboards.ie*, which is operated by the Public Appointments Service. The list of available vacancies, along with a full list of State boards with their members, is available on *stateboards.ie*. After that meeting, the Minister for Public Expenditure and Reform, Deputy Howlin, commented:

These guidelines set out clearly how the new appointments process for State Boards will work in practice. They will assist all Departments to engage effectively with the Public Appointments Service to draw up clear specifications of Board roles. These can then be openly advertised so that the expressions of interest can be sought from the widest possible pool. The Public Appointments Service will then assemble a shortlist of suitable candidates for the Minister to select from.

Heretofore, that was not the practice. Under the previous Government led by Senator Byrne's party, there was a nod and a wink. This is what the Minister will do with this. He will get rid of the nod and the wink,-----

Senator Thomas Byrne: What about the McNulty affair and what about Bord na Móna?

Senator Tom Sheahan: -----and the back of the envelope, as Senator Byrne's party ran the country, in making its appointments.

Senator Thomas Byrne: What about that chap in Irish Water?

An Leas-Chathaoirleach: Senator Sheahan, without interruption.

Senator Thomas Byrne: They could not even find the name and address of one of the board members of Irish Water, except that he was-----

An Leas-Chathaoirleach: Senator Sheahan, without interruption.

Senator Thomas Byrne: His forefathers fought in the Civil War on the pro-treaty side. That is all they knew about him.

Senator Tom Sheahan: The Minister added:

This new process will improve corporate governance on our State Boards, widen the pool from which members of State Boards are drawn, and ensure that the process around

appointments to State Boards is transparent. I would urge anyone interested in serving on a State Board to visit *stateboards.ie* and express an interest.

One should not bother with the back of the envelope job.

In November 2014, the Government agreed the publication of guidelines entitled, Guidelines on Appointments to State Boards, to assist Departments in implementing the new arrangements for appointments to State boards. The guidelines were prepared by the Minister and following consultation with the Public Appointments Service, other Departments and interested parties and provide detailed guidance on the appointments process, including issues related to diversity.

I would like to comment, but I will not and will leave the Minister to do so, on judicial appointments. When commenting about judicial appointments, Senator Byrne is verging near the edge.

Senator Katherine Zappone: I welcome the Minister. I welcome the opportunity to discuss the system of appointing members of State boards.

The practice of appointments made with a nod and wink to State boards has no place in our open modern democracy and could damage our economic recovery. We all are in agreement that it is time to end the parish pump system of appointments once and for all and to ensure that the agencies of the State have boards with experience, talent and skills to guide them in the delivery of services to the people. I congratulate the Minister, Deputy Howlin, on his commitment to and work towards this, some of which he outlined in his speech.

I have two concerns that I want to put into this debate. The first one has to do with the diversity of backgrounds of those on State boards. The Minister has made a commitment to this, and there is a certain expression of that, both in what he stated today and also in the guidelines. However, I want to emphasise it and to ask some questions about it. We need persons of all backgrounds and from every section of society on State boards, and people of such diversity of backgrounds should be encouraged to apply. We need to get persons on boards with backgrounds ranging from community activism and public service to business or the arts. Such skills are needed to ensure that we have effective health, transport and education systems for the people, as well as expertise in job creation through investment, promotion of small business, and development of arts, sports and tourism.

I note, and the Minister also indicated, that access is a key objective in widening the pool in the appointment to State boards. Of course, I welcome the ongoing commitment and the specification, in terms of both gender equality and commitments to backgrounds, and also the note in the guidelines, if it is at 40%, to move it to 45% because 40% has been there for many years and there is no reason not to increase it. That is all good. I guess I am wondering about a commitment to, how to encourage and how to assess wider diversity of background. I also note in the guidelines the Minister commits to review the new model which he is putting in place which I think is excellent. No doubt the database will support that. That is part of the guidelines. In the database, as to what they are tracking, there might be some room for tracking types of diversity other than gender. That may be a way in which one could encourage that.

I welcome the website, *stateboards.ie*. I visited it today and it looks good. It provides an opportunity to break the golden circles. However, there is a need to increase awareness of the website. I am aware from my own communities in Tallaght, there is energetic community ac-

22 January 2015

tivism and a wide range of skills in the hospital, the institute of technology, high-tech business, the strong arts community and many more areas. I am sure all of us can speak about that from the places where we live and work. Those areas of people in Tallaght can provide persons of skill and ability who would be willing to give of their time to benefit their country but I suspect many of them are not aware of the website or the system of advertising vacancies. It would be helpful if the Government outlines how, beyond traditional journalism, it will reach out beyond political insiders to get persons involved. That would be my first area of concern on which the Minister might elaborate.

The second area has to do with remuneration in State boards. It is important to place on record that I am not opposed to remuneration for those who give of their time and provide service for the greater good. However, I am already on record here in October last in outlining my concerns about the disparity in the level of remuneration between the various boards. In October last, I was able to place in the public domain a partial list of remuneration offered to chairs and board members thanks to the research carried out by the Oireachtas Library and Research Service. For example, the chair of Bord Bia receives €20,520, and the chair of Horse Racing Ireland receives €21,600, while board members each receive €12,600. In the arts sector, the chair of the National Gallery receives €8,978 and all the board chairpersons of arts bodies receive approximately the same amount. The chair of the Adoption Authority receives €63,000. The Mining Board pays daily fees of €582.97. The Dublin Docklands Development Authority pays remuneration of €20,520 to its chair. We heard yesterday that the chair of Ervia is getting €31,500 a year while other board members receive €15,570.

We need to know how the figures are reached. I selected these random examples to demonstrate the degree of diversity that exists but, I suppose, the biggest surprise from my research comes from the Department of Education and Skills where there is only one board and chair in receipt of remuneration, namely, the Higher Education Authority, HEA, at €7,695. No other chairs or members of State boards in the Department of Education and Skills are remunerated according to the list that was developed. We need to raise questions with regard to the rationale for that, and the importance of those who contribute their time and qualifications to State boards in education. I suppose I am saying that while I am not against the payments, we need to know the rationale behind them and why the gaps between the various bodies are so wide. I also note that on the database there is no notification that one would also include remuneration in relation to the different State boards.

Those are the two primary areas I want to raise today. We need transparency on State boards. It is an important part of the change and I welcome the Minister's commitment to it.

Senator John Whelan: I am glad to have the Minister, Deputy Howlin, in the Seanad today.

We have taken a long time to get around to this debate on the issue of appointments to State boards and the broader question of political reform. It is long overdue. In Deputy Howlin's portfolio as Minister for Public Expenditure and Reform, the emphasis has necessarily been on the question of public expenditure and the financial side of it because the country has necessarily been obsessed and drawn down the road of having to deal with the financial and banking crises. To some extent, we must be fair. Senior commentators and pundits have stated that there has been no reform and nothing has happened. That is grossly unfair. It is necessary to acknowledge what the Minister has referred to as a suite of developments and proposals and legislation which have been put into effect and which will be to the good for the future. I refer

to the whistleblower legislation and the broadening and strengthening of the Freedom of Information Acts, which were torn asunder in the past. We in this House called for the establishment of a charities regulator and we now have the Charities Regulatory Authority. The issue of an independent Garda authority is being addressed. Not everybody is happy about that. At present we are dealing with the regulation of lobbyists, and the Registration of Lobbying Bill is currently going through the Oireachtas. One can say that we have come a long way in a relatively short time by providing in legislation to make known the people of influence who are lobbying Ministers, Government and Departments. Lobbying is a job, and we need to know who the lobbyists are and to whom they are speaking and the influence they are bringing to bear on them. It is important to put on record that we have made significant progress.

It was a joke in the past that if there were two people in a race for one appointment, all other things being equal, the Fianna Fáil man got the job. We have to move past that. I think Senator Byrne is not altogether correct in the allegations that he makes. We must be careful not to impugn the integrity of people who serve on State boards, of people who put their names forward to serve and of our Judiciary, which guards its independence jealously. I am not altogether sure we have driven this stake through the heart of stroke politics. I am not altogether convinced that we have finished with political cronyism and that we have seen an end to political patronage. We should be on the lookout, as the Minister has been, for opportunities to improve the protocols and procedures. We must make them as robust as possible. We live in a small country and it is regularly remarked that everyone knows everyone. It is difficult. Would we say that people who are involved in politics or who have political connections and associations with any party cannot be involved? Are we to say that being involved in a political party disbars a person from serving on a board? How far are we willing to go with this? We are trying to encourage people to get involved in public life and civic duties and to become involved in organisations and activities that will ultimately lead them to community politics. I do not think people should be penalised for that.

With regard to appointments to State boards that were made in the past - and this Government has dropped the ball on a few occasions with regard to appointments to State boards; we must put our hands up and confess that did not get it right on every occasion - there have been cases in which people were appointed who clearly had no clue about the responsibilities of a position and who did not have the skill set, qualifications or acumen to serve effectively and in the community interest on those boards. Some of the appointments were mind-boggling. There is no point in trying to point the finger at any individual. Now we are moving forward with a transparent system in which criteria are set down for the qualifications required. I have two questions and would like to red-flag two issues that have emerged with regard to my exposure to this new process. There is the question of transparency, openness and accountability. I am a member of the Joint Committee on Communications, Energy and Natural Resources, and recently there was a process to recommend names to the Minister for appointment to certain State boards. The joint committee invited expressions of interest and privately conducted cross-party vetting of the persons who applied. Some people have taken exception to that process, stating that it is not transparent enough. Perhaps that is something we must look at. What concerns me more is that, while we want to encourage people to serve on boards, I have a problem where there is an apparent, possible or potential conflict of interest. There is a danger in trying to serve two masters. Where somebody is actively involved in a business or an organisation that has a vested interest in the activities of a board and has a vested interest in the decisions that may be taken by that board, I think it is dangerous if board members have, or are seen to have, a foot in both camps. I accept that people in the course of their lives take part in all sorts of activities,

organisations and businesses, but there have been some glaring examples of people who did not have the qualifications for an appointment, and also examples in which people had a vested interest that in my view undermined public confidence in the decisions of the board.

It has arisen that an entire committee, not scoring political points, reached an unanimous decision of no confidence in the name that is put forward to chair the board, yet the Minister still proceeded, regardless, with that appointment. I do not want to impugn any person's integrity, good name or character but I think the process of vetting and establishing the person's bona fides and suitability is weakened if an unanimous recommendation from an Oireachtas Committee is not taken into account.

Senator Feargal Quinn: I welcome the Minister. This is a topic we have discussed before. I introduced a Bill last June and the Minister persuaded me to leave it in his hands because he intended to come up with new ethics in public office legislation. On that basis I was happy to leave it.

I remember, way back in 1979, there had been a 19-week strike in the post office as well as a significant failure in the telephone service. A report by Michael Dargan recommended that the then Department of Posts and Telegraphs should be divided and set up as two different organisations, one to look after the post and the other to look after telecommunications. There was quite a concern in Government at the time as to how it would ensure that the public would be put at ease. Michael Smurfit and I were approached to take over the two jobs, and it seemed to work very well and was accepted on that basis. Had we been told that we had to apply for the jobs, I am not sure that either Michael Smurfit or I would have done so. I have some doubt about this proposal that everything should be advertised and open. I understand the reason for it, but one will not always get the right people to apply for a job, partially because a person may not be used to making such applications, but also because he or she may fear being refused. One may say that if an individual is not willing to be turned down, he or she is not considered for the job. When I introduced the Public Service Management (Transparency of Boards) Bill to the Seanad in 2014, the primary objective was to ensure that people who commit to serve on the boards of public bodies do so because they have expertise that they are willing to share with the country. It was very clear that there was general dissatisfaction about the scandals that have taken place in State boards over the years. Senator Whelan is very good at explaining that changes have taken place. In particular, there was a lack of confidence in the current system, with appointments based on political connections and cronyism. I believe it is important that we find a way around that. How do we manage to achieve a system to recognise and safeguard the role played by people appointed to serve on the State bodies? The word that Senator Whelan used was cronyism. This can mean not enough skills are sought from those appointed to State boards, resulting in the basic lack of expertise that should in theory exist.

There is also a problem with the advertising of positions. There should be a legal requirement to advertise all jobs, be they in State or semi-State bodies, but this could dissuade people from applying. The lack of transparency in our current system means everyone does not always have a legal opportunity. I have often called for a public website on which information on every cent of taxpayers' money could be accessed easily. The Minister replied that there was such a site, but there is not. Such a website could include the salaries of public officials, including those in State bodies. Our system of parliamentary questions through which Deputies ask questions about salaries and appointments is antiquated. In this information age, those figures should be available on a website. We could save time and expense, particularly in terms of the charade that is parliamentary questions on these issues.

My Bill had three objectives. First, it would have precluded a person from serving on the board of a public body from being paid for that membership. Senator Zappone has discussed this matter, but the majority of people who are anxious to play a part on a State board do not need to be paid. By all means, though, they should be reimbursed for expenses.

Second, people who serve on the board of a public body would be entitled to be employed or engaged by that body only if he or she filed a declaration with the Standards in Public Office Commission, SIPO, detailing the payments received. Third, a person who serves on the board of a public body would be entitled to be reimbursed for vouched expenses only if he or she filed a declaration with SIPO detailing the payments received. The legislation would mean that unvouched expenses would not be reimbursed.

On this basis, I understand some of the criticisms that have been made. Senator Zappone mentioned the money that was being paid to people. In 1979 when my salary was £1,500, Mr. Michael Smurfit told me that he would not take the job unless he was paid £5,000. That was startling.

Senator Katherine Zappone: Did he get it?

Senator Feargal Quinn: Yes, but he immediately gave the money to charity. He wanted the State to show that it was willing to break the rules. There was a limit of approximately £2,500, £2,000 or the like to the amount that could be paid.

Deputy Brendan Howlin: It is a good job I was not deciding.

Senator Feargal Quinn: It went to charity, but he just wanted the State to say it was willing to break the rules to ensure we could succeed.

A number of steps could be taken. Today's debate will be useful and I hope it enhances the Minister's opportunity to take into account some of the points that have been made.

Senator Denis Landy: I welcome the Minister to the House and thank him for arranging this debate. For many years as a public representative, I have watched what has gone on in this country. Sometimes, I wondered whether we were even living in a republic or what criteria anyone needed to meet other than being a member of Fianna Fáil. I recall a member of that party boasting openly in public houses of keeping his people together by appointing 48 of them to State boards. That was his method of keeping the clan together and happy and of ensuring its members were available to him and his party when election time came. As a young politician, I sat through that in my area. Quite frankly, it disgusted me.

I support Senators Quinn and Zappone's remarks on people being remunerated. There are certain situations in which people need to be remunerated, some of which I will outline. For example, people who come from the community sector might not be in jobs or have financial rewards from other areas but have knowledge of and experience and expertise in community service. They cannot be debarred by being unable to afford to join State bodies. Equally, I do not see the point in well-heeled people being paid excessive amounts of money. There is a happy medium.

Regardless of the level of expertise or profession of a person who is involved in a community, anyone who has a political viewpoint or supports or is active in a political party should not be debarred. To do so would be to enter into farce. If one scratches deep enough, most people

who are active in and like to serve their communities and State have political views. Some articulate them by way of political activism. We cannot be whiter than the snows of January. We must be realistic. We are in an era in which people are less willing to come forward to serve, be it at community, State board or political level. There must be a happy medium.

As I sat in the Chamber for the past 45 minutes, I looked through different lists of the fine people who were on State boards and identified many of them. They come from all political parties and serve their communities and State in a strong and forceful way for the country's betterment. That many are involved in politics should not debar them automatically.

The system the Minister has put in place needs a bit of tweaking, as mentioned by Senators Zappone and Whelan, but it is a damn sight better than the system of my younger days when one Oireachtas Member boasted of appointing 48 members of his clan to State boards.

Senator Gerard P. Craughwell: This is my first time to have the pleasure of addressing the Minister. It is rather ironic that I do so on this issue. The very fact that I am standing here tells us that there is something rotten in the State board system.

Deputy Brendan Howlin: I would not quite put it like that, Senator.

An Leas-Chathaoirleach: Every cloud has a silver lining.

Senator Gerard P. Craughwell: Absolutely. Hats off to the Minister. He saw what was happening and acted immediately in September. I admire him for that greatly.

It is regrettable that we do not have a single Act that governs appointments to State boards. I agree with Senator Landy that being politically active should not debar someone from serving on a State board. Unfortunately, it always will be the case that the Government of the time will have the best knowledge of the people from their own parties. I have no difficulty with that.

New arrangements for appointments of State board members were introduced by the Government in May 2011. The Minister was responsible for this. Under that process, Departments were to invite expressions of interest. Unfortunately, this process was not followed. I am not referring just to the situation that led to my election, but to a number of cases.

2 o'clock Those who expressed interest and were deemed qualified were asked to appear before a committee of the Oireachtas for interview and to demonstrate how they could contribute to the board the relevant expertise, etc. I agree with Senator Whelan. Where the Oireachtas committee would have difficulty appointing a person who presented before it, there is no facility for the board to ask that the person not be appointed. This point feeds into Senator Quinn's position. Just as a board could reject a nominee, why would anyone in a public position want to put himself or herself forward and risk being rejected by the Oireachtas committee? We have not quite got the mix right. We want to attract the best and brightest, but I am not sure we have found the way to do so.

On 3 May 2011, the Taoiseach said that "the way [the appointment process] is structured means that only people with the qualifications, experience and competence would express an interest in the first place". I think I would agree with Senator Quinn that expressing confidence requires an application. Certainly, some high-flying businesspeople in this country would not be prepared to go through an application process. We run into a difficulty there. That is one for the Minister, rather than me, to sort out.

A former Minister in a previous Government, Eamon Ryan, went slightly further by giving authority to a committee to nominate individuals. It was a novel and progressive approach. Is there a case to be made now for a sort of three-way nomination process, in which expressions of interest would be one of the methodologies used? As Senator Whelan pointed out, members of an Oireachtas committee from all parties could work with the Minister in the relevant Department to agree possible individuals who might fill a particular role. If a particular high-flyer was being sought because a certain skills set was needed, and we knew nobody was going to put himself or herself into the firing line to be rejected by an Oireachtas committee, would it be possible for that committee and the Minister to jointly agree a set of names that might be approached with a view to serving on a State board?

I was interested to read the findings of a report, *State Boards in Ireland 2012 - Challenges for the Future*, which dealt with transparency in the appointments process to State boards. It was based on in-depth interviews with 45 members of the Institute of Directors in Ireland in non-executive and senior executive positions in State boards. A majority - 74% - of the directors surveyed said they do not believe the process of appointments to State boards is fair and transparent. A further 64% said State board positions are not advertised widely enough, despite the policy of advertising such vacancies that was introduced by this Government in 2011. These are people who are sitting on State boards.

Deputy Brendan Howlin: That is why we changed it.

Senator Gerard P. Craughwell: Just one in three of those surveyed agreed that the changes to the appointments process that were introduced by the current Government had improved the functioning of State boards. In addition, 72% of them said they believed there should be more defined independence from the political system regarding these appointments. That causes a problem.

I have much more to say but I will not be allowed to say it. I think what the Minister is doing and trying to do is to be commended. We are walking a tightrope here. On the one hand, I want us to try to remove from the political arena appointments to State boards. At the same time, we need to recognise that there is a role for the Oireachtas in identifying and attracting the type of skills set and expertise we need to run our State companies. Perhaps the use of the committee system, in conjunction with the sitting Minister, could provide a way of overcoming issues that might arise if we were looking for chairmen for particular boards. As I have said, high-flying businesspeople in this country, like Senator Quinn, might not be willing to submit formal applications for such positions. Perhaps a formal application process might be appropriate for the general members of the board, while leaving it open for people to be approached to chair that board. I will e-mail the Minister on the other issues. I would appreciate it if he were to go through my suggestions. I commend what he is doing. I hope we can move the political system further away from the State board process because it has left a sour taste in most people's mouths, apart from mine. I have to say I benefitted greatly from the most recent appointment.

Senator Kathryn Reilly: I welcome the Minister to the House. Much of what I intend to say has already been touched on by other Senators. I will say it anyway just to get my spake on the record, as they say. Appointments to State boards have often been manipulated by past and present Governments for their own interests. The system of appointment has become a byword for croneyism. This has helped to discredit our political system in the eyes of the public. This issue has called out for proper reform in the past. As others have said, this issue was really brought to light by the McNulty affair last year. A Government that had spoken about

“democratic revolution” was trying to appoint its Seanad candidate to the board of the Irish Museum of Modern Art in an attempt to improve his credentials. This was in contrast with the Labour Party’s 2011 general election manifesto, which listed the various ways in which that party planned to reform the political system. One of the ways in which this was to be done was by “opening up positions on state boards to all qualified candidates, and require appointments to be scrutinised by the Dáil”. According to the same manifesto:

Labour will end the system whereby appointments to state boards are used as a form of political patronage and for rewarding insiders. In future, appointment to boards must be based on a demonstrable capacity to do the job.

It is unfortunate that when the McNulty affair was made public, some Labour Party Ministers remained silent rather than challenging the affair itself. It seemed not just to those of us who are involved in the political system but also to ordinary citizens that this was a far cry from the radical political reform that was mentioned in the 2011 manifesto. That was unfortunate. Since this Government came to power, having rallied loudly against the previous Administration’s system of appointments, it has participated to a fashion in the same type of parish-pump politics as its predecessors. That has been illustrated by the appointment to State boards of a number of people who have particular links to one of the Government parties.

Deputy Brendan Howlin: Does the Senator believe that membership of or association with a political party should bar a person from being appointed to a State board?

Senator Kathryn Reilly: I do not think such people should be barred. I could mention some other appointments that have been made by this Government. Just days before a Cabinet reshuffle-----

Senator Denis Landy: What about the system of appointment to North-South bodies?

Senator Kathryn Reilly: I am about to touch on that. The Senator should not worry. I would never-----

An Leas-Chathaoirleach: We have had little interruption so far. In fairness to the Senator, she has just six minutes.

Senator Kathryn Reilly: I will be very brief.

An Leas-Chathaoirleach: It does not matter whether she is being interrupted by the Minister or by another Senator. The Minister will have time to respond as well.

Senator Denis Landy: She is very quick.

Senator Kathryn Reilly: I am ready for Senator Landy. As a member of an all-island party, I have to acknowledge the question of North-South bodies.

An Leas-Chathaoirleach: The clock is ticking. Senator Reilly should be given a chance.

Senator Kathryn Reilly: Before last year’s Cabinet reshuffle, the then Minister, Deputy Rabbitte, appointed a by-election candidate and a former Fine Gael Deputy to Bord na Móna. That is just once instance. I will touch on the issue of appointments to North-South implementation bodies because it has been brought up. I do not want to be misrepresented. These bodies were established under the implementation bodies agreement of 8 March 1999 between the

British and Irish Governments. It is agreed by all parties mandated to the North-South Ministerial Council from the Executive and the Irish Government. All political parties, including the Labour Party and Fine Gael, have a say in those appointments. That is how appointments to implementation bodies happen.

Deputy Brendan Howlin: That is all right then.

Senator Kathryn Reilly: They are mandated. I am sure the Labour Party can veto it.

Senator Denis Landy: There is always an answer.

Senator Kathryn Reilly: Other public appointments in the North are actually made on merit. They are monitored and regulated by the Commissioner for Public Appointments for Northern Ireland, who is independent of both government and the civil service there. The purpose of the public appointments process that was established in the North is to appoint the most suitable candidate for any post. The candidate in question will be selected on merit using a fair, open and transparent process. Vacancies are publicly advertised and short-listed candidates are interviewed. This whole process is overseen by an independent assessor who is appointed by the Commissioner for Public Appointments as part of that process.

Sinn Féin has published an internal political reform document on accountability on State boards. This document recommends that the number of directorships should be limited to five per individual, gender quotas should be introduced, equity should be brought to the remuneration of directors and transparency should be brought to the making of appointments. I will not go into it in more detail. It is important for us to restore confidence in State bodies across all sectors. We need to put an end to political croneyism for once and for all. I acknowledge the moves the Minister has made in that regard. There is a large appetite for reform among the public, especially in light of the affairs of the last number of months concerning the Seanad. It is our duty as public representatives to deliver that reform.

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): I thank all the Senators for their contributions to this important debate. I warmly welcome Senator Craughwell to this House. I should probably not say this, but I greatly appreciate the kerfuffle that has allowed me to change things fundamentally. Like a presenter of a cookery programme, I had it ready to present when the opportunity arrived. It was important. I will do my best to not be overly partisan in what I say but it is really difficult when people speak about reforming and say we are not a reforming Government. The last time we were part of a Government we brought in groundbreaking freedom of information laws through a Minister of State, Ms Eithne Fitzgerald. It was subsequently completely watered down but we restored it. That is important and it should not be dismissed as tokenism. With the Registration of Lobbying Bill, for the first time in the history of the State we will have robust regulation of lobbying legislation-----

Senator Thomas Byrne: The Minister has my full support on those two pieces of legislation.

Deputy Brendan Howlin: The Senator should not suggest that no reform has been happening.

Senator Thomas Byrne: I was discussing this subject.

Deputy Brendan Howlin: He cynically suggests we are fancifully claiming to be a reform-

ing Government. It is objectively the truth. I am very proud of getting Government support and being able to bring legislation through these Houses. The debate in this and the other House on every piece of legislation I have brought in has greatly improved that legislation. The Registration of Lobbying Bill has just been passed in the Dáil and I will come here with an open mind to see if it can be further improved. There is no sole repository of wisdom on the Government benches. We can consider freedom of information, regulation of lobbying, whistleblowing and Civil Service accountability, and we know they are fundamental issues about which we have all talked. There is real change.

Senator Whelan spoke about the emphasis in my Department being more on expenditure than reform but that is untrue. There is a balance. Perhaps the public focus has been on the expenditure side as when one is putting out a fire, people would notice that over rebuilding foundations of a house.

Senator Gerard P. Craughwell: They would notice the water damage.

Deputy Brendan Howlin: They are equally important elements and I am proud of the job done by the Government in balancing the books, which is absolutely necessary if we are to have a sustainable future achieved through reform. I have mentioned political reform but there has also been public service reform. Much of this happens below the water line and it grieves me to see people who should be informed commenting about the lack of Civil Service reform. A Member of this House has made such a claim in a newspaper, quoting a publication that is five years old, but I will deal with that separately. The indication was that nothing had happened in those five years. We have downsized the public service by 10% and moved 12,000 public servants from places where they were under-utilised to where they were needed. We introduced groundbreaking sick leave arrangements through legislation in this House, and I was challenged in the High Court - and it will probably be challenged in the Supreme Court - for my trouble. We have changed holiday entitlements because people did not know what entitlements various sectors of the public service had. People looked askance at some of the holiday arrangements of county chief executive officers, which were formerly county managers.

We have introduced common procurement, which will save €500,000 by having a professional system across the public service. We have established shared services in human resource management, payroll and financial management. Instead of having 60 centres of payroll, we have one such centre. I have already spoken about Civil Service accountability and the tremendous work done by the team lead by Professor Rafter in that regard. We have also joined the Open Government Partnership and we are piloting open data. There is much we can lay out in terms of a reform agenda that, bluntly, is unprecedented, and I am very proud of all that. I will not accept criticism that this is not a truly reforming Government, even in the teeth of having to deal with a financial crisis of unprecedented proportions.

I will refer to the Judiciary. It is important to say that I have no idea of the political affiliation of anybody brought before the Government, except one or two people who previously served in the Oireachtas. I am certainly unaware of any proportionality with regard to judicial appointments. Senators may recall a judicial appointment issue which brought down a previous Fianna Fáil-Labour Party Government, and I was involved in ensuring a judicial advisory board system, chaired by the Chief Justice, that shortlists suitable candidates. It is only from candidates submitted by that process, which is entirely outside political interference, that there can be a selection. It is important that we do not undermine processes in that way.

I thank Senator Sheahan for his support. Senator Zappone touched on many real challenges in getting this balance, and the point was made very forcibly by Senator Quinn as well. There can be an open process which gets people who are no good at the job. I have had three Ministries and sometimes we can see an important job to do. We might persuade somebody to take this on, and I am sure that was the case with Mr. Smurfit and Senator Quinn. It is not that these people are looking for extra work but that people are particularly suitable for a particular job. How can we create a system that is completely transparent but which allows us to reach out occasionally to find people of real talent not only in this country but abroad? With the accountability system for our public service, for example, I hope we find somebody outside this jurisdiction entirely so that there can be a different perspective. We should not rule that out. It is a condition of my approach, and I want it as open and transparent as possible.

I strongly agree with the Senator's point about diversity, and that links to his argument about remuneration. We need diversity in income levels as well. Senator Quinn has indicated that nobody should be paid - he argued that no Senator should be paid either - but one of the first actions of the Labour Party when it entered government in the early part of the 20th century was to demand that Members of Parliament got paid. This was so it would not be a rich man's job, with barristers coming in after hours in the law courts or landed gentry doing the work on a part-time basis. Some people need a few bob to do the job and not everybody is "independently funded" in that regard. We must have real diversity in that regard. The Senator made a very strong point in terms of diversity tracking and I will keep it in mind.

I do not wish to pre-empt debate on a future piece of legislation but one of the amendments from Fianna Fáil I did not accept with the lobbying regulation Bill would have outlawed lobbying for State board appointments. I want to encourage lobbying for such appointments, as I want the National Women's Council of Ireland, the Irish Farmers Association, the National Youth Council of Ireland and others to argue that they have great people. As long as the process is open and transparent, it should happen.

I have answered Senator Whelan's point regarding the reform agenda, which will stand up to any scrutiny. He mentioned another couple of points. There is a question of determining suitability by a committee, which is a very tricky question to be teased out. People situate it as a dilemma but do not tend to provide a solution. If somebody has national or international standing or expertise, will he or she want to be presented to an Oireachtas committee to be parsed and analysed in public? He or she will not. For example, will professors of economics being considered for the Irish Fiscal Advisory Council present themselves so that some can be labelled crummy and others can be labelled good, with the determination being made by an Oireachtas committee? That may be an extreme example but all of us have a sense of our own pride and we do not want to be presented in that way. Finding a process to ensure we find good candidates rather than "grey" candidates that might be both unexceptional and inoffensive is the way to go. To get that balance right is a challenge.

I do not accept that people with expertise or a track record would be rejected. Consider the question of whether a teacher should be debarred from a board dealing with education because of a vested interest. A teacher has expertise, and it is difficult to have expertise without having a vested interest or track record. Sometimes we need people with a track record. A women's advocate should be on the National Women's Council of Ireland and should be not debarred for having a track record on an issue, a vested interest or point of view. This is important, as long as there are balancing voices regarding all these matters.

I have dealt with most of what Senator Quinn said and I hope I have addressed the points he raised.

Senator Landy talked about political diversity. His was an important point made by number of Senators, and I have made it repeatedly. It is like when people say the only objective people suitable to chair a tribunal are judges because, by definition, they are somehow impartial. It is believed that when they walk across the threshold of judgeship, all their previous partial decisions evaporate into the skies and they suddenly become impartial in all their dealings. We have to say that at least or we might be answerable to them. However, we have to be aware that people have track records all their lives. I strongly agree with the point made by Senator Landy in that if we were to have a future in a robust political system, we need to attract people to become involved in their communities, including the political system. With all due respect to distinguished Independents gathered here, being independent is not a unique purification in and of itself. Being involved in grassroots activism for Fianna Fáil, Fine Gael or the Labour Party is good and we must encourage more of it. If we kill the political system by saying those associated with it are somehow contaminated and unworthy, it is absolutely destructive of politics and, ultimately, of democracy. I do not believe we should state everybody appointed who happens to have been a politician previously is somehow unsuitable. This is certainly not how any other political system I know operates. Exemplary politicians get other jobs. For example, Ms Christine Lagarde visited this country this week. She had been an exemplary French politician, and that gave her the authority and qualifications to become the senior person in the IMF. It did not debar her from it. We need to consider people's experience in the round in that regard. That is a matter I feel strongly about.

I started with Senator Craughwell and will revert to him now. I thank him for his kind remarks on these proposals. He posited questions without necessarily positing a solution. One job I must do all the time is make matters practical. Sometimes one can design a perfect system that does not work. Therefore, we need to have a system in which we can get people to serve rather than one in which one just cannot get people of quality to serve. The system to which I refer is very fitting in this regard.

I wrote down a remark Senator Craughwell made that very much merits reflection. He said he wants to remove the appointments system from the political arena, yet he wants to give a role to the Oireachtas. I do not know how he regards the Oireachtas as being apolitical. My experience is that a lot of politics takes place in these Houses. Perhaps that is my unique perspective.

I strongly agree with much of what Senator Reilly said, including the policy position she laid out. I produced the Labour Party policy position that she quoted. I just read through that document again. I will be bold by saying the quote I used at the beginning of it was from the former leader of Fianna Fáil, Mr. Bertie Ahern, who said he did not appoint people to boards because they gave him money but because they were his friends. We need to move away from that. Being a friend of Mr. Ahern should not debar one but it should not be the unique qualifying criterion either. There is a balance to be struck somewhere between the two. We must temper our pureness in regard to lecturing others. I looked at the list of the North–South body nominees of the Sinn Féin Party. I am sure they are all perfectly qualified but they are all Sinn Féiners. It is not true to say that we can somehow veto them by agreement. All nominees put forward by either of the parties are accepted, for fairly obvious reasons. Understanding all our individual foibles in that regard, let us determine whether we can build a better system in which we can all have confidence. That is certainly my absolute objective.

Direct Provision: Statements

Minister of State at the Department of Justice and Equality (Deputy Aodhán Ó Ríordáin): I welcome the opportunity to speak on behalf of the Government on this important topic. I have made it clear before in this House that improving the system of direct provision to make it more humane is important to me personally and to the Government generally. Since I last spoke to the House on this subject on a Private Members' motion on 17 September 2014, there have been significant developments on two matters that I spoke about then - first, the High Court case challenging the direct provision system and, second, the operation of the independent group set up late last year to report to the Government on improvements to the protection process, including direct provision and supports for asylum seekers.

Dealing first with the legal challenge to the direct provision system in the case of *C.A. and T.A. v. Minister for Justice and Equality*, the High Court issued a judgment on 14 November 2014. This followed from a six-week hearing in the case ending last July. Though I cannot summarise here the 130-page judgment involved, I can say that, on the basis of the case as argued, the court could not find that the direct provision system breached fundamental human rights or was in breach of the Constitution because it is an administrative scheme without a legislative basis, or that the direct provision allowance, DPA, payment was *ultra vires* to the Social Welfare Consolidation Act 2005. The court found that certain aspects of the house rules, which deal with the day-to-day operation of the direct provision system, were unlawful or disproportionate to their objectives. These relate to the absence of an independent complaints procedure as well as the procedures involved in relation to absences from centres and room inspections. This court decision does not hinder the task of the independent working group; rather, it helps it. After all, that something is lawful does not necessarily mean it should continue as it is. Direct provision is a creature of Government and it is entirely apt that Government should now review it in detail with a view to making better the lives of those living in it. This objective is best served through the forensic, structured, co-operative approach of a working group than through the strictly legalistic process of a court case. Even in relation to those aspects of the house rules where the court did find fault, it is better that the corrections to be made are processed through the working group in order that the necessary expertise can be brought to bear on the matter.

That expertise is obvious when one looks at the membership of the working group. It is chaired by former High Court judge, Mr. Justice Bryan McMahon, and comprises senior officials from all relevant Departments, the UNHCR, representatives of academia and various non-governmental organisations who have a long-standing interest in this area as well as a retired Secretary General of the Department of Justice and Equality and a former chairperson of the Local Authority Implementation Committee.

The working group has not allowed the grass to grow under its feet. I commend to the House the web page on the Department of Justice and Equality's website dealing with this working group. This provides details of its terms of reference, membership, work programme and work progress. I highlight two aspects of its work which I think are particularly important. First, it has established three smaller, more focused working groups to deal with specific themes, namely, improvements to the living conditions in centres aimed at showing greater respect for the dignity of persons in the system and improving their quality of life; improved

22 January 2015

financial, educational, health supports for asylum applicants; and improvements to existing arrangements for the processing of asylum applications with particular regard to the length of the process. So far, in addition to the three plenary sessions, 14 meetings of these subgroups have been held and excellent engagement by all participants has been reported.

Second, the working group is taking evidence directly from residents in the direct provision system, both in writing and orally. This evidence is not intermediated by Departments, by centre management or by NGOs. The working group advertised in each centre for written submissions from residents and I understand these have been very informative. The group is also engaged in an ongoing direct consultative process whereby its members visit centres throughout the country and speak directly to residents. This process will end in early February and will feed into the group's deliberations. A number of consultation sessions with particular groups of applicants, including children, victims of torture, victims of trafficking or sexual violence, and members of the LGBTI community will also be undertaken during that period. There will be an opportunity for some protection applicants to make oral submissions to a full meeting of the working group. The working group also agreed to invite a number of experts to make oral submissions to a future meeting.

The end result of all of this will be that the entire working group will have an excellent understanding of the direct provision system. It can then confidently fulfil its mandate to report to Government and indicate what actions could be taken in the short and longer term which are directed towards improving existing arrangements in the processing of protection applications and showing greater respect for the dignity of persons in the system and improving their quality of life by enhancing the support and services currently available.

The Government recognises that the issues to be examined by the working group are complex and require thorough consideration to ensure that any recommendations are practical and sustainable from a budgetary perspective and do not interfere with existing border controls and immigration policies. The agreed terms of reference do not indicate any timeframe for the working group's deliberations but the Government would welcome a report by Easter.

I am sure Members of this House would like a fair wind to be given to the working group and I will arrange for a transcript of these statements today to be given to its chairman. I would also add that I am delighted that this House is again debating the issue of direct provision. It shows that the Houses of the Oireachtas work best when we take an issue such as direct provision, work across parties to try to find solutions and raise its profile in order that it remains at the top of the political agenda.

Acting Chairman (Senator Hildegarde Naughton): I advise Members that group spokespersons and all other Senators have six minutes to make their contributions. As there is no Fianna Fáil Senator present, I ask Senator van Turnhout to make her contribution.

Senator Jillian van Turnhout: I hope the Minister of State has a little bit of latitude given the lack of Members in the House. We are approaching the 15th anniversary of the system of direct provision, a system that places asylum seekers apart and away from the community in conditions described by some as warehousing and others, who have made their way out, as open prisons. Therefore, it is not an anniversary that any of us here are celebrating. I welcome the Minister of State's willingness to come to the House and debate the issue and his statements on the issue.

The significant length of time that asylum seekers and their children may have to stay in direct provision centres is something that I have raised consistently in this House along with many of my colleagues, most recently in the context of the Immigration (Reform) (Regularisation of Residency Status) Bill, initiated by my colleague, Senator David Norris, and me in October 2014. While we were not successful in our endeavour since our efforts on that date, I note that the Irish Refugee Council and Doras Luimní have published a joint proposal for a one-off scheme to clear the existing and significant asylum backlog, and I am happy to support that initiative.

There have been some welcome developments in recent months such as the assurances from the Minister for Justice and Equality that the international protection Bill will be published by the end of January. I am sure the Minister of State is confident of the input and expertise he can expect from this House in shaping the most robust, fair, accountable and transparent system for protection status determination as possible. I also very much welcome the appointment of the working group to examine improvements in the protection process and direct provision system, and it is on its work that I will focus. I noted with concern when reading the terms of the working group that the first proviso for the recommendations for improvements to be brought forward by the group states that “in light of the budgetary realities, the overall cost of the protection system to the taxpayer is reduced or remains within or close to current levels”. The current system of direct provision is rampant with human rights breaches. While I do not need to remind the Minister of State, I would remind the Government of the position maintained by the international human rights fora that a state’s obligation towards the promotion and protection of human rights is not diminished by economic and financial crises.

Like many, I eagerly await the recommendations of each of the three thematic groups, but I would be particularly interested to see the outcome from the theme two group which will deal with improved supports. There are a number of issues which I have raised repeatedly. One is access to education opportunities. I have long decried the fact that with no current prospects for post-secondary education, we are effectively hitting the pause button on young asylum seekers’ lives. I meet them all too often and see that the light has gone out because there is no hope for them within that system. Another issue is access to the labour market. Ireland is the only country in Europe not to have signed up to the recast reception conditions directive. I have yet to be presented with convincing evidence of the pull factor so desperately feared with respect to allowing asylum seekers access the labour market, but I have spoken to enough individuals trapped in the asylum system who have spoken of the devastating impact of enforced and prolonged idleness on their family dynamics, self-esteem and mental health to know that the human price paid is far higher than the cost of this so-called pull factor. There is scope to increase the weekly allowance paid to residents and children, which has not increased in 15 years, and with no entitlement to discretionary social protection supports, in effect we see many living in poverty and not being able to have the same, or even near the same, opportunities as other children. We hear it from teachers in primary schools that are accommodating children from the direct provision system.

A feature of the issues that will be dealt with by the theme one group, about which I am concerned, and I still cannot understand why we cannot do something about this within a matter of days or weeks, is the putting in place of a complaints process available to residents. I am baffled and utterly disappointed there is still no independent complaints mechanism in place. The Minister of State mentioned the judgment from Mr Justice Colm Mac Eochaidh where he found that the Reception and Integration Agency’s complaints procedure was not sufficiently

independent due to the fact that the RIA is the final arbiter in the process. I have tried to put myself in their position, and I trust the system, but bearing in mind that there is nobody independent in place, I would find it very difficult if I was put in their position to trust that system without the willingness to have an independent complaints mechanism. For example, the Child and Family Agency Act 2013, includes a provision in section 69 for referral of complaints to the Ombudsman for Children's office. We all trust in the State but the Child and Family Agency still has an independent complaints mechanism.

In 2012, the Minister for Justice and Equality was able, by way of ministerial order or statutory instrument, to give effect to a decision to extend the remit of complaints for children in prisons.

That was done literally overnight. I know there was a lot of preparation work beforehand, but it was able to be done to ensure that the Ombudsman for Children could take complaints from children in St. Patrick's Institution. Since then, complaints have been made, but it is nowhere near opening the floodgates, which was the argument used. It has not happened in the case of St. Patrick's. It is the final arbiter, so I ask why it is not in place. I find it unacceptable that the RIA says it will be the final arbiter of its own work.

Another matter under theme one about which I have a concern is catering facilities in direct provision centres. In so far as I understand, direct provision centres were originally self-catering - or at least, self-catering step-down facilities were provided in order to prepare successful asylum seekers for independent living. These facilities have effectively been closed over the years. Is self-catering regarded as a pull factor? Is it a deliberate policy of the RIA to close these self-catering units? The official line from the RIA is that the policy is supported by the value-for-money report carried out in 2010 and that it was done purely based on economic considerations. I do not accept this, because the value-for-money report did not consider the health and social inclusion costs for asylum seekers - their physical, mental and psychological health. I refer to Dr. Bernard Ruane, who spoke to colleagues at the Irish Medical Organisation conference in 2008. Dr. Ruane said there was a 90% rate of depression among asylum seekers who have been here for six months. He identified their cramped living conditions and the prohibition on working as factors contributing to their depression. We must be mindful of this point.

The Minister of State will know that I could say so much more on this topic. With regard to child protection concerns, I implore the Minister of State to be cognisant of the findings of Dr. Carol Coulter's second interim report on the child care law reporting project. She found that social exclusion, poverty, isolation and disability were common features among the mothers and fathers facing court proceedings, and there is an acknowledgement that minority groups, including asylum seekers, are thus particularly vulnerable. This concern is supported because in one in four cases she examined at least one parent was either a member of an ethnic minority, an asylum seeker or a member of the Traveller community. This prevalence is evident. I ask the Minister of State why we are not seeing more action from the National Action Plan Against Racism. It seems as though the plan has been shelved. I would like to say a lot more, but those are my points for now. I ask why we cannot do something now about the complaints mechanism.

Senator Martin Conway: I welcome the Minister of State, Deputy Aodhán Ó Ríordáin. He has been in office just over six months and this is probably his second or third time speaking about direct provision in the Seanad. This is an issue that is very close to the hearts of many Senators. The all-party working group on direct provision was founded from this House

through Senator van Turnhout, Senator Ó Clochartaigh and others, including myself. We have endeavoured to keep this issue in the public domain by debating it here. Senator van Turnhout tabled a very interesting and successful motion on this issue last September which was addressed by the Minister of State.

This country has been campaigning in the United States - with some success and with limited success in other ways - for the rights of our own citizens, the 50,000 of our people who are undocumented in the United States. These people are unable to come home for funerals, for weddings, for special family events and to see elderly relatives. Yet this country, in my view, has, in some way, not necessarily turned its back but turned sideways in terms of how it deals with the vulnerable people who come to our country. There was a time in the 1970s and 1980s when signs were seen in America and in other European countries saying, "No Irish Need Apply." In a way, that is what we are saying to people who are living in direct provision. Our attitude is, "We do not particularly want you; we are putting you in a holding cell." Senator Ó Clochartaigh has arranged visits to direct provision centres in Galway, and asylum seekers have visited Leinster House on a couple of occasions. They have outlined to us in graphic detail the psychological trauma, the absolute sense of hopelessness and the sense of being a prisoner with no sentence, in that they do not know when their sentence will finish. As a society we cannot, we should not and, so far as I am concerned, we will not tolerate that. We need action. It is only since the Minister of State came into office that we have had the working group, which is not letting the dust settle under its feet, because it is working. Mr. Justice Mac Eochaidh's judgment outlined in detail that the complaints procedure was not independent, was not fair, was not fit for purpose and needed to change. This must be the number one and immediate priority that the Minister of State may have to deal with outside of the working group in order to put a system in place that has the confidence of people who are in direct provision. That is a small step that can be taken as a matter of absolute urgency, because the courts of the land have found that it is not fit for purpose.

I believe in positive politics and in consensual politics, under which we can achieve things. Members of the Opposition - Fianna Fáil, Sinn Féin, Independent Members and others - are at one on the need for this problem to be resolved. I hope that 2015 will be the year in which we have a proper long-term, sustainable resolution to the problem of direct provision.

I call on the Minister of State to initiate an amnesty for anyone who has been in direct provision for longer than four years, irrespective of his or her circumstances, irrespective of whether his or her application has been turned down and is on appeal, irrespective of the background or the circumstances of the case. In the case of anyone who has been living in direct provision in this country for longer than 48 months, in my view, this State owes them an amnesty. Those who have been in direct provision for less than four years deserve fair play and proper procedure. They deserve their applications to be dealt with in a timely fashion.

Along with my colleague Senator Ó Clochartaigh, I visited a direct provision centre in Lisbon, organised by the Irish Refugee Council. While the system in Portugal is not perfect - certainly, the refugee council in Portugal would say it was not perfect - it is a lot more perfect than our system. It would be considered completely unacceptable for a person to be in a direct provision centre for longer than six months. They are usually dealt with on arrival. I would describe the centres as centres of excellence offering all sorts of facilities, including the opportunity to learn the language, to integrate and to become familiar with the culture of the country. Sporting facilities are available, as are proper, decent cooking facilities where people can cook their food of choice from their own country if they wish. There are significant advantages to the system in

Lisbon, yet it is far from perfect, and that is what the people in Portugal would say. Certainly, if we are looking for a model system on which to base timeframes and facilities, the Portuguese system should be considered. I do not believe that for the millions of euro being expended on these reception centres we are getting value for money. We need to look at establishing State reception centres and we should consider having a far better system in airports and ports.

I have firmly believed for some time that a future Taoiseach will stand in the Dáil to deliver an apology to children who have grown up in direct provision. Unfortunately, that is something for which our generation is responsible. I refer to some of the apologies that have been given in the Dáil in the past year or two relating to what other generations have done, for which they were primarily responsible. I wish to point out that when the apology does happen in the future - I have no doubt it will happen - our generation will be responsible for treating people like that.

Senator Paschal Mooney: I welcome the Minister of State, Deputy Ó Ríordáin, to the House. I recall that when he came here not long after he had been appointed, he said that one of his priorities was to address this ongoing issue which has been, in a sense, a running sore in our immigration policy for almost 20 years. At the beginning of the cycle of the Celtic tiger we began to attract more and more people into this country to the point where we had to set up some system to accommodate them. I have never been able to grasp the reasons people have been left in direct provision for so long. My understanding from people who know more about it than I do, is that it has a lot to do with our legal system, which allows people to go to the courts on a regular basis. If they have their initial appeal turned down, they can go again. In a way it may be a lawyer's paradise. I gather that is one of the issues. I am not sure whether anything can be done about that in legal terms to prevent people from exercising their right.

At the same time, as Senator Conway has said, we have ended up with people who have been in direct provision for so many years now, and it really must be a very difficult time for people. I saw one case recently reported in the newspaper where a very highly-qualified individual in Cork was not allowed to work. It must be very frustrating. I do not know whether the Minister of State is going to tackle this issue in his working group, other than giving them €19 or €20 a week. He did say there had been significant developments in two matters which he spoke about in the House in September. By the way, I compliment him for returning to the House within six months as he promised.

The operation of the independent working group set up last year seems to be what the Minister of State is going to hang a lot of his hopes on. It is to be welcomed. The working group set up three smaller, more focused working groups dealing with improvements to the living conditions in centres, aimed at showing greater respect for the dignity of persons in the system and improving their quality of life. I do not know how the Minister is going to do this under the present system. If asylum seekers are coming into this country they have to go through a particular process and I would like to think that, irrespective of the shortcomings in the system, they are at the very least afforded some dignity as human beings.

Reference was made to improved financial, educational and health supports for asylum applicants. Does this mean they are going to be given more money or will they be allowed to work during the period? There was also reference to the improvements to existing arrangements for the processing of asylum applications. That, to me, is the most relevant of the three arms of the focus groups. I am not in any way wishing to diminish the importance of the other two, but if people are not in the system so long that they become sterile or frustrated, or lose their dignity as people, I think that goes a long way to preventing that happening. I am not sure

how this is going to be addressed. How is it that other countries - Senator Conway referred to Portugal - seem to be able to address it in a way that we are not? This is because of our legal system. Are there ways of addressing this by introducing more legislation that will mean the system is speeded up and becomes more efficient? After all, I am assuming - correct me if I am wrong - that the people who are coming in with asylum applications are doing so, as they see it, on the basis of justifiable cause, that they have left a country where they will be persecuted or killed, or their families will be threatened, if they are returned there. I assume that is why people seek asylum.

I have often wondered what happened to the Dublin convention which was set up with a great deal of fanfare at the time, going back to the late 1990s probably. The objective was that if asylum seekers arrived here they would be returned to the country within Europe which they had left to get here. I often wonder, and I am not singling out any particular race or ethnicity, but I understand that in the wider sense, I am not just talking about asylum seekers, but in terms of ethnic origin, there are a significant number of Nigerians in this country yet there are no direct air flights from Lagos to Dublin, so they would have had to come through some other country. I am not singling them out particularly but there are other countries from which people have come which have no direct air links, so how do they get here? The anecdotal evidence would suggest they came in through London. Others have flown in from Amsterdam. I am curious to know what has happened the Dublin convention. Is it gone? I gather it is still there, but it does not seem to be enforceable or to have been enforced. It would have gone a long way to addressing this issue of asylum seekers being left in a legal limbo for more years than any of us care to want.

Overall, I welcome the Minister of State's focus on this and wish him well in his efforts to get to the bottom of it because it is in everybody's interests, both of this country and in the interests of the asylum seekers themselves, and indeed future applicants, that there is a clear, transparent, efficient pathway to eventually establishing whether they can stay.

Senator Ivana Bacik: I welcome the Minister of State and welcome the fact that we are debating this issue again. We debated it in September and again on 23 October in light of the Private Members' Bill. It is very helpful to have regular updates from the Minister of State on the issue of direct provision because it is matter of great concern to many of us on both sides of the House. We have always worked very constructively together to try and improve on the situation for those people who are in direct provision.

There have been many criticisms of the system and I share the critiques. It was, as we all know, introduced in November 1999 as something of a stop-gap measure to ensure there was not a homelessness crisis for people seeking asylum. It then turned into a much more long-term entity than was originally envisaged. FLAC has described it as a flawed system and I think we all accept that. I was delighted, as we all were, to see a commitment in the statement of Government priorities last July that this would be a priority issue to address, to ensure that asylum seekers are treated with humanity and respect and to ensure that the direct provision system is made more respectful to the applicant and so forth. I know it is also a particular personal commitment of the Minister of State.

In October, we also welcomed the establishment of the working group chaired by the former judge, Mr. Bryan McMahon, a hugely eminent person. Indeed, a wide range of NGOs and stakeholders are represented. I welcome the Minister of State's update today on the process that has been ongoing and in particular the fact that the group has been engaged in an ongoing

direct consultative process, visiting centres and speaking directly to residents in the months since it has been established. I note that we are hopeful the group will report at Easter. I had understood that was a deadline, I think the Minister of State has clarified that in fact it is a hope. It would be very welcome if they were to do so and if we were to see changes made as a result.

It is very helpful to see the work programme of the group and the sort of things it has been looking at. To speak on the sort of changes that could be made, there are two overarching issues. One is the issue of conditions in the centres, and Senator van Turnhout and others have pointed that out, and the other is the determination process by which people's applications are processed. To speak first on the reception conditions, the working group is talking about two themes: improvements to the direct provision system itself, namely, the living conditions in the designated centres; and improved other supports. On the first theme, one of the issues that has been of most concern to many of us is catering facilities. There are 34 centres in total and two of them are self-catering. Senator van Turnhout asked this question. Questions have been asked about the economy of self-catering facilities as opposed to facilities that are catered. It seems to me from the limited figures we have that the cost to the State of the two commercially-run self-catering centres was €480,000, as compared to €44 million for 25 centres that were commercially run. It is very hard to compare like with like - they may be different sizes and so on - but it does not seem as if the spend on the self-catering centres was huge. Certainly the social cost and the cost to family life for those who are not in self-catering facilities is a huge issue. It seems to many of us the biggest encroachment on children's rights and family rights that people cannot prepare their own food for their own families. If we could change one thing on that theme, I think that would be it. I know there is no issue for the providers if they are told by RIA to establish self-catering centres. There might be some cost associated with conversion but there is no other issue there.

There are also issues around transfer and complaints procedures that Mr. Justice Mac Eochaidh raised. There are also child protection issues, in particular the question of aged-out minors and how they are cared for, and separation within hostel facilities, so that families and children are not side-by-side, perhaps, with single men. That is a very practical issue on the ground in centres.

The second theme of educational opportunities is hugely important, as is access to the labour market. I agree with my colleagues who asked why allowing asylum seekers access to the labour market under certain conditions would be a pull factor in Ireland when it is not a pull factor elsewhere. I have never seen this explained in all the Government briefings and I would like it to be explained. It seems we could facilitate access to the labour market for particular categories of asylum seekers - those who have been here for certain periods, and so on.

I also want to raise the issue of integration with local communities. I visited my local centre in Hatch Hall. Many local community groups have links with different direct provision centres, but we could be doing more to encourage that through school communities, local community groups, sports groups, and so on. We must look at that.

Regarding the determination process and how we fix it, others have pointed out the inordinate length of time people are staying in direct provision - 45% for five years or more, 55% for four years or more. I welcome the Government's promise to publish the international protection legislation, which will streamline procedures for the future. There is a subtext that it might be possible to enable that legislation to apply to certain groups of applicants already in the system. I would like to see that happen. We need to be more creative in respect of those who

are languishing in the system, who have been there for many years. Senator Conway spoke of an amnesty. Personally, I support that. There are ways in which that could be done, perhaps without using the term “amnesty” - for example, where somebody has a lengthy judicial review application that has been going on for many years due to court delays and due to inadequacies at first instance. Ireland has had one of the lowest levels of recognition of asylum seekers at first instance. That is the root cause of the long periods that many people spend in the system - five, six or seven years. We could say to those people, “We’ll settle your case at the door of the court. If you withdraw your application, you will be given leave to remain here.” That is a practical, case-by-case way of addressing the issue and ensuring that people are not languishing for long periods of time. I think it is in keeping with the Government commitment to ensuring that people are treated with humanity and respect.

Senator Trevor Ó Clochartaigh: Cuirim céad fáilte roimh an Aire Stáit. Caithfidh mé a rá go bhfuil áthas orm go bhfuil sé ag brú na ceiste seo chomh láidir agus atá sé ag brú na ceiste seo. Tá mo thacaíocht iomlán aige á dhéanamh sin agus beidh mé ag cur tuillidh brú air. I take issue with some of the points that have been made up to now, although it is true that we are all fundamentally in agreement that the system of direct provision is a very serious issue.

I take issue with the idea of an amnesty, because to give somebody an amnesty implies that they have done something wrong, that they have broken the law, etc. Under international human rights law, these people deserve determination of their cases in some way. Going back to the suggestions that have been made by the Irish Refugee Council and Doras Luimní, we need to consider this in relation to the different categories of people with outstanding protection claims: people with leave to remain applications pending, people with applications pending before the High Court, people with deportation orders, and victims of trafficking. I would like the Minister of State’s response on those recommendations. Has he seen them, has he discussed them with the organisations, and does he agree with them? To blindly say we will give an amnesty does not fulfil our actual human rights obligations to the people we are talking about. We must also put to bed the idea that we should tinker around with direct provision. Direct provision as a system is totally flawed. The concept is flawed. We need to admit that it is flawed, come up with a different concept and work on the transition from what we have at the moment to a much better system. We all talk with many people involved in the direct provision system. I know the Minister of State does as well. To be brutally honest, they are sick to the teeth of our having debates on the issue. Every time I meet them, they say, “You are talking about it, but what is happening?”. The working group has an important role, but there are certain things the Minister of State and his Cabinet colleagues could do fairly quickly, and I will be pushing for them to do so.

I know time is going to catch me on this, so I am going to bring up a very serious issue that has come to light recently - namely, deaths in the system and the lack of information as to how they are being recorded by the RIA. I have statistics from a parliamentary question that my colleague Deputy Michael Colreavy tabled for me. We have had 61 deaths in the system since 2002. A quarter of those deaths were among infants from zero to five years of age. I am very concerned about that and I am sure the Minister of State is too, because one quarter of all deaths in that age group seems an inordinately high proportion in any cohort of the population. We need to ask questions about why that is so. I note that in an answer to a previous parliamentary question, the former Minister, Deputy Alan Shatter, said that records were based on informal information and were not official records of death. I know from making inquiries in this area that there very little information is given. That is not good enough. The Minister of State must go

back to RIA, get more information and put a better process in place. That leads to my support of calls from other Senators regarding the oversight. Sitting on the Joint Committee on Public Service Oversight and Petitions, I have heard Emily O'Reilly, Peter Tyndall, Emily Logan and others say that we must have oversight of this system. People have a right to complain. They should not have to complain to the people who are incarcerating them. It is unacceptable. This must be addressed by a simple amending Bill to give the Ombudsman for Children, in particular, and the Ombudsman the right to take complaints in that system.

I have asked the Minister for Justice and Equality, Deputy Fitzgerald, on a number of occasions in this House - often abusing parliamentary privilege, because my question was unrelated to the Bill she was here to discuss - whether she supports the statements the Minister of State has made on direct provision. She has not given me a direct answer on that. I am afraid the Minister of State does not have full Government backing on the issue of direct provision. I wish he did, and I wish Government would act more quickly. Can he clarify for us whether he has full Government support for his efforts to change this system? I note also that another pending court case relates to a lady under the Protection of Life During Pregnancy Act. Perhaps he would like to comment on the way that was implemented in her case, because she did not have a right to leave the country.

The other two areas on which action could be taken are the right to work and the right to education. We do not need a working group to tell us the current situation is wrong. These rights are recognised internationally. They are recognised in almost every other European state. Our State should recognise them. Many people in direct provision liken the system to being in prison, but actually it is probably worse than prison. They tell me that at least when one is in prison, one knows when one's sentence will end, and one also has educational opportunities. They do not have this. It is unacceptable in this day and age. A promise was made by the Minister for Education and Skills, Deputy Jan O'Sullivan, about young people in direct provision going from the leaving certificate to third level education. Could the Minister of State give us an update on that? Will they be allowed continue their education into third level? Some of these young people have been here most of their lives. I have not heard any statements on this in the recent past, so perhaps the Minister of State could clarify that.

There are also issues with regard to social welfare that could be addressed immediately. The amount of money people receive in direct provision is totally inadequate for the costs they incur. I note that the reason the case the Minister of State alluded to in his opening statement fell apart is that direct provision has no legislative basis. If this is the case, then it can be changed. Serious concerns have been raised by Doras Luimní in particular at the Joint Committee on Public Service Oversight and Petitions about the cost of direct provision. A number of the companies involved in direct provision are unlimited offshore companies. Who is auditing these companies? Who is auditing the money that is going into them? Why can we not bring them in front of the Public Accounts Committee to check how the moneys are being spent in the companies that are being contracted by the Minister of State's Department? In addition, from my understanding, the contracts are on a roll-over basis. They are renewed on a year-to-year basis. Perhaps the Minister of State could clarify that. That is what RIA has told me. If so, what is the tendering process? I have never seen a tender in a public newspaper for somebody to run a direct provision centre. It seems very strange, if we are spending €53 million a year of State funding, that there is no full oversight of the way that money is being spent. We need to examine that. There are many more questions, and I am sure we will get another opportunity to ask them, but I fully support the Minister of State. The issue of infant deaths is very serious

and we must examine it.

Senator Colm Burke: I welcome the Minister of State to the House and thank him for the work he is doing in this area. One of the big issues we need to approach is the question of the time delay in the processing of applications. Some 21% of those currently in direct provision are there for seven years or longer, while 13.1% are there for six to seven years and 10.6% are there for five to six years. Quite a number of people, therefore, are in the system for more than five years. That is a huge problem, especially in the case of young people. If they are in direct provision and the decision is made that they can no longer stay in Ireland, going back to their own jurisdiction is a huge battle from their point of view, because how can young people adjust in that system to going back into the country their parents are from? I encountered a case, not long ago, where a person from South Africa who had gone through the end of primary school and the entire five years of secondary school was informed he could no longer remain in Ireland and had to return to South Africa. That was a huge change for that person because technically he grew up in this country and that is another reason to seek change. One issue that the working group is looking at is processing applications in a more expeditious manner and whether judicial reviews can be processed faster. In fairness to the courts system, a lot has been done in this area but seven years still sounds an extraordinary long period to be in a system without a final decision being made.

It is important that we convey accurate information to the public. When Cork Institute of Technology surveyed students, only 2.5% of them were aware that an allowance of €9.60 was paid per child and only 30% were aware an adult asylum seeker received an allowance of €19 per week. These statistics show there is a lack of information among the public. We must give people the facts about the 4,500 asylum seekers because misinformation is quoted in the media from time to time. In fairness, there has been balanced reporting but some people have stated incorrect information from time to time. It is important to convey the correct information to people.

I note that the working group is looking at whether financial support for asylum seekers should be reviewed. The current payment rates have been in existence for a number of years. The working group is also looking at the important aspect of expediting the procedures for dealing with applications and ensuring final decisions are made at a far earlier date.

What happens when the decision is made that a person cannot remain in the State? What support is given to people to help them return to their own country? Are they helped to prepare for a move when their asylum application fails? I am not sure whether enough is done in that area. The matter should be examined by the working group. People fear returning home even when there is no evidence of danger. When people go home, especially young returnees, they must adapt to the cultural change. We must look at this matter and take on board the idea of preparing people.

In 2015, 1,456 people applied for asylum for the first time. Mediterranean countries have had a huge influx of people from non-EU countries. Does the Minister of State foresee an increase in the number of people coming here over the next two to three years? Has the number of asylum seekers stabilised? Is there an indication that the situation may change?

I thank the Minister of State for the work that he has done and I wish him well. Once the working group makes its proposals I know he will be fully committed to implementing its recommendations.

Minister of State at the Department of Justice and Equality (Deputy Aodhán Ó Ríordáin): I thank the Senators for their contributions. At a time when cynicism about politics is at its height it is a great credit to this House that this issue has been raised here consistently. There is a level of understanding and agreement across the House on the importance of this issue. I feel keenly that as public representatives we have a responsibility to speak for those who cannot speak for themselves, have no political power, cannot access mainstream media and are often, as in this case, on the edge of society. If such people do not have advocates in this House then they will not get them anywhere else. It is vital that both Houses of the Oireachtas debate the matter. It is a credit to this House that the issue of direct provision has been raised repeatedly. I am quite happy to return here and give updates on where we are.

One expects statements from the Government or a Department to have a mix of legalistic language and deal with the issues of High Court cases and legislation. Every Senator here who has contributed to this debate will agree with me that we must get back to the human stories behind direct provision. I have visited direct provision centres up and down this land over the past number of months and since I was given the opportunity to serve as a junior Minister. I have visited centres in Waterford, Limerick, Sligo, Laois, the Baleskin Reception Centre in Dublin and Galway. Hand on heart, as an asylum seeker, I could see myself spending a period of weeks or months in some centres but there were some in which I would not like to spend a night.

I met a man in a direct provision centre in Limerick who is quite literally broken. It is very difficult not to be affected by meeting someone like that. He is completely broken. He had come from difficult and vulnerable circumstances when he arrived here. As a society, system and country we have compounded his misery and broken him and I do not know if he will ever be repaired. I feel keenly that we have a responsibility to him, and also to children, who have been broken by the situation in which they find themselves. On my visits I noticed children playing a game called kitchen in the play spaces provided in direct provision centres. When they were playing they looked for an orange dispenser in the toy because that is the only way they know to get orange juice. It has never been given to them by their mother and they do not know about food preparation. Therefore, it is very disconcerting for me to see that this country still persists in prolonging its love affair with incarceration. Apparently in the 1950s we had 250,000 people in mental institutions. Ireland also has a history of mother and baby homes, Magdalen laundries and an industrial schools system, yet again we revert to incarcerating and storing people while they wait for their asylum applications to be processed.

The current system was first brought in as a reaction to about 10,000 people a year coming into the country and wanting to ensure nobody was ever made homeless, as Senator Bacik has said. The system has proven successful because no asylum seeker who has gone through this process has ever been made homeless. The number of asylum seekers today is much reduced. I reject the idea of a pull factor and collectively we have to reject the idea of a pull factor.

Senator Jillian van Turnhout: I agree with the Minister of State.

Deputy Aodhán Ó Ríordáin: There is a belief that whatever improvements we make, whether we make the system more humane, treat people with dignity, aspire to have a system that we can be proud of, somehow flares will be set off and people will come here who would not have done otherwise. There is more movement of people across Europe now than since the end of the Second World War so naturally statistics will reflect the change. There has been an increase in the number of asylum applications in Ireland but that number has been collapsing for the past ten to 12 years. The number has decreased, from a figure of around 10,000 down

to around 800 over the past number of years. If there has been an increase then it is a reflection of what is happening across the European Union.

I am loth to discuss many of the issues raised here because I want to give the working group the independence to deal with them collectively and make recommendations to Government. We will deal with them as a collective set of recommendations. I think the group can be radical and find solutions. When the working group finalises its deliberations and makes recommendations we will find a way to implement workable and sustainable solutions that will make the current system work an awful lot better. As regards the Government's commitment to this issue, the statement of priorities of both Government parties was signed off on last summer and it included reform of the direct provision system. A commitment was made that a protection Bill would be brought before the Oireachtas and that will happen this month. In addition, a working group has been established. I wanted to see the full report done by Easter. There is an expectation that there may be an interim report as well. In fairness, however, rather than asking the working group to spend time on an interim report, it is reasonable to wait a number of months for the full report.

I feel keenly about our responsibilities as a society. I spend half my time in the Department of Justice and Equality and the other half in the Department of Arts, Heritage and the Gaeltacht. I also spend a lot of time on commemorations, which affects my mindset on this. When we talk about the 1916 Rising, the Proclamation and the centenary in 2016, in addition to rights, responsibilities and opportunities for all our citizens, that was aspirational 100 years ago. We also talk about the precious nature of childhood, treating people with dignity and true republican values. When we see the names of the seven people who signed the Proclamation, two of them were not born in Ireland. Another two of them were sons of migrants to this country.

Through this working group and the generosity of the political system, we have an opportunity to break down much of the cynicism that people have about Irish politics. Members of this House consistently raise an issue that they know is wrong, but I am not sure if their clinics are full of people who are necessarily raising the matter or if their e-mail accounts are full of people raising it either. However, they are raising it on a cross-party basis because they want to see changes. That is when our political system works best.

I want to come back and engage with this House as often as I possibly can. I appreciate the opportunity to do so. I commend Senators' commitment to this issue. When the legislation comes through, it should be thoroughly scrutinised. When the working group's report is debated in the House, let us work collectively to ensure it can be implemented. When the five years of this Oireachtas are over, we will be able to say that is one good, solid piece of work that we achieved collectively.

Senator Trevor Ó Clochartaigh: On a point of clarification, is the protection Bill the Immigration, Residence and Protection Bill that was stalled in 2010?

Deputy Aodhán Ó Ríordáin: The protection Bill element is a single procedure.

Senator Trevor Ó Clochartaigh: Is that coming through?

Deputy Aodhán Ó Ríordáin: Yes.

Sitting suspended at 3.45 p.m. and resumed at 4.20 p.m.

22 January 2015

Central Bank (Amendment) Bill 2014: Order for Second Stage

Bill entitled an Act to enable a Joint Committee of the Houses of the Oireachtas that is conducting an inquiry (being an inquiry in respect of which a terms of reference resolution under section 13 of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013 was passed by Dáil Éireann and Seanad Éireann on the 25th day and 26th day, respectively, of November, 2014) to have access to certain confidential banking information held by the Central Bank of Ireland and, for that purpose, to amend the Central Bank Act 1942, and to provide for related matters.

Senator Maurice Cummins: I move: “That Second Stage be taken now.”

Question put and agreed to.

Central Bank (Amendment) Bill 2014: Second Stage

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

Minister for Finance (Deputy Michael Noonan): I thank the Members for the opportunity to discuss the Central Bank (Amendment) Bill 2014 today. The Government is bringing forward this Bill at the request of the Joint Committee of Inquiry into the Banking Crisis.

The Bill includes two main provisions. First, it amends section 33AK of the Central Bank Act 1942 to allow the Central Bank to disclose confidential information to the joint committee of inquiry under certain circumstances. As things stand, Central Bank officials are subject to professional secrecy requirements and could face criminal sanctions for sharing confidential information in this way. Second, the Bill provides for the Houses of the Oireachtas to make Standing Orders setting out the sanctions to apply to Members of the Houses for any failure to comply with these professional secrecy requirements.

On 14 May 2014, the Joint Committee of Inquiry into the Banking Crisis, chaired by Deputy Ciarán Lynch, was established by orders of both Houses of the Oireachtas. The committee was tasked with the development of a relevant proposal for an inquiry into certain aspects of the banking crisis. The purpose of the inquiry is to seek to establish the reasons Ireland experienced a systemic banking crisis. The joint committee met on seven occasions between 19 June and the 24 September 2014 to draft the relevant proposal and was assisted in its work by a support group with relevant knowledge and expertise. On 26 September 2014, the committee submitted its relevant proposal to the Committees on Procedure and Privileges of Dáil Éireann and Seanad Éireann for the conduct of an inquiry in accordance with the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013 into certain aspects of Ireland’s banking crisis. On 26 November 2014 the committee was formally empowered to conduct an inquiry under Part 2 of the 2013 Act. The Committee of Inquiry into the Banking Crisis is the first inquiry to be carried out under this legislation.

The scope of the inquiry as outlined in its terms of reference is broad and enabling. It is broken down into two phases, the context phase and the nexus phase. The context phase is for the purpose of information gathering. As Senators are aware, the joint committee of inquiry has already begun this work. This will inform the nexus phase, which will focus on three broad elements: banking systems and practices; regulatory and supervisory systems and practices;

and crisis management systems and policy responses.

I want to say something about the interaction between the Department of Finance and the banking inquiry. The Department of Finance is fully committed to supporting the work of the Joint Committee of Inquiry into the Banking Crisis. This has been stated clearly in a number of letters from the Secretary General to the committee Chairman. The Department is in the process of sourcing, examining and formatting the substantial number of records requested by the inquiry. To this effect, a full-time central co-ordination unit has been established in the Department consisting of seven full-time staff. Eleven staff from other areas within the Department have been reassigned to process the records in the format required by the committee. In addition, ten temporary clerical officers have been recruited to assist in the processing of records for the inquiry, which gives a total of 28 staff working full-time and exclusively on the banking inquiry matters. Furthermore, a significant number of Department staff are actively sourcing and examining records relevant to the inquiry's direction in addition to their normal duties. Moreover, the Department's Secretary General has communicated directly with the inquiry's Chairman to ensure its direction to the Department is being met effectively. The Department is therefore clearly doing everything in its power to assist the banking inquiry in its work.

I will now explain the origin of the Bill being debated today. In its relevant proposal, the joint committee stated that section 33AK of the Central Bank Act 1942 prohibits listed categories of persons within the Central Bank from disclosing certain confidential information. The joint committee felt that this provision may therefore prove problematic for the banking inquiry when it seeks this information, which may in many cases be vital to the progression of the inquiry. Having taken legal advice on this point, the committee was of the view that it is necessary to amend section 33AK to overcome this issue. The joint committee further stated that ancillary amendments to the Standing Orders of Dáil Éireann and Seanad Éireann will also be required to put in place a process for how the Houses of the Oireachtas deal with confidential information and providing sanctions for Members who disclose such information without authorisation. In its consideration of the relevant proposal, the Committees on Procedure and Privileges considered that the preparation of the necessary amendments to the Act should be expedited by the Government. Therefore, in response to the recommendations of the Joint Committee of Inquiry and the Committees on Procedure and Privileges, the Government published the Central Bank (Amendment) Bill 2014 on 3 December 2014.

As Members are aware, the banking inquiry will inquire into the reasons Ireland experienced a systemic banking crisis. It will look at the political, economic, social, cultural, financial and behavioural factors and policies which impacted on or contributed to the crisis. In doing so, the joint committee may inquire into the findings and recommendations of previous reports into the crisis. Previous reports include the Honohan report, the Regling and Watson report and the Nyberg report. These reports identified that poor supervision, poor assessment of risks and a lack of following through on enforcement all played a part in the financial crisis.

Acting on the recommendations contained in these reports, a number of significant reforms have been introduced to build a strengthened regulatory framework as follows: the creation of a single fully integrated Central Bank of Ireland with a unitary board, the Central Bank commission; a regime to ensure the fitness and probity of key officeholders within financial service providers; a resolution mechanism to enable the Central Bank to intervene where a credit institution gets into serious difficulty and is in danger of becoming destabilised or otherwise failing; and strengthening powers for the Central Bank to impose and supervise compliance with regulatory requirements, and to undertake timely prudential interventions.

22 January 2015

A comprehensive overhaul of the regulatory framework in the financial sector has also been pursued at EU level since the financial crisis. Through the introduction of various initiatives, the stability and resilience of the financial sector has been strengthened. Ireland has played a key role in driving these reforms at European level, including the single supervisory mechanism and the bank recovery and resolution directive. The wide-ranging and comprehensive reform in the financial services sector at both domestic and EU level in recent years is to be welcomed. We must never return to the failed policies which led to the banking crisis. Lessons must be learned. In that regard, this banking inquiry is essential.

I now turn to the provisions of the Bill. Section 33AK of the Central Bank Act 1942 contains an express prohibition under the Treaty of Rome, the European System of Central Banks statute and the supervisory EU legal Acts on disclosure of confidential information. All current and former employees of the Central Bank, including the Governor and members of the Central Bank commission, are affected by this prohibition.

The legislation has two purposes. The first is to amend section 33AK of the Central Bank Act 1942 to provide a gateway for the disclosure of confidential information by the Central Bank to the Joint Committee of Inquiry into the Banking Crisis. The information will be disclosed on condition that it remains confidential. The second is to provide for the Standing Orders of the Houses to set out the sanction for any Members who fail to comply with the provisions of professional secrecy as set out in the EU instruments. That sanction will be articulated in Standing Orders of the Houses which will seek to ensure that information provided in confidence to Members of the committee is not subsequently disclosed.

The sharing of information by the Central Bank with the Joint Committee of Inquiry into the Banking Crisis will not be possible until the changes to Standing Orders have been made. The reason for Standing Orders to be amended is to accommodate the constitutional position of the privilege of Members of the Oireachtas which restricts the extent to which criminal sanctions can be applied. This is not the case for any other persons who would disclose confidential information. For example, current and former personnel of the Central Bank would be liable to criminal sanction were they to disclose confidential information in breach of the professional secrecy requirements. Any other person who would receive confidential information pursuant to the gateway is subject to the statutory obligation contained in section of 33AK(6). If such a person were to breach that obligation in circumstances where absolute privilege does not apply, an action for damages could potentially be brought by any party who suffered damage as a consequence of that breach.

Under the EU treaties, Ireland is required to consult formally with the European Central Bank, ECB, on any new legislative provisions relating to the Central Bank.

The opinion which I have received from the President of the ECB is largely positive but the ECB has made the point that the scope of section 33AK(6) of the Central Bank Act 1942 should be broadened to comply with Article 37.2 of the Statute of the European System of Central Banks, or ESCB. There is a duty of secrecy under the ESCB statute and that is why I propose to bring forward an amendment on Committee Stage in this House to broaden the scope of section 33AK(6) to provide for such obligations of professional secrecy. This would have the effect of removing any ambiguity over the scope of professional secrecy requirements pertaining to persons who would receive information disclosed by the Central Bank.

The ECB opinion further notes that under the capital requirements directive, specific condi-

tions, rather than prohibitions, also apply when disclosing confidential information relating to the prudential supervision of institutions to parliamentary inquiry committees. The ECB identifies these conditions as follows: (a) the parliamentary inquiry committee must have a “precise mandate” under national law; (b) the information must be “strictly necessary” for fulfilling that mandate; (c) persons with access to the information are subject to professional secrecy requirements under national law at least equivalent to those referred to in the capital requirements directive; (d) where the information originates in another member state, that it is not disclosed without the express agreement of the competent authorities which have disclosed it, and solely for the purposes for which those authorities gave their agreement; and (e) to the extent that the disclosure of information relating to prudential supervision involves processing of personal data, any processing by the parliamentary inquiry committee must comply with relevant national transposing law.

The banking inquiry will be reflecting on some of the darkest days for the Irish economy. Thankfully, we are starting to emerge from those difficult times. The macro-economic and fiscal outlook is much more favourable than it has been for a number of years. Exports are growing and consumer spending and investment are on an upward trajectory. The number of people at work has increased by over 100,000 since the low point.

However, the Irish people have sacrificed a lot and the crisis has impacted heavily on their lives. They are entitled to understand the origins of the crisis and, importantly, to ensure the same mistakes do not happen again. The amendment to section 33AK of the Central Bank Act is an important part of that process.

The Bill addresses a key concern of the Joint Committee of Inquiry into the Banking Crisis and ensures there are no barriers to the Central Bank cooperating fully with the banking inquiry. The Government is initiating this Bill on the floor of this House today to facilitate the work of the joint committee. I look forward to a constructive debate on the Bill. I hope the House will support the passage of the Bill and assist in securing its early enactment.

I understand that the Cathaoirleach has been notified of an administrative error in the Bill as initiated, which consists of an additional bracket at the very end of line 23. I therefore ask the Cathaoirleach to request the Clerk to correct the misprint. I commend the Bill to the House.

An Leas-Chathaoirleach: That error will be changed. I call Senator Wilson who has eight minutes.

Senator Diarmuid Wilson: I welcome the Minister, Deputy Noonan, to the House. Fianna Fáil supports this Bill, which is a technical amendment to the Central Bank Act to allow current and former Central Bank officials to give evidence on a confidential basis to the banking inquiry. As the Minister has outlined, section 33AK of the Central Bank Act 1942 will be amended to provide a gateway for the disclosure of confidential information by the Central Bank to the Oireachtas Joint Committee of Inquiry into the Banking Crisis. That will enable the officers of the Central Bank to disclose information to this specific joint committee, but not to any other committee, on the condition that the information disclosed remains confidential, thereby respecting the professional secrecy requirements as set out in EU law. It will also provide that Standing Orders may be enacted so that any Member of either House of the Oireachtas to whom confidential information is provided and who fails to comply with the provisions of professional secrecy in respect of that information may be subject to the sanction of the Houses of the Oireachtas in accordance with the rules and Standing Orders of the Houses.

22 January 2015

However, the issue of the ECB's participation in the inquiry remains unresolved. The apparent refusal of the ECB to participate in the banking inquiry is completely unacceptable and as much pressure as possible should be put on it to fully co-operate.

I take this opportunity to commend the members of the banking inquiry who are doing an excellent job. They have been fair and balanced to date and while my party believes there should have been an independent statutory inquiry into the banking collapse, we are satisfied that the banking inquiry is conducting its affairs in a balanced and fair manner. I commend our colleagues in this House, Senators Susan O'Keeffe, Michael D'Arcy, Sean Barrett and Marc MacSharry, who are contributing significantly as part of the banking inquiry team.

I have concerns regarding the amount of money the legal representation is costing the taxpayer. I ask the Minister to use his good offices to see if anything can be done in that regard. We will be supporting the Bill on all Stages.

Senator Maurice Cummins: I welcome the Minister to the House. This is a technical but very important Bill allowing the Central Bank to disclose confidential information to the committee. As the Minister said, the joint committee put the relevant proposal to the Committee on Procedure and Privileges for its consideration. I can assure the Minister that our Committee on Procedure and Privileges scrutinised that relevant proposal in a serious manner and took quite some time to do so. I pay tribute to the members of the Committee on Procedure and Privileges, the Cathaoirleach and the officials, and the members of the legal profession who assisted us in our deliberations.

As the Minister stated also, should we pass this Bill today some ancillary amendments to our Standing Orders will be required to go through the House, and I am sure we will expedite that also.

The ECB has a good deal to say with regard to the conditions on disclosures, as the Minister outlined, but as expressed by Senator Wilson also, I hope the ECB would co-operate with the committee. If it cannot have somebody attend because it feels it is answerable to the European Parliament, I would hope it will give all the necessary information to the banking inquiry committee to enable it carry out its business in a professional manner, which I am sure it will do.

I commend the Bill to the House. The question of legal fees raised by Senator Wilson was raised previously on several occasions. It had been suggested that several of the economists helping members and others on that committee are giving of their time free of charge. I hope that the legal advisers would take a leaf out of their book, but I will not hold my breath.

Senator Sean D. Barrett: I welcome the Minister and I support the Bill he has brought before the House. I commend the Minister and the Taoiseach for their efforts to persuade the ECB to participate in the inquiry. I commend the Minister on his speech in Dublin Castle on Monday.

The Minister mentioned a gremlin and I also have experience of one. I had sought to amend the Central Bank Reform Act 2010 with amendment No. 5, but the Act listed is the Central Bank Act 1942, which only contains 42 pages. I express my sympathy to officials in the Department of Finance who were trying to find pages 51, 52, 58 and so forth. Somewhere in the system, the gremlins that put an error in the Minister's amendments also put in a completely wrong reference. I apologise for any confusion and thank the departmental officials who called my office this morning while I was at the banking inquiry. These things happen, unfortunately.

The committee has got off to a good start, with a very enthusiastic membership and very capable Chairman. It is, as the Minister said, doing extremely important work. One must have a lender of last resort for a banking system. One would wish that the service would never be called upon but it was required on that occasion. I would hope that matters can be resolved. The only quibble I have is that those events took place in 2008 and we are now in 2015. It is a pity we did not try sooner to get to grips with the problems that arose in Irish banking.

I commend the Governor of the Central Bank on his openness in his dealings with the committee. Departmental officials are also being very open. Everybody is resolved that such a cataclysmic event, costing an estimated €40 billion, does not happen again. I support the Bill, with a number of proposed amendments. Unfortunately, some of the amendments do not make any sense at present because of the gremlins mentioned previously. All of the amendments, if they are of use to the Minister, have the aim of strengthening the Minister's hand. They are offered in that spirit. I will not be calling any votes on the amendments I have proposed. This is a commendable endeavour and it is great that so many entities are co-operating, including the Committee on Procedure and Privileges. I hope the result will be good for the country in the end. It is a very short period of work, as the Minister knows; we must finish by October. I hope the committee completes the task and that its findings will be of value to the Minister.

The Minister referred to the other reports which had much to contribute, including those from Mr. Wright, Mr. Nyberg, Mr. Watson and Mr. Regling. Several of those reports' authors have been before the committee and have shed much light on the issues involved. Indeed, some of the interesting findings of the committee so far are reflected in my amendments. I strongly support the Bill.

Senator Aideen Hayden: I echo the comments of Senator Cummins regarding the assistance that Members of this House and of the Committee on Procedure and Privileges have received from a number of sources, not least opinions given on *pro bono* basis with regard to the terms of reference of the banking inquiry. The work of Deputy Ciaran Lynch, as Chairman, will hopefully bring the inquiry to a successful conclusion in an extremely tight timeframe thanks to his determination and willpower. I also like thank the Members of this House who are serving on the committee and who are giving an enormous amount of their time to it - Senators O'Keeffe, MacSharry, Barrett and Michael D'Arcy.

As has been said, this is a technical Bill. We are here because we are inquiring into the reasons for Ireland's systemic banking crisis. The inquiry will include an analysis of the political, economic, social, cultural, financial and behavioural factors and policies which impacted on or contributed to the crisis and the preventative reforms implemented in the wake of that crisis. There is no party in this House that does not want the inquiry to have the maximum powers possible to allow it to reach a satisfactory conclusion. This is a technical Bill amending legislation in place since 1942 which will allow employees, current and former, of the Central Bank to provide information to the committee on a confidential basis. The information will not be put into the public domain but it will allow the inquiry to examine fully every aspect of banking that requires examination. I thank the Minister for expediting this legislation.

In his speech the Minister mentioned the level of resources that his Department has been putting into ensuring that it will, as a Department, make a full disclosure to the committee. I welcome that and would argue that the disclosure should be generous. I know, from my work as a lawyer, that disclosure can sometimes not be as generous as it ought to be. Significant criticism has been levelled at the Department of Finance and I hope that the same spirit of dis-

closure that is being applied to the Central Bank will also be forthcoming from the Department. I welcome the extra resources committed by the Department in that regard.

I welcome the fact that the inquiry committee, to date, has generated an exceptional level of engagement from witnesses and the public. There is now a much better understanding of the issues involved, even at this early stage in the process. The Minister mentioned that this legislation will allow all employees of the Central Bank, including the Governor, I assume, to make full disclosures. Can we expect further disclosures from the Governor, whose disclosures to date have proved to be quite interesting?

While it is not directly related to this Bill, I welcome the announcement within the last hour that Mr. Jean-Claude Trichet may be willing or able to assist the inquiry by some means other than appearing before the committee. The possibility of him appearing before a sub-committee of the Irish Members of the European Parliament has been mentioned. Personally, I would prefer to see the man in Ireland, facilitating the inquiry to the fullest possible extent, but if that is not possible, I hope that all measures that can possibly be taken are taken.

This has been a very dark time for the Irish people although it is a time that we are working through. I think I am right in saying that our level of growth last year was well above the European average. It was very close to 4% and may be revised upwards. Our employment figures are exceptional and at the end of the day, the best answer to poverty is getting people back to work. We are, as an economy, performing well ahead of the European norm. Today's announcement from the ECB that €60 billion per month will be available for quantitative easing should improve the lending capacity of banks in Ireland. Mr. Draghi suggested at a press conference that some European banks could use this money to repay some more expensive debt or to reduce their existing liabilities. What we are all hoping for is a lift for the European economy and, in particular, an improvement in the lending capacity of our own banks.

It has been a very tough time for the Irish people. Ms Christine Lagarde came in for a certain amount of criticism for comments which some deemed to be patronising to the Irish people when she said that it was the Irish people who have delivered Ireland out of the crisis.

However, that is the truth of the matter and the Irish people deserve the truth. This minor technical legislation is and must be part of that truth. Let us hope there are further truths that will be delivered in time and if further legislation is required, the Minister should not hesitate to bring it to the House.

Senator Feargal Quinn: The Minister is welcome, as is this Bill. It is straightforward and clear and it is all a question of being allowed access to information. However, I will take this opportunity to raise a related point. Briefly, I am suggesting we try to use this vital information, about which Members are talking, at the most important stage when one can act upon the information possibly to avert a crisis or to save the taxpayer money rather than examining it when it is too late. In the case of those Irish banks that collapsed, had the information been available earlier, much of the banking crisis possibly could have been avoided. One way to ensure that the right people get this information is to install software in banks that has the ability to uncover wrongdoing. If Members' aim is to improve the financial services industry through this Bill, should they not consider such measures?

Some information technology companies now specialise in e-discovery, namely, the practice

of examining electronic records to unearth important data and relationships. Another protection is offered by network forensics software, which allows the recording and playback of exactly what happens on employees' computer screens and can even record keystrokes. For instance, one type of network surveillance software provided by a particular software company allows everything from e-mails to electronic calendars to be analysed, thereby building a picture of typical patterns of communications across an organisation's operations. It then flags exceptions to those patterns, such as individuals who send many messages to one another even though they are not in the same unit and have little reason to interact.

Allow me to conclude by stating that in one notable case in the United States, thanks to such software a link was found between several executives at a firm that had been issuing bogus invoices to inflate its revenues. This is not totally unlike the position at Anglo Irish Bank, where members of the board ended up buying shares in the bank to inflate the value.

This Bill is short, succinct and straightforward and I certainly support it. I believe it provides an opportunity to Members to congratulate those members of the Oireachtas Joint Committee of Inquiry into the Banking Crisis and its Chairman, including those who are Members of this House, on the work they are doing, as well as enabling them to continue their work.

Senator Michael Mullins: Briefly, I join in the support for this Bill and congratulate the Minister on its introduction. As previous speakers have noted, it is technical legislation designed to ensure the smooth running of the banking inquiry. It is welcome to hear Members stating that the inquiry has got off to a good start. Thus far, proceedings are being conducted in a fair and balanced way and it is to be hoped the outcome will be that the type of scenario Members have witnessed and the hardships people have endured never again will be allowed to happen in Ireland.

I was very interested by Senator Quinn's contribution on early warning systems that would alert the authorities to possible difficulties within the banking structure and in these days of improved technology, it should be possible to have a system that would alert the Minister and the Governor of the Central Bank to issues of concern. I wish the Chairman and members of the banking inquiry well for the difficult task that lies ahead of them.

I share the concerns expressed by Members in respect of the potential large costs that may be incurred in legal fees. While I do not expect anybody to work for nothing, I appeal to members of the legal profession to be reasonable in the fees they charge the inquiry for their services. I again compliment the Minister on the job he is doing as Minister for Finance and acknowledge that much of the progress made can be attributed to him and to the Minister for Public Expenditure and Reform for the sure-footed way they have steered the ship of State over the past three and a half years.

Senator Kathryn Reilly: I will try to keep my comments brief. I also welcome the Minister to the House. Sinn Féin welcomes the inquiry into the bank guarantee as it provides an opportunity to delve into those aspects of the bank guarantee and the financial crisis that have not been explored in detail to date and to get to the crux of the power in the Irish State. The terms of reference of the inquiry were quite explicit in that it states it must look at the relationships between State authorities, political parties, elected representatives, supervisory authorities, banking institutions and the property sector. It is these relationships, namely, the nexus of banks, developers and the State, that give the people an opportunity to examine both decisions surrounding the guarantee and the financial and political relationships that made possible such

decisions. This is new, as none of the four reports published to date have considered these relationships in detail and they are key to our understanding of the manner in which power operates in the State.

In order to do this, the inquiry must step back from the night of the guarantee and must consider matters over a longer timeframe. For example, it is known that from the fall of Northern Rock in September 2007, the Financial Regulator, the Central Bank of Ireland and the Department of Finance were all discussing possible scenarios that could play out within the banking system in Ireland. There is also a demand from the public to have appear before the joint committee those who were operating the levers of power at the time, be they developers, politicians, bankers or officials. This has not happened previously and this Bill will play a small but not insignificant role in that process. It will allow joint committee members to access that confidential information which otherwise would not be available to them and this is welcome. While the information covered by this Bill will remain confidential, it nonetheless forms part of a wider process of trying to uncover the truth of what happened on the night of the guarantee, in the years leading up to the decision and essentially, in the years that followed. Consequently, Sinn Féin welcomes this Bill and will support it.

Senator Gerard P. Craughwell: This is my first time to address the Minister in the Chamber and I am proud to so do. I am getting really worried because he is the second Minister today who I have been obliged to congratulate on something. I spoke against the banking inquiry in this House and with one other Senator voted against it. However, as is typical of the Minister, I believe he has done everything he can to leave no hiding space for anybody, at least within the confines of the State. I congratulate him on this Bill, which is a wonderful piece of work. I hope it provides some of the clarity people in Ireland seek.

Not unlike my colleague, Senator Mullins, I have some concerns about the legal costs and ask the Minister to prevail as best he can on all sides to try to minimise trips down to the Four Courts. Moreover, if there are to be such trips, I ask that some form of fixed cost be set at the outset to avoid running up massive tribunal bills or something similar.

I wish the Minister well with this legislation. I only wish he could bring the same power to bear on those European people who have huge questions to answer, as well as central banks from other parts of the European Union that have questions to answer for the reckless lending they allowed to take place into this country. I hope the Bill will deliver for the people what it certainly promises or attempts to do. I compliment the Minister on it and will not take up any more of his time.

Minister for Finance (Deputy Michael Noonan): I thank all Senators who contributed and, in particular, thank them for their support for the Bill. It is good to come to the Seanad and have unanimous support across the parties and the Independents, for which I thank them.

A number of issues were raised. Senators Wilson and Cummins raised the participation of the European Central Bank. The Taoiseach had a conversation about this with Mario Draghi, who got his predecessor, Jean-Claude Trichet, to contact the Taoiseach. While there is some engagement, they have legal difficulties because the Parliament to which they are accountable is the European Parliament. They would like to help, and if they could identify a legal forum by means of which they could provide information to the committee without any conflict with their other obligations, they would not be reluctant to do so. As late as this afternoon, Mr. Trichet indicated that he was somewhat open to engaging with the joint committee in some form. I think

what he has in mind is perhaps travelling to Dublin, speaking at a suitable forum and answering questions from members of the joint committee there rather than at a hearing of the committee. The Taoiseach has communicated the information he gleaned from the engagement in which he partook. There is a process of contact in place. Whether Mr. Trichet attends a hearing of the committee is not that relevant, in my view. What is important is that he should provide all the information in his possession in respect of the decision making in which he, as governor of the European Central Bank, was involved at the time of the banking crisis.

A second important issue was raised with regard to the legal costs relating to the inquiry. It would not be proper for me to interfere in any way with the financial resources available to the committee. The committee must be independent, which is what the Seanad and the Dáil wanted when establishing it. The cost of the banking inquiry will be met from the budget of the Houses of the Oireachtas Commission. The annual accounts of the commission are audited by the Comptroller and Auditor General and the commission's Accounting Officer is accountable to the Committee of Public Accounts regarding the final audited version of these. I understand that the joint committee intends to publish the running costs of the inquiry on a regular basis. In the context of previous inquiries, we often only discovered the costs involved when deliberations had been concluded. Perhaps a year after an inquiry had finished its work, there would be a nasty surprise when the scale of the legal fees involved emerged. Publication of the running costs at intervals will keep matters on track and provide Members of the Oireachtas with the ability to exercise, even remotely, some financial control over the legal costs relating to the committee.

Senator Hayden referred to the possibility of further disclosures from the Governor of the Central Bank. I saw him deliver part of his evidence and I thought he spoke very freely. However, I do not know whether he was inhibited by the provisions of the Act that we are now amending from providing further information. If he was so inhibited, this Bill - which will be passed by the House today and by the Dáil next week - will afford him the opportunity to say anything further which he may believe it necessary to say. The main information that will be allowed to be provided as a result of the enactment of the Bill will be that which is documentary in nature rather than personal oral evidence. There are many sensitive documents that will be allowed to be provided as a result of the passage of the legislation.

Senator Quinn's suggestion was very interesting. The banks have quite sophisticated IT systems. I do not know whether they have the type of monitoring software to which the Senator referred. However, I will ask my officials to communicate his suggestion to the Central Bank in order to discover whether the latter might make it mandatory for the commercial banks to put in place some kind of electronic monitoring apparatus to support the regulatory interventions it carries out on quite a frequent basis.

This has been an interesting debate. There are new protections in place in the financial sector in respect of whistleblowing and there are obligations on key officeholders to disclose wrongdoing to the Central Bank. In that context, there have been major changes right across the regulatory regime that governs the banks since the advent of the crisis. Senior bankers are now obliged - both under law and at pain of criminal sanctions - to provide information in respect of any wrongdoing they come across in the course of their work. The system is, therefore, improving.

I thank Senators for their support. Senator Hayden referred to the announcements relating to quantitative easing made by Mario Draghi at 1.30 p.m. I am of the view that this initiative

22 January 2015

will be the benefit to the economy. Like the Taoiseach, I hope it will assist us in continuing to grow our economy, sustain our recovery and create more jobs. It is a very significant step and I hope it works.

Question put and agreed to.

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

Senator Maurice Cummins: Now.

Central Bank (Amendment) Bill 2014: Committee and Remaining Stages

SECTION 1

Senator Sean D. Barrett: I move amendment No. 1:

In page 3, between lines 25 and 26, to insert the following:

“(ahc) to the Committee on Public Accounts,””.

In the spirit the Minister has just described, which is unanimous throughout the House in the context of the Bill, would it be of use - as suggested in amendment No. 1 - to give the Governor of the Central Bank the power to supply information, should he so wish, not only to special inquiries but also to the Committee of Public Accounts? The latter is a permanent committee and has its own support apparatus in place, whereas it took some time to establish the Joint Committee of Inquiry into the Banking Crisis. The Committee of Public Accounts has reported on the activities of the Central Bank in the past. In 2012 it prepared 276 questions for the Central Bank regarding events relating to the banking crisis. As the Minister is a former Chairman of the Committee of Public Accounts, I am of the view he is best placed to judge whether this amendment accomplishes anything in terms of openness with regard to banking matters and the Oireachtas.

Minister for Finance (Deputy Michael Noonan): I will read into the record the speaking note with which I have been provided, which places the Senator’s amendment in context.

The Central Bank (Amendment) Bill was published in direct response to an issue that was raised by the Joint Committee of Inquiry into the Banking Crisis in its relevant proposal and the subsequent recommendations of the Committees on Procedure and Privileges of Dáil and Seanad Éireann. Having taken legal advice, the joint committee sought the amendment of section 33AK for the purposes of the banking inquiry and a terms of reference resolution in this regard, under the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013, was passed by both Houses. Accordingly, and as specified in the Long Title to the Bill, the gateway being inserted into section 33AK is specific to the joint committee only and is not intended to cover any other committee of inquiry. Furthermore, the capital requirements directive, which authorises the disclosure of certain confidential information to parliamentary inquiry committees, includes specific conditions on the disclosure of such information to the effect that, “(a) the parliamentary enquiry committee must have a ‘precise mandate’ under national law; (b) the information must be ‘strictly necessary’ for fulfilling that mandate; (c) persons with access to the information are subject to professional secrecy requirements under national law at least equivalent to those referred to in [the directive]”.

The Committee of Public Accounts is a standing committee of the Dáil and is responsible for examining and reporting on reports of the Comptroller and Auditor General in respect of departmental expenditure and certain other accounts. It also considers the Comptroller and Auditor General's report on his or her examinations of economy, efficiency, effectiveness, evaluation systems, procedures and practices. It should also be noted that the Central Bank of Ireland does not come within the remit of the Committee of Public Accounts in respect of its accounts. The information covered by section 33AK of the Central Bank Act 1942 does not relate to departmental expenditure or accounts which fall within the remit of the Committee of Public Accounts. Instead, it relates to the treatment of confidential information acquired by the Central Bank in the performance of its functions and the requirement to maintain professional secrecy under the Treaty of Rome, the European System of Central Banks statute and the supervisory EU legal Acts.

For the reasons I have outlined, I do not propose to accept the amendment. The net point is that the provision in the Bill must, of necessity, be very narrowly focused and confined to the inquiry. Its terms must not be widened in order that committees such as the Committee of Public Accounts might make use of it.

Senator Sean D. Barrett: I thank the Minister for his reply.

Amendment, by leave, withdrawn.

Government amendment No. 2:

In page 3, to delete line 26 and substitute the following:

“(b) in subsection (6), by inserting “and in the ESCB Statute” after “legal acts”, and”.

Deputy Michael Noonan: Under Article 2.1 of the Council Decision 98/415/EC I am required to consult the ECB formally on any new legislative provisions relating to the Central Bank. The ECB has made the point that the scope of section 33AK(6) of the Central Bank Act 1942 should be broadened to comply with Article 37.2 of the Statute of the European System of Central Banks, known as the ESCB. At present, section 33AK(6) refers only to the obligations for professional secrecy in the supervisory EU legal acts in respect of the onward transmission of information but does not refer to the secrecy obligations under the ESCB statute. Therefore, I am bringing forward this amendment to broaden the scope of section 33AK(6) to include the ESCB statute. Members will recall that in my Second Stage speech I said that this arose after consultations with the ECB which proposed that we would make this amendment.

Amendment agreed to.

Senator Sean D. Barrett: I move amendment No. 3:

In page 4, line 2, after “House.” to insert the following:

“For the purposes of this section information shall include all written, verbal, electronic or other communication to and from the Central Bank concerning banks operating in the State, including the IFSC. The information shall include information from the covered institutions, their auditors, legal representations on behalf of such bodies, and information from representative bodies, government departments, public agencies, the European Central Bank, the European Commission and banking institutions in other jurisdictions.”.

One of the features of the work done so far, to which the Minister has referred, by Mr. Nyberg, Mr. Watson, Mr. Regling, Mr. Honohan and others is a lack of written records. They have referred to the fact that there are no minutes for meetings and a lack of records. This amendment is proposed to try to help to get a grip on these gaps in the system, which were very adversely commented upon by the authors I have mentioned. Are there other forms of communication - electronic, written, verbal - to cope with the lack of records concerning banks within the State, including those at the IFSC? There are two banks at the IFSC, Sachsen Landesbank and Depfa, which seem to have had a very shadowy existence and to have contributed much to the difficulties in September 2008. Indeed, the Governor of the Central Bank referred to that fact recently. Did the auditors know what was going on and should they have told people? That is why they are included in my amendment. I have also included legal representatives of various bodies and information held by representative bodies, Departments, public agencies, the ECB, the European Commission and banking institutions in other jurisdictions. There is a lot that we have not found out yet which is why I have tried to put a very wide definition of "information" into this Bill in order that we can get to discuss some of the issues for which there is a serious absence of records. The inquiry needs to determine all of the influences which came to bear on the night of the bank guarantee. We need them to be included in the context of information to be supplied to the committee, which is the purpose of this amendment.

Deputy Michael Noonan: I thank the Senator for his contribution. Section 33AK prohibits the Central Bank from disclosing confidential information if such disclosure is prohibited by its own treaty, the ESCB statute or the supervisory EU legal Acts. Subject to this prohibition, 33AK provides the disclosure of confidential information, via any system or gateways, so any form of information is covered in the Bill as drafted. The term "information" under section 33AK is not limited by reference to specific categories or sources of such information but is limited by the overarching prohibition contained in these EU legal instruments. The amendment identifies a number of categories and potential sources of information. It is entirely a matter for the joint committee to make the decision on the types of information which it requires from the Central Bank. It is then a matter for the Central Bank to comply with the joint committee's request within the legal framework that applies. The Bill has involved close engagement between my Department and the officials working on the banking inquiry. I am satisfied that the wording used in the Bill meets the requirements of the joint committee. Consequently, I am not accepting the amendment. The issues it raises are already covered in the section.

On the issue of the volume of disclosures, referred to by Senator Hayden, I had a cursory look at the requests that came into the Secretary General of the Department of Finance. On first look or first read, it seems to me that we will be providing well in excess of 1 million pages of documents. I understand that there will be an obligation on committee members before they can draw conclusions, at least to read and consider the information on which they based their conclusions. In the context of the very tight timeline and the fact that the Department of Finance alone is supplying more than 1 million pages, I have a lot of sympathy for the members of the committee in terms of them getting through everything.

I am not disposed to accepting the amendment but I thank Senator Barrett for raising this important issue, that all sources of information or gateways would be available to the committee for examination, whether that be electronic or on paper.

An Leas-Chathaoirleach: Is the amendment being pressed?

Senator Sean D. Barrett: No. I thank the Minister for his reply. He has set a very de-

manding standard and I hope we can live up to it.

Amendment, by leave, withdrawn.

Section 1, as amended, agreed to.

NEW SECTION

Senator Sean D. Barrett: I move amendment No. 4:

In page 4, between lines 2 and 3, to insert the following:

“2. The Central Bank shall inform Dáil Éireann and Seanad Éireann of the total costs arising from an Inquiry conducted under this Act at the end of each month. The notification shall show separately the expenses of members of the Oireachtas, legal expenses, accommodation and office expenses, administration expenses, and all other expenses in excess of €500 monthly. The costs shall be audited monthly by the Comptroller and Auditor General.”.

The spirit of this amendment has already been covered by the Minister when he referred to publishing the running costs under various headings. I wrote this amendment having read that a previous inquiry cost €159 million but which, according to Paul Cullen of *The Irish Times*, accomplished remarkably little. I agree with the Minister that publishing the running costs may stop them getting out of control. There was a fear that because the Central Bank prints money and members of the legal profession know that, they would have been especially demanding. We are all aware that the running up of enormous costs that happened in the past cannot be tolerated in current circumstances, particularly given the difficulties in our public finances. I will not press the amendment and I thank the Minister for raising the issue of keeping running costs down. If they are published regularly, that will give us an idea of whether they are getting out of control and in what categories. It is the legal category that seems most likely to get out of control.

Amendment, by leave, withdrawn.

An Leas-Chathaoirleach: Amendments Nos. 5 and 6 have been ruled out of order.

Amendments Nos. 5 and 6 not moved.

Section 2 agreed to.

Title agreed to.

Bill reported with amendment, received for final consideration and passed.

The Seanad adjourned at 5.30 p.m. until 2.30 p.m. on Tuesday, 27 January 2015.