



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**SEANAD ÉIREANN**

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

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## SEANAD ÉIREANN

*Dé Céadaoin, 28 Eanáir 2015*

*Wednesday, 28 January 2015*

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

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*Machnamh agus Paidir.  
Reflection and Prayer.*

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### **Business of Seanad**

**An Cathaoirleach:** I have received notice from Senator Denis Landy that, on the motion for the commencement of the House today, he proposes to raise the following matter:

The need for the Minister for Finance to discuss the current Internet bank charge rates in the major Irish banks, clarify what controls are in place via the Central Bank to protect consumers against inappropriate charging mechanisms and ensure charging rates are advertised in a simplified and clear fashion so as to prevent confusion among consumers.

I have also received notice from Senator James Heffernan of the following matter:

The need for the Minister for Justice and Equality to outline the measures being taken to tackle organised crime in the country.

I have also received notice from Senator Diarmuid Wilson of the following matter:

The need for the Minister for Jobs, Enterprise and Innovation to outline the plans he has to replace 140 jobs that will be lost with the closure of Bose in Carrickmacross, County Monaghan.

I have also received notice from Marie Moloney of the following matter:

The need for the Department of Social Protection to cease the practice of means testing and surveying recipients of benefit payments and those who are not claiming a qualified adult payment such as the illness benefit payment.

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

The need for the Minister for Education and Skills to update the House on the status of the technical university for the south east and outline what, if any, steps have been taken since the withdrawal of Waterford Institute of Technology from the process to advance the project.

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

The need for the Minister for Finance to provide for an exemption from motor tax and vehicle registration tax for drivers of passengers who are blind or have a visual impairment.

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

The need for the Minister for Education and Skills to outline the appeals process and safeguards for students under the new proposed teacher assessment model for the junior certificate programme in the event of a grade dispute and if she would consider paying teachers a stipend to carry out the assessment role.

I have also received notice from Colm Burke of the following matter:

The need for the Minister for Justice and Equality to clarify the current position on the introduction of legislation to allow the courts to grant periodic payments to those who have suffered an injury as a result of medical negligence.

I regard the matters raised by the Senators as suitable for discussion. I have selected the matters raised by Senators Denis Landy, James Heffernan, Diarmuid Wilson and Marie Moloney and they will be taken now. Senators David Cullinane, Martin Conway, Fidelma Healy Eames and Colm Burke may give notice on another day of the matters they wish to raise.

## **Commencement Matters**

### **Bank Charges**

**An Cathaoirleach:** I welcome the Minister of State at the Department of Finance, Deputy Simon Harris.

**Senator Denis Landy:** I, too, welcome the Minister of State and thank him for coming.

I have proposed this matter because of the concerns brought to my attention. At this time of year, after Christmas, people examine their finances and the charges and fees they pay. I conducted some research and there is a wide variance in the charges of the main banks. There is nothing wrong with this. The banks provide products and services and seek to attract customers based on their model of service provision. However, there is something wrong when people are not notified adequately of the charges being foisted on them and there is no justification for some of the charges. This has been a subject of discussion in the Lower House. Questions were asked about it recently and I do not know whether it was the Minister of State or the Minister for Finance, Deputy Michael Noonan, who answered them.

The Minister of State will be aware that the issue is governed by section 149 of the Consumer Credit Act 1995 which requires that “Each credit institution shall, within three months, notify the director of all charges imposed by it in relation to the provision of any service to a customer or to a group of customers”. When the process has occurred, under subsection (5)(a), the director may require a credit institution “to refrain from imposing or changing a charge in relation to the provision of a service to a customer or to a group of customers, without the prior approval of the director”.

Despite the responses given in the Lower House to Deputy Michael McGrath on a specific issue regarding AIB's 25% increase in the cost of iBusiness Banking in 2014, it is clear that there is a provision to prevent such charges, if the director in the Central Bank decides the charges are too high and too much of an imposition on businesses. We are not using the legislation. There was a review and new legislation, the Central Bank (Supervision and Enforcement) Act 2013, was passed. However, the Act did not introduce changes to the section I have detailed. In a reply to a parliamentary question in the past couple of days the Minister said, "low customer mobility may mean that banks can increase prices without fearing loss of customers." This seems to be the nub of the issue.

I have a list of the various charges of the main banks. They charge a variety of fees for the provision of a duplicate statement, from zero to €2.50, €3.80 and €3.81, while one bank charges €5 per page. In anyone's language, this is an inordinate charge. Retail customers cannot view account statements more than three months old. Instead, they must contact the bank and incur charges. While we say we are keeping an eye on this issue and that there is provision to prevent such charges, the proof of the pudding is in the eating. Given that whenever one makes a transaction on one's account one pays for it, the reason for maintenance charges on accounts is beyond me. It is beyond me as to why it is necessary to charge to maintain an account.

Two institutions offer free banking.

**An Cathaoirleach:** I ask the Senator to conclude.

**Senator Denis Landy:** I will finish up now. There is free banking in two institutions - in AIB where the account holder must have a continuous balance of €2,500 or more; and in Permanent TSB where the account holder must lodge at least €1,500 every month.

**An Cathaoirleach:** The Senator is way over time.

**Senator Denis Landy:** Very few people in ordinary jobs can do that. I look forward to the Minister of State's response.

**Minister of State at the Department of Finance (Deputy Simon Harris):** I thank the Senator for raising this important issue. He is right in saying it is timely given that at this time of year people tend to review their finances and look at ways of reducing costs and saving money.

I will address the issue of advertising and provision of information first. The Central Bank's consumer protection code of 2012 provides that a regulated entity must provide the consumer, on paper or on another durable medium, with a breakdown of all charges, including third-party charges, which will be passed on to the consumer. In addition, the code states:

A regulated entity must display in its public offices, in a manner that is easily accessible to consumers, a schedule of fees and charges imposed by that regulated entity. If the regulated entity has a website, its schedule of fees and charges must also be made publicly available through placing this schedule on its website.

The section of the code which deals with advertising provides that "A regulated entity must ensure that... key information, in relation to the advertised product or service, is prominent and is not obscured or disguised in any way by the content, design or format of the advertisement". Key information means any information that is likely to influence a consumer's actions with

regard to a product or service.

I will now turn to the controls imposed by the Central Bank on bank charges. The Senator raised section 149 of the Consumer Credit Act 1995. That section requires that credit institutions, prescribed credit institutions and bureaux de change must make a submission to the Central Bank if they wish to introduce any new customer charges or increase any existing customer charges in respect of certain services. Section 149 does not cover interest rates; it applies to fees and commissions only.

As part of the conditions under which the Irish banks received state aid, Ireland made various sectoral commitments to the European Commission in order to promote competition in the Irish banking sector. Among these commitments, section 1.1(b) of the approved state aid for Bank of Ireland states: “Legislation will be enacted that will provide that Section 149 of the Consumer Credit Act, 1995 regarding price regulation and fees will not be applied to new entrants in their first 3 years of commencing business in Ireland”. This three-year exemption from section 149 has been given effect in the Central Bank (Supervision and Enforcement) Act 2013 and applies to new market entrants from 1 August 2013.

Section 149 requires the Central Bank to take account of the following in assessing an application for an increase in fees or for new charges:

- (a) the promotion of fair competition between—
  - (i) credit institutions, and
  - (ii) credit institutions carrying on a particular type of banking or financial business,
- (b) the statement of commercial justification referred to in *subsection (3)(b)*,
- (c) a credit institution passing any costs on to its customers or a group of its customers in proposing to impose or change any charge, in relation to the provision of a service to a customer or a group of its customers, and
- (d) the effect on customers or a group of customers of any proposal to impose or change any charge in relation to the provision of such service.

The Department of Finance undertook a review of the regulation of bank charges in Ireland which was published early last year and is available on the Department’s website at [www.finance.gov.ie](http://www.finance.gov.ie). The review concluded that it would not be appropriate to repeal section 149 at that point in time. The lack of competition in the banking sector means that the removal of section 149 would give unfettered price-setting power to the incumbent banks.

The Competition and Consumer Protection Commission has a website, [consumerhelp.ie](http://consumerhelp.ie), which has a section that compares various financial products including current accounts. It lists the various charges imposed by the various financial institutions for different types of transactions including Internet transactions.

The institutions have varying models for charges and have different regimes and conditions under which they are willing to grant banking free of transaction charges. Individuals’ use of their bank account will be specific to each individual and I would strongly encourage people to look at this comparison site with their specific circumstances in mind in order to decide which

institution offers the best product for their pattern of account usage.

At EU level, the payment accounts directive introduces rules on the transparency and comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features. The payment accounts directive was agreed in August 2014 and will be transposed by the Department of Finance.

I hope my putting this information on the record of the House is of use to consumers in the area of bank charges, and in ensuring transparency and fairness.

**Senator Denis Landy:** I thank the Minister of State for his reply. I remember Senator Quinn once informing us that he had got notification for an annual subscription for a business magazine. He discovered that new customers got it for free, so he terminated his account and his wife became the new customer. It is similar here. A new customer gets it free for three years but an existing customer must pay. Would the Minister of State not agree that is a bit unfair?

With regard to the availability of information online, which I will bring to the attention of the people who told me, some of us still live in traditional ways. People have informed me that when they go into their bank they cannot get to talk to anybody at a counter - there is nobody there to talk to. They are sent to machines that do not answer questions. While younger people like the Minister of State might be very proficient at using Internet banking, older people rely on face-to-face communication, which is fading out very quickly. I thank the Minister of State for his response, which I will study further.

**Deputy Simon Harris:** I thank the Senator for raising this important issue. It is also important to acknowledge that the Government is in the business of getting out of banking ownership. We are in the business of returning banks to the private sector over a sustained period of time and getting back as much money as we possibly can, much of which was pumped into the banks by the last Government and some by this one. We now have a plan to recoup every single cent that the Fine Gael-Labour Party Government has put into AIB, Bank of Ireland and Permanent TSB.

As we move out of bank ownership and having stakes in banks, it is important to have robust controls in place. That is why the Department carried out a review last year to ensure the charges were monitored and will continue to be. I take the Senator's point that not everybody uses the Internet. That is an ever-more important point as banking technology advances. However, under the 2012 consumer protection code the fee information must be displayed in the bank branch and the Senator should relay that to his constituents.

I take his point on the three years. However, to counter it, I make the point that it was a condition of state aid by the European institutions and also to try to encourage competition. We all appreciate that the more competition in the market, the better ultimately it is for all of us, as consumers. The Senator has raised a very important issue. It needs to be monitored closely and I can assure him that I will do so as will the Department of Finance.

## **Organised Crime**

**Senator James Heffernan:** I welcome the Minister of State. I thank him and his Department for the courtesy extended to me and the way they have dealt with a number of issues I have

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brought to the attention of the OPW and the Department.

I come from County Limerick and the closest city to me is Limerick city, obviously. It is where I spent my college years and got my education. Limerick city has had trouble with organised crime in the past. A number of ruthless gangs were operating in some of the more socially deprived areas of the city. The crime gang families that operated there were savages. Thankfully the people stood up to them in the face of the murder of Roy Collins and the horrific murder of Shane Geoghegan. At that time the mayor of Limerick, Councillor John Gilligan, a sound man-----

**An Cathaoirleach:** The Senator should refrain from putting people's names on the record of the House.

**Senator James Heffernan:** -----led the citizenry of the city through the streets. It was a hugely poignant moment. Through terrific policing and real community support the city has rooted out those people who have been brought to justice and put behind bars.

However, what is operating north of the Border is shocking. There is a crime gang operating there which is one of the largest in Europe if not in the world. The Criminal Assets Bureau maintains the gang is clearing about €40 million per annum although I accept that estimate is a shot in the dark. We saw two members of that gang being arrested in Spain over Christmas, with a plethora of bank accounts and a whole heap of property portfolios, and God only knows where the money is going.

Last Friday, the Assistant Garda Commissioner was sitting in the seat where the Minister of State is now and gave a presentation to former Members of the Oireachtas. It was an excellent, very interesting presentation about the causes of crime. We all know some of the causes, people in desperation or poverty, people in socially deprived areas and such like but I am not sure he referred to policing and political vacuums. I believe such a vacuum has existed for a long time now in south Armagh, which is known colloquially as bandit country. How can an area of complete lawlessness be allowed to exist on this island?

I would like the Minister and the Department to outline what measures are being taken by the Irish Government in conjunction with Stormont, Westminster, Interpol and international police bodies to bring these people to account. We hear about Islamic extremism and people being held hostage and ransoms demanded. The people of areas like Cullyhanna and Crossmaglen are being held hostage by these criminals.

**Deputy Simon Harris:** I thank Senator Heffernan for raising this Commencement matter. I am speaking on behalf of the Minister for Justice and Equality who sends her apologies that she is not able to be present here today due to other business. The Minister has asked me to thank the Senator for raising this very important issue. The Senator has raised issues concerning cross-Border co-operation between our own Garda Síochána and the PSNI. Trusting it is agreeable to him, I will ask the Minister for Justice and Equality to revert directly to him on that specific question. More generally I am informed that the level of co-operation between the PSNI and the Garda Síochána is at an all-time high. I will ask the Minister, Deputy Fitzgerald to revert to the Senator on the issues of cross-Border co-operation and global co-operation, to which he also referred.

Organised crime activity has serious consequences for the well-being of our communities and, more broadly, for the well-being and proper functioning of society. It affects all sections in

society, whether it is the community struggling with the effects of drug misuse and the violence it brings with it, the businesses undermined by the black market economy and the workers who have lost their jobs because legitimate businesses are failing, or the public services that have to be curtailed because taxes and duties are avoided. The Minister has asked me to assure the House of the continued commitment of the Garda Síochána to tackling organised criminality in all of its guises. The Garda Síochána continues to vigorously tackle organised crime through a range of activities designed to disrupt and dismantle the operations of criminal organisations. This involves targeting serious criminals and organised criminal groups on a number of fronts, including through the use of focused intelligence-led operations by specialist units including the organised crime unit, the Garda national drugs unit, the National Bureau of Criminal Investigation and the work of the Criminal Assets Bureau. In addition, the Garda Síochána has strong and strategic partnerships in place at national and international level in targeting cross-Border criminality and transnational criminal groupings.

The Minister has asked me to assure the House that this approach is yielding results and that we are continuing to see Garda successes in tackling organised criminal activity both at home and abroad. For example, arising from this work drug seizures valued at approximately €62 million were made by the Garda Síochána during 2014. This does not include the well-publicised joint operation involving the Garda Síochána, the Revenue customs service and the Naval Service, which led to the interception of a yacht off Ireland's south-west coast last September containing cocaine with an estimated street value at the time of over €70 million. This operation reflects the investment made by those agencies in building strong and strategic partnerships at international level, including those formed as part of Ireland's participation in the maritime analysis and operational centre for narcotics based in Lisbon. More recently, as part of an ongoing operation earlier this month in the north Dublin area, drugs were seized with an estimated value of just under €500,000.

Such drug seizures play a critical role in disrupting the ability of organised crime groups to carry out their illegal activities. Of course, these are just some examples of the work of the Garda Síochána in what is an ongoing effort. In addition, the legislation underpinning the work of the Garda Síochána is being kept under review so as to ensure that the necessary investigative tools are at the disposal of the Garda. Most recently, the enactment of the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014, which provides for the establishment and operation of the DNA database, has been a very significant development and considerably enhances the investigative tools being made available to the Garda.

On behalf of the Minister, Deputy Fitzgerald, I assure the House of the continued commitment of the Garda Síochána and this Government to tackling organised crime. Senators can be assured of the full support of the Government in this regard.

**Senator James Heffernan:** While I welcome the Minister's response, having the Border still in existence enables these people to keep profiteering. There seems to be such bureaucracy in cross-Border policing, and the criminals are operating because of that. These people claimed they were fighting for a united Ireland at one time. We are coming up to the anniversary of 1916 and we have to have that debate about a united Ireland and where we may see it going. I am proud to represent the tricolour behind the Cathaoirleach.

**An Cathaoirleach:** A question, Senator.

**Senator James Heffernan:** It abhors me to see that the Border, which is being used to

divide communities, is also being used by these people - who claim to object to it - to profiteer from crime.

**An Cathaoirleach:** A question, Senator.

**Senator James Heffernan:** The people there feel that they have been abandoned to the wolves. These criminals are running around the Border areas still armed to the teeth. The Government has to be serious about meeting them head on with everything we have got.

**Deputy Simon Harris:** I thank the Senator again and reiterate my comment that I will ask the Minister for Justice and Equality to revert to him on the cross-Border element, which she will be able to discuss with him in more detail than I can. I restate the Government's ongoing and steadfast commitment to tackling organised crime. While the challenges posed by organised crime are clear, we are continuing to see very successful outcomes from the work of the Garda Síochána. In addition, as I have outlined, we are seeing the Garda working closely with Revenue and the customs service in tackling organised criminality in all of its guises. We are seeing significant enforcement success. For example, in 2014 over 53 million cigarettes with a value of over €25 million and over 9,800 kg of tobacco worth over €4 million were seized in tackling the illegal trade in tobacco products. By seizing such products, disrupting the activity of a gang, cutting off a funding stream to it----

**Senator James Heffernan:** The Minister of State should know that one seizure gives an idea of scale-----

**An Cathaoirleach:** Senator, there is no provision for interaction.

**Deputy Simon Harris:** The final point I would make on providing the members of the Garda Síochána with the physical infrastructure to go about their jobs is that the Government has recommenced recruitment of members of the Garda in Templemore. This development is welcome on all sides of the House, I am sure. In the most recent budget we made provision for more Garda cars. In the period 2012-15 the Government will have provided €27.5 million for new Garda vehicles. This represents a significant increase from the paltry amount of €4.8 million which was invested in new Garda vehicles in the period 2009-11. We are not just talking the talk. In addition to the legislative reform, we are putting in place the physical infrastructure in terms of gardaí and Garda cars, and are working at a cross-Border level. I will ask the Minister for Justice and Equality to revert to Senator Heffernan.

**An Cathaoirleach:** I thank the Minister of State, Deputy Harris, and welcome the Minister of State, Deputy Damien English, to the House.

### **Job Losses**

**Senator Diarmuid Wilson:** As the Minister of State is aware, there was shock, disbelief and disappointment at the news last Thursday afternoon that the Carrickmacross plant of Bose Corporation, one of the world's leading electrical engineering companies that has been based in Carrickmacross, County Monaghan for over 37 years, was to close with the loss of 140 full-time jobs and up to 80 seasonal jobs. The company informed the workforce by video-link in four minutes and 40 seconds that the plant was to cease operations in April this year and that it

was transferring operations at the plant - final assembly of selected home theatre systems and radios for the European market - to Malaysia and Mexico. The workforce which has during the years changed its work practices and engaged in lean manufacturing techniques in order to provide for cost-effective production is devastated. This decision not only affects Carrickmacross but also surrounding towns, not only in County Monaghan but also in surrounding counties, including my county of Cavan.

I understand from my meeting with the Minister for Jobs, Enterprise and Innovation yesterday that he has been in contact with senior management of Bose Corporation. Did he ask it to reconsider the decision to close this state-of-the-art plant? Did he ask for an extension of time if the company is determined to go ahead with the closure? I understand Mr. Barry Weaver, director of human resources, is due to visit Ireland on Thursday and Friday of this week, weather permitting. It is vitally important that the Minister seek a meeting with him to outline face-to-face the devastation this decision will cause for 140 full-time and 80 seasonal workers.

Representatives of some State agencies were present at my meeting with the Minister yesterday. It is vitally important that they pursue other job opportunities, not only in Carrickmacross but also the north-east region. There is a window of opportunity, as pointed out by Deputy Brendan Smith at the meeting yesterday, to market the skills base available in the Bose Corporation plant while it is still intact, in other words, before it closes. As the Minister of State is aware, we had a meeting yesterday evening with a delegation from Monaghan County Council which was attended by some of my Oireachtas colleagues, including the Minister for Arts, Heritage and the Gaeltacht and Deputies Brendan Smith and Seán Conlon who are most anxious that the plant be maintained. I know that this is not within the Minister's gift, but we are asking him to try to ensure the Bose Corporation will do its utmost to keep it open and that, if it is to close, it will make proper provision to find alternative employment and offer the education and other supports that are vital for the workers at this time.

**Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy Damien English):** I thank the Senator for raising this issue. My thoughts are with the workers at Bose and their families as they face into an extremely difficult time following the announcement of the pending closure of the plant in Carrickmacross, County Monaghan. The Minister hoped to be present for this debate after attending the meeting yesterday, but the Dáil schedule changed and he had to take a motion. He sends his apologies as he would have liked to be here. I will get him to contact Members if there are questions I cannot answer.

The sudden and unexpected nature of the announcement to transfer production to Malaysia and Mexico was very upsetting for the staff, many of whom have very long service with the company and shown considerable flexibility and adaptability in work practices during the years. Lean management practices, as referred to by the Senator, made the plant cost-effective. In addition, the decision to close so quickly, with final closure announced for April and activity and employment levels winding down before then, is a further blow for the loyal employees.

As soon as the announcement was made, the Minister arranged for his officials to contact SOLAS, the further education and training authority; the Department of Social Protection and the National Employment Rights Authority, NERA, to ensure the relevant State bodies could play their part in providing appropriate assistance for the employees. The Senator referred to education, training and promoting their skills. SOLAS, the main authority involved, is trying to organise and co-ordinate this activity. I can go through exactly what it can do, but it is so important that it try to keep the guys together as a unit.

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The Minister spoke by telephone to a senior executive of Bose Corporation in the United States last Monday night and is arranging a meeting with a senior executive from the United States who is travelling to Ireland later this week. This is probably the same person mentioned by the Senator. I cannot confirm who the Minister is meeting, but it is a senior executive. It will be a face-to-face meeting in which the Minister will put all of the issues we have discussed to the executive. The Minister has ensured an inter-agency group led by Enterprise Ireland has been formed. Its membership includes representatives of all the relevant State players, that is, IDA Ireland, Enterprise Ireland, the Department of Social Protection, SOLAS, the education and training board, the local enterprise office and Monaghan County Council. The group is providing for a co-ordinated approach to the needs of the affected staff and some of its members were present at the meeting yesterday attended by the Senator.

The Minister has asked both IDA Ireland and Enterprise Ireland to redouble their efforts to secure new projects for County Monaghan, explore all opportunities to replace the jobs being lost in Carrickmacross and find a replacement industry for the site. IDA Ireland will work through its overseas network to pursue potential investors. It has been particularly successful in attracting major employers to the north-east region in recent years and will seek to build on this success in highlighting the advantages of County Monaghan. Enterprise Ireland - its companies in the region have been very successful in recent years - will pursue all possibilities among its client companies to seek to identify a potential replacement for the town. I reassure the Senator that everything that can be done will be done in this case. He has touched on what the agencies could do. A major part of their work will be collating the details of staff skills and the capabilities of the facility. They will put in place an activation team from the Department of Social Protection and make a presentation to the affected staff on their entitlements and available job opportunities. The local Department office in Carrickmacross will assist the staff in processing their entitlements to make claiming jobseeker's allowance easier. I hope case workers will be provided to work with affected staff to make sure they are kept job-ready. The key is marketing their skills as a unit because it is an attractive site with attractive people working on it. There are, therefore, a lot of the ingredients needed to persuade another company to locate there. All of these efforts will be made, in addition to working with Bose Corporation management, to see what can be done to extend the period involved because the Senator is right to say the longer we can keep the plant open, the better things will be.

**Senator Diarmuid Wilson:** The Minister will be having a meeting with a senior executive from Bose Corporation who is due, weather permitting, to travel here on Thursday. Will the Minister let us know how he gets on at that meeting? It is important that the facts, as I have outlined them, be emphasised in the strongest manner possible.

**Deputy Damien English:** I am sure there will no difficulty with doing what the Senator suggests. As he knows, the Minister always tries to involve everybody on these occasions, certainly on a cross-party issue. That is why a delegation from the county council, with Oireachtas Members, attended a meeting yesterday. As it is important that we all work together on this issue, I will certainly pass on the Senator's request to the Minister who I am sure will keep the Senator informed about his meeting later this week.

It is important that IDA Ireland and Enterprise Ireland try to market the plant. Even though the past few years have been tough for the country, there have been many jobs created in the Monaghan area. Enterprise Ireland companies have increased the number of staff employed by them from 3,638 to 4,470. That is not to boast but to indicate that there are opportunities available. The past couple of years have been quite good in the area and the level of unemployment

has come down from 17% to 11%, which is still far too high. I have no doubt, however, that we will be able to find replacement work for the skilled workers involved. It is that on which we must focus our attention. It is important to know that although this is a tough time, there is still hope. It is an area in which people have been progressive and if we put the agencies together, I hope those affected will only be out of work for a short time.

### **Social Welfare Benefits**

**Senator Marie Moloney:** I thank the Minister of State at the Department of Social Protection, Deputy Kevin Humphreys. I will keep it short and sweet because the issue I wish to raise speaks for itself. I tabled this matter because I know of a person who was transferred from illness benefit to invalidity benefit when she was diagnosed with multiple sclerosis, MS. The day she was transferred a social welfare officer visited her at home. She got the letter about the visit a couple of days before and was in a state of distress because she did not know what she had done wrong and why a social welfare officer was visiting her. She had been on and off illness benefit while she waited for the final diagnosis. When her illness was diagnosed she could no longer work. She had never applied for a qualified adult dependant allowance. There was no reason for a social welfare officer to visit her, or for her to have her bank statements ready when the officer called. She was so worked up that her husband took a day off work to be with her when the social welfare officer came.

The social welfare officer did not arrive on the day named in the letter. The client's husband wasted a day's holiday from work waiting for her. She arrived unannounced the following day saying it was an administrative error and that whoever sent the letter out had got the date wrong. The woman explained that she had not applied for a qualified adult dependant allowance and could not see the reason for the visit. She told the social welfare officer she had just been approved for invalidity benefit. The meeting was short and sweet.

Following that she received a letter from the Department of Social Protection asking her to complete a survey, and asking about her savings, her income and whether she had an income when she applied for the benefit. The Department knew her circumstances because she also received a handwritten note from the social welfare officer saying she knew she had transferred to invalidity pension and asking her to complete the form in order to complete her claim and put it into the archives. The officer knew the client's personal circumstances, when she wrote that letter, knew she was on benefit and that she had not applied for a qualified adult dependant allowance. Why did she pursue this matter and ask the woman about her savings and so on? Every time I ring the Department of Social Protection about the delay in some application or whatever I am told it is under pressure and there are not enough staff. If that is the case why are staff in the Department doing work that they do not have to do? Why do they not concentrate on the work they should be doing?

**Minister of State at the Department of Social Protection (Deputy Kevin Humphreys):** I apologise to the client for the administration error that meant the social welfare officer did not arrive on the stated day. It can be frustrating for people in those circumstances, especially when the client's husband had taken the day off to be there with his wife.

I will explain in detail the background to the survey. The Department of Social Protection processes in excess of 2 million applications each year and makes payments to some 1.4 million people every week. The vast majority of people receive the correct entitlement.

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In line with the Department's commitment to excellent customer service and value for money, surveys are carried out on a regular basis across all the Department's schemes to ensure the right amount of money is being paid to the right person at the right time. This is an important part of the Department's compliance and anti-fraud strategy. The illness benefit survey raised by the Senator was one of these surveys.

The survey commenced in December 2014 with the random selection of 1,000 illness benefit customers. Each case selected is tested to ensure that it meets the conditions of entitlement for that scheme and is in receipt of the correct amounts. The survey involves a social welfare inspector making a home visit, the completion of a questionnaire and a deciding officer reviewing each case based on the findings of the social welfare inspector.

The survey questionnaire is designed to assist the deciding officer in determining if the customer actually received the correct entitlement for the duration of the claim. The illness benefit claim for the person concerned was one of the randomly selected survey cases. The claim papers and questionnaire were forwarded to the social welfare inspector on 8 December 2014 as the person concerned was in receipt of illness benefit at that time.

The social welfare inspector called to the home address on 6 January 2015 and was informed by the customer that she was no longer in receipt of illness benefit and has been awarded an invalidity pension. The social welfare inspector returned the papers to the illness benefit branch without completing the survey. However, as this survey concerned the person's entitlement to illness benefit it was necessary to follow up with a postal questionnaire to the customer.

While illness benefit is not subject to a means test, questions relating to income are asked to ensure the customer is in receipt of the correct entitlement in respect of qualified adult and or qualified child dependants. It is also important to establish if the customer's circumstances have changed since the commencement of the illness benefit claim. As the customer continues to be in receipt of a payment from the Department the survey file will be returned to the social welfare inspector for completion of the questionnaire. I assure the Senator that these surveys are carried out professionally and sensitively and in the best interests of the customer to ensure that the Department is paying the right amount of money to the right person at the right time.

It is a random selection of 1,000 people. A total of 1.4 million payments is made every week. Given that there are 2 million applications a year it is only right and fitting that the Department carry out those surveys to make sure there is equality of delivery. Only by checking on how we treat and deal with customers can we ensure the right money is paid at the right time to these individuals and ensure excellence within the service. When dealing with that number of people the message can sometimes be misconstrued but the intention is to make sure the person gets the right amount of money at the right time.

I thank the Senator. Her expertise in this area is well known around the House and many of us seek advice from her in that area. The service should be provided with respect for the customer. If the client was upset I apologise on the part of the Department. That was not the intention.

**Senator Marie Moloney:** I thank the Minister of State. I appreciate what he says and agree that the Department has a responsibility to its clients. Is it not doing unnecessary work? This woman felt harassed. There must be something we can do to alleviate that feeling among people. People who claim illness benefit have paid pay related social insurance, PRSI, for their

entitlements. This client was intimidated by the visit to the house when she had done nothing wrong. She had not been working so the officer could not have been inspecting that and she had not applied for a means test. What the Minister of State said should have been stated in the letter to explain the visit. I do not want to say the Department is wasting its time because there probably are some people who will benefit from such a visit but it is not explained properly and is intimidating to an ordinary country person drawing her illness benefit and trying to deal with her illness. She was very upset by the whole incident.

Does the Minister of State feel the Department is doing unnecessary work when, as he says, millions of people are applying every week for means-tested payments and the effort should be concentrated on them? In due course, when we reach a stage when all the means-tested applications have been dealt with, the Department might move on to a survey to see if everyone is receiving the right entitlement.

**Deputy Kevin Humphreys:** The Senator makes an excellent point but we have to ensure we provide an excellent service. If we do not carry out those random surveys we have no idea whether the 1.4 million people receiving a payment every week are receiving the right payment at the right time. This is part of the testing of procedures.

I will take on board the Senator's suggestion and will look at the letter sent out to the 1,000 clients. These surveys reveal glitches in the schemes that we can correct automatically. It is part of our customer service programme to highlight areas where the Department is not doing well. If there is fraud within the system, that will be highlighted. In a number of cases, we were made aware that applicants were not receiving the correct payments because they filled out their applications wrongly in the first instance. The Senator has probably come across a number of people who did not apply for their full entitlements.

In the long term, surveys will improve the service we provide to the customer. Over the last four years numerous improvements have been made to our services, including reducing the length of time involved in processing applications. These surveys assist us in making such improvements. In the context of the 1.4 million people in receipt of benefits, 1,000 is a small sample size. I will investigate whether the wording of the letter to which the Senator referred is correct in terms of avoiding undue upset to applicants or individuals in receipt of payments. I thank her for highlighting the issue.

*Sitting suspended at 11.20 a.m. and resumed at noon.*

## **Order of Business**

**Senator Maurice Cummins:** The Order of Business is Nos. 1, 2 and 3 on the Order Paper and No. 1a on the Supplementary Order Paper. No. 1, motion regarding the proposed Commission of Investigation into certain matters relating to the Cavan-Monaghan division of the Garda Síochána, is to be taken on the conclusion of the Order of Business without debate; No. 1a, statement by the Minister for Transport, Tourism and Sport regarding the possible sale of Aer Lingus, is to be taken at 2.15 p.m. and to conclude no later than 2.45 p.m., with the contribution of group spokespersons not to exceed four minutes each and the Minister to be called on to reply no later than 2.42 p.m.; No. 2, Gender Recognition Bill 2014, Second Stage (resumed) is to be taken at 2.45 p.m.; and No. 3, Universities (Development and Innovation) (Amendment) Bill 2015 is to be taken at 4.30 p.m., with the time allocated for this debate not to exceed two

hours. Tributes to the former Senator John Carty will be heard on the conclusion of No. 1.

**Senator Darragh O'Brien:** I thank the Leader for facilitating the statements on Aer Lingus. It is only half an hour, but it is a start, and I will talk about that in a minute.

On my own behalf and on behalf of the Fianna Fáil group in the Seanad, I condemn the protest, for want of a better phrase, that President Higgins was confronted with and the abuse that was hurled at him.

**Senator John Gilroy:** Thugs.

**Senator Darragh O'Brien:** It is a disgrace. President Higgins is our Head of State. These people, who were, apparently, protesting on behalf of workers, what they said to him and the manner in which they went about their protest was disgusting and despicable. The President represents all the people of Ireland, as a custodian of our Constitution. He had no choice but to sign the water services legislation. That is his role. Even more galling is the fact that Members of the other House, Deputy Paul Murphy included, would see fit to justify that behaviour.

**Senator John Gilroy:** Hear, hear.

**Senator David Norris:** No, they did not.

**Senator Darragh O'Brien:** He did.

**Senator David Norris:** He did not. He condemned the language.

**An Cathaoirleach:** Order. Senator O'Brien without interruption.

**Senator Darragh O'Brien:** The only language he condemned was the use of the phrase referring to the President as "a midget". That was it. He did not ask anybody to withdraw calling him "a parasite" or anything like that. If Senator Norris was Uachtarán na hÉireann today - fair play to him for standing in the election campaign - I would expect the same respect and courtesy to be shown to him, or to whoever the President might be.

**Senator Paul Coughlan:** Absolutely.

**Senator Darragh O'Brien:** I just want this on the record, but am not here to debate the issue with Senator Norris, for whom I have great regard. What is happening in this State is a disgrace. I am talking as someone who voted against the Water Services Bill. All of us have different views on this issue, but that is not the way to protest. Certainly, crossing a line through that type of protest against the President and Head of State is a dangerous line to cross and is not acceptable. The Seanad should say with one voice that it is not acceptable.

We discussed Aer Lingus on the Order of Business yesterday and I welcome the fact the Minister will be in the House for half an hour today and welcome the contributions made by Members from all sides yesterday. This is a serious situation for the company, the country and for Ireland in general in regard to our connectivity with Heathrow and job security. I agree with what Senator Whelan said yesterday, that the Seanad should speak as one voice on this. It should state that as far as it is concerned, the Government should not sell its stake of 25.1% in Aer Lingus and should protect Ireland's strategic interest. With that in mind, I ask Members to look at my motion, which does not condemn the Government or anything like that. No. 60, motion No. 14, proposes:

That Seanad Éireann calls on the Government to reject the IAG/British Airways bid to purchase Aer Lingus and believes that the Government should retain its 25.1% stake in the company so as to protect Ireland's strategic interests and to support job retention in Aer Lingus.

I intend to move an amendment to the Order of Business to have this motion taken before No. 1. It would be advantageous if the Seanad accepted that motion in advance of the Minister coming to the House, because it would show that the Seanad stands as one against the sale of the 25.1% stake the Government holds in Aer Lingus.

**An Cathaoirleach:** To clarify, is that to come before No. 1?

**Senator Darragh O'Brien:** Yes. In regard to the new Central Bank rules published on mortgages, I welcome to some degree the slight change the Central Bank has made in regard to a 10% deposit on mortgages up to €220,000. However, I believe that 20% for mortgages above that is far too restrictive, particularly in urban areas. In Dublin, for example, look at what we are asking first-time buyers to save, although I acknowledge it is less than the full 20%. Look for example at people who are trying to upgrade, such as people stuck in apartments who want to buy houses. These people are not deemed first-time buyers and the full 20% requirement for them is far too much. I ask the Leader to schedule a debate on this issue. I understand the Minister will bring forward legislation to copper fasten the proposal and that is probably the time for debate. Does the Leader have any indication of when that might be?

**Senator Ivana Bacik:** I concur with Senator O'Brien in his condemnation of the nature of the protests against President Michael D. Higgins. Any democrat should join in condemning those protests, which are clearly unacceptable. As Uachtarán na hÉireann, the President represents all of the people of Ireland, at both national and international level, and should be above politics. Most fair-minded people recognise this. To my memory, there has not been a protest of this nature against any President about any aspect of Government policy, nor is it appropriate there would be. People have a right to protest, but to protest peacefully. This protest did not fall within that realm and should be condemned.

I welcome the change in the Order of Business to enable a debate today on the potential takeover offer for Aer Lingus. I have made my position clear, that I oppose any sale of the Government's 25% stake in Aer Lingus. As the record would show, the Labour Party opposed the privatisation of most of Aer Lingus by Fianna Fáil in 2006.

I also ask the Leader to provide for a debate on the new Central Bank rules on mortgages, which I expect will be forthcoming in the near future. I welcome the relaxation of the 20% deposit requirement for first-time buyers. As Patrick Honohan said yesterday, first-time buyers were not the problem. It is also worth welcoming the additional restrictions on buy-to-let buyers and investors, whose investments have been seen as more of a problem in creating the bubble. It is good to see the Central Bank distinguishing between categories of buyers taking out mortgages. However, many of us still have concerns about overly onerous restrictions, particularly on first-time buyers in Dublin where the €220,000 limit is low. I accept they are subject to only 10% on that. It is good to see some flexibility built into the system, but perhaps we could debate whether there should be more.

I welcome the passage yesterday of the motion on the establishment of the commission of investigation into mother and baby homes. More Senators, including myself, wanted to speak

on that issue, but the debate finished somewhat prematurely. The way that happened was unfortunate, that through nobody's fault, there were not enough speakers in the Chamber at the time. The appointment of Judge Yvonne Murphy to chair the commission is welcome and I welcome the other eminent commissioners, Professors William Duncan and Mary Daly. I wish them well with their important work of inquiring into this scandal from our past.

This is European cervical cancer prevention week and Cervical Check and the IFPA have joined together in launching a campaign to make women more aware of the need for cervical checks. All the women Members have been sent some information on this issue and I hope the male Members have too. The campaign is entitled the Pearl of Wisdom campaign and the social media campaign can be accessed via the hashtag #ShareTheWisdom. I wish to support this.

**Senator David Norris:** I would like to raise the issue of the situation that obtained in the past few days in a school in south County Dublin, Coláiste Eoin, where a group due to talk about homophobic bullying was given half an hour's notice that the session would not take place, despite the fact it had visited the school for a successful visit previously. Apparently, on this occasion, the school management was contacted by a group of parents who wanted to know why the other side was not represented. I find this extraordinary. The other side of a group talking about homophobic bullying is a group of people in favour of homophobic bullying. What is going on here? This is utter lunacy.

This, in my opinion, is the pernicious effect of the McKenna judgment. We need to look again at this judgment, at this requirement for balance and for 50% representation from each side, no matter how absurd the situation becomes. This House should take on the job of considering amending this legislation. The situation reminded me of the time when Joe O'Toole and myself were pilloried by conservative elements for campaigning for the Stay Safe programme in schools. We were told we were infringing parents' rights, as if parents had a right to interfere with their own children. I remind people that the group in question in regard to the school was a non-political, non-lobbying group which had nothing to do with the marriage equality amendment.

Another matter raised here had to do with Deputy Paul Murphy and what was stated on the radio as incitement by him. I heard him plainly and unreservedly condemning both the language and the tone of the protests against the President and do not see how this could possibly be construed as incitement. He sustained people's right to protest and people might have different views on that. I would not protest against the President and think he is doing a good job. President Higgins is not a shrinking violet. I remember him in the 1980s interrupting a conferring in Galway university by-----

**An Cathaoirleach:** We are not discussing the President in this House.

**Senator David Norris:** -----shouting at Ronald Reagan. The President is a mature balanced man and I doubt he was as outraged as people suggest in order to score political points on this issue.

**Senator Denis Landy:** I wish to raise the issue of the consequences of patients in hospital beds being unable to transfer to nursing homes. One of the reasons for this is not the most obvious one that the fair deal scheme is delayed by 11 weeks, which is also a factor, but the fact that general practitioners, GPs, in areas that have nursing homes are limited by the number of medical card holders they can have on their list. They are unable to take on new patients

who have medical cards because it would exceed their prescribed number. I am aware of one instance where the nursing home cannot fill its beds, the GPs the patients currently have are too far away from the location and the local GP is unable to take the patients onto their list. What is happening, in effect, is that beds in hospitals are being tied up, the nursing homes are not doing the job they should be doing and the patients are caught in the middle. This must be brought to the attention of the Minister for Health. It makes no sense. I am aware the crisis has abated a little but we still have trolley watch on a daily basis and there are still many people on trolleys at night, including in my local hospital in south Tipperary.

With the use of a little common sense there is an opportunity in the situation I have outlined. GPs could be allowed to take on extra people on their lists, which means the people who are in hospital beds can move to the nursing homes in the relevant areas, free up the hospital beds and decrease the number of people on trolleys in hospitals. I ask the Leader to bring this to the attention of the Minister for Health. It is not the full solution but it is certainly part of the solution to the problem of people on trolleys in hospitals.

**Senator Labhrás Ó Murchú:** The bomb attack on the office of Deputy Michelle Mulherin is a very worrying and sinister development. It could easily have resulted in loss of life or very serious injury. It is not just an attack on the office of a Member of this Parliament, but an attack on the Oireachtas and on everybody in public life. It is also an affront to democracy. This country has a proud record of respect for democracy. There are many opportunities for people to express their views if they disagree with a Member of the Oireachtas or a particular policy. On several occasions in this House issues have been raised regarding the manner in which protests have taken place. Some were mentioned again this morning. Deputy Mulherin is a young woman who came into public life to serve her community and her country, and it is not right that she should have to do it in the shadow of fear or with the feeling that she must stay silent. I do not know what the issues are, but we must deplore what has happened and nip it in the bud.

There is an air of anarchy in the country. Members are aware of this in their own communities. Luckily, it has not gained momentum. However, a firebomb attack is so serious that if Members of the Oireachtas do not make their position clear about it, the signal or message might well be conveyed that it is acceptable. It is not acceptable and we should not let the matter lie without deploring it.

**Senator Colm Burke:** We must be very careful about the requirement that a purchaser have a 20% deposit for purchasing a house. One of the current problems in this country is that a huge number of people in the 25 to 40 year old age group have not had the opportunity to acquire their own property. I accept the reason the Central Bank put forward this proposal of a 20% deposit once the property is over a certain value, but we are not doing anything at present to help people who wish to get on the property ladder. I can give a simple example. If I own a house and I carry out renovations, I can claim back the VAT. Why can we not consider giving a small amount of help to people who are purchasers? Why can we not consider introducing something similar in respect of a first time purchaser, whereby they could get some type of contribution towards the risk they are taking? If we can encourage more people to buy their own property, the demand for the provision of social housing will be reduced.

I recall when I was working in a legal capacity an occasion when somebody with four young children came to my office to pay a deposit on a house. The deposit required was £100 and the cost of the house was £21,000. They did not even have the £100 deposit at the time but were able to borrow it from the bank. They bought the house and were able to service the loan. That

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was when the interest rate on loans was 18%. Now the interest rate is under 5%, so we should be giving some further assistance to people. We must also fast-track planning for housing development. We are not doing enough on that. There should be a debate in the House on the housing issue, where the delays are occurring and what we can do to eliminate them.

**Senator David Cullinane:** I wish to raise the motion on the investigation into certain matters relating to the Cavan-Monaghan division of An Garda Síochána to be taken without debate today. There was a ruling by the Ceann Comhairle in the Dáil that the motion would have to be taken without debate. That is not good enough. The excuse given is that this matter could become *sub judice*, but I do not accept that. We are talking about a hearing that will be heard by High Court judges and I do not believe one could make the same argument regarding High Court judges being swayed by arguments or debates taking place in this House on an important motion-----

**An Cathaoirleach:** The ruling has been made and it must be adhered to.

**Senator David Cullinane:** We do not accept that ruling. We oppose the proposal, first and foremost.

**An Cathaoirleach:** The Chair has ruled on that matter.

**Senator David Cullinane:** I accept that, but I am entitled to offer my opinion. I have just put it on the record of the House, which is what I sought to do.

The second issue I wish to raise is the debate on Aer Lingus. Obviously, a debate is welcome but a half hour debate on such an important issue is not good enough. Only a small number of Senators will get an opportunity to speak. The issue is of fundamental importance to the people of this State and, indeed, of the island. It is a massive issue that must be properly discussed and debated. Having a token debate for half an hour just for the sake of it does not do the issue justice. I oppose that. Any debate is welcome but it should be for much longer than half an hour.

**Senator Darragh O'Brien:** Hear, hear.

**Senator David Cullinane:** My final point is about issues that were raised yesterday regarding a possible debate in the House on a debt conference. Next week, the Taoiseach will meet the President of the EU Council, Donald Tusk, and the President of the EU Commission, Jean-Claude Juncker. When he does so he must put a debt conference on the agenda and not leave the new incoming Greek Government isolated in making demands for restructuring of debt or dealing with states' levels of indebtedness, especially when one considers that the debt to GDP ratio in this State is 111%. If any country should be demanding a debt conference and seeking movement on the debt, much of which is not ours in the first place but private banking debt, it should be this country. It is regrettable that the Taoiseach has ruled out a debt conference, but we should have a debate on it in this House. The Dáil should have one too but we can only seek a debate here. I reiterate the call I made yesterday that, if possible, the Leader afford us the opportunity to have a debate on that important issue next week.

**Senator John Whelan:** Back in 2008, at the outset of the banking and financial crisis, I said the fear of losing one's home was even more traumatic and stressful than the prospect of losing one's job, even though the two often go hand in hand.

I understand the Taoiseach has wisely chosen to meet the practitioners from the insolvency

services which is welcome and long overdue. Unfortunately, the insolvency services, as set out under legislation, are not working. At the time that the legislation was put through I regarded it as a bankers' charter. Unfortunately it has turned out to be a bankers' charter because the banks can veto everything that happens. The so-called resolution process for mortgages in distress, under the same legislation, really is a long and winding roadmap to repossession. That is where it ends up and that is where it always ends up.

For us to move, assist and facilitate any repossession of family homes, where people are doing their best to meet their repayments, is tantamount to eviction. These are people who cannot pay; it is not that they will not pay. The Government should not have any hand, act or part in such endeavours. We must revisit the legislation and the insolvency provisions because the banks cannot be allowed to carry on like this. We have a ticking time-bomb because between 25,000 and 40,000 mortgages - a conservative estimate - are in serious distress and deficit of over two years so it is an unsustainable debt. All that will happen, one way or the other, is that it is the taxpayer who must pay. If these people's homes are repossessed who will have to re-house them? It will be the taxpayer. The bank will write-down the value of the property and then sell it to someone else which is not a solution. The banks must be stopped in their tracks. This social time-bomb will explode this year unless the Government intervenes.

**Senator Diarmuid Wilson:** I second Senator Darragh O'Brien's amendment to the Order of Business.

I wholeheartedly agree with his comments on the President. It is totally unacceptable that the highest officeholder in the land, who is totally independent and represents all of the people regardless of their political background or persuasion, should be treated in such a bad manner. Such behaviour is totally unacceptable and I add my name to the list of people who condemned the attack.

I also join with Senator Ó Murchú in condemning the attack on Deputy Michelle Mulherin's office yesterday evening. The circumstances of the attack remain unclear. However, the attack is unacceptable, regardless of the circumstances.

I heard the Taoiseach's being interviewed on "The Pat Kenny Show" on my way here this morning. He said something that we should all be aware of. He said that in his 40 years in public life he had become aware of how to judge the expression on people's faces and he upheld the right to demonstrate against Government policy. I would like to add to his comments. I do not blame people for demonstrating because we can all list the unnecessary promises the Government made prior to the election which it has since broken.

The Taoiseach continued in the interview by saying, although their number is very small, that one can observe the hatred in people's faces. That is a very dangerous situation in a democracy. Yesterday was the 70th anniversary of the liberation of the Auschwitz concentration camp. Hatred created that camp and hatred is the furthest thing away from democracy. We are only a small step away from those depths if we do not realise what democracy means to this country.

I ask the Leader to invite the Minister for Education and Skills to the House to give us an update on the ongoing talks about the proposed reforms of the junior certificate.

**Senator Paul Coghlan:** I agree with Senator Darragh O'Brien's condemnation of the disgraceful attack on the President. Michael D. Higgins is a most respected first citizen, he is do-

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ing an excellent jobs and is above politics. As Senator Wilson has said, he should be regarded by everybody in this democracy. Some dangerous forces are afoot so we must guard against democracy sliding into anarchy.

This morning I want to give a general welcome to the Central Bank's relaxation of mortgage requirement rules. We understand its reasoning for doing so as wanting to prevent any further creation of a property bubble. I welcome the 10% first-time buyers' requirement.

As Senator Darragh O'Brien has said, the €220,000 limit for Dublin is far too restrictive. As the Governor has said, Dublin means everything in the housing property situation. One would hardly get a bird's nest in Dublin for €220,000. If one were lucky one might get a one bedroom apartment for that sum. What about couples starting off? They would be lucky to even find a one bedroom apartment for that amount. This issue needs to be re-examined. Therefore, I agree with other Senators that we should debate the matter. I would appreciate if the Leader could arrange a debate in early course. We should debate the matter as it urgently needs to be revisited.

I welcome the fact that the Leader shall bring in the Minister for Transport, Tourism and Sport, in early course, to discuss the potential takeover offer for Aer Lingus. Let me remind Senators that there is no formal offer as of yet. However, we can discuss the matter when we are dealing with it.

**Senator Gerard P. Craughwell:** I am a proud former sergeant of the 1st Infantry Battalion in Galway. Therefore, I am distressed to find PDFORRA, the organisation which represents rank and file members of the Army, Naval Service and Air Corps, has had to lodge a case in Europe for official recognition. The case has been lodged under the European Social Charter because PDFORRA has been excluded from national wage negotiations. As many as 20% of PDFORRA members are on such low pay that they are in receipt of the family income supplement. We have heard stories of Defence Forces members having to sleep in their cars because they cannot afford the petrol it would take to go home. Recently, we learned that Defence Forces members assigned to provide a guard of honour at the funeral of the former Taoiseach, Albert Reynolds, had to borrow uniform parts in order to participate.

The Council of Europe upheld a ruling by the ECSR to allow AGSI members to participate in trade union action. The ruling followed a complaint by the AGSI against a Government ban on their participation in trade union action. Why is PDFORRA being asked to fight the same battle when it has already been won? What is it about this country that we force people to go down the same legal route in order to get recognition for something they are justly entitled to?

I want the Leader to ask the Minister for Defence to come here, at his earliest convenience, to debate the current state of the Defence Forces in Ireland. Our soldiers and sailors stay up at night to guard this country, and our sailors put their lives in peril keeping this country as drug free as possible. To think that we are treating them in this way, to my mind, is abominable. I ask the Leader to organise the debate.

With the Cathaoirleach's indulgence, I shall raise an urgent issue that came to my attention this morning. I refer to the fact that people who lost discretionary medical cards and subsequently had them returned, have received solicitors' letters for their hospital visits during the short period they were without a medical card. I ask the Leader to investigate the matter and to report back, if he can.

**Senator John Gilroy:** I understand that people are very angry after enduring eight years

of austerity imposed to get the country back in recovery. First, I join in condemning the recent protest, if that is the correct word, against the visit of President Higgins to Coláiste Eoin in Finglas. It is fair and reasonable to attack ideas in a democracy but it is totally unacceptable to make a personal and vindictive attack. We have seen this as well with the attack on Deputy Mulherin's office which must be condemned, and also with the outrageous treatment of the Tánaiste some weeks ago in Jobstown. We can also point to the almost forgotten incident some months ago when the office of the Minister of State, Deputy Ó Riordáin, was daubed with vile graffiti. There is a certain level of nastiness creeping into politics which is totally unacceptable. It has to be denounced unambiguously by all democrats. I have heard the use of clever words and phraseology to qualify this abuse in the other House. There has been a silence among some parties in this House too with regard to condemning this awfulness. It is said that all it takes for evil to prevail is for good people to stay quiet. It could not be more apt or timely to remind people of that. As democrats we must remind people to unambiguously denounce every instance of this kind of thuggery when we find it.

**Senator Paschal Mooney:** I support the comments made on the attacks of the Office of the President. It must be remembered it was not an attack on the person of Michael D. Higgins but an attack on the institution of the presidency. That is something that should give pause for thought to the members of the public who have increasingly become disillusioned with party politics. Perhaps we have a responsibility collectively in that regard. At the same time, however, it is incumbent on us as democrats in the Chambers of the national Parliament that we take each and every opportunity to condemn outright any attempt to undermine the democratic nature of our society. That is essentially what that attack was about. Whether those people thought about it or believed it, that is fundamentally what it was about.

I also support the call by Senator Craughwell for a debate on the Defence Forces. They have always been the Cinderella section of government, despite the fact the majority of the people supports their peacekeeping efforts and the need to have them in all their various facets.

I support Senator Paul Coghlan's call for a debate on the whole housing issue. The Construction Industry Federation has been quoted in the media recently as stating new housebuilding effectively stopped over the last several months because of the uncertainty surrounding the whole issue of mortgage requirements. I do not think that is acceptable. Maybe because it is a lobby organisation, it is spinning a certain story. Essentially, however, if there is a real problem with housebuilding, particularly in the greater Dublin area, then there is a need for the Government and local councils to intervene legislatively, or otherwise, to ensure builders build those houses because the demand is plainly there. I welcome the initiative by Senator Coghlan in this regard and hope the Leader will respond positively to it.

**Senator Hildegard Naughton:** This morning the Minister of Transport, Tourism and Sport, Deputy Paschal Donohoe, announced €17.5 million for sustainable transport measures for Galway, Cork, Limerick and Waterford cities. This is very much to be welcomed, particularly in Galway, a city grappling with traffic congestion. Up to €2.2 million has been allocated for Galway to help deal with traffic congestion, including road upgrades and improvements, more visible variable-messaging and parking signage, pedestrian crossings and bus stop operations. This is crucial for the development of tourism and local business. As the economy is improving, more people are now commuting to and from work across the country. This funding is critical to improving access and safety on our road system.

**Senator Fidelma Healy Eames:** I join in the condemnation of two recent serious incidents,

namely the fire-bombing of Deputy Michelle Mulherin's office and the verbal attacks and assaults on the President. To echo the concerns of Senator Diarmuid Wilson, we need to be careful that there is a fine line around the growing movement which could be considered incitement to hatred. I understand people are angry, disappointed and struggling. We have to be able to communicate, however, without putting lives and property at risk, as well as the office of the President.

I welcome yesterday's measured attempt by the Governor of the Central Bank to strike a balance between giving access to first-time buyers at the 10% deposit level while, at the same time, ensuring we do not reignite another credit bubble. This was a responsible move on his part. While I know it is not ideal and may need tweaking, we must give the Governor credit for listening and for regulating, something a previous Regulator did not do.

Will the Leader organise a debate with the Minister for Health on the recent euro health consumer index which showed Ireland has slipped eight places from 14 to 22 in its ranking after its waiting list data was found to have lost credibility? Ireland got a red score for hospital-acquired infections like MSRA, methicillin-resistant staphylococcus aureus, the vomiting bug and waiting lists. Last week, on waiting lists, the Minister told the House he would not get involved in individual hospitals because his job is policy. This index clearly stated our waiting list data has lost credibility and that the health system must now listen to patient organisations. We must take in the qualitative as well as the quantitative data. The Minister needs to take that on board as Ireland is now on a par with Romania when it comes to patient empowerment and with Sweden for terrible waiting lists. We have slipped way down in the rankings.

The Minister must have targeted interventions that will make a difference. Some services are working like the advanced nurse practitioner scheme. We need to look at good practice. My colleague, Deputy Denis Naughten, has pointed out that one in eight hospital beds is taken up by COPD, chronic obstructive pulmonary disease. If there were targeted community intervention on this condition, up to 57% of beds would be saved. That is smart thinking. We need to bring the Minister into the House to discuss interventions.

**An Cathaoirleach:** The Senator can make those points during the debate. I call Senator Eamonn Coghlan.

**Senator Eamonn Coghlan:** I will raise an issue which might have been more appropriate for me to raise several minutes ago when there were two dozen primary school children and their teachers in the Gallery. Yesterday, Mr. Sean Cottrell, the chief executive officer of the Irish Primary Principals Network, IPPN, called for a mandatory two hours of physical education in primary schools per week. In his words, "A healthy mind in a healthy body captures the essence of a holistic education". He said something needs to be done urgently in this regard.

Three years ago, I brought my Points for Life initiative to the House in a Private Members' motion. As a result of that motion and debate on it, the PDST, the Professional Development Service for Teachers, and PE PAYS, Physical Education, Physical Activity and Youth Sport, research centre at the University of Limerick, conducted a pilot programme in north Wicklow schools. The results were poor, which we knew then. However, as a result of the pilot programme, there were significant improvements in this area. Where has the programme gone from there? Nowhere. It has been kicked to touch by the Department. I have written to the Minister for Education and Skills on several occasions since last July and only recently last week about this issue calling for a meeting. Will the Leader organise a debate with the Minister? Once

and for all, we have to do something about this issue. I want Seanad Éireann to be the leader in ensuring something happens in this regard. Up to 85% of 1,000 teachers surveyed said we need urgent reform in this area from the Department of Education and Skills. We are running out of excuses and we can no longer put it on the long finger. Physical education, which is a core subject in primary school, must be taken as seriously as other core subjects such as mathematics and Irish. I would like to have the Minister for Education and Skills in the House to see a way forward and something positive done in the area physical education. This is not just about obesity but the overall future well-being of our children and our youth.

**Senator Paul Bradford:** I, along with the majority of my colleagues, give general support to the proposal on mortgage lending made by the Governor of the Central Bank. It is not perfect - no public policy ever has been or will be - but the Governor made a reasonable attempt to strike the right balance. Perhaps some further tweaking will be required but that can be worked on as we see the impact of the policy.

Senator Coghlan made an interesting comment, which shows where the problem really lies. He correctly stated that, on house prices, it is all about Dublin. I suspect the reason for this is our failure down the decades to put in place a proper regional strategy. A new and dynamic regional strategy will be a bridge too far during the Government's remaining term of office or during the term of the next Government. However, it is something upon which we must reflect because the problem will continue to be about Dublin - whether it is a housing, joblessness or homelessness crisis - while we continue to focus on our one large city and do not put the resources, planning, development and structures into places such as Cork, Waterford, Kilkenny, Galway, Sligo and Tralee. This must mean building significant population hubs around the country while also looking at planning, development, housing and industry from a regional perspective.

While we have a long and busy session before us, I again ask the Leader to arrange a substantive debate on regional planning and development. A few ham-fisted efforts have been made to address this, including decentralisation, the creation of hub towns and gateways. However, these were nothing more than one-page electioneering stunts and inevitably did not work. There has to be scope and space for significant regional planning in the country, across the broad spectrum of development. I ask the Leader to set aside time for a debate on regionalisation at local government and industrial level as it is very much a part of the solution to many of the problems we have in this country.

**Senator Michael Mullins:** I join with colleagues in condemning the outrageous attack on our President by the so-called water protesters. Deputy Paul Murphy would be well-advised to get his megaphone out again, to explain to his supporters the constitutional role and independence of the President and to work towards taking the nastiness we have seen recently out of these protests. It is not serving our democracy well. I also wish to condemn the attack on the office of Deputy Mulherin in Ballina last night. Not alone is it an attack on our democracy, it is also an attack on a woman politician. At a time when we are trying to attract more females into the political system, this is sending out the wrong message. I strongly applaud the Garda for the speed with which its members arrested someone for questioning on this outrageous attack.

I welcome the fact that in a recent ballot IMO members have supported the new salary scales for new entrant consultants. These new pay scales and improved salaries will, I hope, keep more of our graduates at home and persuade many experienced consultants working abroad to return to Ireland. We need to get the message out to medical graduates that pay and conditions

are beginning to improve again in Ireland and that we want them to be part of the health recovery underway here. I hope the HSE will move quickly to advertise and fill the many consultant vacancies in our hospitals so that issues raised in this House, such as waiting lists and patient safety, can be addressed as a matter of urgency. It is very much to be welcomed and I hope it will be the first step in addressing the major issue of our young graduates emigrating in large numbers and that we will see movement in the opposite direction from hereon.

**Senator Mary M. White:** I wish to raise the issue, which I raised already last week, of the CSO survey on income and living conditions. I was surprised that it did not make the radio or the newspapers at the weekend. The survey has confirmed that child poverty has been rising sharply during the economic downturn. This means that many children in the country are living in consistent poverty, meaning they are living both at risk of poverty and experiencing deprivation. The figure has doubled, from 6% to 12% between 2008 and 2013. As I said last week, the Minister, Deputy Burton, is acting in a brutal manner in the cuts made to payments to lone parents and parents who are trying to work, and in what she is intending to do in July. We must put a stop to it. We should support the Spark campaign that is trying to stop this. I would like to know what my Labour Party colleagues have to say on the Minister's attack on lone parents. I request an urgent debate on the CSO income and living conditions report that was launched last week. We need to get this on the radar.

I am dealing with a lone parent who had to get out of her home in the Dublin south area because the landlord put up the rent. The family lost their home in September. They were sent to a hotel in Swords, miles away from their schools. Now they are back in the IMI building in Sandyford. However, they have no facilities for cooking or washing. They are nearer to their schools but they are living in deprivation. The CSO report, which is an outstanding report, should be the number one issue in the country.

**Senator Catherine Noone:** I add my voice to those condemning the treatment of our President. The anger can be easily understood but the actions not. Likewise, I know my colleague, Deputy Mulherin, to be a hard-working and decent person. I am appalled at the treatment she has received. We are heading down a very dangerous road in Irish politics if we are going to see this on a weekly basis.

I wholeheartedly agree with Senator Coghlan. He has raised an issue which I had intended to raise. It relates to the issue of where certain activity had been banned in schools previously. I had called for that to be reviewed. I was glad to see Seán Cottrell raise the issue of two hours of PE being mandatory in schools. There is no question but that obesity is on a dangerously fast rise in Ireland. I have concerns about young people becoming increasingly overweight and obese. As Senator Coghlan said, this is not just about obesity. It is about the health of the nation at large. Two hours of compulsory PE was also suggested by the Irish Heart Foundation and the Federation of Irish Sport last October. Prior to this, I had suggested half an hour of PE a day, 2.5 hours or slightly more per week, to be made mandatory. About that time, a SafeFood Ireland survey showed 90% of parents believed 30 minutes of school time should be devoted to PE every day. We are at the bottom of the EU league in terms of time spent on PE in our schools, with Irish children getting just over half the EU average of 109 minutes of physical education. By making a half hour of daily exercise mandatory in the school timetable, we can move to the top of the table.

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

**Senator Catherine Noone:** I am and I join with Senator Coghlan in seeking such a debate. A very worrying fact is that a percentage of our 15 years old teenagers are already showing signs of cardiovascular disease. In addition, a recent survey of almost 1,000 principals showed that 85% of them identified physical education-----

**An Cathaoirleach:** The Senator should make those points during the debate.

**Senator Darragh O'Brien:** What does the Senator want to ban today?

**Senator Catherine Noone:** I would like to impose compulsory education. It is clear that action must be taken. I seek a debate with the Minister for Education and Skills at the earliest possible juncture.

**Senator Ned O'Sullivan:** We had a very useful debate here yesterday afternoon with the Minister for Communications, Energy and Natural Resources, Deputy Alex White. It was perhaps too ambitious in that we dealt with almost his entire brief, from broadband to energy issues, communications, and post offices. Everyone made useful contributions. However, some of the important points were left out and the Minister did not have the time to answer fully all the points raised.

The Minister said that the closure of post offices has now slowed down to a trickle - he said there were five closures in the past 12 months - and we accept what he says.

However, I wish to highlight an equally serious situation, which is the wholesale movement of post offices from the traditional retail centres of provincial towns to the mega superstores and greenfield sites such as Lidl and Aldi which are out of town. Just like a church or a school, a post office was an integral part of community life in the traditional strong market towns with a good retail base, such as my own town, Listowel, for example.

Like every other town in Ireland we have witnessed more and more shops and traditional businesses closing. There are shops to let and shops for sale - everything but shops open for business. The only growth areas I see are in charity shops and, to a lesser extent, betting offices, which suggests a bleak future. Post offices have an obligation to the communities that support them. Many of the smaller businesses depended on the post office - the small shops and pubs especially on pension day and things like that. The Minister would be advised to come back to the House for a specific debate on that particular aspect over which he has control to a certain extent.

**Senator John Kelly:** I support what Senator Landy said about the fair deal scheme. We should have a debate on that scheme, which should be renamed "a raw deal" scheme for the elderly people because that is what they are getting now. It used to be when people applied for the fair deal, once it was sanctioned it was granted from the date of application, but now it is not. Now people have to wait between 11 and 16 weeks before getting funding for the nursing home bed they are occupying, which costs the elderly person between €14,000 and €16,000 which they may not have. That is why we have bed blockers in hospitals. The patients simply cannot afford to go out to a nursing home because they do not have the funding to do so. However, it costs approximately €7,000 a week to keep them in the public hospitals. It is outrageous.

They are now being moved to public nursing homes in the region, but not close to where they are seeking nursing home accommodation. A lady in my county, who wants to get into a nursing home in County Roscommon, has been discharged to a public nursing home in Ballina,

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County Mayo, 60 miles away from her home. It is not fair on her because she knows absolutely nobody. Nor is it fair on family members who have to travel such a distance to visit their elderly relative.

It is time we had a debate in the House about the fair deal scheme. We need to go back to the way it was whereby when somebody's application for the fair deal is eventually approved, it is granted from the date of application.

**Senator James Heffernan:** This morning I listened to the Newstalk "Breakfast" show hosted by Ivan Yates. It contained an interview with Bobby Kerr, a proven successful entrepreneur, who spoke about the post office business development group. This body has been set up under the auspices of the Minister of State with responsibility for rural affairs, Deputy Ann Phelan. I commend the Government on having a Minister of State with responsibility for rural affairs to take control of such issues. In the interview the proposals were met with a certain cynicism and it seemed like shooting the thing down before it ever got off the ground. It needs to be given a chance to see how they can improve and modernise the post office network.

Rural Ireland has been dying for quite a while and it is high time it was well and truly supported. I hope this group takes on board the views of the Irish Postmasters Union, which wants to improve post office business and keep it going. We cannot underestimate the value of rural post offices, as Senator O'Sullivan has said. Even with social welfare payments, including pension payments, it gives people a social outlet - a place where they meet and can discuss the matters of the day.

The review group should be ambitious. The banking system is in a complete and utter mess. We have a network of post offices. I always said selling off ACC was a mistake. Perhaps that is the road it should go down - to increase the banking service in the post offices and maybe make it a State bank.

**Senator Terry Brennan:** I am not sure if my colleagues are aware of this. I am glad to announce that our esteemed colleague, Senator Jimmy Harte, is making great progress and has regained consciousness, which is great news. He is still in hospital. I wish him further success and I hope he will be back with us and back home in the not too distant future. It is great news.

I also welcome the incoming secretary general of ICTU, Ms Patricia King. I acknowledge her contribution to trade unionism over many years. As was stated here last week, she is its first lady secretary general and I wish her every success. I also congratulate the outgoing secretary general, Mr. David Begg, and acknowledge his contribution to the trade union movement over many years.

**Senator Paschal Mooney:** Hear, hear.

**Senator Ned O'Sullivan:** I wish to be associated with those remarks.

**Senator Maurice Cummins:** The Leader of the Opposition, Senator Darragh O'Brien, and many other Members condemned the attacks on the President and indeed the Office of President. The President is the Head of State of the country and such attacks are absolutely reprehensible and should be condemned. I am pleased we have had condemnation from across the political divide here this afternoon. People also condemned the attack on the constituency office of Deputy Mulherin. They pointed out that anarchy is not too far from the surface in many cases and we need to look at that situation very seriously.

Senators Darragh O'Brien and Cullinane spoke about the proposed sale of Aer Lingus. I did my best yesterday to get the Minister for Transport, Tourism and Sport to come here for half an hour in his busy schedule. The Minister will come in for half an hour and explain the situation today. I am sure we will have many opportunities in the future to discuss the matter. However, since there was such urgency about it, I felt we could have a very brief debate during which the Minister can outline the current situation. I am sure we will have debates on the issue in the coming weeks and months. For that reason I cannot accept the amendment to the Order of Business as proposed by Senator Darragh O'Brien.

Senator Bacik and many other Members spoke about the Central Bank regulations and restrictions. I understand that legislation will be introduced and we can arrange a debate on the issue. I do not know about it costing €220,000 to buy a birds' nest - birds must have very expensive tastes in Dublin. As Senator Paul Coughlan said, €220,000, in Dublin figures, is quite small to purchase a home. I note Members' points on that.

Senator Bacik also spoke about the debate on mother and baby homes. I know that people wanted to contribute, but they were not in the House when that debate was brought to a conclusion yesterday. I understand that another amended motion may be coming, which would afford Members the opportunity to discuss that matter again.

I note Senator Norris's points on the cancellation of a talk on homophobic bullying in a school in Dublin. I also note his comments that the McKenna judgment should be discussed again in the House. Senators Landy and Kelly spoke about nursing homes and general practitioners not being allowed to take on more patients. Senator Kelly spoke about the eleven week delay in accessing the fair deal scheme. We had a fairly comprehensive debate on that and on the Health Service Executive plan which the Minister for Health was here to discuss. We will invite him to come in again if necessary. A total of €25 million extra was provided for the fair deal scheme. I hope that delay will be significantly reduced this year.

Senator Ó Murchú deplored the attacks on Deputy Mulherin's constituency office and on the President. Senator Colm Burke spoke about the need for greater incentives for first-time house buyers. We can have that debate when the Central Bank regulations legislation comes before the House. The Minister of State at the Department of the Environment, Community and Local Government, Deputy Coffey, has indicated that he will come in to speak about the housing strategy.

Senator Cullinane spoke on the motion on the proposed Commission of Investigation into certain matters relating to the Cavan-Monaghan division of the Garda Síochána but the Cathaoirleach has ruled on that. It is to be taken without debate. Senator Whelan commended the Taoiseach on meeting with insolvency practitioners and outlined the serious situation which many homeowners will face in the coming year. In addition to condemning attacks on the President and Deputy Mulherin Senator Wilson called for the Minister for Education and Science to come in to outline progress on the junior certificate. I know that the Minister has dealt with that topic in the other House. We will invite her to come in again to debate it. We did have a debate on the subject recently but I understand the Senator is asking for an update on it.

Senator Craughwell spoke about union recognition for the Permanent Defence Force Other Ranks Representative Association, PDFORRA. It is an excellent representative association and he is right in pointing out that many members of the Defence Forces are on low pay and in receipt of payments from the Department of Social Protection. I have the utmost respect for all

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the members of our Defence Forces. They carry out their duties in an exemplary manner on all occasions and I will ask the Minister for Defence to come in to have a debate on Irish defence policy soon. I note Senator Craughwell's points on medical cards too and hospital bills. That is a matter he could raise as a Commencement Matter or directly with the Minister.

Senators Gilroy and Mooney spoke about how precious our democracy is, saying that we need to protect it. Senator Mooney also spoke about the need to ensure that land that is zoned for housing is built on urgently, especially in Dublin. Senator Naughten praised the Minister for Transport, Tourism and Sport for providing €17.5 million for sustainable transport initiatives in various areas around the country.

Senator Healy Eames asked for a debate on the Euro Health Consumer Index but we had a debate on the Health Service Executive plan for 2015. I am sure that Senator Healy Eames raised her points during that debate. Senators Eamonn Coghlan and Noone commended the president of the Irish Primary Principals Network on highlighting the need for two hours physical education, PE, per week in primary schools. As Senator Coughlan pointed out, there is a lack of progress on his proposed policies which were debated in this House some years ago. Obesity and the lack of exercise for schoolchildren is a ticking bomb. I will ask the Minister to come in here for a further debate on that issue.

Senator Bradford called for a debate on housing strategy and regional planning, which I hope to have in early course. Senator Mullins spoke on the Irish Medical Organisation, IMO's, acceptance of the recent salary scales. I understand the HSE will shortly advertise the 200 consultant vacancies, which is welcome news and will assist in reducing waiting lists and other problems in the health service. Senator White reiterated her comments of last week on child poverty and lone parents and urged that the Central Statistics Office, CSO, report on income and living conditions be highlighted and that we have a debate on it. Senators O'Sullivan and Heffernan spoke about post offices. The Minister for Communications, Marine and Natural Resources was here yesterday discussing that matter. There is no doubt that post offices are of paramount importance to communities and towns throughout the country. The Minister pointed out that there have been only five closures in the past 12 months. There were 170 in the four years prior to this Government's taking office. Everybody has welcomed the setting up of the review group to improve the post office network. It should be given a chance. Hopefully it can make progress. It is important that people support their local post offices. Many give lip service to supporting post offices but do not do so themselves.

We join Senator Brennan in wishing our colleague Senator Harte every success and a speedy recovery.

**An Cathaoirleach:** Senator Darragh O'Brien proposed an amendment to the Order of Business, "That No. 60, motion 14, be taken before No. 1." Is the amendment being pressed?

**Senator Darragh O'Brien:** It is.

Amendment put:

The Seanad divided: Tá, 14; Níl, 25.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Byrne, Thomas.	Brennan, Terry.

Craughwell, Gerard P.	Burke, Colm.
Healy Eames, Fidelma.	Coghlan, Eamonn.
Mooney, Paschal.	Coghlan, Paul.
Norris, David.	Comiskey, Michael.
Ó Murchú, Labhrás.	Conway, Martin.
O'Brien, Darragh.	Cummins, Maurice.
O'Sullivan, Ned.	D'Arcy, Michael.
Power, Averil.	Gilroy, John.
Walsh, Jim.	Hayden, Aideen.
White, Mary M.	Henry, Imelda.
Wilson, Diarmuid.	Higgins, Lorraine.
Zappone, Katherine.	Kelly, John.
	Landy, Denis.
	Moloney, Marie.
	Moran, Mary.
	Mulcahy, Tony.
	Mullins, Michael.
	Naughton, Hildegard.
	Noone, Catherine.
	O'Donnell, Marie-Louise.
	O'Keeffe, Susan.
	O'Neill, Pat.
	Whelan, John.

Tellers: Tá, Senators Ned O'Sullivan and Diarmuid Wilson; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared lost.

Order of Business agreed to.

### **Commission of Investigation (Certain Matters relative to the Cavan/Monaghan Division of the Garda Síochána) Order 2014: Motion**

**Senator Maurice Cummins:** I move:

“That Seanad Éireann approves the following Order in draft:

Commission of Investigation (Certain Matters relative to the Cavan/Monaghan Division of the Garda Síochána) Order 2014,

copies of which Order in draft were laid before Seanad Éireann on 19th December 2014.”

Question put and agreed to.

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## **Death of Former Member: Expressions of Sympathy**

**An Cathaoirleach:** I welcome Kathleen Carty and all the members of the Carty and Regan families to the House.

**Senator Maurice Cummins:** As Leader of the House and on behalf of my Fine Gael colleagues, I am privileged to lead the tributes to the late Senator John Carty, who sadly passed away after a short illness this time last year almost to the day, on 30 January. I would like to express my sincere sympathy and that of the House to John's family - to his wife Kathleen, his sons, daughters, grandchildren and wider family - many of whom are here today. I welcome each and every one of them to the Chamber.

John was a Member of the 23rd Seanad, from 2007 to 2011. Along with some other Members here today, I was fortunate to serve with him during those years. He was also a well-respected member of the lower House representing the people of Mayo from 2002 to 2007. There were many heart-felt tributes paid to John on his passing last year and it is only right that we also do so here in the Seanad. In many of those tributes, John was described as one of nature's gentlemen, and I could not argue with those words. He was a very honourable man and I know he was exceptionally proud to be elected by the people of Mayo and, indeed, to be elected to this House.

John took his role as an elected representative in both the Dáil and the Seanad very seriously and worked tirelessly for his constituents at all times. Having worked as an agricultural officer for many years before entering politics, it was no surprise that he had a particular commitment to the agricultural and business communities in his work as a Deputy and a Senator.

I would like to thank Kathleen and the Carty family for making the journey from Knock and indeed many other places to join us here this afternoon. Personally, I am very proud to say I was a friend of John Carty. Politics never entered into it between us, and when John came to Dublin after 2011, he would always give me a call and let me know he was on his way. We would have a glass of lemonade or maybe something stronger, and discuss the things that had happened, catch up on all the news and reminisce about times past.

John was a great friend to many of us in this House. At his funeral, Ciara quoted Shakespeare in her tribute to her dad, "Goodnight, sweet prince, and flights of angels sing thee to thy rest". I have no doubt that John is looking down on us today, on his family and friends. I would like again to convey my sincere sympathies to Kathleen and all the family. Ar dheis Dé go raibh a anam dílis.

**Senator Darragh O'Brien:** It is an honour for me to say some words of appreciation for John on behalf of the Fianna Fáil group. I wish we were not in the position to have to do this. I welcome Kathleen and the family here, and also my colleagues, Deputies Éamon Ó Cuív and Dara Calleary and former Senator Rory Kiely. It is a sad day for us, but is important that we mark John and his contribution to both Houses of the Oireachtas. He served in the Dáil as a Deputy for Mayo and here in the Seanad.

From my own perspective, like Deputy Calleary I was first elected in 2007. There are a few people in the House across parties who are extremely welcoming to new Members coming in, and John Carty was one of those people. He felt a sense of pride in the Oireachtas and he certainly guided me on my way from 2007 on. He was a very easy man to get to know and was

very welcoming. He had a very dry sense of humour as well, to which I will return in a few moments.

Senator Cummins has mentioned that anyone who described John would always describe him as a gentleman. The phrase is often misused, but John really was that. Everyone had only good words to say about John Carty, regardless of what party they were in. We went through some difficult times in the first Dáil from 2007 onwards, there is no question about it. As a Senator, John had the experience and advice for some of the newer Members who were seeing the world fall around them. He was a very steady hand and was always very thoughtful about things.

I had the pleasure of meeting him in Knock along with Deputy Calleary after the last general election in 2011. We went on the Seanad tour and were shown around places in Mayo that I had not only never seen but, as a Dub, had never even heard of. I had a nice break with John when Deputy Calleary let me have an hour or two away from canvassing. We met him in Knock and went to the home pub and I enjoyed a pint with him there. He gave a great welcome, he was that type of man, and he gave of his time then to someone like myself who needed his support and advice to stay involved in politics. I have the honour of serving in the Seanad now, a place where John served himself.

Above all things, John was a proud Mayo man, very proud indeed. That always came across. In my personal experience of him, he was a friend first and foremost, and a colleague second. Although he was a very proud Fianna Fáil man, he never let party politics get in the way of friendship with people from other parties. We sorely miss him here in Leinster House. When we used to go for a cup of tea down below, we would see John at the end of the counter having a cup of tea, holding court and giving advice. That is something I certainly miss here. He was a treasured friend and someone we will never forget. His relatives can be very proud of their husband, father and brother. He made a real contribution to the Dáil and the Seanad on behalf of the people of County Mayo. In a time of great cynicism about politics and the structures of the State, I advise those who hold these attitudes to consider the example of John Carty, a decent and honourable man who was in politics for the right reasons, namely, to represent the people of County Mayo, do his best for the people of Ireland and give of his time. I thank his family for lending him to us for that period. I will not forget the experiences that he shared with me and my colleagues. As leader of Fianna Fáil in the Seanad, I can attest that my colleagues and I miss him greatly. It is an honour to pay tribute to him.

**Senator Lorraine Higgins:** I join others in expressing sincere sympathy to the family and friends of the late John Carty who packed so much into life in his 63 years. He was widely admired and respected by his colleagues and constituents. I hope these tributes will give immense pride to his wife, Kathleen; his eight children and extended family who are gathered here in what he achieved in his life, as well as offering a small degree of comfort as they try to deal with his loss. I know more about him than some of the new Senators, even though I only met him shortly after my appointment to the House. The reason I know a lot about him is I was a school friend of his son, James.

To say the 1997 general election was interesting on many levels is an understatement. John started his career in the then Department of Agriculture, which eventually brought him back to settle in County Mayo. He was very proud of the county and farming was his love, with history and family research. While he accomplished a lot in that regard, we must acknowledge that there were many highlights in his career, not least of which was his triumph in the Mayo County

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Council elections in 1999, when he topped the poll. He went on to contest the 2002 general election and eventually served in the Seanad.

John's legacy to the west must be acknowledged. He championed Knock Airport because he had a vision for what it could become. In one newspaper interview he described the airport as the jewel in the crown of County Mayo. The airport was granted €27 million in development funding in 2007 and he played no small part in having that money delivered. It is difficult to quantify what this investment meant for the people of County Mayo and the west more broadly. That Knock Airport remains a vital hub for business and recreational travellers is due to the tireless work he and his colleagues in County Mayo. His family should be very proud of what he achieved. The west and the people of County Mayo were incredibly lucky to have been represented in the Houses of the Oireachtas by a man of his calibre.

Like my colleague, Senator Maurice Cummins, I wish to finish with the following quote from the eulogy given by John's daughter at his funeral:

Good night, sweet prince,

And flights of angels sing thee to thy rest!

May he rest in peace.

**Senator Diarmuid Wilson:** I join my colleagues in paying tribute to my late friend John Carty. In case I forget, I apologise on behalf of the Leas-Chathaoirleach who cannot be here because he is representing the Cathaoirleach abroad and on behalf of Senator Terry Leyden who is at the European Parliament attending a meeting of a sub-committee of the Council of Europe.

I welcome John's wife, Kathleen; his children, Lisa, Ciara, James, Cathal, John Henry, Eamon, Caoimhín and Iarla; his brother, Michael; and his sisters, Anne and Joan. I also acknowledge the presence of the former Cathaoirleach Rory Kiely, Deputies Dara Calleary and Eamon Ó Cuív and former Deputies Eamon Scanlon, John Ellis and Johnny Brady, with other members of John's close family and friends. This is not something we want to be doing, but it is something that John did on many occasions in the four years he served as a Member of this House. One former colleague, in particular, the late Kieran Phelan, summed John up very well when he called him a dapper little man.

John was very close to each and every one of us, including Members from other parties and none as well as his own. As Senator Darragh O'Brien noted, he used to hold court after the Order of Business and on many other occasions. During such sessions one could be reprimanded or praised but never be put down. John would always have advice for those who needed it. He would set us up if we needed to be but only in a light-hearted way. He had another great quality in that he could tell jokes about himself. I could repeat some of his jokes in this House, but there are others I should not tell. I recall one joke, in particular, that I will not rehearse. It pertained to an occasion on which he was in his local post office after the birth of his eighth child. I will tell the joke to those in his family who do not know it privately afterwards.

John worked as an agricultural inspector in Killeshandra, County Cavan, in the mid-1970s. He was highly regarded and made many great friends in the area. He told Deputy Brendan Smith and me many great stories about the local characters. His last visit to Cavan was to attend the wake of one of these great characters, Jim Hayes from Killeshandra, just a couple of months before he fell ill himself.

John was elected to Mayo County Council in 1999 and was previously closely involved with former Deputy and councillor P. J. Morley. He often said he never expected to have that opportunity and was very proud that, in a relatively short space of time, he went from working in the then Department of Agriculture, in which he was highly regarded, to becoming a member of Mayo County Council, a Deputy and a Senator, which very few people involved in politics achieve in a lifetime. His final contribution in the Seanad was on 20 April 2011 when he asked the Leader to intervene with the Minister for the Environment, Community and Local Government on a proposal made by Mayo County Council to make 150 staff members redundant. This contribution was made days before he ceased to be a Member of the Seanad. That reveals the dedication and commitment he brought to his role as a public representative for his native County Mayo and the most vulnerable people right up to the end.

As Senator Lorraine Higgins noted, John was very proud of the establishment and expansion of Knock Airport. He was single-handedly responsible for delivering €27 million for the airport. He was also a great historian and able to tell me things about my own county that I should have known myself, particularly about the west Cavan area. He was an honourable and decent man. Can I just say this? Kathleen, he idealised you. He loved each and every one of you, his children. I know you used to come to the House periodically. He said you were in to rob him, although I am unsure what you were doing. At some point every one of you got to visit him in the House. He was very proud of each and every one of you.

We were very proud of him and we will miss him. May he rest in peace.

**Senator Catherine Noone:** I welcome Kathleen and her eight sons and daughters as well as John Carty's extended family. I am delighted to join in the tributes. Senator Cummins has already spoken on behalf of the Fine Gael party, but I rise as a Mayo girl and as someone who is happy to say that I knew John Carty.

I concur with the comments of Senator O'Brien. He was very kind and encouraging to me as a new Member and he took an interest in me despite the politics. I suppose Mayo folk stick together at the end of the day. Although I do not share the politics, I share a great friendship with his nephews, Henry and Paul, as well as Aisling and his sister, Anne. I know they very much looked up to John and miss him, as does his entire family. I offer my sympathies again and I welcome all the visitors to the House today.

**Senator Paschal Mooney:** Like my colleagues on all sides of the House I deem it a great honour to have this opportunity to say a few words in tribute to the late former Deputy, Senator and Councillor, John Carty. I wish to convey our deepest sympathy to Kathleen, to his brother, Michael, whom many of us knew as a councillor and personally, and to all the extended family and the Regan family.

I remember shortly after John came to the Dáil in 2002 we were chatting in company. He said that he knew my father. My immediate reaction was to assume that he would have known him through the An Tóstal festival or perhaps as a Member of this House or as a councillor. Actually, it was because John Carty had spent time in my home-town of Drumshambo as an agricultural officer and adviser. I knew the House where he had lived - it is still there - on the Carrick road, where we lived too. I was astonished because it was something that had never occurred to me. Anyway, it brought home to me the breadth of knowledge that John held about the west of Ireland and various other parts of Ireland. As Senator Wilson said, he was also in west Cavan and various other places.

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I have another memory from his period as a Dáil Deputy. It was at the time of the 2007 election. He lost the election. I was in his company when he was talking to someone about the various things that he had been involved in - we have heard about some of them today. I remember thinking at the time how cruel politics can be, because the man was clearly passionate about his home county and his constituency. He had gone about doing what he believed he should do, like all people who are elected. I remember thinking that perhaps there is some sort of unspoken bond between the elected person and the electorate, whereby the *quid pro quo* is that if the elected person works hard in the best interests of his people then he should get their vote. Anyway, that did not happen in 2007. There is probably an analysis of why it did not happen, but I remember that moment. I am not suggesting he was bitter about it; he was more disappointed than anything else.

Then he came to the Seanad. Interestingly, not long after that conversation, which took place at the front of the House, I lost my Seanad seat and John came to the Seanad. We met up a couple of times when I called in. He was always the same friendly jolly approachable John.

When I came back to the House in the last year of the Fianna Fáil Green Party Administration I discovered that there was a group within the Seanad who came from the west of Ireland and the midlands and who were very close. This has already been referred to briefly by Senator Wilson but I wish to acknowledge it again because my constituency colleague, John Ellis, who is in the House today, was part of the group. He was particularly close to John. The group also included Eamonn Scanlon, my constituency colleague, and of course the redoubtable Johnny Brady. I am not suggesting they made up some sort of Mafia or anything of that nature, but they were a close group. If I sat among them, I would learn more than I could ever learn by taking a course in university on politics or the west of Ireland. These were the sort of people that John was among and he was one of them.

I remember whenever I came to the House while I was not a Member he always had - Senators Wilson, O'Brien and Cummins have referred to this already - a great approachability, kindness and human touch. All of these factors made him an extraordinary human being. Again, I wish to say how proud I am to be part of this tribute to an outstanding public representative, family man and all-round decent human being. Ar dheis Dé go raibh a anam dílis.

**Senator Labhrás Ó Murchú:** Tá an-áthas orm go bhfuil an seans agam labhairt anseo inniu. Nuair a chuaigh John Carty ar shlí na fírinne, d'fhág sé folúntas ina dhiaidh nach líonfar riamh. Ba dhuine macánta, dílis agus díograiseach é a sheas an fód i gcónaí ar son a phrionsabail agus ar son a mhuintire freisin.

I am very pleased that John's family are with us today, because a public representative cannot give service in public life without his family. You, his family, have shared the ups and the downs of political life with him. Without that support John could not have achieved what he did achieve. For that reason it is great to have the opportunity to express some words of appreciation to a fine person and public representative.

It is often said that we wait too long in Ireland to praise someone or that we wait until they are gone to heaven. That is not true in the case of John Carty, because I heard words of praise for John over and over again in small groups and big groups. One reason for that is because I do not ever remember him uttering a word about other people that was not nice. That is something very important indeed.

As chairman of the Irish Family History Foundation I had a close association with John. Many times we discussed issues of genealogy and tracing roots. John knew that communities are not built on shifting sands and that it was important for people to be conscious of the legacies we have received from previous generations. He was very passionate and committed in this regard. He had a great investigative mind for finding those little gems of information which often get lost if people do not go to the trouble of finding them.

Everyone in public life, whether at council level or national level, knows that there is a contrived and rather unfair caricature, negative, in many ways, put out about people working in public life. I regard John as an antidote to that type of picture and it is evident if we reflect on the service which he gave and the sacrifices he made as well as some of the disappointments he endured in public life.

Certainly, he was a faithful son and a custodian of rural Ireland. He was mindful of the tradition and the sustenance which the land gives us. That is very important. This is not often spoken about, but it used to be spoken about in rural Ireland in the past when people sat around the fireside before the intrusion of television. In those times people were well aware of where they stood as regards the environment. John knew where he stood as regards the environment. We did not require legislation to ensure that, as custodians of that environment, we would do what we should do.

Many of them were way ahead of the posse, of whom he was one. It is a pity that we did not listen a little more closely when such people were advocates of good sense and personal responsibility. We are always careful not to use clichés or be patronising about an important person and I will not do so. However, John Carty epitomised many of the good qualities of the Irish character. He was very sincere in his beliefs. In public life there is a terrible temptation to go down the road of posturing and jockeying for position. As people do so, the edges of their sincerity can easily be chipped away, but this did not happen to John Carty.

John Carty epitomised “old decency”. People of a certain age will understand the term which means courtesy and respect for others. In Ireland the edges of old decency are beginning to disappear. When we had such decency in our dealings with our neighbours and in our jobs and work as public representatives, we did not go too far wrong. The legacy John Carty has left to his family, friends, colleagues and community and the country is real and much more important than any stone monument or plaque on a wall. This legacy grows again and again. We can look back on his life with a great sense of inspiration, motivation and of how lucky we were to have known him, irrespective of politics, as a friend and colleague. *Ar dheis Dé go raibh a anam uasal.*

**Senator Ned O’Sullivan:** While in one way, this is a very sad occasion, in another it is a very proud occasion for Kathleen, her fine family of boys and girls and John’s brother, Michael, whom I got to know well through him. I welcome them to the House and extend a warm welcome to John’s former colleagues behind me from the west and, in the Visitors Gallery, Deputies Éamon Ó Cuív and Dara Calleary, and my old friend and neighbour and former Cathaoirleach of the House Rory Kiely who was a very good friend of John.

My first term in the Seanad coincided with John’s term and we sat close together on the Government side. I was a rookie and he was a very experienced man. I quickly learned that he was a man of very high intellect. Although he was deeply intelligent, he did not show it in

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a flamboyant way. His advice was always correct, although it was never presumptuous. One had taken his advice before one had realised he had even tendered it and it was always useful. I relied on him greatly in my early years here. He was always wonderful company. My memory of him will always be the twinkle in his eye because he always saw the humour in everything. It was wonderful to be in company with him and he had wonderful stories to tell. A particular part of the world is lonesome for him, as Kathleen and his family will know. There is a little town, Emmetsburg in Iowa, where John went on a number of occasions to represent the parliamentary friendship groups here. While I was also fortunate enough to visit it, John was so popular that he was called back on at least one more occasion. Last July some of them visited the House and the only other destination they had in mind was Knock to see John's homestead.

I am from a long line of drapers and always thought John was exceptionally well dressed. The Whip described him as "dapper" and so he was. I used to tell him that Kathleen had turned him out very well; he would always return the compliment and we could compare notes. It came to a funny conclusion one very warm summer's day when I had the temerity to come into the House wearing an all-white suit. He took me aside and told me that a man from County Mayo had used to come around here wearing a suit like that and that if he ever saw it on me again, we would be finished. That was his joke. That is the John I remember. As a Member of the Seanad and a party man, I am proud. He was a tremendously loyal Fianna Fáil Party man and gave us some of his best counsel and advice at party meetings where there was no publicity, praise and thanks. One got the truth from him and his wisdom and judgment. While nobody is always accurate, if John Carty was moving in a particular direction, 99.9% of the time I would go the same way. Ar dheis Dé go raibh sé.

**Senator Marc MacSharry:** Much has already been said. Senator Diarmuid Wilson has captured what most of us feel and think. I first got to know John Carty outside politics, when neither of us was a councillor, Senator or anything else. I was involved in the beef export business and most of the product we exported came from a plant in Baltinglass, County Wicklow. Once or twice a year, John and Paddy O'Hara used to travel from County Mayo to relieve some of the agricultural officers normally based there. We developed a good friendship and I used to enjoy his visits very much. Outside the political sphere he was always a saint of reason. The beef export business, meat factories and production facilities can often be full of pressure and highly charged environments. I was young then and as somebody who was there to regulate, oversee and ensure things were done correctly, he was always a source of calm, support and knowledge. That was the first introduction I had to him.

Later, in 2002, John was elected to the Dáil and I, with then Senator Eamon Scanlon, Senator Diarmuid Wilson and so many others, to the Seanad. Later John joined us in the Seanad. It is almost impossible to be universally popular in politics. No matter how any of us might try, hope or wish, it is always a step too far. It is something one either has or has not. I do not know of anybody else who had that ability except for John. It did not matter how robust the debate, how severe the criticism or how damning one's opponent was in the cut and thrust of politics, he could disarm his opponent or, if he was dishing it out, the person on the receiving end was most accepting and realised there was merit in whatever he had to say. While I would not have said John talked too much, when he had something to say, it mattered. He understood people, their value and what it meant. This is the essence of politics and why he knew and contributed more than most.

Senator Labhrás Ó Murchú mentioned that John had been a custodian of rural Ireland, which is true. Given that he came from an agricultural regulatory background and rural and

regional Ireland, John knew more than many about it and ensured it was kept on the agenda. As Senator Wilson said, his last contribution was on trying to save the 150 jobs in Mayo County Council. Whatever rural pursuit or initiative, John Carty always championed that cause. Many Ministers in difficult and better days had the benefit of John's expertise, knowledge and counsel at parliamentary party meetings or privately over a cup of coffee or a drink. They were lucky to have that and they used it in designing legislation or influencing a decision. The credit has never been mentioned but it ought to be. The contribution was unwritten and unsaid but should never be forgotten.

I have been a Member since 2002 and at no time do I remember as many people queueing to speak or so many people in both galleries. It is a small but important testament to the great man John was and is and how proud his family rightly are of his contribution and achievements over the years. In a sentence, John Carty was all graces and no airs and may he rest in peace.

**Senator Mary M. White:** It is a sad occasion when we are talking about John but I specifically thank Ms Kathleen Carty for her hospitality and empathy when we went to visit her on John's death. I will never forget her kindness and warmth to me. The nicest thing I can say about John is that he was never too busy to stand and speak to a person. In this quite fractious environment, people can be edgy and under pressure. He would always stand and speak. That is why he was so successful as a politician and as owner, along with Mrs Carty, of the beautiful hotel in Knock. I remember his lovely face and his gentleness. I talk about him as a patriot and a public servant who we can look up to and admire. I remember his kindness as a human being and the time he took to talk to people on a one-to-one basis when the need arose.

**Senator James Heffernan:** I welcome to the Seanad the former Cathaoirleach, Rory Kiely, who has been a friend of mine for a while. I also welcome the family of John Carty to the Seanad. I did not know John but from what people have said and from the tributes paid, including the very touching tribute by Senator Wilson, I gather he was one of the old crop and one of the good guys. He was of rural, decent and respected Fianna Fáil people. I gather he did not do airs or graces. From what I heard in the bar earlier when I asked the staff who Senator John Carty was, he was an absolute gentleman. That is how he was described by the people in the bar. He was respected by the workers in Leinster House and respected across the floor. My motto is that we should never look up or down on anyone. From what I gather from the staff, that is how he conducted himself. I wish the family well and I hope they have a good day. It will be nice to be in the bar afterwards exchanging good stories. I imagine there are a couple to tell.

**Senator Paul Bradford:** I welcome Kathleen and her family and all the friends of the former Senator and Deputy, John Carty. It is a sad occasion but also a happy one because it gives us the opportunity to reflect on a life well lived, which is such a stock phrase, but also on a parliamentarian who made a genuine and profound impact on all those who met him and knew him.

John was entering Dáil Éireann as I was leaving it, on an involuntary basis, in 2002 but five years later we both served in this House. Like many of the people who went from Dáil to the Seanad, who were promoted to the Upper House, he came to enjoy the Chamber of Seanad Éireann but also to use it effectively to present a different view of the world and to present a strong view of rural Ireland and rural life, its problems, opportunities and hopes. He made a profound parliamentary impact in Seanad Éireann. I did not serve in the Dáil with him but I served on the Oireachtas agriculture committee and in the Seanad. He made a significant contribution.

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Of my memories of him, the foremost is of his decency. It has been said by so many that he was a smiling and happy face. Politics is full of stress and strife and, sadly it must be said, nastiness. It was so refreshing to come across, as Senator Mary White said, someone who has time to stop and chat. John Carty was one of those people.

As we reflect on his life, it should cause us to reflect on politics itself. John's political life was not dominated by Twitter, Facebook, social media or press releases. That seems to be the new politics but we should ask ourselves about the lasting impact and what impact will bring people to the galleries to sit in honour of a public representative. These are qualities like decency, engagement and a gentle way of doing business. John Carty ticked all those boxes and left us a strong legacy of public service to Mayo and the Oireachtas. He will be long and fondly remembered by those came in contact with him.

**Senator Thomas Byrne:** Ba mhaith liom fáilte a chur roimh clann John Carty agus muintir Chnoc Mhuire agus Contae Mhaigh Eo atá anseo. I knew John very well when I was elected to the Dáil and in the past few years of his life. He was an incredibly decent person. I got to know him quickly when I was elected because of my connection to Knock. John was able to explain my family history better than I could myself. My great great great grand uncle, Canon Patrick O'Grady, built Knock parish church and every time I go to Knock I look in the historical booklet that John Carty contributed to. He wrote a chapter on the history of Knock parish church and that brings great pride to my family. It was a wonderful connection to have with John and the village of Knock of which I am very proud.

I express my sympathies. He had a tremendous way about him and he was a tremendous parliamentarian. When I needed support, I could always count on John in conversations. Go raibh sé ar dheis lámh Dé ar neamh.

**Senator Mark Daly:** I welcome the family to the Visitors Gallery. Another famous Mayo person, John Healy, wrote in 1968 the most famous tome about rural Ireland, *No One Shouted Stop: Death of an Irish town*. He lamented the decline of rural Ireland. While it laid out the issues of rural Ireland very well, it took people like John Carty to fight the decline of rural Ireland. As my colleague pointed out, there is no point in people lamenting the issues without people like John Carty fighting the issues. He did not fight it by press release or on Twitter or Facebook, he fought it on the ground. It is a testament to him that Knock and surrounding areas have the infrastructure they have. He did not claim credit morning, noon and night, as many would, but he put his shoulder to the wheel. He ensured his was one of the voices that shouted, "Stop," to the decline of rural Ireland.

For the family who sacrifice so much, since they suffer the consequences of having someone in public life and people calling to the house at all hours of the day and night with all sorts of issue, it is as much their day as John's. It is important to pay tribute to them for all of the sacrifices they made during the years.

People die twice. There is, of course, the sad occasion of their passing, but then there is the time when people stop telling stories about them. Today we all share the stories about John, his generosity and calm and quiet way. I pay tribute to him and his family.

**An Cathaoirleach:** I wish to be associated with the expressions of sympathy to the family of the late John Carty. I welcome his wife, Kathleen, and members of the Carty and Regan families. The number of Senators present in the Chamber and the number who have spoken to

pay tribute to him are a measure of, and a tribute to, the popularity of the late John Carty who was a very popular man. A number of former Members of the House are present, including Eamon Scanlon, John Ellis, the former Cathaoirleach, Rory Kiely, and Geraldine Feeney, with Deputies Dara Calleary and Éamon Ó Cuív, Councillor Caulfield from Ballyhaunis and former Deputy Johnny Brady from County Meath.

I knew John Carty very well. I served with him on Mayo County Council for a number of years, as well as in this House. He was an absolute gentleman. If there was ever a gentleman, he was one. He had a very close friend and great mentor in the late P. J. Morley who was a Member of the Dáil for over 20 years and served for many years on Mayo County Council. They were very close friends and got on very well together. Not all politicians get on well together, but these two gentlemen who were from the same area did.

There are people one meets throughout life and in politics of whom one has no abiding memories, but I have two of the late John Carty. One was when he announced grants to the constituency and it must be said he announced many. He brought many grants to the constituency, whether for industry, crèches, roads or whatever else. The majority of councillors and Deputies would make an announcement of a sum of €300,000 or €500,000, but John Carty would always say it was €300,150.59. He always referred to the pounds, shillings and pence.

My other memory of him concerns the first slogan John Carty used in his first general election campaign, “Carty cares”. He did care. He had a very good man putting up these posters, Seamus Regan, who is in the Visitors Gallery and was a builder. After he had finished putting them up, they would not stir and nobody stole them. That was John Carty’s slogan. It worked for him, as he was elected to the Dáil. It was a very good slogan.

As other Senators said, the Cartys had an open house in Knock. Everybody was welcome, regardless of who one was. Whether one was high or low, a politician, a priest or an ordinary person, it was an open house. John Carty represented the people of Knock, Ballyhaunis, Claremorris and south Mayo at a very high level in this House, the Dáil and on Mayo County Council. He put the people of County Mayo and his constituency first, whether it was at local authority level, in this House or the Lower House. He was a great advocate for Knock Airport and fought tooth and nail for every cent that was allocated to Knock during his term as a Member of the Houses. He worked tirelessly on its behalf, which was a great credit to him. There are many more monuments in the constituency to him.

John Carty was an absolute gentleman and I am delighted to say my few words in tribute to him. He was full of wisdom and a very funny man. He was also a dapper man. He was everything Members have said in the Chamber.

Kathleen is very welcome. It is a sad day and has been a sad year for her and her family. He is a great loss to her, Fianna Fáil and the people of County Mayo. However, he served the people very well and was a great family man. I have no doubt that he is in a very happy place. Ar dheis Dé go raibh a anam.

*Members rose.*

## **Business of Seanad**

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**Senator Maurice Cummins:** I thank the Minister for coming to the House at very short notice. I propose an amendment to the Order of Business, “That the time for the contributions of spokespersons be three minutes, that the Minister have two minutes in which to reply and that the debate conclude at 2.55 p.m.” The Minister has other engagements today.

**An Cathaoirleach:** Is that agreed? Agreed.

### **Possible Sale of Aer Lingus: Statements**

**Minister for Transport, Tourism and Sport (Deputy Paschal Donohoe):** Much has been said in recent days about potential takeover offers for Aer Lingus. The issue has been a matter for debate since it was first announced in December that International Airlines Group, IAG, was considering making a takeover bid for Aer Lingus. While the matter has since moved on, we are still in the early stages of any process. Both Aer Lingus and IAG have made clear throughout that there is no certainty that any such offer will be made, nor is it clear what might be the terms of any such offer. Yesterday, the board of Aer Lingus announced that it had indicated to IAG that the financial terms of the latest proposal are at a level which it would be willing to recommend to shareholders, subject to being satisfied with the manner in which IAG proposes to address the interests of relevant parties.

At this point, I emphasise again that any takeover offer will be given very careful examination before the Government takes any decision on the issue. There are important considerations to be taken into account in addition to price. The issues that would have a potential impact on any sale include: connectivity to and from Ireland, including direct transatlantic services, and connectivity via Heathrow; competition in the air transport market; jobs in Irish aviation; and the Aer Lingus brand.

A steering group chaired by my Department and comprising representatives from the Departments of Finance and Public Expenditure and Reform, and NewERA, has been considering this matter since the first approach was made in December. The steering group is examining issues related to a potential offer for the State’s shareholding in Aer Lingus. NewERA has procured external financial and legal advisers to help the steering group in its work. The group will report back to me shortly on the key issues and the matter will be considered further by the Government, if necessary, before any final decision is taken.

While no formal offer has been made, Aer Lingus is still in an offer period under the rules of the Irish Takeover Panel. For this reason, the rules regarding communications by all parties, including shareholders, in such a period apply. Aer Lingus’s shares are still being traded on the Stock Exchange and great care needs to be taken in comments made by me and my Government colleagues. If a formal takeover offer is made for the company, all relevant matters relating to that offer will be placed in the public domain as part of the offer. At this stage, however, I can say very little new on the matter.

Yesterday, I briefed my Cabinet colleagues on the approaches that have been made to the board of Aer Lingus and issued a press statement afterwards. In a statement also issued yesterday, IAG recognised the importance of direct air services and air route connectivity for investment and tourism in Ireland, and stated its intention to engage with the Government on these matters. Representatives from the steering group are having a preliminary meeting with IAG today to begin that process. However, if any confidential information is shared by IAG during

these contacts, the steering group is legally obliged to keep such information confidential.

The State owns 25.1% and Ryanair owns 29.8% of the issued share capital in Aer Lingus. A statement issued by the board of Aer Lingus earlier this week indicated that the revised proposal from IAG is conditional on, among other things, irrevocable commitments from Ryanair and the Government to accept the offer. While such conditions may be waived by IAG at any stage, they are an indication that the company, in advance of making any formal offer to Aer Lingus shareholders, is seeking the prior agreement of the Government and Ryanair to accept such an offer. As the State's 25.1% shareholding cannot be compulsorily acquired, it is for Government to decide, having examined the matter carefully, whether to accept or reject any offer. Since no formal offer has been made, there is no deadline by which any such decision needs to be made.

Section 3(5) of the Aer Lingus Act 2004 also provides that the Minister for Finance, in whose name the State's shareholding is held, may not dispose of any shares in Aer Lingus without the general principles of the disposal being laid before and approved by Dáil Éireann. Approval was given by the Dáil in 2006 for the general principles of the Aer Lingus initial public offering. However, these principles stated that the State would retain at least 25.1% of the shares. On that basis, any decision to reduce the State's current shareholding would need further Dáil approval.

**Senator Darragh O'Brien:** I appreciate the Minister's decision to come to the House at short notice. I also understand the reason the time provided for contributions has been further reduced, although three minutes is not sufficient for me to discuss all the issues I would like to raise. I assume Senators will have further opportunities to discuss this issue in more detail.

The Fianna Fáil Party's position on a possible takeover of Aer Lingus is shared by many of the Minister's colleagues on the Government side. My party firmly believes in the importance of retaining the Government's stake in Aer Lingus to protect the strategic interests of the country and maximise employment potential in the greater Dublin region, Shannon and Cork. We are concerned that the approval of a takeover bid would result in substantial job losses and impair our connectivity into Heathrow Airport.

It is no coincidence that the IAG takeover bid for Aer Lingus was made after the Government effectively wiped away the liabilities in the Aer Lingus pension scheme. It is much more desirable for IAG to take over a company that does not have pension liabilities. Two years ago, I told the Tánaiste and Minister for Social Protection, Deputy Joan Burton, that the Government was clearly teeing up Aer Lingus in order that it could sell the State's stake in the company. I genuinely hope I was wrong on that front.

Some of the language used by the Minister signals what is to come and is a cause of concern. I welcome his clarification of the position and note his comment that he will carefully consider the matter and is taking advice from outside experts. However, we need only consider what happened with the airport pensions scheme after the Minister's previous statement that he would carefully consider proposals on the scheme. I hope he makes the right decision this time.

**Senator Pat O'Neill:** I thank the Minister for coming before the House at short notice. Aer Lingus has always been an Irish brand. The company used the famous slogan, "Look up, it's Aer Lingus", in an advertisement many years ago. People also remember the Harp advertisement featuring Sally O'Brien. Irish brands such as Kerrygold, Guinness, Barry's Tea and Aer Lingus are recognised worldwide. I am afraid that a takeover of Aer Lingus would result in the

brand disappearing.

As the Minister noted, a formal offer has not been made at this stage. It is important that everything is put on the table and all due consideration given to any offers that are made.

Aer Lingus's major asset is its slots in Heathrow Airport. The current offer is for €2.55 per share. When Aer Lingus was privatised by a Fianna Fáil-led Government, the company was sold at €2.40 per share. This means the value of an Aer Lingus share has increased by 15 cent in eight years. The net worth of the company is €1.3 billion, consisting of €400 million in cash reserves, a fleet worth €600 million and slots valued at €300 million. I understand the current offer from IAG equates to €1.3 billion, which is not enough. That issue needs to be considered.

Tourism and our regional airports are part of this larger scenario because tourism is our second largest industry. It is worth €3.1 billion to this economy after agriculture. A total of 7 million passengers came to Ireland either by ferry or air last year because we are an island nation. As the Minister pointed out, connectivity is the major issue. We need connectivity with the rest of Europe and the world. This is why it is important that we maintain the airports and ensure that airlines fly in with the best possible value to give to tourists and businesspeople. If something happens to the slots from Heathrow, which is one of the major hubs in western Europe, these people will not come here on business or for tourism and it will be a loss. How many jobs are created through tourism every year? It is very important that we look at all the matters on the table. It is very interesting to look back at the 2006 debate. Certain people are now saying the opposite of what their party said in 2006. It is important that everything is put on the table before we make a decision.

**Senator Sean D. Barrett:** I welcome the Minister to the House. It is not the first time the Minister and I have had these discussions on aviation policy and I am sure we will have many more. I do not know what the board of Aer Lingus recommended and agreed to. If there is nothing there, as the Minister's speech said, that is fine with me because like the Minister and the Minister for Public Expenditure and Reform, I think this should be carefully analysed and discussed. Is British Airways a suitable candidate to take over Aer Lingus? I do not think so. It is overshadowed in its native jurisdiction by easyJet and Ryanair. The amalgamation of previous national airlines is an anti-competitive development in European aviation. I wonder where the Commission is. It ruled out the Ryanair takeover of Aer Lingus as being anti-competitive. Where is it now that British Airlines is taking over Aer Lingus? The Competition Commission in the UK in what I thought was an unacceptable decision intervened in a possible merger between two Irish companies to require Ryanair to sell its shares in Aer Lingus. This is an appalling example of extra-territoriality. How can the UK competition authority overrule a merger between two Irish companies? The Competition Commission was extending its jurisdiction to where it has not been since 1922. One of my predecessors, Henry Grattan, voted against the Act of Union and I will be voting against this act of union because it is not in the interests of this country.

Let us look at the Scottish case. British Caledonian had 6,300 employees and 27 aircraft. It disappeared. There are no services comparable to what we do in the north Atlantic and I want to praise Aer Lingus for developing those routes. About 400,000 people per year fly between Scotland, which has a population of 5.3 million, and the US. We have a figure of 2.5 million, which is six times as much for a slightly smaller population - about half a million fewer people. Aer Lingus might have been the cartel airline in the European airlines cartel but on the north Atlantic, it has developed distinctive and valuable products for the development of industry in

this country. I hope the Government's group will include references to tourism and the industrial sector. The availability of far more connectivity and access to Ireland from the US than is available to Scotland has been a major part of the development of the smart Irish economy.

I worry that the object of British Airways in this is to re-route all the traffic through Heathrow. Heathrow has grown since 2008 by 8% and Gatwick has grown by about 3.7%. Stansted is down by 20.1% while Luton is down by 4.7%. Heathrow keeps saying that it is full. It keeps on expanding. British Airways is Air Heathrow, that is what it sees Aer Lingus as doing and that is not in our national interest. We need to keep that brand there. This is a great product on the north Atlantic that has been a huge development aid to this country and it is not worth giving it up for €300 million. A figure of €300 million is two days' public expenditure. It is not worth giving up all of this for €300 million.

**Senator John Whelan:** I also commend the Minister for making himself available in respect of this important issue at such short notice to give the Seanad a chance to express its views even at this early juncture. What the Minister is hearing around the room today is the Seanad's unanimous rejection of this attempt by what is effectively British Airways to take over Aer Lingus, our national airline. We were not served well in this country when we trifled and dallied with the disposal of State assets. It has not served us well and we should learn from that. People sometimes say, "Let's see how it works". We know how it works. We saw how it worked with our sugar beet industry. We lost all our jobs and factories and the Carlow sugar beet plant is now an eyesore growing buachalláin and we as an agricultural country import sugar. It is a disgrace. We saw how it works in respect of Eircom. Everyone was going to make a small fortune and cash in their shares. We sold out Eircom and as a result, one cannot get broadband or a telephone signal in half of the country because the vultures asset stripped.

I believe this is what is planned here. Aer Lingus is most valuable because of its Heathrow slots. It is an attempt to expand traffic into Heathrow - not into Dublin and not into Ireland. We must put the interests of our citizens, communities and country first. A figure of €300 million is a pittance compared to the strategic importance of our national carrier and the slots at Heathrow. The only people who will benefit from this are possibly a few members and directors on the board who stand to make a windfall from their own shareholdings but it will not benefit Ireland in terms of jobs, business, tourism and its strategic importance. We must put the country's interest first not just for today or tomorrow but for the long term.

I remember the first time I got on an Aer Lingus flight when I started work. One would need a loan from a credit union to be able to afford to fly out of the country. It cost £240 in 1978. We have gone past that and what we must now do is protect Irish interests because selling off State assets was never a good idea. We have seen the examples where it does not work. It is short-term gain for a long-term strategic loss to the country and the national interest.

**Acting Chairman (Senator Paul Coghlan):** I remind the House that the order that was made for today was group spokespersons not to exceed three minutes. I appreciate we are caught because-----

**Senator Mary M. White:** It is a national issue. It is very serious-----

**Acting Chairman (Senator Paul Coghlan):** Senator White has no forum here. I am not brooking any interference. The Minister must be released from here at 2.55 p.m. so if the House is agreed, I will call upon the Minister to conclude. Is that agreed? Agreed. I am caught by the

Order of Business.

**Minister for Transport, Tourism and Sport (Deputy Paschal Donohoe) (Deputy Paschal Donohoe):** I repeat that I am glad to have this opportunity to address the Seanad on what I know to be a very important matter. I thank everybody for their contributions. I must repeat that I must take great care in what I say at the moment. There are a number of matters that have been brought up about which I am not in position to comment at this time.

Connectivity is a common theme as Senators Darragh O'Brien, O'Neill, Barrett and Whelan have touched on it. The travelling public and the economy have benefited greatly from the very good competition and connectivity provided for air services in and out of Ireland. Maintaining competition and connectivity is a key issue for the Government and will be given appropriate consideration. I note what Senators Whelan and Barrett said about the importance of competition on important routes for our country.

Aer Lingus's Heathrow slots were raised by all Senators. These slots are a right granted to the airline. Airport slots are not owned by airlines as such and are certainly not owned by governments or states. However, at congested airports such as Heathrow, a secondary market has developed that has allowed airlines to trade slots with each other to meet their changing business needs. On this basis, such slots are very valuable. In respect of any potential disposal of slots by Aer Lingus, a specific mechanism was built into the company's memorandum and articles of association at the time of the initial public offering. It is very important to be clear regarding what those conditions are. Where a resolution by shareholders is called for on a slot disposal, the voting threshold to prevent such disposal must be greater than the percentage of the company shares held by the Minister for Finance plus 5%, or 25% if greater. In other words, with the current State shareholding of 25.1% that threshold is 30.1% of the votes cast. The ability of the State shareholding to block a disposal of slots is therefore not guaranteed under the existing mechanism. Furthermore, the mechanism relates only to a proposed disposal of slots. Aer Lingus does not require any shareholder approval to change the routes for which it uses those slots. As all Senators have said, connectivity remains critically important for Ireland as an island nation. Heathrow remains a very important hub for connectivity purposes, but as it becomes more congested other hub options are becoming available. In addition, the number of destinations that can be reached directly from many of Ireland's airports has increased over the years.

The State retains a significant but nonetheless minority shareholding in Aer Lingus with just over 25% of the shares. The Government does not control the company, nor does it appoint the chairman or a majority of the board members. In 2012, the Government included the shareholding among the assets to be sold under the State assets disposal programme. However, the Government agreed that the shareholding would only be sold when market conditions were favourable and if acceptable terms and an acceptable price could be secured. Such circumstances did not arise during the period of the EU-IMF programme and the State has remained as an active shareholder in the company. Following a third hostile bid for Aer Lingus by Ryanair, the Government indicated in late 2012 that it would not be prepared to sell the shareholding in circumstances which could significantly impact on competition and connectivity in the Irish market. The previous two takeover bids were opposed by the previous Government on similar grounds. Such considerations would also be foremost in our minds in the Government's consideration of this matter.

NewERA has conducted a procurement process for both financial and legal advices to help

the steering group in its work. This is a specialist and complex area of work and the aviation industry is by its nature a global business. Given the importance of the matters at stake, it is important that the Government has the best advice available during this process. I understand that the contracts for this engagement have not been fully signed up by all parties but I believe the engagement process will be confirmed later today. Some of the names have been reported in the media. Credit Suisse and IBI Corporate Finance, which is part of the Bank of Ireland Group, are the selected financial advisors and McCann Fitzgerald is the selected legal advisor.

As I said at the outset, I must be constrained in regard to how I can refer to this matter. What I wanted to do at the earliest point of convenience to the House was attend to outline the framework within which this matter has been dealt with previously so that all Senators can be clear about the care with which I am dealing with this matter and also on the way in which it will be treated.

**Acting Chairman (Senator Paul Coghlan):** The order intended that we would finish at 2.55 p.m. and move to the next business, which is the Gender Recognition Bill 2014. I must wait for the Minister.

**Senator Mary M. White:** On a point of order, this is the most important national decision.

**Acting Chairman (Senator Paul Coghlan):** With respect, I cannot entertain a point of order at this time.

**Senator Mary M. White:** I am democratically elected. The Acting Chair cannot do this. On a point of order, it is the most serious national decision being made in this country.

**Acting Chairman (Senator Paul Coghlan):** The Senator cannot tell the person in possession of the Chair that he or she is not in a position to do something. She can raise her matter with the Committee on Procedure and Privileges or on the next Order of Business. In meantime, I suggest she takes it up with her group leader.

**Senator Mary M. White:** I want to put on the record that I am totally opposed to this decision. Our Government is not to make this decision.

**Acting Chairman (Senator Paul Coghlan):** The Senator is out of order.

**Senator Mary M. White:** I am appalled at what is happening here today. I am a democratically elected person and I am speaking on behalf of the citizens of Dublin to say that Aer Lingus should not be sold.

### **Gender Recognition Bill 2014: Second Stage (Resumed)**

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

**Acting Chairman (Senator Paul Coghlan):** Senator Gerard P. Craughwell is in possession with two minutes remaining.

**Senator Gerard P. Craughwell:** I welcome the Minister of State back to the House. Once again, it is my pride and honour to be able to address him on this subject.

None of us can know what those who are transgender go through. It is an issue I regard as

very close to my heart. While it is expertly informed by the report of the gender recognition advisory group and the report of the Joint Committee on Education and Social Protection, the Bill falls well short of what is needed. It reveals a cautious and ultraconservative approach to gender identity recognition and is very out of step with current academic research and, more importantly, the lived experience of transpersons and their families. It betrays a basic ignorance of what gender identity is and how early in life some people become aware that the gender assigned to them at birth is out of synch with their own gender identity. The requirement that a person applying for a gender recognition certificate be single puts married transpersons in the unenviable dilemma of having to choose between legal gender recognition and their marriage. Forced divorce is morally and socially undesirable and sets a dangerous legal precedent. I hope that as the Bill moves through the Oireachtas, the requirement is either omitted altogether or amended following the referendum on same-sex marriage in May.

The requirement that applicants must provide certificates from their primary treating medical practitioners certifying based on medical evaluation that they have transitioned or are transitioning to their preferred gender does not respect their dignity. Indeed, one young man who met with a group downstairs the last day we were here pointed out that he was four years waiting for a medical practitioner to assist him with his request. It defies logic that a transperson would be required to engage the services of a medical practitioner for what is in essence a legal process with no medical outcome or implications. In applying for a gender recognition certificate, a transperson is simply requesting that his or her self-identified preferred gender be legally recognised. In case I am missing something, can the Minister explain why some who are making an application for a legal document must undergo medical scrutiny, diagnosis or assessment? For a start, how can any medical expert determine whether a person has self-identified his or her gender identity or not? Surely, it is an intensely private decision that we have all made regardless of what it states on our birth certificate. Let us not forget that every single one of us identifies as self-determining our gender. I am not a man because that is what it says on my birth certificate, I am a man because I was socialised and reared in a particular way and I am a man because that is how I identify myself.

**Acting Chairman (Senator Paschal Mooney):** I am afraid the Senator is way over time. I ask him to conclude.

**Senator Gerard P. Craughwell:** With all due respect to the Chair, there are very few people who have opted to speak on the Bill, which is probably the most important one to come before the Oireachtas in the current session. I ask the indulgence of those who wish to speak on the matter.

**Acting Chairman (Senator Paschal Mooney):** My understanding is that all Members are entitled to five minutes. Senator Craughwell had two minutes left to speak at the outset and it is now three and a half minutes since he commenced. I have given him a certain amount of indulgence.

**Senator Gerard P. Craughwell:** We can take it that I lost 30 seconds the last day and lost 30 seconds today.

**Acting Chairman (Senator Paschal Mooney):** I have given the Senator three and a half minutes.

**Senator Gerard P. Craughwell:** I ask for a little bit of liberty.

**Acting Chairman (Senator Paschal Mooney):** The Senator has had three and a half minutes. I agree with what he is saying but that is the ruling of the House. It is nothing personal.

**Senator Gerard P. Craughwell:** I will conclude as quickly as I can. The point I am trying to make to the Minister is that the drafters of the Bill have confused the notion of gender identity with the medical transition.

There is no need for both. I hate when I am thrown off my line of thought. I only have another four pages to go. I will meet with the Minister of State and I will outline these things.

On the medical side of things, we need to step back from this. Nobody takes the decision to change gender or to seek gender recognition lightly. We must try to make it as simple a process as possible. Why the hell we need a psychiatrist and an endocrinologist is beyond me. I ask the Minister of State to look at that part and maybe remove this requirement. I have much more to say and the Minister of State and I can discuss it over a cup of coffee. It is regrettable that I cannot say it with so many people here depending on their position being put forward by somebody who has difficulty himself in understanding the process. I am trying to do the best I can for the people who deserve this Bill, who want this Bill and who badly need it to pass. They need it to pass with a little more humanity and more understanding than is currently in it. I thank the Chair for his understanding.

**Acting Chairman (Senator Paschal Mooney):** Not at all. Five and a half minutes, just for the record. I call on Senator Moloney, who has five minutes.

**Senator Marie Moloney:** I hope that is not a sexist thing.

**Acting Chairman (Senator Paschal Mooney):** I understand the precedent that can be created. Not to worry.

**Senator Marie Moloney:** I thank the Minister of State for coming to the House to take this Bill. I welcome to the Visitors Gallery many of my newfound friends, with whom I have met over the last year or so.

The Yogyakarta Principles postulate that:

Everyone has the right to recognition everywhere as a person before the law. Persons of diverse sexual orientations and gender identities shall enjoy legal capacity in all aspects of life. Each person's self-defined sexual orientation and gender identity is integral to their personality and is one of the most basic aspects of self-determination, dignity and freedom. No one shall be forced to undergo medical procedures, including sex reassignment surgery, sterilisation or hormonal therapy, as a requirement for legal recognition of their gender identity. No status, such as marriage or parenthood, may be invoked as such to prevent the legal recognition of a person's gender identity.

That is why we are here today. I want to pay tribute to Dr. Lydia Foy and her legal team and to groups such as TENI, LGBT Noise, Amnesty International and the Equality Authority. I am sorry if I have left anyone out. Many transgender people struggle with social acceptance and it is not an obscure fact that transgender issues are loaded with stigma, prejudice and discrimination. It is crucial that their voices be listened to. "Rights are only won by those who make their voices heard", according to Harvey Milk, a civil and human rights leader.

It is time that Ireland conformed to the European Convention on Human Rights, ECHR, and

removed the legal impediments that hinder recognition of our transgender people. Transgender persons need to feel that they are accepted in schools and the workplace and to enjoy basic citizen's rights. Ireland is the only European country that does not have legal gender recognition legislation. The majority of transgender people cannot obtain legal documents under their appropriate name and sex. The small numbers who have legal access to gender recognition still face difficulties in obtaining these important documents. Countries that do not allow legal gender recognition or have highly restrictive laws or regulations for changing name and sex, violate fundamental human rights obligations as stated by the ECHR. Up to now, Ireland has been one of these countries, despite a High Court ruling in 2007 that found the State in breach of its positive obligations under Article 8 of the ECHR. I commend the Tánaiste and Minister for Social Protection, Deputy Joan Burton, and the Minister of State on bringing forward this legislation. They both put a lot of work into it.

I was very concerned about the request by transgender organisations to have the age at which one can access surgery without parental consent reduced to 16 years. I voiced my concerns at the Oireachtas committee meeting and at subsequent meetings with members of TENI and people who are transgender. However, I now have a very open mind on the matter, having met and spoken at length with members. I have met some lovely people over the last year who just happen to be transgender. It does not matter to me whether or not these people are transgender. They are just very nice and reasonable people who are fighting for the rights of all transgender people who wish to have legal recognition. The Oireachtas committee recommended that the age be reduced to 16 and I supported that at the Oireachtas committee meeting.

I recently received an e-mail from a person and I want to advise the House of what was said in this e-mail. It stated:

The implications of parts of this Bill, not always indicated, are fairly gruesome, horrific and destructive of the human person. Has any thought been given to the future welfare of society as a result of the proposals laid out in this Bill?

The only gruesome thing about this Bill is this e-mail. Does this person really believe that people choose to be born like this, to be born in the wrong body? Do they expect that such people should go through their whole life living a lie to themselves, their families and the community, just so that they do not upset anyone? Do they not realise how hard it is for transgender people to speak out and take the necessary action to live their lives true to themselves? This is not something that suddenly comes on at the age of 15, 20, 30 or 40. It is something they are born with. They instinctively know, from the moment they pick up that first doll instead of a ball, or *vice versa*, what and who they are. By the age of 16, they are well aware of what they want for their future. If anyone is in doubt, like I used to be, they should spend some time with these wonderful people and they will see for themselves that transgender people are just normal people like everyone else. Transgender people are not any danger to the future welfare of society, as this e-mail suggests.

Regarding forced divorce, we may be caught in a chicken and egg situation. If we put legislation forward now stopping people having to get a divorce, we may be pre-empting the outcome of the forthcoming referendum. However, what can we do for these people? They are in a family situation and they want to stay married. We need to discuss this. Do we wait for the outcome of the referendum and if it is passed by the people of Ireland, will this solve the situation? Will we need to come back and amend this legislation so that these people do not have to go through a divorce situation? I welcome the Minister of State's views on the matter.

We discussed the situation of the under-16s at length at the Oireachtas committee, but like that, we felt that under 16 was very young. We must, however, also take cognisance of the fact that under-16s have many difficulties in school when it comes to participation in sports and so on.

I am getting the “wind up” signal from the Chair. Like Senator Craughwell, I have a lot to say and I would not mind meeting with the Minister of State at some stage. We can have a joint or a cross-party meeting, or however the Minister of State would like to arrange it. There are many issues I would like to discuss personally with him on this matter.

**Acting Chairman (Senator Paschal Mooney):** I thank the Senator for her comments. The Chair did give her latitude.

**Senator David Cullinane:** I welcome the Minister of State to the House and am glad to participate in this debate. Sinn Féin initially welcomed the publication of this Bill because, like many people, we saw it as at least a step forward, but we have clear reservations about elements of the Bill and we do not believe it goes far enough. Sinn Féin published a comprehensive Bill on this issue some time ago, which would have better met the requirements for trans people and would have dealt with many of the difficulties we see in this Bill.

The Bill in its current form is so narrowly drafted and so unnecessarily restrictive that many trans people will not be able to avail of the pathway to recognition that it sets out. The Bill in its current form will breach various provisions of the ECHR. If the Government does not want to see the State back before the European courts defending its policies on gender recognition procedures, it would do well to take on board the criticisms being put forward by trans people, by advocacy organisations, by political parties and by representative groups who are genuinely concerned and who are raising genuine issues, which I hope the Minister of State will take on board. Sinn Féin will be putting down comprehensive amendments on Committee Stage to improve this Bill. I hope we can have a genuine and constructive debate on how to improve the Bill to meet the concerns of trans people and their representative groups. We will work with Independent Senators and others in doing that.

On the issue of marriage and civil partnership, Sinn Féin is completely against any requirement that a person must be single to have their gender recognised and, further, that they would be required to seek a divorce to have the paperwork to accurately reflect their gender. Persons of diverse gender identities should enjoy legal capacity in all aspects of life. No status such as marriage or parenthood should be invoked by the State to prevent the legal recognition of a person’s gender identity.

We noted the former Council of Europe Commissioner for Human Rights, Thomas Hammarberg, urged countries to remove all restrictions for married applicants in gaining recognition. Divorce in Ireland is subject to more restrictive and demanding conditions than in other jurisdictions. This can only be altered by an amendment to the Constitution. It may not even be possible for happily married applicants to satisfy this requirement to be living apart to access divorce, as the term “living apart” refers to the mental and physical state in which both people are living genuinely separate lives. This means the only way for some happily married applicants to get a divorce would be to commit perjury before a court. It is unconscionable to expect people to do that. We also have further questions regarding the constitutionality of the proposal and feel it may breach Article 41.1° of the Constitution. Other jurisdictions have managed to address this issue. Accordingly, it is not beyond the Oireachtas to do the same.

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In the Government's Bill, a primary treating medical practitioner, defined as a person's primary treating endocrinologist or psychiatrist, is required to confirm the person has or is transitioning and that there must be a medical evaluation of an applicant. We share Transgender Equality Network Ireland's view that this is diagnosis by any other name. We do not believe such a restrictive and unnecessary provision has a place in law. Our view is that trans persons are best placed to understand and identify their own gender. This is not to mention the fact that trans health services are nowhere near sufficiently resourced. The Bill places emphasis on a medical opinion despite the fact that the Health Service Executive, HSE, has no clear pathway for trans health care.

We are deeply disappointed this Bill does not contain a pathway to legal recognition for those under 16 years of age. These are among the most vulnerable people in the trans community. The Bill in its current form does not address or deal with the important issues of people with non-binary identities and those who define themselves as intersex. We will be raising all these matters outlined through amendments as the Bill progresses. Due to the importance of this legislation, maybe Sinn Féin, Independent and Fianna Fáil Senators could put down joint amendments rather than having individual ones with varying nuances, in turn allowing for a robust debate with the Minister of State. I hope he will take on board not just the views of Oireachtas Members but of the transgender community and its advocate organisations to have a Bill that will deliver the equality we all want for trans people.

**Senator Cáit Keane:** I welcome all visitors to the Gallery and I am delighted to speak on the Gender Recognition Bill 2014, which is long overdue. We often hear criticism of what Europe does to us, not what it does for us. Dr. Lydia Foy's fight over the past 21 years at the European Court of Justice for gender recognition has done a great service to the State. Hopefully, this Bill will do more service. Other Members have pointed out how the Bill is good but requires some improvements. That is what the Seanad is about. We have all received e-mails from people outside which have educated us because we are not professionals on every aspect of the Bills on which we speak. Who better to educate us than the people themselves?

The reality for many transgender people in Ireland is that many are already beginning the process of transition before they reach the age of majority. Whether in this country or in British facilities such as the Tavistock Centre in London, young Irish people are increasingly seeking out pathways that address the medical aspects of their self-identified gender before the full onset of puberty. The term "preferred gender" is not meant to imply that gender identity is an optional choice for people.

However, without formal legal recognition to accompany their medical transition, trans youth in Ireland are vulnerable. Where a young person's outward manifestation of gender does not match the sex marker on their official documentation, that individual constantly faces the possibility of difficulties in life with the accompanying dangers of verbal and physical violence. Will the Minister of State examine the age issue around this legislation?

As legislators, we need to take account of the Yogyakarta Principles, particularly No.18b, namely that we take all necessary legislative, administrative and other measures to ensure that no child's body is irreversibly altered by medical procedures in an attempt to impose a gender identity without the full, free and informed consent of the child in accordance with the age and maturity of the child and guided by the principle that in all actions concerning children, the best interests of the child shall be a primary consideration. In countries such as the United Kingdom, Germany and Belgium, policymakers and public health practitioners are increas-

ingly recognising that earlier medical intervention can be important for the physical and mental health development of some trans youth.

On the single status provision in the Bill, I received an e-mail from an individual who informed me the Bill's measure requiring transgender people to divorce is a troubling and unnecessary requirement by asking people to choose between getting recognition and protection for themselves and their true gender and their families. I know the gender recognition certificate does not change responsibilities regarding parenthood, for example, as it leaves it the same and is not retrospective. Will the Minister of State, however, comment on that aspect when he is summing up?

I compliment the Minister of State on bringing this long overdue legislation forward. It is a significant advancement in this area. As I said earlier, the Seanad is here to make Bills better. Hopefully, on Committee Stage, after listening to those whom the legislation addresses, we can make it a better Bill.

**Senator Paschal Mooney:** I was anxious to make a contribution, albeit a relatively modest one, because, primarily, on our side of the House the two contributors from Fianna Fáil were the female members of our parliamentary party. I want to ensure the message does not go out that this was a gender-based contribution only and that, in fact, the contributions of both of my distinguished party colleagues reflect the overall views of the Fianna Fáil Party on this legislation.

**Senator Cáit Keane:** They punch above their weight.

**Senator Paschal Mooney:** Absolutely. The substance and depth of both contributions exceeded anything I can bring to this debate. I kept thinking that it must be unimaginable for someone to become aware of being born in the wrong body. I commend the Government on this initiative, which we support. I also support much of what Senator Cullinane said. The Bill is inherently flawed in several areas. It is very important that the Minister of State take account of the Committee Stage debate, apart from the thrust of the contributions here which considered the Bill in its totality. We need to get it right in the interests of those lobbying for it, towards whom it is directed.

Various issues have been raised. It seems to me unacceptable that one would have to divorce in order to benefit from this legislation. The question of age is problematic. The debate at the Oireachtas Joint Committee on Education and Social Protection reflected the complexities of that aspect of the Bill and the Minister of State's wisdom on this would be appreciated. I fully agree with the comments by Senators Moloney and Keane about e-mails. I saw those e-mails. There were not too many but the one referred to was particularly unchristian and inhumane and I am glad Senator Moloney read it into the Official Report. If that reflects any element of our society we have a much bigger challenge ahead of us than I thought. However, I believe the overwhelming majority of the people of Ireland understand the motives behind this Bill and why it is necessary to introduce it. Ultimately, we need to get it right and I hope the Minister of State will take cognisance of the specific points raised highlighting inherent flaws in certain sections of the Bill and that he will respond accordingly.

**Senator Paul Bradford:** I welcome the Minister of State. As I was unfortunately absent for the commencement of the debate last week and did not expect to have an opportunity to speak on Second Stage my words may be ill-prepared and not fully thought out. I hope we will have an opportunity to engage more fully on Committee Stage.

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I welcome the legislation and thank the Minister for Social Protection, Deputy Burton, for bringing it forward. I read some of her initial remarks and know that she has crusaded strongly and at some length for this and I welcome her intervention in it. The issues some previous speakers mentioned have been the subject of some of the queries brought to my attention, and I am sure to the attention of all Members of the House, by people throughout the country.

Mine is more a Committee Stage than a Second Stage presentation. The Minister of State has heard the arguments about medicalisation of identity and the pathway for 16 and 17 year olds. I will be interested in his initial response to that. This being the House where Ministers are generally open to persuasion and arguments are not made in a nakedly politically partisan fashion but more holistically, and because this is a Seanad Bill, I hope the Minister of State and his officials will consider it with a view to improving it, not as something to be rubber-stamped here. Amendments will be tabled and there will be a detailed Committee Stage debate and I ask that the Minister of State keep an open mind on the arguments we will make more fully on that Stage.

When I was a Member of the other House, and ran regular clinics, constituents brought all sorts of difficulties and problems to my attention, some capable of resolution, some not. Sometimes people sneer at the fact that Irish people are in such regular contact with their politicians and question the value of the clinics but over the years a sizeable minority of people came to discuss this issue with me. I will not name the towns where these clinics were held because I do not want people to be identified. Several transgender people came to me between ten and 20 years ago. They were in a hopeless position and I felt helpless. The law was so black and white then that it was almost impossible to bring about change. Even the language was difficult. It is great to be in position where hopefully we can not only respond to but also resolve difficulties.

We have to ensure that the legislation, which should be deemed historic, has a broad vision and is of use to the transgender community. I support the Bill but there are issues we must take up on Committee Stage. I am just beginning to address the concerns brought to my attention by people in my area and others who have doubts and serious concerns about aspects of the legislation. As a starting point and stepping stone it is very positive. It is realistic and humane. I hate to use the word progressive because it has become the prisoner of all sorts of causes but it is a positive step in the right direction. I look forward to greater engagement on Committee Stage.

**Senator Fidelma Healy Eames:** The Minister of State is very welcome to the House. The transition from one gender to another is a very difficult issue for many people. One can only begin to imagine how difficult it is for them. Two experiences have brought this home to me. In 2010 I was involved in preparing a report on early school leaving for the Oireachtas Joint Committee on Education. As part of that project we considered groups that were particularly at risk, one of which was LGBT people. I met some people who were making a gender transition or wanted to make the transition. I was shocked to realise that people aged 14 to 16 had been aware of this for a long time. It is very important that this Bill is before the House. We need to set these people free and support them in their search for what they feel is their proper gender. There are many issues we should tease out on Committee Stage but I support the thrust of the Bill and the principles underpinning it.

Another instance I became aware of concerns a girl, now aged 22, who has been trying to make a gender transition for a long time. She is getting testosterone injections. She has changed her name to a boy's name. Her family refer to her as a boy, although her gender is still recognised as female. The lengths to which people must go to be understood struck me in this

girl's case. She has a partner who does not live in the country. That partner is female and I took it initially that the girl was lesbian but no, she wants to be male. When I mentioned the context of the early school leaving study, I should have mentioned that my experience there was the contemplation of suicide by the young person for not being understood. Dropping out of school was only minor compared to the big picture around identity. My overarching view is that one can never underestimate how important it is to have one's identity recognised.

This is going to come up time and time again. It comes up in the context of adoption and will come up in the context of same-sex marriage. It is absolutely critical to honour one's identity, to receive as much information as possible about that identity and not to hide it. I will reserve all concerns. I know there are many issues around the age at which this should happen and how much psychological and medical support should be in place, but I will hold off on those questions until Committee Stage.

**Minister of State at the Department of Social Protection (Deputy Kevin Humphreys) (Deputy Kevin Humphreys):** I thank the Senators for their contributions, and also thank Dr. Foy. One thing that always hits me on first listening to people's real-life experiences in this area is how it has affected many of the citizens in our country. Too often, we try to put people into different boxes, but this has to be addressed. It is very much to our shame that it has taken so long - 21 years - for legislation to be proposed in either House. I pay tribute to the Tánaiste, who has taken this to heart and has campaigned to ensure there would be legislation during this Government's term of office and that we would leave a piece of legislation hopefully dealing with many elements of this.

The Tánaiste has said this is an important and overdue piece of legislation. It has been subject to extensive consultation and was the subject of pre-legislative scrutiny by the Joint Committee on Education and Social Protection. I thank all those who contributed to the whole process. I took time to read the evidence that was given at the joint committee. Great time and effort was put in by many people who expressed their views and told their own personal stories through that forum. Many members of the committee also put in a huge amount of time.

I believe the provisions of this Bill have evolved and progressed in recent years. Legislation in respect of gender recognition varies widely across the EU. The provisions in this legislation will be among the most progressive within the EU and indeed beyond it. Senator Bradford mentioned that the word "progressive" is used far too often but in this case, he should take into consideration what citizens of this country have gone through over 21 years and longer. This has been recognised for a long time and reports have been issued. Like the Senator, I have sat down in clinics and talked to people about this, and they expressed frustration that there was no legislation in place. It is important that we make sure there is legislation in place at the end of this term of office.

All the Senators' contributions were entirely genuine, but I would like to refer back to some of them. Regarding single status, the Bill requires that an applicant for gender recognition be single. The Tánaiste and I recognise that this is a matter of real concern for some people. It is a genuine concern which has been expressed by many Senators. While we recognise that, I would say that over my time in politics the speed of what we have put into our Constitution, from the fourth to the eighth amendment, has had unintended consequences. The referendum in May on same-sex marriage will allow us to address this and come back to it. The Tánaiste said that it is her intention to return to this as quickly as possible, provided that the citizens in their wisdom vote to allow for marriage equality, as I believe they will. The Tánaiste and myself

accept that this has to be revisited once that referendum is over.

I recognise the problems mentioned by many Senators with divorce and people not wishing to get divorced. It is problematic and putting it into our Constitution has created further problems. An unintended consequence is that, under the legislation we are trying to bring forward, people who are in happy relationships will not be able to avail of the legislation until after the referendum takes place. I will work night and day once the referendum is passed to table an amendment that will reflect the result.

I fully acknowledge that the issue of the minimum age for legal gender recognition is difficult and sensitive. The Bill provides for applications from 16 and 17 year-olds with significant safeguards attached. It seeks to balance the right of such children with the need to protect their interests at a potentially vulnerable age. If the court feels it is appropriate, it can make an order that the consent of the parent or guardian is not required. Overall, the legislation provides that the court shall not make an order unless it is satisfied that it is in the best interests of the child.

I am satisfied that these provisions are appropriate and sensible. It is important to note that these arrangements are well beyond those in place in most other EU member states. In Denmark, which is held by some as a model of best practice in gender recognition, the minimum age is 18.

I have heard the stories of the people who have engaged with me on this. Senator Moloney read out an e-mail earlier which I wanted to comment on. Maybe I missed it and it came into my inbox. I have a tendency to send that type of e-mail straight to the trash. That is probably where it best belongs.

**Senator Marie Moloney:** I think so too but I wanted to see it. That is what is going on now.

**Deputy Kevin Humphreys:** The application process for gender recognition certificates will have to be accompanied by a supporting statement from a medical professional who has experience of working with transgender people. However, it is crucial to recognise that the application process will not require any detail of care including the person's medical history or confirmation of a diagnosis. People will not have to confirm that they have been living in their preferred gender for a specific period prior to their application. The Tánaiste wanted to emphasise that in her contribution. The supporting statement will be based on a standard form, which will be available from the Department of Social Protection as part of the application process. It is worth noting that recent changes introduced by the Netherlands regarding gender recognition are similar to these provisions.

What is happening as regards the protection of transgender children in schools was not mentioned today. I have heard of those difficult situations and the choice parents have of sending children to different schools. The issues around transgender children in schools is a matter for my colleague, the Minister for Education and Skills, Deputy Jan O'Sullivan. I am aware that the Tánaiste has facilitated a meeting about education, which was attended by Deputy Ruairí Quinn. I will work with groups to arrange that this is highlighted within education and that transgender children in our schools are protected and supported as much as possible. We need to work with the Department of Education and Skills on that and it would be worthy work. Perhaps a longer discussion could take place on this at the education committee. I urge Senators involved in that committee to take that up and run with it. What happens sometimes in our

schools to our children who are seen to be different by other children is very difficult. That is over a whole range of things.

Senator Cullinane said that intersex persons are not encompassed within the Bill. The Bill facilitates applications in relation to intersex. The Tánaiste confirmed this in her Second Stage speech. I suggest that the Senator should go back to that, given that it was covered by the Tánaiste - that is already rightly facilitated. Transgender people can already get passports, PPS numbers and driving licences. We have to ensure that continues and there are no hiccoughs over that. Representatives of TENI certainly highlighted that to me in one of the meetings I had with them.

We will have a longer discussion on Committee Stage and will have an opportunity to flesh out the issues raised in the two days of debate we have had in the House. Some Senators indicated they wished to meet me privately and flesh out those issues. I would be more than happy to do that. Sometimes we can do that better in a conference room than in open debate. As Senator Mooney said, this is not a party political issue; it is about everybody working together to get the best solution possible in the short amount of time we have.

I strongly feel the Bill represents a very progressive approach to meeting the State's obligations to the needs of transgender persons. The Bill is founded on a genuine commitment on the part of the Government to enable transgender persons to be recognised for all purposes in their preferred gender. At the core of the Bill is a fundamental change, namely, the opportunity for people to obtain birth certificates in their preferred gender. The Bill contains very significant advances on previous proposals and compares very favourably with the equivalent legislation in many other countries in Europe.

It is essential that the operation of this new legislation is carefully assessed over time and the annual reporting by the Minister will be very important to elements of that assessment. That is a very important statement by the Tánaiste. As far as I can remember she also said on Second Stage that this must constantly remain under review.

This is a ground-breaking Bill, which the Tánaiste and I have supported very strongly. It has been needed for a long time. I look forward to further debate on Committee and Report Stages.

I pay tribute to this House on the manner in which the Bill has been welcomed and the very balanced comments and contributions given here. Over the coming weeks I look forward to working very closely with all Members of the House in trying to progress the legislation through the two Houses as quickly as possible. I thank Senators for their contributions and for listening to what I have had to say.

**Senator Gerard P. Craughwell:** Before we reach Committee Stage, would it be possible to get a register of those medical practitioners who would be favourably disposed to working with this issue, given that the Minister of State is going to continue with that line? We do not want a situation like the man waiting four years-----

**Acting Chairman (Senator Paschal Mooney):** I thank the Senator for that. I am sure he will have every opportunity to expand on that contribution on Committee Stage.

**Senator Gerard P. Craughwell:** It would be nice to have it before Committee Stage.

**Acting Chairman (Senator Paschal Mooney):** The Senator will have an opportunity to

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raise that and other issues on Committee Stage.

Question put and agreed to.

**Acting Chairman (Senator Paschal Mooney):** When is it proposed to take Committee Stage?

**Senator Hildegard Naughton:** Next Tuesday.

Committee Stage ordered for Tuesday, 3 February 2015.

*Sitting suspended at 3.45 p.m. and resumed at 4.30 p.m.*

### **Universities (Development and Innovation) (Amendment) Bill 2015: Second Stage**

**Senator Sean D. Barrett:** I move: “That the Bill be now read a Second Time.”

I welcome the Minister. I thank the Bills Office, the Leader’s office, the Cathaoirleach’s office and my research assistants, Dr. Charles Larkin and Ms Ursula Ní Choill, for their help in preparing the Bill.

We are dealing with the role of the university and the contribution it will make in the future to the development of Ireland as we try to renew the country in the post-bailout environment. There is a superb tradition of stimulating debate, valuing experience and making a valued contribution to Irish society which the Bill attempts to reinforce by dealing with issues such as academic freedom, academic tenure, having a career structure for research, Exchequer oversight, new arrangements for pensions and fostering innovation to enhance and increase the contribution universities can continue to make to the development of wider society.

Regarding the role and function of the university, we include the ongoing support of the humanities. I was delighted when the Minister, speaking in the House last week about the development of future skills needs, referred to the importance of languages. It is very important that the range of disciplines that have characterised the development of the university to date be retained and that some departments and disciplines do not achieve priority status over others. That was a problem encountered in the United States, where some departments took an inordinate share of the budget, while others became poor relations.

The international evidence is that the more autonomous a university is, the better the performance that will result. It is important to distinguish universities from other institutions which also serve the country in their own ways. We accept that adjustments were necessary during the recession, but there has been a reduction of approximately 2,200 staff, while the level of State expenditure per student has fallen from €11,800 to €9,000. We must plot a course forward and that is what the Bill has been designed to do. There are problems relating to tenure to be dealt with arising from two court cases, Fanning and Cahill in 2005 and 2007, respectively. We can also make suggestions on how we could enhance the intellectual contribution of universities to wider society and are delighted to do so.

The first part of the Bill includes definitions of “education”, “research”, “innovation” and “scholarship” which provide for them to be as broad ranging as possible. We also seek to extend the definition of “remuneration”. Universities should be independent, globally aware and

engaged. They were global long before “globalisation” was a term applied to wider society. Trinity College Dublin came from Oxford and Cambridge universities which, in turn, came from the university in Paris. Today, happily, one can google somebody in San Francisco as easily as somebody down the corridor or in another department in the same university. We, therefore, stress the international importance of universities and global awareness.

Universities should aim to become independent of the State. As we are discovering at the banking inquiry committee, contrarian views and different opinions are vital in this society on all issues. A university under the control of the State or subject to undue State influence is a contradiction in terms.

With regard to academic freedom, it is important that ideas be expressed and that measures to end the employment of an academic never have any relationship with the views expressed, except where they are unacceptable. What we seek to control is arbitrary dismissal and to set up procedures that would be common to the rest of the public service for the adjudication of a breach of a contract and to deal with a failure to fulfil that contract. Nobody condones a failure to mark examination scripts or give lectures, but there must be a procedure under which this happens so as not to have cases such as the two mentioned ending up in the Supreme Court. Going to the Supreme Court with industrial relations matters is a waste of public money by everybody concerned and we wish it to cease. There is a structure in place to deal with industrial relations matters in sections 5 and 7 and it should assist. We describe tenure as “the right ... not to be arbitrarily dismissed”. The freedom to express one’s views is linked with tenure. The two are joined together, which is why we link the two issues.

In section 6 which deals with funding we introduce the concept of proportionality. Section 12 funds - the core of interventions by the Minister and the Higher Education Authority - should be retained. There are other funds from other Ministers and bodies such as the Health Research Board and Science Foundation Ireland subject to these constraints. It will undoubtedly be a feature in future generations. Where universities seek other sources of funding, which is part of their duties under this Bill, we need rules that reflect the situation, as well as less control by the Higher Education Authority or the Minister. However, controls should be retained in regard to pay because we do not want a two-tier structure whereby those universities that have considerable outside funding become a new elite. The Commission on Public Appointments would have a role in this regard and the Minister, if unhappy with the situation, could invoke the visitors for each of the universities, who are usually persons of senior legal standing, such as judges of the High Court and the Supreme Court.

It is a matter of regret that a burden was put onto the Exchequer in 2009 when a number of university pension funds went bankrupt and had to be taken over by the State. The university funds involved were Trinity College Dublin, University College Dublin, University College Cork, National University of Ireland, Galway, National University of Ireland, Maynooth and the National University of Ireland itself. The list also includes the Industrial Development Authority, Shannon Free Airport, FÁS, the Irish Goods Council, An Bord Bia, the Arts Council, the Regional Tourism Pension Scheme Fund, Fáilte Ireland, the Institute of Public Administration and the Economic and Social Research Institute. In future, these would be defined contribution pension schemes rather than a charge on the Exchequer. Given the nature of these pension arrangements, we fear that staff will be seen as a contingent liability on the State rather than assets. If the pension fund becomes self-financing, it would deal with that problem.

We also propose the establishment of direct activity corporations, which would be spin-off

companies unrelated to Mom and Pop companies or public limited companies. We also propose arrangements to deal with copyright and intellectual property, all of which are in line with the policies developed by the Departments of Jobs, Enterprise and Innovation and Education and Skills.

I will conclude at this point in order to retain the good will of the Leas-Chathaoirleach. I thank the Minister for attending the debate and hope the ideas contained in the Bill are helpful. I am convinced these institutions have an important role to play in the development of this country. The front page current edition of *The Economist* carries the following heading: “America’s new aristocracy: Education and the inheritance of privilege”. Doing this properly will help this country solve the many problems we came to this House to correct. I comment the Bill to the House in that spirit.

**Senator John Crown:** I thank Senator Barrett for allowing me the privilege of seconding this worthy legislative proposal. If and when somebody sits down to write the history of this Seanad, he or she will acknowledge that the Senator has been one of the most serious, insightful and informed legislators we have had in this House over the last four years. He certainly exemplifies the best traditions of this institution.

The Minister has probably heard me rant in the past about the bizarre health structure in this country, including our structure for hospitals, careers and medical education, with so many medical schools producing doctors for export in a nation that employs the lowest number of career level doctors per head of population of any country in the OECD. The paradox goes further, however, to include the career structure in health care in universities and, more generally, in science and other areas where research is a focus. There is an extraordinary level of incentivised dysfunction in these areas which Senator Barrett’s Bill would go a long way towards correcting.

I returned to Ireland in 1993 with a huge desire to develop a clinical research structure in this country. I am not claiming I started anything because many fine individuals were carrying out wonderful research prior to my return but there were a few big niches, such as clinical research and no department of medical oncology or cancer medicine anywhere in my university hospital or in any other university at the time. This was not unique to my area; it also applied to cardiology, endocrinology, etc. We had a poorly developed structure and developing a research focus required us to establish a parallel structure outside of the university and, to an extent, outside of the hospital.

Some of the more prominent research in Ireland which are either hospital affiliated or on the campus of hospitals have a tenuous connection with the medical school or university which is allegedly their parent organisation. This leads to all kinds of unbelievable conundrums. I was, for example, fortunate to have the opportunity to recruit a cohort of wonderful nurses who were trained in oncology, had bitten the bug of cancer research and wanted to become clinical research associates and clinical research nurses. Clinical research involving patients simply cannot take place without such expertise. They made the brave commitment to step outside of the protective mainstream career structure offered by the HSE as a personal investment of faith in the unit I was trying to develop.

However, for understandable legal and regulatory reasons it became apparent after several years that we needed to formalise our arrangements. Even though I was raising money from other sources to pay their salaries, and they thus cost the State nothing, payroll had to be for-

malised through the hospital's system. Then, of course, the meltdown occurred followed by the embargo on public service appointments and audits of the numbers working in the public services. Although we had people who were doing pure research work in a hospital associated with the largest university in the country, they were working neither for the hospital nor the university. They were providing an unbelievable service which brought in the equivalent millions of euro to the hospital every year because our reputation got us free drugs and support. I found, however, that I was being gently encouraged to let them go because there was no other way to supervise the payment of their salaries through the hospital system or, for a long time, through the university. Even though I was not asking anybody to pay for them, one of the agencies - I stress it was not a university - suggested to me at one stage that it was perhaps unwise to employ senior experienced people because after a number of years of employment they had legacy entitlements to tenure and it would be harder to get rid of them. I said that I did not want to get rid of them. They were wonderful, so why would I do anything other than try to incentivise them to remain? I am thankful to the medical faculty in UCD and my friend and colleague, Professor Michael Keane, who made special arrangements so that aspects of the payroll for these individuals would be covered even though they are not strictly speaking university employees.

I have also raised grants or philanthropic funding for brilliant young researchers who made commitments to work with me and who have churned out research and supervised PhD students. They have no career structures in their university, however, and exist from grant to grant. If I emigrated or had a heart attack in the morning, they might find themselves unemployed. They have no security, with the result that several left over the years to become administrators. They had mortgages and personal responsibilities and there was no career structure which would allow them to stay in research. If we are going to be a knowledge, research and innovation based economy, we have to address this issue. The independence and security which Senator Barrett's Bill offers would lay the groundwork for developing the nurturing environment our young researchers need.

I know of one fine researcher in a biomedical institution in Ireland - I was going to name names but I will not do so - who won a five year grant to develop a programme in virology. The grant expired at the end of five years, as grants do. He probably could have obtained further grant and peer-reviewed support to maintain individual projects, but the job was no longer available because it was only available as long as the grant was in place. He then had to travel to another country to continue his research and, as a result, we lost him.

There is a tendency for those on the other benches to look at Bills from these benches as being deficient or, if they are good, to take them on at a later stage. Will the Minister step outside the aisle, so to speak, to examine the merits of this Bill and consider supporting it? This is the expertise Senator Sean D. Barrett brings to the two Chambers in the Oireachtas. He identifies problems that may not be apparent to other Members. I urge the Minister, as well as my other friends and colleagues in the House, to support the Bill.

**Senator Martin Conway:** I welcome the Minister for Education and Skills, Deputy Jan O'Sullivan. I am delighted that she is engaging with what has to be described as a very interesting and innovative Bill from Senator Sean D. Barrett. He used the word "innovation" in his contribution and referred to the need for it. This legislation is certainly an innovation. With his expertise, not only in matters of economics but also in education having worked in Trinity College Dublin for decades, he sees the flaws in the university system and where matters can be improved. He is in the fortunate position where he can bring forward legislation to improve the system. Senator John Crown's contribution in the areas of health and education also provides

a useful perspective. The Seanad is very fortunate that this legislation is being sponsored and supported by two Members with a wealth of experience.

Ireland has traditionally been known as the island of saints and scholars. While the education system is very good, there is always room for improvement. During the Celtic tiger days, as Senator Sean D. Barrett mentioned, pension schemes had to be bailed out because of their size. Senior academics at the higher end of the scale, particularly university presidents, have an enormous suite of benefits above and beyond what they deserve. This issue needs to be addressed because it dilutes public confidence in third level institutions, particularly when one sees the presidents of institutions on hundreds of thousands of euro a year, with the suite of perks that they receive. In some cases, they have their own residence on the university campus. We need to set principles and improve practices.

That is one element of an overall change in approach to this problem that is needed at university level. Innovation and fostering entrepreneurship are only at incubation stage in universities which need to be forward-thinking in this regard. It is certainly concerning when one sees MBA, master of business administration, programmes in Irish universities sliding down the scale of international rankings. That is a pity when we really should be in the top 30 internationally in providing MBA programmes. Undertaking an MBA programme in this country is expensive enough. Accordingly, we need to ensure such programmes are world-class and equip people to take on leading roles in world economics and business. We are capable of achieving this.

The role of business and partnerships with third level institutions needs to be developed significantly. There are examples of where entrepreneurs have donated significant sums of money for buildings to third level institutions such as the O'Reilly Hall in University College Dublin. The Minister's constituency predecessor, Jim Kemmy, had a business centre named after him at University of Limerick. He would probably have preferred to see the money go somewhere else as he was a socialist through and through. Some people are willing to part with significant sums of money to enter into partnerships with universities. As opposed to just having their names on buildings, I hope entrepreneurs will put the money into courses and equip those taking them.

The top ten information technology companies in the world have their European headquarters in Ireland. Much more could be done with third level institutions and universities in engaging with these companies.

I look forward to the Bill going through the House. I am sure the Minister has suggestions on it, too. Senator Sean D. Barrett has used his fantastic expertise and included his ideas in the legislation. The Minister would be sensible to incorporate them in future legislation in this area.

**Senator Averil Power:** The higher education sector in Ireland is at a crossroads. In recent decades there has been a major increase in participation at third level. It is hugely positive that third level education is now within the reach of communities and families in a way that it was not before as a result of having extra places in third level colleges and new pathways other than the CAO, Central Applications Office, system such as PLC, post-leaving certificate, courses. At the same time, there are concerns about the adequacy of public funding for third level institutions and the impact of budget cuts in the past few years on the quality of teaching and learning for students. As some Members stated, there is also concern about our institutions falling in the international university rankings such as those of QS, Quacquarelli Symonds, and

the *Times Higher Education*. I understand that latter concern, but, at the same time, it is worth repeating that many of these league tables have their own failings, overemphasising certain areas and giving no credit to others. For example, from a public policy point of view, one of our priorities as a country should be opening up access, community involvement and the economic contribution of a third level institution to its region. These are not captured by crude league tables of our third level institutions. There would be merit in the Minister looking at developing our own system, our own system of metrics for measuring what our third level institutions are doing against the wider range of policy goals such as access, contribution to the local economy, second-chance education places for students with disabilities, adult education and all the broader policy priorities, and publishing and making those metrics available. This would be as a counterpoint and a much more balanced view to those higher education rankings which repeatedly get on the front pages of all the newspapers but do not capture the full picture.

Participation rates have increased dramatically, but, unfortunately, young people in some areas are still lagging behind. In some parts of Dublin city only 10% to 15% of young people go on to higher education after completing the leaving certificate, while in other areas, the figure is 90%. That is wrong. When in government, Fianna Fáil invested in preschool, primary and second level programmes to help people in areas in which traditionally there was poor educational attainment. It takes some time for the benefits to come through, but it is important that the Government redouble its efforts to ensure nobody will be put off from going to college.

The question of whether a young person finishing their leaving certificate gets to go to college should be down to merit and hard work and not just their post code. There is an urgent need to change that as well.

We need to do more with regard to flexible educational opportunities, an area focused on in the Oireachtas Committee on Education and Social Protection. We still have a funding model that is very much focused on full-time education at undergraduate level. This makes it difficult for many people such as those who did not go to college in the first place and who do not have an undergraduate degree but who now have a family or are working. The only realistic opportunity they have to get an undergraduate degree is to undertake it on a part-time basis. While we have free full-time undergraduate education, we still have part-time fees which are an obstacle. This should be a priority when funding becomes available. We should be neutral as a State as to whether somebody attains their qualifications during the day, during the evening or at the weekend. We should try to make the system as flexible as possible. There are many opportunities in online third-level education, an issue that has also been discussed in the Oireachtas Committee on Education and Social Protection.

I warmly support Senator Barrett's Bill and echo other Members' sentiments about Senator Barrett's contribution to this House. He is a very fine Member who brings a huge level of expertise and experience to our debates in respect of third-level education. This expertise on the part of Members is one of the things this House has going for it - that of Senator Barrett in this area, that of Senator Quinn in business and that of Senator Crown in health. One sees this reflected in the quality of debates we have here. I include my good friend, Senator Norris, who is sitting behind me and with whom I co-operate in many areas, particularly social justice. In that spirit, I ask the Minister to give serious consideration to this Bill. It is a very important piece of legislation. I would like to tease it out on Committee Stage. I agree with the need for individual academic freedom. In particular, lecturers should feel that they are free to say unpopular things or challenge their institutions. While autonomy is a good thing and we should not micro-

manage our third-level institutions, third-level institutions need to work in an environment that is delivering on national educational priorities so there is a balance to be struck there.

I understand where Senator Barrett is coming from with regard to tenure. Certainly, the increased casualisation of academic positions both at school, particularly second level where it is next to impossible for young teachers to get a permanent job, and at third level is a big problem. It is a problem in terms of attracting and retaining the best academics who have alternatives and can work in the US and other countries. At the same time, we need to balance permanent contracts with the need to ensure that there is always a requirement to upskill regardless of whether a person is working in a school or college.

In respect of pay scales for academic staff, as Senator Barrett has pointed out, the universities only receive about half of their funding from the State. The other half is private. They often argue that they need to pay more to attract the best people. I understand that and I think it is important that we are able to compete with other institutions abroad. At the same time, there would be a concern to make sure that we do not end up with just a few prestigious people in a university getting paid very well with the result that there is not enough money in the rest of the budget.

All of these issues that the Bill touches on are really important and we could tease them out on Committee Stage. I again thank Senator Barrett for this initiative which is a really useful Bill. I hope the Minister will take it on board. I look forward to hearing her remarks and we can tease out some of the more specific issues on Committee Stage.

**Minister for Education and Skills (Deputy Jan O’Sullivan):** I thank Senator Barrett for the work and thought he has put into the drafting of his Bill. I also thank Senator Crown for his contribution and I look forward to hearing the contributions of Senators Quinn and Norris. One of the great advantages of having a debate in this House on universities is the fact that we have a considerable amount of expertise among the Senators who are elected specifically from the universities and expertise right across the Seanad. The Bill seeks to amend the objects and functions of universities, as set out in the Universities Act 1997, to include a reference to innovation; to provide for matters relating to academic tenure; to provide a role for the Commission on Public Service Appointments in determining the rates, scales and ranges of remuneration of employees of universities; to allow universities to establish new schemes for superannuation; to provide for issues relating to the establishment of corporations by universities; and to require the development by the universities and the Minister of an intellectual property protocol. The Bill addresses a wide range of issues.

The national strategy for higher education to 2030 sets out a comprehensive roadmap for reform of the higher education system. The objectives of the reform programme are to ensure that the system becomes more performance-oriented, flexible and responsive while retaining and enhancing its diversity in terms of mission. A wide-ranging legislative programme is required to implement a range of governance, accountability, funding and structural reforms to allow us to meet the framework for modernisation set out in the strategy.

We are considerably advanced in setting in train the legislative underpinning for the modernisation of our system. A high priority is to provide for consolidation and mergers within the institute of technology sector, which was not touched upon in the Bill, and to provide for those newly merged entities, which reach the already published criteria, to apply for and become technological universities. The technological universities Bill is therefore currently being

drafted by the Office of Parliamentary Counsel and will be published shortly. Legislation will also be required to support the new funding, performance and accountability framework for the system that is being put in place. This is intended to provide statutory underpinning for the respective roles, functions and powers of the Minister and a reformed Higher Education Authority for the governance and regulation of the system.

Legislation is also required to strengthen and reform the governance structures and accountability of higher education institutions. With this in mind, I previously sought the input of the Royal Irish Academy, universities and institutes of technology as to how best to create the smaller, more modern and competency-based governing boards that were recommended in the strategy. A broader higher education reform Bill, the general scheme of which is currently being drafted, will therefore reform the existing statutory underpinning of the Higher Education Authority setting out new powers, responsibilities and governance arrangements in terms of funding and accountability. It will also contain the amendments to the Universities Act necessary to implement governance and accountability reforms. I hope to return to that later because some of the proposals in Senator Barrett's Bill can be incorporated in the legislation I will be bringing forward later this year.

Senator Crown referred to research and innovation. Research and innovation are of major importance given their role in contributing to economic recovery, competitiveness and growth not only in Ireland but also across the EU. Continued investment in research and innovation is essential if we are to maintain employment and create new high-quality jobs. As well as the importance of this element of research, ensuring we have a good society is also hugely important. At the Royal Irish Academy last night, I presented gold medals to two professors, one in the humanities and one in the sciences. That is the balance we need to have. As Ireland moves from a policy focus on economic stabilisation to growth, sustained investment in research and development in the higher education sector remains of vital importance to enable the economy to recover and grow in the future.

The higher education sector provides a national base of skills and knowledge and complements the applied research that is necessary that is being largely applied in the business sector firms. Ireland has adopted a national strategy to maximize its participation in Horizon 2020 with an ambitious target of securing €1.25 billion for Irish researchers and companies during the lifetime of Horizon 2020. Horizon 2020 has the biggest EU research budget ever with €80 billion of funding available over seven years. The strategy outlines the support structures to ensure researchers and companies have access to information, advice and support to enable them to maximise opportunities under the programme. I am conscious that we do not want to be entirely driven by the opportunities for funding in that area. Research should not only be driven by where we can get funding.

Structural changes in our higher education system, including the development of regional clusters of institutions and the mergers of institutes of technology, will engender greater critical mass and excellence and allow our institutions to compete with the best institutions across Europe. In addition, the new performance framework for the higher education system specifically includes metrics for EU research income and will encourage institutions to engage strategically with the programme. However, as I say, that should not be the only metric.

Section 2(2) of Senator Barrett's Bill provides for the insertion of definitions of certain terms into the Universities Act 1997, including "research", "innovation" and "education". Sections 3 and 4 provide for the amendment of sections 12 and 13 of the 1997 Act, to include refer-

ences to innovation in the objects and functions of universities, as set out by that Act. There is merit to the Senator's proposals in this regard and I would be happy to consider the inclusion of similar amendments in the General Scheme of the Higher Education Reform Bill, which is to be published later this year and to which I referred earlier.

Section 5 proposes to insert a new section 14A, dealing with matters relating to academic tenure, into the 1997 Act. I understand that there is a view that the 1997 Act does not sufficiently separate the question of academic tenure from matters relating to disciplinary processes in the employment relationship. However, I am advised that the proposed amendment would not substantially improve matters in this regard and may introduce unnecessarily cumbersome procedures. Again, that is something we can consider. I do not think we are differing in what we are trying to achieve here.

Section 6 largely deals with matters relating to remuneration. The effect of section 6 would be to give university staff a privileged position within the public service in terms of pay policy determination. The Bill would restrict the capacity on the part of the universities to manage pay rates, and it would restrict the capacity of the relevant Ministers, the Government and the Oireachtas to manage pay policy in the universities. It would create a potential risk of additional and uncontrolled Exchequer pay and pension liabilities in respect of the university sector, and establish a role for the Commission for Public Service Appointments which is not in alignment with its core function. This is the difficulty I have with this section. The commission does not have a function in this area as its function is to regulate recruitment within the public service. The Bill would also give excessive authority in respect of pay policy matters to two public bodies, in that it would give the HEA and the Commission for Public Service Appointments the authority to overrule the Ministers, the Government and the Oireachtas on matters of pay and allowances in universities. Unfortunately I do have a difficulty with that section of the Senator's Bill. It is not in line with the general policy with regard to pay, and particularly the role of the commission.

Section 6(13) and section 7 subsections (1) and (2) provide for the amendment of provisions relating to the preserved rights of staff. These provide for the preservation of certain terms and conditions of staff who were employed at the time of the coming into effect of the 1997 Act. It is my understanding that there is a general provision for the variation of these rights by agreement and I think this is fair and sufficient. Section 7(3) seeks to provide for the provision by universities of information relating to remuneration to the HEA. I will also give consideration to including an amendment along those lines in the Higher Education Reform Bill, which will be published later this year.

I am sorry this is rather a long contribution but I am trying to respond in detail to the Bill itself. Section 8 provides that new employees appointed to a university after the making of a superannuation scheme under the First Schedule to the Bill will become members of that superannuation scheme. It is proposed that the scheme may be a defined contribution scheme, and may provide for additional voluntary contributions, for the transfer of accrued rights from another superannuation scheme, for the transfer of rights accrued under the superannuation scheme to another superannuation scheme, and for benefits based upon the average earnings of a member of the scheme throughout that member's entire career as a member of the scheme.

The legislation we have at the moment is the Public Service Pensions (Single Scheme and Other Provisions) Act 2013. That Act provides for a single public service pension scheme for new public servants appointed on or after 1 January 2013. In addition, former public service

employees returning to the public service after a break of more than 26 weeks in pensionable public sector employment become members of the single scheme, with certain exclusions for those on approved leave of absence. This scheme is a contributory defined benefit career average earning pension scheme where the benefits are based upon the average earning of a member of the scheme throughout that member's entire public service career.

All of the universities have defined benefit pay-as-you go schemes where pension benefits are based on the final salary at date of retirement or resignation. These schemes are based on the Department of Public Expenditure and Reform model scheme. These schemes apply to university employees appointed prior to 1 January 2013, if they are not members of the university closed schemes. The schemes are approved on an administrative basis but will be formally approved in accordance with recently published rules.

The provisions proposed in this Bill provide that all new employees in universities would become members of a new scheme to be prepared under the Bill. It is proposed that the new scheme may be a defined contribution scheme and-or a defined benefit career-average scheme. However, a pension scheme cannot be a defined contribution scheme and also provide for benefits based upon the average earning of a member of the scheme throughout that member's entire career as a member of the scheme. A defined contribution scheme provides benefits based on the level of contribution and the value of that contribution at retirement date. These are two completely different types of schemes.

The schemes in the university sector - the single scheme, the model schemes and the closed schemes - are defined benefit schemes. There has been no proposal from the university sector for a defined contribution scheme. Furthermore, the introduction of a new scheme is not in accordance with the Public Service Pensions (Single Scheme and Other Provisions) Act 2013. That legislation, in accordance with Government policy on pensions, provides for a single public service pension scheme which applies to all public servants including university employees who are appointed on or after 1 January 2013. The purpose of the legislation was to standardise pension provision across the public sector. In terms of the Bill before us, we do not intend to approve separate and different superannuation provisions for the university sector. That is a section of the Bill that I have difficulty with in terms of Government policy.

Section 13(2)(c) of the Act of 1997 provides for the establishment by universities of corporations. Section 25(5)(b) provides that such corporations may only pay employees of a university in accordance with a framework agreed between universities and the HEA. I understand discussions between the universities and the HEA are ongoing in that regard. Section 9 of the Bill provides for the above but, as with the provisions relating to remuneration referred to earlier, it also provides that the Commission for Public Service Appointments may be requested to establish appropriate rates of pay where the universities and the HEA have been unable to agree a framework. Returning to the point I have already made regarding the commission, this is not one of its core functions, so I would have difficulty with that section of the Bill.

In Autumn 2012, the Department of Jobs, Enterprise and Innovation, published a document entitled Putting Public Research to Work for Ireland, also known as the national intellectual property protocol. This was developed by the Department of Jobs, Enterprise and Innovation working with other Departments, including my own, and drew on the knowledge of a dedicated group of experts from industry, the venture capital community, technology transfer offices, research-performing organisations, the Irish Universities Association, and State research funders. The key objective of the intellectual property protocol is to maximise the economic and societal

benefits from Government investment in research-performing organisations, in particular the creation of sustainable jobs.

The protocol will make it easier and faster for entrepreneurs and companies to negotiate a commercial arrangement with research-performing organisations for intellectual property arising from State-funded research. It is about encouraging industry to collaborate with Ireland's universities, institutes of technology and other publicly-funded research institutions, to access and commercialise the intellectual property generated from such research and turn it into products and services for the global marketplace. The intellectual property protocol was designed and delivered in order to bring clarity, consistency and quality for companies working with Ireland's higher education institutes and other State-funded research organisations. The primary goal is to enable and encourage the use of State-funded research to drive business, innovation and economic competitiveness.

Knowledge Transfer Ireland has been established as a key recommendation from the report, with a remit to support business and the research base to maximise innovation from State-funded research by getting technology, ideas and expertise into the hands of business swiftly and easily, for the benefit of the public and the economy. As an intellectual property protocol has already been established, and the relevant policy and structures have been rolled out, I do not believe it is necessary to make specific provision for the establishment of such a protocol by way of primary legislation.

I have gone into some detail on the different elements of the Bill and I would be happy to work with Senator Barrett and others on some of them, in terms of incorporating them into the legislation we will be bringing forward on higher education. I have a difficulty with and unfortunately cannot accept other elements, particularly around the role of the Commission for Public Service Appointments, whose job is basically not in this area. I realise there is strong work being done which is very specific. The Senator has drawn on his vast experience in the higher education sector, but I hope I have outlined the difficulties we have with some elements, particularly public pay policy and the Commission for Public Service Appointments. There are, however, other elements on which we will work with the Senator to be incorporated into legislation.

I thank Senator Sean D. Barrett and the other Senators who have contributed and will contribute later to the debate. I look forward to continuing to work with the Seanad on legislation dealing with the universities.

**Senator David Norris:** I welcome the Bill which is a remarkable initiative. I also welcome the Minister and the fact that she indicated that she intended to incorporate some of the ideas included in Senator Sean D. Barrett's Bill into new legislation. That demonstrates the co-operative spirit in Seanad Éireann as part of the Oireachtas. It is worth pointing out that the Minister, the leader of the Labour Party and Senator Averil Power are all constituents of mine and Senator Sean D. Barrett. To a certain extent, it may be assumed we are speaking to the converted.

**Deputy Jan O'Sullivan:** The Senator was also one of my lecturers.

**Acting Chairman (Senator Diarmuid Wilson):** There should be no campaigning on the floor of the Seanad.

**Senator David Norris:** I did mention my colleague.

Designated activity companies, DACs, are important. There should be safeguards in this regard. There must be a degree of supervision, irrespective of whether the money comes from outside. I am thinking, in particular, of Trinity College Dublin where there are projects undertaken in concert with the Israeli military. This is of assistance to the Israeli military in progressing an aggressive war against a defenceless people of Palestine, but it should be restrained and discontinued quickly.

On the issue of pay, it amuses me because my middle-ranking colleagues among the academic staff and in administration receive considerably more than we do in Seanad Éireann, despite the fact that the Government continues to want to pull us down. Some of my colleagues have suggested we receive something like half or one third of what we are receiving. That is what I regard as very academic.

The Bill defines the roles and actions of the university and, in particular, the ongoing support of the humanities, which I welcome. I taught in the humanities in Trinity College Dublin and we were not under any great threat, but those involved in the teaching of the classics and music certainly were. Some schools in these areas have been closed in the United Kingdom; therefore, we do not need to go as far as the United States.

I refer to academic freedom and academic tenure. This is an excellent Bill which follows on and develops the sections included by Professor Joe Lee and me in the 1997 Act guaranteeing academic freedom and integrity. They were taken on by the Swedish Government in full. In a briefing note Senator Sean D. Barrett indicates what universities are not. They are not institutes of technology or technological universities, an area into which the Minister strayed. They are not medical universities like the Royal College of Surgeons in Ireland, distinguished as these places are. They are not business or language only schools.

The Bill includes definitions and I compliment Senator Sean D. Barrett on their clarity and precision. Legislation has been lacking in definitions, particularly of education and innovation. A definition of education is provided, meaning education, examination, instruction, lectures, research, scholarship, study, teaching or training undertaken or provided in a university or by any person acting under the authority of a university. It also includes the award of degrees and other qualifications and all activities necessary or expedient for or ancillary to such purposes. It is an excellent definition which has been crystallised. Innovation is defined as including creativity, ingenuity, novelty, renewal and transformation in all of their forms - artistic, cultural, economic, educational and social. It includes, in particular, the development of new business methods, models or practices, or new businesses, products, services, structures, technologies, intellectual property or work practices. Our understanding of the education sector is enhanced by these clear lapidary definitions.

The question of pensions is a troubled one because the universities were cavalier in this regard. They paid people off in cases of early retirement - gratuitously in some circumstances - and the continuing staff were expected to pay for the pensions of retired staff. It is welcome that Senator Sean D. Barrett is looking for some machinery from the Minister, a statutory instrument or other such thing, to ensure pension fund trustees are held responsible, as they should be held liable. If they make injudicious decisions on pensions or drive a pension fund into bankruptcy, they should be held accountable and have to explain how it happened.

Senator Sean D. Barrett talked about the attempt to ensure the unique identity of the seven universities by defining their educational mission and said they should be noted for their global

orientation and conservation of the liberal arts. When I was an undergraduate, those who took an arts subject had to take a science subsidiary subject for one year. Those who were studying science had to take an arts subject. Many studied English literature or fine arts which broadened them as human beings. Rigid compartmentalisation in universities is a mistake.

The question of tenure is important because, as Senator Sean D. Barrett said, there is a clear link between tenure - knowledge of security in a job - and allowing people to explore unfashionable ideas. This is absolutely essential. Tenure is a complex issue and the Bill addresses the results of two law cases, *Fanning v. UCC* in 2005 and *Cahill v. DCU* in 2007. The idea is to prevent academics from being arbitrarily dismissed, thereby allowing them to conduct research into unfashionable ideas. The principle of security against arbitrary dismissal does not preclude proper and appropriate dismissal, which must be borne in mind. In the High Court Mr. Justice Clarke decided dismissal had not occurred in accordance with procedures; therefore, he avoided the question of defining tenure, but he did provide some valuable words on the question of tenure, saying the term brought with it an obligation to have a greater degree of permanency for the status of officers of universities than would be the case in circumstances where, as a matter of contract, such officers could have their contracts terminated with three month's notice. In the Supreme Court Mr. Justice Geoghegan declined to engage on the term "tenure" and decided the case on the basis of general principles. As there has been no decision, it is very important that these matters be clearly and succinctly addressed in legislation. An interesting aspect that I did not anticipate is that funding from central sources has diminished to the extent that it will be shortly under 50%. This should give universities a greater degree of freedom.

**Senator Mary Moran:** I welcome the Minister. Listening to Senator David Norris and his comments on past pupils and lecturers at Trinity College Dublin, I feel I am in the minority, in which I am joined by Senators Feargal Quinn and John Crown, in that we attended UCD on the southside.

**Senator David Norris:** They went to the other place.

**Acting Chairman (Senator Diarmuid Wilson):** Senator Mary Moran should stop campaigning on the floor of the House.

**Senator Mary Moran:** I commend Senator Sean D. Barrett on bringing the Bill before the House and his work on it. He must be commended on his comprehensive explanatory note which was kindly circulated to all Senators. I would welcome if Senators from both sides of the House would circulate any information which they feel would be helpful in progressing an educational or other idea or Bill through the House. I thank the Minister for that also.

Higher education remains in constant focus throughout the year as there are so many people at all stages of life who engage either part-time or full-time at third level. I know it is in the thoughts of many students currently studying for their leaving certificate examinations. I am very busy myself at the moment ensuring CAO forms are completed and returned within deadlines. We are all very conscious of the system of third level education.

Ireland's education sector from top to bottom is experiencing difficulties. We have seven universities, 14 institutes of technology and a further range of colleges designated under the Higher Education Authority. It is important to bear in mind when speaking about the education sector that there are also many private colleges throughout this State. Between 2008 and 2014 income to the higher education sector fell by 9% while demand increased. An additional 25,000

student places were provided but staff numbers were reduced by 11%. Within this time the proportion of students requiring a higher education grant rose significantly from 41% in 2009 to 52% in 2013. Participation in higher education is estimated to have increased by 2% per annum since 1960, with the outlook on demand estimated to increase further over the next 15 years. It is expected that this will result in an estimated 212,000 full-time students in 2028. There were 165,000 full time students in 2013. I do not know from where all the jobs required will come. Sustainability, capacity and funding, while maintaining quality and standards, remain a major issue for the sector.

Reforms of the higher education system have been undertaken since 2011. We need to have a system which supports and provides students of all ages with a range of skills and knowledge and an availability of courses to prepare them for the next phase. One reform measure under way is the creation and identification of higher education regional clusters. These clusters have been identified and the heads of the institutions in each will, among other things, agree regional plans to enhance co-ordination at a regional level. It is intended that the grouping of higher education institutions into these clusters will result in the removal of unnecessary duplication and the provision of a host of new benefits to students, and build on the current positives and benefits.

Further measures of reform were also approved in 2013 by the then Minister for Education and Skills, Deputy Ruairí Quinn to consolidate the system. This included the creation of centres of excellence in teacher education, bringing the 19 State-funded providers of initial teacher education to six centres of teacher education, a consolidation of the institutes of technology and the rationalisation of smaller colleges. In 2012, the Qualifications and Quality Assurance Authority of Ireland, QQAAI was established through the Qualifications and Quality Assurance (Education and Training) Act. I recall that during the debate in the Seanad on that Bill many said the name of the agency was too long-winded. The QQAAI is responsible for external quality assurance, validation of programmes and the making of awards by providers, ensuring that the provisions of courses and programmes meet the standards set out in the national framework, of qualifications, and the maintenance, development and review of the national framework of qualifications. This legislation brought together the HETAC, FETAC, National Framework of Qualifications Authority of Ireland and the Irish Universities Quality Board. The reform measures I outlined have had impacts and have attempted to reduce duplication, improve student experience and overall quality within the system.

The Minister referred earlier to some of the measures which pose a difficulty, including section 5 regarding academic tenure and whether this section would result in the introduction of further and, possibly, unnecessary procedures. On the issue of pay, section 6 provides the Commission for Public Service Appointments with a role in determining pay rates in universities. In this regard, the Minister outlined why to date it has not done so. I commend the Minister on taking on board Senator Barrett's points in this regard. That the views of Senators, including from the opposite side of the House, are taken on board in the context of the enactment of legislation is very positive.

I commend Senator Barrett on his attention to the areas of reform within the Bill. As with most Bills, positives and negatives emerge and provide us all with food for thought, which is exactly what Private Members' time should be about. The problems within the higher education sector appear to be ones which we need to address in the longer term context and, that said, may take a longer time to address in the context of our economic circumstances. As I said earlier, the Minister, Deputy O'Sullivan, is committed and clear on the need to invest in our educa-

tion system. She is a partner with whom we can work in terms of the reforms being undertaken and requiring to be made at each stage of education from primary to doctorate level. I thank Senator Barrett for continuing to generate conversation and consideration of higher education.

**Senator Feargal Quinn:** I welcome the Minister. I am delighted she is in the House to deal with this Bill and that it is receiving the attention it deserves. Senator Barrett's Bill deserves our support. This is not legislation proposed by a politician. Rather, it is legislation from someone who has been at the coalface in this area for many years and knows exactly what he is talking about. On that basis, it merits support.

For the past three or four years I have been involved with an organisation called Springboard, which through State funding, identifies areas of education into which people who graduated with construction-related degrees, including architects, quantity surveyors and so on, but have not secured employment in that area, can move. One of the things we discovered during the past couple of years is that universities do not follow up on how successful or otherwise their graduates have been, including whether they secured employment in their chosen field. While one or two of our universities do collate this information, in general Irish universities do not track their graduates or collate or analyse this information. The dispersal of information on how many history graduates had secured employment and the fact that there are currently 5,000 vacancies in the IT area would be helpful.

Senator Barrett's overall aim to try to reform the university sector within some existing confines is best summed up by the following words, written last year by him:

I'm a firm believer in the idea that the university sector is over-managed and in many ways misguided by money, government quangos and limited time initiatives that sap energy, funds and people from the main business of a university - educating people and creating knowledge.

Does Senator Barrett recall writing that?

**Senator Sean D. Barrett:** It is a very nice quotation.

**Senator Feargal Quinn:** Crucially, the Bill provides a definition for section 12 funding, which is, essentially, State money. The objective of this distinction is to ensure that the State has the power of direction and oversight to moneys that are distributed as part of the Higher Education Authority but, importantly, that this does not hold for other moneys. This is quite novel and deserving of attention. I am not sure that the Minister in her statement gave it the attention it deserves. I believe the change being proposed by Senator Barrett is a very fair one. From a business perspective, I agree that income obtained by universities from other sources should not be subject to State operational management. I am interested in hearing the Minister's views on this. This may mean that universities will seek to expand in other areas. Section 8 provides that a university can establish a corporation or company. The overall aim is to encourage a university to establish so-called spin-off firms. The initial phase of a company is vital, with so many failing in their first year. Having a company attached to a university while it matures is a very sensible approach. I have personal experience of it. Some years ago when the BSE crisis occurred, my company, Superquinn, had a problem. We wondered how we could guarantee where meat was going, and we found a company, IdentiGEN, in Trinity College. It has been very successful, and we were the first company in the world to trace every single sliver of beef from every animal that was slaughtered and know exactly which farm it came from. It

put people's minds at rest and our business increased while others were in difficulties. IdentiGEN has since blossomed around the world and is doing very well. Such intellectual property is vital, and converting it into business and job creation is even more important. Section 10 of the Bill will provide for a so-called intellectual property protocol, and this protocol will be linked to the intellectual property protocol outlined by the Department of Jobs, Enterprise and Innovation. Thus, the Bill aims to encourage the commercialisation of intellectual property within the universities and there have been numerous instances of it in addition to IdentiGEN.

The Bill also aims to improve the job situation of universities and addresses pay rates and pensions. Senator Norris also mentioned academic tenure and the Bill aims to clear up the area and bring some degree of protection for academics and strengthen the principle of academic freedom. It is not that one can never be fired, but that one cannot be fired based on one's having discovered an unpopular research result or teaching a controversial subject. The Bill also calls for the promotion and facilitation of "the internationalisation of education (including, in particular, higher education), innovation, research and scholarship, both within and outside of the State". We can do much more in this area in creating world class institutions that we have to expand.

I applaud Senator Barrett's work on the Bill which is a sensible step forward. It is particularly important that we continually look at the university sector, aiming to improve it in the context of massive international competition. I was disappointed in the Minister's words. Many years ago, a civil servant told me that when he wrote to somebody with bad news he would begin by saying, "I enthusiastically support what you are doing, however..." The word "however" put the person back. The Minister used the words "difficulties" and "concerns" several times. There is much in the Bill and while the Minister made some good and supportive comments on it, I would have loved to have heard more positive and definite support along with her concerns. The Bill needs and deserves support and can be improved no end if the Minister accepts the Bill on Second Stage and lets it go on to Committee Stage, where all the changes she, and all of us, would like can be made. I urge the Minister to accept the Bill.

**Senator Colm Burke:** The Minister is very welcome and I thank her for her very comprehensive response. This area is very important. When I was lord mayor of Cork I had the privilege of visiting Shanghai in China at the request of University College Cork, which wanted to establish a connection with Fudan University and Shanghai University. This brought home to me the need to grow and develop our universities and third level education. What frightened me was the fact that one city had more than 20 universities and more than 320,000 young people in third level education. Here, we are talking about targets of approximately 228,000 in third level education by 2028. The scale of the world market brings home the importance of ensuring we can produce people with qualifications and skills to compete with the world. It is so easy for people to travel. They can be in the US one day, the UK the next day and Ireland the day after. Over the past ten to 15 years we have moved beyond the European market into the world market in relation to competencies and skills. Therefore, we must be able to produce the best of people from our second and third level education systems.

I welcome Senator Barrett's work on this, which creates a debate. It is extremely important we examine the funding of universities and the team work between universities and other third level institutions in connection with research and industry. During my visit to Shanghai, I was struck by the direct connection between third level institutions, research centres and industry, which had been clearly planned out. They were located side by side. Some 12 months later, I returned to China, where they were building a whole new city for 650,000 people. The plans

were locating the educational institutions near the research centres and industrial areas. There is long-term planning, not just short-term planning.

The Minister has set out clear targets for the university sector and she is working with third level institutions to create greater efficiencies and improve the quality and standard of what we are producing. We need to examine value for money and see what we can do to ensure Ireland also benefits. I have been raising this issue for some time. I refer in particular to medical education in our universities, on which we spend approximately €90 million per year. I am not sure we are getting value back in our economy and hospital system. I am not saying it is a failure of the universities or students. The Department of Health and the HSE need to seriously examine it. I have been extremely critical of the current structure. In 2012, I did a study which found that over 60% of those who were going to graduate in that year had already decided to leave the country within 12 months of qualifying. While it is great to improve universities, we must also improve what we have to offer after graduation and how it is structured. I am a long time critic of the practice of offering six-month contracts to medical graduates with no clear career path. When addressing education we also need to consider the jobs available to people when they finish their studies. It is important that we realise we are competing in an international market and adjust accordingly.

Our birth rate increased from 50,000 in 2000 to more than 75,000 in 2010. From 2017 and 2018 onwards there will be huge demand for places in third level institutions. It is important that we plan and ensure we can accommodate the people who want to go on to third level education and that there are an adequate number of places for them. That is one area we need to keep in mind.

We also need to consider the issue of research and development and have closer co-operation between our universities and industry. The Tyndall Institute is doing wonderful work in Cork with some very dedicated and committed people involved. There are huge benefits to having that research centre in Cork.

We talked about the funding under Horizon 2020. We need to tap into that funding and get our fair share to ensure the people who want to do research are able to work here in Ireland. A problem with research and development - it is not just an Irish problem but a European problem - is that approximately 75% of people who want to get involved in research from outside the EU end up going to the United States rather than coming to Europe. That is something we need to keep in mind. As well as retaining our own students we need to ensure we get people in from abroad who carry out that research and development in order to create jobs in this country.

I welcome the debate on the matter. We have a lot of work to do with our third level institutions. We need to ensure we are getting value for money and have the proper structures to get the best possible results for people going through those institutions.

**Senator Brian Ó Domhnaill:** I support the tremendous work done by Senator Barrett in looking at our model of third level and fourth level education, and coming up with an innovative way to fund it - even though the Bill does not deal directly with it - and providing autonomy. To reinforce Senator Colm Burke's last point, autonomy is important in that researchers seek to provide funding to universities and particularly seek to provide funding and have research carried out by universities that have a high degree of autonomy, are in control of their own destiny and have the cutting edge capabilities in terms of academic resources. In order to do that, accepting all the provisions of Senator Barrett's Bill would be brilliant for the country.

We have to view what we define government to be. Is it that government will control everything in the economy, including all the funding going into education even though it does not control it because it represents only about 50% of the money going to third level education at the moment? It has decreased by about 25% since 2009. The thrust of Senator Barrett's contribution was that we are moving towards a 50-50 scenario given the reduction in the State's current and capital funding of third level education in recent years.

If that decrease is to continue and we go towards 50-50, should the Minister entrusted by the people through the Oireachtas as the people's representative in Government - irrespective of who that person is in future years - have the autonomy to dictate the direction of third level education from within the sector itself, and also regarding staffing, major strategic decisions and the objectives of third level education? I would argue not.

It would not be fair to assume that the State should have such a controlling or dominant effect on our third level education sector when the taxpayer is not fully funding the sector and when the constraints of State could be holding the sector back. Very often governments are slow to move. Ireland is a small player in the overall global economy. We are moving into an area of globalisation, market-state economy, and therefore the fastest to move generally can attract the investment. Very often states are not the fastest to move. States are very often dominated by political parties, which by their nature are not the fastest to move.

Many arguments could be presented to support the Bill. We have some of the best academics in the world in this country and they should be supported. One way of doing so is to provide the autonomy to the universities to go and win the global investment available and attract the research funding available. Even here in Ireland the State is giving about €900 million in research money to third level institutions. The rest is coming to the universities through the State grant model. Improving universities' capabilities would improve the resource they provide to the State.

There is considerable merit to what Senator Barrett has proposed. I hope the Minister will accept the merits of his work and his contribution this evening. Even if some tweaking is required, I urge the Minister to accept the Bill for the future of third and fourth level education in this country. Students coming from outside the country, particularly students from outside the European Union, are paying to gain educational opportunities and they tend to be economically very beneficial. So there are merits and I hope the Bill will be accepted without the need to divide the House in order that we can have progress in this area.

Third level education is at a crossroads, but the State's financial input into the sector is depleting. Unless the State is going to provide the money - I do not think it is going to do that - it needs to provide universities with the autonomy to raise that funding from either inside or outside the State in order to develop cutting-edge academia at third and fourth level, which would benefit Ireland Inc. long into the future. That has been proven by the figures Senator Barrett gave for the economic outputs of €7.4 billion coming from the seven universities alone. I know the ITs do a tremendous amount of work and they are building all the time.

So it is a good news story of success and one we can sell worldwide. Many students throughout the world want to come to Ireland. For example, Trinity College is seen throughout the world as a place where students want to come - they want to come to Dublin to study. Let us give them the opportunity, but we need to give the universities the leverage to do that first.

**Senator Ivana Bacik:** I welcome the Minister, Deputy Jan O’Sullivan, to the House. I commend Senator Barrett on introducing this Private Members’ Bill which gives us the opportunity to debate third level education generally. Senator Quinn referred to a very apposite quote from Senator Barrett as to the core purpose of a university, which I fully endorse and commend. That is very welcome and sets a nice context for this debate.

I have been seeking a debate for some time on different aspects of third level education, as have other colleagues of mine. A particular issue I wanted to raise - I will raise it directly with the Minister, as a matter on the Commencement in future weeks - is the issue of gender equality at third level, particularly in light of the recent successful case taken by Dr. Micheline Sheehy Skeffington against NUI Galway, which has been raised in the House on many occasions by me and others. The case raises more general issues about gender discrimination in recruitment and promotion procedures. I may come back to that one on a future date.

To return to the specifics of this Bill, I commend Senator Barrett on raising some important issues within it and welcome the Minister’s statement that she will give strong consideration to incorporating aspects of it into the higher education reform Bill which the Department will publish later this year. In particular, the Minister referred to definitions.

*6 o’clock*

I support those provisions of the Bill, particularly section 2(2) and sections 3 and 4, which insert definitions into the 1997 Act in regard to research, innovation and education and provide, for example, for references to innovation to be made in the objects and functions of universities. There is strong merit to those proposals and I am delighted to hear the Minister say she will support them.

On the question of staffing, the Minister has said, in regard to section 7 that she will give consideration to including an amendment along the lines of the provision in section 7(3) in her higher education reform Bill. I welcome that. As Senator Norris said, it reflects the collegiate and constructive spirit in which we debate Private Members’ Bills, in particular, in this House. I believe that what Senator Barrett is doing with this Bill is seeking to have a constructive input into the Government’s overall reform programme in higher education and in the third level sector. I am pleased he made particular reference to the need to ensure a career structure for researchers, for those who are not in the traditional lecturer mode, because this is a big issue. As both he and I know, in Trinity College and other universities, a career path for people engaged on research contracts is an issue. I hope we will see this addressed in the higher education reform Bill. There are also significant issues in regard to academic freedom and tenure and Senator Barrett addresses these in his Bill.

I am aware that the Minister has said, and Senator Moran said it in her speech, that she does not support some aspects of the Bill. I accept the point the Minister makes in terms of, for example, the provision that seeks to give power to set pay rates to the commission on public service appointments. Clearly, that would be outside the remit of a body that was set up to regulate recruitment into the public sector, which should not have that function. However, the spirit of the Bill is very much in keeping with the reform agenda.

I wish to speak more broadly about the reform agenda and refer to some provisions I hope will be in the higher education reform Bill. In the wake of the Hunt report, we have seen a commitment to reform and in the programme for Government we have seen an undertaking to introduce radical reform of third level institutions. We are seeing some positive consolidation. The Minister’s predecessor, Deputy Ruairí Quinn, spoke about the need to consolidate teacher training centres, from 19 training centres to six. I hope that when that is done, we will also

see the denominational basis for teacher training being addressed, because there are serious problems in that regard. Constituents have raised issues with me regarding student quotas from particular religions for teacher training colleges. Most people are aware of this issue and it is highlighted from time to time, but it needs to be addressed. The issue of the consolidation of the institutes of technology has not been without controversy, but in principle everybody supports the idea of moving towards technological university status for institutes. Another issue is the regional clusters of universities and researchers. There is also a European impetus driving us towards the cross-institutional, interdisciplinary research we do in a range of areas.

One area in which Irish third level education excels is in terms of participation rates by wide sections of the community. For example, we do extremely well in regard to the proportion of our population with third level degrees. I am glad the Government is committed to widening participation, particularly participation from disadvantaged groups and that the concentration is not just on increasing the numbers of places available generally. We should also see better representation of under represented groups. Initiatives like the Trinity Access programme and the BITE, Ballymun Initiative for Third-Level Education, programme in DCU are good examples of the positive actions that can be taken to progress this.

Other Members have spoken about the rankings issue in the context of research and it is a concern when we see universities fall in the rankings. However, there have been some positive stories in terms of our research rankings in particular areas and we should not lose sight of that. Senator Quinn spoke about the direct impact of university research on industry and there are plenty of examples of campus companies which have been innovative and led the way and have been hugely successful in areas such as IT and computer gaming. There have been recent examples of Trinity campus companies in these areas which have brought strong benefits to the economy and increased employment.

In this regard, I wish to refer to section 10 of Senator Barrett's Bill, which deals with the issue of intellectual property, IP, and the IP protocol. The Minister said the IP protocol has been established, but she is not sure it is necessary to make specific provision for the establishment of such a protocol in primary legislation, as is done in section 10. We may come back to this debate in the future and I wonder whether it would be of benefit to have a statutory provision confirming the establishment of the protocol. I understand there may be more flexibility with a protocol that is not in primary legislation, but is there more merit in the provision in section 10?

On the thorny issue of funding for the third level sector, Senator Ó Domhnaill referred to changes in the funding structure for third level. We have seen a significant drop in the reliance of universities on direct funding from the State, which has fallen to 28% in the 2011 figures. The Oireachtas Library and Research Service has prepared an excellent report on this. This is a significant drop, but it remains the case that public funding of higher education here generally is significantly above the OECD average as a proportion of overall spending. There are different ways of looking at this issue. There is certainly indirect funding from the State, in the shape of research grants and contracts, and I welcome the Government's commitment to ensuring significant funding is available for this, through Science Foundation Ireland and other initiatives and at EU level through Horizon 2020. We have seen the proportion of university funding from research grants and contracts rise and this is welcome.

I welcome the establishment of the expert group, under Peter Cassells, which will look at the funding situation and at funding mechanisms for third level. I am on record as being against the reintroduction of student fees and would like, as most of us would, to see the removal of the

student registration charge. Coming from a student politics background as I do, I am against both the loans and the fees. I favour the direct funding of third level education, albeit I recognise that more diverse forms of funding, through research grants and contracts and through overseas fees and so on, are also important sources of funding for universities.

**Senator Paschal Mooney:** I welcome the Minister to the House and thank her for her substantive response to Senator Barrett's Bill. I compliment Senator Barrett. Like my colleague, Senator Ó Domhnaill, I am happy to be here to contribute in a small way to supporting Senator Barrett's initiative. His Bill is well crafted and I commend his parliamentary adviser, Dr. Larkin, who worked with him on putting this Bill together.

In the context of education funding overall, I believe I am correct in saying that while there have been significant reductions in the higher education budgets over the years, one of the areas which needs more funding is primary level. Of the three levels of education, the primary sector is the one that does not seem to get the funding many believe it should. The reason I mention this is there has been significant talk about the need to ensure that those living in the most socially and economically disadvantaged part of the country should have greater access to higher education. The statistics indicate there is still a low quota of students from such areas, particularly in our larger urban environments. Whether for cultural, financial or other reasons, only small numbers of these students access third level education.

There is a strong need to ensure Governments, of whatever hue or colour, try to establish greater parity between those who start off on the education path. Perhaps there should be greater funding in the primary sector to prepare these students for the secondary and third level sector. I do not suggest there is an easy answer to this complex issue, but in the context of this piece of legislation, we should not forget a significant cohort of young people do not access third level education, which makes it increasingly more difficult for them to access work.

We have the highest proportion of young people in the EU attending third level education. I think I am right in saying that it is significantly higher at 44% whereas the EU average is 28%. Therefore, because of our growing and expanding economy and because of the success of foreign direct investment, Ireland is a competitive environment for international companies. They know they can tap into an increasingly sophisticated and well educated cohort of young workers. What happens to the people who fall through the basket, net or cracks of education? I refer to people who have not attained a leaving certificate, a qualification which nearly always guaranteed access to jobs. At one time in order to get a job in the public service it was sufficient to have a leaving certificate qualification. Now, in some instances a basic degree is not sufficient and one needs a masters qualification which puts even greater pressure on people. My daughter has benefitted from third level education in this country. Sadly, she no longer lives in the country because she is working in Perth in Australia. We all hope she will return. I know from her experience of seeking employment that there was a significant difference in pay rates for someone who held an ordinary degree and someone who held a masters degree. My daughter attained the higher qualification which helped her, as it has done for many others in a similar situation. Therefore, there is a need to ensure universities are on top of their game which is what motivated Senator Barrett's to bring forward this legislation.

My party supports the Bill. We have already pointed out that the reduction in third level funding will damage the quality of education at third level and have a detrimental affect on long-term economic prospects. There has been virtually no new State investment in capital infrastructure in Irish universities and colleges over the term of this Government, I am told.

According to the Higher Education Authority, 40% of the system's infrastructure is now below standard. That is a significant percentage. I am sure the Minister is more than aware of these inefficiencies in the system which are the result of reduced funding.

As has been stated, universities currently receive 50% of their income directly from the State or State's resources. Unfortunately, the Minister has shot down a number of the initiatives Senator Barrett included in this Bill.

The next item is research. The Minister has outlined various aspects of research in this country and across the economy in general. I am glad she has put on record that Ireland has adopted a national strategy to maximize its participation in Horizon 2020 with an ambitious target of securing €1.25 billion for Irish researchers and companies during the lifetime of Horizon 2020. I am glad to know that Horizon 2020 has the biggest EU research budget with over €80 billion of funding available over seven years. Ireland has a good record for accessing EU funding, particularly for research in that regard. I am pleased to note that the Minister said there was merit in the Senator's proposals in the Bill. I am also pleased that she has said she would be happy to consider their inclusion in the general scheme of the higher education reform Bill, to be published later this year.

In terms of tenure, the Minister made the argument that she cannot allow universities to have the remuneration autonomy referred to by Senator Barrett. Also that his recommendation is not in line with Government policy and, therefore, cannot be supported. However, I believe the motives behind his initiative are commendable. They seek to ensure there is a sequence within the university structures that ensures researchers and lecturers, at a particular level, will stay in the system and stay in Ireland. Also, there would be sufficient and relevant remuneration, comparable with other countries, that would result in such people not having to emigrate from this country. It would mean that the universities, having nurtured and mentored such people, would not lose them. As a result, the attractiveness of Irish universities would be enhanced, in terms of their internal framework, which can only be of benefit to the country.

We may not like them but we all look at the league tables. Irish universities, relatively speaking for the size of the country, tend to be under or just over the top 100 in the league. I have often wondered what would get us to the top with Harvard, the MIT and the other international universities. Is there something amiss in Irish universities? That is a rhetorical question.

I agree with having intellectual property and corporations within universities. The Minister is not too happy about it from what I can gather from her response. However, I can see the reasons Senator Barrett included such a provision. He maintains that the new legal form of the designated activity companies, DACs, would stimulate spin-off firms from university research. Also, it would allow these firms to maintain complicated intellectual property rights but also remain at the early capital development stage and attached to the university campus.

Overall, Senator Barrett has done some service by contributing to the ongoing debate on funding for universities, the research environment and, as I said at the outset, improving greater access for people who are socially and economically disadvantaged. We can talk indefinitely about much of what is in this Bill in terms of existing universities. There is a need for governments to prioritise the young people of this country by ensuring they benefit from the fruits of economic growth and development going forward. That is a challenge for this Government.

We still have a significant number of young people out of work and do not have the relevant

education attained to get back into the workforce. The Government is attempting, with a variety of initiatives, to get such people back into full-time training and education. If they leave the school system and are inadequately prepared they will find it increasingly difficult to find jobs, irrespective of how successful the economy expands. I commend Senator Barrett on his initiative in this regard.

**Senator Fidelma Healy Eames:** I welcome the Minister to the House. I commend Senator Barrett for presenting us with a fine talking point and his Bill is very welcome. We have not had enough discussion on third level education in this House, nor across the wider Oireachtas. We have waited for years for a number of reports and measures, such as the Hunt report and the Technological Universities Bill. Even now they have not reached the final stages of completion.

Today's debate gives me an opportunity to speak about reform of the universities sector in terms of needs, particularly students' needs and economic needs. I have taken my baseline from a successful conference held by NUI Galway on 25 January, called Reforming Learning: Driving Success. I helped to organise the conference. A phenomenal range of speakers from across the sector in Ireland and from abroad participated, the most famous being Pasi Sahlberg whom I believe the Minister has met. He is a Finnish educator who is currently teaching in Harvard.

The focus of the conference, which dovetails into this Bill, was to look at the transition of students from second to third level, the quality of the education system at both levels and how that met students' needs. As Senator Barrett will accept, students do not just arrive at third level without them coming from somewhere. My potted assessment of the education system is as follows. We are doing a very good job at primary level because it is quite a creative system. An excellent job is being done at third level and the choice of courses is amazing. However, many children are still being lost at second level. I am sure the Minister will agree with a lot of my assessment and on the need to reform learning at second level. I have tabled a Commencement motion on the assessment model, which was scheduled to be taken by the Minister tomorrow morning. I have postponed it until next Tuesday which is when she will be available so I shall leave discussion of it until then.

I wish to speak about reforming the university sector. The needs that emerged from my conference included languages, apprenticeships, the transition process, the quality of teaching and learning, drop-out levels and the quality of staffing. Senator Barrett mentioned the latter in his Bill and his speech. How many minutes do I have remaining?

**Acting Chairman (Senator Paschal Mooney):** Three.

**Senator Fidelma Healy Eames:** We are doing a terrible job of teaching languages. Ms Barbara Nolan from the European Commission spoke about language skills at the conference and I was struck hard by the following figure. I learned that only 30% of the staff in Google are Irish graduates because we do not have the languages and more than one language is needed. Therefore, languages is a vital area for investment. Of course, they are not going to be studying languages at third level, unless the investment is made at upper primary and second level.

There are apprenticeship models available, for example, in Germany where students can advance to level 10, the equivalent of a PhD. There are many students for whom the academic track is not suitable, but they are nonetheless very fine young people who are innovative and have the capacity to work hard and set up their own businesses. As they need more options, I

urge the Minister to examine the German apprenticeship model. I believe she has already made a commitment in that regard. Therefore, I ask her to build the level 5 to level 10 structure into our apprenticeship system in order that people can obtain good qualifications. There should be at least one institution in Ireland, if not more, offering apprenticeships up to PhD level. What is wrong with our businesses that need young people working with them that they do not have this apprenticeship model running alongside third level qualifications? In that way, students could interface with local academic institutions and attain qualifications through an apprenticeship framework.

The transition from second to third level is particularly problematic. There are very high drop-out levels in the first semester and first year. I have worked out in a very rough way that between 2011 and 2012 approximately €15 million was lost by the State as a result of students dropping out. That was a travesty because if that money had been invested earlier in school-based career guidance services, the drop-out rates would have been lower. I refer specifically to school-based rather than private career guidance services. My experience with young boys at second level is that they want to be the same as their peers; they do not like to be made to feel they are different. They like career guidance to be available within the school system, but the current provision is totally inadequate. There are 499 students per career guidance counsellor. On top of this, students require counselling for social and personal needs, which makes the job of career guidance counsellors virtually impossible. Serious investment is needed. Mr. Joe Treacy, an addiction counsellor, lifted the roof off the conference hall in NUI Galway when he spoke about students who had been brought to his office having been taken out of the river in Galway. These students have said to him that it is not the academic work that is hard but learning to cope in the university environment. They are struggling to manage the interpersonal and social pressures in their lives. We must invest properly in the career guidance and pastoral care roles to address these problems. We must prepare students for the transition to third level, including fostering independent learning capabilities. It was pointed out at the aforementioned conference that students had to unlearn how they had been taught at second level, which was based on cramming and how to get through the system. Students are not independent learners, but we need them to be at every level. They must be independent, academically, personally and socially in order that they will not be at risk of suicide because of a failure to meet expectations or at risk of being bullied.

I commend the Minister for investing in teaching heroes at third level. This is worthwhile, but the idea must also be introduced at primary and second level. Senator Ivana Bacik made reference to the recent gender equality case in Galway. I know a number of the people who were involved in that case, including Dr. Micheline Sheehy Skeffington, and believe we should have a stand-alone debate on that issue.

I refer to innovation vouchers. We are using the third level sector as a hotbed to feed back into society. In that context, innovation vouchers are wonderful in allowing entrepreneurs and business people to work with third level institutions. However, they are not available to sole traders; they are only available to those who run companies, which is a mistake. I am not directing this criticism at the Minister solely; it is also a matter for the Minister for Jobs, Enterprise and Innovation. We should not limit people in this way.

I agree with Senator Sean D. Barrett that the third level sector should be given more autonomy to solve its own problems and come up with creative financing models because funding is a real issue.

**Senator Sean D. Barrett:** I thank the Minister for her comments and thoughts on the Bill. I assure her with regard to the pay and pensions provisions, that I was hoping to save money. The aim was to ensure pay and pension disputes would be resolved without recourse to the High Court. I agree with Senator David Norris's suggestion that we invoke the statutory instruments that place the burden on the trustees of pension funds of not behaving like the ones to whom I referred. Moral hazard means that they will keep on doing it, unless we rebuke them.

When John F. Kennedy addressed the Dáil, he quoted Lord Edward FitzGerald to the effect that Leinster House did not inspire the brightest ideas, but I believe it does. I learn something new every time I come into this Chamber. I also learned during all of the time I was in TCD and before that in school. That is the spirit in which the legislation is being brought before the House. We need to protect the good aspects of universities.

On the issue of funding, there is a €3,000 fee, at TCD, for example, which Senator Ivana Bacik prefers to call a student charge. The figure is over \$40,000 in overseas universities with the same ranking. Only being able to take €3,000 from a student and receiving €8,000 from the Department and being able to compete in the open market against universities with resources which are four times greater is a remarkable achievement. How is this done? It is done in the lecture hall, on which there is too little emphasis. I am tired of hearing people talk about restructuring universities. The key is the lecture hall in which academics have 50 minutes to make an impression on up to 400 attendees. Are academic articles being published internationally? What does the external examiner think when he or she rates Irish degrees as compared to others? These are the real tests, not the micro-management issues to which Senator Feargal Quinn referred.

The provision for a commission on public service appointments was an attempt to avoid going to court, which is hugely expensive, and not to involve the Minister in unnecessary expenditure. Innovation designated activity can happen in amazing circumstances. One of my undergraduate students who was taking a course on aviation economics was Mr. Michael O'Leary who believed what we had told him and is now operating the biggest airline in Europe. The traditional model of aviation, with one national airline per country and all airlines agreeing fares and colluding with each other, was swept aside by one person. Innovation is not always just scientific.

Irish society was going astray in 2008. I hope that when governments are thinking about appointing people to the boards, against the will of the universities, that they will not consider appointing accountants, bankers or auditors. That people from outside can run universities far better than those inside is not borne out by the facts. The Minister has said universities need smaller, more modern and competency-based governing bodies. I have been on the boards of universities for three or four terms and they are competency-based. Their members are elected by 64 leading academic departments. There is a view, particularly in administration, that those who run the universities are not up to the job and could do better. That view will be resisted hugely. The more autonomous a university is, the better.

I thank Senator John Crown for his remarks. Decasualisation of staff and better career structures are needed at university level. Several Senators also referred to the need for better rights for women academics. I agree. These ideas are so stimulating and interesting that they merit further discussion on another date. I thank the Minister for her attendance and I am sure the discussion has only started.

Question put and agreed to.

**Acting Chairman (Senator Diarmuid Wilson):** When is it proposed to sit again?

**Senator Ivana Bacik:** Tomorrow at 10.30 a.m.

The Seanad adjourned at 6.30 p.m. until 10.30 a.m. on Thursday, 29 January 2015.