



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Déardaoin, 12 Feabhra 2015

Thursday, 12 February 2015

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Machnamh agus Paidir.
Reflection and Prayer.

Business of Seanad

An Cathaoirleach: I have received notice from Senator Cáit Keane that, on the motion for the Commencement of the House today, she proposes to raise the following matter:

The need for the Minister for Foreign Affairs and Trade to ascertain if there is an avenue the Government can explore with a view to having Mr. Ibrahim Halawa, a young Irish teenager who has spent 551 days in an Egyptian prison, released.

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

The need for the Minister for the Environment, Community and Local Government to immediately increase the provision for disabled person grants in County Meath in the light of a recent report highlighting that County Meath receives the lowest funding *per capita* in this area.

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

The need for the Minister for Justice and Equality to address the urgent need to relocate Portlaoise Courthouse from the totally unsuitable and unsafe historical building on the town's main street to a more appropriate place.

I have also received notice from Senator Terry Brennan of the following matter:

The need for the Minister of State with responsibility for the Office of Public Works to outline progress in undertaking the outstanding works at King John's Castle, Carlingford, County Louth.

I have also received notice from Senator Kathryn Reilly of the following matter:

The need for the Minister for Finance to discuss the flexibility arrangements that will be made by the Revenue Commissioners for the application of section 82 of the Finance Act.

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

The need for the Minister for Justice and Equality to outline the reason speed vans are not located in dangerous driving black spots but appear to be placed instead in areas in which speed limits increase, thus prioritising revenue collection over enabling positive driving behaviour.

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

The need for the Minister for Health to outline the number of people on the waiting list for orthodontic treatment in the public health service in counties Galway and Mayo, to detail the length of time people are waiting by year for the past five years and the age ranges in deciles and to clarify what plan the HSE has in place to address the backlog.

I regard the matters raised by the Senators as suitable for discussion. I have selected the matters raised by Senators Cáit Keane, Thomas Byrne and John Whelan and they will be taken now. Senators Kathryn Reilly, Fidelma Healy Eames and Trevor Ó Clochartaigh may give notice on another day of the matters they wish to raise. Senator Terry Brennan has withdrawn his motion.

Commencement Matters

Human Rights Issues

Senator Cáit Keane: I welcome the Minister for Foreign Affairs and Trade, Deputy Charles Flanagan. I thank him for the work he has done to date on this case, of which the family is appreciative.

As the Minister is aware, Mr. Ibrahim Halawa has now been in an Egyptian prison for 554 days. For any teenager to be locked up for that length of time is not easy. It is bad enough being locked up in one's own country, but it is much more difficult in a foreign country. This week, for the fourth time, his trial has been postponed. This is intolerable for him, first, being in prison in Cairo and, second, being so far from home. In fact, his home place is not far from where I live in Templeogue. It is outrageous that his trial has been postponed once again.

Mr. Halawa is a prisoner of conscience and was detained solely for peacefully exercising his rights. However, he was in the wrong place at the wrong time. Given that 493 others are involved in the same trial, one has to ask how, in the name of God, will anybody receive a fair trial in such a system. He was only 17 years old when he was put in prison. He was arrested with his three sisters who are now home. With the whole family, they have played a huge role in trying to have him released. I will keep the issue on the agenda until such time as he is released because I cannot see why he should remain in detention. According to the case file seen by Amnesty International Ireland, most of the 100 witnesses who are due to be called at the trial are police officers or government officials. One has to ask what kind of trial he will receive.

I acknowledge the work the Minister has done on this case, on which I have been keeping an

eye. I am aware that he has been very active on it, as has the Irish ambassador. Is there any other avenue we could explore, or is there a need to go down the same avenue again to keep the issue on the agenda with a view to having Mr. Halawa released? Perhaps the Minister might state what has been done to date and what action could follow. Mr. Halawa's family is very grateful for the efforts made by the Minister to date but thinks more could be done. This is a most deserving case. As Amnesty International Ireland has stated, the most Mr. Halawa could be accused of is being in the wrong place at the wrong time. He has been locked up for crimes he did not commit. I am not judge and jury, but such incidents happen when one is in the wrong place at the wrong time, particularly in that country's system of justice. We must do everything we can to get him home.

Minister for Foreign Affairs and Trade (Deputy Charles Flanagan): I thank the Senator for raising this issue.

Mr. Ibrahim Halawa, an Irish citizen, and his three sisters were detained following incidents at the Al Fateh Mosque on Ramses Square in Cairo on 17 August 2013. His sisters were later released, but he remains in detention. His case is a source of concern for me, as I know it is for the Senator and many others. From my first day in office, I have taken an active role in progressing matters. In my first week in office I spoke to Egyptian Foreign Minister Shoukry to set out my concerns about Mr. Halawa's detention. I have spoken to him on a number of other occasions, including twice in person, to stress the fact that Mr. Halawa was only 17 years old at the time of the alleged offences and ask for his release in order that he might return to his studies and family in Ireland.

Senior officials in Dublin and Cairo have been in ongoing and sustained contact with the Egyptian authorities, including senior officials at the foreign ministry, the Ministry of Justice and the office of the prosecutor general. Mr. Halawa has received 34 consular visits from Irish Embassy staff, including Ambassador Moylan, approximately one visit every two weeks, the most recent being on 7 February. It is the Government's view that he should not be tried in a group trial involving a large number of defendants and on the basis of group charges but solely on the basis of specific evidence. The concern is that the Egyptian authorities continue to consider his case to be part of a group trial, but the fact remains that he was only 17 years old when the alleged offences took place.

I also recently raised the case with EU High Representative for Foreign Affairs and Security Policy Mogherini who undertook to raise it with the appropriate authorities. She stressed that we can count on all the assistance that the EU institutions can provide. I am concerned that, for the fourth time, this trial was once again delayed on 8 February. The trial is now scheduled to take place on 29 March.

I have maintained ongoing contact with the Halawa family since August 2013. My understanding is that senior officials have been in regular contact, as I have been. I am due to meet members of the Halawa family again later today and I will discuss the postponement of the hearing and possible next steps with them.

The Egyptian President has issued a decree in respect of foreign nationals in Egypt who have been sentenced or who are awaiting trial. I am aware of the recent deportation from Egypt of the Australian Al Jazeera journalist. However, there are few, if any, details available as to the exact scope and practical operation of the decree. In particular, it is unclear what the decree may mean in practice for those whom Egypt regards as dual nationals, as is the case for Ibrahim

Halawa. Officials in my Department remain in ongoing contact with the lawyers in the case and continue to highlight his Irish citizenship and to seek further information from the Egyptian authorities about the practical operation of the decree. This is a difficult case in a complex and challenging context. While Ireland cannot interfere with the judicial process in Egypt, our concern at the continued and lengthy period of detention has been raised with the Egyptian authorities in a clear and sustained manner, as has the critical importance of due process in this case.

Ireland will continue to seek a review of Ibrahim Halawa's case, his release and return to his studies and family and, in the meantime, to provide all possible consular assistance for him in Egypt and his family in Ireland.

Senator Cáit Keane: I do not think there is anything extra for me to say. I thank the Minister for what he has done and his commitment to keeping up the pressure. I hope it will not take too long, that the trial will not be postponed again and that Ibrahim Halawa will be released before the trial.

Deputy Charles Flanagan: This matter is very much on the agenda and I look forward to meeting members of the Halawa family this afternoon and members of Amnesty International.

Housing Adaptation Grant Funding

Senator Thomas Byrne: The RTE investigations unit this week raised the issue of disabled person's grants and housing adaptation grants. For the past few years these have been in very short supply in County Meath. There have been long delays. I have seen people lying in beds who cannot leave their homes because essential work cannot be done to their houses. According to the RTE investigations unit, Meath receives the lowest amount of disabled person's grants per head of population. It receives €3.11 per head compared with Mayo which receives €17.5 per head and Limerick, the home of the Minister of State at the Department of the Environment, Community and Local Government with responsibility for housing, of the time, €16.79 per head, while Kildare which has a lower age profile receives €8.65 per head, almost treble what Meath receives.

People are housebound or may not be able to go upstairs, use a bathroom properly or shower themselves because they cannot step into a bath. Those are the practical difficulties people in Meath face because it is starved of funding. Why does Meath get such little funding? Is it the Government's fault? Does the local authority have a role? Should it give more matching funding? I would like to know in order that I can make the case to it.

Elderly and disabled people are prevented from being fully mobile in their homes or living properly because there is a severe shortage of these grants. In one house a man has lain in bed for some time due to his illness. Adaptation works were due to be done to make it possible for his family to take him out of the house with relative ease. That has been going on for at least year and work started recently. In another case a person had both legs amputated and the work took a long time although the council did regard that as a very serious case. That is the level of seriousness that qualifies one for an adaptation grant. The people of Meath and I would like answers from the Minister of State. If he is going to blame the local authority, I will tell the local authority it needs to put in more matching funding.

Minister of State at the Department of the Environment, Community and Local Gov-

ernment (Deputy Paudie Coffey): I thank the Senator for raising this matter and I am happy to clarify it for him. Exchequer funding of over €37 million was provided in 2014 for the housing adaptation grants for older people and people with a disability. This was combined with a contribution of an additional 20% by individual local authorities, to give an overall spend of €46.3 million.

I am pleased to confirm that at national level, the 2015 amount will increase by some 10% to give a combined spend of €50.5 million. Individual allocations to local authorities will be made shortly. Allocations in 2014 were made on the basis of the level of grant activity by local authorities in 2013, and taking account of population statistics with a weighting applied in respect of the numbers of persons aged over 65 years. Also in making 2014 allocations, the Department ensured that no local authority received less funding than its 2013 allocation.

Historically, allocations have been based on the level of contractual commitments notified to my Department by each local authority. Local authorities were encouraged to maintain continuity in approving and paying grants and, therefore, commitments carried forward into the new financial year always had first call on the available funding.

This system rewarded those local authorities which kept the schemes open and continued to approve eligible applications. In other cases, local authorities adopted a more cautious approach and closed schemes when applications reached a certain level. The Department, therefore, sought to ensure those applicants who had been approved for grant aid would receive it. In the past two years we have moved further towards a method of allocations which takes more account of the population of each county, with a weighting towards those aged over 65 years, as the majority of applicants are in this category. My intention is that the 2015 capital allocations for the grants will be made in a way that continues to take account of the population figures in each local authority.

At local level, the detailed administration of these schemes, including the assessment, approval and payment of individual grants to applicants, is the responsibility of the relevant local authority. However, between the Exchequer contribution and its own funding, the amount available to Meath County Council in 2014 under the scheme was 73% higher than in 2013 and I anticipate a further increase in the full amount of funding for 2015.

Senator Thomas Byrne: The Minister of State makes the case that the age profile is relevant and while it is important, the one constant in the figure RTE has released is that if there is a Minister in the area, no matter what the age profile or level of disability in the area, it will do well out of this scheme. The home of the Taoiseach receives the most, the home of the then Minister of State at the Department of the Environment, Community and Local Government with responsibility for housing comes second, Cork city is number four. There is no surprise that Kilkenny, the home of the former Minister for the Environment, Community and Local Government, Mr. Phil Hogan, is number five. Carlow follows close behind, although it has a relatively young age profile. Meath is bottom of the list. Sligo which has a very high age profile but no political influence is also near the bottom of the list.

The Minister of State seems to be saying the counties that adopted a more cautious approach and closed schemes when applications reached a certain level seemed to do badly out of the funding. That certainly happened in Meath. For a long time there were opening and closing dates for applications. Has Meath lost out because of the way that process operated in the past? What can be done now that Meath has changed that approach? What can be done to bring it up?

Is it the Department's or the council's responsibility? How will we change this arrangement because disabled people and the elderly badly need this funding for adaptations to their houses?

Deputy Paudie Coffey: I have outlined in detail to the Senator the manner in which the grant allocations have been made. We need to acknowledge those local authorities that have been more proactive and kept these schemes open, for which they have been rewarded. Others, however, closed them. A local authority, essentially as the housing authority, is ultimately the responsible authority for how the scheme is administered.

The Department is conscious of the need to prioritise the grants in areas in which the age demographic is higher. In areas in which there is a higher percentage of over 65s and the populations are larger such as in County Meath there should be an adequate weighting in the grant allocations to meet that demand. Commitments had already been made to people under the grants scheme, including in County Meath and other local authorities, that we had to see through once approvals were made. Allocations were made on this basis. The amount available to Meath County Council in 2014 under the scheme was 73% higher than in 2013. I anticipate a further increase in the full amount of funding for 2015. I accept that the grant is essential and important to those who need it most. That is why the Government continues to support the scheme and wants to increase allocations in 2015.

Court Accommodation Provision

Senator John Whelan: I thank the Cathaoirleach for selecting this Commencement matter which concerns a matter of grave urgency. No town should have to endure the terrifying scenes visited on Portlaoise's main street on Thursday last. They have led to a local outcry and I have been inundated with hundreds of representations. For many, the incident was the last straw. Up to 60 people were involved in a wholesale chaotic brawl, fisticuffs and dangerous scenes of violence along the town's main street outside the courthouse.

I raised this matter with the former Minister for Justice and Equality, Deputy Alan Shatter, on numerous occasions in this House. I was told that, in the first instance, there was a question about money and then one about finding a suitable site. In this day and age, the town's main street is not a suitable location for a courthouse operating on a daily basis. All of the smaller courthouses around the county have been closed owing to rationalisation and are now centralised in Portlaoise.

What we had on Thursday last was a fracas which reached a new low, but this is not a new phenomenon. It is a daily occurrence, to the point where the people of Portlaoise, senior citizens, shoppers, others going about their business, students, mothers and parents with buggies, cannot move up and down the main street safely owing to anti-social behaviour by gurrriers and gougers who hang around in large groups. It is chaotic and has now reached the point where it is no longer safe to move up and down the main street. It is pointless to talk about the revival of the town centre and business and the relocation the library while the courthouse remains at the heart of the town in the hub of what should be the social and shopping centre. It is no place for a courthouse and I have appealed on numerous occasions to have it relocated.

What happened last week was the last straw. I do not want to exaggerate the dangers. However, what will it take for the courthouse to be relocated? Will somebody have to be seriously injured or worse? Unfortunately, we saw the tragic events that unfolded elsewhere in the

country yesterday. We are on the cusp of such a terrible tragedy happening in Portlaoise. The local newspapers have splashed headlines such as, “Mayhem on Main Street”. How can one run a town or a business or go about one’s business in that scenario? The Garda, prison officers and local businesses want the courthouse relocated. Everyone in the community knows the main street in Portlaoise is not a suitable or safe place for a courthouse. For decades, the town was promised a new Garda station. Gardaí in the town are working in substandard conditions, but the solution is in our own hands. The courthouse must be co-located with the new Garda station. The Office of Public Works and the Department of Justice and Equality must expedite this matter as a matter of urgency to ensure the new Garda station is built on a suitable site and co-located with a modern courthouse off the main street.

Minister of State at the Department of Social Protection (Deputy Kevin Humphreys): I am taking this matter on behalf of the Minister for Justice and Equality, Deputy Frances Fitzgerald.

Under the provisions of the Courts Service Act 1998, management of the courts is the responsibility of the Courts Service. Section 4(3) of the 1998 Act provides that the Courts Service is independent in its functions, including in the provision, maintenance and management of court buildings. The Minister had inquiries made about the current arrangements for Portlaoise Courthouse. It should be noted that the courthouse situated on Main Street is a neoclassical building built in 1805. It was last refurbished by the Courts Service in 2001 at a cost of €2.75 million. More recently in 2010, minor works were carried out to relocate staff to the former grand jury room in the building.

The Courts Service does not agree that the courthouse building is unsafe. However, there is limited scope for development within the existing building and site. The location of the courthouse in the centre of the town also poses issues for access and security, as the Senator outlined. It was proposed, therefore, as part of the Courts Service courthouse refurbishment programme, to provide a courthouse on an alternative site. In 2007 the Courts Service, in co-operation with the OPW, began a search to find an appropriate alternative site in the town for a new courthouse development. Several potential sites were considered during 2007 and 2008. However, no site was acquired at the time.

Since 2008 the Courts Service, in common with all other public service organisations, has been operating in a difficult and challenging economic environment. Despite the limited funding available, the Courts Service has continued its search for a new site for a courthouse. The OPW is actively looking for an appropriate site, but, as yet, no suitable sites have become available. In the absence of a suitable site, it is not possible to bring forward specific proposals for the replacement of Portlaoise Courthouse. The availability of a suitable site and funding will dictate the timeline for the provision of a new courthouse. In the meantime, the Courts Service is aware of the ongoing disquiet about the appropriateness of the location of the courthouse in Portlaoise and the cell facilities it contains. The Courts Service works closely with An Garda Síochána and the Irish Prison Service on the best management of court days in the town. In addition, the Courts Service has included the provision of additional holding cell facilities in its programme of works for 2015. Consultation has taken place and the OPW is progressing the matter. This work will impact positively on security and traffic flow around the court, as prisoners will not have to be held elsewhere and transported to and from the court, to the Garda station or prison vans, as cases are called.

Since the establishment of the Courts Service up to 2011, a substantial programme of in-

vestment in court facilities amounting to €250 million, with over 50 venues being newly built or refurbished, has been carried out. Many others were substantially upgraded. This level of investment has enabled the Courts Service to greatly improve the standard of accommodation available, including facilities for people with disabilities, jury facilities, custody cells, consultation rooms, etc. There is also an ongoing programme of investment in technology at court venues. In this period 41 court venues were refurbished, 13 new courthouses were built, the Criminal Courts of Justice were completed as a PPP, public private partnership, project, while many smaller venues were upgraded. The Courts Service is procuring seven new courthouses nationwide as part of a €135 million capital PPP programme included in the Government's infrastructure stimulus package announced in July 2012 in Cork, Limerick, Wexford, Waterford, Mullingar, Letterkenny and Drogheda.

The Courts Service is working with the Department of Justice and Equality, the Office of Public Works and the National Development Finance Agency to progress these projects and substantial preparatory work has already been carried out. It is expected that contracts will be signed in October this year with the projects being delivered in 18 to 24 months depending on the project.

I have listened to the Senator's comments in regard to Portlaoise. In the context of the work being carried out by the Minister of State at the Department of the Environment, Community and Local Government, Deputy Ann Phelan, to regenerate towns and villages across the country, it is important to provide a safe and secure environment for residents and visitors alike. I suggest the Senator should convene a meeting between the local authority, the OPW and the Courts Service with a view to identifying a suitable site in the town. It appears that the location of the site will be key to solving the issue and an intervention from someone as familiar with the town as the Senator could offer a way forward. If there is anything I can do to help, I would be more than happy to oblige. I will be in Portlaoise in the near future and if the Senator wants to show me the problem in person, I would be happy to meet him.

Senator John Whelan: I appreciate the personal interest shown by the Minister of State and his receptive response to the concerns of people of Portlaoise and County Laois. I am heartened that there is agreement in principle that the courthouse is in the wrong place and must be moved. If the main impediment is identifying and securing a suitable site, all stakeholders and interested parties should work towards that end. I hope the investment in new holding cells will not make the new courthouse a more permanent fixture and will instead be an interim arrangement to allow safe and secure passage of vehicles through Main Street. No town should see its citizens and residents fearful of visiting their main street in broad daylight. This has to stop, and the court is the heart of that problem. It is welcome that the Department and the Courts Service accept that the courthouse needs to be moved and that it will be moved as soon as a suitable site can be found.

Deputy Kevin Humphreys: All Departments have to operate within certain financial constraints but I am sure the Senator will work hard to remove the obstacles. The Government is aware of the value provided by the excellent courts system and we continue to provide substantial resources for the Courts Service. I acknowledge that Main Street in Portlaoise is probably not an area in which crowds should be gathering. The incidents he outlined should not be occurring in a vibrant rural town, where people like to go shopping and where new library facilities are being developed. I am more than happy to do anything I can to facilitate the Senator and his local colleagues in identifying a new site.

Order of Business

Senator Maurice Cummins: The Order of Business is No. 1, motion regarding the appointment of the Ombudsman for Children, to be taken at 1.15 p.m. and conclude not later than 2 p.m., with the contributions of spokespersons not to exceed six minutes and the Minister for Children and Youth Affairs to be called on to reply not later than 1.55 p.m.; and No. 2, Irish Collective Asset-management Vehicles Bill 2014, Committee and Remaining Stages, to be taken at 2 p.m.

Senator Marc MacSharry: On the day we have Willie Walsh of IAG speaking to the transport committee may I ask whether, if the assurances the Taoiseach has sought in terms of Heathrow Airport and various other issues are given, it is the Labour Party's intention to support the sale of Aer Lingus? Could the House be given some clarification on that issue?

It is disturbing today to read in *The Irish Times* that the HSE director general wrote to the Department of Health seeking €1.4 billion in additional funding last September. We then had the Minister announcing what he believed to be a realistic budget in October, yet it was only €115 million more than the previous year despite the fact that the HSE had sought €1.4 billion. Despite the supposedly realistic budget announcement last October, the following month, the director general, Mr. Tony O'Brien, felt compelled to tell the Minister, "It has not been possible to provide funding to address the substantial majority of the demographic and critical service cost pressures, some of which carry risks from a clinical perspective." We need to clarify where these risks are. Was Mr. O'Brien referring to the 500 plus patients on hospital trolleys which has become commonplace in recent weeks and months? Was it the fair deal scheme, under which there are very substantial waiting lists? What is the position?

How bad does the HSE anticipate things will get when it is some €1.3 billion short of the funding it anticipated it would need? I do not want to be calling votes to have the Minister come here today, but I ask that an additional health budget debate be held as soon as possible in order that the Minister can outline for us how a budget announced in October was stated to be realistic when it seems to be €1.3 billion short of the figures put forward by the HSE to his Department in September. While the Leader may feel a Commencement debate may be more appropriate for this issue, such is its seriousness I would like to see a debate in the House in which all could participate. It arises from the Sligo County Council's debt of some €100 million and central government's treatment of the people of Sligo on the back of that debt. It is prescribing, centrally, the closing of basic First World county services such as libraries, motor taxation offices, outdoor staff and so on. It is prescribing the closure and cutting back of these services; it is prescribing more redundancies and it is treating Sligo County Council and the people of Sligo as if it were an independent republic out in the middle of the Atlantic Ocean. At the same time, there are larger councils such as Fingal County Council with over €100 million on deposit.

The reality is that the funding mechanism for smaller local authorities such Sligo - there are many others in a similar situation throughout the country - is not robust enough. They do not have the benefit of Dublin Airport, for example, within their commercial rate base, which Fingal does. That is just one example. We have a situation in Sligo where central government support is essential. The attitude taken to this by the Minister, Deputy Alan Kelly, and his Department in treating the people of Sligo in such a discriminatory manner, is effectively to do to

us in the north west what the Germans and the ECB did to the people of Ireland in prescribing the medicine they felt should best be taken. The people of the north west are no less entitled to services than the people of the east coast, the Leader's own area, or other parts of the country. When it comes to discrimination against 65,000 of the nation's citizens in this way, it demands attention from the Houses of the Oireachtas-----

An Cathaoirleach: The Senator is way over time.

Senator Marc MacSharry: -----and, in this instance, a specific debate on local government funding in the context of Sligo County Council.

Senator Aileen Hayden: I was also taken aback this morning to see the front pages of the newspapers and Willie Walsh coming out with a very gung ho attitude, saying he was following the Government into the trenches in terms of our shares in Aer Lingus. On the question of whether the Labour Party favours the sale of the State's shares in Aer Lingus, it is a Government decision, but a number of senior Labour Party Ministers have said they do not see any commercial imperative in selling the State's interest and are aware that the State's interests in the matter need to be protected.

I thank Members for a robust debate yesterday on the issue of housing. While I am reluctant to ask again for a debate on housing, a number of issues were raised, particularly in regard to home ownership, tenant-purchase, and other issues around low- or middle-income households having access to home ownership. The credit unions have recently said they would be willing to enter the market in terms of mortgage lending. They were very quickly slapped down from a regulatory perspective for putting their necks above the parapet on this issue. This merits a two-fold debate, with the first dealing with the credit unions. There were a few high profile credit union failures but the vast majority of Irish credit unions are very sound and have been serving their communities very well for significant periods of time. They know their membership in a way that banks do not know their customers, and we need to look at whether the current regulatory framework is adequate for the needs of credit unions and their membership. I would like a debate on home ownership. Many Members would have something to add.

I welcome the announcement of a ceasefire in Ukraine. We have seen many ceasefires before. Let us hope this one goes somewhere. Around 5,300 people have been killed so far in this conflict on European soil. I would like to see a wider debate on European issues, covering the security issues Europe is facing together with issues like the Greek bailout. We have seen the announcement of the President Juncker investment plan. Ireland has a number of projects of significant value already lodged for that fund and we have the issue of quantitative easing. There are a number of European issues that would merit a debate in the House.

I found the comments of the economist John FitzGerald at the banking inquiry yesterday very refreshing. He put his hands up and said he had made the wrong call, had been totally wrong and had made a big mistake that would live with him for the rest of his life. He is an eminent economist. He was the first person to forecast the massive oversupply in the housing market in Ireland.

An Cathaoirleach: The Senator should not name people in the House who are not here to defend themselves.

Senator Aileen Hayden: An eminent economist from the ESRI-----

An Cathaoirleach: Same difference. He is not here to defend himself.

Senator Aideen Hayden: -----was the first person to highlight this issue and for all that, he may have not noticed that he got a great deal right. Perhaps that cannot be said, but it is worth noting.

Senator Jillian van Turnhout: A campaign being launched nearby this morning is called Stop Out of Control Drinking. I am alarmed by this campaign because it is funded by Diageo, a drinks company. It has many good people associated with it but I did two reports for the European Economic and Social Committee on alcohol-related harm and I saw at first hand how the industry will try to influence, orchestrate and campaign to ensure that any effective reports one is trying to do are diluted. The industry did not win in that case, but when I saw the campaign title, Stop Out of Control Drinking, it made me think that most people in Ireland would think the campaign was not directed at them.

What we should be talking about is alcohol-related harm. Allowing a drinks company to frame a debate and put major money behind a public health campaign is wrong. I would point those involved to the World Health Organization which indicated that it would be inappropriate for the industry to have a role in the formulation of alcohol policies either nationally or locally. The industry's involvement in this campaign is wrong. Those involved with the campaign would say it is independent but let us remember that Diageo, the drinks company involved with this, exists to sell alcohol and to make profits for its shareholders. That is the reason for the business. I do not argue with that but it is not a public health company.

Let the people frame this debate, not a drinks company. It is unacceptable that any of us would support a campaign that is so clearly the narrative of the drinks company. That is what it wants us to talk about, the out of control drinking, not the effect drink has on family households and the triggers the special rapporteur on child protection mentioned to us at the health and children committee. We cannot have an ambivalent response to alcohol, we need to look at it seriously. It is having a destructive effect in many households. That is the area I deal with. I ask that we have a debate in this House on alcohol-related harm. Let us take the lead on the issue and not put it in the hands of any drinks company.

Senator Feargal Quinn: We had a very good debate yesterday on An Garda Síochána and GSOC. It covered a range of areas but what impressed me most was that the Leader's replacement was an expert in this area because of her involvement in the Oireachtas Joint Committee on Justice, Defence and Equality. It was a reminder to us of the benefits that come from those committees. One of the areas we debated yesterday was crime prevention and crime detection. There was a raid in Galway yesterday morning to which the public responded immediately by calling the Garda. Four people were arrested and I understand the jewellery stolen was recovered. It is a real reminder of the work An Garda Síochána and the Oireachtas joint committees do.

Mr. Willie Walsh is appearing before the Joint Committee on Transport today, which is the reason my colleague, Senator Sean D. Barrett, who is a member of the committee is not present. It is a reminder of the work being done by the committees, but we must cover these areas because we cannot all attend committees. Senators Ivana Bacik and Sean D. Barrett are university Senators, which adds to the talent available.

Senator Aideen Hayden raised the question of credit unions, on which I would like a debate.

The proposal is that those credit unions which, as the Senator stated, stay close to and know their customers will be made into super credit unions. I can understand why and it makes sense to do so. However, it would be worthwhile having a debate in this House, as well as at the Oireachtas Joint Committee on Finance, Public Expenditure and Reform, because there is a range of views, as well as expertise, in this House, from which we could derive benefit.

Senator Hildegard Naughton: I highlight the announcement this morning by the Minister for Tourism, Transport and Sport, Deputy Paschal Donohoe, of further funding of €320,000 which has been approved by Fáilte Ireland under its national festivals and events programmes for 11 key national festivals and events that will take place this year. Two of these events are the Galway International Film Fleadh which will receive €20,000 and the Galway Oyster Festival which will receive €30,000. This comes in a week when Galway has been awarded the purple flag award, a prestigious accolade given to cities and towns which meet or surpass the standards of excellence in managing their evening and night-time economy. With this award, Galway has proved to be a friendly, entertaining and enjoyable place to visit, in which regard our festivals play a significant role. That is why this funding is critical. The benefits to Galway of receiving this accolade are wide-ranging, including attracting domestic and overseas visitors and lower crime rates. The city met all 30 criteria and was particularly commended for showing strong evidence of leadership and a high incidence of business engagement. Galway's alcohol strategy which was put in place to prevent and reduce alcohol-related harm was recommended as a role model of joined up strategic thinking. It is a very good initiative which, I understand, is being rolled out across the country. This announcement is further good news for Galway. In November it was awarded the designation UNESCO City of Film, while last year it was awarded the designation Best Overall Micro-City in Europe by the *Financial Times*. Ireland's success as a tourism destination is based on our visitors' experiences, in which regard funding for festivals plays an important role.

Senator Katherine Zappone: I have just come from a conference sponsored by Christian Aid on the human rights impact of tax and fiscal policies. The Minister of State, Deputy Simon Harris, gave the opening address and was followed by Professor Philip Alston, the UN special rapporteur on extreme poverty and human rights. It is a very significant conference, especially in the light of the fact that all political parties and Independents are shaping their approaches to taxation and fiscal policies in the run-up to the next general election. I wonder how many of the manifestos that will be drawn up shortly will include a section on human rights and the explicit link between human rights and taxation policy, as emphasised at length by Professor Alston. Let us hope all of the political parties and those in formation and the Independents will include one.

I call for a debate with the Minister of State on the human rights impact of tax and fiscal policies. Ireland is at a critical juncture and such a debate would necessarily raise again one of the most fundamental questions all political parties must answer: is this an economy or a society? This morning the Minister of State said economic recovery must be society-led, with which I agree, but what does that actually mean? He said we needed to invest in the economy in order that we could do something with it. That is a traditional and tired economic model. I heard that Fine Gael was going to offer the people a new model. What is meant by "a new model"? A new model is not investing in the economy in order that one can do something with it but investing in society to have a healthy economy. We need a Copernican turn to our model. Investing in society would mean Irish citizens' fundamental rights to health, education and social protection would come first, not last. The Minister of State said Ireland invested in these

things, but the Government refuses to put the issue of a constitutional guarantee for economic and social rights to the people, as the Constitutional Convention recommended. When we invest in the economy, job creation, multinationals, research and development, knowledge boxes, etc., we need to do so in a way that will not increase income and wealth inequality, domestically or internationally, and all that flows from this. Please let us have a debate on tax justice and the human rights impact of tax and fiscal policies soon. Within this debate let us hear from the Government on why it will not put the question of guaranteeing the economic and social rights of citizens to them to decide.

Senator Denis Landy: I congratulate and commend all those involved in the running of the 90th national coursing meeting in Clonmel which was held over two weekends owing to bad weather. It finished last weekend and started the weekend before. In particular, I commend those involved in hare husbandry for a number of weeks. Fantastic crowds turned out and fantastic support was to be seen. However, I raise another matter in connection with Clonmel and the many counties in which coursing meetings are held, including Clare, Limerick, Waterford and Kilkenny, to name but a few. Gangs of unscrupulous characters are coming onto lands where open coursing meetings are being arranged, stealing and destroying hares and leaving the land and property utterly destroyed. This matter was brought to my attention by a long-standing coursing enthusiast, Councillor Andy Moloney, from Cahir. He informed me that damage had been done to hares and lands across the south east by gangs who were robbing hares and, in some cases, killing them for their own enjoyment, with groups of dogs, which were unlicensed and should not have been carried in any vehicle.

An Cathaoirleach: A question for the Leader, please.

Senator Denis Landy: The reason I raise this issue is that the greyhound industry (amendment) Bill is on the agenda for the spring term. It is very important that the Leader bring this issue to the attention of the Minister of State, Deputy Tom Hayes, in order that we could look at some system whereby for each dog licensed there would be a notice for the vehicle in which it was being carried. This system is in use in the United Kingdom. If police officers stop a suspicious vehicle and do not see a notice in it, they can impound the dogs being carried. We need to move on this issue quickly.

Senator Terry Leyden: I support the comments made by Senator Feargal Quinn on the courageous work of gardaí from Mill Street Garda station in Galway yesterday. They apprehended four men who had robbed €1 million worth of jewellery from Hartmann's jewellery shop on William Street. This unarmed force apprehended four eastern European gangsters who were armed with hammers and what turned out to be a false gun, although the gardaí in question were not to know this. The staff were threatened with violence and the gangsters scooped up €1 million worth of jewellery, but within less than 30 minutes gardaí were on the scene. They followed the gangsters whom they apprehended and arrested on the streets of Galway. They are now being questioned. I call on the Leader - I presume with the support of Senator Feargal Quinn - to write to the Garda Commissioner. The Leader and I were nominated to the Seanad by the representative bodies of An Garda Síochána. An Garda Síochána has come in for a lot of criticism in recent years but we have an unarmed police force whose members had the courage and strength to apprehend these very serious criminals who were well organised. I ask that the Leader write to the Garda Commissioner to commend the gardaí - the superintendent and his team - in Galway for their speedy action in defence of Irish citizens and businesses. Anyone who runs a business realises that there is a constant threat from criminals who are very active and watching situations exactly like the one to which I refer. The livelihood of the Hartmann's

staff would have been in jeopardy if this robbery had been successful.

Furthermore, I ask that the Minister for Justice and Equality come to the House because we need scrutiny of all eastern European people coming into this country through the passport system. They all have to produce their passports here. Those passport details should be recorded and contact made with the police forces in eastern European countries to see if any of the people concerned has a criminal record. Nobody with a criminal record should be allowed into the State. We have enough criminals ourselves without importing them from eastern Europe. The level of crime that is occurring is very evident to me and this may be the start of a trend in that regard.

All in all, we should be very proud of An Garda Síochána in this particular instance, as well as in many others which go unrecorded.

Senator Michael Comiskey: I welcome the announcement by the Minister for Agriculture, Food and the Marine, Deputy Simon Coveney, this morning on what can be termed the old-young farmers scheme. A meeting was held by such farmers in Athlone last week and further meetings are planned throughout the country. These farmers have been left out in many ways. They started farming in 2008-09 but were not in a position to apply to the national reserve for quota. The Minister has now made provision for these farmers. They will be able to apply to the national reserve now and will be treated the very same as young farmers which is very good news.

Senator Trevor Ó Clochartaigh: Bhí cuid mhaith Seanadóirí, Teachtaí Dála agus Airí inné ag déanamh gaisce as an bplean jabanna atá fógraithe ag an Rialtas.

The Government's plan on job creation which was announced yesterday seems to be a question of reheating the chicken, when one delves into the detail. The targets therein were supposed to have been delivered on and the plan itself was supposed to have been delivered over a year ago. We are seeing a trial run, in a limited area, of the jobs plan which probably will not be finished by the time the Government has been put out of office - I hope. It is another instance of plenty of spin but very little action. I also note that 7,550 older unemployed people were left out of the unemployment figures released by the Government which shows that these figures are being massaged too.

I add my words of congratulations to the members of An Garda Síochána in Galway on the way they acted yesterday morning. They were very brave and swift. However, I take issue with the tone of Senator Terry Leyden's comments and feel that they are bordering on racist. Perhaps the Senator might consider having them struck off the record of the House. A criminal is a criminal, no matter where he or she comes from.

Senator Terry Leyden: They were eastern European criminals. That is what is reported in the newspaper.

Senator Trevor Ó Clochartaigh: The Senator suggested every eastern European coming into the country should be profiled on his or her way in. I certainly would not agree with those comments.

It has been an up and down week for An Garda Síochána. We have seen more arrests this morning, including that of a 15 year old boy and a man in his 50s, in connection with the protests in Jobstown. Many people are asking fundamental questions about the nature of that in-

vestigation and its apparent heavy handedness. That said, it is important that we recognise the good work of An Garda Síochána.

I wish to raise an issue which was brought to my attention by someone who is entering that profession. He is one of the new Garda recruits who got through the application process - for which there were 25,000 applicants - and is now in Templemore. He has huge concerns about the pay and conditions under which he will be expected to work. When the new recruits graduate they will only be earning €23,171 before tax is deducted but the last group of recruits, who graduated in 2009, were paid approximately €31,000. The latest recruits are very concerned about their pay and conditions and their ability to work as gardaí on the beat. I know that the Minister for Justice and Equality or a Minister of State in that Department is in the House regularly to deal with issues relating to An Garda Síochána but the pay and conditions of new gardaí and how they can be expected to survive on the amount they are paid is an issue that should be examined. Perhaps it is an issue for the Minister for Public Expenditure and Reform because the pay rates seem to come under the remit of various pay agreements negotiated by that Department.

Senator Cáit Keane: I agree with Senator Terry Leyden's comments on Hartmann's jewellers in Galway. As I had a plate engraved there on my retirement from UCG many years ago, I know the shop well. I compliment the gardaí involved. We have heard so much criticism of An Garda Síochána in recent times but it is a priceless force and it is important that we acknowledge the work it does. I wholeheartedly support An Garda Síochána and agree with Senator Trevor Ó Clochartaigh that pay and conditions in the force should be examined. Gardaí put their lives on the line every day and probably feel that they are not appreciated. They never look for appreciation, I am sure, but they are at least entitled to a just reward.

I wish to raise the issue of the number of robberies that are facilitated by stolen mobile phones. Criminals are using stolen mobile phones to communicate with their accomplices and so forth. In California a new law has been passed that mandates kill switches in mobile phones. If one's phone is stolen, one can kill it remotely. This technology is not available in every mobile phone. It is only available in the iPhone 6, the Samsung Galaxy S5, and several other very new smart phones. Microsoft is expected to put it in its phones soon. Some US states have made kill switches mandatory in all mobile phones. I was at a public meeting in Firhouse last week which was entirely taken up with a discussion on burglaries, crime and so forth. Many people spoke about the way crime is being facilitated by mobile phones. I am not calling for a full debate on this issue but rather I am asking if the Leader would make representations to the Minister to examine whether we could introduce similar legislation. We should also highlight this kill technology because many people who have these newer smart phones would not even know that this technology is included. It is possible to kill one's phone remotely and the phone is rendered absolutely useless. Phones are also being stolen for resale and this technology renders them useless. As a result of this technology, it has been found that phone-related crime has decreased.

I concur with the remarks of Senator Jillian van Turnhout and others but point out that the Taoiseach made some very good choices in his appointment of Senators to this House. Senator Jillian van Turnhout is not on the University Panel and Senators on that side of the House cannot claim to have all of the brains. Both the elected and nominated Senators have university degrees, unlike in times of old. I hear this peddled across the floor every so often-----

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

Senator Cáit Keane: I think I have said enough.

Senator Terry Leyden: The Senator is looking for compliments on her degree. She is looking for praise.

Senator Paschal Mooney: A debate might be too intellectual for us ordinary five eighths on this side of the House.

I concur with the congratulations extended to An Garda Síochána in Galway and also commend the two, what might be termed by the tabloid press “have a go”, citizens who were very brave and courageous in initiating the chase. I also welcome the fact that the opportunity has arisen to point out the scandalously low pay rate for the new Garda recruits. My colleague, Senator Marc MacSharry raised this a number of weeks ago and was the first in this House to do so, following a high profile visit by the Minister for Justice and Equality, the Taoiseach and the Tánaiste to Templemore when the first recruits were being initiated. There has been a deafening silence from the Government on the issue. I have not heard one word since about this pay rate of €23,000. Here we are, congratulating gardaí for taking their lives in their hands - for €23,000. That is a scandal and one that needs to be addressed in a budgetary framework. Perhaps the Leader might comment on the issue.

I commend the comments of my colleague, Senator Aideen Hayden, on the leading economist who appeared before the banking inquiry yesterday. The man is a real patriot and he has made an outstanding contribution to the life of this State during his time with the ESRI. The meeting yesterday cannot have been easy for him. He raised fundamental issues which I hope will be addressed by the banking inquiry. They are fundamental issues about what seems to be - and I use the word cautiously - an arrogant approach by officials in the then Department of Finance on the impending crisis that was going to explode on this country between the years 2005 and 2008. They not only studiously ignored advice that was being given but treated it with a level of contempt. I hope that the banking inquiry will invite them in because they are still around and ask them to justify their actions.

Perhaps the committee will also look at what came into the public domain. I refer to the letters or correspondence between the then housing Minister, Deputy Noel Ahern, and the Department of Finance at the time of the introduction of 100% mortgages. The economist pointed out not once but repeatedly that this development posed a real danger to the Irish mortgage system and that it would create enormous financial and economic difficulties if it was allowed to go unchecked. What did the Department of Finance do? The officials treated his advice with total contempt. There are issues surrounding the advice that was given at that time by the Department of Finance to the political environment. The matter needs to be teased out and addressed.

I compliment Niall Gibbons and his people at Tourism Ireland who have once again pulled off yet another great coup in extending the number of iconic sites across the world - upwards of 60 - that will go green for St. Patrick's Day. Given the size of this country there will be a focus on Ireland as a result of the colour green appearing at iconic monuments throughout the world. It is a wonderful commendation for Tourism Ireland and Niall Gibbons. Among the iconic attractions that will go green on St. Patrick's Day will be the Grand Ole Opry House in Nashville, Tennessee.

An Cathaoirleach: I thought the Senator was going to mention Drumshambo.

Senator Paschal Mooney: Next year.

Senator Terry Leyden: Perhaps at the Ballroom of Romance.

Senator Jim D'Arcy: I welcome the announcement made by the Minister for Education and Skills on 10 February on the immediate establishment of the inclusion support service under the remit of the National Council for Special Education. I admire the aspiration to offer a better and more integrated service to schools within the areas of continuing professional development in special education for teachers, behavioural support in schools and the provision of services for children who are deaf, hard of hearing or visually impaired. This move will see the amalgamation of the special education support service, SESS, the national behaviour support service, NBSS, and the visiting teacher service to operate under the auspices of the NCSE. I hope the current staff with their high level of expertise and specialist qualifications will be maintained within the new inclusion support service. I also hope that the prompt and effective support available from SESS, the NBSS and the visiting teacher service to schools facing immediate challenges is maintained during the transition process and beyond. I ask the Leader to invite the Minister for Education and Skills to come here to outline her vision for the inclusion support service and other aspects of special education in schools.

Senator Sean D. Barrett: I note that those promoting the takeover of Aer Lingus by British Airways have had a free run in the media today - on two radio stations and headlines in two newspapers, the *Irish Independent* and *The Irish Times*. Those of us who are responsible for the 25% stake in the company that the public owns are constrained by ridiculous takeover rules from the Irish Stock Exchange and we cannot answer back. I assure our friends in the media that it is not just the people of north Dublin or in the regions of Ireland who are concerned about anti-competitiveness mergers by legacy airlines. It is also a respectable position to hold in international economics journals. I want the media to stop trying to portray the opponents as some kind of plastic Paddies or something holding out for something that does not have a future. This airline does have a future. We must ask people to look at the record of British Airways in the United Kingdom. It is now smaller than easyJet by far. It is smaller than Ryanair in its own country. It totally neglects Scotland. There are no services from Scotland on the north Atlantic route operated by British Airways. It neglects its own regions. It has reduced services in Manchester and Birmingham.

The view that Aer Lingus which currently carries 11 million passengers cannot grow is belied by the fact that this is where Ryanair and easyJet were placed at the beginning of the century. Now one has increased passenger numbers to 60 million while the other has increased numbers to 100 million. There might be a period of consolidation but it has been mostly by legacy airlines. The two new airlines in Europe - easyJet and Ryanair - carry far more passengers than any of the legacy airlines. Let us not allow this stigmatisation of the opponents of the sale of the airline as backwoods men prevent a full debate. The onus is on British Airways to present proper figures and not media briefings of the kind we saw yesterday and today. The Government should not be constrained in getting the best deal for Ireland for its 25% by the ridiculous takeover rules of the Irish Stock Exchange. I have written to the Governor of the Central Bank who appoints two members to the takeover panel. It is surely an imbalance where the person trying to do the takeover gets free reign and the people trying to fight it off are muzzled. That is not the way a vital national asset should be treated.

Senator Catherine Noone: I support Senator Jillian van Turnhout's comments on the campaign to stop out of control drinking which was launched today by the drinks industry. The title and drive behind it seems to say any drinking that is not out of control is fine. As business is business, I can understand what motivates the drinks companies but this is a public health issue.

Our relationship with drink needs some serious work. In the context of recent legislation on below cost selling and the like, I would welcome a debate on the issue. The Leader is probably trying to arrange for same because it was requested a couple of weeks ago.

Litter is an issue that seems to have reared its head in Dublin in recent times. Some years ago a rebate system operated when one returned glass bottles. We could do worse than introduce a rebate system to encourage the recycling of plastic bottles and containers which are deposited. Dublin City Council, in particular, could introduce a scheme and perhaps give 10 cent per glass or plastic bottle recycled. In an international context, a number of cities across the world have successfully implemented the scheme and people receive anywhere between 5 cent and 20 cent per glass or plastic bottle returned. The money spent on the rebate can easily be offset against the benefit of having a cleaner environment in a physical and ecological sense. Dublin City Council had a budgetary surplus coming into this year so there are funds available for this scheme. A trial period of three months could be set aside. If there was a rebate of 5 cent per bottle then a €30,000 funding package could see over 600,000 returned. This is something we should consider.

Senator Paul Bradford: I support Senator Aileen Hayden's request to set aside time for a more substantial debate on housing. I appreciate we debated a Private Members' motion last night on the matter but motions just produce party political statements. It would be worthwhile to have a more substantive presentation on housing problems and options. There are solutions and ideas which need to be debated more fully. I ask the Leader to facilitate such a debate. Housing is one of the great national problems. A duty of the House of the Oireachtas is to debate national problems. We could be of some assistance to the Government in putting forward ideas.

I also support Senator Jillian van Turnhout's comments on the drinks campaign, or whatever it describes itself as. The drinks industry has sensed a certain degree of weakness on the Government's part following the decision not to pursue a ban on advertising by drinks companies in the context of sports events. That was a fundamental error. There is now a view in certain sectors of the drinks industry that they will be able to browbeat the Government further. We are all aware of the profound problems caused across society by the excessive consumption of alcohol, our greatest social problem which stretches into criminal behaviour, societal and family breakdown and requires an urgent national debate. It is a debate that does not require to be led by the drinks industry but by the Department, the Government, politicians and community leaders. Senator Jillian van Turnhout's views are shared by many of us. The issue is worthy of debate and further consideration.

Senator Mary M. White: I refer to the second or third PR stunt by the Minister for Health, Deputy Leo Varadkar. On 5 February he announced that the Cabinet had approved proposals to require restaurants, takeaway establishments and all food service outlets to post calorie details of all meals on menus alongside the price point where food was ordered. In his press release the Minister stated he was very concerned about the level of obesity in Ireland. He said the latest figures indicated that two out of every three adults and one in four children were overweight or obese. Michelin star chef Derry Clarke said he was completely against the move which was beyond ridiculous. If one wants people to lose weight, sofas, televisions and laptops should be taxed. It is not all about calories; it is about moving. The Government's plan to introduce calorie counts on restaurant menus is a complete farce. It does not take the reality of the restaurant industry into account and will cause huge damage to restaurants, especially the smaller independent establishments for which Ireland has gained a reputation for quality during the years. I

understand completely that McDonald's and KFC have the same menus day in and day out and, as such, could cope with the plan to fix menu items. However, many restaurants with creativity and innovation have a pinch of this and a dash of that and change their menu items such that calorie counts are not consistent. These restaurants are extremely busy and run on shoe-string budgets. They cannot afford to have dedicated staff members to calculate calorie counts. I hate to have to say many of our chefs are leaving the country because of the pressure on restaurants by rates and expensive overheads. It is a gift from God to be a brilliant chef, as well as requiring an education. Many of our chefs, including chefs from England and France, are moving abroad, while there are people from abroad coming to this country who are not trained as chefs. They are taking up positions and it is very sad that our own are leaving.

I will be tracking the Minister because he has also abdicated his responsibility for the extension of BreastCheck. It is a farce what he is at in that regard, pretending, as announced on 17 October, that it was going to happen. Reading the small print, if we see it, it will be at the end of 2015.

An Cathaoirleach: The Senator is way over time.

Senator Mary M. White: This is an act of political cynicism and opportunism on the part of the Minister. It is totally unenforceable.

Senator James Heffernan: There has been a great deal of reporting recently in media circles on members of the Traveller community, including Sarah Dunne, the daughter of the Pecker Dunne and a very positive role model in the Traveller community.

An Cathaoirleach: The Senator should not name people in the House who are not here to defend themselves.

Senator James Heffernan: Gabh mo leithscéal. I had a number of other people whom I would have liked to name, but I cannot do so. There was an issue the other day involving a Wicklow hurler who had received a great deal of racial abuse because he was a member of the Traveller community. There are positive aspects, including "Norah's Traveller Academy", Norah Casey's television show on RTE, although the Traveller community is often ridiculed in other programmes such as "My Big Fat Gypsy Wedding". However, there is an element in the Travelling community which is not really reported on or spoken about in public; that is, the dark underbelly of criminality. I visited the Natural History Museum next door to Leinster House where I saw that the rhino horns had been removed from the exhibits to prevent them from being taken in a theft operation being run by Traveller gangs. There is a certain propensity for violence. It was reported this morning that a 17 year old girl and a 16 year old boy were being married off in a pre-arranged marriage. I taught as a Traveller support teacher in a school and young girls were coming into my class at 12 and 13 years of age who knew whom they would be marrying. That would not be accepted in any other element of society.

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

Senator James Heffernan: Yes, I do. There are various building scams and other criminal acts. In Rathkeale in my constituency there are a large number of people with the finest houses and newest Jeeps who have no visible income.

An Cathaoirleach: What is the relevance of this to the Order of Business?

Senator James Heffernan: There is widespread social welfare fraud.

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

Senator James Heffernan: We need to have a debate on the issue.

Senator Trevor Ó Clochartaigh: Other people do that who are on social welfare.

Senator James Heffernan: Absolutely; I agree with what the Senator said earlier that a criminal was a criminal, regardless of where he or she came from.

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

Senator James Heffernan: I call for a debate in the Chamber with whoever is the relevant Minister. I imagine it is the Department of Justice and Equality, but it is not a matter related to equality. I call on the Minister to come to the House to tell us what measures are being taken. Criminality, lack of respect for law and order and taking the law into one's own hands cannot be tolerated in any section of the community, be it foreign nationals, settled people or members of the Traveller community or paramilitary organisations.

An Cathaoirleach: In his remarks the Senator is tarring a whole community. He is way over his time.

Senator Maurice Cummins: Senator Marc MacSharry raised the question of Aer Lingus. The Government will make a decision on the sale of the 25% share after considering all points from the committee established to inform its deliberations.

I was asked for a debate on the budget of the Department of Health. The Minister was in the House recently to discuss the health service plan and the matter was discussed then. We had a very comprehensive debate on the budget, but we can certainly try to get the Minister to come here again to discuss that matter and those raised by Senator Marc MacSharry this morning.

The debt issue at Sligo County Council was the subject of a Commencement matter recently when the Minister provided all of the information he had available. Budgets are the responsibility of local authorities which must run their finances in a proper manner. While I note the Senator's points about the expenditure in Sligo on many infrastructure items, in particular, in the past few years, the Minister answered comprehensively only a couple of weeks ago.

Senator Aideen Hayden raised the issue of whether we needed to change the regulatory framework for credit unions and asked for a debate on the matter. She also raised the issue of housing.

We had a comprehensive debate on the matter last evening when the Minister was very forthcoming on the Government's housing strategy. The Senator called for a further debate on home ownership, a debate we will try to arrange.

Senators Jillian van Turnhout, Catherine Noone and Paul Bradford referred to the Stop Out of Control Drinking campaign and questioned the fact that it was funded by a drinks company.

1 o'clock They suggested it was a public health issue which could be dealt with by other agencies in the system rather than have a campaign sponsored by a drinks company.

They also called for a debate on the issue of alcohol-related harm. We have had debates on this issue in the past, but I will ask the Minister to come to the House to address the

matter again.

Senators Feargal Quinn and Terry Leyden referred to the very good debate in the House on GSOC, the Garda Síochána Ombudsman Commission. They also commended the efforts of several gardaí in Galway yesterday. I join in congratulating those gardaí on their wonderful work, as well as the work done by all members of the force across the country.

Senator Feargal Quinn also referred to the work of Oireachtas committees. Much of the work done by Oireachtas joint committees goes unnoticed by the public and journalists who tend to go for juicier points made at some committees. However, all committees work hard day in and day out, work which is not recognised. I would like feedback from Members if they consider the arrangement for Commencement debates rather than Adjournment debates is more successful.

Senator Paschal Mooney: No, it is not.

Senator Maurice Cummins: The idea behind the change was to give Members an opportunity to attend committee meetings and the Order of Business later.

Senator Hildegard Naughton welcomed the allocation of €320,000 in additional funding for festivals nationwide. She also welcomed the awarding of a purple flag for Galway and lauded many initiatives in her native city in this regard.

Senator Katherine Zappone called for a debate on the impact of taxation and fiscal policy on human rights, a debate for which she has called previously. I will try to get the Minister for Finance or the Minister of State, Deputy Simon Harris, as she requested, to attend the House to debate the issue which was the subject of a Christian Aid conference this morning.

Senator Denis Landy congratulated all involved in the 90th national coursing meeting in Clonmel, County Tipperary recently. He highlighted the activities of some people who had interfered with the coursing event. When we debate the Greyhound (Amendment) Bill in the House in the coming months, it will be an opportunity for him to raise these points.

Senator Terry Leyden called for profile checks of people coming into the country. One cannot discriminate against one set of people coming here from elsewhere in Europe. All the same, I am sure the Garda is keeping everything under control and checking any person with a criminal record coming into the country. The force does great work in that regard.

Senator Michael Comiskey complimented the Minister for Agriculture, Food and the Marine on the old-young farmer scheme.

Senator Trevor Ó Clochartaigh does not seem to realise unemployment has decreased from 15% to 10.6%. On his question about the recent arrests of individuals in connection with protests at Jobstown, that is a matter for the Garda and will continue to be so.

Senator Paschal Mooney raised the issue of pay and conditions, as did Senator Marc MacSharry several weeks ago, for new Garda recruits. A low pay commission will be set up by the Government. I am sure the point about the early entry rate for civil servants and gardaí, in particular, will form part of the commission's work.

Senator Cáit Keane referred to the increasing use of stolen mobile phones in burglaries and the new technology available to switch off stolen mobile phones. I suggest she raise the issue

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as a Commencement matter to discuss it with the Minister.

On university degrees and University Panel Senators, in my eyes all Senators are equal.

Senator Marc MacSharry: Some Senators are more equal than others.

Senator Maurice Cummins: No, that is George Orwell; it is not the case here.

Senator Paschal Mooney praised Fáilte Ireland on the greening of prominent buildings across the world on St. Patrick's Day. I also compliment the agency on its efforts in this regard.

Senator Jim D'Arcy referred to the inclusion support scheme announced by the Minister for Education and Skills which will bring together several services in the education sector. I agree with the Senator that it is a matter the Minister should come into the House to discuss and I am sure she will be anxious to do so to explain the scheme.

I noted Senator Sean D. Barrett's point about the sale of the 25% stake in Aer Lingus. The onus is now on British Airways to provide proper figures. We all agree with the Senator in that regard.

Senator Catherine Noone outlined the possibility of a refund on returned plastic bottles to combat the litter problem in Dublin. I am sure the Dublin local authorities will take her observations on board. She could raise the points made with councillors.

Senator Paul Bradford, among several other Senators, called for a further debate on housing and home ownership. While we had a debate on housing last evening, I am sure the Minister of State, Deputy Paudie Coffey, will come into the House to discuss the matter again. Senator Paul Bradford also referred to the excessive use of alcohol and mentioned that no strategy in combating the problem should be led by the drinks industry.

Senator Mary White does not agree with the Minister for Health, Deputy Leo Varadkar, on the posting of calories on menus. The idea has been embraced by several restaurants, but there are other for which it will present difficulties. I would not say, however, that the posting of calories on menus was causing chefs to move abroad. That is stretching it a little too far.

Senator James Heffernan raised the issue of criminality engaged in by some in the Traveller community. There is criminality in all sections of the community, a point which the Senator clarified. He called for a debate on law and order, a debate we will try to arrange with the Minister for Justice and Equality.

Order of Business agreed to.

Sitting suspended at 1.10 p.m. and resumed at 1.15 p.m.

Appointment of Ombudsman for Children: Motion

Senator Imelda Henry: I move:

That Seanad Éireann recommends Dr. Niall Muldoon for appointment by the President to be Ombudsman for Children.

Minister for Children and Youth Affairs (Deputy James Reilly): I ask the House to recommend Dr. Niall Muldoon for appointment by the President to be the new Ombudsman for Children. Senators will be aware that the position of Ombudsman for Children fell vacant on the resignation of Ms Emily Logan in September 2014, following her appointment as chief commissioner of the newly established Irish Human Rights and Equality Commission. Dr. Muldoon was selected following a comprehensive independent recruitment and selection process which was conducted at my request by the Public Appointments Service. The Government at its meeting of 3 February 2015 approved the nomination of Dr. Niall Muldoon for appointment by the President as Ombudsman for Children in accordance with the Ombudsman for Children Act 2002.

The relevant legislative provisions with regard to appointment to the Office of Ombudsman for Children are contained in section 4 of the Ombudsman for Children Act 2002, section 4(2) of which provides that, “The appointment of a person to be the Ombudsman for Children shall be made by the President upon resolution passed by Dáil Éireann and by Seanad Éireann recommending the appointment of the person”. This is the reason I am bringing the motion before the House. Section 4(4) of the Act states a person appointed to be the Ombudsman for Children shall hold the office of Ombudsman for Children for a term of six years and may be reappointed once only to that office for a second term. The first Ombudsman for Children, Ms. Emily Logan, was appointed on 18 December 2003 for a six-year term of office and was reappointed with effect from 18 December 2009 for a further six-year term. There was unanimous support in both Houses for these appointments. I would like to acknowledge Ms. Logan and record my appreciation for the work she has done as the first Ombudsman for Children and her achievements over ten years in building that office and working tirelessly for the rights and welfare of children. I wish her every success in her new career.

The Office of the Ombudsman for Children was established under the Ombudsman for Children Act 2002 to promote and safeguard the rights and welfare of children. The Ombudsman for Children is independent of the Government and is accountable to the Oireachtas. The office is in place to provide an additional protection for children and, in this context, it is crucial that the Ombudsman for Children has the ability to advocate independently for children. The key functions of the role are to promote and safeguard the rights and welfare of children, to examine and investigate complaints about services provided to children, to provide advice regarding children’s rights and conduct research on relevant issues.

The remit of the Ombudsman for Children has been significantly expanded and largely aligned with the remit of the Ombudsman with effect from May 2013 as a result of the changes enacted in the Ombudsman (Amendment) Act 2012. The responsibility for the Office of the Ombudsman for Children transferred to the Minister for Children and Youth Affairs from the Minister for Health with effect from 3 June 2011. The role of the Minister is limited primarily to governance matters, particularly staffing and finance, given the Ombudsman for Children’s statutory independence.

The process which resulted in Dr. Muldoon’s selection began in August 2014 with meetings between officials in my Department and colleagues in the Public Appointments Service, PAS. In September 2014, I announced that the PAS would engage in an independent process to find a suitable replacement to fill this important role. The PAS is recognised as a centre of excellence for public service recruitment and selection across a range of posts from entry level to professional, technical and senior executive positions. The recruitment process was conducted in accordance with the codes of practice of the Commission for Public Service Appointments

and the PAS ensured that the process adhered to the principles of fairness, quality and recruitment on merit.

The PAS advertised the position on 31 October 2014 on its website, *www.publicjobs.ie*. The job was promoted through international channels, in order to give the widest scope for potential applicants in comparable jurisdictions. Applications for the post were received from a wide range of candidates inside and outside the State with a diverse range of backgrounds. I was pleased and encouraged at the interest in this important role. Some 97 eligible applicants were considered by a selection board for shortlisting. Some 12 candidates were shortlisted for preliminary interview on the 16 and 17 of December. Five of these candidates were then selected for final interview and assessment, which took place on 28 January 2015. Dr. Niall Muldoon was the successful candidate to emerge from this rigorous process.

A unique element of this recruitment process was the involvement of children at all stages. There were two consultation workshops with children and young people on 20 and 21 October 2014 to provide input into the final personal specification and the advertisement for the post. I attended both of these consultations, the first with a younger group aged eight to 12 years and the second with an older group aged 13 to 17 years. At these consultations, a panel of children was selected to become involved in a role play assessment as part of the final selection process.

The final assessment included a role play session for each candidate with 11 children based on topics developed by the children themselves. The final interview included a presentation. Two children were involved with the interview board in assessing the presentation but the children were not involved in assessing the other competencies examined by the adult members of the final interview board.

Dr. Muldoon is currently director of investigations at the Office of the Ombudsman for Children. He has been in this role for two and a half years and oversees the handling of almost 1,600 complaints per year made by, or on behalf of, children and young people about public bodies such as the HSE, schools and voluntary hospitals. He ensures a culture of independence, impartiality and child centredness underpins the work at all times. Prior to joining the Office of the Ombudsman for Children Dr. Muldoon spent five years as national clinical director of CARI, a children's charity, based in Dublin, Limerick and Cork, providing therapy and support to children and families affected by sexual abuse. He is a registered clinical and counselling psychologist who has worked in the area of child protection for almost 20 years. He spent ten years working in the Granada Institute providing therapy, risk assessments and support for adults who had sexually offended against children and those who had been abused as children. He was regularly called upon to provide expert testimony in the courts. He also has extensive experience of lecturing up to doctoral level in both TCD and UCD. His experience shows he has the range of professional and academic experience that makes him suitable for the position. The rigorous assessment and selection process conducted by the PAS concluded he was the best candidate for the job. I wish him every success in this important and vital role. I am happy to recommend the adoption of this resolution by the House. I thank the children who participated in the process.

Senator Terry Leyden: I welcome the Minister. Contrary to the expectations, hopes and aspirations when the Minister was transferred from the Department of Health to the Department of Children and Youth Affairs, the waiting lists and the number of patients on trolleys have increased. I do not think the Minister can be held responsible for the inadequacies in the Department of Health, but I wish him well in his new Department. I wish him every success

in that regard.

On behalf of the Fianna Fáil Party, I unanimously recommend Dr. Niall Muldoon for appointment by the President as Ombudsman for Children. This has been a careful and well scrutinised appointment. His appointment will give rise to a vacancy in the Office of the Ombudsman for Children and I ask the Minister for Children and Youth Affairs if the appointment of his replacement will involve the same level of scrutiny. It is an important appointment.

It is a novel idea that children were involved in the conducting of these interviews. We could all have enjoyed having scrutiny of our teachers in the same way when we attended national school. We could have had an opportunity to assess their suitability for teaching children. My recollection of the period is that it was a hard time for children. I have always praised the Sisters of Mercy, my first teachers, who were wonderful. I adored Sr. Anthony, who was my first teacher. I will never forget her, God be good to her. She never raised her hand in anger or slapped in anger but she was from Tralee, County Kerry-----

Senator Marie Moloney: What does the Senator expect?

Senator Terry Leyden: -----and gave me a great start in life. I then went to the Christian Brothers who were extremely good, but they used physical violence. A famous leather was made especially for the Christian Brothers and we got ten of the best. It was not easy. My granddaughter is now attending school and she adores it. She goes in to learn with joy and the attitude has changed. We have come a long way but we needed to come a long way. I will never forgive those in Letterfrack and other institutions who abused the children of this country and treated them with such contempt. We are only now catching up. In the 1950s and 1960s, this was a cold Ireland for children. We have come a long way and it is good that we have an Ombudsman for Children. The appointment was made by a Fianna Fáil Administration. Sometimes I get the impression that Fianna Fáil has been written out of the work it did. It was a very progressive Fianna Fáil Party that brought forward the Children Act. My party introduced the Act and recommended the appointment of an Ombudsman for Children. That should be noted.

With regard to the recent statement by Pope Francis, he has long been regarded as the most lovable pontiff but his statement was not made under the aegis of infallibility. He made the statement as a human being. It was an off the cuff comment to which the former President of Ireland, Dr. Mary McAleese, responded strongly. I believe she responded in a positive way. In regard to the pontiff, I would not like to take the comment out of context, because he is a kind, gentle person. However, he is quite an age and probably slapping was regarded as acceptable in his youth. This is not acceptable conduct, but I am not sure the Minister can bring about a situation where it is eliminated. It is very difficult to bring forward legislation on the slapping of children within a family. However, I believe slapping in public could be controlled. It should be made illegal for any parent to slap their children in public and this should be something that is reportable to the Office of the Ombudsman for Children. There is no excuse for this, but there are different situations to be considered such as the fact that children can wear people out, that people have other commitments, the number of children in a family, etc. Perhaps the Minister will take account of this point of view. Members who are parents know the situation. This is a difficult issue. If we bring forward legislation that makes it illegal to slap a child in the home, where do we go from there? Where do we stand in regard to bringing the law into that situation?

The first step should be to make it illegal for parents to reprimand their children physically

in public. This behaviour is not acceptable. Many people would intervene in such situations, but they are often told to get lost. What is the Minister's view on this? It is a sensitive area. When corporal punishment in schools was banned - John Boland was Minister for Education at the time - it was a step in the right direction and one I very much applaud. We wish Dr. Niall Muldoon every success in his new role. The position of Ombudsman for Children is an important role and carries significant responsibility, namely, the protection of children. Some fantastic candidates put themselves forward for the position, each of whom might have been suitable. Dr. Muldoon has been selected and now has the unanimous support of the Oireachtas before being officially appointed by the President.

Senator Maurice Cummins: I propose that the Irish Collective Asset-management Vehicles Bill 2014 be taken at 2.30 p.m. rather than at 2 p.m.

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

Senator Imelda Henry: I welcome the Minister. I am pleased to speak on the motion that Seanad Éireann recommend Dr. Niall Muldoon for appointment by the President as Ombudsman for Children.

Since the Ombudsman for Children Act 2002 paved the way for the establishment of the Office of the Ombudsman for Children, which was established in 2004, the first Ombudsman for Children, Emily Logan, and the staff of the office established a pivotal role for the office in the lives of the children of this country. Ms Logan must be commended for her achievements during her term of office, on establishing and expanding the role and on working tirelessly for the welfare and rights of children. The office was established at a time when it had emerged that children were in many ways not given the priority, nurturing, love and cherishing they needed. They had no voice and there was nobody to ensure their welfare came first, their voices could be heard and their rights could be enforced.

The ombudsman's annual report makes very interesting reading. The information obtained through the receipt, examination and investigation of complaints by the office provides a valuable insight into the experiences of children and families in dealing with public services. The scrutiny of the administrative actions of public bodies can provide an opportunity for organisations to review the service they are providing and, I hope, improve them in areas where it is shown they are not providing the best service. In its first year, the office handled 94 complaints. In 2013, it handled 1,677 cases. This level of complaint and subsequent investigations by the office must mean that many wrongs have been righted, entitlements that were not being received are being received, that loopholes are being closed and that the next child or parent who comes across a barrier to an entitlement will find it easier to lift that barrier.

I understand Dr. Niall Muldoon has been through a rigorous interview process and I am pleased to know that children were involved at some stage of that process. He was the director of investigations in the Office of the Ombudsman for Children and as such has a unique and deep understanding of the workings of the office. I believe he has worked in the area of child protection for almost 20 years. I am confident that those involved in the interview process set out to find the best candidate for the position and believe Dr. Muldoon is that person. I am, therefore, happy to speak in his favour and wish him every success in his new position.

Senator Jillian van Turnhout: I support the motion and welcome the appointment of Dr. Niall Muldoon as Ombudsman for Children. I congratulate him and wish him every success.

Like others, I take this opportunity to thank and commend Emily Logan who over her ten-year tenure had to fight to build and protect the Office of the Ombudsman for Children. She built it up and ensured it had a strong role.

This is a critical year for the Ombudsman for Children and for children's rights in Ireland, as we go before the UN Committee on the Rights of the Child. The Ombudsman for Children will appear before the committee in June and the State in January 2016. It is important we have somebody of the calibre of Dr. Muldoon to ensure we have a strong voice representing us in Geneva on behalf of children and children's rights.

There are some issues in regard to the Office of the Ombudsman for Children and a role for the Government to provide support. The first issue I would like to raise is the issue of direct provision. I urge the Minister to consider using the Office of the Ombudsman for Children as an independent oversight and complaints mechanism in this regard. It is doing that role for the Child and Family Agency and I believe it could do it also for direct provision. This is an issue we have often raised in this House. Another issue arises on reading the annual reports. We see from the report for last year that 43% of complaints came from the education sector. Many administrative decisions are made across government, particularly those made through Department of Education and Skills circulars, which directly affect children and their families, but these decisions do not have to go through any scrutiny in the Houses or by government. We need to address and examine this issue.

Another issue concerns the voice of the child. Children's voices have been absent in many investigations in cases brought to the Office of the Ombudsman for Children. Therefore, the office must strive harder to ensure these voices are heard. Besides producing reports that are aimed at the Oireachtas or the Minister, the office should also direct its reports towards children so that they know what the ombudsman is saying on their behalf.

Senator Terry Leyden mentioned corporal punishment. As the Minister knows, several months ago, I alerted him to an amendment I proposed to submit to the Children First Bill because I believe there is a way we can deal with this issue. It is shameful we have not yet dealt with it. Just 100 years ago, people could beat their wives, their dogs and children. We still allow the beating of children. This says a lot about our society.

I wish Dr. Muldoon every success in the office. He can be assured of my full support. The office has an outstanding staff who do incredible work. The office is very small, but has tremendous impact. The scope it has to affect the lives of children here is critical. I endorse and support fully the appointment of Dr. Muldoon.

Senator Marie Moloney: I welcome the Minister. On my own behalf and that of Labour Party Senators, I add my voice to recommending Dr. Niall Muldoon for the position of Ombudsman for Children. This is one of the most important positions in the country, as the role of the ombudsman is to safeguard the rights and welfare of children, at all times giving an objective ruling on complaints made by children or an adult on their behalf. Dr. Muldoon, as Ombudsman for Children, must also accept and investigate complaints made with regard to the State and how decisions made by it affect children. On that note, with Senator Terry Leyden, I acknowledge the role played by Fianna Fáil in appointing the first Ombudsman for Children, a good move that has reaped benefits.

Dr. Muldoon, with his vast wealth of expertise and knowledge will make an excellent om-

budsman. His role as director of services at the Children at Risk in Ireland Foundation, CARI, and subsequent provision of counselling and therapy to children and families who are victims of sexual abuse will benefit him in his new role. He has over 20 years experience in child protection and played a key role in moving child protection forward. I wish him the very best and know he will be up to the many challenges that lie ahead. I listened with interest to Senator Terry Leyden's submission about the slapping of children and how we can manage without slapping them. I quite agree with him and was thinking as he was speaking about whether I ever slapped my children. I know of course I would probably have given a tap on the back of the hand or maybe on the backside. My daughter always says that when she saw me going for the wooden spoon she would run, although I never used it on her. I recall that when I would have an occasion to maybe chastise my son or reprimand him for something I would send him to his bedroom. I found out that he used to absolutely love it because he loved nothing better than a good read in the quiet of his bedroom. It was never a punishment for him - he used to enjoy being sent up to his room.

Senator Terry Leyden: The Senator made a good doctor out of him.

Senator Marie Moloney: Please God, he has years ahead of him.

I also take the opportunity to wish the former and first Ombudsman for Children, Ms Emily Logan, the very best in her new role. I acknowledge the work she has done for the rights of children during her tenure. I also congratulate our colleague, Senator Jillian van Turnhout, on being shortlisted for this position. The Senator has always been a very strong advocate of children's rights.

Senator Feargal Quinn: I welcome the Minister and thank him for giving us such an explanation of Dr. Muldoon's CV. It seems we have exactly the right man in Dr. Muldoon. The role is important given that we have such a young population that is also increasing at the fastest rate in the European Union. We need someone who can listen to children and based on what we have heard today from various speakers, I think we have somebody.

In regard to Senator Terry Leyden's memory of school, I think we all have memories good and bad, but to the best of my knowledge, my memory is certainly very good. The Senator mentioned his first teacher. My first teacher was Sr. Paula and I have nothing but great memories of her in the Holy Faith convent back so many years ago.

I have a vested interest because I have 16 grandchildren and I am, therefore, looking forward to making sure others who have children in Ireland will be assured of safety and security. That is why I am interested in the reference from Senator Jillian van Turnhout to direct provision. I would like to know if there have been any discussions recently by the ombudsman's office about widening its remit to investigate direct provision for asylum issues. It seems that is one of the areas that has been left behind in the past.

One of my other experiences has been to do with early childhood education. In my supermarkets we had playhouses that looked after young children up to a certain age and what was interesting was that when they went to school, the teachers were able to identify the children that had been to the playhouse in Superquinn because they had learned. Children were there from the age of two, three or four, before they went to school. It seems we can create benefit without necessarily relying entirely on the State to do it. We have talked in this House before about the importance of early childhood education. They are very formative years and are ab-

olutely crucial to a child's development but I think we could do a lot more.

One very interesting development is in Finland, where from 1 January a new preschool education law came into effect, which obliges parents to arrange education for their children before they start primary school. That is a change from privilege to duty. According to a Finnish Ministry of education survey, some of the children did not take part in preschool education because the parents wanted to keep them at home or because the distance to school was too long. In many respects, Finland is leading the way in education. Such a change may mean that no child is too far behind when they start school. Finland recognises that these particular years are vital. Irish schoolchildren start school earlier than their Finnish counterparts but it is interesting to ask whether preschool should be made mandatory. Perhaps this is a question for the ombudsman to get involved with.

There was a young man on the radio yesterday or the day before - not a young man, he is 34 years old now - who has been in jail for close to half his life. He has had three long jail sentences and when he was asked what went wrong and how he ended up in that situation, he said he never learned, in those early years, how to read or write. He discovered the vast majority of others in jail with him did not know how to read or write and were also illiterate. Something we can do is ensure we have an education system and that the quality of the education is important. I gather that boys have a problem in reading skills. We know that we have literacy and numeracy issues here and that is something I would like to see more attention paid to in later life.

One of the most interesting messages in terms of education focus is advocated by the World Bank. It states education should focus on basic cognitive skills such as reading, writing and communication until children are 17 or 18 years old and that vocational training should wait. We are well aware in this country of the massive amounts of children who left school to go into trades and did not have the skills to adapt when the economy changed. We have to allow children to be flexible by giving them a strong base.

It is also interesting to note that early childhood marriage has been found to have a negative effect on literacy rates for young women. Given the evidence, some experts argue that the minimum legal age of marriage should be raised to 21 years. The current minimum age here is 18 years, but we know that a lot of exemptions are granted. There was something on the radio this morning or yesterday about a Traveller family where a young man of 16 years was getting married to a young woman of 17. We should consider international evidence here, especially in the light of incidents of children being forced into marriage.

On the wider issue, we could do more in terms of research and how we can better prepare children with very basic life skills such as basic financial management. I do not really see this being taught at schools. There is a definite link between poor financial management skills and dropout rates at third level education. One bank in the United Kingdom has a programme delivered in schools that includes lessons on managing a private bank account and understanding information on pay slips for younger children. Children from age 16 years receive classes on credit card use and insurance policy selection among other things. I know 16 years sounds a little late to be doing that, but it is a reminder of what can be done. There is a situation in Ireland where children are getting into financial difficulties because they are unaware of basic financial management skills. It is an area where we can do a lot more in the future.

On children's rights - this would very much be Senator Jillian van Turnhout's baby - there is a lot more that businesses can do. In the past few years, UNICEF launched its children's rights

and business principles initiative, which calls on businesses to carry out human rights due diligence, assessing how they may impact human rights and children's rights. Big companies such as IKEA have signed up to the scheme, which gets businesses that are active globally to assess their impact on children's rights. It is of course a moral issue but it can also be beneficial to companies. They get a higher recognition when they do something good like this. I understand schemes have been launched in a number of countries, including Britain, but I do not think the scheme has been launched here. It would be beneficial to look at the scheme in terms of guiding Government policy on improving children's rights. Businesses can do more in terms of children's rights and it could be possible for the ombudsman's office to raise awareness of the issue. It is not a question of forcing things to be done - just raising awareness would be sufficient to do it. I know from my experience in the supermarket business, people felt very good if the employer or service provider was acting in the community interest. It is good for business and for the community as a whole.

Minister for Children and Youth Affairs (Deputy James Reilly) (Deputy James Reilly): I thank all the Senators for their contributions to the debate on this motion. I have much pleasure in recommending to the House that Dr. Niall Muldoon be appointed by the President to be the Ombudsman for Children. Dr. Muldoon comes to this post with a wealth of experience, as has been acknowledged. He is currently the director of investigations at the Office of the Ombudsman for Children and has been in that role for two and a half years. He is a registered clinical and counselling psychologist and was formerly the national clinical director of CARL. He has worked in the area of child protection for nearly 20 years. In Dr. Muldoon I am fully satisfied that we have a well qualified, experienced and suitable nominee for appointment as the next Ombudsman for Children.

I thank the Public Appointments Service for its rigour in managing in a fair and open manner the selection process which included input from children. I also thank the children and young people who attended the two consultation workshops for their participation, as well as their families for their support. I was delighted to attend both consultation workshops with the children and young people concerned and it was a pleasure to listen to their views. Over the course of the two days they gave us really interesting opinions on what they felt were the key requirements in the person to become the new Ombudsman for Children. I am greatly encouraged by the significant interest in the post which is an integral part of an enhanced architecture in the State devoted to improving the lives of children and young people. I am fully confident that Dr. Muldoon will bring a great deal of prior experience and knowledge to the position and I am happy to put forward his name to the President.

It is interesting that Senator Terry Leyden talked about Sr. Anthony and that Senator Feargal Quinn talked about-----

Senator Feargal Quinn: Sr. Paula.

Deputy James Reilly: I could not leave out Sr. Polycarp from Muckross Park. The nuns were very much part of our lives in those days.

To answer the question Senator Terry Leyden put about the replacement for Dr. Muldoon as chief investigation officer, that appointment will also be made through the Public Appointments Service, but it will not come before the Dáil for debate.

Senator Terry Leyden: No, I understand that.

Deputy James Reilly: There were many other comments made into which I will not go, but as the father of five children, one of whom was autistic and who never spent more than a couple of weeks in any Montessori school when he was younger because his behaviour was quite difficult, I compliment and thank Senator Feargal Quinn and Superquinn for the service they provided. He was never refused there.

I commend the resolution to the House that Dr. Muldoon be recommended for appointment by the President of Ireland as Ombudsman for Children.

Question put and agreed to.

Sitting suspended at 1.55 p.m. and resumed at 2.30 p.m.

Irish Collective Asset-management Vehicles Bill 2014: Committee and Remaining Stages

Section 1 agreed to.

SECTION 2.

Government amendment No. 1:

In page 12, lines 19 and 20, to delete “*section 85*” and substitute “*section 85*”.

Minister of State at the Department of Finance (Deputy Simon Harris): This is a technical proofing amendment to correct an error in the publication of the Bill as passed by Dáil Éireann.

Amendment agreed to.

Section 2, as amended, agreed to.

Sections 3 and 4 agreed to.

SECTION 5.

Senator Feargal Quinn: I move amendment No. 2:

In page 14, line 15, after “property” to insert “, other than residential or commercial real estate,”.

Senator Sean D. Barrett is having a chat about Aer Lingus with Mr. Willie Walsh and has asked me to move the amendment. “Having a chat” may be the wrong phrase to use, but he has asked me to express his appreciation for the number of amendments the Minister of State has accepted, many of which he suggested on Second Stage. He was very complimentary to the Minister of State. The object of this amendment is to keep “hot” money which caused property bubbles in the past out of the property market. The Senator is very anxious to ensure the Minister of State will include the particular term, “other than residential or commercial real estate”. The amendment speaks for itself and I recommend it.

Deputy Simon Harris: I can speak to amendments Nos. 2 and 3 together. Have they been

grouped?

Acting Chairman (Senator Cáit Keane): Although they have not been grouped, if there is no objection, we can discuss them together. Is that agreed? Agreed.

Senator Feargal Quinn: Shall I speak to amendment No. 3 now?

Acting Chairman (Senator Cáit Keane): Yes.

Senator Feargal Quinn: Amendment No. 3 aims to ensure “no guarantee of the Government of Ireland or the Central Bank of Ireland shall apply to any ICAV”. Senator Sean D. Barrett is anxious to ensure there will no be gambling and believes amendment No. 3 would achieve this. He thinks that, without the amendment, there would be a temptation to gamble on these funds, rather than otherwise.

Deputy Simon Harris: I appreciate Senator Sean D. Barrett’s words and have endeavoured to take on board as many of his very constructive comments on Second Stage as possible. Unfortunately, I am not in a position to accept the amendments he has tabled and I will explain why.

As I previously mentioned, ICAVs will have to be authorised as undertakings for collective investment in transferable securities, UCITS, or as alternative investment funds, AIFs. Under the UCITS regulation, authorised UCITS cannot invest in real property for investment purposes; therefore, a UCITS ICAV will not be able to invest in real property for investment purposes either. It would be able to acquire moveable or immovable property which would be essential for the direct pursuit of its business, for example, office space. On the other hand, Irish authorised AIFs which are structured as investment companies, unit trusts, common contractual funds or investment limited partnerships are not subject to a similar prohibition and I do not propose to treat ICAVs any differently. Accordingly, I am not prepared to accept amendment No. 2. I am keeping the *status quo*. Neither UCITS nor UCITS ICAVs can invest in property, whereas an AIF could and it will not be treated differently from an ICAV.

While I appreciate the reasoning behind Senator Sean D. Barrett’s proposal in amendment No. 3, I am not prepared to accept it. In the case of the proposed subsection (5), in general investors in funds are aware that their investments may increase or decrease in value and do not expect to be provided with a guarantee.

As regards the Central Bank, I draw the Senator’s attention to section 25 of the Bill which provides that “The authorisation by the Bank of an ICAV or the approval of a depositary or management company shall not constitute a warranty by the Bank as to the performance of the ICAV ... and the Bank shall not be liable for the performance or default of an ICAV”.

As far as the Central Bank is concerned, I draw the Senator’s attention to section 25 of the Bill, which provides that the authorisation by the Central Bank of an ICAV does not constitute a warranty by the bank as to the performance of an ICAV, and the bank shall not be liable for the performance or default of an ICAV.

I am satisfied that is the appropriate approach and mirrors the approach in respect of Part XIII investment companies in section 259 of the Companies Act 1990 which is replicated in section 1397 of the Companies Act 2014. Where possible, I am trying to mirror the provisions of the Companies Act. Therefore, I do not propose to accept the amendment.

Acting Chairman (Senator Cáit Keane): Is the amendment being pressed?

Senator Feargal Quinn: Senator Sean D. Barrett would like me to withhold his amendment for Report Stage.

Acting Chairman (Senator Cáit Keane): Is the Senator proposing to withdraw the amendment and resubmit it on Report Stage?

Deputy Simon Harris: I ask the Acting Chairman to correct me if I am wrong, but I understood we were taking Committee and Report Stages together.

Acting Chairman (Senator Cáit Keane): Yes.

Senator Feargal Quinn: I do not know what Senator Sean D. Barrett is proposing to do on Report Stage.

Amendment, by leave, withdrawn.

Acting Chairman (Senator Cáit Keane): Amendment No. 3 was tabled by Senator Sean D. Barrett and is in the same vain.

Senator Feargal Quinn: I withdraw amendment No. 3. Are we taking Report Stage today?

Deputy Simon Harris: I understand we will have Committee Stage which will be followed by Report Stage.

Acting Chairman (Senator Cáit Keane): The amendment cannot be re-entered for Report Stage. As we are taking Report Stage immediately after this Stage, there will be no time for the secretariat to deal with it.

Amendment No. 3 not moved.

Acting Chairman (Senator Cáit Keane): Amendment No. 4 is in the name of Senator Sean D. Barrett. It has been ruled out of order as it involves a potential charge on the people.

Amendment No. 4 not moved.

Section 5 agreed to.

SECTION 6.

Acting Chairman (Senator Cáit Keane): Amendment No. 5 is in the name of Senator Sean D. Barrett.

Senator Michael D'Arcy: I am sorry, but I would like to say-----

Senator Feargal Quinn: I move amendment No. 5:

In page 15, to delete lines 3 and 4 and substitute the following:

“(4) The Bank shall specify that the ICAV is compliant with the Capital Requirement Directive CRD IV/CRR published in the Official Journal of the European Commission on June 27, 2013.”.

The idea behind this amendment is to prevent a breakdown in the EU bank regulation. The

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amendment states that the bank shall specify that the ICAV is compliant with the capital requirement directive published in the *Official Journal of the European Commission* on 27 June. The concept is that this should be in the hands of Ireland rather than the European Union. Senator Sean D. Barrett is anxious to make sure this will happen.

Deputy Simon Harris: I thank the Senator.

The capital requirements directive, CRD, is designed for banks whereas, as we know, ICAVs are investment funds. There is a fundamental difference between the way that banks and investment funds treat capital.

For banks, they receive deposits which deposit holders expect to be returned in full. Banks use the money deposited to make loans and other investments. Banks retain a certain amount of capital to act as a buffer against any losses they may incur from their lending and investment activities. In this way, banks should always be in a position to repay the money deposited with them to deposit holders.

Investment funds are quite different. Investors do not put their money on deposit in an investment fund. They invest and receive units in the investment fund in return. The investment fund takes the moneys invested with it and invests these in accordance with its investment objectives and policies. Investment funds do not guarantee that investors will receive back the same amount that they have invested.

It is also worth noting that the CRD is not applied to Irish authorised investment funds which are structured as investment companies, unit trusts, common contractual funds or investment limited partnerships. I am satisfied ICAVs should be treated in the same manner.

There is an exception to the foregoing where a UCITS is a self-managed investment company or where an AIF is internally managed. This is because they are not only investment funds but also management companies. They are subject to a minimum capital requirement of €300,000.

In the light of the foregoing, I consider the present arrangements to be appropriate and would not be prepared to impose on ICAVs the thresholds applicable under the capital requirements directive which are determined in a different context for a different class of vehicle engaged in a different sphere of activity.

Senator Feargal Quinn: I accept the Minister of State's view and I am sure Senator Sean D. Barrett will view it in the same way. As he has high confidence in the Minister of State's view, I accept his response.

Amendment, by leave, withdrawn.

Section 6 agreed to

Sections 7 to 10, inclusive, agreed to.

SECTION 11.

Acting Chairman (Senator Cáit Keane): Amendment No. 15 is consequential on amendment No. 6. Amendments Nos. 6 and 15 may be discussed together, by agreement. Is that

agreed? Agreed.

Government amendment No. 6:

In page 17, to delete lines 1 to 3 and substitute the following:

“(a) in relation to a person named as a director of the ICAV—

(i) all particulars which are, in relation to a director, required pursuant to *subsection (2) of section 65* to be contained in the register kept under that section, and

(ii) if the person is disqualified under the law of a country or territory other than the State (whether pursuant to an order of a judge or a tribunal or otherwise) from being appointed or acting as a director or secretary of a body corporate or an undertaking, the particulars which are required by *section 66(1)* to be stated in a notification under *section 65(6)*,

and”.

Deputy Simon Harris: These are two straightforward amendments. Amendment No. 6 provides that a director must disclose in his or her statement, required under section 10 for registration of an ICAV, if he or she is disqualified under the law of another country from acting as a director or secretary of an entity. The amendment effectively provides for the insertion of section 23 of the Companies Act 2014 into the ICAV Bill.

Amendment No. 15 is a technical amendment consequential to amendment No. 6. It modifies the text on company law disqualification of directors’ rules to take account for the relevant statutory reference in relation to ICAVs.

Amendment agreed to.

Section 11, as amended, agreed to.

Sections 12 to 17, inclusive, agreed to.

SECTION 18.

Government amendment No. 7:

In page 19, to delete lines 12 and 13 and substitute the following:

“(ii) if the ICAV is not authorised under the AIFM Regulations, the full name and address of the proposed external AIFM within the meaning of the AIFM Regulations, and”.

Deputy Simon Harris: In regard to ICAVs that are alternative investment funds, it will either have internal management within the ICAV or will have appointed external management. The Central Bank, through the authorisation process of the internal management, will be aware of the manager within the ICAV since it will be one and the same person. However, in the instance of external fund managers the bank will not automatically know who the manager is, and thus this amendment clarifies that all external managers will have to provide their full name and address to the Central Bank of Ireland upon application to the Central Bank of Ireland for authorisation as an ICAV.

All managers of non-UCIT funds will be authorised separately under the rules implement-

ing the alternative investment fund managers directive.

Amendment agreed to.

Section 18, as amended, agreed to.

Sections 19 to 22, inclusive, agreed to.

SECTION 23.

Acting Chairman (Senator Cáit Keane): Amendments Nos. 8 and 9 form a composite proposal and may be discussed together, by agreement. Is that agreed? Agreed.

Government amendment No. 8:

In page 22, line 8, after “satisfied” to insert “that”.

Deputy Simon Harris: Amendments Nos. 8 and 9 are minor drafting corrections referring to the word “that” and, therefore, I propose the two amendments.

Amendment agreed to.

Government amendment No. 9:

In page 22, line 9, to delete “that”.

Amendment agreed to.

Section 23, as amended, agreed to.

Sections 24 to 26, inclusive, agreed to.

SECTION 27.

Government amendment No. 10:

In page 24, to delete lines 21 to 25 and substitute the following:

“(f) borrowing policies of an ICAV, or

(g) the timing and contents of reports issued by an ICAV, and such other supervisory and reporting conditions relating to the business of an ICAV as the Bank considers appropriate and prudent to impose on the ICAV, depositary or management company.”.

Deputy Simon Harris: Amendment No. 10 is also a minor drafting correction.

Amendment agreed to.

Section 27, as amended, agreed to.

Sections 28 to 31, inclusive, agreed to.

NEW SECTION

Government amendment No. 11:

In page 26, between lines 8 and 9, to insert the following:

“Execution of documents

32. (1) Contracts on behalf of an ICAV may be made as follows:

(a) a contract which, if made between natural persons, would be by law required to be in writing and to be under seal, may be made on behalf of the ICAV in writing under the common seal of the ICAV in accordance with this section;

(b) a contract which, if made between natural persons, would be by law required to be in writing, signed by the parties, may be made on behalf of the ICAV in writing, signed by any person acting under its authority, express or implied;

(c) a contract which, if made between natural persons, would by law be valid although made by parol only, and not reduced into writing, may be made by parol on behalf of the ICAV by any person acting under its authority, express or implied.

(2) A contract made according to this section shall bind the ICAV and its successors and all other parties to it.

(3) A contract made according to this section may be varied or discharged in the same manner in which it is authorised by this section to be made.

(4) The following provisions of this section shall apply whether it is the case that—

(a) as permitted by *section 33*, the ICAV does not have a common seal, or

(b) the ICAV does have such a seal.

(5) A document has the same effect as if executed under the common seal of the ICAV if it is expressed (in whatever form of words) to be executed by the ICAV and it is signed on behalf of the ICAV—

(a) by 2 authorised signatories, or

(b) by a director of the ICAV in the presence of a witness who attests the signature.

(6) Each of the following is an authorised signatory for the purposes of *subsection (5)*:

(a) a director of the ICAV;

(b) the secretary (or any joint secretary) of the ICAV; or

(c) any person authorised by the directors of the ICAV in accordance with the ICAV’s instrument of incorporation.

(7) Where a document is to be signed by a person on behalf of more than one

ICAV, it is not duly signed by that person for the purposes of this section unless he or she signs it separately in each capacity.

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(8) References in this section to a document being (or purporting to be) signed by a secretary are to be read, in a case where that office is held by a firm, as references to its being (or purporting to be) signed by an individual authorised by the firm to sign on its behalf.”.

Deputy Simon Harris: Amendment No. 11 seeks to make the rules in relation to the execution of documents consistent with the position under the Companies Act 2014 in respect of PLCs.

ICAVs may wish to authorise other individuals, perhaps such as the investment manager, to execute standard trading documents on behalf of the ICAVs. The original text of the Bill which limited signatories to the directors and the company secretary is out of line with how investment funds currently operate. This amendment brings the ICAV in line with company law.

Amendment agreed to.

Section 32 deleted.

Sections 33 to 67, inclusive, agreed to.

SECTION 68.

Senator Feargal Quinn: I move amendment No. 12:

In page 43, to delete lines 17 to 19.

This amendment has to do with the names of directors being shown in all business letters. Will the Minister of State explain why we have special circumstances? I understood the directors' names should be shown on all business letters. I did not know there were exceptions. Perhaps there were exceptions in the past, but if there will now be, what special circumstances would mean directors' names would not have to appear?

Deputy Simon Harris: I thank Senators Feargal Quinn and Sean D. Barrett for the amendment. The purpose of the legislation is to mirror, where appropriate, company law and differentiate where companies and ICAVs should be treated differently. This is an area where we believe the ICAVs should be treated exactly as a company is treated. Therefore, I am mirroring a provision that is already in company law. I am not creating a new scenario, it is a scenario that already exists under company law. I do not have a list of what would be viewed as exceptional circumstances or an exemption, but mirrors exactly the provisions of company law. Section 68 of the Bill reflects, as a reference point, section 151 of the Companies Act 2014 and, before that, section 196 of the Companies Act 1963. As Senators will be aware, such a dispensation is not mandatory. It is a flexibility given to the bank to deal with unusual circumstances with which it may be presented. On the basis that there is such a precedent in the Companies Acts and I am not creating a new procedure or new rule, I am satisfied in all these circumstances that it should be retained.

Senator Feargal Quinn: Senator Sean D. Barrett and I assumed the law did not make any exception and that this would be the first time it would make one. Senator Sean D. Barrett understandably felt that if we were going to be serious, we should not allow certain exceptions. If the Minister of State says it is a replica of what is in company law, that would be accepted.

Amendment, by leave, withdrawn.

Sections 68 agreed to.

Sections 69 to 83, inclusive, agreed to.

NEW SECTION

Acting Chairman (Senator Cáit Keane): Amendments Nos. 13 and 14 are related and may be discussed together.

Government amendment No. 13:

In page 56, between lines 18 and 19, to insert the following:

“Breaches of certain duties: liability to account and indemnify

84. (1) Subject to section 85, where a director of an ICAV acts in breach of his or her duty under section 79(1)(a), (c), (d), (e), (f) or (g), he or she shall be liable to do either or both (as the corresponding common law rule or equitable principle relating to bodies corporate with respect to the matter would have required) of the following things:

(a) account to the ICAV for any gain which he or she makes directly or indirectly from the breach of duty;

(b) indemnify the ICAV for any loss or damage resulting from that breach.

(2) *Subsection (1)* is without prejudice to—

(a) the ICAV’s right at common law to claim damages for breach of duty, or

(b) the ICAV’s right to make an application seeking the grant of equitable relief, but *subsection (1)* and this subsection shall not be read as having the combined effect of enabling the ICAV to be afforded more compensation for any damage or injury, or more protection of any proprietary right, than is just and equitable in all the circumstances.”.

Deputy Simon Harris: Amendment No. 13 inserts a new provision into the ICAV Bill that stems from the introduction of section 78 into the Bill, being the provision governing fiduciary duties owned by a director. The section mirrors section 232 of the Companies Act 2014. The amendment obliges the director who acts in breach of his fiduciary duties to account to the ICAV for any gain he or she has made arising from the breach of duty or indemnify the ICAV for any loss arising from the breach.

Amendment No. 14 inserts a new provision that follows on from amendment No. 13 and mirrors section 233 of the Companies Act 2014. The amendment provides that an officer of an ICAV may have a defence to a claim of negligence or breach of duty on their part where they have acted honestly and reasonably.

Amendment agreed to.

Section 84 agreed to.

NEW SECTION

Government amendment No. 14:

In page 56, between lines 18 and 19, to insert the following:

“Power of court to grant relief to officers of ICAV

85. (1) This section applies to any action for negligence, default, breach of duty or breach of trust against an officer of an ICAV.

(2) In proceedings to which this section applies the court hearing the proceedings has the power of granting relief provided under *subsection (3)* if it appears to the court that the officer is or may be liable in respect of the negligence, default, breach of duty or breach of trust (the “wrong concerned”) but that he or she has acted honestly and reasonably and that, having regard to all the circumstances of the case (including those connected with his or her appointment), he or she ought fairly to be excused for the wrong concerned.

(3) The power referred to in *subsection (2)* is to relieve the officer, either wholly or partly, from his or her liability in respect of the wrong concerned, on such terms as the court may think fit.”.

Amendment agreed to.

SECTION 85.

Government amendment No. 15:

In page 57, between lines 32 and 33, to insert the following:

“(i) the references to section 23 included *section 11(3)(a)(ii)* of this Act,”.

Amendment agreed to.

Government amendment No. 16:

In page 58, to delete lines 10 and 11 and substitute the following:

“(l) in section 863(2), in the case of an offence in relation to an ICAV—

(i) the reference to the Registrar were a reference to the Bank, and

(ii) the reference to prescribed particulars being given at such time and in such form and manner as may be prescribed were to particulars specified by the Bank being given at such time and in such form and manner as may be so specified,

and”.

Deputy Simon Harris: This amendment amends section 85(2)(l) of the ICAV Bill which refers to section 863(2) of the Companies Act 2014. Section 863 of the Companies Act 2014 provides that details of disqualification orders, convictions or other such relevant occurrences

must be supplied to the Company Registrations Office, CRO. This amendment makes it clear that where such an offence occurs in relation to an ICAV, that information must be sent to the Central Bank rather than to the CRO and that the information ought to be sent to the Bank in a form and manner they will specify.

Amendment agreed to.

Section 85, as amended, agreed to.

Section 86 agreed to.

SECTION 87.

Acting Chairman (Senator Cáit Keane): Amendments Nos. 17 and 18 are related and may be discussed together.

Government amendment No. 17:

In page 58, line 34, to delete “Part” and substitute “Act”.

Deputy Simon Harris: Amendment No. 17 is a drafting amendment to use the point to “Act” rather than “part”, which would be incorrect.

On amendment No. 18, from Senator Sean D. Barrett, section 87(1) provides that every ICAV must hold an annual general meeting. Section 87(4) provides that the directors may elect to dispense with such a meeting. The Senator’s amendment proposes to remove the ability of the directors to dispense with AGMs. Experience with the operation of investment fund vehicles since the advent of the IFSC has been that such meetings are rarely attended by most investors. Arranging such AGMs involves expense that can be avoided by allowing the directors not to hold an AGM. It should, however, be noted that ICAVs will, under Central Bank rules, be required to obtain approval from shareholders if they intend to increase fees payable to their managers or to increase fees charged in relation to redemptions. Approval from shareholders will also be required by the Central Bank if an ICAV proposes to change investment objectives or make material changes to investment policies. The Central Bank rules currently apply to other types of investment fund vehicles. Additionally, as a safeguard, subsection (6) provides a means whereby a holder of not less than 10% of the voting rights or the auditor can requisition the holding of an AGM.

I considered this issue in detail on Committee Stage in the Dáil, insuring and giving extra provision to the auditor which was not the case in the originally published Bill in order that the auditor’s voice could not be dispensed with. The directors can elect not to have it but either holders of not less than 10% of the voting rights, or the auditor, can requisition the AGM in addition to the other safeguards under Central Bank rules that I have outlined. Therefore, the balance of interests as set out is reasonable. I do not propose to accept the amendment.

Senator Feargal Quinn: How does this correspond with company law? Is it similar?

Deputy Simon Harris: No, this is an area where we are not mirroring the Companies Act because an investment fund is not like a typical company. Our experience with the investor fund AGMs is that people often do not attend. There is data available to people involved in investment funds that is not necessarily available to people on a daily basis in relation to companies. However, there are already specific rules in the Central Bank that will apply in regard to

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any material change in investment objectives or managers' fees. Holders of 10% of the voting rights and-or the auditor can overrule the directors if they do not want to hold an AGM. However, it is not obligatory. I am trying to make this a competitive tool for Ireland. It is bringing us in line with the experiences of other similar products and tools in other jurisdictions. It also reflects the reality of what an investment fund is and how it is constituted and operated.

Amendment agreed to.

Amendment No. 18 not moved.

Section 87, as amended, agreed to.

Sections 88 to 93, inclusive, agreed to.

SECTION 94.

Government amendment No. 19:

In page 64, between lines 25 and 26, to insert the following:

“(9) The registration of a body corporate as an ICAV by continuation under Part 9 does not affect the priority of charges created by the body corporate before its registration as an ICAV.”.

Deputy Simon Harris: Amendment No. 19 provides for the protection of the priority of charges held by a migrating company seeking to register as an ICAV.

The purpose of the amendment is to safeguard the priority to which anybody may be entitled on foot of legal, equitable or such other principles that govern charges in the jurisdiction in which they were issued.

Amendment agreed to.

Section 94, as amended, agreed to.

Sections 95 to 111, inclusive, agreed to.

SECTION 112.

Senator Feargal Quinn: I move amendment No. 20:

In page 71, to delete lines 29 to 39.

3 o'clock The basis of this amendment is a concern that the Bill is offering a defence that could be akin to claiming one thought someone else such as the accountant was doing it and so on. It appears to give an out on that basis. It appears to give a defence in proceedings for existing offences to those who claim somebody else was doing the accounts and therefore, it was not their fault. I invite the Minister of State to correct me in this regard.

Deputy Simon Harris: The effect of the amendment tabled by Senator Sean D. Barrett and moved by Senator Feargal Quinn would be to remove the defence afforded to directors of Irish

collective asset-management vehicles, ICAVs, to employ suitably qualified people to ensure the accounting records of their ICAV are maintained in accordance with applicable requirements. This replicates the requirement in section 202 of the Companies Act 1990 and which is repeated in section 286(8) of the Companies Act 2014 and this is where the issue arises. I neither propose to nor am mandated to begin a discussion on the Companies Act, which obviously went through a significant period of passage in both Houses as recently as last year. I am mirroring the provisions that are appropriate and where I think the provisions do not apply to an ICAV, I am removing them or putting in place alternatives. I reiterate this is a provision in section 202 of the Companies Act 1990 and section 286(8) of the Companies Act 2014. I am following the existing precedent in the Companies Acts in this instance and do not, therefore, propose to accept the amendment.

Senator Feargal Quinn: On the basis of the Minister of State's explanation, the amendment is withdrawn.

Amendment, by leave, withdrawn.

Section 112 agreed to.

Section 113 agreed to.

SECTION 114.

Senator Feargal Quinn: I move amendment No. 21:

In page 74, between lines 17 and 18, to insert the following:

“(12) In this section “generally accepted accounting practices in the State” means professional standards in the accountancy profession as determined by the Irish Auditing and Accounting Supervisory Authority.”.

The objective of the amendment is to control the auditors. It is logical and understandable and I seek an explanation from the Minister of State.

Deputy Simon Harris: I thank the Senator and appreciate the thrust of the amendment tabled by Senator Sean D. Barrett which is to provide that “generally accepted accounting practices in the State” means professional standards in the accountancy profession as determined by the Irish Auditing and Accounting Supervisory Authority. However, the use of the term “generally accepted accounting practice” is deliberately wide and is neither accidental nor an anomaly. Its purpose is both to cover applicable accounting and auditing standards and any other practices, such as guidance, that bear on the preparation of accounts in this jurisdiction. As a result of amendments I made during the passage of the Bill through the Dáil, I introduced a specific requirement that the accounts must give a true and fair view, which is a belt-and-braces approach, in a number of places in the Bill, including section 114(2). Moreover, the auditor, in accordance with section 118(2)(a), is required to confirm that the annual accounts give a true and fair view. I am satisfied this has strengthened the requirements in this part of the Bill. I also point out that in accordance with section 48 of the Central Bank (Supervision and Enforcement) Act 2013, the Central Bank can impose additional requirements to regulate accounting, auditing and other reporting arrangements if this is considered desirable or necessary. In these circumstances, I do not deem it necessary to accept the Senator's amendment.

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Amendment, by leave, withdrawn.

Section 114 agreed to.

Sections 115 to 143, inclusive, agreed to.

SECTION 144.

Government amendment No. 22:

In page 92, line 14, to delete “authorisation” and substitute “approval”.

Deputy Simon Harris: Amendment No. 22 is a drafting amendment to replace the word “authorisation” with the more correct term, which is “approval”.

Amendment agreed to.

Section 144, as amended, agreed to.

Sections 145 to 151, inclusive, agreed to.

SECTION 152.

Government amendment No. 23:

In page 100, line 23, to delete “section 609 is” and substitute “sections 600 and 609 are”.

Deputy Simon Harris: Amendment No. 23 is a drafting amendment to correct the specific modifications to cater for the winding up of the ICAV.

Amendment agreed to.

Section 152, as amended, agreed to.

Sections 153 to 170, inclusive, agreed to.

SECTION 171.

Acting Chairman (Senator Cáit Keane): Amendments Nos. 24 and 25 are related technical amendments and may be discussed together, by agreement. Is that agreed? Agreed.

Government amendment No. 24:

In page 110, line 3, to delete “agreement” and substitute “ “agreement” ”.

Deputy Simon Harris: Amendment No. 24 is a drafting amendment to correct a punctuation error and amendment No. 25 also is a drafting amendment to correct an error in section 171. Inspectors, not directors, furnish reports and that is the amendment.

Senator Feargal Quinn: I congratulate whoever noticed the first error. I examined it and could not discern any difference until I saw the inclusion of the inverted commas.

Deputy Simon Harris: As the Senator has noted, the amendment literally concerns the inverted commas around the word “agreement”.

Acting Chairman (Senator Cáit Keane): Well spotted. I thank the Minister of State.

Amendment agreed to.

Government amendment No. 25:

In page 110, line 6, to delete “a directors’ ” and substitute “an inspector’s”.

Amendment agreed to.

Section 171, as amended, agreed to.

Sections 172 to 177, inclusive, agreed to.

NEW SECTION

Government amendment No. 26:

In page 113, between lines 28 and 29, to insert the following:

“General Offences

178. (1) Section 876(1) and (3), 877 and 878 of the Companies Act 2014, and other provisions of that Act relating to those provisions, have effect as if—

(a) the references to a company included an ICAV, and

(b) the references to that Act included this Act.

(2) In its application in relation to the provisions mentioned in *subsection (1)* as they have effect in accordance with that subsection, section 865 of the Companies Act 2014 has effect as if the reference to the Director of Corporate Enforcement included the Bank.”.

Deputy Simon Harris: Amendment No. 26 modifies the enforcement provision in respect of sections 876, 877 and 878 of the Companies Act 2014 in order that the Central Bank, as well as the Office of the Director of Corporate Enforcement, will now be able to take summary proceedings should these offences occur. Section 876 of the Companies Act concerns the offence of providing false information. Section 877 concerns the offence of destroying documents, while section 878 concerns the fraudulent parting with documents. These sections are cross-applied from the Companies Act 2014 to the Irish Collective Asset-management Vehicles Bill by virtue of this section. The amendment reflects the reality that, by virtue of the Central Bank’s role as the registration authority for ICAVs, it may be best placed to prosecute for such offences.

Amendment agreed to.

Section 178 deleted.

Section 179 agreed to.

NEW SECTION

Government amendment No. 27:

In page 114, between lines 3 and 4, to insert the following:

“Registration and inspection of documents

180. (1) Every document relating to an ICAV that is required to be deposited with, or sent or furnished or otherwise provided to, the Bank under this Act or the Companies Act 2014 as it applies in relation to the ICAV—

(a) shall be recorded on a register relating to the ICAV maintained by the Bank, and

(b) shall be open to inspection free of charge on a web-site maintained or used by the Bank.

(2) The register maintained in compliance with *subsection (1)* is in addition to the registers maintained under *section 14* or *96* or by virtue of *section 84* or *85*.

(3) Documents provided—

(a) under *Chapter 2* of *Part 2* (or pursuant to a condition imposed under *section 27*),

(b) under *section 145(2)(d)*,

(c) by virtue of *section 171(2)(d)*,

(d) by virtue of *section 180*, or

(e) by virtue of *section 185*,

shall not be recorded on the register maintained in compliance with *subsection (1)* or be open to inspection under that subsection.”.

Deputy Simon Harris: Amendment No. 27 sets out the mechanism for the registration of documents concerning an ICAV and how these documents may then be inspected.

Amendment agreed to.

Sections 180 to 183, inclusive, agreed to.

NEW SECTION

Government amendment No. 28:

In page 115, between lines 11 and 12, to insert the following:

“Amendment of UCITS Regulations

184. The UCITS Regulations are amended—

(a) in Regulation 3(1)—

(i) by inserting the following definitions:

“ ‘Act of 2015’ means the Irish Collective Asset-management Vehicles Act 2015;”, and

“ICAV” means an ICAV within the meaning of the Act of 2015;”,

(ii) in the definition of “articles”, by inserting “and, in relation to an ICAV, means its instrument of incorporation within the meaning of the Act of 2015” at the end,

(iii) in the definition of “directors”, by inserting “and includes directors and shadow directors of an ICAV” at the end, and

(iv) by substituting for the definition of “investment company” the following:

“investment company” means—

- (a) an investment company with fixed capital,
- (b) an investment company with variable capital, or
- (c) except in Regulations 45, 89(4)(a) and 107, an ICAV;”,

and

(b) in Regulation 4(6) by—

- (i) deleting “or” after subparagraph (c), and
- (ii) substituting the following for subparagraph (d):

“(d) common contractual funds, or

(e) Irish collective asset-management vehicles.”.”.

Deputy Simon Harris: Amendment No. 28 specifically modifies a number of the USITS regulations in order that they are given effect within the context of the ICAV. It is a technical amendment.

Amendment agreed to.

Section 184 deleted.

NEW SECTIONS

Government amendment No. 29:

In page 115, between lines 17 and 18, to insert the following:

“Adaptation of certain provisions of UCITS Regulations

185. (1) Regulations 17(11), 42(4)(d), 104(2), 125 to 127, 131, 134(1) to (9) and 135(1) and (2) of the UCITS Regulations apply to an ICAV authorised under section 19 as they apply to the bodies to which those Regulations relate but subject to the modifications in subsection (2).

(2) The modifications are that—

- (a) references to repurchase are to purchase,
- (b) references to the UCITS Regulations are to this Act,

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- (c) references to an UCITS are to an ICAV,
- (d) references to a unit are to a share,
- (e) references to a unit-holder are to a shareholder, and
- (f) references to the Companies Acts include this Act.

(3) References to cognate terms or expressions in those Regulations shall be read accordingly.”.

Deputy Simon Harris: Amendment No. 29 is also a technical amendment to adapt the UCITS regulations which concern the regulation of UCITS which may be constituted as any one of a number of vehicles to also cater for the ICAV.

Amendment agreed to.

Government amendment No. 30:

In page 115, between lines 17 and 18, to insert the following:

Amendment of Central Bank Act 1942

“**185.** The Central Bank Act 1942 is amended—

(a) in section 33AK(3) by inserting the following after paragraph (a)(vi)(II):

“or

(III) the Irish Collective Asset-management Vehicles Act 2015,”

and

(b) in Part 1 of Schedule 2 by inserting the following:

“

43	No._of 2015	Irish Collective Asset-management Vehicles Act 2015	The whole Act, apart from Parts 5, 10 and 12
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”.

Deputy Simon Harris: Amendment No. 30 provides for changes to the Central Bank Act 1942 to take account of the ICAV. Subsection (1) amends section 33AK of the Central Bank Act 1942 and is necessary to provide a gateway for the Central Bank to furnish information to the Office of the Director of Corporate Enforcement concerning its functions under the Irish Collective Asset-management Vehicles Bill. Such a gateway is already provided for the passing of information by the Central Bank to the ODCE relating to breaches of the Companies Act, but it is obviously of paramount importance in the context of the Irish Collective Asset-management Vehicles Bill, given the dual enforcement role of both agencies.

Amendment agreed to.

Section 185 deleted.

Sections 186 and 187 agreed to.

NEW SECTION

Government amendment No. 31:

In page 116, between lines 13 and 14, to insert the following:

“Director of Corporate Enforcement

188. (1) Sections 953, 956 and 957 of the Companies Act 2014 have effect as if references to that Act included this Act.

(2) Without prejudice to the generality of *subsection (1)*, and in addition to the functions under section 949 of the Companies Act 2014, the Director of Corporate Enforcement may perform the functions conferred on the Director of Corporate Enforcement by this Act and do such acts or things as are necessary or expedient in the performance of those functions.”.

Deputy Simon Harris: Amendment No. 31 is a technical amendment that seeks to clarify and confirm the role of the Office of the Director Corporate Enforcement in the context of the ICAV regime. The amendment particularly concerns the functional powers of the Office of the Director Corporate Enforcement. It specifically cross-applies sections 953, 956 and 957 of the Companies Act 2014. As a result, section 953 provides that the ODCE is not liable for any act taken or omission pursuant to this Act. Section 956 provides for confidentiality within the Office of the Director Corporate Enforcement when dealing with ICAVs. Section 957 provides for gateways for the disclosure of information by certain bodies to the Office of the Director Corporate Enforcement where offences may be carried out by an ICAV manager.

Amendment agreed to.

Section 188 deleted.

Schedule agreed to.

Title agreed to.

Bill reported with amendments and received for final consideration.

Question proposed: “That the Bill do now pass.”

Minister of State at the Department of Finance (Deputy Simon Harris): I am grateful to Senators on all sides of the House and to Deputies in the Dáil. The Bill has gone through both Houses following significant discussion and debate but without a vote because Members on all sides of the Houses appreciate the importance of this product to our offering in term of international financial services.

I also pay tribute to the departmental officials who have worked so diligently, even noticing minor issues such as the missing inverted commas mentioned by Senator Feargal Quinn. A huge amount of work has gone into the Bill which arose out of the international financial services strategy in recognition of the fact that we needed to have a product like this to be competitive

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in our international financial services offering. The Taoiseach, the Tánaiste and I will launch the next phase, our new strategy for the international financial services sector on 11 March.

Senator Feargal Quinn: Senator Sean D. Barrett put a considerable amount of work into the Bill and apologises for not being present as the debate overlapped with something else. He is our expert in this House on transport issues and on that basis did not want to miss the other meeting. He has asked me to express his appreciation and that of the House of the fact that the Minister of State listened and that the officials acted and responded.

Senator Michael D’Arcy: On behalf of the Fine Gael group, I thank the Minister of State and all of the officials involved. This is complicated legislation. Senator Sean D. Barrett is accustomed to a different vehicle in terms of transport from this one. However, his expertise was greatly appreciated.

Senator John Gilroy: I thank the Minister of State. The debate shows that this House is at its best when we are dealing with such complex legislation which is thoughtfully considered. With Senator Sean D. Barrett’s amendments being accepted by the Minister of State, it shows what can be achieved in this House. It certainly sets us apart from the antics in the other House earlier today.

Acting Chairman (Senator Cáit Keane): I thank the Minister of State and Senators for passing the Bill today.

Question put and agreed to.

Acting Chairman (Senator Cáit Keane): When is it proposed to sit again?

Senator Michael D’Arcy: Next Tuesday at 2.30 p.m.

The Seanad adjourned at 3.20 p.m. until 2.30 p.m. on Tuesday, 17 February 2015.