



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Déardaoin, 16 Iúil 2015

Thursday, 16 July 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 Gerard P. Craughwell that, on the motion for the Commencement of the House today, he proposes to raise the following matter:

The need for the Minister for Education and Skills to make a statement on the weight of schoolbags.

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

The need for the Minister for Education and Skills to give an update on plans to deliver a technological university in the south east.

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

The need for the Minister for the Environment, Community and Local Government to recognise the additional workload local councillors have taken on since the enactment of the Local Government Reform Bill 2014 and to carry out a survey of all councillors, in conjunction with their representative bodies, to ascertain how the changes have affected their personal, professional and public lives.

I have also received notice from Senator Paul Bradford of the following matter:

The need for the Minister for Defence to re-examine all of the procedures surrounding the discharge of an Army private (details supplied) and fully review the medical examination of the person concerned and all issues subsequent to the examination.

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

The need for the Minister for the Environment, Community and Local Government to clarify the position concerning the fact that social welfare payments are taken into account in assessing entitlement to social housing support, while the same social welfare payments are not taken into account in assessing entitlement to a local authority housing mortgage.

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I have also received notice from Senator Lorraine Higgins of the following matter:

The need for the Minister for Education and Skills to review the decision not to approve the application for a special educational needs room for special needs pupils in St. Thomas's national school, Peterswell, Gort, County Galway.

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

The need for the Minister for Health to update the House on the policy on the fluoridation of public drinking water and the effect this policy has had on the health of the population.

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

The need for the Minister for Arts, Heritage and the Gaeltacht to comment on the failure of current Irish language policy and discuss the shared benefits of using the Gaeltacht throughout the school year for language immersion for students in the Gaeltacht to prevent the forecasted decline of Irish speaking communities in the Gaeltacht.

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

The need for the Minister for Health to state if he is aware of serious concerns about patient safety in the Roscommon and Galway mental health area and if he will outline the actions his Department has taken to address the issue.

I regard the matters raised by the Senators as suitable for discussion. I have selected the matters raised by Senators Gerard P. Craughwell, David Cullinane, Tom Sheahan and Paul Bradford and they will be taken now. Senators Colm Burke, Lorraine Higgins, Martin Conway, Fidelma Healy Eames and Trevor Ó Clochartaigh may give notice on another day of the matters they wish to raise.

Commencement Matters

Weight of Schoolbags

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

Senator Gerard P. Craughwell: I, too, welcome the Minister of State and thank him for being here. While schools might be out for summer, parents and students will soon be preparing to return in September. The issue of the weight of schoolbags remains unresolved not for another year but for another decade. The issue was raised in the Dáil as far back as 1996 and the then Minister, Ms Breathnach, gave the exact same reply as the Minister, Deputy Jan O'Sullivan, gave in 2014. Both said it was a matter for local school management and that circular letters to this effect, incorporating the recommendations of the working group on the issue, had been sent to schools in 1998 and 2005.

The time lag is notable. The 1998 report generated two circular letters, both with the same content and both deferring to local school management. In the meantime, an entire generation of schoolchildren have struggled to and from school with schoolbags weighing up to two stone in some cases. The Minister of State can correct me if I am wrong, but it appears that since the

working group reported in 1998 there has been no follow-up, no examination on if and how its recommendations are being implemented and 17 years later there is still no comprehensive current research.

Osteopaths, physiotherapists and doctors report an ever-increasing number of incidents of schoolchildren presenting with serious neck, shoulder and back strain due entirely to the weight of schoolbags. A school principal who surveyed pupils found the junior students carried the heaviest weight as they had 13 subjects. In that case, the first year students were carrying in excess of 15 kg in textbooks and copybooks. The recommended weight for children of 12 years is 12% of their body mass, which would average at 3.5 kg of textbooks for 13 year olds and 6.3 kg for 17 year old male students. The detrimental and long-term effects on the still developing spine of a 12 year old carrying five times the recommended weight is of serious concern to many parents and an issue of national importance requiring a national and co-ordinated response.

Mr. Liam Moloney, a Naas-based health care solicitor, is on record as saying the failure of many school managers to deal with it was one of the most serious issues of our time and “the State could face thousands of future compensation claims from schoolchildren who suffer back injuries if their school managers have not complied with the recommendations made by the Department of Education.” This issue could leave the Army deafness and other compensation claims in the ha’penny place. More important, in letting this issue run on without proper checks and balances and systematic review by the Department of Education and Skills, we are damaging the health of the most precious asset the State possesses, namely, the health and welfare of young people. If employees in any sector were presenting with such symptoms on so large a scale, a major health and safety investigation would be put in place.

There have been successful and ingenious commercial initiatives such as Booksplits, the brainwave of mother of four Ms Margo Fleming from Wicklow, which is now a commercially available alternative that reduces the weight of text books by half. Alternatively, some schools are replacing books with tablets, some have lockers and some do not, with some allowing children to leave books in school while others do not.

Will the Minister of State revisit this issue as a matter of urgency, commission research on every aspect of it and put in place a system that would guarantee a uniform application of unequivocal regulations? Issuing guidelines to schools has manifestly failed and it is now time for another approach.

Minister of State at the Department of Education and Skills (Deputy Damien English): I thank the Senator for giving me the opportunity to outline to the House the position on the matter of the weight of schoolbags. It is an issue that most of us present have an interest in, but certainly we all have memories of carrying bags on our shoulders on the way to school. As the Senator has good shoulders, I am sure he was able to carry his. There have been some improvements and weights have been reduced, but he is right about it still being an issue. Perhaps someone might invent a schoolbag that is cooler when not being carried on a shoulder, as the design of schoolbags is part of the solution, too.

The Department and I are well aware of the potential problems caused by the weight of schoolbags. In this regard, some years ago the Department set up a working group to examine the issue. The group’s terms of reference were to consider the issue of heavy schoolbags, the extent of the problem, the factors that contributed to the problem and possible implications of the problem, particularly for the health of pupils. The report of the working group, which was

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presented in July 1998, recognised that many of the solutions to this issue belonged at local school level and made various recommendations such as the provision of lockers, active liaison with parents and, in the case of second level schools, co-ordination of homework by subject teachers and the arrangement of the timetable into double class periods.

The working group also found that there was a need to heighten awareness of the potential health hazards posed by excessively heavy schoolbags. In this regard, my Department initiated an awareness-raising campaign by disseminating the working group's report with an accompanying circular to all primary and post-primary schools. My Department issued further circulars to all primary and post-primary schools in 2005 to highlight the potential health hazard of overweight schoolbags and to outline a range of local measures that could be put in place to help alleviate the problem.

Ultimately, it is a matter for each school to choose those measures that would be most suited to its individual needs and that fit with how the school organises teaching and learning. The parents also have a role in this decision-making process. Not all of them feel empowered to play it, but they should be involved in decision making in every school.

There are decisions that can be made at local school level. The use of digital resources by teachers and students in schools is increasing. While conventional textbooks are still widely used, a number of schools have introduced or are considering introducing e-books and other digital resources to enhance students' work in school and at home. Schools can use the book grant scheme to purchase a range of digital resources relevant to the curriculum. These may include student subscriptions to online maths or reading programmes, school site licences or app downloads.

The Department's Guidelines for Developing Textbook Rental Schemes in Schools provide practical advice for primary and post-primary schools on how rental schemes can be established and operated. These guidelines highlight the advantages of the use of digital media, including e-books, to enhance teaching and learning in schools. Among these advantages is reducing the weight of schoolbags. However, the decision to use personal digital devices such as laptops or tablets is a matter for the board of management of a school. Where the introduction of new technology is planned, it is advisable that there should be consultation with members of the school community, including parents. The cost and other implications must be fully considered by the board of management before a decision is made. In some cases, the cost can be quite high. Some schools are proactive in meeting costs. I hope to see an increase on that front in the years to come. We all agree that we need to see more such work.

I thank the Senator for giving me the opportunity to outline to the House the position on the matter of the weight of school bags. It is improving, but most people are still concerned about it.

Senator Gerard P. Craughwell: I thank the Minister of State for his reply. I am concerned that we are pushing things down to boards of management. A recent high profile case regarding the abuse of a lady while she was a student in a primary school in Cork came back to bite the Department and the Government. As the Legislature, we have a responsibility. We cannot shed it to boards of management. We cannot offload it to subject teachers or parents. We must put directives in place.

Deputy Damien English: I understand the Senator's point, but schools are run by boards

of management and are separate from the Department. This is a fact of life. If we were to remove all of that power, a different discussion would be held. The best thing that the Department can do is work with the schools and give guidelines, advice and support. We could probably fight for more resources to increase the offering to schools, but their boards of management are in charge of what happens in them. We provide circulars, directions and so on.

Parents need to realise that they have as much power as anyone else involved in the school in terms of making decisions. They need to become fully involved in that process. When I visit some schools, I see where parents who have worked in certain companies have had an influence in terms of the schools' equipment. However, other offerings are available to schools and it is for each to decide what it wants. Naturally, as more resources become available in the years ahead, the Department will increase what we can do, but the decision in question is a local one. While I recognise and share the Senator's concerns, we are all involved in the solution.

Senator Gerard P. Craughwell: I thank the Minister of State.

University Status Applications

Senator David Cullinane: I welcome the Minister of State who will be aware that parts of the Kelly report which has not been published but which has been furnished to the Minister for Education and Skills and brought to the Cabinet on a technological university for the south east were leaked last week. The belief was that the report was going to be discussed by the Cabinet, but I do not know whether that has yet happened. The report has been a long time in the making and we need to know whether the Minister has received it and brought it to the Cabinet and whether she intends to publish it.

I met Mr. Michael Kelly as part of his consultations. He has carried out wide-ranging consultations across the south east. He has a significant job to do, as this issue is important to the people of the south east, including my city of Waterford. At our meeting, I put it to him that what he and the Government needed to do was verify whether a technical university was possible - in my view, it is - and, if so, to recommend a reasonable timeframe within which to achieve it. He needed to determine whether additional resources would be required. It has been stated that it will take a great deal of resources to achieve a technical university in the south east within a reasonable number of years owing to differences in the positions of the Carlow and Waterford institutes of technology. He also needed to determine how to bring about a unitary vision and get both institutes onto the same page in order to deliver what would be critical infrastructure for the people of the south east. My questions for the Minister of State are simple. Has the Kelly report been given to the Minister? If it has, when does she intend to publish it? Does Mr. Kelly validate a technological university for the south east? Does he recommend a timeframe for this? Does he recommend additional resources and what recommendations does he make in respect of achieving a unitary vision and a plan that will get us to the point we seek?

Deputy Damien English: I thank the Senator for raising this matter as it gives me the opportunity to outline to the House the current position on the technological university for the south east on behalf of the Minister, Deputy Jan O'Sullivan.

As the Senator will be aware, the national strategy for higher education to 2030, published in January 2011, recommended the consolidation of the institute of technology sector and the creation of a small number of multi-campus technological universities. The process for des-

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ignation as a technological university consists of four stages and requires the merger of two or more institutes of technology prior to application for designation as a technological university.

The technological university for the south east project was initiated in 2011 and consists of a consortium of two institutes of technology, the Institute of Technology Carlow, ITC, and Waterford Institute of Technology, WIT. The TU south-east consortium made good progress initially and submitted a stage 1 expression of interest in 2012. However, following this initial promising start, the consortium encountered a series of challenges and difficulties and did not succeed in finalising a stage 2 plan prior to the decision by WIT to suspend merger activities in October 2014.

Following meetings with both institutes in early November 2014, the Minister announced the establishment of a new process of engagement and consultation with the governing bodies, staff and students of both institutes, together with the wider community in the south east. The Minister appointed Mr. Michael Kelly to lead the process of consultation. While a ten week timeframe was initially set for the process to be completed, the timeframe to completion was extended due to a number of factors, including the change in governing authorities of both institutions at the end of quarter one in 2015.

The Minister recently met Mr. Kelly and received his report on the outcome of the engagement and consultation process, which answers one of the Senator's questions. Mr Kelly has undertaken a very thorough and extensive consultation process with regional stakeholders on this important issue. He has met stakeholders in all of the counties of the region in the past few months. This includes local authorities, chambers of commerce, employers, the enterprise development agencies, social and community groups, as well as public representatives. I assume the Senator was one of them.

Senator David Cullinane: I hope so.

Deputy Damien English: I understand 40 meetings took place and the Minister wishes to record her gratitude to Mr. Kelly for undertaking such a comprehensive and wide-ranging consultation process and for producing a comprehensive report.

In terms of the next steps, the Minister is meeting representatives of the two institutes shortly, either this week or next week, to discuss the findings and recommendations of the report. It is important that she have the opportunity to engage with the institutes before the report is published. The Senator asked a number of questions about the report which I cannot answer because it has not yet been published. I have no doubt that the answers to his questions are in the report as I am sure Mr. Kelly covered the areas the Senator mentioned. However, they are not ready to be published yet as it is only fair to consult the two main players first. The Minister assures the Senator that she intends to publish the report for the information of all stakeholders in the south east and, more generally, at the first opportunity thereafter.

Senator David Cullinane: I welcome the Minister of State's response. I strongly believe this is an issue on which nobody should play party politics. It is extremely important for the people of Waterford and the south east. I accept that the Minister must meet both institutes before the report is published, but perhaps the Minister of State could convey to her that she might arrange a briefing as quickly as possible for Members of the Oireachtas on what is in the report, either at the time she publishes it or beforehand. There have been leaks of the report and leaks are very unhelpful. There are all sorts of differences of opinion and there are many vested

interests at play also and we do not wish to see any of them get the upper hand. We must be very clear about what is being recommended. The Minister has a duty to work with all of the public representatives, including members of the Opposition. We have been very supportive of this process up to now and we are anxious for this to be delivered. I hope the Minister will agree, in the near future, to meeting Members of the Oireachtas. I will make myself available during the summer recess to attend that important meeting.

Deputy Damien English: I will certainly convey that suggestion to the Minister. She wants this to happen also and is very supportive of it, as am I. I have visited WIT on a couple of occasions and was very impressed with the work done there. I have not yet had a chance to visit Carlow Institute of Technology, but I intend to do so shortly. The idea is that it would increase the offering to the area. It must be about quality also. However, there is a great desire to make this happen. I will convey the Senator's request to the Minister that she organise a briefing for Members of the Oireachtas. I am sure it can be arranged when the time is right. As it would be the wise thing to do, I will try to make it happen.

Local Authority Members' Remuneration

Senator Tom Sheahan: There is a need for the Minister for the Environment, Community and Local Government to recognise the additional workload county councillors have since the enactment of the Local Government Reform Act 2014 and to carry out a survey of all councillors, in conjunction with their representative bodies, to ascertain how these changes have affected their personal, professional and public lives.

I welcome the Minister of State and thank the Chathaoirleach for facilitating this debate as it must be held. The number of local authorities has been reduced from 114 to 31. Members of the public talk about political reform, but they need to know what is really happening. There were 114 councils and that number has been reduced to 31, including the abolition of town councils. That is 83 fewer councils. The number of councillors has been reduced from 1,627 to 949, a reduction of 678 or almost 42%. Some might call that rationalisation, but that reduction in the number of councillors is phenomenal. I believe the public does not realise what reductions have been made. Counties have been divided into municipal districts, with county councillors also being district councillors. Any councillor who is not doing 30 or 40 hours a week is not doing their job. That is a fact.

My brother is a councillor, although I am not raising this matter on his behalf. We all know councillors and we are in this House because of councillors. The additional workload that has been put on the shoulders of councillors is unbelievable. As I said, any councillor who is not doing 30 or 40 hours a week is not doing their job; therefore, it is a full-time job. However, the remuneration package and the supports in place do not recognise this. They are not appropriate to a full-time job. I am afraid that this will decimate the calibre of the councillors we will have in the future. It will be a case of only the wealthy need apply, owing to the workload involved. It will be interesting to see what happens.

One of the terms often used in politics, which I absolutely hate, is "unintended consequence". One often hears it. The unintended consequence of this legislation being enacted will be that councillors will walk away. I have been talking to councillors and I can genuinely state that they will walk away unless something is done on their behalf. Waterford's city and county councils have been merged, as have Limerick's city and county councils and North Tipperary

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County Council and South Tipperary County Council. As I am a former councillor, I know the workload that is involved, but since the municipal districts have been introduced for councillors there are meetings every day of the week, which means councillors are engaged in their job every day of the week. If they are expected by us, as legislators, or by the public as their representatives to do a full-time job, they must be given the required supports and remunerated properly.

Deputy Damien English: I am replying on behalf of my colleague, the Minister for the Environment, Community and Local Government, Deputy Alan Kelly, and thank the Senator for raising the issue. The Minister would like to have attended, but he is taking parliamentary questions in the Dáil. It is an important issue, as the Senator said.

I am sure Senators are already aware of the extraordinary number of hours local elected members contribute in carrying out a wide range of functions to provide the optimum level of service possible for the public. As the Senator has said, between 30 and 40 hours are worked. The majority of councillors put in long and serious hours. Being an elected member of a local authority is not a job of limited hours. Councillors are continually on call to provide assistance for their constituents. The ending of the dual mandate had an additional impact. It increased pressure to provide services for constituents on local authority issues.

Elected members may be financially disadvantaged in representing citizens, especially if it necessitates them taking time off from full-time employment. To assist councillors in their work, a range of financial supports are already in place. These include an annual representational payment, an annual expenses allowance, travel and subsistence, a mobile telephone allowance, and an allowance for the role of chairman also. Elected members have a commitment to their role that extends beyond the financial. Councillors know that the annual representational payment, and other measures, are not fully commensurate with their workload but they continue to undertake their functions with an admirable degree of dedication.

The House is aware that significant changes have been made to local government structures by the provisions of the Local Government Reform Act 2014. These are the most far-reaching changes to have ever been implemented and affect the local government system, a matter referred to by the Senator also. The changes will need considerable time to bed-in and to fully demonstrate their long-term value. In the meantime, it is important to keep the position under review and to be open to operational improvements should they be needed.

The Minister for the Environment, Community and Local Government has initiated an evaluation process on the operation of the new structures and arrangements, through a broadly based advisory group, together with a forum for engagement with the Association of Irish Local Government. These processes will examine how the new arrangements are impacting when consideration is taken of financial and non-financial matters at municipal district and plenary council levels. I understand, from the Minister, that the review work will include a survey of what is happening on the ground in local authorities at both the elected member and executive levels. The AILG and other relevant interests will be closely involved in working out the detail on this issue. The review, and the surveys planned to take place, will provide the necessary sound evidence base upon which the Minister can consider the operation, to date, of the revised structures and arrangements, and the ongoing implementation of the reform programme. The workload of local authority members, in the context of the new structures and the associated financial arrangements, will inevitably arise for consideration in the course of the review. The House can be assured that full account will be taken of all views expressed on this matter and

other matters as the work proceeds. Again, I thank the Senator for raising this issue.

Senator Tom Sheahan: I thank the Minister of State for the reply. I have been in discussion with the Minister. I understood he could not be here this morning but that he did want to be. I thank the Minister of State for taking this matter on his behalf.

This issue is not about money. Councillors need other supports. When we say councillors are working between 30 and 40 hours that includes working on Saturdays and Sundays. I am glad that the Minister has initiated an evaluation process comprising a review and surveys to collect evidence. If he asked the councillors or any Senator here they could give him all the evidence that he needs. I do not want the Minister of State to use the term “unintended consequences”. I do not want the enactment of this legislation to lead to us losing the calibre of people who work on the ground. Councillors are the foundation of democracy in this country and are the first port of call for everybody. I want the system enhanced and councillors properly remunerated and supported. It is not all about financial support. I want councillors to be properly supported to carry out their work.

Deputy Damien English: The Minister probably agrees with most of what the Senator has said. I shall convey the Senator’s comments to him also, even though I know that he has made direct contact with him. As most of us here have been a councillor at some stage in our lives, we understand the work of councillors. Most people do not understand the workings of a local councillor and one could not explain it to them either. Most of us in this House probably do recognise that work because we have come through the system. It is important that the workload of councillors is facilitated and increased in a professional way when we can do so. I thank the Senator for raising the issue.

Army Personnel

An Cathaoirleach: I welcome the Minister of State at the Department of Defence.

Senator Paul Bradford: I thank the Cathaoirleach for allowing me to raise this matter on the commencement of Seanad Éireann today. I thank the Minister of State at the Department of Defence, Deputy Paul Kehoe, for being present to listen to my request. I do not expect a miracle solution today. I simply ask him to listen to my submission and see how we can progress this unfortunate case. I do not want to list private names on the record of the Seanad but the gentleman, whose concern is being discussed here, is seated in the Visitors Gallery. He is a former serving member of the national Army and served abroad in a peacekeeping capacity in a very admirable fashion. Alas, since 1989, which is a long time ago, he has suffered greatly as a result of the events of his discharge. To cut a long story short, my assertion to the Minister of State is that the discharge of this Army private was not conducted in an appropriate, proper and official fashion. Since that time he has suffered greatly as a result of that mishap.

The issue has been raised by numerous public representatives, including by me, during the years. The files have been examined by various Ministers, officials and the Ombudsman. I respect all of the investigations that have taken place but, unfortunately, there has been no progress in the case.

The kernel of the matter is the method of discharge of this gentlemen, which took place, I think, in March 1989. The discharge of a person from the armed forces must comply with Army

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regulations. In addition, the medical must be processed and proceeded with in a fashion that is provided for in the regulations. I have read the correspondence received from the Minister's predecessor in 2011. It was pointed out to me at the time that paragraph 1306 of "A" Administrative Instruction Part 12 is the relevant provision in this instance which reads: "[M]edical examination of personnel of the Permanent Defence Force should as far as possible be carried out by a Medical Officer of the Medical Corps and not by a civilian Medical Practitioner. The regulations clearly provide that situations may arise when a discharge medical is not conducted by a medical officer". A review of the files of personnel stationed at Fermoy barracks at the time shows that the gentlemen in question had the medical examination carried out by a civilian practitioner who had completed such examinations previously. What the Minister's letter did not point out, at the time, was that the medical doctor concerned had been retired for four years at the time of the medical examination. We need to reflect on the fact that the medical examination was carried out, in 1989, by a doctor who had retired in 1985.

There is an issue with the fact that all of the medical files and the medical report have "gone missing". I am quoting from the report on the inquiry by the Ombudsman into the case. The Ombudsman pointed out the following about the gentlemen who is with us today:

The claimant is correct in his assertion that an AF332A is required to be completed by the examining medical officer on completion of a pre-discharge medical. However, this document and another document, AF14, the medical examination sheet, are both missing from your file. It is clear that these documents were sent to the directorate of the Army Medical Services and is acknowledged as being received by them in July 1989. However, there is no record of how they were removed or lost. The CMF was copied on two occasions, once for the Chief State Solicitor's office, and once for Dr. Charles McCarthy in Fermoy. However checks that were made, with the recipients of these copies, have revealed that they do not have copies of the missing particulars.

All of that sounds very strange. I am not into the blame game, but in many cases, not just in this case, mistakes were made. I do not want to use the phrase "cover-up", but there is an unwillingness to accept that mistakes were made and there is a hope the problem will go away.

The person concerned was found to be perfectly fit but then was, rather surprisingly, found to be very far from fit by another State agency which was, at the time, the health board and is now, I suppose, the Department of Social Protection. He is now in receipt of a disability payment. It is difficult to accept that one Department claims a person is perfectly fit and another claims they are far from fit and that they should be in receipt of payment because of their illness.

I know that files are simply presented to the Minister of State and he is told what was said before and that it is difficult for him to say something different, but I ask him to reflect seriously on what has happened this person. His medical examination was carried out not by a defence personnel doctor or by a doctor who was in service at the time, but by a retired doctor, who is, unfortunately, deceased. As some of the correspondence acknowledged, obviously no verification or additional information can be obtained from that man. Mistakes do happen and the victim of this mistake left the armed services 26 years ago and has been suffering on a daily basis since. He is not looking to cause consternation, difficulty, chaos, sackings, or anything else, but simply wants to have his case fully reopened, examined and hopefully brought to a just conclusion.

Yesterday in this House I was talking about the proud service of An Garda Síochána. The

Minister of State at the Department of Defence knows from attending to his duties the great work being done by our soldiers at home and abroad. The least they can expect is a little fair play, courtesy and consideration. If a possibility occurs that a mistake has been made - mistakes occur in all walks of life and we all make mistakes - we should be willing to try to resolve those issues. It is not a question of apportioning blame or pointing fingers. I could reflect all day on being paranoid about missing files and documents posted and not received, but that is not going to solve the problem.

I ask the Minister of State to sit down with all sides involved. The gentleman is not represented by any legal person. He is pursuing this on his own bat, very thoroughly, but to no avail, after 26 years. Will the Minister of State see, from a humanitarian perspective, how the file can be reopened and re-examined with the objective of finding a fair and equitable solution? I thank him for attending the House to listen to my presentation. The time available to us here is not adequate because while I will not say the case is so complex, there is so much paperwork and so many documents, traversing various Departments and offices that we would need an hour and a half to go through it fully, which neither of us has. I hope I have given the Minister of State a brief summary.

The kernel of the matter is the medical examination which, through nobody's fault, was not carried out in the fashion required or by the personnel required. I would not like to have my medical history summarised in a five-minute examination by a retired doctor and I am sure if the Minister of State or the Cathaoirleach had a medical problem in the morning, he would not be happy if he went to his local surgery and was given a five-minute examination and then told the examining person had retired four or five years ago. That is where the problem begins and ends. I am asking the Minister of State to deal with the problem humanely and sympathetically.

Minister of State at the Department of Defence (Deputy Paul Kehoe): First, I acknowledge the presence of the person in question in the Visitors Gallery and his service in the Army. He was a member of the Defence Forces for a period of 12 years and I acknowledge the service he gave to the State over those 12 years. He was discharged in June 1989 at his own request. Defence Forces Regulation A10 requires that, when an individual is being discharged from the Defence Forces, a medical examination should be carried out by a medical officer of the Medical Corps.

Situations arise where military medical officers are not available. Paragraph 1306 of "A" Administrative Instruction Part 12, in catering for such situations, provides that "medical examination of personnel of the Permanent Defence Force should as far as possible be carried out by a Medical Officer of the Medical Corps and not by a civilian Medical Practitioner". I am advised that due to the unavailability of a serving medical officer at the time, the former member's discharge medical examination was carried out by a civilian medical practitioner in March 1989. The fact that the discharge medical was conducted by a civilian doctor is not unique as civilian doctors may be used from time to time as circumstances dictate. Notwithstanding the fact that he was examined by a civilian medical practitioner, I am advised that his discharge at his own request remains valid and is in accordance with regulations. His discharge documents were issued to him at that time and he has not been subject to military law since.

A record of the discharge medical examination taking place is contained in the former member's army medical book - LA30 filed on his central medical file. The medical book shows that at the time of his discharge the former member had a medical grade of A1. The medical examination report, AF332, which would have been completed by the doctor during the examination

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is not on file and cannot be located. This matter has been pursued by the person in question over a number of years. In this regard, a review was undertaken by the military authorities in 2012 on foot of representations received on the matter. A further search of military archives was undertaken, but the missing documentation could not be located. The civilian doctor passed away in 1994; therefore, the matter cannot be clarified from that source.

I understand the former member has suffered a hearing loss disability and contends that he is unable to obtain a disability pension due to an inadequate medical assessment prior to his discharge. In this regard, I am advised by departmental officials that an application for a disability pension is not dependent on the result of a medical examination prior to discharge. Under the Army Pensions Acts, a wound, or disability, pension may be granted to a former member of the Permanent Defence Force in respect of permanent disablement due to a wound or injury attributable to military service. Noise-induced hearing loss comes within the scope of this provision. Under the Acts, application for a wound pension must be made to my Department within one year of discharge from the Permanent Defence Force. The person in question was discharged from the Permanent Defence Force in June 1989 and made his first enquiry regarding a pension in respect of disablement in February 1997. As this was outside the statutory time limit, it was not open to the Department to accept an application for a wound pension from him. All personnel on their discharge or retirement from the Permanent Defence Force are provided with information setting out their possible entitlements under the Army Pension Acts and the statutory time limits for the making of applications.

With regard to the pre-discharge medical examination findings it is also noteworthy that assessment standards have changed over the years. The military authorities have advised that in 1989, the prescribed regulatory method of assessing “keenness of hearing” was by whisper or voice test only. Audioscopy standards were not introduced until 1991 and audiometry standards until 1997.

I am advised that the former member has been compensated for his hearing loss disability. He received compensation from the Department in settlement of a civil action in respect of loss of hearing in 1999.

The Department remains satisfied that there was no breach of Defence Forces regulations at the time of the former member’s discharge in 1989. It is now some 26 years since the former member’s discharge and a further review of the discharge procedures would not clarify matters further.

Senator Paul Bradford: I thank the Minister of State for his comprehensive reply, but he has not said anything I have not heard before. I do not want to rehearse what I said earlier but I appeal to him, notwithstanding what he has said, to take a personal interest in the case and try to arrange a substantial meeting between some of his officials and the gentleman in question, which he may be able to attend himself. His knowledge of the Department of Defence, military personnel and serving soldiers in the past three or four years and the active interest he takes in such matters would have to cause him to try to reach out to find a solution.

We are not talking about solutions that cost multi-millions, blaming anybody or rewriting history because what has happened has happened. It is very difficult for the former Army private to accept it. We have to be satisfied with the fact that files have gone missing. We have to be satisfied that his medical examination was carried out not by an Army doctor but by a retired doctor. Owing to all these difficulties, I cannot accept the Minister of State’s view that

a further review would not clarify matters further. We might not be happy with the clarification, however, we need to give it a final thorough examination. I am not expecting it to happen today, tomorrow or next week. In fairness the next six weeks should be a time when Ministers, in particular, can get a break from their duties. Can the Minister of State take a personal interest in this when we come back in the autumn? I am not looking for a miracle solution. Will he try to bring to the table the people who could try to chat with the former soldier and a friend or two - he will not bring barristers or senior counsel - to see if they can try to answer the remaining unanswered questions?

I appeal to the Minister of State to keep the door open on a person who, as he has said, has given 12 years of dedicated service in the line of duty to the State and the people.

Deputy Paul Kehoe: I very much appreciate that all members of the Defence Forces put their lives on the line when they join. I have no doubt that the gentleman in question who was a member of the Defence Forces for 12 years served the country and the State extremely well.

On foot of the Senator's personal representations and interest in this case, I will ask my officials to contact him directly to arrange such a meeting in due course. If the gentleman in question would like to attend the meeting with the Senator, I would have no problem with that. I am not sure if the issue can be progressed but at least the door would not have been closed. We do not close the door on anybody's face on any occasion. We are talking about people and the life of a person with a disability who feels commitments have been reneged upon. I will ask my officials to contact the Senator to arrange that meeting. I am not sure if I will be available, but I will talk to my officials before the meeting and explain to them the Senator's pleadings today. We will treat this case in a very sympathetic manner.

Senator Paul Bradford: I greatly appreciate that and thank the Minister of State.

Sitting suspended at 11.25 a.m. and resumed at 11.30 a.m.

Order of Business

Senator Maurice Cummins: The Order of Business is No. 1, motion re appointment of chairperson of the Garda Síochána Ombudsman Commission, back from committee, to be taken without debate at the conclusion of the Order of Business; No. 2, Personal Insolvency (Amendment) Bill 2014 – Second Stage, to be taken at 12.45 p.m. and adjourned not later than 3 p.m., with the contributions of spokespersons not to exceed eight minutes and those of all other Senators not to exceed five minutes; and No. 3, Environment (Miscellaneous Provisions) Bill 2014 - Committee Stage, to be taken at 3.30 p.m.

Senator Mark Daly: I ask the Leader to organise a debate on the current state of the economy as we will not have much time to discuss the budget provision. The economic policy being pursued by the Government is akin to economic Darwinism because it involves the survival of the fittest. Those who have get richer and those who have not get nothing. Those who are on the outside of our society keep looking in and those who are on the inside of our society keep getting more.

I would also like the Leader to organise a debate on the judicial system. It was widely reported during the week that a non-custodial sentence was applied in an horrific rape case. Some

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69% of people are not satisfied with the way the Judiciary hands down sentences. A gender quota is needed in the Judiciary. Even though we have women at the highest ranks of the justice system, including the Garda Commissioner, some Supreme Court judges and the Attorney General, the judicial ranks are full of white middle-aged conservative men who hand down appalling sentences, unfortunately based to a large degree on prejudice.

Senator Paul Coughlan: That is an outrageous statement.

Senator Mark Daly: They pass judgment on women.

An Cathaoirleach: The Senator has to respect the role the Judiciary plays and the separation of powers.

Senator Paul Coughlan: What we are hearing is unbelievable.

Senator Mark Daly: I am not casting aspersions on any particular judge. I am talking about the judicial system.

Senator Paul Coughlan: The Senator is impugning the whole Judiciary.

An Cathaoirleach: There is no problem with addressing sentencing in general but not a specific case.

Senator Mark Daly: I am talking about sentencing in general.

An Cathaoirleach: No, the Senator is not.

Senator Mark Daly: I am talking about how judges pass judgment on women, people who have been victims of child abuse and minorities. I can give some examples.

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

Senator Mark Daly: I am asking for a debate on the judicial system because there needs to be a gender quota in the appointment of judges. It is as simple as that. We have gender quotas in politics and other areas, but we do not have such a quota in the Judiciary. As I said, some 69% of people are not satisfied with our sentencing regime. There are mandatory sentences for murder, which is as it should be. The same thing should apply in areas like abuse and rape. A two-year sentence was handed down to a principal. I am not identifying anyone.

An Cathaoirleach: The laws made in these Houses are interpreted and implemented by the Judiciary.

Senator Mark Daly: That is why I am calling for a debate on it. Eleven pupils were abused by one principal and he only received a two-year sentence.

An Cathaoirleach: The Senator cannot speak about specific cases.

Senator Mark Daly: These are unidentifiable children.

An Cathaoirleach: They can be identified, as the Senator knows well.

Senator Mark Daly: Another sentence was handed down in the case of a baby who had been abused.

An Cathaoirleach: I call Senator Ivana Bacik.

Senator Mark Daly: I am sorry, a Chathaoirligh, hold on.

An Cathaoirleach: The Senator is completely out of order.

Senator Mark Daly: I am sorry; I am not identifying anyone. I am talking about sentencing in relation to-----

An Cathaoirleach: The people in question can be identified.

Senator Mark Daly: I am generalising about sentences handed down in cases of child abuse.

An Cathaoirleach: The Senator is way over time.

Senator Mark Daly: I am asking that the Minister come to the House and speak about the Judiciary and why it is that someone who is convicted on drugs charges gets seven years, while someone who abuses 11 children gets two. What is wrong with the Judiciary that it allows this? Why is it that when judges are sentencing people to jail for abuse and rape, they talk about the background of the perpetrator and how he came from a good family and how he is held in high regard, yet we do not see maximum sentences that are appropriate to a crime?

An Cathaoirleach: Will the Senator, please, resume his seat?

Senator Mark Daly: I ask the Leader to arrange for a debate on a gender quota in the Judiciary.

Senator Ivana Bacik: The Senator might look at the Joint Committee on Justice, Defence and Equality and the work we have been doing. In fact, we had a debate on appointments to the Judiciary in the past few months, at my initiation, looking at the work of the Judicial Appointments Advisory Board and gender breakdown among the Judiciary. I tabled a matter on the Adjournment on this issue a short time ago. In recent years we have had a significant increase in the proportion of women in the Judiciary. I ask the Senator to look at the figures. Anyone who is interested in this area, before he or she starts shouting about it, should look at the figures. Up to one third of the Judiciary are women at different levels and in different courts. Certainly there are some imbalances, but it is a huge improvement on the number of women in the Judiciary just ten years ago. In 2003, my colleagues and I in Trinity College Dublin produced a major report, the first and only one of its kind in Ireland, entitled Gender InJustice, looking at the gender breakdown among the legal profession and among the Judiciary. At that point we were concerned about the low levels of women among the Judiciary, but I think that issue has been addressed in more recent appointments and we have seen a much better balance in members of the Judiciary.

With regard to sentencing in rape and sexual offence cases, of course, there has been concern. I am one of the people who expressed concern at some recent reports. It is important to note that since 1993 there has been a provision whereby the Director of Public Prosecutions may apply to review a sentence handed down on grounds of undue leniency. We have seen that review mechanism applied in quite a number of cases where concerns have been expressed, and sentences have been altered at the Court of Criminal Appeal on the basis of reviews. The Director of Public Prosecutions has 28 days from the handing down of a sentence to initiate the review procedure. In any current case, it would be wise to remember that review process may

well be utilised.

In the justice committee, we have taken a stand against mandatory sentences, as has Rape Crisis Network Ireland, regarding the maximum sentence appropriate for rape, which is life imprisonment, and pointed out that judges should have discretion. I do not agree with mandatory sentencing for drugs offences either, with the presumptive minimum sentence. Certainly a debate on sentencing would be useful, but the Joint Committee on Justice, Equality and Defence is currently looking at judicial appointments and has done some work on the issue already.

I commend all those involved in yesterday's debate on the Gender Recognition Bill 2014. It was a good day when the Bill was finally passed in both Houses and came back to the Seanad for us to agree Report Stage amendments. The Bill changed significantly and was improved during its progress through both Houses of the Oireachtas, particularly during the Seanad debate. As the Minister for Social Protection, Deputy Joan Burton, and the Minister of State at the Department of Social Protection, Deputy Kevin Humphreys, pointed out, the Seanad has been instrumental to the positive changes made to the Bill. Last week I organised a seminar in Trinity College Dublin at which Senators David Norris and Katherine Zappone were speakers, with Ann Louise Gilligan, Professor Mark Bell from Trinity and Brian Sheehan from GLEN. We talked about the positive impact that legal advocacy - through particular cases, but also in the form of legislation and referendums - has had on the progress of LGBT rights. Yesterday's Gender Recognition Bill marks another stage in the development and progress of rights, particularly for transgender persons. I look forward, as other colleagues will, to the outcome of the two-year review that was built into the Bill. That is the outcome of an amendment from the Seanad, and it strengthens the Bill because it will allow us to deal with issues that were raised during the debate and are not addressed in the Bill.

Senator Rónán Mullen: On Tuesday we saw the report on farm incomes based on the Teagasc national farm survey 2014. The findings are shocking. They show that more than 25,000 farm households are classed as economically vulnerable - in other words, the farm is not generating enough income to support the family and neither the farmer nor the spouse has an off-farm job. The report shows graphically that most of the financially unviable farms are concentrated in the Connacht-Ulster Border area, with up to 45% in Cavan, Donegal, Monaghan, Sligo, Leitrim and Roscommon. The human cost is that 7,000 farm families are not making enough money to allow them to get by or to stay in business in the medium term. In western counties such as Galway and Mayo, only 16% of farms are deemed to be financially viable in the medium term, by far the lowest level in the country. I have had the opportunity to go around many of the areas identified in the Teagasc report. Rural poverty is an issue that is not adequately addressed by the Government. The economic collapse resulted in a collapse of other sources of income for farmers, particularly off-farm employment in the counties worst affected. In Galway it is predominantly dry stock farming. The Teagasc survey shows that dairy farms in the south and east of the country enjoy higher levels of farm viability, whereas cattle and sheep farms in the west are not able to support their farmers' families. The reality of poverty for rural families is often hidden from view. It rarely makes the headlines but its effects are devastating on communities. We need an urgent debate on falling farm incomes and rural poverty.

A delegation from the European Parliament gender equality committee, FEMM, will be visiting Dublin in September. Its draft itinerary shows that it is meeting the Abortion Rights Campaign and the National Women's Council, and then the Minister for Justice and Equality. It would be highly inappropriate for an EU parliamentary committee to take a side in a domestic debate on abortion, particularly when that issue has nothing to do with this country's EU mem-

bership, and in view of our constitutional protection for the unborn child. As matters stand, this committee plans to meet abortion advocates without meeting NGOs and human rights groups who defend the rights of women in pregnancy and their unborn children. That is very troubling and I intend to raise it again unless the committee changes its partisan stance. I ask the Leader to intervene with the Minister and make the point that there can be no question of the Minister for Justice and Equality granting a meeting in such circumstances.

This is happening while Planned Parenthood, one of the largest abortion industry groups, which has funded the Irish Family Planning Association to the tune of €500,000 in the past three years, has been exposed in a very disturbing and disgusting video released which depicted one of its senior officials casually discussing the shipment of aborted children's body parts to research labs in exchange for money. This was a sting operation by undercover activists. It showed Planned Parenthood's senior director of medical research talking about the sale of body parts in a glib and an horrific way which put ISIS in the shade.

An Cathaoirleach: Is the Senator seeking a debate on the issue?

Senator Rónán Mullen: Yes. I ask Members of this House and people elsewhere who talk glibly about deleting the eighth amendment to the Constitution to consider the reality of abortion and who is involved in it. I urge Members, although it is difficult, to view this chilling video which shows the terrible callousness and cruelty of an industry based on the destruction of human life. As parliamentarians, we should call on the Irish Family Planning Association to cut all links with Planned Parenthood International. It is a rogue organisation which is apparently engaged in an illegal criminal conspiracy in the United States.

An Cathaoirleach: The Senator is completely out of order.

Senator Rónán Mullen: It is simply not appropriate for a tax-funded group in this country to be associated with such murderous people.

An Cathaoirleach: I ask the Senator to resume his seat. I call Senator Jim D'Arcy.

Senator Ivana Bacik: I object in the strongest possible terms to the use of that language by the Senator in respect of a very respected NGO, the Irish Family Planning Association.

Senator Rónán Mullen: The Senator's credentials on the issue of the protection of human rights are simply appalling. I am afraid her words carry no weight.

Senator Ivana Bacik: The Senator is entitled to his opinion. I am afraid his credentials on the issue of-----

Senator Jim D'Arcy: I ask the Leader to invite the Minister for Education and Skills to come into the House in the autumn to outline the progress made on junior cycle reform. I was very pleased yesterday when she announced that agreements on all aspects of that reform had been concluded with the TUI and the ASTI. She said these agreed proposals would be put to a ballot of members in September.

The reformed junior cycle will deliver a modernised curriculum across all subjects. There is now a career path for everyone through education, allowing us to take the elitism out of education and training. Colleges such as O'Fiaich Institute of Further Education in Dundalk and the Drogheda Institute of Further Education offer a wide range of education and training which, with the existing and new apprenticeships coming on stream, will be a new dawn for those chil-

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dren and students who do not necessarily want to study for a university degree. We can have a system in which everybody is valued in education and where all children can have enhanced self-esteem. It would be useful to have the Minister for Education and Skills in the House in the autumn.

Senator Feargal Quinn: I wish to say a few words on the points raised earlier by Senator Rónán Mullen on farm income and the Teagasc report. We are not giving nearly enough attention to this area. I read recently that the United States is concerned that it is creating jobs that will not be available in the next generation. An example given was that at the beginning of the 20th century 50% of the US workforce worked in agriculture but only 2% work in agriculture now. We must ensure that when we concentrate on creating jobs, they are jobs that are sustainable in the long term.

We have to remember - Senator Jim D'Arcy touched on this - when we talk about education that we do not talk solely about academic education. We must talk about what the Americans call STEM - science, technology, engineering and mathematics. The concentration has to be on these areas because it is technology which will enable us to have jobs in the future.

The air ambulance service is an item which has been brought up in this House in the past. There was grave doubt as to whether the service would be maintained, but the Government announced yesterday that the service is to be continued, which is good news. This is something that we have realised is important enough to ensure investment into it and the decision was made. Congratulations to the Government for agreeing to this. It is a wonderful achievement to hear that a life has been saved because the air ambulance was able to get the individual involved to hospital quickly enough.

Senator Michael Comiskey: I join my colleagues when they talk about farm incomes and the price of milk. I welcome the European Commission's decision to intervene in the price of milk. The price of milk has dropped from 40 cent a litre to 28 cent a litre. Yesterday the Commission decided it would set a floor price for intervention. This floor price is currently 21 cent a litre. It is important that it be raised closer to 28 cent or 30 cent to make sure there is an income for farmers. Since quotas were abolished farmers made huge investments in the past six to 12 months and we do not want to see their backs now put to the wall after making those investments. This is an important move by the Commission. Milk production was at its highest in June and by setting an intervention price it will make sure these farmers have an income into the future.

Quite a number of young farmers have applied to Teagasc to do a green certificate course, which is presenting some difficulties. Teagasc states it does not have enough staff to carry out the courses, but it is very important that every measure be put in place to enable those farmers to complete their course by October 2016 or the farmers will be penalised under the direct payments system. This is an issue for Teagasc to take up and make sure these young farmers get a chance to take the course.

Senator Trevor Ó Clochartaigh: Cé go bhfuil na Teachtaí Dála ag fáil faoi réir le dul ar a gcuid laethanta saoire, tá ábhar gur ceart dúinne déileáil leis sular mbíonn briseadh againne. The Deputies may be getting ready to pack up and go off on their holidays but an issue has come to the fore which the Seanad might be able to deal with. So far, 512 women have signed up for the Magdalen redress scheme. In order to sign up, the women were required to indemnify the State. They did this on the understanding the Government would honour in full the recommen-

dations made in the Quirke report which we debated in this House.

In recent weeks women based in Ireland have begun to receive their long promised medical cards only to find that the cards are inadequate for their health needs. The cards do not entitle them to the enhanced range of services they were promised when they signed up and that we were promised in this House. No provision has been made for the survivors who reside outside Ireland, all of whom are entitled to redress. If all of this was not problematic enough the actual cards issued to the women in recent weeks clearly identify them as survivors of residential institutions, which is a breach of their privacy. These women are mainly elderly. They have been and are, sadly, still being treated appallingly. They have no time to waste. Some of the women in question have passed away since the tearful apology to them made by the Taoiseach. They deserve the best we can give them immediately, not when our politicians return from the summer holidays. We need to have a debate with the Minister on this issue as soon as possible.

There are calls for the Government to introduce emergency legislation to bring the health care provisions, under the Redress for Women Resident in Certain Institutions Act, in line with those provided for under the Health (Amendment) Act 1996, as recommended in the Quirke report. We in opposition feared this and highlighted it when the legislation was coming through. This needs to be done immediately. I ask that the women concerned not be left to hang in uncertainty while the Dáil goes into the summer recess, that we use the Seanad to help them to get what they deserve and to offer the proper redress as soon as possible. I call on the Leader to ask the Minister to come to the House.

Senator Michael Mullins: I support Senator Jim D'Arcy in his call for a debate with Minister for Education and Skills, Deputy Jan O'Sullivan, in the upcoming session. I welcome the progress that has been made in the reform of the junior cycle and the fact that agreement was reached with all unions. The long overdue junior cycle reform can now proceed as a matter of urgency.

The air ambulance service is being put on a permanent basis, which is a very welcome development, particularly for people living along the west coast. It will continue to be based in Custume Barracks in Athlone. The Minister for Health, Deputy Leo Varadkar, and the Minister for Agriculture, Food and the Marine, Deputy Simon Coveney, announced yesterday that the service would be established on a permanent basis. The valuable service ensures people who are seriously ill and in remoter areas of the country have timely access to the appropriate high quality clinical care they require. The National Ambulance Service and the Air Corps have operated the service on a pilot basis since 2012. There was concern recently that it might not be put on a permanent basis. With the Irish Coast Guard providing backup support the service has completed over 1,055 missions to date. Over 300 of these missions involved people with serious heart conditions who needed to be transported to a primary care centre within 90 minutes. This service is invaluable to many people and it is very welcome news that it is to be continued on a permanent basis. I have no doubt that it will be evaluated for ongoing effectiveness, but it is now a permanent fixture as part of the improving health service. I compliment the Ministers involved in bringing this to fruition.

Senator Jim Walsh: I refer to the proposition put before the committee at the 29th session of the UN Human Rights Council.

The proposition was on the protection of the family and its contribution to the realisation of the right to an adequate standard of living for its members, particularly through its role in

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poverty eradication and achieving sustainable development. “Family” was not defined, it just refers to the protection of the family. Happily that motion was supported by a majority of the 47 members of the UN Human Rights Council, with 29 countries voting in favour, 14 against and four abstaining. Sadly, Ireland was one of the countries which voted against it.

There is a need for some accountability of people who represent Ireland abroad on these issues. They should be in some way accountable to Parliament for decisions and positions they take. Often they are taken from the point of view of self-interest in arrangements within the organisation as part of the cut and thrust which we often see in politics. People look to chair meetings and deliberations. It is unacceptable that we would put ourselves in such a position. Will the Leader arrange to have the Minister for Foreign Affairs and Trade come to the House at an early stage to explain to the people, as well as the Seanad, why Ireland would consider voting against a family motion which is clearly one that would seem to be representative of the views of everyone, regardless of what way they voted in the recent referendum?

I will very briefly refer to the comments made by our colleague Senator Rónán Mullen on Planned Parenthood. This morning I forwarded to each Member of the House a video clip illustrating the points he was making. I will not make any comment on it other than to say I urge Members to look at it and come to their own conclusions. In particular, I ask those who have a different disposition from me and who may be pro-abortion to look at it because it raises serious questions about the manner in which those concerned carry out abortions but also the way they then take body parts and sell them. Unfortunately, if Members do not look at it, advocates of abortion such as *The Irish Times*, RTE, Amnesty International and the United Nations will not illustrate what is going on behind the scenes. I urge Members to do this.

An Cathaoirleach: The Senator is way over time.

Senator Jim Walsh: I ask that when we return we have a debate on this issue and thank the Cathaoirleach for his indulgence. I ask that we have a debate on this video and issue when we return after the recess.

Senator Paul Coghlan: Senator Mark Daly sunk to a new low this morning. What he said about the respected Judiciary was outlandish and outrageous.

An Cathaoirleach: I ask the Senator not to comment on something someone else has said in the House. Does he have a question for the Leader because I have ruled on that issue?

Senator Paul Coghlan: Yes, I have. I respect the Cathaoirleach’s ruling in respect of what the earlier speaker said.

Senator Mark Daly: Just because the Senator knows and was involved in appointing so many of them does not mean that he has to stand over their judgments-----

Senator Paul Coghlan: I was so glad it was followed by Senator Ivana Bacik who was able to refer to the good work of the justice committee-----

Senator Mark Daly: -----when the perpetrators receive virtually no sentence and in some cases none at all.

An Cathaoirleach: I ask the Senator to respect the Chair, the Chamber and other Members of the House.

Senator Mark Daly: Senator Paul Coghlan started it.

An Cathaoirleach: The Senator has spoken already.

Senator Mark Daly: I know, but he started it. He hardly called my name in not wanting me to reply.

An Cathaoirleach: I ask the Senator to respect the Chair. Does Senator Paul Coghlan have a question for the Leader?

Senator Paul Coghlan: Senator Ivana Bacik referred to the very significant increase we have had in recent years in the appointment of so many lady judges at all levels in the Courts Service. When individual sentences and sentencing were spoken about by the acting Leader of the Opposition this morning, cases were identifiable, as the Cathaoirleach pointed out. We cannot speak about individual cases, which I respect. The behaviour of the Member opposite this morning is a disgrace to his party and this Chamber.

An Cathaoirleach: I have ruled on that issue.

Senator Mark Daly: It is as simple as this, Paul. The point I was making was white, middle aged, conservative men who were passing judgement on women, minorities and victims of child abuse should not be predominant in the Judiciary.

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

Senator Mark Daly: That was the point I made.

An Cathaoirleach: I ask the Senator to respect the Chair.

Senator Fidelma Healy Eames: Follow that. Appalling outrage on both sides.

Senator Paul Coghlan: The Senator is some example.

Senator Fidelma Healy Eames: I thank the Cathaoirleach for his indulgence. I will share an incident one might consider local but it is a symptom of the health system. On Monday there were 81 patients on trolleys in University Hospital Galway. One of those patients has severe dementia and she was on a trolley for two days. She did not even know where she was. Her husband, who is almost 80 years of age, told me he did not want any special treatment from me. He was not even looking for a bed from me for her, but he said he had one message he wished me to bring to the Parliament, which is that the patient must come before the system.

We are now asking for debates for after the recess. This problem will not go away over the holidays. I ask to have the Minister for Health, Deputy Leo Varadkar, in this House for a serious debate on the health system. Some 70% of all healthcare costs come from five chronic illnesses, namely, heart disease, stroke, diabetes, chronic lung disease and cancer. Many of the admissions result from exacerbation of these chronic illnesses. If they were treated in the community at earlier stages, through investment in our primary health care systems, we would have an answer to the problems in emergency departments. I know that we are looking to extend the emergency department in Galway, but that will not get to the root of the problems. I ask the Leader to honour that debate in the autumn.

I wish to follow up with one key point. I am disturbed and I am sure everyone else in this House is disturbed, whether they are pro-choice, pro-abortion or pro-life, at the thought of the

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sale of baby parts from abortions in the United States by Planned Parenthood. I have one question. The Irish Family Planning Association has received €500,000 from Planned Parenthood in the past three years. Does the Irish Family Planning Association support the sale of baby organs by Planned Parenthood? Will the Leader find out the answer to that question? This link must be explained. I expect outrage on this issue. I am terribly disturbed, first, at the thought of the baby's life being taken because the baby is aborted and, second, that the baby becomes a commercial commodity. Let us stand up for humanity and the right to life of the unborn.

Senator Mary Moran: I would like to raise the issue of school transport for students with a disability. I received word through a parliamentary question yesterday evening that a child with a disability who required considerable attention had been refused free school transport because he was not attending the nearest school deemed by the Department to be resourced to meet his educational needs. He is, therefore, not eligible for free school transport. I am further informed that the family can now apply for school transport on a concessionary basis but this is subject to terms and conditions, including the availability of spare seats or the payment of an annual charge. This child is due to start school in September. While the school is not the nearest school, it has been determined and deemed to be the best school to suit his needs by, most importantly, his parents and also the therapists in the local disability services. I raised the query with the Department immediately on being contacted by the family. I am disappointed with the response.

An Cathaoirleach: Is the Senator seeking a debate on the issue of school transport?

Senator Mary Moran: I understand the topic is more suited to a Commencement debate but as the update on the matter only came through yesterday evening, the deadline had passed. I have spoken to Bus Éireann and there does not appear to be an issue on its end about transporting the child. It is now a matter for the Department to apply common sense to the issue. I have had similar issues.

An Cathaoirleach: We cannot raise specific issues on the Order of Business. The Senator will have to find another way of raising it.

Senator Mary Moran: As I said, I have raised similar issues for others. As we are coming to the end of the school year, parents need to know at this stage of the year how their children will get to school in September, particularly children with special needs. They need to know what is available. Any child attending a normal primary or secondary school will know.

Senator Trevor Ó Clochartaigh: Not if the Labour Party is dealing with it.

Senator Mary Moran: We need to set this system in place for children. It is a question of common sense and the Department having a look at it.

Senator Trevor Ó Clochartaigh: The Senator should talk to her own Minister.

Senator Mary Moran: The Department needs to look at it. I am calling for a system to be put in place whereby people would know at the end of June, when they were going on holidays, exactly how their children would get to school in September.

Senator Colm Burke: I am actually disappointed with the acting Leader of the Opposition for raising the matter he raised this morning relating to judges. It is totally-----

An Cathaoirleach: I have ruled on that issue.

Senator Colm Burke: I am aware of that.

An Cathaoirleach: The Senator is not reopening the debate. Does he have a question for the Leader?

Senator Mark Daly: Is Senator Colm Burke happy with the sentencing that judges are handing down to perpetrators of child abuse and rape-----

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

Senator Colm Burke: I have a question for the Leader and will deal with it. I think it was a disgraceful comment.

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

Senator Colm Burke: It was a disgraceful comment. Senator Mark Daly is a disgrace.

An Cathaoirleach: Please, Senator.

Senator Colm Burke: Senator Mark Daly is an absolute disgrace.

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

Senator Mark Daly: I am sorry. If Senator Colm Burke is happy with the sentencing, that is fine. My concern is what male judges are handing down to those who committed rape, as we saw this week.

An Cathaoirleach: Please, Senator.

Senator Colm Burke: There is an appeals process available. Senator Mark Daly does not know the details of how the courts system works.

Senator Mark Daly: The perpetrators who are also white and from-----

Senator Colm Burke: The Senator does not know how the system works.

Senator Mark Daly: "They come from respectable families" - that is what judges say.

An Cathaoirleach: Will the Senator respect the Chair?

Senator Colm Burke: I will respect the Chair.

Senator Mark Daly: "It was out of character" - that is what judges are saying on behalf of the perpetrators before they hand down non-custodial sentences.

An Cathaoirleach: Will Senator Colm Burke resume his seat?

Senator Colm Burke: Senator Mark Daly has made disgraceful comments.

Senator Mark Daly: They think handing over €15,000 is enough.

Senator Catherine Noone: Is it not Senator Mark Daly who should resume his seat?

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

Senator Colm Burke: I do.

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Senator Jim Walsh: I have a point of order to raise.

An Cathaoirleach: What is the Senator's point of order?

Senator Jim Walsh: I will ask you to rule on it, but I do not believe it is in order for a Member to refer to another Member as a disgrace, which has just happened.

An Cathaoirleach: I did not hear that comment.

Senator Mark Daly: You did not hear it. Is that so? He said it more than once.

Senator Jim Walsh: It is on the record and I think he should be asked to withdraw it.

An Cathaoirleach: There were two Senators at it.

Senator Jim Walsh: I accept your difficulty.

Senator Mark Daly: Ask him whether he said it and whether he will repeat it.

Senator Jim Walsh: I accept that Members have been unruly and the Cathaoirleach's difficulty, but the Clerk and others would have heard it and the Cathaoirleach should be advised about what was said.

An Cathaoirleach: I have ruled on the issue. I have asked Senator Colm Burke whether he has a question for the Leader.

Senator Jim Walsh: May I finish? I am asking you to rule that the Member be asked to withdraw the comment. That should not happen in the Chamber.

An Cathaoirleach: I did not hear the comment.

Senator Mark Daly: Ask him to repeat it, because I am sure he will.

An Cathaoirleach: I did not hear the comment, but if the Senator made the comment, I ask him to withdraw it. Now, does Senator Colm Burke have a question for the Leader?

Senator Colm Burke: Yes, I do. It relates to-----

Senator Mark Daly: I am sorry, a Chathaoirligh, but is the Senator going to withdraw the comment?

An Cathaoirleach: I put it to the Senator that if he made the comment, he should withdraw it.

Senator Mark Daly: Is he going to withdraw the comment?

Senator Jim Walsh: On a point of order, a Chathaoirligh, will you ask the Senator whether he made the statement? Let him say whether he made it.

An Cathaoirleach: I have ruled on the issue and told the Senator that if he made the comment, which I did not hear, he should withdraw it.

Senator Jim Walsh: He has not said whether he made it. You might ask him to withdraw it.

An Cathaoirleach: Will the Senator, please, resume his seat?

Senator Mark Daly: Until the Senator answers the question, we are not going to proceed.

Senator Paul Coghlan: A Chathaoirligh, I have a point of order to raise.

Sitting suspended at 12.15 p.m. and resumed at 12.20 p.m.

An Cathaoirleach: I call on the Leader to reply.

Senator Maurice Cummins: Thank you, a Chathaoirligh-----

Senator Mark Daly: I am sorry, a Chathaoirligh, Senator Catherine Noone would like to say something.

An Cathaoirleach: I have called on the Leader to reply.

Senator Catherine Noone: I had indicated that I wished to speak.

An Cathaoirleach: I have called on the Leader to reply.

Senator Mark Daly: Senator Colm Burke should be afforded an opportunity-----

Senator Catherine Noone: That is very unfair.

An Cathaoirleach: I have ruled on the matter.

Senator Mark Daly: I am sorry, but two other Senators would like to speak.

Senator Catherine Noone: I was here for the start of the Order Business to make a contribution, not to be controversial to make a headline. I want to speak.

An Cathaoirleach: I am asking the Leader to reply.

Senator Catherine Noone: That is very unfair.

Senator Mark Daly: If Senator Colm Burke would like to clear the record-----

An Cathaoirleach: We are out of time. It may well be unfair, but there was a lot of disorder in the House.

Senator Mark Daly: I did not cause it. Senator Colm Burke caused it.

An Cathaoirleach: Time is up.

Senator Catherine Noone: I wanted to sympathise on the death of a colleague.

An Cathaoirleach: Will the Senator, please, resume her seat?

Senator Catherine Noone: It is very unfair.

Question put: "That the Order of Business be agreed to."

The Seanad divided: Tá, 23; Níl, 17.	
Tá	Níl

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Bacik, Ivana.	Byrne, Thomas.
Brennan, Terry.	Craughwell, Gerard P.
Burke, Colm.	Crown, John.
Coghlan, Eamonn.	Cullinane, David.
Coghlan, Paul.	Daly, Mark.
Comiskey, Michael.	Healy Eames, Fidelma.
Conway, Martin.	Heffernan, James.
Cummins, Maurice.	Mooney, Paschal.
D'Arcy, Jim.	Mullen, Rónán.
Hayden, Aileen.	Norris, David.
Henry, Imelda.	Ó Clochartaigh, Trevor.
Higgins, Lorraine.	Ó Domhnaill, Brian.
Keane, Cáit.	O'Brien, Darragh.
Kelly, John.	O'Donovan, Denis.
Landy, Denis.	Quinn, Feargal.
Moloney, Marie.	Walsh, Jim.
Moran, Mary.	White, Mary M.
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
O'Brien, Mary Ann.	
van Turnhout, Jillian.	
Whelan, John.	

Tellers: Tá, Senators Paul Coghlan and Aileen Hayden; Níl, Senators Mark Daly and Fidelma Healy Eames..

Question declared carried.

Appointment of Chairman of Garda Síochána Ombudsman Commission: Motion

Senator Maurice Cummins: I move:

That Seanad Éireann, noting that, in order to fill a vacancy caused by the resignation of Mr. Simon O'Brien as the chairperson of the Garda Síochána Ombudsman Commission, the Government on 30 June 2015 nominated Judge Mary Ellen Ring for appointment by the President to be a member of the Ombudsman Commission and to be its chairperson, recommends, pursuant to section 65(1)(b) of the Garda Síochána Act 2005, that she be appointed by the President to be a member and to be chairperson of the Ombudsman Commission.

Question put and agreed to.

Business of Seanad

Senator David Norris: There is usually an Order of Business and for the Cathaoirleach to cancel it peremptorily is very unusual and an affront to democracy.

An Cathaoirleach: There was an Order of Business and the time had expired. The time set for the Order of Business is 55 minutes.

Senator David Norris: It had not expired.

An Cathaoirleach: It had expired.

Senator David Norris: It was the time the Cathaoirleach set for a sos that caused it to expire.

Senator Fidelma Healy Eames: On a point of order, the Leader did not respond to the Order of Business.

Senator David Norris: May we hear the Leader's response to the Order of Business, please? It is a matter of the ordinary process of the business of the House.

Senator Fidelma Healy Eames: The Order of Business was not concluded.

An Cathaoirleach: I have ruled on the matter.

Senator David Norris: The Leader's response does not eat into the time allocated for the Order of Business. We demand the Leader's response to the truncated Order of Business. Can we hear it, please?

An Cathaoirleach: The Order of Business was concluded.

Senator Rónán Mullen: Can the Leader propose an amendment to the Order of Business to allow him to speak for a few minutes and address the issues raised earlier?

Senator David Norris: It really is outrageous to have an Order of Business and for the Cathaoirleach not to permit the Leader to reply. That is an abuse of democracy. I am asking the Cathaoirleach to use his experience and wisdom to permit the Leader to reply.

An Cathaoirleach: The Order of Business was concluded.

Senator David Norris: That does not matter. The Leader should reply. The Cathaoirleach is censoring the Leader of the House. That is very dangerous.

An Cathaoirleach: There was a lot of disorder.

Senator Mark Daly: The Leader did not want to respond to the Order of Business.

Senator David Norris: It is a disgrace.

Personal Insolvency (Amendment) Bill 2014: Second Stage

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

Minister of State at the Department of Justice and Equality (Deputy Aodhán Ó Ríordáin) : I am very pleased to be before the House to present this Bill which provides for

important changes to the Personal Insolvency Act 2012 arising from the Government's initiative of 13 May to strengthen support for people in mortgage arrears. The main reform contained in the Bill is the new provision for independent review by the courts where a proposal for a personal insolvency arrangement, PIA, including arrears on the borrower's home mortgage, has been refused by creditors.

Senators will recall that the PIA is a debt solution provided under the Act for dealing with secured debt such as home mortgages, and that, while respecting the rights of creditors, the PIA provides significant statutory protections for the debtor. These include keeping the debtor in his or her home where reasonably possible, the right to a reasonable standard of living while insolvent, and protection against any unilateral change to the arrangement. These statutory protections, which were debated at length by the Oireachtas, are not necessarily available to borrowers who enter an informal arrangement with their lenders, or who enter bankruptcy. That is why effective and early access to a PIA, where feasible, is an option of central importance for people struggling with long-term mortgage arrears.

The new court review is a key reform, designed to ensure fair and sustainable debt restructuring proposals are upheld for borrowers who want to work their way out of debt with a view to keeping their homes. It will protect distressed mortgage holders from any unfair lack of cooperation by their banks, while respecting the legal rights of creditors. In particular, it will ensure a better balance between the interests of secured lenders and the interests of those facing unsustainable mortgages. It will also be accompanied by flanking support and information measures aimed at ensuring that those in serious mortgage debt can access practical help quickly and effectively.

The second important proposal in the Bill is to increase the level of debt which may be included in a debt relief notice, DRN, from the current limit of €20,000 per person to €35,000. Senators will recall that a DRN is a debt solution provided under the Act for an insolvent person who is on a very low income, who does not own a property or any significant assets, and is weighed down by debts which he or she has no prospect of being able to pay. Another amendment removes a possible bar which might prevent a home owner who has entered a mortgage restructure from accessing a PIA if the restructure proves unsustainable.

The third important element in this Bill provides more detailed powers for the Insolvency Service of Ireland, ISI, in respect of promoting awareness and understanding of matters related to personal insolvency and bankruptcy and providing information and analysis of their operation in practice. Other provisions develop the ISI's supervisory powers regarding personal insolvency practitioners, in line with best practice regulatory standards.

The Bill contains a number of technical amendments of a prudential or clarifying nature which I will come to later in my remarks.

By way of background to the new court review, I would like to return to the broader context of insolvency policy and its interaction with the wider question of mortgage arrears. Senators will recall that the Statement of Government Priorities 2014-2016 underlined that high levels of personal debt continue to threaten to exclude thousands of individuals and families from the economic recovery. In its report on mortgage arrears last July, the Oireachtas Joint Committee on Finance, Public Expenditure and Reform referred at recommendations 46 and 47 to concerns about the potential costs of personal insolvency solutions, noted "the public refusal of some financial institutions to engage in any write-down of secured debt", contrary to the Government's

policy in enacting the insolvency legislation, and recommended that the insolvency legislation be reviewed to mitigate against such a practice. I am pleased to say the Minister for Justice and Equality, Deputy Frances Fitzgerald, was able to respond on the issue of fees and costs by providing for a complete waiver of all fees payable to the insolvency service or the courts in respect of insolvency applications, with effect from last October.

On the issue of engagement by financial institutions, Senators will remember that the Taoiseach, the Tánaiste and the Minister, Deputy Frances Fitzgerald, met the insolvency service and insolvency practitioners in early February this year, and that the Taoiseach spoke publicly after that meeting about the need for banks to co-operate more effectively with the personal insolvency regime. In her Second Stage speech in the Dáil on the Bill last February the Minister welcomed the gradual increase in the number of applications for personal insolvency solutions under the Act. She added that she wanted to see a more fundamental change in the overall number of solutions reached under the Personal Insolvency Act.

The ISI statistics for quarter two of 2015 show 384 new personal insolvency arrangement, PIA, applications and 146 concluded PIAs during that quarter, with both rates continuing to increase steadily. However, these numbers remain very small compared with the numbers in serious mortgage arrears. The proportion of PIA proposals approved by creditors is also increasing, and stands at 73% for quarter 2 of 2015. Nevertheless, there remains persistent evidence that some secured creditors have an acknowledged policy of refusing to consider PIA proposals or wide categories of PIA proposals despite an apparent commercial rationale, and that consequently no proposal is ever made in many cases which would otherwise be considered as suitable. This is a serious concern and the need for the new court review arises against this overall background.

In the past year we have seen a very welcome decline in the number of home mortgages which are in arrears, particularly in those in short-term arrears. On the other hand, some 38,000 principal dwelling house, PDH, mortgage accounts remain in long-term arrears exceeding 720 days. This substantial group is a source of major concern, as they are likely to be at imminent risk of losing their homes to repossession. The latest Central Bank statistics suggest a slight recent reduction, but we will need to see a very significant fall in these numbers in the coming year.

There has also been a significant increase in the number of mortgages which were formerly in arrears, but which have been restructured by an agreement between the mortgage lender and the borrower. However, a cautionary note also has to be sounded regarding a proportion of these informal mortgage restructures which may not be sustainable and where the borrower has not been returned to solvency and risks falling back into arrears. There has also been extensive public debate and concern about recent increases in the number of repossession proceedings issued against borrowers' homes. While the number of actual repossessions remains low, it is a core Government priority that repossession of a borrower's home should remain an option of last resort.

Clearly not all insolvent debtors are suitable for a PIA. Each case must be assessed fairly on its own facts. There will be cases in which the borrower does not have the financial capacity - even with mortgage restructuring - to make the necessary level of repayments. Such cases cannot be resolved via personal insolvency legislation, and will need alternative solutions such as expansion of the mortgage to rent scheme.

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In tandem with this reform to the Personal Insolvency Act, the Government is co-ordinating intensive work across all relevant Departments and agencies to deliver on the wider elements of the mortgage arrears initiative, including arrangements to deliver assistance and advice through the Money Advice and Budgeting Service, MABS, and the Insolvency Service of Ireland in the courts when repossession actions are taking place; enhanced and expanded arrangements for mortgage to rent; and a nationwide information and publicity campaign aimed at assisting those in serious mortgage arrears to engage with their lenders and with the courts where repossession proceedings have been initiated, coupled with an undertaking that, when they do engage, co-ordinated services will be there to assist them. The access and support measures are being implemented across the system at present, and will be in place for September.

I turn now to the specific measures contained in the Bill, first to the new court review contained in section 21. Currently, under the Act, a proposed PIA is voted on by the creditors and must be approved by the necessary majorities of secured and unsecured creditors. If the creditors reject the proposal, there is no provision for a review or appeal. The new court review will change this situation. It applies to a PIA proposal which has been rejected by creditors; and which includes a mortgage on the borrower's home which was in arrears on 1 January 2015 or is a restructure of arrears from before that date. The date of 1 January 2015 is to avoid any negative impact on new mortgage lending. The proposal focuses on home mortgage arrears due to the priority of this particular group, and because the public policy issues arising in this context provide a particularly strong justification for rebalancing the rights of secured creditors.

The personal insolvency practitioner, PIP, who prepared the proposal must confirm there are reasonable grounds for a review and that a majority of one class of creditors has voted for the proposal. This requirement for an element of creditor support reflects the approach used in company examinership, which was already signalled in the Government announcement on 13 May. However, it is not limited to the classes - secured debt, unsecured debt, overall debt - which voted at the creditors' meeting. It is a much lower and more flexible requirement. In the context of a court review, a "class of creditors" is widely defined and may consist of a single creditor, or of more than one creditor with similar interests. This flexible test will facilitate finding a solution which is fair and reasonable for all concerned, as it does in examinership, and the court will ensure that it is applied fairly.

The Bill also provides for a significant exception to the creditor support requirement. In many cases involving a mortgage, the borrower has consolidated his or her debts with a single creditor. In these "sole creditor" cases, if the sole creditor refuses the PIA proposal, the debtor will not have to show any creditor support before seeking a court review. This exception effectively opens up the whole PIA process to a large number of cases where until now, no PIA proposal has even been made as it was felt that the sole creditor would be unlikely to agree to a deal offering statutory protection for the borrower.

In reviewing the proposal, the court will consider whether it allows the borrower to stay in or keep their home if reasonably practicable, and if the costs are not disproportionately large; and whether it gives a reasonable prospect of restoring the borrower to solvency while repaying the creditors to the extent that the borrower's means reasonably allow. The court will also consider whether the proposal is reasonably likely to be one with which the borrower can comply, given the borrower's financial circumstances. If relevant, the court will consider whether the conduct of borrower and lender regarding repayment of the debt in the previous two years is fair and equitable to each class of creditors affected. It will also consider whether the proposal is unfairly prejudicial to any interested party and whether it has been accepted by a majority of

one class of creditors which may consist of a single creditor or of more than one creditor with similar interests. This is the same flexible test, as has already been explained. Again, this element is not needed if the debtor has only one creditor.

These criteria have been carefully designed to ensure the review process takes full account of the situation and rights of both the borrower and the creditors, while also taking account of the public interest in restoring insolvent borrowers to solvency, enabling creditors to recover debts to the extent that the debtor's financial situation reasonably allows, and keeping people in their homes where that is reasonably practicable. The new court review will generally be heard by the specialist Circuit Court insolvency judges and will be heard in the High Court only where debts exceed €2.5 million. Delays are not expected. This new review is a major reform which represents a ground-breaking shift from the current position, and will significantly rebalance the position of creditors and debtors to ensure fair and balanced outcomes for both.

Section 12 removes a potential bar to some insolvent borrowers being able to make a PIA proposal. It relates to people formerly in mortgage arrears on their homes who have entered an agreement to restructure their mortgage. Under section 91(1) of the Act, a borrower must co-operate with the mortgage lender under the mortgage arrears resolution process, MARP, approved by the Central Bank. If the borrower does so, but is not able to agree a restructure with the mortgage lender, he or she is then eligible to propose a PIA. The question has arisen, however, as to eligibility where a borrower has co-operated in the MARP and has entered a MARP or non-MARP restructure but the restructure has failed or is unsustainable. It is clearly important that such a borrower can make a PIA proposal, and the amendment clarifies that they may do so if they have tried in good faith to comply with the restructure but remain insolvent.

A debt relief notice, DRN, is a debt settlement measure under the Act limited to an insolvent person whose net disposable income after reasonable living expenses is less than €60 per month, and who has assets of €400 or less excluding basic household goods or tools, and a car worth €2,000 or less. Currently, the person's debts may not exceed €20,000. Section 3 proposes to increase this limit to €35,000 per person. This amount has regard to the experience of MABS, which acts as the PIP equivalent for DRNs under the Act, that the amount of debt held by applicants otherwise eligible for a DRN is commonly up to €35,000.

This change will, I believe, open up the debt relief notice solution to a significant number of people who are not able to benefit from other statutory arrangements and whose debts, while relatively small, exceed the current limit.

Section 2 expands the important functions of the insolvency service regarding information, awareness raising and communication in personal insolvency and bankruptcy matters. Sections 23 to 26, inclusive, provide more detailed and effective powers for the insolvency service to supervise the activities of personal insolvency practitioners. The Act already provides powers for the ISI to intervene if there is a complaint or other reason to check for any misconduct or non-compliance by a personal insolvency practitioner with their duties under the Act. This is a reactive power carried out by inspectors whose functions and powers are already provided for in the Act. However, it does not provide in the necessary detail for a proactive supervision power which would allow for routine inspection without any suggestion of misconduct. This is already the best practice standard for equivalent regulatory bodies and the Minister considers it appropriate, given the important statutory functions of PIPs. The Bill, therefore, provides for the Insolvency Service of Ireland to appoint authorised officers who will carry out the proactive

supervision function with the appropriate powers.

On the technical amendments in the Bill, I remind Senators that these clarify the existing rules for creditor voting but that where a personal insolvency arrangement proposal is rejected by creditors, the new court review will now be available. Their first objective is purely prudential and relates to a possible ambiguity identified in the wording of two sections of the Act, specifying the majority of creditors required to approve a debt settlement arrangement or PIA proposal at a creditors' meeting. The intention of the legislation and the interpretation applied by all stakeholders in practice is that such a proposal can be approved by creditors holding a specified majority of the overall debt. However, legal advice raised a possibility that the wording of sections 73 and 110 could be open to an alternative interpretation, that in addition the proposal must also be approved by a majority in number of all creditors, both for a DSA and for a PIA. Such an interpretation was never intended and would make it unnecessarily complicated to secure agreement on proposals. The relevant amendments remove the ambiguity and put the intended meaning beyond doubt. Their second objective is to clarify the detailed procedures which apply where creditors are deciding on a debtor's DSA or PIA proposal. Normally, the decision is taken by a vote at a creditors' meeting, the standard scenario, for which the Act sets out detailed procedures regarding notice, time limits, and so on. However, the Act also provides for two alternative scenarios. Where only one creditor is entitled to vote at a creditors' meeting, the creditor may notify its decision without the need to hold a creditors' meeting. Where a creditors' meeting is held but no creditor votes, the debtor's proposal is deemed to be accepted by the creditors. The Act does not always specify how the detailed procedures set out for the standard scenario would translate into the two alternative scenarios. The amendments clarify how that would be done.

I wish to underline the urgency of those changes in the Bill which arise from the Government's decision of 13 May. We are conscious that many of those in long-term mortgage arrears are increasingly at risk of losing their homes and are often highly stressed by their situation. It is important the court review and the flanking measures I have mentioned are put in place quickly and are fully available by September. Subject to Senators' deliberations, therefore, I hope the Bill will pass all Stages before the summer recess. I look forward to hearing Senators' views on the Bill and I am pleased to commend it to the House.

Senator Brian Ó Domhnaill: Gabhaim buíochas leis an Leas-Chathaoirleach as an deis labhairt ar an mBille seo. I welcome and acknowledge the Minister of State. This Bill will bring legal clarity and end the ambiguities in the Personal Insolvency Act 2012. Fianna Fáil welcomes that aspect of this Bill and we will not delay its passage through the House. However, this legislation is nothing short of a missed opportunity for dealing with the tsunami of personal debt, both secured and unsecured, which cripples many families throughout the country.

The 2012 Act and the Insolvency Service of Ireland have done nothing to deal with the issue of personal debt that cripples the country. For example, only 1,000 debt solutions have been approved since the legislation was initiated in 2013. This number comprises 547 alternatives to bankruptcy and 448 bankruptcy cases. This is in stark contrast to what the then Minister, Deputy Alan Shatter, said in this House when he was overseeing the passage of the legislation. He stated that in the first full year of the legislation's operation, there would be approximately 21,000 applications for debt resolution. What has gone wrong? There has been less than 5% of that level. What has happened? Has the matter been reviewed by the Department of Justice and Equality? Was the then Minister, Deputy Alan Shatter, wrong back then or is it the case that all debts have dramatically disappeared just like in *Alice's Adventures in Wonderland*? The

reality is that the debts have not disappeared and they remain burdensome for individuals and families throughout the country. The legislation has not worked. Perhaps the Minister of State might clarify now or on Committee Stage what reviews have been carried out by the Department. Why has the legislation failed? Why has there been so little of a take-up by individuals applying for relief or reliefs being granted? Will the Minister of State have a look at the situation and reply to me next week?

The 2012 Act has done nothing or very little. Personal debt is a massive issue. The Minister of State acknowledged this in his reference to the more than 100,000 cases of mortgage arrears of three months or more. In fact, the number is 117,000 cases of arrears, totalling €8 billion in mortgage finance, with €2.3 billion outstanding. A total of 37,484 people are in arrears for two or more years, amounting to €1.8 billion. The Central Statistics Office confirms that Ireland has the highest household indebtedness in the European Union. This is a crisis and it is crippling the country and preventing it from moving forward. The Government is adopting a sticking plaster approach. It is giving the impression that something is being done but, in reality, nothing is being done for the people. The mortgage misery and the personal debt misery continue. There are people who cannot sleep at night. I have met such people, as have other Members.

A personal friend of mine lives in the Minister of State's constituency and he has told me he has contemplated suicide because of the indebtedness he faces. He continues to pay what he can to the bank. The bank is putting so much pressure on this individual that he cannot sleep at night and he is contemplating suicide. It is disgraceful that banks have been given a veto over this legislation. They have been given all the cards, they can call the shots and the Department of Finance and the Government are standing idly by and not protecting the country's citizens. I acknowledge that individuals can go to the courts but very few can afford to go to the courts. The plcs facing examinership and indebtedness can go to the courts but individuals, including the directors of small companies, retail businesses and family hotels, do not have the resources to defend themselves in court. The banks have all the resources, all the skills, as well as the economic wherewithal. They had that prior to the crash when they gave out mortgages to the cohort of people aged between 35 and 60 years who now find themselves in negative equity and facing mortgage arrears. They are Ireland's lost generation because they cannot move forward. They are stagnant on a road. They are at crossroads, they cannot go east, west, north or south because they have a major debt hanging over their heads. They are the people who could drive Ireland into economic recovery, but they are not being given the opportunity to do that. Many of them are from our generation and they are, effectively, a lost generation. Many of them took out mortgages and other loans during the period 2000 to 2008. They did not foresee the tsunami that was going to happen ahead of the collapse in property prices but the banks should have foreseen it because they had the best brains and skills to foresee what was happening down the road, yet there is no burden-sharing of responsibility in regard to the debt problem. All the debts are being hounded from the debtors, those individuals who took out mortgages, but they only took them out and obtained the credit because the banks were willing to give it at a time when they knew that they should not have been doing that. Any policy in this area has to be impose culpability on the financial institutions but, of course, that was not convenient for the Government because it wanted to restore the balance sheets of the State-funded banks, AIB, Bank of Ireland and the other institutions. We see now that every time property prices increase by 20% AIB makes about €20 million across the country on its mortgage book.

The banks state they are coming back to profitability, but they are doing so because property prices are increasing and not because they are trying to obtain lasting restructuring solutions

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that would allow people to stay in their own homes and businesses and work their way out of their debt. People need space and the banks are not willing to give them that. They are hounding people. All the cards are being given to the banks. Notwithstanding what the Minister is trying to achieve with this legislation, which we will not be opposing, it is a missed opportunity. We need to know why it is not working. Research was carried out by the MRBI which showed that people do not want to avail of this service because they do not have the confidence in the Insolvency Service of Ireland, ISI, or in the structures that are in place. There is a need to review this and to re-evaluate it. Something needs to happen quickly because, like the man that I met this week, we will see further fatalities of people who find themselves in a corner, in a dark place, to which they have been hounded by our financial institutions, which were bailed out by the taxpayer. Those institutions and the individuals at the head of them are a disgrace to the Republic as we approach 2016.

Senator Martin Conway: I welcome the Minister of State, Deputy Aodhán Ó Ríordáin. He is spending more time in the House than some Members at this stage as he is here so often. He is always very insightful when he comes into the House and he is always most welcome. I also welcome Senator Brian Ó Domhnaill, my good colleague and friend, and his contribution. I am sorry to hear about his friend in north County Dublin. Most of us come across situations like that of his friend from time to time and those are the people we need to help and who need to get some solace and satisfaction from the legislation that is being put through the House. I wish the Senator's friend well and I hope things work out for him.

I view this legislation as being an incremental step in the right direction. It is not a panacea to solve all the problems, far from it. At the time of our first attempt at introducing personal insolvency legislation back in 2012, I said that it would most likely have to be amended depending on how the situation evolved with the banks. To a large extent, the Government took a leap of faith in terms of its expectations with respect to the banks, which owe their survival to the people having been bailed out by them, and all the senior management and staff within the banking sector have their jobs as a result of the people. I would have expected more from them; I would have expected some loyalty but banks are slow learners. They are like the bold child at the back of the class; no matter how often you correct them they still do not want to do the right thing.

It is shocking to think we have to come here to amend the legislation to make sure there is more co-operation by the financial institutions. That is a great pity. I am not surprised, as I said at the time that the legislation was first introduced that it would most likely have to be amended, depending on how it and the arrangements related to it evolved and whether people were getting solace and satisfaction and having their challenges and difficulties resolved. This legislation is appropriate. It is balanced and reasonable. It will be workable and it deserves this opportunity. I acknowledge Fianna Fáil in supporting it, although it has reservations about it, many of which I would share.

Another issue, though possibly not directly related to this legislation, is that of the vulture capitalists who have bought debts, particularly from IBRC. They have set up their own credit control departments. These are primarily American funds and they have retained agents here as their debt collectors which have set up call centres. My understanding is that the people working in these call centres are exceptionally well trained. I spoke to a person recently who was receiving telephone calls from these people and at the end of the discussion they asked if it was okay to call the person at that number. If the person said "No", I am sure it would have sparked another chain of communication but by recording the conversation and asking at the end of the

call if it was okay for the person to take the call at that number they are covering themselves. They are very personal in terms of some of the information they are trying to take from people. I heard of one example of a person whose family home unfortunately is now owned by one of these vulture capitalists and they contacted members of that person's family to try to come up with a resolution. The debt was €215,000. The person was in a position, through obtaining loans and money from other members of their extended family, to pay €150,000. The person offered €150,000 but was told that the minimum they would settle for was €200,000, a discount of just €15,000, which was less than 10% of the debt. Other legislation will be brought forward to deal with some of these situations but the Government and the people need to keep a very close eye not only on the banks but also on these funds that have taken over the loan books of IBRC. The fact that they have taken over the loan books from IBRC does not in any way remove us from our responsibilities as legislators to ensure they are not blackguarding citizens.

This Minister of State has spoken at length and outlined the provisions of the Bill and I am not going to go into those. It is important the Bill be passed and that a clear message go out from this House that we are all behind it, even though we do have concerns, but we want to see it enacted as quickly as possible in order that people will get some financial satisfaction and, I hope, ultimately retain their properties.

Senator Feargal Quinn: The Minister of State is very welcome and I am glad to have him here again. I always become concerned when I hear about an item of legislation that we want to rush through and particularly rush through in such a short period of time. I get embarrassed when I hear that but I also get frustrated when I see something taking a long time to get done. I was delighted to hear the Minister of State say "let us get this done and let us get it through because it is urgent."

The Minister of State mentioned that the Taoiseach met the insolvency service in February or March this year and talked about the need for the banks to co-operate more effectively with the personal insolvency regime. It appears that the banks have not been responding or reacting on that basis. We introduced the Central Bank (Emergency Powers) (Variable Interest Rates) Bill. The debate on the Bill was adjourned on Second Stage, but the intention was to try to get the banks to move on variable interest rates. The figures provided by the Minister are startling. A total of 38,000 people remain in long-term arrears. While good work is being done by MABS, it is a big challenge for it to be able to achieve anything. I am delighted with what the Minister has done.

There was a time when the personal touch of the bank manager was a factor. He or she knew the individuals and then the computers took over and the personal contact was no longer as important. There are so many good stories of the past and so many bad stories of the present in the banking area.

I wish to refer to the situation with sole creditors. There is no need for a formal meeting of creditors to be convened. Perhaps that is only the case when there is one creditor, but there could be dangers in that regard and I am not enthusiastic about the changes in any respect.

The Minister has explained the situation very well. She has explained what is happening and what she intends to do. Much work has been done by the Minister's team and her officials. There is an urgent need for something to be done and this is a step forward. I wish the Minister well.

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Senator Aideen Hayden: I welcome the Minister of State. I apologise as I have a bit of a frog in my throat.

I compliment the work of some of those who are active in the field of mortgage arrears, in particular, FLAC and MABS, and the work that has been done by the Oireachtas Joint Committee on Finance, Public Expenditure and Reform in its report, one of the recommendations of which was the removal of the bank veto, which has been actioned today in the Bill. I might also recommend to the Minister some of the other proposals in the report which could be usefully introduced in terms of facilitating the resolution of the mortgage arrears issue.

It is widely recognised at the moment that the economy is in recovery and that many people are back in work. Currently, unemployment is below 10%. We probably have the strongest economic growth in the European Union, but we must acknowledge the significant and serious overhang in debt, in particular in mortgage debt and mortgage arrears.

It bears repeating what the Minister of State said, namely, that we have 38,000 principal dwelling homes in mortgage arrears of longer than 720 days. That is a substantial group which raises significant concern. The Governor of the Central Bank, Mr. Patrick Honohan, confirmed to me at a recent meeting that about 50% of those home owners have already had legal proceedings initiated against them. We must not forget that we have almost 40,000 buy-to-let mortgages in arrears as well, and that those mortgages are held over the homes of people who are renting today. One in five families in this country rents.

Mortgage arrears is a very significant issue not just for the people who unfortunately find themselves in the situation, but it is also a block on the recovery of the economy and it stands to lead a significant number of people into homelessness if it is not handled appropriately. On that basis, I welcome the Bill, which makes a number of important changes. The point was well made by Senator Brian Ó Domhnaill that the Insolvency Service of Ireland did not live up to expectations. There are many reasons for that, which we could probably discuss for longer than the time available to us today.

One of the positive amendments of the 2012 Act is that we will expand the information function of the Insolvency Service of Ireland through the collection of statistics, monitoring developments and most important, effective communication. It is most important that the number of people who are in serious distress are assisted. I deal with many cases of mortgage arrears and see people who are in such distress that they are unable to engage in any relationship with a lender or the Insolvency Service of Ireland. It is very important that the communication function of the Insolvency Service of Ireland be enhanced in the way set out in the Bill. By also facilitating research and consultation with stakeholders, further legislation will be forthcoming that will assist in the development of best practice and additional policy developments.

I welcome the increased limit on the debt relief notices from €20,000 to €35,000, as suggested by MABS. That will broaden the number of people on low income who can access and avail of that mode of debt resolution.

The major point in the Bill, which I welcome, is that for the first time the courts will have the power to review the refusal of a personal insolvency arrangement by creditors, and will test whether the refusal was reasonable. There is real value in that to those who are in long-term mortgage arrears and who are at risk of losing their homes. We are all aware, as the Minister alluded to, that there are certain banks in this country that have, in effect, refused to deal in any

form of debt write-down whatsoever. In effect, that put this service out of reach of many borrowers.

According to the latest statistics from the Central Bank published in June, 13.8% of mortgage accounts were in arrears by the end of quarter 1 in 2015. While the total figure will decline, the number of mortgages in long-term arrears continues to rise. That is really where the crux of the matter lies. It is the number in long-term arrears that continues to rise. The changes that are being offered by the Bill will be most useful to people struggling to make their mortgage repayments.

The court procedure is a useful means to curb the unlimited veto of creditors standing in the way of debt resolution but it is of concern that we may find only a small number of people who will be able to access it. Many will not qualify for the court review procedure or may be excluded because they will not have the resources to access it. It is very important that this option be available to anybody who wishes to pursue it.

There is no mention in the Bill of supports being made to debtors to assist them in making applications of costs or seeking legal assistance. I note that the Minister of State said that in tandem with the reform to the Personal Insolvency Act, the Government was co-ordinating intensive work across all Departments and agencies to deliver on a wider element of mortgage arrears initiatives, including arrangements to deliver assistance and advice through MABS and the Insolvency Service of Ireland in the courts when repossession actions are taking place. We must go further than providing assistance. We must go as far as providing legal assistance and for legal action that will place debtors in this situation on a footing to enable them to challenge a veto.

The 2012 Act requires a debtor who is seeking a personal insolvency arrangement, PIA, to have engaged and co-operated in good faith with the mortgage arrears resolution process, MARP. One issue of concern has always been who determines whether someone has co-operated in good faith with the MARP. It tends to be the lender who decides when someone has co-operated. That is meant to be a safeguard to separate those who genuinely cannot pay from those who will not pay their debts. However, the requirement needs to be read in the context of the Central Bank's recent comment on the failure of seven of its regulated authorities to be fully compliant with its expectations on how lenders should engage with the MARP as part of the code of conduct on mortgage arrears. If we are going to hold borrowers to a good faith standard, we must hold lenders to the same standard to restore the power imbalance between the borrower and the lender. This section should be accompanied by means to ensure compliance with the code of conduct on mortgage arrears.

The amendments to the Act show there is a commitment to improving the insolvency procedure for debtors but we must not lose the momentum. More needs to be done in the system. Our mutual colleague's proposal on the bankruptcy period, which was unanimously approved by the Oireachtas justice committee, is something I would love to have seen enacted by this House before the summer recess. That will put a stop to the gallop of a number of banks which are perfectly happy, in a rising housing market, to pursue people through the courts.

With regard to advice and so forth, the Money Advice and Budgeting Service, MABS, is an excellent organisation but its staff should be upskilled to provide an expert service on a regional basis. That would enable people to do reasonable deals with their banks before they get to the insolvency stage.

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I agree wholeheartedly with the sentiment that the mortgage to rent scheme has to be upgraded. Unfortunately, it has proven to be very disappointing in terms of the number of people who have been able to access it.

I have met the Office of the Financial Services Ombudsman on a number of occasions. The lack of teeth in legislation on the Financial Services Ombudsman which does not permit the office to look behind arrangements made by insolvent debtors with banks as to whether they are sustainable, is a serious flaw in the current scenario. A review of the legislation on the role of the Financial Services Ombudsman and what it could achieve if expanded might help us in resolving a number of mortgage arrears scenarios.

Senator Trevor Ó Clochartaigh: Deir siad sa Ghaeilge “Meileann muilté Dé go mall ach meileann siad go mín” agus níl aon dabht faoi ó thaobh an réitigh atá ag an Rialtas seo ar fhadhbanna na morgáistí go bhfuil na muilté ag meilt go mall ach i ndáiríre ó thaobh lucht na baincéireachta de agus an brú atá siadsan ag cur ar lucht na morgáistí, tá siad ag meilt go mion ansin ceart go leor.

Not only have the people had to endure three years of a clearly broken system, we also had another stall of six months from Committee Stage of this Bill. Eventually, we were promised that the bank veto would be removed but, like most promises from this Government, that has not happened. I accept that this Bill is an improvement, but we are unconvinced that it will do the job.

What we have before us is very much a conditional review of the veto rather than an outright removal. It is also a temporary measure. If I were to fall into arrears today or tomorrow, the banks would still have a veto over any arrangement. This is an improvement, but it does not match the promise people struggling in debt were given.

The Minister will be aware that Sinn Féin will table two amendments on Committee Stage to rectify the main weaknesses in this legislation. It is hoped these amendments can be accepted rather than have us come back here in a couple of months, or years, to rectify the situation once more.

When the Government’s obituary is written in the near future, the verdict will be that its abysmal failure to recognise and tackle Ireland’s debt crisis was one of its greatest failings. Today, we are dealing with personal and business debt. We are four years into the Government’s term, which has been four years of a spiralling mortgage arrears crisis, and only now are we taking half-hearted steps towards challenging the banks’ veto.

This is not the first action the Government has taken. In terms of its record, in connivance with the Central Bank, it allowed the banks meet their targets for mortgage arrangements through legal actions. The Labour Party and Fine Gael might be happy to consider repossession of a family home as a sustainable solution but Sinn Féin certainly is not. The Government watered down the code of conduct on mortgage arrears to favour the banks. As we know from the Central Bank, that was not good enough for the banks, which routinely ignored the code. It removed the legal protection for the family home. The Government sat back and let the banks off the leash, and now we see hundreds of repossession cases taking place across the State.

The number of people in long-term arrears is continuing to rise over three years after the Government came to power. The personal debt crisis is still with us and nothing substantial has been done to tackle it.

The mortgage to rent process has failed utterly also. Scandalously, when Sinn Féin proposed restoring the legal protection of the family home in a Bill very similar to what is before us, the Government opposed it. That was over 15 months ago. How many families have lost their homes since because of Labour Party and Fine Gael backbenchers marching in to vote “No” at the time to something they are supporting today? The Minister might be surprised to learn that the reason given for the Government rejecting that Bill was that the Personal Insolvency Act was strong enough.

I hope the Government can follow through on its promise and remove the banks’ veto, not just for some and not just for a while but comprehensively and permanently, by accepting the amendments we will bring forward on Committee Stage.

Tá teipthe go hiomlán ar an Rialtas seo dul i ngleic leis an ngéarchéim seo ó thaobh lucht na morgáistí. Tá daoine i gcruachás. Tá na céadta daoine ag teacht os comhair na gcúirteanna gach mí i ngach contae ar fud na tíre. Tá a gcloigne sa ghaineamh maidir leis an rud ar fad agus tá siad ag suanaíocht de réir port na mbanc, mar a bhí an Rialtas a chuaigh roimhe ag déanamh chomh maith céanna. Is mór an náire é ach tá súil agam go dtógfaidh siad ar bord na leasuithe a bheas muid ag moladh ar Chéim an Choiste gan mhoill.

Senator Thomas Byrne: Tá áthas orm bheith anseo le labhairt ar an mBille seo. Táim ag cur fáilte roimh an mBille freisin, maraon le gach duine eile, ach aontaím le go leor atá á rá. Ní aontaím le gach rud atá á rá aige ach aontaím le go leor atá á rá ag an Seanadóir Ó Clochartaigh.

It is four years almost to the day since Senator Marc MacSharry and I brought forward a family home protection Bill. We were told at that time that the Government was about to solve the mortgage crisis. In fairness, Senator Aideen Hayden wished us well with the Bill and did not bitterly oppose it, as some other people did; she recognised the problem. Essentially, nothing was done. The Government then introduced the Personal Insolvency Bill the following year. The then Minister, Deputy Alan Shatter, is on the record as stating that there is no bank veto. The Taoiseach stated in the Dáil that there was no bank veto. The Minister for Finance stated in the Dáil that there was no bank veto. They were telling lies because it was as clear as day that there was a bank veto. I identified it in my contribution here in the Seanad in 2012, as did many other colleagues, because it was obvious that the Bill imposed a bank veto.

What hardship, stress and sleepless nights that have been endured in the past few years could have been resolved if the amendments to the Bill put forward in the Dáil were made part of the original legislation? What stress could have been avoided in recent years if the then Minister, Deputy Alan Shatter, the Taoiseach and the Minister for Finance had admitted there was a bank veto? That has been one of the key issues in recent years and the fact that the veto is now effectively gone, although perhaps not entirely, means there is the threat that it will impact on the banks. I believe this will have a major impact, and it is already having a major impact in terms of people dealing with banks in regard to their mortgages that are in arrears. I can see that in the correspondence issuing from banks in recent weeks to those people who are in distress. We had been told there was always a threat of bankruptcy, and that that would bring the banks to the table. That did not work, but if the banks do not have the controlling power, which they had in full in the original legislation, there is an incentive for the banks to do a deal because the person can go before the courts. While concerns have been raised about court costs and legal expenses, I hope that a way will be found to get these people the relief they need, particularly as the Bill mentions - there was very little mention of it previously - preventing the loss of a home or similar language to it.

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This will have a huge impact. So far this month in County Meath, there are 200 cases on the repossession lists. There is only a fraction of that number on the personal insolvency lists. I hope the figure for the personal insolvency lists, which I assume these cases will go on, will greatly increase and that the repossession lists will reduce. They have to reduce. Tens of thousands of people are in serious difficulties with their mortgages. We have to keep them in their family homes for the sake of society.

I make an appeal to the banks and the Government. There are many empty houses that probably should be repossessed but nobody seems to know anything about them. They are lying empty. We have all seen them in various areas. Can the banks not do an audit of the houses that are not occupied by families or individuals and target the people in question? I am talking about somebody who has lost interest in a house, does not live in it and where the garden has become overgrown and so on. These houses should be taken back, put into the housing supply market and given to families on the housing list or to those who may wish to buy them. That will get the market going again because I do not see the banks adopting a strategic approach to this. They urgently need to do this.

I ask the Minister of State about the mortgage to rent scheme. What has happened in that regard? The announcement was made in May and we have this legislation over two months later. As far as I can see, nothing much has changed on the mortgage-to-rent scheme. One can have all the thresholds one wants and all the ways of doing things, but that scheme is stymied due to a lack of cash. It is also stymied by the fact that the banks had control over whether somebody got onto the mortgage-to-rent scheme. Perhaps the Minister of State might tell me something different, but it is not my understanding that the system has been changed. I wonder how many mortgage-to-rent applications have been accelerated or gone through since the announcement and I suspect none has.

Minister of State at the Department of Justice and Equality (Deputy Aodhán Ó Ríordáin): Nuair a bhí mé ag éisteacht leis an Seanadóir Trevor Ó Clochartaigh, rith an seanfhocal a bhíodh ann tráth dá raibh, “Céard a dhéanfadh mac an chait ach luch a mharú liom” - what would the son of the cat do only kill a mouse? When one is dealing with an amoral system, regulations will always be catching up in relation to such amorality.

On behalf of the Minister, I thank the Members of the House for the useful exchange of views. It is good to hear that there is recognition on both sides of the House of the necessity for this legislation and that it will improve matters, although I appreciate some Members are of the opinion that it does not go far enough. The Minister looks forward to further discussing the Bill's various provisions with the Senators in the coming period. It is an important piece of legislation and one which is urgently needed.

The change to eligibility limits for a debt relief notice will bring immediate help to persons with very limited income who are not property owners and who are weighed down by debts and have no prospect of being able to pay. The new provision for a court review will help, in particular, the substantial number of persons who want to pay their mortgage and remain in their homes but who, in reality, are insolvent and are struggling to pay their debts. It offers a new guarantee that a reasonable personal insolvency proposal put forward by such a borrower under the Personal Insolvency Act 2012 will be fairly considered and provides for a refusal by creditors to be reviewed, where appropriate, by the court which will have power to impose the proposal if it finds it is fair and sustainable. The court will decide accordingly to carefully balance the criteria, which ensures appropriate protection for the borrower and for the public

interest while taking full account of the rights of all parties concerned.

Senator Brian Ó Domhnaill asked why there were so few cases and inadequate responses. The review addresses precisely the two main reasons for the low number of cases which have been identified. First, borrowers do not bring cases because they believe banks have a veto. The new court review addresses that point. Second, those in serious debt do not know where to turn and new independent advice and consistent measures currently being put in place address that difficulty.

In terms of why borrowers are not coming forward, there has been extensive consultation with stakeholders, in particular, organisations assisting those in serious debt, as to the reasons borrowers are not coming forward to take forward the options available. The new framework to assist those in mortgage arrears is designed specifically to respond to the reasons identified in these consultations. I would say that the lack of confidence in the ISI was not cited as a difficulty by those concerned.

I was asked why the Bill made such a limited range of changes and why it did not simplify the rules for obtaining a protective certificate. The Bill makes a number of urgent priority changes, in particular, the introduction of the court reviews in order that these can be put in place by September. It does not mean that other changes arising from the ongoing review of the legislation will not be made as the question of streamlining procedures for a protective certificate is under consideration in that context, which involves complex drafting changes which cannot be made quickly. Unfortunately, it is a continuing process.

In terms of resources for accessing the court review procedure, the Minister is aware of the importance of this question and it is being considered within the ongoing cross-departmental work on a framework for advice and assistance.

Senator Aileen Hayden made a number of points about bankruptcy reform. The Minister for Justice and Equality sent a request on 26 May last to the Oireachtas Joint Committee on Justice, Defence and Equality asking that it might consider the substantial issues under public debate regarding bankruptcy policy, including the role of bankruptcy in resolving indebtedness and the possibility of further reducing the bankruptcy period which is currently three years to one year with the hope the committee might be able to revert with its views before the summer recess. The committee sent its report to the Minister last week and she is considering its recommendations carefully. However, this is not a question which can feasibly be included in this Bill if the review and assistance measures are to be in place by September.

Senator Aileen Hayden made a comment about the conduct of lenders. The Senator may wish to note that the conduct of the lender is expressly included in the new provision on court review in section 21 as a factor which the court can take into account in its review.

A number of the points were well made during the course of the debate. As some Members said, we are taken with the pressures that are placed on families and individuals and the stresses and strains that occupy their minds when this issue comes to their door. Collectively, we are conscious of that and are working hard to alleviate that pressure.

This is a major and important reform. The Minister has indicated it will be accompanied in September by a suite of measures, some of which are being piloted, to ensure independent advice and support are easily accessible to the distressed borrowers in arrears on home mortgages and to help them engage as early as possible and find the best solutions in order that reposses-

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sion of the borrower's home remains, as always, a last resort.

Question put and agreed to.

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

Senator Martin Conway: On Monday next.

Committee Stage ordered for Monday, 20 July 2015.

Sitting suspended at 1.45 p.m. and resumed at 3.30 p.m.

Environment (Miscellaneous Provisions) Bill 2014: Committee Stage

An Cathaoirleach: I welcome the Minister of State at the Department of the Environment, Community and Local Government, Deputy Ann Phelan.

Sections 1 to 27, inclusive, agreed to.

An Cathaoirleach: Amendment No. 1, in the name of Senator Mary Ann O'Brien and other Senators, has been ruled out of order as it involves a potential charge on the Exchequer.

Amendment No. 1 not moved.

Section 28 agreed to.

Sections 29 to 36, inclusive, agreed to.

SECTION 37

An Cathaoirleach: Amendments Nos. 2 and 3 are related and may be discussed together.

Senator Trevor Ó Clochartaigh: I move amendment No. 2:

In page 31, between lines 19 and 20, to insert the following:

“(d) the insertion of the following subsection after subsection 3:

“(3A) That the applicant has a contract with a licensed operator for the delivery and safe disposal of collected waste.”.”.

This amendment seeks to ensure persons or companies seeking a waste collection licence have proof that they have a contract with a licensed operator who will safely dispose of the waste. The aim of the amendment is to tackle the issue of illegal dumping. During the years Sinn Féin opposed the privatisation of the waste collection regime. Privatisation has resulted in a number of rogue operators within the industry who have disposed of waste in places and at times that are not appropriate. If we are to pay companies and give them contracts to dispose of waste from Irish Water systems, etc., it is only appropriate that they be fully above board. It should be proved that there is a contract with a licensed operator and that the waste will be disposed of safely.

There are other issues concerning waste disposal that are of concern to people, including in respect of some of the treatment plants to be used. There are many fears in this regard. In my

area, Carraroe in County Galway, it is feared that a proposed badly needed sewage waste facility will actually be turned into a regional waste disposal facility. We need checks and balances. We need to guarantee in the legislation that if we are to have checks and balances to ensure waste operators are acting appropriately, those collecting waste will be licensed to do so. If this is ensured, we can take appropriate action if operators act outside the remit covered by their licences regarding the manner in which they dispose of waste.

The amendment is very practical and I cannot understand why the Government would not support what we are trying to do. I cannot understand what it has against ensuring all waste disposal companies given public contracts with public funding are fully licensed. This is the case with other public procurement contracts involving many State organisations. What I propose is essential.

Owing to the nature of Irish Water as a company and given how it has been set up, there are concerns about oversight. That it is not fully State owned and not fully private is of concern, as is the fact that it is not fully open to scrutiny by the Houses of the Oireachtas. The legislation needs to address such concerns in order that we can be absolutely sure no rogue operators will be catered for in the future.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Ann Phelan): I cannot accept this amendment, although I appreciate the sentiment behind it and welcome the Senator's support for an enhanced enforcement regime. The amendment tabled would force applicants for waste collection permits to enter into binding commercial contracts with waste disposal operators before they even have a collection permit and when there is no guarantee that their application will be successful. No one wants to improve performance in the waste collection business more than I do, but I believe the proposed obligation would be anti-competitive and unfair. If a collector was to enter into a commitment with a waste facility operator to deliver a certain amount of waste for a certain price for a set period but his application for a collection permit was refused, there would be a risk that the National Waste Collection Permit Office would be liable for compensation for the losses incurred. Even for those existing operators who may already have a permit and are going through a review or renewal, the proposed requirement would represent an unfair penalty and be unworkable, given the nature of the waste industry throughout the world.

Waste tends to be directed for treatment based on the most commercially advantageous solution. This could involve a nearby landfill, a waste treatment facility within the State or export for incineration elsewhere in Europe. The decision would be based on the most competitive attainable price, which might be dependent on the quality of the waste at the point in time. A contract would place restrictions on price, making the service uncompetitive for some collectors, and it would be inappropriate interference in the open market. In addition, any increase in price would most likely be passed on to the customer. I would like to avoid price increases, where possible.

Senator Trevor Ó Clochartaigh: That strikes me as one of the most ludicrous reasons I have heard in the Seanad in the past four years for not having a licensed operator apply for a contract. Consider, for example, the procedure applicable to a public transport operator who wishes to pitch for a contract under the rural transport scheme. The argument that cost effectiveness is the only issue is quite wrong. We need to make sure we get the best operators who work to the highest standards and ensure the waste is disposed of properly. In any tendering process at local government level, one would expect tenderers to be known operators in the

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relevant industry. Anyone worth their salt in the waste disposal industry should have a track record which could be taken into account if they were getting a contract. Not having an onus on the contractor to have a licence before they can apply for a tender strikes me as ludicrous. I cannot see how such a requirement affects costs. Any operators I know of will have economies of scale and know their business inside out. To argue that this amendment's provisions would exclude people or be anti-competitive does not wash with me. What we need to ensure is that waste disposal is carried out to the highest standards. Licensing of the industry in this scenario is crucial.

Deputy Ann Phelan: I am not accepting the amendment. The whole idea behind the legislation is to get higher standards in the waste collection industry, a point which everyone should support.

Senator Trevor Ó Clochartaigh: I do not think the Minister of State answered the points I raised. We are seeking to have waste legally, properly and safely disposed of. That is why there are licensing and regulatory regimes in place. The Government is leaving itself open in this legislation to rogue operators who would undercut those already in the industry, those who have bona fide credentials, a good track record which shows they do their job properly, who pay proper wages and are fully tax compliant.

This section, as drafted, will allow anyone to apply for a contract to dispose of waste. What happens if that person is not licensed and undercuts the bona fide operators to win the contract but, it is discovered later, they are not operating to the highest standards. The contract would then have to be re-tendered. The Government could head this one off at the pass to keep the cowboys out of the waste industry and ensure safe waste disposal.

Senator Cáit Keane: Senator Trevor Ó Clochartaigh is giving the impression any operator carrying waste does not have a permit which is not the case. Section 37 outlines the conditions attached to getting a permit which are more stringent than those in the original legislation. The Senator is insinuating there will be a free-for-all in disposal for waste carriers. This Bill is actually strengthening the regime

Senator Denis Landy: This legislation specifically aims to keep the cowboys out of the industry. In some cases, they are already in the industry. This legislation is to deal with that issue and will do so effectively. To give the impression that it will not do so is unfair, particularly if one reads the Bill objectively.

Deputy Ann Phelan: The points raised by Senator Trevor Ó Clochartaigh are all covered by these new provisions. His amendment would place operators at a competitive disadvantage. It is for that reason I am not accepting the amendment.

Senator Trevor Ó Clochartaigh: I have not heard any argument that explains why this amendment would place anybody at a competitive disadvantage. Certainly, I cannot see why asking an operator to be licensed would do so. It does not happen in any other industry. If anything, it levels the playing field for those operators working to the letter of the law. Leaving it open for unlicensed operators is the opposite as it allows them to come in at a lower price through, say, hiring workers on the black market or paying them less.

It is clear the Minister of State will not take on board our amendments. I will resubmit them on Report Stage.

Amendment, by leave, withdrawn.

Question, "That section 37 stand part of the Bill," put and declared carried.

Amendment No. 3 not moved.

Question, "That section 38 stand part of the Bill," put and declared carried.

Sections 39 to 46, inclusive, agreed to.

SECTION 47

Question proposed: "That section 47 stand part of the Bill."

Senator Trevor Ó Clochartaigh: Sinn Féin wholeheartedly opposes this section. This is the fourth attempt by the Government to push through legislation on water services without support from the general public. When one traces back the arguments for introducing Irish Water in the first place, it was about water conservation. I remember that argument from the Minister of State's former colleague, Phil Hogan. He was rewarded with a nice Commissioner job in the European Union for pushing through Uisce Éireann as a conservation measure.

The Government is pushing forward with a regime of putting in water meters to use them almost as cash registers to take money from people in years to come. Requesting people to register with Irish Water has been a debacle from day one, which is quite obvious from the hundreds of thousands of people who marched on the streets against it and the continuing Right to Water campaign. At this late stage the Government should back off on the issue of water charges.

Sinn Féin is proposing to delete the existing proposal regarding the obligation to register with Irish Water. The services being provided are clearly inadequate and no one should have to register until a proper service has been provided. Today, Leenane, which Senator Cáit Keane would know quite well, has been served with a boil water notice because of cryptosporidium. Up to now Irish Water could have blamed the local authorities around these issues, but the presence of cryptosporidium, however, is unacceptable. I have warned about it before and have called on several occasions here in debates, including on Commencement matters, for barriers to be put in place to protect the water supply in Leenane and Carraroe. It is clear Irish Water is not putting in any investment, which we were promised. It has certainly done the opposite in Connemara where I live. We had plans for a regional water scheme in Casla which would have given us a clean supply of water in the Ceantar na nOileán-Carraroe-Rosmuc area. What did Irish Water do? It scrapped the plan. We are now drinking water from a lake that is polluted and where there is no barrier to cryptosporidium, of which there could be an outbreak at any time. Time and again, THM levels in the water exceed the allowable levels, but Irish Water is long-fingering a resolution of the issue. Today, the people of Leenane are boiling water. The investment that was supposed to be made and the great salvation that Irish Water was supposed to be are fallacies. This measure has been foisted on the Government by the troika and EU partners to put cash registers outside people's doors on their water pipes in order that in the future the cost of supplying water can be increased, even though we already pay through a number of taxes.

We totally oppose the policy brought forward by the Government and promise that Sinn Féin in government will scrap water charges and reconfigure Irish Water as a public utility, as it should be. It has been an absolute disgrace from day one. The Minister keeps moving the goal posts. The different deadlines for registration and the payment of bills had to be moved further

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out. The Government has tried all kinds of tactic - carrots and sticks - including the introduction of the so-called conservation grant to get people to buy into the misguided principle behind Irish Water, but they have not bought it, as the Government knows. It has bullied a lot of people into registering but not enough. Even at this late stage, it will have major issues in trying to keep Irish Water off balance sheet. It is costing us more to collect the charges than Irish Water will bring in. Surely even the Minister must admit at this stage that it has been an abject failure on the part of the Government and that, as a Labour Party Minister, he should agree that water charges are not the way to go. People cannot bear the expense that will be put on them by this and future Governments through water metering. That is why we are opposed to the section.

Senator Darragh O'Brien: This and the next few sections have been tagged on by the Minister and his colleagues in government to what was a relatively innocuous Bill. They have tried to hide the fact that this is part of their fourth attempt to fix the debacle that is Irish Water. It is also no coincidence that the Government has sought to introduce this legislation just before the recess because its plan has always been-----

Senator Denis Landy: We learned that from the Senator's party.

Senator Darragh O'Brien: I give you guys an "A" because you have learned very quickly.

Senator Denis Landy: That makes us good students. We learned from the best, one of whom is in the building.

(Interruptions).

Senator Darragh O'Brien: To whom is the Senator referring? As every day and month passes, I wonder what is the point of the Labour Party. What is the point of it being in government because it has protected no one? It has, effectively, been a storm trooper for Fine Gael in ramming through unfair and unjust cuts.

(Interruptions).

Senator Darragh O'Brien: Yesterday, you guys voted against lone parents and transplant patients. There is, therefore, no way of knowing the depths to which you will not crawl. That is the reality.

It is a fact that the Government has tagged on the last few sections to the Bill outlining the further changes it must make in the operation of Irish Water. This section deals with registration with Irish Water and some serious issues in landlords passing on tenant details to Irish Water and in terms of who will be a customer of Irish Water. I have no difficulty with the concept of charging for water for conservation purposes, but the Government has brought in this measure as a tax to try to generate revenue. As it has made such a hames of it, this year it will lose about €35 million in collection, while it has wasted about €785 million since last year in the establishment of this super-quango against all of the advice it was given at the time. The irony is not lost on me that it is a Labour Party Minister who has actually been sent to do Fine Gael's bidding because at least Fine Gael was clear about what it wanted to do. It, effectively, wanted mass privatisation of State bodies. That is what is going to happen further down the track, which means that the Government will sell Irish Water as an entity. We have committed to scrapping it and we should do so as currently constituted.

(Interruptions).

Senator Darragh O'Brien: When one looks at this section in respect of who will become a customer of Irish Water and the passing of data from a landlord about a tenant, there is nothing in it that we can support. I wonder why the Minister did not introduce another water services (amendment) Bill to be clear about what he was doing instead of trying to hide the proposed measures in a miscellaneous provisions Bill. The sections from section 47 onwards are very significant and should be in separate legislation that the Government should have introduced instead of trying to hide and slip them in under the radar in pretty innocuous legislation. We will be opposing section 47 and every section onwards.

We will table further amendments on Report Stage which I look forward to discussing in more detail with the Minister. At this stage, the Government should look at what it has done in the creation of Irish Water and the pathetic level of engagement of the public with the new utility. In reply to anyone who says this is a solid start for the company, the public has said it has no confidence in Irish Water as an entity. At the time the next quarterly payments fall due to be paid, we will see the level of payments decreasing further. The Government will not see additional payments being made because many of those who have already paid are asking themselves for what are they paying.

Senator Mary Ann O'Brien: I trust Irish Water will be enshrined in public ownership forever. I hope, therefore, that what Senator Darragh O'Brien has said about it being privatised down the track is completely wrong.

At this point we must be visionaries. As the Minister for Agriculture, Food and the Marine often says, water and food are two of our most valuable resources. We must get the infrastructure right. I have just met somebody downstairs who has a great interest in water provision and agriculture. The dairy sector has never been discussed here, but cows drink six times the amount of water humans do. We need to consider the explosion that will occur in the dairy industry.

That brings me to the mother ship of Irish Water. I was very disappointed that my amendment which would have removed section 15 of the Environmental Protection Agency Act that gave the agency immunity from prosecution had been ruled out of order owing to the fact that it involved a potential charge on the Exchequer. The EPA has one of the greatest responsibilities to perform for us taxpayers. It is the protector and watchdog of our water supply, rivers, oceans, fish, the environment, the air we breath, land, soil and the food we grow to safeguard the health, well-being and future of the people. These are all under its control, but it has immunity and does not answer to the Minister. We must know that it is the mother ship of Irish Water. A report carried out by a review group set up by a former Minister, Mr. John Gormley, in 2010 found that the agency's absolute immunity should be revised at the earliest opportunity and that it might be unconstitutional. To date, no Minister has shown me legal advice from the Attorney General on whether it is constitutional.

4 o'clock

I will return to it on Report Stage.

I refer the Minister of State to a letter that the Irish Environmental Forum sent to the Taoiseach on 23 June 2014 as an official complaint about the Environmental Protection Agency, EPA:

Minister Hogan has been aware for some time, having taken over the position of Minister for the Environment, Community and Local Government, that licences had been granted

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by the Environmental Protection Agency on behalf of the Irish State which allow damage to be caused to the environment and human health. Minister Hogan is refusing to have these complaints investigated under the standard reply as he is precluded from doing so within the EPA Act. Such an excuse does not, in our eyes, allow Minister Hogan to stand idly by and allow the EPA to carry on in such a reckless manner.

The Irish Times published an article with the headline, “Seven Irish plants among ‘most damaging’ in Europe, says agency”. The agency referred to is the European Environmental Agency, EEA, and the seven plants are Moneypoint, Aughinish Alumina, ESB Poolbeg, Edenderry Power, ESB West Offaly Power, Synergen Power, which is in Ringsend, and Viridian Power, Huntstown, County Dublin. The EEA is a highly respected agency which is staffed by scientists, including Professor Jacqueline McGlade, as well as many other renowned professionals. As part of its European study into industrial facilities and their emissions, it found that the seven plants had damaged the environment and human health through their emissions of ammonia, nitrous oxides and carbon dioxide. In 2009 they cost the State up to €1 billion in monetary terms, at a time when we could not afford it. It is a fact, and the Minister of State should write it down. Yesterday evening my amendment was ruled out of order because it involved a potential charge to the Exchequer. If seven plants are costing us €1 billion because of their emissions, the EPA needs to stand up and be transparent and accountable to the Minister and make certain that no plant in this beautiful country of ours ever has the opportunity to pollute or potentially cause harm to citizens’ health, the agriculture industry, the land, animals or the food we grow.

Senator Gerard P. Craughwell: The Minister of State is welcome. I, too, oppose section 47. It is said incompetent people constantly do incompetent things. From the outset, Irish Water has been handled by incompetents. From the very start, everything about it was wrong. I have no difficulty in paying for water, but please do not tax me a second time. I already pay for water. The Government is beginning to divert my motor tax and God knows what else into Irish Water because of the fiasco it has become. It is a flop. It is time for the Government to admit it, go to the ECB, get some money, put the water system right and refloat Irish Water. The system in place is not working. The Minister of State cannot for one second believe what has happened is a success. I am sorry the senior Minister who believed he could ram this through the nation and force people to pay is not here to face us. The issue of public ownership is far from certain. Although we asked for a referendum, we were knocked back. Why was there such great opposition to a referendum?

The section asks me to become a revenue collector for Irish Water and submit details of what I do or do not do on my private properties. As Senator Darragh O’Brien said, the Government has stuck the section on the end of a Bill dealing with dog licensing and other matters because it realised the system in place was not going to work and it needed to come back at us another way. If we are going to have a section such as this, let us introduce a Bill that puts all utilities on the same footing, enabling the ESB, Eircom and anybody else who cares to do it to put their hands into my wallet. Why are we ring-fencing Irish Water and making it a special case? It is because the Government has failed to put together a company that is accepted by the people. The 43% who have paid their first instalment will not pay a second instalment. The game is up. The Minister of State should cut the section, go back to the drawing board and start all over again. The Government has made a total mess of it.

Senator Cáit Keane: It is not a game but a very serious business.

Senator Gerard P. Craughwell: It is a pity the Government did not think of that.

Senator Cáit Keane: We all know the type of water we have had to endure.

Senator Trevor Ó Clochartaigh: We are still enduring it.

Senator Cáit Keane: We need safe, clean water. Although we have had many good times, we have not had clean water. Local authorities did their best, but were not given the funding during the good times to correct the water system. I am from Clifden and lived near Leenane. The Senator did not mention the new treatment plant that is being constructed in Clifden. For the first time since I was born, we will have clean water in Clifden. The flag situation on the beaches of the west coast has improved dramatically. In Roscommon, the county that is always mentioned, 11,000 boil water notices were removed one month ago. Since Irish Water has taken over, 21,000 boil water notices have been removed in Roscommon. We can consider the total amount that the people of Roscommon have had to spend on expensive bottled water and compare it with a charge of €1 or €3 per day for all of their water.

Regarding the link between motor tax and clean water, this is an environment Bill and motor transport is one of the worst sources of pollution. When we debate the Climate Action and Low Carbon Development Bill, I ask the Minister of State to consider putting motor tax against clean water.

Senator Darragh O'Brien: The Government is using motor tax revenue to establish Irish Water.

Senator Cáit Keane: I live in Dublin which a Stanford University study identified as the second most vulnerable city in the world to future water shortages. We might ask why that is, given that it rains every day. We must be realistic. It is not a game but a serious job. The Government is correcting the shortages. We are dependent on foreign direct investment. Intel in County Kildare uses water daily, not water that falls from the sky but treated water. The greater Dublin area is over-reliant on the River Liffey, drawing 84% of its water from it. The investment should have been made years ago during the Celtic tiger years. Many people, including me, are to blame. Disruptions to the water supply cost Dublin city businesses €78 million, and this has been a problem over the years. Yesterday I received a telephone call from a person in Rathfarnham who has paid his or her water bill and wants to do so but who said we should say loud and clear that Irish Water was putting in place a system under which only those who could afford to pay would have to pay.

Senator Darragh O'Brien: No, it is not.

Senator Gerard P. Craughwell: From where is the Senator coming?

Senator Cáit Keane: I am coming from a position that is realistic.

Senator Darragh O'Brien: Where did the Senator get that idea?

Senator Gerard P. Craughwell: She should tell us straight. She pulled it out of the sky.

Senator Cáit Keane: Those who can afford to pay want to pay and will pay. Those who cannot afford to pay will be facilitated, and is said loud and clear.

Senator Darragh O'Brien: How will they be facilitated?

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Senator Cáit Keane: The Senator's party is not against water charges.

Senator Darragh O'Brien: I am against these water charges and against Irish Water.

Senator Cáit Keane: This is the only country in Europe in which there are no water charges. Water conservation is also important.

Senator Gerard P. Craughwell: People will receive €100 for doing nothing.

Senator Cáit Keane: It was shown that it is possible to come in 40% under the quota of the metering system if one conserves water. We must work harder on this. The €100 conservation grant will go to every household that registers with Irish Water, even those that do not pay a charge. Everybody must be encouraged.

Senator Gerard P. Craughwell: What should they do with it?

Senator Cáit Keane: How does one do it? I am doing it. I got my oil tank cleaned out without spending any money and I am collecting rainwater from my roof and bringing it into my system. One can get a tap in Woodies DIY shop for €40 and put it into a tank.

Senator Gerard P. Craughwell: How much did it cost?

Senator Cáit Keane: I live in Dublin and have lots of water.

Senator Gerard P. Craughwell: It would cost more than €100.

An Cathaoirleach: Please allow the Senator to make her point.

Senator Cáit Keane: As well as making economic sense, the driving force behind the introduction of water charges is the legal obligation to recover the cost of water services under Article 9 of the water framework directive. That is why the last Government had to sign up to it. There was no choice. The EU water framework directive is based on the principle of the polluter pays and there is a legal obligation to implement properly cost recovery measures for a wide range of water services, including domestic water services. I am not making this up. Senator Darragh O'Brien knows this well. He is smiling. He has it off by heart. He signed it.

An Cathaoirleach: The Senator should not invite comment.

Senator Darragh O'Brien: I can tell Senator Cáit Keane there is a completely different reason I am smiling right now.

Senator Cáit Keane: I know the Members opposite are sensible when they actually think about it and they know it is right but they just have to say it is wrong. I think politics would be an awful lot better if we all admitted that charging for water is the right thing to do. Those who cannot afford to pay will be facilitated and will have clean water. I am from Clifden and have paid water charges all my life. There were group schemes, but that is another thing. Ultraviolet rays are used to ensure the bacteria in the tanks are killed. The Senator has asked how we are conserving. We are cleaning and conserving by using the conservation grant. The impetus is there. It should be mandatory in the building regulations for new houses that there is rainwater harvesting throughout. Reedbed cleansing will also lead to better water all round.

Senator Brian Ó Domhnaill: I am sure the people of Clifden miss the Senator.

Senator Denis Landy: Drumcondra is on the Senator's mind. They are a little flaky over there.

Senator Brian Ó Domhnaill: Clifden's loss is Dublin's gain, as Senator Darragh O'Brien has pointed out to me.

Senator Cáit Keane: I mentioned the charges in Dublin also. I live in Dublin.

Senator Denis Landy: Whatever they do, they should try not to mention his name.

Senator Brian Ó Domhnaill: I am flabbergasted by this section. Section 47 and some of the following sections give Irish Water unprecedented powers as a utility company. Every household in the country will be asked to work for Irish Water by notifying it under a statutory obligation. There is no legal obligation on households to register with Irish Water until this Bill is passed by the Oireachtas, and signed by the President if Senators vote for it. If there is a failure to register, there will be a default rate of around €260 on a dwelling. This section will bring in a mandatory obligation on the owner of a dwelling to register as a customer of Irish Water and to notify Irish water in writing if he or she is not the occupier of the dwelling. If that is the case, they will have to provide the name of each person on the tenancy agreement and the date the tenancy agreement commenced. If one provides false or misleading information, there will be a class A fine of up to €5,000 upon summary conviction. This morning in the Dáil, the Minister for the Environment, Community and Local Government, Deputy Alan Kelly, said that, without question, Irish Water would never be sold. I am not sure he can give that commitment on the floor of Dáil Éireann. I am not sure any Member on the Government side----

Senator Trevor Ó Clochartaigh: They are promises one makes before an election.

Senator Cáit Keane: There has to be a plebiscite.

Senator Brian Ó Domhnaill: -----or any Minister can give a commitment that Irish Water will not be sold. Irish Water is being established on the principle of setting it up as a viable and financially independent enterprise, which would be very valuable on any international market. We have seen what happened in Britain. It has been referred to here many times. Similar utilities were set up there in the 1980s and early 1990s and were sold on. They had been set up on the same principle that is being used by the Department of the Environment, Community and Local Government here. We are giving too much power to a utility company that is off the books and which will be independent of the State.

I have listened to what Senator Cáit Keane has said. The Government seems to herald Irish Water and the charging of customers as the solution to all the woes of the country's water problems. It forgets one thing. The €1.2 billion it has cost to run the water service up until now was made up of operational costs of around €700 million and capital costs of around €500 million. There was around €210 million coming in from commercial water rates, which means there was a shortfall of about €1 billion. That was being funded by the taxpayer. In 2015 and 2016 Irish Water will continue to be funded by the taxpayer. Small fees will come in, but more money will be given away this year in a so-called conservation grant, which we can talk about later, to every house, regardless of whether one is registered. It will change in 2016, because only those who register in 2016 will qualify for the €100 conservation grant. In 2015, every house in the country, regardless of whether it is registered, will get a €100 conservation grant. Why are we giving out a conservation grant funded by the taxpayer? At a time when Irish Water is under unprecedented pressure, there is an announcement of a €100 grant to try to ease political

pressure in the Government.

I think it is all wrong, totally wrong. The taxpayer is being totally exposed to the point where Irish Water becomes profitable. When Irish Water becomes profitable, it will be on the books and, of course, a Government will sell it, whether Fine Gael or the Labour Party are in government. Great offers will be made from outside vulture capitalists who will want to make profits and they will control the water of an entire nation. It will be sold later on because there is nothing contained within the legislation to enshrine the people's right, that is, a referendum. The Government did not take that opportunity even though most - certainly most if not all - Opposition Members in both Houses, with the vast majority of the people, want the rights to our water supply enshrined as a constitutional right.

The United Nations has mandated that water is a basic human right and it has written various research papers on that. The ESRI has come up with a research paper recently on behalf of the Minister of State's Department, which states that, in Ireland, families in the lowest income decile will experience difficulty in paying for water and that 4% of households will not be able to pay for water because of their income level. Most of those are in the lowest income decile but not all, because there are people living in the middle as well who may have big mortgages, families and children going to university and who are income starved as well. They are the Department's figures. They are not my figures; they are not independent figures; they are the Department of the Environment, Community and Local Government's figures. What will the Minister of State do to alleviate the pressure on that 4% of households? If there are 1.5 million households in the country, 4% is something in the region of around 60,000 households that will struggle to pay for water according to the ESRI-Department of the Environment, Community and Local Government report. I am sure the Minister of State has read the report and I hope she has an answer to the question that has been raised by that research. I would like to hear some of the Minister of State's views on this and what the Department is doing. It cannot be dealt with on a one-fix-fits-all basis because we are dealing with impoverished families, whom we spoke about in the House last night and many of whom are under pressure from financial institutions when it comes to keeping their homes.

There are many issues. The Government is giving away the people's rights to a utility company. It is very sad. It makes me sad that we are going down this road and that a Government would take this approach on behalf of the people because it gives unprecedented powers to a utility company. The ESB and Eircom were mentioned. However, they do not have the powers the Government is proposing to give to Irish Water. When one gets up in the morning, is it more important to have a glass of water or to be able to make a telephone call? One can survive without electricity, but one cannot survive without water or food. Water is more important than food, according to the World Health Organization.

There are many variables that have not been properly explored. There is a knee-jerk reaction. The political realities of the next general election are contained within this legislation. It is being rammed through this week and next week in the hope that it will ride into the sunset over the summer. Unfortunately, that will not be the reality for the families who will be affected by the legislation and the taxpayer who will be affected by it in five, ten or 15 years time, when this utility is potentially put on the open market.

Senator Paschal Mooney: I have some questions on section 47. As has been mentioned several times by my colleagues, the requirement to register as a customer with Irish Water specifies that one must register not later than 20 working days after the coming into operation

of the Act. There is no indication as to what happens if someone does not register after 20 days. Will sanctions be imposed on them, and, if so, what will those sanctions be? Am I incorrect in linking it with section 6, which states that someone providing false or misleading information is liable on summary conviction to a class A fine, which I understand is €5,000, a significant amount of money? Am I to assume that someone who does not register within the 20 working days can be taken to court and, on summary conviction, will be fined €5,000? Nothing in the Bill indicates what will happen if a customer who is required to register does not register. This is part of an ongoing difficulty with the entire legislation on the operation of Irish Water.

I understand only 46% of households that registered have paid. The figure would indicate that a large number of people are ignoring the legislation and ignoring the exhortations of Irish Water and the Government to register and subsequently pay. Some people have registered and have not yet paid. I have some sympathy with the Government's view that the figure will increase. It may seem strange for me to say that. People are not used to the notion of paying for water. Many of the people who have registered will pay and the figure of 46% will increase significantly. At the same time, a significant number of the households that have registered will receive the €100 grant and will not pay. I want to explore the issue of sanctions, because the section does not make clear what happens if people refuse to comply with the requirements.

Senator Jillian van Turnhout: I welcome the Minister of State. I thank the departmental officials who met me last week to go through the many questions I had on the Bill. As I said from the beginning, I do not stand over how Irish Water was set up or the Government's handling of it. However, we are where we are. I try to look at each Bill that comes before us on its merits.

Regarding this section, I welcome the amendment the Government tabled in the Dáil on deposits. I was very concerned about that aspect and I am glad it has been withdrawn. We do not have that system in place in Ireland yet and we need to do it, but this is certainly not the place to do it.

I considered the section *vis-à-vis* how we deal with other utilities. I also thank the Library and Research Service which has been very helpful in providing the information. I compared it with the supply of electricity. A tenant might have his or her electricity cut off, but the new tenant can have it reconnected in his or her name. However, water cannot be cut off - a measure I very much supported in the House last year - because of the importance of water. We have to find a way to deal with that which is consistent with how we deal with it for other utilities, but it cannot be exactly the same because we do not allow water to be cut off. I am absolutely standing over this. I believe this section ensures that consistent approach. It ensures a tenant must register and can be liable for charges. I am satisfied with how the Government is handling it.

I am listening to the debate in case people raise issues that I had not considered. I remain absolutely concerned about the woeful conservation aspect. I asked whether people could be requested even to nominally sign something to the effect that they would use the money for conservation. I find it unconscionable to give people money without any commitment to use it for conservation. However, we are not dealing with the water conservation grant. I am happy with this section because it is consistent with the approach we take with the supply of electricity, although it is not exactly the same because this is not the same issue.

I support Senator Mary Ann O'Brien who raised an extremely important issue with regard to the Environmental Protection Agency. An article in *The Sunday Times* of 12 July by Justine

McCarthy related to a 14-year old retaining the right to sue the State. Just to illustrate the point that Senator Mary Ann O'Brien so ably raised, the article stated:

Several reports published by the Environmental Protection Agency (EPA) have failed to provide a definitive reason for reported health problems in the area. The EPA has consistently ruled out industrial pollution or any other toxic substance as the likely cause. It has identified farm issues, such as the nutritional value of silage and seed, as well as the liming of the land as a "contributory factor".

I encourage Senators to read the article. It is appalling that the EPA is allowed to get away with such a statement. I have already indicated to Senator Mary Ann O'Brien that when she introduces a Report Stage amendment to address this issue, I will support that amendment.

Senator James Heffernan: I have spoken about Irish Water previously. It seems to be business as usual. The Government is treating this House and the other House with absolute disdain, as it did before the Christmas recess. It is doing the same now before the summer recess. It is doing this to drive through very unpopular legislation that does not sit well with the public in the hope the dust will settle over the holiday period and it can get away with it. I am afraid to inform the Minister of State that that will not happen.

I am disappointed that the senior Minister has not seen fit to come to this Chamber and face the music. I can understand how he might want a lengthy summer break after the *annus horribilis* he has had in his position as Minister for the Environment, Community and Local Government. I have often said it was an unusual portfolio for my former party to take over, given that it was in a terrible mess. It was like walking in for an unmerciful hiding.

During the debate before the Christmas recess I stated the figures for Irish Water did not add up. At that time I said that a non-payment rate of 47% would put Irish Water deep into the red. That figure obviously represents 57% non-compliance with payment. Where will the money come from for Irish Water? How will it raise money on the open market if it is in the red? I see it as a stepping stone towards the privatisation of the water supply. Why is there a fear of putting this to the people in a referendum and enshrining it in law to give citizens the right to decide where their water supply comes from?

Many people are opposed to paying water charges on ideological grounds. This legislation has been put before the House in an underhanded way in that these sections have been added to apply to dog breeding and so on. It is wrong to expect people to agree to be strong-armed into registering with Irish Water and paying for that utility when there is still a whiff from the Siteserv controversy. As other speakers said, we can live without gas and electricity but the essential of life is sustenance - food and water. People in many parts of the world live without electricity and gas.

Senator Denis Landy: It is called the Third World and we try to help them.

An Cathaoirleach: Senator James Heffernan to continue, without interruption.

Senator James Heffernan: Yes, Third World countries. That only 43% of people have paid so far is an indictment of the entire Irish Water project and it is probably time it was put on the shelf with the e-voting machines and other projects that have been a total waste of money.

I agree with Senator Mary Ann O'Brien. A far more important environmental issue should

be included in this miscellaneous provisions Bill, namely, the fact that the Environmental Protection Agency, EPA, has immunity from any prosecution. I struggle to understand the reason there is a fear of abolishing immunity from prosecution for the EPA. If the EPA is doing its job properly in protecting the environment it should have nothing to fear from prosecution, nor should the State have anything to fear from prosecution.

In my neck of the woods there is huge mistrust of the EPA because of the way much of its work is carried out and many of its decisions are taken. People living on the Shannon Estuary around Foynes, Laughil, Shanagolden, Glin and Askeaton have had dealings with the EPA which have not inspired any confidence in that organisation. That the director general has stated it is not the job of the EPA to rush to prosecute polluters is a sad indictment of the organisation in itself. What is its function if it is not to protect the environment, our natural flora and the people's health?

In 2009, I raised the issue of a licensing agreement that came before the EPA board for Aughinish Alumina, which is in my neck of the woods. The recommendation was that a full bond should be in place before a licence was granted. At the second meeting of the EPA board that provision was scrapped. If that is not a reason to call for some sort of an inquiry, I do not know what is because this company was a proven polluter, according to the European Union, operating in my county and getting away with it without having to pay any bond. If an environmental disaster occurs, it will cost the taxpayer millions of euro to clean it up, and that is not taking into consideration the devastating effects it may have on human and animal health in the area.

The Minister has side-tracked on the idea of appointing an external ombudsman to examine complaints against the EPA. On the last occasion a Minister came before the Seanad on this issue he told me an acceptable form of wording could not be found to provide for such an ombudsman, which is a laugh. If the Minister's highly paid civil servants cannot find an acceptable form of wording, it does not inspire confidence.

The conservation grant must be the greatest oxymoron in recent Irish political history. Where is the incentive in handing a lad €100 and telling him to go away and save water for himself? That is baloney. I do not understand why the senior Minister thought that was a good idea. I imagine his coalition partners thought it was great gas because they would be able to hand out €200 cheques to local IFA meetings and hoodwink a Labour Party Minister once again. That is an issue the Minister has to examine.

I have the figures before me, and I can give a copy of them to the Minister of State, although I am sure the Minister is aware of them. Irish Water is in the red. It should be consigned to the history books. It is a project that was tried and has failed. The Minister is aiding and abetting the possibility that Irish Water, our rivers and lakes will be sold to the highest bidder, which would be a shameful day for us.

If the Minister is serious about the non-privatisation of Irish Water I ask her to reconsider inserting the provision to hold a referendum because the Labour Party may not be in government forever and she may have to deal with other forces who will be happy to privatise all and sundry. That is why the people need protection. I ask that the Minister of State would see fit to include that provision in the Bill.

I look forward to debating the issues further next week and hope Members of this House

will have the courage to defeat the Bill and force a recall of the Dáil.

Senator Denis Landy: I take serious umbrage at commentary from some of my esteemed colleagues, which was along the lines that the Minister of State, Deputy Ann Phelan, is in some way unfurnished with the ability to deal with this legislation. The Minister of State is a Minister in this Government. She is charged today with carrying out the function of overseeing this debate on behalf of the Government and I take umbrage when anybody accuses her of being a lesser being than any other Minister.

Senator Paschal Mooney: On a point of order, I want to say, on behalf of the Fianna Fáil group, that we totally dissociate ourselves from any of those comments.

Senator Denis Landy: I appreciate that.

Senator James Heffernan: Nobody said that.

Senator Denis Landy: My good friend, Senator James Heffernan, made some extremely good points in his contribution, but a word he uses frequently in our chats over cups of tea, as well as of other things, is “ráiméis”. There was a little bit of that in his contribution, but I agree with him and I have said it in the House previously that the EPA will have to be tackled and dealt with. There should be no more messing around with it.

Senator James Heffernan: Hear, hear.

Senator Denis Landy: I have mentioned in this House incidents that occurred in my community going back almost 30 years. I refer to what happened in *Hanrahan v. Merck Sharp & Dohme*, a case which ended up in the Supreme Court. The body charged following that case is now the EPA and it is not doing its job under legislation that was put in place in 1992. There were 11 prosecutions in one year by the EPA across the country and every one of them was against a local authority. It is as if there is no chemical, pharmaceutical or any other industry in the country. There were only 11 prosecutions and they were against a local authority. That is unacceptable.

Obviously, the Attorney General has ruled that the amendment will not be accepted for good reason but mark my words we will have to take on this entity and make sure it is doing the job it was legislated to do. It is unacceptable to me, and I put the Minister of State on notice about that aspect.

In regard to the conservation grant, I am shocked and amused about it in some ways. On the one hand, people do not want to pay any money but, on the other, they do not want to accept any money, which beggars belief and is beyond comprehension.

Some people who are in political parties understand the political system better than those who were never in them. There has been a lot of commentary on how political parties work, including my party. People seem to think political parties should be the saviours of every issue that comes on the agenda in this country every single day.

Senator Darragh O'Brien: Perhaps just once in four years. Not every time but perhaps just once.

Senator Denis Landy: We got 19% of the vote.

Senator Darragh O'Brien: Well done.

Senator Denis Landy: As far as I am concerned, we have used that mandate to the maximum.

Senator Darragh O'Brien: The Senator's party did not set the bar too high.

Senator Denis Landy: Today, the man is in the building. I will leave it at that.

Senator Darragh O'Brien: To whom is the Senator referring?

Senator Thomas Byrne: To whom is the Senator referring?

Senator Denis Landy: The man is in the building and the Senators should think about that fact.

Senator Brian Ó Domhnaill: Is the Senator referring to the Taoiseach?

Senator Darragh O'Brien: Is it Deputy Eamon Gilmore? Senator Denis Landy said "the man is in the building."

Senator Michael Mullins: I am astonished and amazed at the attack that has been made on Irish Water-----

Senator Gerard P. Craughwell: We must be careful because the man is in the building.

An Cathaoirleach: Senator Michael Mullins to continue, without interruption, please.

Senator Michael Mullins: -----given that, every day, colleagues in the House look for investment in their areas and constituencies. We all want to see more jobs attracted into the country. We all know that the investment in the infrastructure that was required in this country could not be leveraged through the local authority system. The only way to raise that finance was by setting up a utility company - Irish Water. I would be first to concede that the initiative has not been perfect and many mistakes have been made. The legislation is trying to ensure there is fairness and that everybody pays a small contribution towards the provision of water services. The people in County Roscommon are very happy that Irish Water was set up. Last week, 11,300 more people no longer needed a boil water notice in County Roscommon as a result of an investment of €26.8 million that has taken place in that county. The facility is located out the road from where I live.

In my town of Ballinasloe right now, Irish Water has a contractor that has commenced the upgrading of the water and sewerage system. It is a massive investment which I hope will benefit Ballinasloe as we try to attract badly needed industry to the town.

Senator Trevor Ó Clochartaigh: Is there no sewerage system in Athenry?

Senator Michael Mullins: All these things will happen. I can assure the Senator-----

Senator Trevor Ó Clochartaigh: Nothing will done until next year.

Senator Michael Mullins: ----- that if Irish Water had not been established, the benefits would be a lot longer coming.

Senator Trevor Ó Clochartaigh: If the Government did not spend €750 million on meters,

improvements would happen a little quicker.

Senator Michael Mullins: I am surprised by some of the contributions made here today by people who live in rural areas. I originally came from a rural area where, for the past 40 years, people have paid for water through group schemes. The only way they could get water was by joining a group scheme and paying an annual contribution. They are astounded that people from the city of Dublin line up each week at the gates of this building to protest about water when people who live in rural areas have paid for water for the past 40 years. There must be fairness, common sense and balance.

Senator Gerard P. Craughwell: They were lucky enough to have homes back then.

Senator Michael Mullins: Why should those who have paid for their water or sunk their own wells be entitled to the €100 conservation grant? They will make sure they will preserve water, buy additional fittings and make the changes and amendments to their original scheme and, thus, save water which is a precious resource. People have played a lot of politics with the issue of water. We want to ensure every town and village has a good, safe and clean water system. To attract industry to locate here we must have an infrastructure that is capable of meeting the demands of industry. Apple will locate a facility in Athenry and create jobs and I have no doubt that priority will be given to such places.

Senator Trevor Ó Clochartaigh: Not according to Irish Water.

Senator Michael Mullins: I am sure water services will be fast-tracked in order that jobs are created in the regions. We need to get real and ensure everyone pays a little for water. To date, 675,000 people have paid and the number is increasing. Why should 675,000 people have to pay more to compensate for people who chose not to pay?

Senator Gerard P. Craughwell: People will not pay any more.

Senator Michael Mullins: Why should the 675,000 pay more? It would be unfair and unbalanced. This Government inherited one unholy mess but it has made a fine job of getting the economy back on track and moving again. There should be a little support shown for Irish Water. People should not be misled as well. Senator Trevor Ó Clochartaigh and the Fianna Fáil Party told people not to pay the septic tank charge. As a result some people ended up paying €50 rather than €5 for registering having been told they would not have to pay the charge. What will happen with water charges is everyone is going to pay. Perhaps they might not have to pay immediately but at some stage everyone is going to have to pay. There is no point in postponing the inevitable.

Senator Trevor Ó Clochartaigh: I urge the Senator to tell the truth now.

Senator Michael Mullins: People would be left with large bills-----

Senator Trevor Ó Clochartaigh: That is the truth.

Senator Michael Mullins: -----that will be deducted from their wages or whatever else.

Senator Gerard P. Craughwell: When?

Senator Trevor Ó Clochartaigh: The Government will pickpocket the money.

Senator Michael Mullins: Members would do well to advise their constituents that paying

a small contribution on an ongoing basis is much preferable to postponing the inevitable-----

Senator Gerard P. Craughwell: Known constituents.

Senator Michael Mullins: -----instead of paying much a large figure.

An Cathaoirleach: We have spent more than hour debating this section and the Minister of State has yet to speak. Senator Cáit Keane has spoken already, but she has indicated a wish to speak again.

Senator Cáit Keane: We should take a look at the Environmental Protection Agency. Everyone must be answerable to something but when Members say things in the Seanad, they should ensure they are factually correct. The Environmental Protection Agency issued fines to private companies in the District Court and there were 16 last year. The list is on the EPA's website, but I will put some of the details on the record of the House because an alternative statement was made earlier. The list includes Oxigen Environmental, Glanbia Foods Ireland Limited which was fined €5,400, Irish Country Meats which was fined €10,000, Green Isle Foods Limited which was fined more than €8,000 and Rosderra Irish Meats Groups, County Offaly which was fined €12,700.

An Cathaoirleach: This section does not involve the matter of fines.

Senator Cáit Keane: The list goes on.

Senator Paschal Mooney: I would like to hear what the Minister of State has to say.

An Cathaoirleach: The section does involve the matter of fines.

Senator Cáit Keane: I know, but it was said there were no fines and that all of the fines were county council ones.

Senator Paschal Mooney: That point is not relevant to the section.

Senator Cáit Keane: I just wanted to correct the record for the EPA.

Deputy Ann Phelan: I will address the EPA's immunity from prosecution, even though I know the amendment has been ruled out of order. Immunity from prosecution for the Environmental Protection Agency arises under section 15 of the EPA Act of 1992. Senators may be aware that a review of the EPA was conducted by a broadly based group of relevant experts and completed in 2011.

Senator Gerard P. Craughwell: On a point of order, the section we are dealing with deals with registering with Irish Water. I do not understand why there has been constant reference to the EPA.

An Cathaoirleach: Senator Mary Ann O'Brien mentioned the organisation. When her amendment was ruled out of order earlier, the Chair allowed her to comment. The Minister of State is responding to the amendment that was ruled out of order.

Senator Gerard P. Craughwell: We seem to have spent an inordinate amount of time on something that is not meant to be before us.

Deputy Ann Phelan: I want to give an explanation. The review examined the performance

of the EPA against its mandate. It found that the EPA had provided a “considerable benefit for Ireland’s environment and for the health and well-being of its people”. Nonetheless, the 2011 review also recommended that the immunity from prosecution, as it applies to the EPA in carrying out its statutory functions, be reconsidered. This process is ongoing, with comprehensive analysis of potential impacts on the agency, its ability to discharge its statutory functions effectively and how the issue is dealt with by other agencies. Any change to the current position, if so decided, will require primary legislation that will be brought back to the Houses for discussion and consideration in due course.

Section 47 amends the Water Services (No. 2) Act 2013 by the insertion of a new section 23A. This section introduces a legal requirement on the owner of a building either to register with Irish Water as the customer or to notify Irish Water that he or she is not the occupier of the dwelling. Where the owner is not the occupier of the dwelling, the owner shall be required to notify Irish Water of the name of each person with whom they have an agreement to occupy the dwelling and the date of commencement of any such agreement. This provision would not apply where the customer details have already been provided for Irish Water before the proposed legislation comes into effect. This would mean that there would be no additional requirement for customers who have already registered with Irish Water as part of their customer registration campaign. This is an important provision to ensure that Irish Water is made aware of the person responsible for the payment of water charges in accordance with Water Services (No. 2) Act 2013.

This section provides that where the owner of a dwelling does not provide the necessary information for Irish Water within 20 days of the legislation coming into operation or within 20 days following any change of occupation, then the owner shall be liable for any charges payable to Irish Water until such time as they provide Irish Water with the necessary information. The provision of false information for Irish Water shall be an offence.

This section also provides that any agreement to occupy a dwelling which commences after the provisions come into effect, unless it expressly provides otherwise, shall be deemed to include a provision that the occupier is liable for any charges to Irish Water. Any tenant whose tenancy is covered by the Residential Tenancies Act will be responsible for the payment of water charges. This is in line with the principle of the user pays as defined in the Water Services Acts and will ensure that tenants are eligible for the water conservation grant.

On the issue of privatisation, I am surprised at the Senators’ ability to be able to predict the future with amazing accuracy. Why does not the Government hold a referendum on this matter? The Government is fully committed to ensuring that Irish Water remains in public ownership. We recognise the concerns expressed by members of the public that Irish Water could, at some future stage, be privatised. Regrettably the concerns have been exploited by some members of the Opposition in an attempt to suggest that the privatisation of Irish Water was an actual reality.

The Water Services (No. 2) Act 2013 prohibits the sale of Irish Water. Nevertheless, the Government wishes to ensure that should any future Government wish to consider legislation proposing the sale of Irish Water, provision is in place for the people to be consulted. The Government consulted the Attorney General on this matter who advised that an amendment to the Constitution was not appropriate. The Attorney General advised as an alternative measure on the provisions set out in the Water Services Act 2014 that any future proposal for legislation that would involve a change in the State ownership of Irish Water must be put to a plebiscite of the people. This provides a clear mechanism which gives the public a choice on any future

proposal to change the ownership of Irish Water.

To respond to Senator Paschal Mooney, if the owner does not register they will be liable for charges irrespective of whether they are the occupier or not. The class A fine provision relates to the offences of providing false or misleading information to Irish Water only; therefore, it is false and misleading information which will carry the fine. I think that clarifies that issue.

The Government has taken significant steps to ensure charges are affordable. The Water Services Act 2014 caps charges at a maximum of €160 for one adult household and €260 for other households. The charges may be lower where a household conserves water. Furthermore, the water conservation grant of €100 will also support affordability.

In regard to the issue of compliance and the discussion on the number of people who have already paid, the compliance data released by Ervia earlier this week on the first billing cycle indicate that 46% of domestic water charges have been collected to date. Irish Water has indicated to me that as a utility sending out bills for the first time this progress compares well with other utility collection experience and it is satisfied with the rate of collection at this stage.

Senator David Cullinane: I apologise for not being in the House earlier. I was attending the Government's stage managed event in Dublin Castle. I am responding to the Minister of State's response to the previous contributions. With respect, I do not think that this can be seen by either Irish Water or the Government as a good start. She is trying to make comparisons with previous utilities set up where previous charges were put in place to compare the compliance rate. Irish Water has been up and running for some time. The Government stated continuously that the majority of people would register and pay. There is one element on which I wish to focus because the amendment seeks to delete section 47 which essentially would remove, as would the deletion of section 48, any reference to Irish Water or the ability of the State to collect unpaid water charges. We believe all of this should be done through separate legislation.

I listened to the Minister for Transport, Tourism and Sport, Deputy Paschal Donohoe, earlier in the week on one of the national radio stations when questioned about the payment being made to citizens in respect of the water conservation grant. We had lengthy debates here when the previous Water Services Bill was before the House. What appears to be happening is that every time we raise issues and concerns they are dismissed by the Government and then they come back and bite all of us, not only the Government but citizens also. In all the previous debates, we had concerns about setting up Irish Water and whether the cost associated with it was good use of taxpayers' money. As it transpired we had all those difficulties and the crisis about the waste of taxpayers' money in terms of the original set up costs.

We also raised concerns about the water conservation grant. We told the Minister at the time that this was not a conservation grant. There is no point in dressing this up as something that it is not. It is not a conservation grant and yet large numbers of people will receive that conservation grant without even having to pay the water charges in the first place which means that Irish Water, because the majority of citizens will not pay, will operate at a loss. How can the Minister of State stand over this? How can the Government state it is a good start and that we are on the right road when the majority of citizens have not paid? Some of those who have registered and have not paid will actually make a net gain, they will get a grant from the Government with no obligation to do anything. There is no obligation to prove that one has conserved water or that one has used the money for water conservation improvements, one just gets it back as a social welfare payment. In reality the only reason the water conservation grant was introduced was

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to placate the opposition to water charges. The Minister thought it was a way of getting the Government off the hook, that everybody would be happy with the lower charge and the water conservation grant and would all register and pay but it has not worked out. That is the reality.

I support the proposal to oppose sections 47 and 48. As this is my first opportunity to speak, I want to voice my overall opposition. I am not coming back in again as it is frustrating on Committee Stage when there is repetition, but I have made my contribution. I genuinely believe - I said this on Second Stage - it is a major mistake for the Government to put these sections into a Bill which is essentially about something else. We will not have a proper debate on the other important issues in the Bill because the focus is on the provisions which relate to water charges in Irish Water. A disservice has been done to the House and the Oireachtas by the sleight of hand in which the Minister for the Environment, Community and Local Government, Deputy Alan Kelly, was engaged in when putting together the Bill.

I am always wary when I see miscellaneous provisions Bills but this one really takes the biscuit. I strongly oppose this section and the next section.

Senator Gerard P. Craughwell: I wish to clarify a matter. Earlier I called for the Minister to come to the House, but this was in no way a slight or insult to the Minister of State. The Minister has been out and about on the airwaves speaking about how confident he is and I would rather see him standing up his confidence here than putting the Minister of State in the firing line. I have every respect for her and the role she carries.

I listened to the spokesperson for Irish Water on radio. She confirmed that nothing will happen to people who do not pay this bill, the next bill or the bill after that. The water will still run in their houses. They will still be eligible to apply for the grant. Incidentally, I heard somebody from the other side speak about the fixtures and fittings for which the grant would pay. This is the first time in all of the talk about the Bill that I have heard anybody say one had to do anything for the €100. I would like to know what fixtures and fittings I can buy which will allow me to conserve water. As Senator David Cullinane just said, the truth of the matter is the €100 is to keep us all shut up and get us to pay our charges.

I am getting a little tired of listening to the Roscommon story. I am delighted Roscommon has fresh clean water to drink at long last-----

Senator John Kelly: For the first time ever.

Senator David Cullinane: That is marvellous, but at the end of the day there are another 25 counties in the country. Fine Gael is banking on the fact that people in rural Ireland have been paying water charges for years and they will not penalise the Government for introducing water charges. The Cathaoirleach is getting a bit anxious.

An Cathaoirleach: The Senator is being repetitious.

Senator Gerard P. Craughwell: There is a lot of repetition. We have spent more than €500 million on meters which are not required.

An Cathaoirleach: This section has nothing to do with meters.

Senator Gerard P. Craughwell: We have spent more than €600 million on advertising, trying to sell a system which nobody wants. We are told Irish Water cannot be privatised

without a plebiscite. The only plebiscite which means anything is a referendum which places ownership of Irish Water in the Constitution. Let us not play these silly games. No Minister, not even the Taoiseach himself, can come here and guarantee Irish Water will not be privatised, because as soon as the Government is gone next November we have a new Government which might flog Irish Water. It might even pass legislation to do what it wants.

An Cathaoirleach: If the Senator has nothing further to offer on the section, I will put the question.

Question put:

The Committee divided: Tá, 25; Níl, 11.	
Tá	Níl
Bacik, Ivana.	Byrne, Thomas.
Brennan, Terry.	Craughwell, Gerard P.
Burke, Colm.	Cullinane, David.
Coghlan, Eamonn.	Daly, Mark.
Coghlan, Paul.	Healy Eames, Fidelma.
Comiskey, Michael.	Heffernan, James.
Conway, Martin.	Mooney, Paschal.
Cummins, Maurice.	Ó Domhnaill, Brian.
Gilroy, John.	O'Brien, Darragh.
Henry, Imelda.	O'Donovan, Denis.
Higgins, Lorraine.	Reilly, Kathryn.
Keane, Cáit.	
Kelly, John.	
Landy, Denis.	
Mac Conghail, Fiach.	
Moloney, Marie.	
Moran, Mary.	
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
O'Brien, Mary Ann.	
O'Donnell, Marie-Louise.	
Sheahan, Tom.	
van Turnhout, Jillian.	
Whelan, John.	

Tellers: Tá, Senators Ivana Bacik and Paul Coghlan; Níl, Senators Paschal Mooney and Darragh O'Brien.

Question declared carried.

SECTION 48

An Cathaoirleach: Amendment No. 4 has been ruled out of order.

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Amendment No. 4 not moved.

Question put: “That section 48 stand part of the Bill.”

The Committee divided: Tá, 24; Níl, 11.	
Tá	Níl
Bacik, Ivana.	Byrne, Thomas.
Brennan, Terry.	Craughwell, Gerard P.
Burke, Colm.	Cullinane, David.
Coghlan, Eamonn.	Daly, Mark.
Coghlan, Paul.	Healy Eames, Fidelma.
Comiskey, Michael.	Heffernan, James.
Conway, Martin.	Mooney, Paschal.
Cummins, Maurice.	Ó Domhnaill, Brian.
Gilroy, John.	O’Brien, Darragh.
Henry, Imelda.	O’Donovan, Denis.
Higgins, Lorraine.	Reilly, Kathryn.
Keane, Cáit.	
Kelly, John.	
Landy, Denis.	
Mac Conghail, Fiach.	
Moloney, Marie.	
Moran, Mary.	
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
O’Brien, Mary Ann.	
O’Donnell, Marie-Louise.	
van Turnhout, Jillian.	
Whelan, John.	

Tellers: Tá, Senators Ivana Bacik and Paul Coghlan; Níl, Senators Paschal Mooney and Darragh O’Brien.

Question declared carried.

SECTION 49

Question put: “That section 49 stand part of the Bill.”

The Committee divided: Tá, 24; Níl, 10.	
Tá	Níl
Bacik, Ivana.	Byrne, Thomas.
Brennan, Terry.	Craughwell, Gerard P.
Burke, Colm.	Daly, Mark.
Coghlan, Eamonn.	Healy Eames, Fidelma.

Coghlan, Paul.	Heffernan, James.
Comiskey, Michael.	Mooney, Paschal.
Conway, Martin.	Ó Domhnaill, Brian.
Cummins, Maurice.	O'Brien, Darragh.
Gilroy, John.	O'Donovan, Denis.
Henry, Imelda.	Reilly, Kathryn.
Higgins, Lorraine.	
Keane, Cáit.	
Kelly, John.	
Landy, Denis.	
Mac Conghail, Fiach.	
Moloney, Marie.	
Moran, Mary.	
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
O'Brien, Mary Ann.	
O'Donnell, Marie-Louise.	
van Turnhout, Jillian.	
Whelan, John.	

Tellers: Tá, Senators Ivana Bacik and Paul Coghlan; Níl, Senators Paschal Mooney and Darragh O'Brien.

Question declared carried.

SECTION 50

An Cathaoirleach: Amendments Nos. 5 and 7 to 10, inclusive, are related and may be discussed together, by agreement. Is that agreed? Agreed.

Senator Kathryn Reilly: I move amendment No. 5:

In page 55, to delete lines 13 to 26.

We oppose this section and do not believe the so-called conservation grant is anything other than a concession forced from the Government by opposition to water charges and Irish Water.

The proposed database is simply another means to force consumers to register in order to be billed.

Deputy Ann Phelan: Section 50 is to provide for the establishment of a database to facilitate the payment of the water conservation grant from 2016 onwards. It will allow the Minister to establish a database which shall include information relating to the water services supplied to a dwelling in addition to details relating to the occupier, including the name, the address and whether the dwelling is the principal private residence of the owner.

The amendments proposed to the section simply propose the deletion of the section. Without these provisions, the Minister for the Environment, Community and Local Government

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would have no basis on which to pay the annual €100 grant to households. Accordingly, I cannot accept the amendments.

Amendment, by leave, withdrawn.

An Cathaoirleach: Amendment No. 6 is out of order as it involves a potential charge on the Exchequer.

Amendments Nos. 6 to 10, inclusive, not moved.

Question, “That section 50 stand part of the Bill,” put and declared carried.

SECTION 51

Question put: “That section 51 stand part of the Bill.”

The Committee divided: Tá, 21; Níl, 9.	
Tá	Níl
Bacik, Ivana.	Byrne, Thomas.
Brennan, Terry.	Craughwell, Gerard P.
Burke, Colm.	Daly, Mark.
Coghlan, Eamonn.	Healy Eames, Fidelma.
Coghlan, Paul.	Mooney, Paschal.
Comiskey, Michael.	Ó Domhnaill, Brian.
Conway, Martin.	O’Brien, Darragh.
Cummins, Maurice.	O’Donovan, Denis.
Gilroy, John.	Reilly, Kathryn.
Henry, Imelda.	
Higgins, Lorraine.	
Keane, Cáit.	
Kelly, John.	
Mac Conghail, Fiach.	
Moloney, Marie.	
Moran, Mary.	
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
O’Brien, Mary Ann.	
van Turnhout, Jillian.	

Tellers: Tá, Senators Ivana Bacik and Paul Coghlan; Níl, Senators Paschal Mooney and Darragh O’Brien.

Question declared lost.

Question, “That the Title be the Title to the Bill,” put and declared carried.

Bill reported without amendment.

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

Senator Maurice Cummins: On Tuesday next.

An Cathaoirleach: Is that agreed?

Senator Gerard P. Craughwell: No.

Question, “That Report Stage be taken on Tuesday, 21 July 2015,” put and declared carried.

Report Stage ordered for Tuesday, 21 July 2015.

An Cathaoirleach: When is it proposed to sit again?

Senator Maurice Cummins: At 10.30 a.m. tomorrow.

The Seanad adjourned at 5.45 p.m. until 10.30 a.m. on Friday, 17 July 2015.