



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Dé Céadaoin, 7 Deireadh Fómhair 2015

Wednesday, 7 October 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 Brian Ó Domhnaill 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 include Scoil Mhuire B and C, Stranorlar, County Donegal, in the Government's new schools capital building programme.

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

The need for the Minister for Health to provide a derogation for 20 health care assistant-multi-task attendant and nursing posts to be advertised and filled locally for St. Brendan's community nursing unit, Ballinasloe, County Galway.

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

Commencement Matters

Health Services Staff Recruitment

Senator Lorraine Higgins: I thank the Minister of State for taking this matter. I call on the Minister for Health to provide a derogation for 20 health care assistant-multi-task attendant and nursing posts to be advertised and filled locally for St. Brendan's community nursing unit, Ballinasloe, County Galway, in light of the failure of the HSE to hire these staff. This had been agreed last February when stakeholders met to discuss the opening of a step-down beds unit in St. Brendan's in Ballinasloe. The unit is operated by St. Brendan's in Loughrea but the under-

standing was that 20 posts would be allocated to people. The opening of the beds was due to the ongoing LRC talks to relieve pressure on county and accident and emergency departments.

The HSE provided quick finance to get the beds up and running and, therefore, it was agreed the unit could hire agency workers while the hiring of full-time staff was conducted. However, the HSE national recruitment service is not progressing the filling of the posts seven months after agreement was reached and the full-time permanent positions are in a state of limbo with agency staff filling the roles. This is simply an advertise, interview and hire procedure and, therefore, the delay is ludicrous. The matter needs to be resolved as soon as possible because the impact of full-time permanent employment on 20 families would be immense. This should not be allowed to drag on without clarity or action because, at the end of the day, hiring agency staff is costly to the Exchequer and, thus, to the taxpayer.

I have contacted the Minister for Health's office twice over the past month and I have not received a response to either of my e-mails on this matter. This is urgent and the matter should not be allowed to drag on indefinitely with no decision arrived at. It is shocking to think we have a national recruitment service that takes seven or eight months to fill posts. I am sure there are 20 multi-task attendants available who would relish the opportunity to take a full-time permanent post, which would set them up for life. I call on the Minister of State to urgently do what she can to influence the Minister to rectify this matter at the earliest convenience.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Ann Phelan): I thank the Senator for raising the matter. I am taking this on behalf of the Minister for Health who is on government business elsewhere. The policy of the Government is to support older people to live in dignity and independence in their own homes and to keep them in their communities for as long as possible. If it becomes necessary for older people to move to a nursing home, appropriate accommodation must be available that meets their care needs and matches their wishes and preferences. The Health Service Executive, HSE, is responsible for the delivery of health and personal social services, including those at St. Brendan's community nursing unit, Ballinasloe, County Galway. Part of the HSE's long-term plan for the community nursing unit is to open all 50 beds, of which 25 will be long stay residential care beds and 25 will be short stay beds. I have been informed by the HSE that it has contacted the Health Information and Quality Authority, HIQA, to register this facility and while the process is under way, the plan is to open a further ten short stay beds, by December, depending on staffing. Subject to any requirement HIQA may have, it is a matter for the HSE to determine the staffing complement and the ratio of nursing to support staff. In this instance, the staffing levels have been agreed. However, there is a delay in appointing staff to the posts. The HSE established the National Recruitment Service, NRS, in 2009 as part of the policy of developing shared services. The current difficulties in sourcing nurses relate to shortages of potential nursing staff in Ireland and worldwide shortages, rather than a failing on the part of the NRS.

Notwithstanding the difficulties faced in recruiting nurses, I advise that an extra 578 whole-time equivalent nurses and midwives were employed between August 2014 and August 2015. In addition, the HSE is planning to recruit over 500 nurses across a number of nursing disciplines. There is significant work being undertaken to achieve this. It includes recent and ongoing national and local interviewing of all categories of nurses and midwives.

The HSE has also developed an international nurse recruitment project to fill posts. This initiative is a targeted recruitment drive in the United Kingdom, primarily focused on Irish trained nurses who left during the moratorium. There are plans to broaden the campaign. The

HSE has also significantly increased multi-task attendant and health care assistant numbers. Including interns, the number of multi-task attendants has increased by 270 in the past 12 months and the number of health care assistants by 700.

I reaffirm the Government's commitment to the delivery of care at the most appropriate level, in particular the provision of nursing home care as an alternative to long stay acute hospital care, given the capacity pressures on the acute sector. The opening of additional beds in homes such as St. Brendan's community nursing unit will be pursued as a priority to support persons who can no longer live at home and those who do not require acute hospital care.

Senator Lorraine Higgins: I know that this is not the Minister of State's specific area of responsibility and that she is standing in for the Minister for Health, Deputy Leo Varadkar, but that answer is not satisfactory. I am not disputing the Government's level of care, but I am disputing the fact that decisions were made last February to hire 20 staff for the unit in question. In his response the Minister goes on about staff shortages, but that is not the whole picture or answer. There are agency staff in place. Perhaps it is time we interviewed them and made them permanent and cut the cost to the Exchequer. The Minister needs to intervene in this matter to get these jobs up and running and make 20 people permanent. Obviously, the offshoot of this and the multiplier effect in Loughrea and Ballinasloe would be enormous. I ask the Minister of State to use her offices to contact the Minister. I have tried to contact him, but I have not received a satisfactory response. I would greatly appreciate it if the Minister of State used her good offices to ask him to intervene to sort out the matter at his earliest possible opportunity.

Deputy Ann Phelan: I understand the Senator's frustration and will undertake to contact the Minister's office. The answer states this matter "will be pursued as a priority".

Schools Building Projects Status

Senator Brian Ó Domhnaill: This motion relates to Scoil Mhuire in Stranorlar. I accept that the Minister of State, Deputy Ann Phelan, does not have responsibility for education matters and that it is unfortunate that the Minister for Education and Skills is not present, but I also accept that she may have other commitments. Nonetheless, I want to outline the difficult and serious situation at Scoil Mhuire in Stranorlar where there are 452 pupils enrolled for the 2015-16 school year. The principal, Mr. Keating, and his staff have been doing a tremendous job under the most extreme of difficult circumstances. The pupils are in a school which is not fit for purpose in this day and age. Education is so important to the future of young people that the facilities in which they are educated also play an important and fundamental role in how they are educated.

The increased pupil numbers in the school have been provided for the Department of Education and Skills. In the school year 2014-15 there were 57 new pupils in junior infants. This year the number has increased to 70. Of the 452 pupils in the school, 170 are being taught in prefabricated buildings. That is unacceptable in this day and age. I have visited the school on several occasions, as have many of my Oireachtas colleagues from County Donegal who have been raising the issue in the other House. It is urgent. Only four of the 12 permanent classrooms in the school have a toilet or running water. That is not acceptable. This is one of the largest primary schools in County Donegal. There are other issues relating to traffic and health and safety, particularly when there is traffic in the morning and the evening. The entrance to the school is located within the grounds of a church car park. At busy times such as funerals, wed-

dings and when people are attending mass, it is very difficult to access the school. This creates major dangers for the kids from junior infants to sixth class.

I know that the Government is contemplating a new school capital building programme. It is imperative that this project be put on the shelf and included in that programme. The school is at stage 2a, draft report stage. A site has been identified and Donegal County Council has granted planning permission for a site adjacent to the new state-of-the-art Finn Valley sports complex. It is ideal from the point of view of child welfare, safety, education and the provision of extra-curricular activities in the Finn Valley sports complex.

The project was going to be put out to tender before the Minister's predecessor, Deputy Ruairí Quinn, took office. Unfortunately, it was moved out of the capital building programme, but it needs to be put back in forthwith. It is shovel-ready in every sense of the word. All that is required is ministerial and political approval to allow it to proceed. Politics should not come into it because this is a child welfare and educational development issue. I hope that, on the grounds of the merits I have outlined and the board of management has provided for the Department, the project will see the light of day and be allowed to proceed to building and tender stage early in 2016.

Deputy Ann Phelan: I am taking this debate on behalf of the Minister for Education and Skills, Deputy Jan O'Sullivan. I thank the Deputy for raising the matter as it provides me with an opportunity to clarify the position on the major capital project at Scoil Mhuire in Stranorlar.

The Deputy will be aware of the demographic challenge facing the education system in the coming years. The Department's latest published projections for primary pupil enrolments indicate a increase in the order of some 29,000 pupils in the school year 2018-19 compared with current levels. In order to meet the needs of the growing population of schoolgoing children, the Department must establish new schools, as well as extend or replace several existing schools in areas where demographic growth has been identified. The delivery of these new schools, together with extension projects to meet future demand, will be the main focus of the Department's budget in the coming years.

Stranorlar has not been identified as an area of significant demographic growth. In 2014-15, there appears to be a slight spike in enrolment in the area. However, enrolment in the area is expected to gradually decline over the next few years. Notwithstanding that, Stranorlar has not been identified as an area of growth, a new site for the proposed new school was completed some time ago. A project brief was prepared and the project has been advanced into the architectural planning process.

The project at Scoil Mhuire B and C, Stranorlar, will consist of a new three-storey, 24-classroom school with ancillary accommodation on a greenfield site. The design team for this project was appointed in March 2014. The original project supervisor for the design process, PSDP, ceased trading shortly after its appointment and a replacement PSDP member of the design team was subsequently appointed. The school building project is at an early stage of architectural planning - stage 2a, developed design stage. A stage 2a stakeholder meeting involving officials from the Department and the school's the board of management and its design team will take place shortly. Following this, and subject to no issues arising, the project will be authorised to progress to stage 2b, which is the detailed design stage and which includes the making of applications for fire certificates and disability access certificates and the preparation of tender documents. Planning permission has been secured, as the Senator pointed out.

School building projects, including the project for Scoil Mhuire, which have not been included in the five-year construction programme, are being progressed to the final planning stages in anticipation of the possibility of further funds being available to the Department in future years. On behalf of the Minister for Education and Skills, I again thank the Senator for the opportunity to outline the current position in regard to the major capital project for Scoil Mhuire, Stranorlar.

Senator Brian Ó Domhnaill: I thank the Minister of State for a comprehensive and favourable response. I wish to raise one issue, which seems to emanate from departmental officials and, perhaps, the Minister, and that is the focus on providing schools in areas where demographics dictate - in other words, areas where growth is occurring. I am sure the Minister of State, who has responsibility for rural development, will be concerned about this. While expanding populations in our commuter belts must be dealt with, if schools in rural areas are not given the opportunity to develop, young families will migrate to areas where there are better schools. Unfortunately, that is the reality in Stranorlar and other rural areas where school building projects have not been given the go ahead and families decided to put their children in other schools. That is wrong and there needs to be a shift away from this approach.

I welcome the response regarding Stranorlar school and the fact that the project can proceed to stage 2b, which is the detailed design phase and involves the preparation of tender documents. That is important and I ask the Minister of State to consider the demographics issue for smaller schools in rural areas in the context of her own brief. Perhaps she can link up with the Department of Education and Skills. She has a responsible and important role within government and I hope this Department and other Departments are listening to her input.

Deputy Ann Phelan: I thank the Senator and I will take on board some of his comments. I am keeping a close eye on this issue. While accepting the current position, I draw his attention to the fact that while Stranorlar and other schools have not been included in the five-year construction plan, they are being progressed to the final planning stages in anticipation of the possibility of further funds being available. The Senator has raised an important issue in the context of my role as Minister of State with responsibility for rural economic development.

Sitting suspended at 10.55 a.m. and resumed at 11.30 a.m.

Order of Business

Senator Maurice Cummins: The Order of Business is No. 1, Houses of the Oireachtas (Appointments to Certain Offices) Bill 2014 - Report and Final Stages, to be taken at 1 p.m. and adjourned not later than 2 p.m., if not previously concluded; No. 2, statements on broadcasting and media in Ireland, to be taken at 3 p.m. and conclude at 5 p.m., with the contributions of group spokespersons not to exceed eight minutes and those of all other Senators not to exceed five minutes and the Minister to be called on to reply not later than 4.55 p.m.; and No. 72, Private Members' business, non-Government motion No. 20 re State Claims Agency, to be taken at 5 p.m., with the time allocated for the debate not to exceed two hours.

Senator Darragh O'Brien: Is the Houses of the Oireachtas (Appointments to Certain Offices) Bill 2014 being brought back with Government amendments?

Senator Maurice Cummins: I am not privy to that at all.

Senator Darragh O'Brien: Even at this late stage.

Senator Maurice Cummins: The Senator will have to wait and see.

Senator Darragh O'Brien: To remind Members, we had a fruitful debate on this legislation and the Leader acceded to a request to separate the different Stages of the Bill to allow the Government time to consider some of the points put to the Minister about setting a term limit to be applied to certain senior posts in the Oireachtas. I will be interested to see what will happen when the Bill is taken at 1 p.m. May I assume that the debate on the Bill will not be guillotined if we require more time to deal with it? Will it be adjourned?

Senator Maurice Cummins: I used the word "adjourned," but we hope to finish the debate within the hour, as there is very little in the Bill. As the Senator can see, there is another hour that could be allocated. We will, therefore, have extra time, if we need it.

Senator Darragh O'Brien: I thank the Leader.

Irish Water's seven-year plan will require to be debated once people have had an opportunity to read it. Some of the figures on which it is based lead one to believe it is merely an aspirational document rather than something that can actually be achieved. For example, it suggests there will be an 80% compliance rate and that €2 billion will be raised through water charges and taxes. There is also a good deal in it about investment in water infrastructure, which we all want to see. We could, therefore, have a reasoned debate on the matter, for which time should be set aside in the Seanad schedule. I am aware that the Budget Statement will be coming up for discussion shortly, but this is a very important issue and we do not all agree on the Government's approach. Members need an opportunity to go through the plan in order that we will be able to debate it with the Minister to see what the Government's plans are.

Before the House rises, whenever that may be - I take at face value the Leader's words yesterday that he thinks we will be here until next year - there is a need for another full debate on housing, not just homelessness, in respect of which there has been a complete failure. Homelessness figures in Dublin and around the country have doubled since the Minister for the Environment, Community and Local Government, Deputy Alan Kelly, set up his task force over 12 months ago following the tragic death of Mr. Jonathan Corrie which spurred the Government into taking some action. It is not just a Government issue. From reports of the Committee of Public Accounts, local authorities have actually refused housing offered by NAMA. All of these issues need to be teased out. We also need to look at the people who will be made homeless by virtue of the land and conveyancing Act which the Government passed over two years ago and which makes it easier for banks to repossess homes. Over 6,000 civil bills, which mark the commencement of repossession proceedings against homeowners, were issued in the past two quarters. These issues need to be teased out. This situation has reached crisis point but the Government continues to limp towards a general election without doing everything possible to protect homeowners. It must ensure every option to enable homeowners to remain in their homes is explored, regardless of whether the banks take ownership of them. There is a need for a fulsome debate on this issue with the Ministers for the Environment, Community and Local Government and Finance. It should not be forgotten that it was the current Minister for

Finance who watered down the protections in place for homeowners under the code of conduct on mortgage arrears. This Government tore the previous code of conduct asunder and made it easier for the banks to repossess people's homes and that is what is happening.

An Cathaoirleach: The Senator is way over time.

Senator Darragh O'Brien: We need to know what is being done in this instance. The Government needs to address these points and show that something is being done. For all the positive spin on some good work that has been done - let us give credit where it is due - this Government will be known as the Government of repossessions. This Government has allowed the banks to repossess people's homes. It facilitated this through the introduction, by the former Minister for Justice and Equality, Deputy Shatter, of the Land and Conveyancing Act, which was supported in this and the Lower House by Fine Gael and the Labour Party. That legislation, which has been referred to outside this House as the "evictions Act", has been the main driver of home repossessions.

Senator Ivana Bacik: Most people in Ireland are clear on which Government set the scene for repossessions-----

Senator Darragh O'Brien: The current Administration introduced the relevant law.

Senator Ivana Bacik: -----and brought about the conditions under which this country had to enter a troika programme. We are all very clear on that point and I would remind Senator O'Brien of it.

Senator Darragh O'Brien: Senator Bacik does not need to remind me about anything.

Senator Ivana Bacik: Yesterday, Senator Mooney expressed his revulsion at and condemnation of the horrible killing in recent days of an Israeli couple in front of their children. I agree with Senator Mooney that any killing of that horrific nature needs to be condemned by all sides. I speak as somebody who has always been very supportive of the Palestinian cause. There have been some very barbaric killings by both sides but this particular incident deserves particular condemnation.

On a more positive note, I would like to be associated with Senator Barrett's congratulations yesterday to Professor William C. Campbell, a graduate of Trinity College who, along with his colleague, Professor Omura, this week received a Nobel Prize for his work in medicine. He is one of three graduates of Trinity to receive a Nobel Prize. Professor Campbell is from Dublin and obtained a first class honours degree in zoology from Trinity College Dublin in 1952. He also obtained an honorary doctorate from the college only three years ago. I join Senator Barrett and other colleagues in congratulating Professor Campbell on this remarkable and noteworthy achievement.

I also note and welcome the appointment last week of the former Tánaiste, Deputy Gilmore, as a European Union peace envoy to Colombia.

Senator Darragh O'Brien: I thought things were going well in Colombia.

Senator Ivana Bacik: I hope we will soon see some further resolution of the Colombian process.

I thank colleagues who attended the briefing I organised yesterday with the Immigrant

Council of Ireland on the Criminal Law (Sexual offences) Bill 2015. I thank Monica O'Connor and Nusha Yonkova for their excellent briefing. I also welcome that the Bill passed Second Stage last night without a vote and hope its progress through the Houses will be speedy. I thank the Minister for Justice and Equality for commencing the Bill in the Seanad and for indicating on Second Stage that she will be accepting amendments on Committee Stage in the Seanad and will also be tabling her own amendments in response to points raised by a number of Senators. It is very positive for the Seanad when important comprehensive legislation is initiated and amended here.

I ask the Leader to arrange a debate at some point in the future on the comprehensive employment strategy for persons with disabilities, which was launched at Farmleigh on Friday last by the Minister of State, Deputy Ó Ríordáin, and which sets out six clear priorities for improving the situation in employment for persons with disabilities.

Senator David Norris: I was alerted to watch last night's edition of "Prime Time", which dealt with six cases in respect of which there have been allegations of Garda Síochána laziness or cover-up. One of the cases dealt with in the programme is one I have raised on a number of occasions in the House. Shane O'Farrell, who was a brilliant student in Trinity College and who had just completed a further degree in law and handed in his thesis, was hit by a car when cycling home from a training session. He was carried for a long distance on the bonnet of the car, which failed to stop at the scene. The driver went home, hid the car, told his wife he had hit somebody but that he did not know who it was. This man, who is an eastern European, had a string of convictions as long as one's arm and was out on bail in two other cases and had been stopped by the Garda an hour prior to the accident while driving an uninsured car. That car should have been repossessed. If it had, Shane O'Farrell would still be alive today. The case has been referred to a committee of barristers by the Minister for Justice and Equality, which is unsatisfactory because that committee has thus far recommended further investigation in only a small number of cases. I ask that the Leader arrange a debate on these issues. The vast majority of gardaí are decent people but a culture of cover-up exists within An Garda Síochána.

I would also like to express concern about proposed changes in respect of J1 visas, of which many undergraduates avail in order to travel to the US to obtain formative training, earn money for college fees and have a good time. There are suggestions of the J1 visa programme being restricted such that young people will only be granted visas if they have already secured employment in the United States. This would reduce the number of visas granted by up to 80%, which would be a very severe incursion into the experience of young people. It is good for them to go to the US and experience its culture. This proposed restriction may be in response to rowdy behaviour and so on. That is regrettable because such behaviour is very much only engaged in by a minority. The Minister should be alerted to this and asked to closely monitor the position in order to ensure that the J1 visa programme continues to operate in its current form. An education programme should be put in place for young people going to the US to ensure they are aware that while it is fine for them to have a good time and so on, they are responsible for representing Ireland while they are there.

Senator Colm Burke: I wish to refer to an issue about which I am extremely concerned. I have raised it in the House on a number of previous occasions, including as a Commencement Matter. It was not, however, dealt with here but was, rather, responded to by way of a letter. The issue in question is the delay in the registration of nurses. Currently, 2,260 people are awaiting registration with An Bord Altranais. On 16 July, Irish Nursing Homes was informed that new mechanisms would be put in place to expedite the registration process. That has not

occurred. The applications of more than 1,300 nurses are incomplete and these individuals are unable to make contact with anybody from the Irish Nursing and Midwifery Board regarding the information that remains outstanding. There is no direct line of contact and the level of communication is not adequate. The 16 staff due to be employed have not yet been taken on. There is much talk about job creation. The 2,200 people about whom I am speaking want to work in this country but the slow process of registration is preventing them from taking up jobs they have been offered. This matter requires urgent attention, particularly in view of the fact that, according to a reply I received yesterday from the HSE and the Department of Health, €304 million was spent on agency staff in our hospitals in 2014. Up to 30 September last, €165 million had been spent on agency staff in the current year. This issue must be dealt with. We want people to work in this country but we are not facilitating them in taking up employment.

While I am dealing with the issue of agency staff, I understand that a great deal of money is also paid out in respect of junior doctors. One of the issues raised in the report furnished to me is that a number of hospitals at regional level are having difficulty retaining full-time doctors. We must, therefore, look at the structure. When a hospital pays for 40,000 or 50,000 hours' worth of work on the part of agency staff, it means the current structure is not working. We must consider the use of alternatives in order to make it attractive for people to work at particular hospitals and to live and raise a family nearby. We are not doing that at present.

An Cathaoirleach: The Senator is way over time.

Senator Colm Burke: The system, as it stands, does not suit everyone so we must look at alternatives. I ask that the Leader raise this with the Minister for Health at the earliest possible date.

Senator Terry Leyden: I do not wish to be seen to collaborate with this Administration but I ask the Leader to make a request to the Minister for the Environment, Community and Local Government, Deputy Alan Kelly, and the Tánaiste and Minister for Social Protection, Deputy Joan Burton, to extend the deadline for claims for the water conservation grant of €100. The closing date for receipt of applications via the Internet is 12 midnight, tomorrow, Thursday, 8 October. Some 600,000 have applied but 700,000 have not and that is a loss of some €70 million. Whether we like it or not, there are people who are eligible for this grant who have their own septic tanks or water supplies.

I do not want to go into the background of this disaster. Irish Water is a political nightmare for the Government and the various matters relating to it have been very badly handled. The administration of the applications process has been very slow. In addition, many people in rural areas do not have broadband or access to the Internet. I have been in contact with councillors who have been making representations on behalf of individuals but a public representative is not allowed, under the Data Protection Act, to act for an individual in correcting mistakes regarding addresses to which bills have been sent. In the circumstances, the €100 would be a help to many households at this time. I cannot understand how we in this House could be eligible for the €100 grant, having paid our water rates a few months ago, but would not get our money back. The whole thing is totally illogical and it is beyond comprehension that any Government would oversee such a debacle. I ask the Leader to convey to the Government my request - which would, I believe, be unanimously supported in the House - that the date be extended for at least two weeks in order to allow people to submit their applications. One is obliged to submit a great deal of information, such as PPS numbers and bank account details, and that is not so easy. It is practically impossible for some people and it is putting enormous pressure on

public representatives the length and breadth of Ireland.

Senator Aideen Hayden: I agree with Senator Darragh O'Brien that a wide-ranging debate on the entire issue of housing would be in order. I agree that we should not just focus on homelessness but also on supply, which is very problematic in the market at present. I have concerns with regard to Longboat Quay. The owners are now threatening legal action. It has come to my attention that while there are owner-occupiers at Longboat Quay, there are also people who rent rather than own the properties in which they live. Under our current legal code, renters have very little voice and very little right to be heard. Under the Multi-Unit Developments Act 2011, tenants have no right of representation on management companies but the actions taken probably have more impact on renters. More apartments in these developments are actually rented than lived in by owner-occupiers so it is quite ironic that they have so little voice.

The same is true in the area of receivership. I have personally dealt with a significant number of cases in the recent past where properties have been repossessed by lending institutions and the first thing the tenant knows about it is when the receiver comes to the door and tells them they will have to leave. Receivers want vacant possession and want the tenants out. There is no code of conduct to protect tenants in those situations. It is time we started treating renters with respect. Rented homes are homes and it is wrong to give so little voice to the tenants who live in them. Can the Leader propose that the Minister for Justice and Equality amend the Multi-Unit Developments Act in order that we might ensure tenants are given a voice? Can he also tell the Minister for Finance that we need a code of conduct relating to mortgage arrears relating to rented properties? Those houses are homes and it is not right to treat their tenants as though they were disposable.

Senator Sean D. Barrett: I endorse what Senator Hayden said. It is really strange that we have to go back to Charles Stewart Parnell to defend tenants' rights. In many cases it is the landlord, not the tenant, who has become financially unstable but it is the tenant who suffers when the landlord changes. I thought we had made progress with the then Minister, Deputy Shatter, on that front and I hope the prospects of progress can be revived.

I call for a debate on climate change. Matters are becoming more urgent and there is a huge conference of 96 countries scheduled for Paris in a couple of months' time. We saw evidence of the implications of climate change with the court case in Cork, where 40% of the liability for the flood was allocated to UCC and 60% to the ESB. There was the Volkswagen case where carbon emission levels were deliberately concealed by the use of technology, which will undoubtedly cause climate change and some damage. A recent paper by the Governor of the Bank of England on climate change and financial stability referred to the difficulties for insurance companies. Last year, the United Kingdom experienced its wettest winter in over 200 years. This House needs to make a contribution to the Irish delegation to the Paris conference in light of flood increases, financial instability in the insurance sector, the risk to the financial system, the risks of decarbonisation and the judgment in the case of the flood in Cork city. I ask the Leader to arrange a debate on this matter. In the Cork case, the judge said he counted 50 or more instances in the evidence where UCC was expressly put on notice of flood risk to buildings it built or had acquired on the River Lee flood plain but did not act. The judgment runs to 550 pages and the costs are potentially huge. We also know of recent problems in Galway and in the midlands. Given the importance now attached to climate change by President Obama, where until recently there had been scepticism, it is clear that it is now a major issue and this House should make a contribution to the Irish presence at the Paris conference.

Senator Michael Mullins: As we are all aware, this is Road Safety Week. It is an opportunity for all of us, motorists, cyclists and all users of the road network, to focus on road safety. The weather is getting colder and the evenings darker so it is time to concentrate on various aspects of road safety. There is huge concern that a lot of drivers pay scant attention to the issue of tyre safety. A recent survey indicated that only approximately one in eight drivers checks the conditions of their tyres on a regular basis.

12 o'clock

The only protection we have on the road is the quality of the tyre, in particular as we drive our cars. It is critical that we would have a renewed focus on all aspects of road safety. People tended to skimp on road vehicle maintenance during the economic difficulties we have been through. A significant number of people have been killed on the roads.

I noted with interest recently the number of cyclists who have received fixed-charge notices and who have been prosecuted for dangerous cycling. Approximately 240 people have been prosecuted. That is very much to be welcomed. It shows there is a renewed emphasis and focus on the safety of cyclists. A total of 13 cyclists have been killed in the past year. I plead with all young drivers to be especially careful. We are all very concerned at the number of people who have been prosecuted for speeding, in particular in housing estates and built-up areas. During road safety week it is an opportunity for all of us to think about how temporary life is and how easily lives are lost on the road as a result of bad driver behaviour and poor vehicle maintenance. I urge all of us as public representatives to spread the word that there is a need for greater emphasis on safety as we head into the winter.

Senator David Cullinane: I also wish to raise the issue of Irish Water. A previous speaker said the Government's plan is illogical and to an extent one could argue that it is, given all of the failures of Irish Water and water charges. There is a very clear logic in terms of what the Government is doing with the water conservation grant and other measures, which is to entice people to register and then pay even if they do not want to do so. There is a clear logic, even in terms of the seven-year plan, which was announced today by Irish Water and its parent company. I heard some of their representatives on national radio this morning talk about the seven-year investment plan. It is not grounded in reality. There is no acceptance that this will be a big political and electoral issue. I accept that the Government parties have their view on Irish Water and water charges. The Opposition has a different view. There will be an election and the issue will be a central part of the campaign. We can all put forward our positions and the people will decide. I have no difficulty with that.

However, the plan ignores the EUROSTAT ruling. Irish Water is behaving as if it is a commercial semi-State company even though EUROSTAT has said it is not. The company talks about €2 billion being raised in revenue from residential customers by 2021. It ignores the fact that almost half of people have not paid, and that is of those who have registered, not to mind those who have not registered. There are clear problems with the Government strategy, but the foundation upon which the seven-year plan is being built must be examined. The reality is that what Irish Water is saying in terms of its seven-year plan is that the money is going to come from commercial water rates, domestic water rates and borrowing. All of the borrowing will be on the State balance sheet, which means that every cent is coming from either businesses in the State, citizens who pay and borrowings. A massive investment plan is envisaged yet there is no discussion or debate in the Houses of the Oireachtas. The Dáil is not scheduled to debate the seven-year plan and neither has the Seanad scheduled such a debate.

This is taxpayers' money. In spite of the EUROSTAT ruling, and given that this is a fully owned public company, as the Government has indicated, and should not be treated as a private company - the Government has said it does not want to privatise water services - the whole logic of the seven-year plan appears to be to move towards privatisation ultimately. The plan should be brought to the Seanad and the Dáil and we should have a debate on it. We will have a political debate and an electoral debate about the future of Irish Water and water charges. That will happen as a matter of course in terms of the election campaign, but the seven-year investment strategy should be brought before the Dáil and Seanad where it belongs. Let us have a debate about it in terms of the foundation upon which it is built, which is very shaky and ignores the EUROSTAT ruling and the obvious fact that many people in the State have not and will not pay for domestic water charges.

Senator Catherine Noone: The Healthy Ireland survey conducted by the Department of Health was released yesterday. More than 7,000 households were included in the survey. It shows there has been somewhat of a plateau when it comes to obesity and that 60% of people are still overweight. It found that four in ten men do not get enough exercise. The most commonly desired lifestyle change is that people wish to be more active. In most jobs, it is usual for people to spend more than five hours a day sitting at a desk. Less than one in five people now smoke each day, which is most welcome. It shows that the strategy in the past ten years has worked.

Advertising campaigns such as the very sad one featuring Gerry Collins, the man who has since died, have been very effective. We clearly need to do something when it comes to health, in particular obesity, being overweight and unhealthy lifestyles. It would make a big difference if we had a similar campaign targeting those issues.

We have made considerable headway with tobacco and smoking, which is very much to be welcomed. It was brought to my attention recently that some cigarette companies have started selling 28-packs of cigarettes. That is a blatant attempt by cigarette manufacturers to get people who smoke to smoke more. Everybody knows that smokers tend to talk about how many packets of cigarettes they smoke per day or week. Larger packets pose a risk. They are not a good idea and could result in those who smoke smoking up to 30% or 40% more. We are moving in the right direction when it comes to obesity but an advertising campaign of the sort we have seen in the realm of smoking would be good.

Senator Paul Bradford: I agree with much of what Senator Cullinane said about the need for a debate on Irish Water but my prognosis on the company and the future direction of water policy in this country is different to his. What is on the table at the moment from Irish Water needs to be addressed. The company appears to do a very good job of keeping itself in the news, sometimes for good reasons but other times for bad reasons. It does a significant amount of television and radio advertising at enormous cost. We hear spokesperson after spokesperson bringing forward new angles about the business of the company. What surprises me about today's announcement is that it does not seem to fit fully into the position into which Irish Water was boxed by way of the 12-year long service level agreements between the Department, the unions and the local authorities. I am not sure how one can match the other.

Irish Water is clearly not a conventional semi-State body. That decision has been adjudicated on and ruled on by a European body. We cannot make that decision go away. We were advised at the time that the situation could be regularised within 12 to 24 months, but as of now it is impossible under the current terms of the legislation domestically and internationally that

Irish Water could pursue the line it indicated this morning. We have a Minister with responsibility for Irish Water and election or no election, we need some degree of certainty about the company's current plans, and a debate here would be useful in that regard.

Both the Dáil and Seanad seem to have gone into a dizzy spin about an election. The men and women in the streets are not remotely concerned about when the election will take place. They want to get on with living their lives. Whether the election is in November, February or March, we have a duty to continue with the job which we have been elected to do. One of the issues of importance is the ongoing saga of Irish Water. Rather than speculate when the Taoiseach might call the election – perhaps he does not know himself – we should get on with our normal, ordinary business. I ask the Leader to try to organise a debate at which we might get some answers from the Minister on the apparently new stance being taken by Irish Water.

Senator Maurice Cummins: Senators Bradford, Darragh O'Brien and Cullinane raised the issue of Irish Water because its seven-year plan was announced this morning. I am informed that it will be the subject of debate in the right fora, which is the Joint Committee on the Environment, Culture and the Gaeltacht. That a debate will take place in early course.

Senators Darragh O'Brien and Hayden called for a debate on housing. I am trying to arrange a debate with the Minister for the Environment, Community and Local Government, Deputy Kelly, or the Minister of State, Deputy Coffey. Senator Bacik mentioned that a third graduate of Trinity College has been awarded a Nobel Prize, which was mentioned by Senator Barrett yesterday. Senator Bacik also welcomed the willingness of the Minister for Justice and Equality to accept amendments in the Seanad to the Criminal Law (Sexual Offences) Bill, which passed Second Stage yesterday.

Senator Norris mentioned the "Prime Time" programme on the review of over 300 cases. I viewed the programme and think there is a need for a proper review process to deal with these cases. I also think there should be full access to GSOC files and, indeed, Garda files should be made available to the barristers examining these files. I was astounded to hear full access was not available, which was suggested in the programme. I would be very concerned about that situation and I will bring the matter to the attention of the Minister for Justice and Equality. I note the points the Senator made about the J1 visas and the importance of same. I think everybody is aware of the matter.

Senator Colm Burke mentioned the delay in the registration of nurses and the urgent need to address the difficulties in the Nursing and Midwifery Board of Ireland in terms of granting registration. As he rightly pointed out, there is a need to reform the system. I also note the point that €304 million was spent on agency staff in 2014, which, I agree, is a large amount of money. I will bring the matter to the attention of the Minister for Health. I know the Senator has already done so through a Commencement debate on the whole question of the registration of nurses, a matter which will have to be addressed in early course.

Senator Leyden called for the deadline for the water conservation grant to be extended. People have all day today to register and, therefore, have plenty of time to do so. However, I will ask the relevant Minister to consider extending the deadline. For many months, people have been advised of the deadline but I will bring the matter to the attention of the Minister.

Senator Terry Leyden: I thank the Leader.

Senator Maurice Cummins: Senator Hayden mentioned the Longboat Quay situation, in

particular the plight of tenants who are renting there. I agree with her that there is a need for tenants to have a voice. Looking back at all of these buildings that have created difficulties for owners and tenants, I ask myself on a daily basis what were the architects, engineers, fire officers and local authorities doing. They were the people who were supposed to regulate these buildings and ensure people went into safe houses. What were they doing? Things happened on their watch so they should be held to account.

Senator Paul Coughlan: Hear, hear.

Senator Maurice Cummins: It is dreadful to see those people with houses and apartments which are unsafe. People need to be held accountable, even if it is many years afterwards. Developers and builders are also responsible. These people must bear some responsibility for this and must be held to account. They have been let off for far too long. People have washed their hands of this situation. The engineers, architects, fire officers and the rest of them must be held to account and we must ensure that happens. Senator Barrett raised that point too. He also called for a debate on climate change and referred to the flooding in Cork, the Volkswagen emissions and the role of the insurance sector in this matter. I agree with him that it is timely to debate the matter and I will try to arrange one.

Senator Mullins highlighted that this is road safety week and called for motorists to check their tyres and vehicles and asked cyclists to be vigilant on the roads. Senator Noone mentioned a Healthy Ireland study which outlined that 60% of the population is still overweight, including myself.

Senator David Cullinane: Not at all.

Senator Paul Coughlan: Senator Cummins is not alone in that.

Senator Maurice Cummins: Progress has been made in regard to smoking but it is still a serious problem. People are getting the message, as Senator Noone pointed out. Perhaps we could invite the Minister to the House to speak to us about the Healthy Ireland study in the coming weeks.

Order of Business agreed to.

Sitting suspended at 12.20 p.m. and resumed at 1 p.m.

1 o'clock

Houses of the Oireachtas (Appointments to Certain Offices) Bill 2014: Report and Final Stages

An Leas-Chathaoirleach: I welcome the Minister, Deputy Brendan Howlin. There are no amendments to the Bill on Report Stage.

Question proposed: "That the Bill be received for final consideration."

Senator Darragh O'Brien: I thank the Minister for coming. The Minister of State at the Department of Public Expenditure and Reform, Deputy Simon Harris, was here for previous

Stages when we had quite a detailed debate on the Bill, particularly about the duration of the term that was supposed to be set for the posts of Clerk of the Seanad and Clerk of the Dáil. I will not go over all of the details, as I am sure the Minister's officials have already advised him on the matter.

In general, I support the Bill, but there were concerns across the House about the issue of progression within the Civil Service, the suitability of persons for these posts and, more importantly, possible unintended consequences of the legislation. The concerns pertained to the perception that, because a timeframe was being set, it would give the commission more control and that one could have political influence on appointments, particularly those of the Clerk of the Dáil and the Clerk of the Seanad. If a given Minister or commission did not like an individual, he, she or it could actually reduce the term. As the maximum term is not specified, will the Minister provide details of the term the Government is looking to set? The Minister of State took note of these points and I would like to see them being addressed. I do not suggest the Government is looking to control these appointments or the terms of appointments; however, the running of Seanad elections and by-elections requires someone with a great deal of experience in the role of Clerk of the Seanad. Someone could be serving a five year term which would expire before the holding of a Seanad election. I do not have to remind colleagues of the importance of the Seanad nomination process and being able to say someone has been validly nominated to a given panel. I refer to the Seanad as constituted because there are no other reform proposals to be implemented before the next Seanad election. As these concerns have not been addressed, I ask the Minister how he sees this legislation working? Will he indicate how it can be ensured someone with experience will fill the role and that in the future a Clerk of the Seanad cannot be removed by a commission or that he or she will not leave his or her post at a time when they will be most required?

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): I apologise that I was unable to be here for previous Stages of the Bill just before the summer recess, but I was committed to being elsewhere. I did, however, read with great care the transcript of the debate in this House and thank Senators for participating in it. I will offer some background information on the Bill.

This is a very modest proposal in terms of the real reform agenda that must be undertaken to professionalise the administration of the Houses of the Oireachtas. My predecessor, the late Brian Lenihan, was of the view that the old way of appointing senior officials in the Houses, which dated back to the 1950s, was not an appropriate way, or that it was not appropriate for the Executive to have that influence in Parliament. It involved the appointment of the most senior official, the Clerk of the Dáil, by the Taoiseach in consultation with the Ceann Comhairle. The Taoiseach agreed with me that we should begin the process of reform by holding an open competition to fill the most senior official position in the Houses, the equivalent of a Secretary General post in a Department. It would be done along TLAC lines, on an open basis, in order that anybody and everybody would be entitled to apply. The normal Top Level Appointments Committee would handle the vetting process and make a determination on who was appropriate to fill the post. The committee would, without listing in any order of priority, submit names to the Ceann Comhairle, the most senior person in the Dáil. The Ceann Comhairle would then take the proposal to the Oireachtas Commission, made up of Members of both Houses, which would then make the appointment.

The second part relates to the appointment of the next tier of officials, on which a germane discussion took place in this House. I share the very strong view held by my predecessor that

there needed to be flexibility in filling the posts of Clerk Assistant of the Dáil, Clerk of the Seanad and Clerk Assistant of the Seanad. These posts are now the equivalent of principal officer grade, whereas the Clerk of the Dáil, the Secretary General of Houses of the Oireachtas, is the equivalent of Secretary General grade. Rather than have somebody appointed to any of these positions - Clerk Assistant of the Dáil, Clerk of the Seanad and Clerk Assistant of the Seanad – on a permanent or long-term basis, it would be a matter for discernment within Houses of the Oireachtas staff. It would be mirrored in the appointment of the Clerk of the Seanad from within the staff rather than being open to appointment by TLAC. On nomination by the Cathaoirleach of the Seanad, the appointment of Clerk to the Seanad would be made by the Oireachtas Commission, on which this House is robustly represented. That respects and preserves the independence of the Houses in a way that it currently does not.

Many very important points have been made by Senators in the debate. More work requires to be done in terms of how we structure an appropriate, robust, modern administration in these Houses. I would like that work to be led not particularly by the Executive but by the Oireachtas itself. It will be a work for the Oireachtas Commission in the next Oireachtas to have a root and branch examination of administration and to determine how a modern administration system works because we are going to move into the area of open data, and there are many substantial differences in the way things were done in the 1950s when the governing legislation for the appointment of senior staff was initially crafted.

I ask Senators to pass the Bill. I acknowledge it is a relatively modest proposal in and of itself, but an important one to ensure that the most senior official in the House is appointed by means of an open competition, and it is open to anybody to apply for that, rather than the closed position that it is now where it is a case of somebody being nominated from within the House by the Ceann Comhairle to the Taoiseach and the appointment being made by the latter. That is not an appropriate, open way of having a senior official appointed at this time. God knows what position either of us will be in a number of months' time, but I can say from my perspective-----

Senator Darragh O'Brien: Or weeks.

Deputy Brendan Howlin: Or weeks. Who knows these things? I am more confident, to borrow a phrase from our esteemed President, that the testing of the love of the people will take place in 2016 rather than 2015, but who is to know these matters. In any event, should I have any influence on the matter, I certainly will have something to say about it, and if I am in an executive position in the next Oireachtas I will encourage the Oireachtas Commission to look in a very open way at the existing administrative structures and for the Oireachtas itself to make recommendations rather than simply for the Executive to make proposals, which in a modern, functioning parliamentary system is probably not the right way to go.

Senator Darragh O'Brien: I thank the Minister for his response. I outlined some concerns in my Second Stage speech which I hope will not come to pass. The system should be reviewed as to how it works in reality when the Bill becomes law and appointments are made. Perhaps people in the Department would look back at certain things we have said here that I hope do not transpire. We support the Bill. I thank the Minister for his response.

Question put and agreed to.

Question, "That the Bill do now pass", put and agreed to.

3 o'clock

Broadcasting and Media in Ireland: Statements

An Cathaoirleach: I welcome the Minister for Communications, Energy and Natural Resources, Deputy Alex White, to the House.

Minister for Communications, Energy and Natural Resources (Deputy Alex White): I thank the Seanad for the invitation to address the House. Public service broadcasting is provided for in Part 7 of the Broadcasting Act 2009. The Act sets out the principal objects of the public service broadcasting corporations, RTE and TG4. These objects provide the companies' statutory mandates and reflect national policy on public service broadcasting. They include the specific objective of providing national free-to-air public service broadcasting services. They also include provision of a broad range of other additional services that are seen as fundamental to the role of the public service broadcaster. The Act subjects the public service broadcasting corporations to a range of additional requirements in their pursuit of these objects.

Licence fee funding for public broadcasting provides an independent and reliable income which allows the two public service broadcasters to meet their public service objectives with a high level of editorial independence. The licence fee also allows some funds to be made available to commercial broadcasters and independent producers. As in many other small EU member states, a mix of commercial and public funding is used to support public service broadcasters. This model is not unusual in a European context and the funding balance of many European public service media organisations is similar to Ireland's. Under this model RTE is statutorily obliged to use its commercial revenues to further subsidise its public service obligations.

RTE and TG4 are accountable for the public funding they receive. They publish detailed commitments on an annual basis setting out how they intend to meet their public service obligations and objects as set out in the Act. The extent to which the commitments entered into by the two public service broadcasters have been met is reviewed annually by the Broadcasting Authority of Ireland. In addition to the annual review and five-year processes, RTE has been subject to a high level of independent scrutiny of its efficiency and performance in recent years, notably through the NewERA review, published earlier this year. These reviews benchmark operating costs against the public service semi-State sector, private sector and other public service and commercial media organisations. In a competitive and converged media marketplace the availability of public service broadcasting on various platforms has implications for other media. This means that the structure and mandate of public service broadcasters needs to be continually monitored in order to ensure that they meet their objects but do not unfairly constrain commercial media, which have their own equally vital role to play. Commercial broadcasters, while bringing choice and competition to the market, are privately-owned and funded companies that have entered the market on the basis of a commercial proposition.

In terms of radio, station owners sought and accepted licences on clear terms, which included the requirement to broadcast a specific amount of public service content. In many cases their

success in the licence application process was assisted by the voluntary commitments they gave in regard to the provision of public service type content over and above that required by the relevant legislation. The licences were bid for and accepted in the knowledge that public funding was not available. That said, I fully recognise the contribution of the commercial sector to broadcasting in Ireland, including that of many local radio stations, both rural and urban. These broadcasters perform a very valuable function in the communities they serve, adding value particularly in the reporting of local news and current affairs. I recognise that many of those stations face financial pressures, particularly but not solely those in rural Ireland. Public funding is available to all public, community and independent commercial broadcasters through the broadcasting funding scheme, which encourages programming on Irish culture, heritage, adult literacy and global issues. Funded by 7% of net TV licence fee receipts, sound and vision II funded 477 projects worth over €3.6 million from commercial radio stations. This represented 40% of the total radio allocation. By contrast, allocations to public service broadcasting stations in the same period were worth less than €1.6 million or 18% of the total allocated.

The question of further distribution of public funds to independent commercial broadcasters beyond the supports that already exist would constitute a major change to broadcasting policy. It would have to be justified and would of course require legislation. As matters currently stand, the net effect of such a move would be to reduce the funding available to all other broadcasters, community and public.

It may well be worth considering whether the obligation on commercial radio to provide a minimum of 20% news and current affairs remains either necessary or desirable. At the time this provision was introduced, there was a concern that commercial radio stations would only broadcast so-called “wall-to-wall” music, but in the spirit of the debate we are having, if there is a demand for music stations, why would there necessarily be a statutory requirement for all of them to have 20% news and current affairs? This is an issue that we should, perhaps, discuss.

Senators will be aware that other groups have also been calling for public funding to be allocated to their members, including those representing community radio and the print media. There are continuing challenges confronting all media organisations in Ireland and none is immune to the changes that are taking place. As with the national economy, the television and radio advertising markets are showing signs of recovery and some small degree of growth but it is universally accepted that, as a result of continued fragmentation, revenues will never reach the levels that prevailed prior to the economic collapse.

The media landscape has been transformed and is increasingly fragmented, with the proliferation of new services, devices and providers available to audiences and consumers. In this rapidly changing environment, the core public purpose of RTE and TG4 is as important and relevant as ever. Irish audiences need strong, independent public service media organisations that can both compete with international media and provide a distinctive Irish voice and perspective, culturally and in news and current affairs. In this regard, our independent content creators have been badly affected by the fall in RTE’s revenues. RTE needs a thriving independent production sector if it is to produce challenging and high quality programming. In turn, the independent sector needs RTE as the key commissioner, funder and broadcaster of Irish-made programming, yet while it is obliged to spend approximately €40 million a year on independent commissions, its capacity to invest in additional Irish programming of any kind is now severely diminished

The Government is committed to providing funding for public service broadcasting, as,

indeed, all Governments have been over the years. A public service broadcasting charge would contribute to this, while reflecting the changing ways that viewers now access public service broadcasting. More and more, proposals for similar charges are being developed and introduced in other European countries. It is inevitable that a public service broadcasting charge will be introduced here. However, this will not happen before we build the necessary public understanding and support for such a charge.

In the meantime, I recognise the limitations of the current licence fee system. Work needs to be done in the short term to ensure that the stability of funding is maintained, at least at current levels. It is my intention to bring forward a number of proposals to amend the current regulatory framework for advertising. In regard to commercial radio advertising, I propose to give the BAI oversight and control of the amount of advertising minutes allowed to such broadcasters. I will also bring forward amendments to ensure the BAI's reviews of public service broadcasting funding will always take account of the impact of its recommendations on the broader advertising market. These proposed changes, along with others I intend to bring forward in respect of licence fee collection and the database, will lead to a more sustainable financial, advertising and regulatory framework for all broadcasters. In the context of an improving economy, these measures will help deliver a viable future for everyone in the sector, public service and commercial. I welcome the opportunity to engage with Senators on this important issue and to hear their views and suggestions.

An Cathaoirleach: Before I call Senator Mooney, I am sure Members will join me in welcoming Councillor David Maxwell to the Visitors Gallery.

Senator Paschal Mooney: I fully endorse that.

I welcome the Minister. He and I had an exchange of views earlier on this topic under the mechanism for reviewing his Department's performance at the Joint Committee on Transport, Communications and Natural Resources and I was grateful to him for the clarification he brought to a number of issues. However, I would like to put a number of them on the record in this House.

I applaud and welcome his reiteration of his support for the concept of public service broadcasting. I am a firm supporter of it. People might say, "He would, would he not?" because I spent most of my broadcasting career in RTE but I had the honour of representing the country as a member of the Council of Europe during which time I acted as a rapporteur in producing a report on public service broadcasting across Europe. It brought home to me the challenges facing public service broadcasting, which the Minister has outlined, and also the threats to it across the Continent, particularly from the commercial sector. I am totally convinced that if there was a free market in broadcasting, there would be a significant dumbing down. Italy is a perfect example of that under Mr. Berlusconi. Radio and television has been dumbed down to such an extraordinary extent that people have no knowledge of public service issues or current affairs.

I welcome that the Minister has continued the proud tradition of his Department in supporting public service broadcasting. I acknowledge that he would do so on an ideological basis apart from the fact that he also spent time in the public service broadcasting sector. He has a valuable insight into how it works. For those who criticise RTE, one only has to consider the popularity of the organisation's programme every year. Nine out of the top ten programmes annually in terms of audience share are broadcast by RTE. They relate not only to sport but are spread across the gamut of television programming.

The Minister has certainly opened a debate on how we go forward in this regard and the focus in this political arena, in both Houses, is on RTE's licence fee. There are people in my party and in Fine Gael who would like RTE to be emasculated and they believe it would be in the wider public interest to do that. I do not share that view. RTE should be protected but not cosseted. As the Minister said earlier, management has embarked on a severe cost cutting exercise over the past five or six years. I was a victim of that in that I was one of the foot soldiers in RTE doing programmes on a freelance basis. I was never a member of staff and I operated at freelance rates, which were reduced so drastically and radically that I reached a point that I did not think it was financially worthwhile for me to be doing the programme anymore, when I took tax into consideration. I am aware at ground level of the impact of the cost cutting. Hopefully, the organisation has reached a new dawn and is moving forward. It will, hopefully, have a trading surplus soon. Any diminution of the income it receives from the television licence would be a challenge for RTE and management would resist this.

However, I am also a firm supporter of local radio and I recognise its value. The Minister stated: "In terms of radio, station owners sought and accepted licences on clear terms...". In other words, this is the argument that has been used since 1990. They knew what they were getting into, and now they are coming crying to Government looking for money as commercial operators when they knew what the playing field was from day one. They were going into a commercial environment and it was going to be sink or swim. I am sure the Minister will agree, however, that the radio landscape has changed dramatically since 1990 and the Broadcasting Act, which introduced local radio. It has changed in such a dramatic fashion that not only is there a number of commercial broadcasting stations but, as a result of the setting up of the BAI, there are specific music interest stations throughout the country as well as community-type stations, short-term stations and so on. A constant throughout that, particularly in rural Ireland, is the enormous bond generated by local radio between the listener and the local station. That bond has grown, strangely enough not because of the fact they are playing music but because they are reflecting the community in which they are broadcasting. That bond is then exemplified by the highest listening audiences given to mid-morning programmes, on which the Minister in his capacity as Minister and a politician would have appeared around the country and continues to do so. That is the 9 a.m. to 12 noon slot. There is a Gay Byrne in every local authority area and they are all very good people. A great deal of research goes into those programmes and most importantly there is engagement between the listener and the station so that they feel they own the station.

That is the context in which I am putting forward the view that the IBI has put forward about them continuing to provide the type of programming we are discussing, which is news, current affairs and sport which, as the Minister knows from his time as producer, is very labour intensive. To put it in simple terms, any one of us here could walk into a radio station with a bunch of CDs under our arm and spend two hours playing music. There is no cost other than the cost of the transmission. All one is doing is chatting and playing music. However, running a story or finding out about a local issue requires drilling down to the detail in order to convey to the listener what the story is about. That requires manpower, skill and expertise.

Therefore I believe the IBI is justified in suggesting that the Government should acknowledge that fact. They do so in the context of the broadcasting levy proving to be a very heavy financial burden on them. I declare an interest in that I present a programme on Ocean FM in the north west. I have been told that the cost of the levy to Ocean FM is €30,000 a year. At local radio pay rates that would employ one if not two extra people, who would almost certainly be

used in a research capacity rather than an on-air capacity in order to expand the news or sports service the radio station is providing. The single biggest source of advertising comes from the 9 a.m. to 12 noon slot. That is where the money is generally being generated by local stations because they have such high audience figures.

I believe the Minister quoted figures from surveys indicating that 85% to 95% are listening to local radio. Dublin is a different kettle of fish. While this had nothing to do with the Minister, at the time I could see it. The licences given for Dublin stations were licences to print money because they are primarily and almost exclusively music-driven stations, and the Dublin market has now become very competitive. I do not know what can be done about it.

Dublin Deputies and Senators look with envy on the rest of us down the country as we can get our points of view on local issues across on local radio. However, there is no comparable station in Dublin that represents Dublin interests. I do not know how the BAI can address that; it is such a vast conglomerate. At the same time it is a flaw in the entire radio landscape that there is not what might be termed a "local" radio station in Dublin to which Dubliners can relate on current affairs issues. That is no reflection on the existing stations. God bless them and good luck to them; they are making money under the terms of their licences.

I support the IBI's suggestion and ask for the Minister's response. I know he will be very protective of the licence fee and any dilution of it. The IBI has suggested that the broadcasting levy be absorbed by the licence fee, which it believes could be cost neutral. An Post's experience to date of collecting the licence fee raises serious questions about its efficiency. At this morning's committee meeting some of my colleagues pooh-poohed the notion of any dilution of An Post's involvement. I do not suggest for one moment that the business should be taken away from An Post. Every day on television and radio we hear very clever and imaginative An Post advertisements exhorting people to get a television licence and predicting the direst circumstances if they do not, and yet we have a 20% evasion rate which equates to approximately €30 million per year. In the UK the equivalent evasion rate is only 5% and I understand a private company is involved.

I am not suggesting that this should be taken away from An Post. I believe the Minister has indicated he would like to have discussions with An Post as to how it can improve the rate. There must be some logical reason for such a high evasion. If that evasion rate could be reduced even by 5%, it would provide the financial flexibility to fund the local radio network specifically in the areas of news, current affairs and sport.

There should be a parallel concept to the sound and vision concept. The Minister said that 7% of the net licence fee under sound and vision funded 477 projects worth over €3.6 million from commercial radio stations. My information is that most of that money is going to the independent production sector rather than to local radio. Local radio has found it extremely difficult to come up with the criteria necessary to provide the type of programming under sound and vision and therefore it has been taken over to a large extent on the one hand by RTE which is able to access the fund and the resources it has, and on the other hand by the independent sector, which should be flourishing because it is creative and entrepreneurial. The Minister should make it a more level playing field by promoting the concept that local radio has changed to such a dramatic degree that in order for it to be maintained at its current level in news, current affairs and sport, radio stations now desperately need some sort of financial injection in order in some cases for some of them to survive.

People will point out that no radio station has given up its licence voluntarily. However, everybody in the entrepreneurial world lives in hope. The last thing somebody involved in business wants to do is to go bankrupt so they will continue to try to keep going. However, they are cutting costs to such a degree that they are leaving nearly a skeleton staff operating in the key areas of news and current affairs. It is also encouraging local radio owners to dumb down or take out of the schedule news, current affairs and sports coverage in order to put in the cheaper form of broadcasting which is playing music.

I am concerned that by putting in the 20% the original creators of the broadcasting landscape could find increasingly owners of radio stations saying, "We can't do it anymore. Change the 20%." However, they are not saying that, they are asking for a bit of a leg-up and it can be done by making it cost neutral in the budget if the evasion rate can be reduced and we can use some of the money found. Not only would local radio benefit from this, but RTE would also benefit and the entire country would benefit.

I could go on. I am grateful for your indulgence, a Chathaoirligh. I thank the Minister. I know his heart is in the right place. I know he wants to get the right balance between the national broadcasters and the local broadcasters. I wish him well in that regard.

Deputy Alex White: In the time left.

Senator Paschal Mooney: Perhaps he can do something to leave a legacy.

Senator Tony Mulcahy: I welcome the Minister and I welcome today's debate on public service broadcasting, its cost to the taxpayer, and its fairness and balance to those who provide broadcasting services to our citizens throughout Ireland.

What value for money are we, the citizens, getting from the licence fee imposed on us? On average €220 million is collected. In the main, €180 million goes to RTE and TG4, providing approximately 50% of their required operational funding. Our national broadcaster spends €11 million on its orchestra. We talk about transparency. It has recently confirmed, without naming the individuals, that two of its presenters are paid between €400,000 and €500,000 a year. Two more are paid between €200,000 and €300,000 a year. Seven contractors are paid between €150,000 and €200,000 a year and five RTE staff members are paid between €200,000 and €250,000 a year, with most of those at the higher end of the scale. It is wrong for RTE to withhold information on who is getting what taxpayers' money. RTE is a commercial radio and television station. From now on, its State-collected funding must be reduced and ultimately at some stage discontinued.

We no longer live in a world that can be State subsidised. I fully respect the Minister's views, but we must move away from State subsidies in all our State-subsidised bodies, including RTE. Currently, our local radio stations, in the main, contribute a 2% levy on all their turnover. This levy should be abolished or, at the very least, reduced. The local radio stations are an integral part of our public service network. If one were to check the JNLR figures, our local radio stations would have a greater listenership than our national broadcaster and my own Clare FM would be pretty high up on that one. There is an onus on us as legislators to support our local radio stations, if we are to continue to collect the television licence fee as it stands, by abolishing the levy. If we could reduce the television licence fee for hard-pressed taxpayers - I do not believe that can be done in 2015 given the Minister's statement - to in or around €100 we would be making a reasonable start.

I do not believe that long term we can continue to subsidise the State entities. A note of caution must be sounded to many subsidised State bodies, including RTE. If a far left, Sinn Féin Government was to be elected in the next election, bearing in mind that party promotes paying its Deputies and Senators the minimum wage, or a working man's wage, which is around €30,000, many in RTE and other State bodies might find themselves earning €30,000 a year and that their salaries would be reduced fairly quickly.

The issue of the introduction of a broadcasting charge was raised. I would like some feedback on how it would be collected and fairly distributed. I would not be in favour of any new charge or burden on the taxpayer while we currently collect in excess of €200 million a year from the television licence fee.

If one likes to watch rugby, of which we are getting a bit now, and was watching the RaboDirect league in the off-season, one would have to pay six TV channels to watch the PRO12 or the RaboDirect league to watch every game. It is hard to believe that but that is a fact. I tend to go out to watch one or two of them because one could not be having six television channels.

I respect the difficulty in trying to find the balance. I come from a business background and the concept of somebody handing me €200 million a year to run my business does not wash and it cannot wash into the future. I do not believe we can do it. I know we do it for Iarnród Éireann, Bus Éireann and the other entities. This is a debate and I would like to hear the Minister's view on that, but those are my views. I do not believe we can continue to do that.

Senator John Whelan: I welcome the Minister to the House. This is a timely debate and it is important that we are having it in a public space in order that we can tease out these issues. I would like to broaden the discussion. It is listed on the schedule as broadcasting, communications and media. When we talk about this issue we tend to boil it down to a discussion about RTE and the television licence fee and we tend to get sucked into that space.

In the first instance, I would like to say that I would not be in favour of abolishing the television licence fee. I would have to stoutly disagree with my esteemed colleague because I think that would be tantamount to not only pulling the plug on RTE but to pulling the plug on public service broadcasting and everything that goes with that and everything that we expect to go with that. This is not an issue about RTE or the television licence fee. For me, it is about standards, public service broadcasting, diversity of ownership and content, and the quality, credibility and independence of the content. That would be a very dangerous road to do down.

It is through no fault on the Minister's part but successive Governments have failed down the decades to address the thorny and complex issue of media ownership and control. As a result, the media mergers and the media competition legislation that we ultimately introduced last year was a classic example of closing the stable door after the horse had well and truly bolted. It is immaterial to me who owns the commercial media, in broadcasting or in print in this country. It is immaterial to me whether it is Johnston, Mooney and-or O'Brien or any other O'Brien. What is important for me has never been what gets into print or into broadcasting but what does not get there. It is what is prevented for whatever reason that is important.

Very often some of the best programming can take months, if not a year or more, to research and to finally get to print or to get to broadcasting. If we were only to assign commercial criteria, we would not be getting the standard of programme, to be fair to RTE and it is easy to beat it up, and I agree with some of the comments my colleagues have made. RTE is in place in

one part to hold the public bodies of this country to account, certainly to hold the Government of the day, politicians and public figures to account but, by the same standard, it should not be afraid to have the mirror of accountability and transparency put up against its organisation and operation. It is also a public body but sometimes it bristles when we dare to ask a question or to probe into its activities and standards, and that is unfortunate.

The commercial stations provide a very valid public service broadcasting remit throughout the country. We have all become fond of our local stations. As I drive through the country, I like tuning into the local stations to hear what is going on in that community and get a flavour of what is happening in that area. We have very good stations in my community where we have Midlands 103 and in Kildare we have KFM. As Senator Mooney mentioned, we have our own Gay Byrnes, Pat Kennys and Seán O'Rourkes in Will Faulkner and Shane Beatty who do tremendous work for the community by holding the public system and the State to account on a daily basis, and people tune in and enjoy that.

It is not a question of our beating up RTE to help the other local stations. The two prospects of supporting RTE in its remit and helping local stations are not mutually exclusive and we should not see them as being at opposite ends of the spectrum. However, I would like to add a note of caution. I come from a background of having had a legacy of 30 years working in the regional press, the local newspapers, which also provide a very strong local function within their local communities, local parishes and across the different counties. It would be unfair on them in a competitive and commercial context to be put at an unfair disadvantage if we were, for argument sake, to subsidise or support commercial radio stations at the expense of small local newspapers which are also struggling in the current climate of flux, change and challenge that the media sector is going through. It is quite a convulsion.

The Minister has been around as long as I am and he will remember the famous song, "Video Killed the Radio Star". It seemed like that at the time but video has gone and the radio has survived and is prospering. We do not know how this is going to pan out or where it will end up, but we are entering into a new era. It would be wrong to pull the plug on RTE, to try to undermine it. Certainly it should be challenged and expected to present and produce programming of the highest standards in current affairs, news, the arts, agriculture, in all the spectrum that we expect from a strong State public service broadcaster, but to say that it could do that and at the same time abolish the licence fee outright would not be compatible or sustainable. That would be a dangerous place to venture and, certainly, it is not a view I would support. While it is easy to beat up RTE and some of its precious presenters, we have to look beyond and behind that and see on the day-to-day basis the quality programming we get on television and on radio and the information provided to the public in an independent fashion, regardless of who is in government or who is the Minister. Certainly, RTE puts it up to the Government of the day and that is a good thing. It does so across a whole range of public bodies and public services that need to be held to account. RTE cannot have its bread buttered on both sides - and with jam - through both the licence fee and commercial revenues, and then not fulfil its public service remit. The Minister should instruct, or at least advise, RTE management that it is high time they provided space on the Saorview band to broadcast the Oireachtas TV channel. Under the provisions of the Broadcasting Act 2009, sections 125 and 126, RTE is obliged to do so. It is getting millions in what my colleague, Senator Mulcahy, refers to as a subsidy and yet it refuses to broadcast Oireachtas TV. It wants another €1 million from the Exchequer, the Government or the taxpayer before it will agree to do so. RTE cannot have it both ways. The Ceann Comhairle and the Houses of the Oireachtas Commission have engaged exhaustively with RTE and

ComReg for four years now. I am of the view that the station has failed to live up to its public service broadcasting remit. There is a provision in the Act for the Minister to advise and direct RTE to do so.

Ironically, RTE went to the courts to seek permission to broadcast elements of debates in the Dáil. Those elements were already being broadcast constantly on the Oireachtas TV channel via the Oireachtas website, Sky, UPC and Eircom. While those three commercial channels broadcast Oireachtas TV, the State broadcaster, whose duty and responsibility it is to do so, continues to dodge the issue and refuses to broadcast it. It is time RTE lived up to its status as the State broadcaster. It must accede to our request and, if it does not, some intervention from the Minister will be timely.

Senator Brian Ó Domhnaill: Ba mhaith liom fáilte a chur roimh an Aire. Tá lúcháir orm deis a fháil tagairt a dhéanamh don ábhar díospóireachta seo, a bhaineann le cúrsaí teileachumarsáide sa tír seo agus an táille atá gach teach ag díol fá choinne an tseirbhís phoiblí atá á chraoladh trí RTE faoi láthair.

I have just been listening to the debate from my office. I am glad it is taking place because this is an issue of concern to the independent radio stations in particular, of which I understand there are 34 throughout the country. We must ask whether the moneys collected through the licence fee by the Government and given over to one particular organisation are serving the public good, in economic terms or from the point of view of the taxpayer. The figures would suggest that this is not the case and that those resources could be used more effectively and efficiently by making them more widely available to other providers. The independent radio stations commissioned a report which was published recently. Taking a snapshot of time in July, 68% of listeners were listening to local radio stations. The listeners are tuning in because the content is relevant. Very often it is locally based. We saw a programme recently on which death notices were discussed. I think Ardal O'Hanlon edited and produced it. The topic is so relevant in rural areas. People tune in to get the death notices, the local news, sports, and current affairs. The figures are backing that up.

Is it right that a pot of money is collected through the licence fee, which is now being revised, and given over to one organisation which is also in the commercial field? RTE is using that taxpayer-funded resource to compete against other commercial organisations. That is not right. There has to be a levelling of the playing field.

While RTE provides an excellent public broadcasting service, I would certainly question many of the salaries it pays as being excessive, and in the extreme in some cases. That is a matter for the RTE board, however. The fee that is being charged could be used much more effectively if it were divided amongst other radio and broadcasting providers, some of whom are struggling to make ends meet at the moment. They are struggling to cover local council meetings and local events because they do not have the resources. Many have actually diversified into other activities in order to make themselves financially viable.

There is an obligation on the State to make the playing field a little more relevant. It should either withdraw the fee entirely - I do not think that is the right thing to do - or level the playing field. This is an issue which needs to be addressed. The area was identified in the programme for Government and I know the Minister is working towards a solution.

The whole of Irish-language broadcasting and the work which has been done by go háirithe

TG4 agus RTE Raidió na Gaeltachta, atá faoi bhrú faoi láthair. Cé go bhfuil lucht éisteachta Raidió na Gaeltachta ag méadú de réir a chéile, tá an stáisiún faoi bhrú ó thaobh buiséid. Ós rud é go bhfuil brú orthu, tá sé tábhachtach nuair atá airgead á thabhairt d'aon eagrais cumarsáide sa tír seo go mbeadh sé de dhualgas ar an eagrais sin céatadán áirithe den airgead sin a chur ar fáil do chláir Gaeilge agus do Raidió na Gaeltachta agus na stáisiúin eile anseo i mBaile Átha Cliath atá ag craoladh trí mheán na Gaeilge.

It is about providing fairness and developing the most effective use of the resources that are available.

Senator Paul Coghlan: Go raibh míle maith agat. I very much welcome the Minister to the House and acknowledge his recognition of the contribution the commercial radio sector is making to broadcasting, including the many local radio stations. In that regard I should declare, as I have already, a small interest in one of those stations.

I commend the Minister's realism about the rapidly-changing environment and note his point that it is worth considering whether the obligation for commercial radio to provide a minimum of 20% news and current affairs content is necessary or desirable. I was struck by what Senators Mooney and Ó Domhnaill said. The JNLR figures are huge for the programmes provided by these stations, particularly their news content and morning slots. That is the case for Highland Radio, Midlands Radio, Radio Kerry, thanks be to God----

Senator Paschal Mooney: Senator Paul Coghlan should declare his interest in that.

Senator Paul Coghlan: I did.

Senator Paschal Mooney: I am sorry, I was distracted. I was suggesting to Senator Ó Domhnaill that he should be looking for more money for TG4. Forgive me.

Senator Paul Coghlan: Quite understandable. I liked what Senator Mooney said about public service broadcasting and the bond between a listener and a station. County and regional loyalty is huge in this country, thanks be to God. As Senator Ó Domhnaill said, the services they provide, such as death notices, are vital. Many people do not read the papers anymore but they know the times to tune in for the three times a day that these death notices are played. They never fail to tune into that. That is very important.

I welcome the Minister. He had called for a debate and I am glad that this discussion is now taking place on the definition of public service broadcasting and the 2% levy payable by the independent stations. I believe it is time to have a serious and meaningful conversation, as is happening, about the definition of public service broadcasting. The fact that local radio stations, which undoubtedly play a role in public service broadcasting, must pay a 2% levy on all of their turnover, as Senator Mulcahy has said, while RTE benefits from the national licence fee is unfair. We recently met with the local radio stations and all 34 of them were of one view about that. I accept that the Minister is looking at this matter but public service broadcasting is, in my opinion, provided not only by the national broadcaster, RTE, but also by these independent stations. These stations broadcast news and news programmes that are of interest to the public and fall within the remit of public service broadcasting and I have referred to the JNLR figures which support them hugely in what they are doing. While I appreciate the high quality of programming that RTE produces, I believe that its monopoly-like treatment does a major dis-service to local stations and this has been said by my opposite number, Senator Ó Domhnaill. We must level the playing pitch and address this issue without delay and I appreciate that the

Minister is looking at the entirety of the matter. The Minister called for debate on this issue and I am delighted that it is now happening. It is ridiculous that the local radio stations provide such a high quality service and receive nothing in return. They feel very aggrieved, as I think the Minister is aware.

A redefinition of what public service broadcasting means is needed. I am glad this discussion is taking place and I very much welcome it and the Minister's realism and the fact that he has stated that he intends to bring forward a number of proposals to amend the current regulatory framework for commercial radio advertising. That is very much to be welcomed. The Minister proposes to give the BAI more oversight and control of the number of advertising minutes allowed to such broadcasters and he is prepared to bring forward amendments to ensure that the BAI's reviews of public service broadcasting funding will always take account of the impact of its recommendations on the broader advertising market. I welcome that. I think the Minister is very well qualified in the role that he is in and I think he will be fair and objective.

Senator Trevor Ó Clochartaigh: Cuirim fáilte roimh an Aire. Is díospóireacht iontach tábhachtach í seo. Ba cheart dom a admháil ag an tús gur chaith mé riar mhiath blianta ag obair in earnáil na meáin idir TG4, RTE agus mar sin de. Bhain mé an-sásamh as an obair sin.

Media is a major factor in shaping the ideas, opinions and debates on political, cultural and civil topics. Therefore, in a democratic society, the ownership of media has an important impact on how debates on issues of national and local importance are framed. In democracies, the source of political legitimacy rests on the citizens and their political choices. Since citizens have many political decisions on the information received from media, the media's role as a source of news and its ability to influence ideas translates into a capacity to shape governance. If media limits information or narrows the breadth of political debates, citizens are precluded from properly exercising their two political powers, and political control is more likely to shift to the hands of a single constituency or a small elite. This not only threatens the integrity of a democracy by limiting informed consent but also undermines the role of citizenry within democratic society.

Since the 1980s, across Europe there has been a move away from public broadcasting towards more private ownership of broadcast media. This has meant that newspaper companies were able to enter the broadcast media arena and create multimedia corporations, and we have seen examples of that here. A number of the larger players in Ireland have turned Ireland into profit centres where some of the bigger players, for example TV3 and 3e, have been bought out. They would be seen as profit centres and the profits from those will leave the country. UPC has been bought up and rebranded as Virgin Media. UTV Ireland was set up and we can see that that might be sold off in the future as well. It is all part of a global picture that we see around media ownership.

The advance of media online and news sources has furthered the reach of many of these media holding groups. In Ireland, in recent times, it appears that one particular player has attempted to gain control of a large portion of the media. As a result, it is clear that changes must be instituted to how media mergers are handled by Government. The current situation regarding media control in Ireland will remain the same because these new guidelines will not be applied retrospectively. Only mergers that are considered in the future will be under new scrutiny.

It is essential that Ireland has a diverse media. A diverse media should not be only defined as a variety of entertainments in a commercial media market but should also encourage politi-

cal and civil discourse and the exchange of ideas. A free and open media requires that as many diverse voices as possible be heard and that areas such as the Irish language, gender representation and ethnic and religion minorities should be allowed adequate space in the media market.

It is important that we commend our national broadcaster, RTE, on the work that it does and the high quality that is broadcast to the Irish public. Caithfimid bheith cúramach freisin ó thaobh an ról atá ag RTE. An bhfuil an Rialtas chun stiúir a thabhairt dóibh le bheith mar chraoltóir náisiúnta, nó an bhfuil an Rialtas díreach ag féachaint ar an lucht féachana atá acu agus mar sin de? Is RTE only to be seen as a competitive profit-making entity or are we also going to look at the high quality of the programmes that it provides and the public service remit that it has? It has had some fantastic programmes over the years and recently its coverage of the GAA championship, its news and current affairs shows and dramas such as “Love/Hate” stand on an international stage. However, as RTE receives a substantial level of funding from the licence fee, it is not unreasonable for the Government to ensure that the public receives value for money from its broadcasts. High quality broadcasting should be seen as a priority and this is the direction that RTE should point itself in the future.

Maidir le cúrsaí Gaeilge, tá sé luaite cheana féin go bhfuil sár-jab amach is amach déanta ag TG4 ó thaobh cur chun cinn na Gaeilge le riar beag blianta anuas. Sílim go bhfuil éad ar chuid mhaith craoltóirí eile, ní hamháin anseo go náisiúnta ach go hidirnáisiúnta freisin, ar an gcaighdeán ard atá bainte amach ag TG4. Tá sé fiorthábhachtach aitheantas a thabhairt don ról sin agus don obair sin. Tá sé suntasach go bhfuil gearradh siar déanta ar an maoiniú do lucht TG4 in ainneoin cé chomh maith agus atá ag éirí leo agus cé chomh feiceálach agus chomh tarraingteach don Ghaeilge atá siad. Tá daoine ann a déarfadh gurb é an rud is fearr a tharla do chúrsaí Ghaeilge le blianta fada anuas ná bunú TG4. Is deacair dul ag troid leis sin. Nuair atá an Rialtas ag ullmhú do chomóradh an chéid 1916, caithfidh said breathnú ar an tábhacht a fheiceann siad leis an craoltóireacht Gaeilge inár féiniúlacht mar shocháí agus mar Phoblacht. Ar chóir don Rialtas, dá bhrí sin, tuilleadh tacaíochta a thabhairt do leithéidí TG4 mar gheall ar an ngean atá i measc an phobail orthu?

Ba mhaith liom rud eile a lua ó thaobh na craoltóireachta Gaeilge de. Tá an ciste craoltóireachta Gaeilge i dTuaisceart Éireann tar éis an-tacaíocht a thabhairt don earnáil fise ó Thuaidh. Tá TG4 ag baint buntáiste as sin freisin. Ba chóir don Rialtas níos mó brú a chur ar Rialtas na Breataine le cinntiú go bhfanfaidh an ciste tacaíochta sin ann. Tá an ciste iontach tábhachtach seo mar chuid de Chomhaontú Aoine an Chéasta.

Ní dóigh liom go raibh Raidió na Gaeltachta luaite beag ná mór go dtí seo. Sílim go ndéantar beag is fiú den ról atá ag Raidió na Gaeltachta, i ndáiríre. Tá caighdeán idirnáisiúnta bainte amach ag na cláracha den chéad scoth, cláracha cúrsaí reatha ina measc, atá curtha le chéile ag Raidió na Gaeltachta ar mhaoiniú an-bheag. Ba mhaith liom ceist a chur ar an Aire agus an Aire Stáit ó thaobh an tsoláthair airgid atá ag Raidió na Gaeltachta. An dóigh leo go bhfuil dóthain maoinithe á fháil acu le leanacht leis an ardchaighdeán atá ann? An mbeadh sé i gceist acu go n-ardófaí an méid airgid a bhíonn ar fáil?

Deputy Alex White: An bhfuil TG4 nó Raidió na Gaeltachta i gceist ag an Seanadóir?

Senator Trevor Ó Clochartaigh: Is é an ról sonrath atá ag Raidió na Gaeltachta atá i gceist agam. Sílim go bhfuil siad thar a bheith tábhachtach sa phictiúr iomlán. Dá bhrí sin, cé go bhfáiltím roimh an polasaí nua Gaeilge atá á chur chun cinn ag RTE, tá ceist fiorthábhachtach ann i ndáiríre píre faoin ról seirbhíse poiblí vis-à-vis an ról tráchtála atá ag na meáin, agus an

tionchar atá ag an gceist sin ar na polasaithe eagarthóireachta atá acu ó thaobh na nuachta agus cúrsaí reatha ach go háirithe.

4 o'clock

Minister for Communications, Energy and Natural Resources (Deputy Alex White): I have listened carefully to what my colleagues have said. There have been some extremely interesting insights which will be very helpful to me in terms of surveying the legislative environment that exists and considering what type of changes it would be appropriate to make.

In the first instance, there is a philosophical debate about public service broadcasting. Although all of the contributions were excellent, Senator Mooney, with his background and knowledge of the area, and Senator Whelan did justice to the underlying philosophy that has always existed in respect of the funding of public service broadcasting. As I said to the committee this morning, it dates back through Governments of all hues and does not involve just this Administration. I state earlier that it dates back to the 1960s but, of course, we have had radio broadcasting from the 1920s. There has been an ethic of public service broadcasting running through the approach taken by all Governments throughout that period.

There are no issues that are off the table or that cannot be debated. However, and Senator Mulcahy probably put this at its sharpest, the notion that one would remove or abolish the licence fee and take away public funding for public service broadcasting has not been widely canvassed over the years. It is an argument the Senator is entitled to bring into the debate.

Senator Paschal Mooney: Unless one is in Renua.

Deputy Alex White: So I understand, but it is not a proposition that has really featured.

Senator Paschal Mooney: None.

Deputy Alex White: Personally, I believe it would be a huge pity if we decided to alter the perspective that all parties and people who are not members of any parties have always had on public service broadcasting. They have always recognised the importance of having, as Senator Whelan described it, the public service broadcaster - and, of course, it is not peculiar to it - stand up for high standards, strong content, quality broadcasting and editorial independence. These are all the qualities we associate with public service broadcasting and all the things we expect from it.

However, it must be funded in some way. The method of funding in this country is through a television licence fee. It is already an anachronism, because there is no radio licence. However, consider how enormously the world has changed since the 1960s and even since the introduction of commercial radio and television in Ireland. People use many different platforms to watch television, to say nothing of how they listen to radio. People can listen to radio on their mobile telephones. They can even listen to American radio stations on their telephones. The debate about a broadcasting charge has grown from this acknowledgement that the pattern of viewing, where people view their television, how they do so and all of the different devices they can employ to watch television have changed and expanded remarkably.

To return to the basic philosophy, if we are having a debate we must discuss all issues and admit all points of view. However, my strong view is that public service broadcasting is as important now as it ever has been. Arguably, it is even more important. It requires funding

and the method of funding should be subject to debate in the Oireachtas, because the funding mechanism is a statutory one and this House has a role in setting down the law and changing it, if that is what we decide to do. That is my first general point.

The second point, arising from what Senator Mooney and others stated, relates to how, while recognising and upholding the importance of public service broadcasting, we recognise the critical role played by commercial broadcasters and in particular, although not solely, local radio stations and those outside the main cities, although Senator Mooney referred to those outside Dublin. We must recognise that many of those stations face real commercial pressures notwithstanding that they are commercial propositions. This is a point I made earlier and which irritates people sometimes but it must be made for the record. People came into a bidding process for a licence with their eyes wide open, knowing that this was a commercial proposition and that they would either rise or fall on that basis. They needed to make money and presumably they had a business plan to ensure that they would. That aside, and I do not wish to labour that point because it might not be helpful to remind people of it all of the time, let us consider how one could get more supports and recognition for commercial local radio. There are two ways. Either one reduces their overheads in some way or finds a way to ensure that their overheads or costs are reduced or else one finds ways of channelling more money to them. There are not many different ways of doing these things. People here and elsewhere have canvassed the idea of having more of the licence fee go to commercial stations and commercial radio. I will return to that in a moment.

The other option, as Senator Mooney and others have suggested - I raised it previously and prepared to debate its merits - would be to see if there is a case for the levy that is raised to fund the regulator coming from the licence fee, which would then remove the requirement for the stations to pay out or write a cheque, as it were, for the BAI periodically. I believe there is a case for that. The problem is that we have a limited pot at present in terms of the funds that derive from payment of the licence fee. We had this debate this morning in the committee. My view is that we would have to grow that pot before we could contemplate migrating the levy away from the broadcasters and into the licence fee fund. I believe there is a good case for it. It emphasises even more the need to look quickly at how we can increase compliance with payment of the licence fee. If the new broadcast charge is introduced, and I believe it will be, it will be down the road. It is certainly not something this Government will introduce, as we have made clear. It may well be that the next Government, whoever it will be, will consider it.

It is coming, but not very quickly, so we must work out ways in which we can increase compliance with payment of the licence fee. I intend to bring forward proposals in that respect. I have mentioned them previously. Until we grow that pot, we cannot really contemplate the idea that has been advocated, that the regulator be funded from the licence fee. Otherwise, one would have to reduce the funding that is going somewhere else.

Senator Paschal Mooney: It is within the context of increasing the compliance rate.

Deputy Alex White: That is very good. People have put that on the agenda and as far as I am concerned it is very much on the agenda. That is the idea for, as it were, seeing if there are ways the overhead could be reduced.

The other option is whether there are ways of channelling more money to the commercial broadcasters. This is where we get to the proposal or argument that more of the licence fee should go to the local radio stations. There is a conceptual problem here and a definitional one

in respect of public service broadcasting and what it constitutes. We have been arguing about this for decades. What constitutes public service broadcasting? Can one come up with a definitive statement of what public service broadcasting is? The responsibilities of RTE in the context of its public service remit are set out in the Act. Can an individual programme, be it a sports, music or current affairs programme, be definitively categorised as either public service or not public service?

Many programmes are both. Many programmes have a commercial value. They can attract advertising because people want to listen to them and they are popular, so advertisers will advertise in them. They are commercial propositions. They are also fulfilling a public service remit. Sport is a perfect example. All of us would regard the coverage of sport as a public service, but sport is also where some of the biggest pots of money can be made in the commercial sector through the transmission of sports events. One could not say that a sporting event is either one or the other, or at least it would be very difficult to do that, but it would require one to do that because one would have to analyse each and every programme, or each and every strand of programming on each and every station, and try to ascertain how much public service broadcasting had been done and on that basis work out each company's entitlement to the licence fee. At a very basic level, it would be extremely difficult to do. One could ask why we have not done that historically or what approach has been taken previously. The approach that has been taken is not to spread the licence fee funding so thinly around the place and across all the players in the country that it might end up not counting for very much at all because it would be so dissipated. Historically, the licence fee has been regarded as existing to fund the public service broadcaster, namely, RTE and TG4. Historically, that is the decision that has been made, not by me, but that has been the approach taken by all Governments. The view is that what one needs to do is have a broadcaster with sufficient critical mass and independence to ensure that a menu, as it were, of public service programming, be it orchestras, as one speaker indicated, or sports would serve all of the audiences, not just audiences from whom a commercial return could easily be derived. The public service broadcaster has a responsibility. That is reflected in all the audiovisual directives in Europe. The BBC is the classic public service broadcaster. The remit is to serve all of the audiences, not just those that one can commercialise quickly. That has been the philosophy over the years. If we want to change it, we must be very careful about how we do so and about whether we can really define this or that programme on this or that station as having public service merit and is, therefore, deserving of a subsidy from the licence fee. That is the issue.

I agree that we must reduce the evasion rate. I have proposals which I will bring forward in that respect. Senator Mulcahy made some very strong and interesting points and I have touched on one or two of them already. To remove the licence fee would constitute an enormous change. It would be an immense change to the basis of our broadcasting regime. It would be a mistake because what we want is strong public service broadcasting side by side with, as another speaker - perhaps Senator Mooney - said, a thriving commercial sector. We want both. We must get away from the idea that it is one or the other, that it is a zero sum. It is not. We must maintain the objective of promoting both and trying to ensure that both thrive.

Senator Whelan set out the basis for why public service broadcasting has been funded and should continue to be funded. As he rightly said, that does not mean RTE should be immune from criticism or accountability. Some have criticised the Act as being overly onerous and detailed, but it contains the basis for very rigorous scrutiny of the public service broadcasters. The reason we have the Broadcasting Authority of Ireland, BAI, and the reason we must fund the

regulator is because there are so many elements to the accountability we require of the public service broadcasters. The BAI produces reports every year which are laid before the Oireachtas. The five-yearly report of a couple of years ago led to the NewERA report. I then had the Indecon report. There are constant reports and there has been considerable scrutiny of RTE for many years, in particular on the financial side in recent years.

It is not my role to trespass into the area of programming, and I will not do so, other than to say there is a robust regime in place in respect of complaints and in respect of complaints being brought to the compliance committee of the BAI. We know that complaints are brought because we periodically hear the BAI reporting on those complaints. Speakers are correct in saying that RTE is not and cannot be immune to criticism. It must be prepared to take criticism. I agree with the Senator in that regard.

I have much sympathy for what Senator Whelan said about Oireachtas TV and Saorview, and others raised the point as well. There is a provision in section 130 of the Act which provides for the possibility of ministerial intervention. However, at the same time, there is a recent decision of ComReg in respect of regulating those kinds of tariffs under a European directive. There is a legal question as to the relationship between my power under the Act and that of ComReg to regulate the tariffs. I have been asked to address the issue and to intervene. I hope we will be able to resolve the matter quickly. We are taking legal advice as to whether the powers I have under the Act override the provisions that now arise in respect of the European directive or *vice versa*. Once we have that advice, we will be able to respond to the Senator and to the Ceann Comhairle of the other House. That is the position in relation to Saorview.

Senator Ó Domhnaill also raised the philosophical question of whether it is right that one station, RTE, should be the recipient or beneficiary of the licence fee. That is exactly the point we are debating here. That has been the basis of our funding regime for public service broadcasting for a considerable period and if we want to change it, we must be very clear about what we want to replace it with and how or on what basis we would seek to divide up such scarce funding that comes from the licence fee. I do not hear anybody arguing for an increase in the licence fee. I was listening carefully and nobody mentioned that.

Senator Tony Mulcahy: It was a unanimous decision.

Deputy Alex White: I can take it there is consensus on there being no interest in the licence fee increasing. That being the case, therefore, the pot of funding is a limited one, until such time as we manage to enhance compliance and bring in more money.

Senator Paschal Mooney: The Minister could get the Department of Social Protection to give back the €5 million it took away last year.

Deputy Alex White: Indeed.

Senator Tony Mulcahy: I proposed that it would be decreased initially for a period. That is on the record.

Deputy Alex White: That is right. In fairness to Senator Mulcahy, and in the spirit of debating the matter with him, I do not wish to sound like I am being remotely dismissive of any of the issues being raised but a temporary reduction in funding means a temporary reduction in services. It affects staff, jobs, programmes and services, what goes and for how long it should go. It means all of those things. We just need to look at the implications of any of those pro-

posals.

I agree with the points Senator Ó Clochartaigh made on TG4 and Raidió na Gaeltachta. There is a direct nexus between the Minister and TG4 in terms of the funding but not between the Minister and Raidió na Gaeltachta, which is funded by RTE from within the limits of the funding available to it.

We discussed media merger guidelines in the legislation at considerable length last year when I published the guidelines. The guidelines are just the guidelines; they follow the legislation. As Senator Whelan pointed out, the critical decision of the Oireachtas in respect of how to approach the issue was made in the legislation, which was in July 2014. The guidelines simply follow that. As to the question of how the guidelines will work, in time they can work, and they will be seen to work. It is the first time any Government has addressed media ownership, concentration and media mergers. I am confident these guidelines will work and we must give them time to do so. Does the Acting Chairman wish me to wrap up?

Acting Chairman (Senator Terry Brennan): No, I do not.

Visit of Czech Delegation

Acting Chairman (Senator Terry Brennan): I welcome the delegation from the Czech Republic, Senator Miroslav Antl, Senator Jiří Burian and Senator Radek Sušil. I am not sure my pronunciation is very good but they are very welcome and I hope they enjoy their visit to our Parliament and their stay in our capital city.

Broadcasting and Media in Ireland: Statements (Resumed)

Senator Tony Mulcahy: For clarification, I would not support a subsidy for local radio stations because we already collect one for a certain organisation and then subdivide it among another 32. This is, in effect, a subsidy as well. I am absolutely in favour of the abolition of the 2% levy but I do not believe in subsidising commercial enterprises. I do not see the sense of collecting the licence fee and then apportioning it across 32 other organisations.

Senator Paschal Mooney: It is already happening under sound and vision. Some 7% is going towards the independent sector.

Senator Tony Mulcahy: That is €3.7 million.

Senator Paschal Mooney: The wall has been breached.

Senator Tony Mulcahy: There is some service for that but I am not in favour of a block transfer. We must be careful that we do not end up using the licence fee to subsidise 35 organisations.

Senator Paschal Mooney: Surely the Senator wants to improve local news and sport.

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Acting Chairman (Senator Terry Brennan): I am sorry but I should not have allowed Senator Mulcahy in.

Senator Tony Mulcahy: I am absolutely in favour of the abolition of the 2% levy but I do not believe in subsidising the others organisations.

Acting Chairman (Senator Terry Brennan): That concludes the debate.

Sitting suspended at 4.25 p.m. and resumed at 5 p.m.

5 o'clock

State Claims Agency: Motion

Acting Chairman (Senator Diarmuid Wilson): I welcome the Minister of State at the Department of Agriculture, Food and the Marine and the Department of Transport, Tourism and Sport, Deputy Ann Phelan, to the House and ask Senator John Whelan to move the motion.

Senator Denis Landy: Am I seconding the motion?

Acting Chairman (Senator Diarmuid Wilson): Yes. Senator Landy will have six minutes. Senator Whelan has ten minutes.

Senator John Whelan: I move:

That Seanad Éireann:

- commends the Government for the comprehensive and successful process of political reform upon which it is engaged;
- calls on the Government to consider engaging in further reform, in particular to consider a review of the role of the State Claims Agency;
- calls further on the Government to consider undertaking such a review, with a view to bringing to an end lengthy, arduous and costly litigation between citizens and State agencies, and to replacing an adversarial and confrontational legal culture with a more user-friendly, prompt, no-fault system of settlement and compensation.

I welcome my colleagues and particularly the Minister of State who is taking the motion. I thank the Government for accepting the motion without amendment and I gain some heart from that, that there may be an inkling of some movement on the Government side to actually look at this area. I thank Senator Landy for his support and interest in the matter. It is also great to see Senator Colm Burke here who has a direct professional knowledge and interest in this sphere.

I was contacted when this motion was tabled and asked what the motivation behind it was and what was going on. There is nothing going on but the motivation is quite simple and straightforward. I am always horrified, as I think most right-thinking people are, when I see the phrase “the State versus” on television or in the newspapers. I have always been of the view, perhaps naively, that the State should always have the interests of its citizens at heart. The State and its apparatus, functions and institutions should support and assist the citizen and intervene

on citizens' behalf whenever they need it or when they are in distress or require support. This should be at the core of their value system and *modus operandi*.

Unfortunately that is not always the case. One would want to have a heart of stone some evenings while watching the 6 o'clock news. It is harrowing to watch and is all too frequent. This is something that Senator Bacik and I have discussed. On the day that we tabled this motion originally, yet another case unfolded on the front pages of our papers and on the 6 o'clock news in which yet another family were, in my opinion, unnecessarily dragged through the courts to seek justice. Very often this is after years of trying to achieve fair play on behalf of their family or children. We must bring this to an end. It is unnecessary as are the legal costs and the legal treadmill that we set in motion when the State takes an adversarial and obstructive position against the interests of the individual. This is clearly a David and Goliath struggle because most families do not want to be in court. They certainly do not want to end up in the High Court for years on end through no fault of their own to seek justice and a settlement and compensation on behalf of their children. Very often we add insult to injury by dragging the case out.

The State is not acting in my name or on my or our behalf when it does this so I do not know from where this culture and system emerged. We could perhaps easily point a finger at the legal fraternity. That would be unfair. We could point a finger, perhaps, at the insurance industry where the culture is to accept nothing, to own up to nothing, not to accept any fault, blame or liability and to let a case drag on. Very often the plaintiff is the small person in the equation, with little or no resources, taking on the giant, which is the apparatus of the State, which is deemed to have deep pockets. Those deep pockets are the pockets of the Irish taxpayer.

Senator Denis Landy: Hear, hear.

Senator John Whelan: Those deep pockets are not to be used to frustrate fair play, common sense and natural justice when a wrong has been done, perhaps by mistake, misadventure or some mishap. This is not a question of apportioning blame. It is a question of seeking to change a culture and system which has at its heart a default opening position where the State will go to war against its citizens, very often to find itself five or even ten years down the road eventually accepting liability, apologising and paying compensation. All that has happened in the intervening years is to prolong the trauma and the harrowing process for families and their children, not only the child that is directly affected but his or her siblings. Can you imagine the stress and trauma and pummelling in that family home as people try to cope, again through no fault of their own? Eventually they get a lame apology and belated compensation. While compensation is all very fine and good, it is very often paid when the child is into his or her teenage years or even young adulthood and the intervening years have been lost. We all know the importance of early intervention, supports and services that cannot be reclaimed afterwards. Very often the damage cannot be undone because of the delay.

What I seek is for some common sense and compassion to be introduced into this culture so that the State Claims Agency acts on behalf of its citizens and not in conflict with them. We must remember that the State Claims Agency operates under the mandate of the Oireachtas and the Legislature so the responsibility ultimately rests with us to change that system and we can do so. I am not saying we should throw it out, I am saying we should reform it. We can have a hybrid system. Why do we not have mediation? Why do we not have independent arbitration first before we go into the long, arduous process of a difficult court case? I have been told by members of the legal fraternity that very often the only thing agreed when they take a case in

good faith on behalf of a plaintiff is the name of the plaintiff and that they are actually standing in court that day. They step back from everything else and have to slog it out and prove everything, every minutia, every iota, every step of the way for years on end, while the case drags through the High Court in the name of the State. They are certainly not doing it on our behalf and in our names. This is wrong.

There is an opportunity here not only to save tens of millions of euro on behalf of the taxpayer, because that is the kind of bill that we are looking at. We can also show our citizens that the apparatus of the State is not pitched against them but is there to help and support them, and that it is accepted that we were wrong and that the damage has been done. It is possible to accept such in a no-fault scenario. This system works very well in Australia, for instance. We can have a situation in which people can receive interim settlements, periodic payments, and a settlement and compensation where no fault is ascribed or sought. It removes the need for families to be unnecessarily dragged through the courts, where they could run up hefty legal bills and run the risk of losing and having to pay costs to the other side, namely, the State. Institutions of the State such as EirGrid and An Bord Pleanála are increasingly being pitched against our own citizens and communities in the courts, which is wrong.

The State Claims Agency represents 129 different apparatuses, bodies and institutions of the State. It currently has over 7,000 cases on its books, with a potential liability of €1.5 billion. We have done our research here and we can see that the pattern has been the same over the past decade. On average, settlements are now reaching in the order of €100 million per annum. A further 50% is being added to those settlements in the context of legal costs and expenditure on behalf of the State Claims Agency and plaintiffs.

This is a very straightforward proposition. We are asking that the system, particularly in the area of medical negligence, be reformed. It would be a win-win situation for families, citizens, communities, the courts system and even the insurance industry. The adversarial approach means that insurance premiums are skyrocketing. My colleagues who are qualified in law will speak to this. It has reached the point where insurance companies have refused cover to surgeons and consultants. There is no end in sight.

I am aware that a further round of cases is listed on the courts' schedule for early next year. The parents taking them do not want to go to court. They want to sit down with the HSE and reach a fair and reasonable settlement. Their children have been inflicted with narcolepsy as a result of the swine flu vaccine which the State administered, albeit in good faith. It is accepted that the vaccine has had a profoundly negative impact on these young people's lives. Many of them have now gone through school and college and are young adults, and are still waiting for the State to put its hands up and admit it made a mistake and offer to help. Instead of that, the State is fighting them tooth and nail. It is not being honest and it is going to drag these citizens through the High Court.

We will see the outcome on the six o'clock news - we will pay out millions, eventually apologise and pay the lawyers more and more in the process. The apology will be lame and pointless for the families who have had to endure this system. We cannot wash our hands of it or say it has nothing to do with us. I implore the Minister of State to use her good offices in order that action will be taken to reform the State Claims Agency. Families should have the option of an alternative system in the form of a no-fault settlement process under mediation.

Senator Denis Landy: I second the motion.

I am old enough to remember the ambulance chasing that went on in the 1980s and 1990s, and the State's consideration of the situation pertaining to claims against it. It was against that backdrop that the State Claims Agency was established in 2000 under the National Treasury Management Agency, NTMA. The purpose set out then was: to manage personal injury, property damage, and clinical negligence claims; provide risk management services on the State's behalf and minimise its exposure; and deal with third-party costs in certain tribunals.

The State Claims Agency is answerable to the Committee of Public Accounts and the Attorney General. In its 2014 annual report, it states that it "acts in the best interest of taxpayers" in minimising claims exposures. It also states that it seeks "to act ethically and fairly in its dealings with people who have suffered injuries and take legal action against the State", and that it resolves, by negotiation and mediation, all but 3% of the cases it deals with. As stated by Senator Whelan, there are 129 public bodies within the remit of the SCA. Currently, the agency employs 91 staff. So far so good, but in the next section of the report we discover there are no figures available for the amounts paid to firms or individuals that provide services to the SCA. They are exempt under freedom of information. We also discover that there is an additional 50% in costs, on top of the cost of the payouts, charged on an annual basis.

The general claims liability in 2014 was €309 million, and clinical liability was €1.16 billion. "Clinical" refers to maternity services, medicine, surgery, gynaecology and radiology. What is the issue? As Senator Whelan has outlined very articulately, there is unnecessary time wasting. Individuals, families, and, indeed, the families of deceased people have been dragged - for ten years in some cases - through processes that are eventually settled either on the steps of the court or in court. This has caused destruction to the lives of these people. It is David versus Goliath.

The SCA acts on behalf of the State but, as we know, the public rightly sees the State through its legislators - us, the people in this room and those in the Lower House. I have often watched the six o'clock news and seen the situation outside the Four Courts, when young children were brought out in wheelchairs with their parents and solicitors. It was the State that put them through that trauma. That State, in the eyes of the public, is us.

It is time to stop this. The system that is in place may have dealt with a particular issue that occurred in the 1980s and 1990s, but it now needs to be reformed. It is no longer good enough to say we have to go through a process or that the law will take its course. In most cases, the claims are uncontested but still the families are required to undergo a process that can last ten, 12 or 15 years. Parents who are unfortunate enough to have a child born with some difficulty as a result of medical negligence should not have to wait until the child is a teenager to get on with their lives. It should be dealt with immediately, in good time and properly. Negligence is accepted in most of these cases, yet lives are practically ruined and destroyed for ever.

As legislators we need to start the process of reform of the State Claims Agency. We need to bring in the people who are working with it as well as representatives from the Department of Finance, which is the responsible Department, to see how we can do this better. There are people making money out of it. While that is not the sole purpose of what we are doing, the fact that 50% extra on top of the claims is paid out for various costs needs to be looked at and we are responsible. Insurance costs are spiralling and this is part of the reason. As legislators, we are responsible to the taxpayer for the money we are spending. We need to stop, take account of what is going on and start the process of reform. I look forward to the Minister's response. By putting forward the motion today, Senator John Whelan and I have started the process and

I hope we can see it through and bring forward a better process and system. The agency does not need to be scrapped, but it does need to be reformed for a better system to be put in place.

Senator Denis O'Donovan: The first sentence of the motion reads, "That Seanad Éireann: commends the Government for the comprehensive and successful process of political reform upon which it is engaged." That is something with which I cannot concur. I primarily concur with the reference in the second paragraph to the effort made to reduce State expenditure. Before the Government took office, significant emphasis was placed by both parties on serious political reform. Almost five years later there has been a significant missed opportunity in that regard. The saying goes that charity begins at home, to which I add that political reform should start in the Houses of the Oireachtas. There was a major opportunity to reform the Seanad, but instead of going down that road, the Taoiseach decided to abolish it and, as he said himself, the people gave him a wallop. Because of the way it was done, meaningful Seanad reform will be more difficult to achieve. It will not happen in the lifetime of the Government, or even the lifetime of the next. The Taoiseach should have put the question to the people of whether they wanted to have a reformed Seanad. If they had voted in favour of that question, it would have strengthened his hand and that of the Cabinet and both Houses to implement proper reform.

This Private Members' motion comes against the backdrop of serious failures by the Government to introduce real political reform across the board and of policy making. The Government's record has been of a smokescreen of changes, leading to a greater centralisation of power in fewer and fewer hands. In other words, four people call the shots in the Oireachtas, namely, the Taoiseach, the Tánaiste, the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, and the Minister for Finance, Deputy Michael Noonan. That is the reality. It is not democratic and not good. It is not good for any Government. One can forget about the current situation. It was an issue before and needs to be dealt with.

In Dáil Éireann the Government has completely broken its promise of new politics in a damning indictment of its commitment to reform. It is systematically breaking its programme for Government pledge not to guillotine the debates on Bills, with the debates on 63% of legislation being guillotined to date. For example, the ramming through of the Irish Water legislation in a single day in the week before Christmas is a typical example of how not to reform the Oireachtas. The Government has failed to implement its programme for Government commitment to allow two weeks between Stages of Bills in 78% of cases. That is not reform. Topical Issue debates are completely undermined in the other House by the failure of relevant Ministers to turn up in more than 40% of cases. The Friday sitting farce is mere window dressing to bolster the number of sitting days without any real debate. The Government continues to engage in cronyism and State board appointments by ignoring the open public process. When we did this in the past, we were severely criticised. Prior to the general election the Government parties stated they would do things differently, but they have not done so. The recent raft of Dáil measures taken without consultation will disempower the Opposition and give more time for Government back-slapping by its own backbenchers.

Let us examine the back-tracking on the Constitutional Convention. It was supposed to be the major opportunity to engage in constitutional reform, but little has happened. There was a failure to abolish the Seanad. I am grateful the people rejected the proposal. The proposal to reduce the age of eligibility for presidential candidates from 35 years to 21 was a cynical tease to young people that failed dismally. It was an inappropriate proposition to put to the people.

I concur with much of what Senator John Whelan said about the State Claims Agency. I

agree that too much money is being paid out and the system needs to be reformed. When the former Minister, Ms Mary Harney, under a previous Government, introduced the Personal Injury Assessment Board, PIAB, it resulted in considerable savings to the State. The cost of most forms of insurance reduced by more than 60%. That is a model that could be followed.

The State Claims Agency has responsibility for the management of personal injury and property damage claims against the State. The total paid out in 2014 was €86.5 million. In addition, it paid out a whopping €54.5 million, mainly in legal fees. That means that for every €1,000 paid to claimants, many of whom had suffered life-changing events, as Senators John Whelan and Denis Landy outlined, the agency paid out an additional €620 in legal and other costs. In other words, for every €100 million paid out, an additional €62 million was expended on legal and other costs. I totally agree with the proposer of the motion that this is not tenable. The balance of amounts paid to claimants compared with the payments made to the legal profession is all wrong. More of the payments made by the State Claims Agency should go to claimants, not to the legal profession. I am aware of a case where a farmer took on the Department of Agriculture, Food and the Marine and it dragged on for seven years. The farmer's health suffered and eventually the Department conceded at the door to the courthouse. It could have done this in the first 12 months and saved the farmer stress, anxiety, depression and worry over a six-year period and also saved money for the State.

In August 2012 the State Claims Agency announced a new procurement structure for legal fees. Despite assertions by the agency, that structure has failed as the total amount spent on legal fees has rocketed since, from €39 million in 2012 to €42 million in 2013 and nearly €50 million in 2014. Instead of saving money, the level of expenditure has moved in the other direction. It is public money that could be better spent in other areas of need. The agency must go back to the drawing board to come up with a formula to rein in such costs. If need be, the State should consider introducing legislation under which solicitors and barristers could be employed directly on a salary to handle cases. The days of the legal profession hiding behind restrictive practices must be brought to an end and I speak as a member of the profession. There is no doubt that there are thousands of young solicitors and barristers. I met one of them when coming from the airport one day and he was driving a taxi. When we began talking, he said he was a barrister. He had no work and was driving a taxi. Why could the likes of him not be employed by the State Claims Agency? Such persons could be employed for less than 25% of what some of the boys are paid in the Four Courts and would do as good a job if they were trained and brought into the system.

In the context of real reform, Fianna Fáil has committed to finding common ground to develop a consensual approach to reform of the Upper House. It is imperative that the Government use this as the starting point for the introduction of genuine reform, not just the severely restricted Bill it has published to broaden the voting rights of university graduates. It is a pure sham. Reform must encompass a broader approach to all tiers of the State in order to reshape the structure of politics to make it fit for purpose in the 21st century. My party has also published detailed documents on the reform of Dáil Éireann and the system of local government. Such holistic reform is critical to genuinely change how we do politics in Ireland. As the Government continues to move to abolish town councils and slash local democracy, the need for real reform is more apparent than ever.

There are two parts to the motion and while I fully concur with the second part, I have great reservations about the first. One could argue that the party with which I have been involved for the past 15 to 20 years did not bring forward meaningful reforms either, but the public was

acutely aware of this prior to the previous general election. As a result of the financial crash, their attitude towards politics and disdain for politicians, councillors, Senators and Deputies is widespread. We will face a general election shortly. I am reliably informed today that it will not occur until after Lá Fhéile Bríde an bhliain seo chugainn, le cúnamh Dé, which is of solace to me.

Acting Chairman (Senator Diarmuid Wilson): That is a matter for the Taoiseach.

Senator Denis O'Donovan: What is required is a serious attempt by the Government at meaningful reform of these Houses. Senator John Whelan's motion, supported by Senator Denis Landy and the Labour Party and probably by the Government, is very important and valid, but it is a tiny rung on the ladder towards total political reform. We are not grasping the nettle. Unless we do so, whoever will be here will face the wrath of the people in the next general election or the following one.

Acting Chairman (Senator Diarmuid Wilson): Perhaps the Senator might get the information in writing, signed by the Taoiseach, on when the general election will be called.

Senator Colm Burke: I welcome the Minister. I thank the Senators concerned for bringing forward the motion. It is grand to talk about reform, but what is important is to carry it out. It is almost the fifth anniversary of a report by the working group on medical negligence and periodic payments which was dated 29 October 2010. To date that report has not been implemented. Blaming the legal profession for the lack of reform is not right. The legal profession wants reform, but the Government's reaction in this regard has been slow. The Law Reform Commission's report on periodic payments was published almost 20 years ago in 1996. The Minister for Justice and Equality recently published the heads of the Civil Liability (Amendment) Bill which will allow a court to award indexed linked annual payments instead of a lump sum to cover future costs in respect of a serious injury. Progress is being made, but it is very slow. There is a need for reform, but it is important in the context of our discussion on the State Claims Agency that we are fair to it. For example, in a case reported in the past two years there was a nine year gap between the time the person was born and when the compensation was paid. While the States Claims Agency was severely criticised for the delay in that case, very little had been done on the plaintiff's side during the first seven years. When the matter came to the agency's attention, it was dealt with as expeditiously as possible within a two year timeframe. We are often too quick to criticise the agency which does not have a right of reply.

Another interesting point in relation to the State Claims Agency, with which I have been in correspondence on various issues, is that while a claim may be worth €5 million, the settlement amount can be €15 million. We do not hear about this; we hear only about the award made. The agency's role is also to protect taxpayers. I am not suggesting it is the plaintiffs who are demanding high settlements. It is often the case that those acting for them are being unreasonable. A case might be before the High Court for three or four weeks and nobody is aware of what budgets might be available until the first three or four days of the case are over. It is only then that people come to the table to try to settle matters. It is important to bear in mind that these are the issues which the State Claims Agency has to examine.

The main issue in this debate is that of periodic payments. Under the current system lump sums are awarded which often turn out to be inadequate because costs have risen, but there is no opportunity to return to the courts. For this reason, the recently published heads of the Civil Liability (Amendment) Bill are welcome, as we have been talking about addressing this issue

for over 20 years. It is welcome that some progress is being made at last. Some countries introduced periodic payments in the 1960s and the system is working effectively for them.

I agree with Senators John Whelan and Denis Landy that it is important to ensure an award is made available at an early stage in order that the injured party can access all of the services he or she requires. One of the biggest problems in medical negligence cases has been that because of lengthy delays in settling cases plaintiffs have not obtained full benefits at an early stage. This issue needs to be addressed.

In New South Wales a lifetime care and support scheme, rather than a lump sum scheme, is in place. The lifetime care and support scheme meets the cost to the injured person of medical treatment, rehabilitation, respite care, attendant care services, aids and appliances and home and vehicle modifications. We need to look at alternatives to the current system. I am not convinced that it is doing everything possible for the person who has suffered injuries. While in some instances it does, in others it does not. We need to examine all of these issues in the context of reform and find a comprehensive way of addressing the matter. I hope the Civil Liability (Amendment) Bill will progress quickly through the Houses. It is important legislation, but it is also important that we get this right and that we review how periodic payments have worked in other jurisdictions.

On the “no fault” system, actuarial work has been done on it. I understand that under that system, costs rise substantially. According to one of the documents I received, they could increase by up to 50%. It is important to bear this in mind.

On the cost of clinical claims resolved, in 2014 the average cost was €143,000, a decrease of €40,000 on the figure for 2013. This means that the average cost has reduced from €183,000 to €143,000, including legal costs. It is important that there be a recognition of the work being done by the State Claims Agency.

On compensation and the current position on medical practitioners, the cost of insurance for a privately operating orthopaedic consultant is €104,000 per annum. This means that a private hospital wishing to employ an orthopaedic consultant must pay an upfront premium of €104,000 per annum, or €2,000 per week. In some cases, private hospitals are having difficulty recruiting consultants. This issue and that of capping levels in what the State will cover need to be addressed in the next few months.

Senator Kathryn Reilly: There are parts of this Private Members’ motion which Sinn Féin supports, including the call for an open practice of acknowledgement of wrongdoing by the State in instances where it, its agents or those employed to deliver its services have been responsible for wrongdoing or injury. There are other aspects of the motion, however, that we do not support, including its commendation of the Government for its comprehensive and successful political reform. It is disingenuous to include a call for such commendation in a motion which seeks a review of the State Claims Agency which nobody can deny is in need of reform.

The endemic culture of deny and defend in respect of State claims must be rooted out, particularly within the health service. Not only is this culture grossly wrong, it is also immensely harmful and hurtful to victims and their families. To err is human. Where an error occurs, it should be acknowledged, an apology should be given and the issue should be addressed, with adequate and fair compensation for the victims and their families through compassionate dialogue and negotiation, rather than by way of confrontational litigation that can be unfair and

often causes distress to the victims and their families and results in increased legal costs.

On the no fault system of settlement and compensation, the State is at fault in these cases. I do not believe people take cases against the State lightly. Therefore, the cost of settlement and compensation falls at the State's door. The State Claims Agency has been involved in cases in which it knew it was wrong, but it continued to deny responsibility and defend its position, thus forcing victims to engage in lengthy and costly court cases. We would welcome a swifter and simpler claims process between citizens and State agencies. We would also welcome an open practice of acknowledgement when the State is in the wrong and adequate redress for survivors and victims of the State's wrongdoings.

I would do a disservice to the survivors of symphysiotomy, the victims of the Magdalen laundries and industrial schools and brave citizens such as Louise O'Keeffe if I did not highlight some of the hypocrisy at play. It was mentioned that the State Claims Agency was accountable to the Oireachtas and that the buck essentially stopped here. Fine Gael and the Labour Party are in government. This Private Members' motion was moved by a member of the Labour Party, which has participated in a Government that looked on as the HSE continued to follow a practice of deny and defend, resulting in families being forced through the courts in their search for justice and appropriate settlement before wrongdoing was admitted, including Louise O'Keeffe who was forced all the way to the European court to get justice. It has participated in a Government that refused to facilitate the passage of a Bill to lift the Statute of Limitations for the survivors of symphysiotomy and, subsequently, offered redress schemes, which many of them still claim are inadequate and insulting, and that excluded certain Magdalen laundries from a State inquiry while ignoring the recommendations of Mr. Justice Quirke in respect of the victims. It proposed a redress Bill that it knew was unacceptable to some of the victims.

We also have to examine the Labour Party's actions in government. Over the term of this Government, it did not try at any stage to make settlement and compensation less adversarial or confrontational between citizens and State agencies, particularly for Louise O'Keeffe, symphysiotomy survivors, Magdalen laundries' victims and many more. When it comes to the David and Goliath battle, Fine Gael and the Labour Party have been on the side of Goliath while the little person battles. The inverse has been the case. The Labour Party has contributed to making settlement lengthier and more arduous, costly, adversarial and confrontational. We support a fairer and less adversarial and confrontational system of settlement and compensation and we call on the State to fully admit responsibility when it is at fault.

Why was the motion not before the House four years ago or sooner? Why are we only seeing it in the dying days of the Government? The motion also includes a self-congratulatory line on the Government's so-called "comprehensive political reform". That is disingenuous and I do not accept that. We accept the initial part of the motion, but not the latter part.

Senator John Kelly: I support the motion. Senators Whelan and Landy have put a compelling case for the reform of the State Claims Agency. We do not experience the trauma families suffer until such time, as they rightly point out, we see them coming out of court on the "Six-One News". The sense of relief on their faces is evident because of the trauma they have been put through for so many years. There seems to be a mentality of battering down the hatches whenever there is a claim and liability is never admitted. As a result, there are significant litigation costs resulting in the taxpayer paying 50% more in these claims. Who makes the decisions to frustrate families? Is it the legal system or the insurance companies, as Senator Whelan suggested?

For instance, I dealt with a small developer who built too many houses on a housing estate. He asked whether his development levies would be refunded by the local authority if he knocked ten houses. I spoke to a number of officials and they said that if he knocked the ten houses and did A, B, and C, they would give him his money back. A year later, after all that was done, no money had come through and out of pure frustration, he sent them a solicitor's letter. The response was to batten down the hatches. The legal advice from the local authority's solicitor was not to deal with the developer anymore and to leave it to him. That is the beginning of a process that will cost the council a fortune and, eventually, it will have to pay the bill. I will be a witness in the case because I was given commitments that the levies would be refunded.

This is an example of what is happening. I do not know why these cases happen or how they are brought about but it costs the State 50% more because the legal system can stifle a sensible outcome in such cases. This small developer to whom I referred is willing to pick up the telephone and resolve the case with an official but the local authority is not willing to do this on legal advice. I support the motion and I compliment my two colleagues for tabling it.

Senator Brian Ó Domhnaill: I welcome the Minister of State. This is a good motion. I disagree with the first part of it, although I wholeheartedly agree with the second part. The motion commends the Government in respect of political reform. The Government has engaged in political reform over the past few years, although it has only tinkered around the edges. Most of the reform focused on local government, the funding of which has been depleted by 300% since the Government took office. The sector is now only in receipt of €1.7 billion, according to the Comptroller and Auditor General's report last week. The effect of that has been the stripping away of services from local government and local democracy. That has not done the political process any good and it has taken accountability away from elected people, which is also not good.

In general, politics has to change. As my colleague, Senator O'Donovan, said, the decision-making capabilities of the State are controlled largely by the four economic Ministers within government and then the Cabinet. The Dáil and Seanad have little input into the decision-making processes of the State. Much of the Dáil's time is devoted to responding to parliamentary questions and Topical Issues instead of cutting to the chase and discussing the meat on the bone of what is happening in our country. I do not only blame the current Government for that; I blame my own party as well when it was in government. This goes much deeper than one party or another. It is something fundamental about the way we practice politics and until that changes, our democracy will always be captured by special interests. That is happening in Ireland and in other western democracies. When decision-making is centralised in the hands of so few people, it is much easier for vested interests to capture them. It is described as "rent seeking behaviour" in economic terms and this is alive and well, unfortunately, in this country.

We only have to refer to the legal profession. The Government dined *à la carte* on the troika's recommendations in respect of meaningful reform of our institutions, including challenging legal costs to the State and ordinary punters. We must also examine other reforms to give councillors power and accountability instead of stripping them away and to separate the role of national legislators from local administrators. Ultimately, it is wrong that Oireachtas Members must compete with local councillors for votes. We must break out from that system and consider alternatives.

The number of outstanding cases with the State Claims Agency is alarming, according to its annual report. There were 7,221 active claims outstanding at the end of 2014 with a value

of €1.469 billion. When the figures are broken down, it is evident that legal costs are increasing instead of decreasing. They increased from €39 million in 2012 to €50 million in 2014. Figures produced this week by the HSE showed an alarming increase in claims against it. The executive came under the remit of the State Claims Agency in 2010. The total paid out in claims against the HSE in 2012 was €83 million. It increased to €125 million in 2013 and €124.5 million in 2014. These were mainly clinical claims. These claims, obviously, need to be managed but, unfortunately, that is resulting in delays in payments to those who need them. The outstanding value of claims is almost €1.5 billion but, generally, between €100 million and €200 million is paid out annually. The legal system manages the payout of the claims. While some claims may prove to be fruitless, claimants are experiencing delays of up to five years. There has to be a better system. The legal profession must be taken out of the equation and a better mechanism to deal with claims must be found. There will be cases where the profession has to intervene on behalf of individuals but, by and large, it is directing the way in which these claims are handled. Out of every €1,000 paid out in respect of a claim, for example, an additional €650 will go to the legal profession, which is fundamentally wrong. It means that out of every €1 million paid out in claims, €650,000 will go to the legal profession. The troika raised this issue in 2009-2010 and I was in total agreement with what it stated. The link between the legal profession and politics has always been strong in this State. Unfortunately, no Minister has been strong enough to take on the system. Yes, I might be castigated for saying this in the House but it must be said. Until the link is broken, and until those who need the money get it and those in the legal profession stop lining their pockets, then a major issue will continue to exist. The taxpayer is also down revenue as a result of this situation. The matter must be addressed. I ask that the Government deals with the issue and this evening's motion is important in that regard. Unfortunately, the Government has almost reached the end of its term. I heard Senator O'Donovan say that an election will not take place until next year and after St. Brigid's Day. Perhaps he has information that the rest of us await.

Senator Denis Landy: The Senator's canvassing of the council has started here.

Acting Chairman (Senator Diarmuid Wilson): I wish to inform Senator Ó Domhnaill that his time is up. The date of the general election is a matter for the Taoiseach and he is not a member of the Upper House.

Senator Brian Ó Domhnaill: My final comment will be on political reform. Let us take the speculation out of politics. Let us reform a simple thing such as the nature of Dáil terms. Why not have a fixed term of either four or five years? The measure would remove speculation and provide consistency like that available across the water, where a certain percentage of members can vote. It would be a much better system. There are ways we can reform politics. Unless we reform things properly and independently, we will end up with the same type of reform which occurred in the local government sector and which has achieved nothing.

Acting Chairman (Senator Diarmuid Wilson): I thank Senator Ó Domhnaill.

Senator Colm Burke: We would have been in some mess if we had left Senator Ó Domhnaill's party in government for five years.

Acting Chairman (Senator Diarmuid Wilson): The Senator had his opportunity to contribute and his points were well made.

Senator Colm Burke: I agree but I could not resist.

Acting Chairman (Senator Diarmuid Wilson): I call on the Minister of State to reply.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Ann Phelan): The debate up to now has been very reasoned. I would like to congratulate my Labour Party colleagues on bringing forward the motion. In response to the point made that it has taken us four and half years to get the motion on the table, anybody could have tabled the motion. Therefore, the Labour Party must be congratulated on doing so.

The Labour Party has tabled a Seanad Private Members' motion which seeks a review of the State Claims Agency, SCA, with a view to the introduction of a more user-friendly, prompt and no-fault system of settlement and compensation. I am happy to inform Senators that, following discussions between the Minister for Finance and the chief executive of the National Treasury Management Agency, the Government has agreed that there will be a review of the State Claims Agency and how claims are handled.

Senator Denis Landy: Hear, hear. That is very good.

Deputy Ann Phelan: Before I continue with my speech, I shall reply to some of the issues that were raised. We have an opportunity here to examine whether a more person centred approach can be taken for catastrophic injury cases. Currently, the State Claims Agency can only operate within the constraints of the tort system. With that the courts expect due process under a tort system which, in many cases, can take years. Therefore, reform of the tort system is a major part of the solution.

On the issue of narcolepsy claims, they have not been formulated by the lawyers acting on behalf of the claimants and no details of claims have been presented to the SCA. In reply to Senator Ó Domhnaill's comment, I can confirm that there has been no delay in paying out. The average time from settlement in court to the paying of claims is two weeks. On the issue of small claims, each year a number of smaller claims are referred by the State Claims Agency to Injuries Board Ireland, which can deal with and manage them more appropriately.

I shall return to the review. It will consider the proposed introduction of a no-fault system, particularly in terms of the potential cost implications for the State relative to the current claims system. The review will be conducted on the basis of the following core principles: proposals will not increase the overall amount of claim costs; and proposals will not increase the amounts being paid to undeserving cases, particularly at the expense of deserving cases. It is useful to note that the State Claims Agency is already subject to an external annual review process. The Department of Finance is considering expanding the next annual review to examine the issues in the Private Members' motion or, alternatively, conducting a review using existing Departmental resources. The review will be structured in a staged manner, incorporating an initial stage, so as to ensure the review itself is cost effective.

As Senators may be aware, the National Treasury Management Agency is designated as a State claims agency when performing the claims management and risk management functions delegated to it under the National Treasury Management Agency (Amendment) Act 2000.

The SCA's principal objectives are: while acting in the best interest of taxpayers, to act fairly and ethically in its dealings with people who have suffered injuries and who take legal actions against the State or State bodies, and the families of these people; and to implement targeted personal injury and property damage risk work programmes to mitigate litigation risk in State authorities and health care enterprises, in order to reduce the costs of future litigation

against the State. The SCA's remit covers personal injury and third-party property damage risks and claims relating to certain State authorities. These include the State itself, Ministers, the Attorney General, the Health Service Executive, the voluntary health care sector, An Garda Síochána, the Irish Prison Service, the Defence Forces and community and comprehensive schools. It also manages third party costs arising from certain tribunals of inquiry.

Reflecting the performance of the State Claims Agency in recent years, the agency's remit was considerably extended in 2014. At that time the Government delegation to it the management of personal injury and third party property damage claims in respect of an additional 61 public bodies. The initiative brought the total number within the SCA's remit from 56 to 117. Another delegation by Government in June 2015 has further increased the number of public bodies within the SCA's remit to 129.

As of the end of August 2015, the SCA is managing approximately 8,000 active claims that are split between 3,000 clinical cases and 5,000 general cases. The State Claims Agency has a coherent policy for managing claims. In cases where the State is considered liable, the agency's approach is to settle these claims as expeditiously as possible and on fair and reasonable terms. In cases where liability is fully disputed the necessary resources are applied in defence of these claims. The SCA manages claims from their initial notification through to final resolution. Claims are investigated in a thorough and timely fashion in order to facilitate early decision-making in terms of liability and strategy.

It is welcome that the State Claims Agency resolves the majority of claims by negotiating a settlement, either directly with the plaintiff's legal team or through a process of mediation. It is particularly noteworthy, and I hope reassuring to the Seanad, that fewer than 3% of clinical negligence cases handled by the agency result in a contested court hearing.

In line with the Seanad motion, the agency already advocates mediation as a preferable alternative to the adversarial courts system for resolving clinical negligence cases. The SCA settled 13 clinical negligence cases by mediation in 2014 and offered mediation in many other cases. Unfortunately, the lawyers who represent some plaintiffs are implacably opposed to mediation as a means of resolving cases. As the portfolio of clinical claims matures year on year, the number of agreed settlements as a proportion of the total claims portfolio is expected to continue to rise as it did during the period 2009 and 2013.

In considering this matter, we must take full account of the costs of settlements. In 2014, the average cost of clinical claims resolved, including awards or settlements, and related legal and other costs, was €143,000, a fact we heard earlier, which can be compared with the figure of €183,000 in 2013. That means there has been a decrease of €40,000 per claim.

6 o'clock

General claims consist of personal injury - non-clinical - and third-party property damage claims. The SCA resolved almost 1,500 general claims during 2014 at a cost of €25 million. Each year, the SCA's actuaries project the annual cash flows required to settle claims for the various indemnity schemes handled by the SCA. Over the four-year period 2011 to 2014, total savings amounted to €197 million.

For clinical claims the State has assumed responsibility for the indemnification and management of clinical negligence claims arising from the diagnosis, treatment and care of patients in public health care enterprises and also a small number of claims through other schemes.

Maternity services-related claims accounted for 23% of all new clinical claims and 61% of the outstanding estimated liability of all new claims due to the high values associated with these types of claims.

The SCA becomes involved in catastrophic-injury clinical negligence cases when legal proceedings are initiated, typically some years after the event that gives rise to the claim. From that point onwards, the SCA endeavours to ensure that the litigation is handled sensitively and as quickly as possible within the limitations of the tort system. Independent experts are engaged to explore the issues of liability, causation, condition, prognosis and the calculation of special damages. This inevitably takes time and is frustrating for plaintiffs and their families but where the resulting experts' evidence points to both a breach of duty and causation, the SCA moves to admit liability and settle the case as quickly as possible.

The net cost of managing ongoing active claims and the cost of resolving claims under the clinical indemnity scheme in 2014 was €104.6 million. This figure is projected to increase annually for the foreseeable future. While maternity services accounted for 23% of the volume of clinical claims made under the scheme in 2014, they represented 61% of the cost of the scheme.

Senators have called for a no-fault system of settlement and compensation in catastrophic injury cases and it is important to outline some of the facts on this matter. Ireland has a tort system to determine compensation in the cases of clinical indemnity claims. Under a no-fault approach, it is necessary only to prove that the injury was caused by a medical treatment and there is no need to establish blame or individual responsibility. A comprehensive literature review conducted by the Health Research Board for the Department of Health in 2011 concluded that the international experience suggested that a no-fault scheme needed to function as part of a country's larger health, social, legal and cultural system. If Ireland were to adopt a no-fault scheme, this would likely require a significant investment in and reform of both our health and social welfare systems. It recommended that modifying and improving the existing tort system using a selection of reforms as a more appropriate alternative in the current economic climate. This is the approach that is being adopted. In 2011 a review group in Scotland recommended introducing a no-fault scheme, where patients would not have to prove negligence. However, following a public consultation, concerns were raised about the potential costs and the complexities of the system and this led the Scottish Government to say in 2014 that it would be carrying out further work before such a scheme could be introduced.

An initial actuarial analysis in this country has been undertaken regarding running a compensation scheme for catastrophic injuries on a no-fault basis. This analysis indicated that, despite lower legal costs, the introduction of such a scheme would significantly increase the annual cost relative to the current tort system.

On the issue of State indemnity versus insurance, the SCA's analysis has demonstrated that the cost of managing claims on a pay-as-you-go basis is significantly lower than the premium cost of insuring the risk. In the past five years the SCA has been given authority to manage claims in this way in respect of the HSE, 17 voluntary hospitals and 44 other State authorities. It is estimated that insurance premium payments, in the region of €135 million, would have been paid from 2010 to 2014 in respect of these bodies. The SCA has expended less than €35 million resolving claims in the same period resulting in cash savings of €100 million to date which is approximately equivalent to 70% of the premiums which would have been paid.

I understand that the State Claims Agency has been reviewing the report of the Joint Com-

mittee on Health and Children on medical indemnity insurance costs. The committee's recommendations included a call for open disclosure, periodic payment orders and pre-action protocols be introduced. It also recommended that Government should examine measures requiring parties to consider mediation at an early stage in medical negligence cases. In order to modify the existing tort system and make it as user-friendly and as quick a process as possible, a suite of reform measures is being advanced which will result in a positive impact on those seeking compensation through the courts and particularly for those seeking compensation in cases of catastrophic injury. Work is under way in the Department of Justice and Equality on legislation to introduce pre-action protocols which will facilitate more efficient processing and conclusion of cases before and during the court phase. This is in everyone's interest, as it will considerably reduce the length of time that it takes to complete legal proceedings. This will in turn reduce the stress involved for plaintiffs in their cases. Another benefit is that the protocols will also reduce the cost of cases to the taxpayer in the longer term.

The State Claims Agency, on its own initiative, pioneered the introduction of periodic payment orders to compensate catastrophically injured victims in order to alleviate their families' worries relating to the guaranteed payment of their future care and other requirements throughout their lifetime. PPOs mean that a court may decide that catastrophically injured people can receive the cost of future care in the form of annual payments instead of a lump-sum award. Currently, PPOs may be awarded on a deferred basis pending the introduction of the legislation. The deferred PPO, however, may revert to a lump-sum payment at the discretion of the court. The SCA, to date, has settled approximately 36 catastrophic-injury cases on the basis of periodic payment orders. The Minister for Justice and Equality has stated that she will introduce periodic payment order legislation before the end of the year.

A national policy on open disclosure was developed by the HSE and the State Claims Agency and launched in 2013. The policy is designed to ensure an open, consistent approach to communicating with patients and their families when things go wrong in the provision of health care. The SCA, in conjunction with the HSE, piloted a significant open disclosure project which has been rolled out to 50 hospitals and nine community health care organisations countrywide. It includes expressing regret for what has happened, keeping the patient informed, and providing feedback on investigations and the steps taken to prevent a recurrence of the adverse event.

The priority for the health system following a catastrophic injury is to ensure that the person affected has his or her health needs comprehensively and professionally met. In this regard the HSE provides a range of services as quickly as possible, including access to long-term illness medical card, the availability of independent clinical advice, the organisation of individual pathways of care and the arrangement of appropriate follow-up.

The SCA's risk management objective and statutory duty, is to advise and assist State authorities and health care enterprises on measures to prevent, reduce and mitigate adverse events that could subsequently result in claims. The SCA's clinical risk management programme focuses on collaboration with risk managers and other personnel in health care enterprises to support patient safety.

The personal injury and property damage risk management programme focuses on providing advice and support to State authorities and health care enterprises within its remit regarding risk management structures, maintenance of buildings, fire safety, health and safety and environmental management. The SCA provides a range of practical risk management services and advice to include: the hosting of the national incident management system, NIMS, a web-based

database which facilitates the direct reporting of adverse events by State authorities and health care enterprises; the analysis of adverse events and claims data and the provision of this analysis to State authorities and health care enterprises in order to identify risk clusters; publication of risk management guidance and the provision of practical risk management tools; the provision of information and training by means of seminars and publications, including the SCA website and newsletters; the provision of risk management solutions directly to State authorities and health care enterprises in respect of specific macro risk issues; carrying out risk management reviews and assisting with the development and implementation of State authorities' risk management policies and procedures; supporting the implementation of the SCA's recommendations issued to State authorities; and the provision of insurance indemnity and liability advice to State authorities and health care enterprises.

Each year the SCA carries out litigation risk management work programmes in association with client State authorities and health care enterprises. The Government has agreed that there will be a review of the State Claims Agency and how claims are handled. The review will consider the proposed introduction of a no-fault system, particularly in relation to the potential cost implications for the State relative to the current claims system. The review will be conducted on the basis of the core principles that proposals will not increase the overall amount of claims costs and that proposals will not increase the amount being paid to undeserving cases, particularly at the expense of the deserving cases.

Acting Chairman (Senator Pat O'Neill): I thank the Minister of State. I call Senator Whelan to conclude the debate.

Senator John Whelan: I welcome the Minister of State, Deputy Phelan. If I thought the House would get as constructive, comprehensive and positive a reply to all motions then I would put one down every day. I thank colleagues on all sides of the House for their contributions and input. It was important to air this subject. We had no prior knowledge of the work going on behind the scenes in the two lead Departments on this issue – the Department of Justice and Equality and the Department of Finance – and I welcome that information. As Senator Colm Burke has said, we have been waiting on legislative movement on the periodic payments issue. To be fair to the legal fraternity, which I have often beat up on, it has been pushing for that change for the last 20 years. It would be great to see it finally addressed in legislation rather than just in a voluntary, pilot fashion.

I take into account what the Minister of State has said regarding the range of other reforms in terms of open disclosures and the different approach now being taken, but the substantive issue is that the Government has put on the record formally here that a substantive and significant reform of the process is under way and will result in legislation being introduced later this year. This is welcome and I hope we are all still around to see that.

Reform is a slow moving train but I would at least like to nudge it out of the sidings in this regard. I would also wish to replace the equally slow moving gravy train that can get caught up in some cases. Regardless of what some colleagues might think, I am not having a cheap cut off anyone, but there are some outrageous examples of protracted cases log-jammed in the High Court which run up unnecessary legal bills. This is not good for the State or the citizen. I do not wish to disrespect the Minister of State's reply but the next case coming down the tracks relates to the swine flu vaccine and the resulting instances of narcolepsy experienced in some families. Unfortunately, because of the current system, the HSE and the Department of Health are not engaging with the families. This matter will therefore end up in the courts. I would like

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to see it perhaps being an example of the courts being avoided. I understand that the families would prefer that.

I will now turn to the other points made by colleagues. I do not wish to get bogged down in an adversarial situation, but I have to put on the record that it is unfair that while some reforms have been slow in coming, the Minister for Public Expenditure and Reform, Deputy Howlin, has achieved significant reforms in other areas. We have had, for example, the following: reform in the areas of freedom of information; the introduction of an independent charities regulator; an independent Garda authority; the register of lobbyists; and transparency in appointments to State boards and invitations being sought. So it is not true to say there has been no significant reform. We have made significant progress and, along with colleagues, I keenly await the progress on Seanad reform.

The expert working group on Seanad reform, which includes former colleagues from this House, Dr. Maurice Manning, Mr. Pat Magner and Mr. Joe O'Toole, has brought forward proposals which deserve serious consideration. I think the recommendations are worthy and deserve to be implemented. I would like to see this reform happening but it does take time to address these matters. This Government has achieved significant reforms and it would be unfair not to put this on the record. Unfortunately and typically Sinn Féin has done what it always does, namely, it has left the building. They shoot first and then don't even ask questions, they leave the building and do not wait for anyone else's view or explanation. The only courts in which they seem to want to represent anyone are kangaroo courts. I will certainly not take any lecture from anyone in Sinn Féin regarding its concern for the small person. I saw no interest from Sinn Féin in the case of Máiría Cahill when she turned to them for help and assistance. I shall treat the Sinn Féin tuppence worth here today with the contempt it deserves.

I conclude by thanking the Minister of State, Deputy Phelan, for bringing to the House the good news that reform of this system is under way and that significant legislation is on its way. Hopefully that will result in a change of approach and a change of culture which will be good news for everyone.

Question put and agreed to.

The Seanad adjourned at 6.20 p.m. until 10.30 a.m. on Thursday, 8 October 2015.