



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Déardaoin, 26 Samhain 2015

Thursday, 26 November 2015

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

*Machnamh agus Paidir.
Reflection and Prayer.*

Business of Seanad

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

The need for the Minister of State at the Department of Health with special responsibility for primary care, social care - disabilities and older people - and mental health to outline the reason the primary care reimbursement service is now refusing full-time students medical cards because of their part-time earnings, despite the fact that both parents are in receipt of social welfare payments only and have full medical cards.

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

The need for the Minister of State at the Department of Health with special responsibility for primary care, social care - disabilities and older people - and mental health to introduce Ireland's first ever national autism awareness week from 1 April to 8 April 2016 and to include Ireland's first ever national autism awareness day on 2 April 2016.

I have also received notice from Senator Mary Ann O'Brien of the following matter:

The need for the Minister for Justice and Equality to outline the measures of the Charities Regulatory Authority to implement key actions arising from the Charities Act 2009 to ensure greater accountability, protect against fraud and abuse and enhance confidence and increase transparency in the sector.

I have also received notice from Senator Averil Power of the following matter:

The need for the Minister for Foreign Affairs and Trade to follow through on motions passed by the Seanad and Dáil by formally recognising the state of Palestine.

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

The need for the Minister of State with responsibility for the Office of Public Works to

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outline when adequate flood relief measures will be implemented along the Dunkellin River, County Galway, in light of the continuous destruction being caused by flooding to homes and farmland in the area.

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

The need for the Minister of State with responsibility for the Office of Public Works to give an update on the works planned in counties Galway and Mayo to combat coastal erosion in the area and, in particular, on the situation regarding Tawin Island, near Oranmore, County Galway.

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

The need for the Minister for Health to intervene in the case of a young child (details supplied) to expedite an urgent appointment at Ennis hospital, County Clare.

I regard the matters raised by Senators Moloney, Sheahan, Mary Ann O'Brien, Power, Higgins and Ó Clochartaigh as suitable for discussion. I have selected the matters raised by Senators Moloney, Sheahan, Mary Ann O'Brien and Power and they will be taken now. Senators Higgins and Ó Clochartaigh may give notice on another day of the matters they wish to raise. I regret I have had to rule out of order the matter raised by Senator Conway as the Minister has no official responsibility in the matter.

Commencement Matters

Medical Card Eligibility

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

Senator Marie Moloney: I thank the Minister of State, Deputy Ó Ríordáin, for coming to the Chamber to take this matter on behalf of the Minister for Health. I will keep this short and sweet. I have been working in politics for more than 25 years and have dealt extensively with people applying for medical cards while helping them with their applications. I have never come across a case in which a full-time student did not receive a medical card in the same way as his or her parents. In this case, which I encountered recently, the mother is an invalid and the father is a carer. The student in question works during the summer and at weekends to help finance her way through college because her parents cannot afford to help her. However, due to her income from this work, she has been disallowed from getting a full medical card as held by her parents and she has only been given a GP visit card. I have no problem with eligibility being based on a student's income, provided this is applied across the board and all students are assessed on their income and means. This means in the case of parents who do not have medical cards because of their income, a student who has part-time earnings should be so assessed and it should be across the board. What if the girl in question happens to get sick and ends up in hospital? This is not beyond the bounds of possibility and could happen because while in college, my own daughter contracted glandular fever and ended up in hospital on a drip for nearly eight days. In such a scenario, this girl would not be able to afford €750 for hospital expenses because her parents certainly cannot afford it. I reiterate it is fair enough if this applies across the board but one cannot pick and choose whereby some students are assessed on

their means while others are assessed on those of their parents. I wish to know when the criteria were changed because I did not hear about it and I am sure many other Members have not heard about it. One cannot get a straight answer from the primary care reimbursement service, PCRS. Its answer is, “That is the way it is”. The reason I tabled this Commencement matter is in the hope that the Minister of State will tell me what is going on in the PCRS.

Minister of State at the Department of Health (Deputy Aodhán Ó Ríordáin): I thank the Senator for raising this issue. She will be aware that, in accordance with the Health Act 1970, as amended, full eligibility and a medical card is awarded where a person cannot arrange GP services for himself or herself and his or her family without undue hardship, having regard to his or her financial circumstances.

In the situation outlined by the Senator, it is possible for a student who has income of €164 or more to be assessed in his or her own right for a medical card and the medical card status of the parents is not a relevant factor. The Minister of State, Deputy Kathleen Lynch, has not been made aware of any instances where problems referenced by the Senator have arisen and she has not provided details of any individual case. Should the Senator wish to provide information concerning a specific applicant, the national medical card unit would be happy to undertake a review and revert directly.

Eligibility under the medical card scheme for persons aged 16 to 25 years is assessed by reference to the HSE’s medical card and GP visit card national assessment guidelines which state that persons aged 16 to 25, who are dependent on medical cardholders, are eligible for a medical card. A 16 to 25 year old is classed as a dependant if he or she is living with parents or a guardian or living away from home attending school or college and has no income or a weekly income less than €164. Where an applicant in this age bracket is earning more than €164 per week, then he or she is assessed as being financially independent. The figure of €164 is the current medical card income guideline for a single person living with family.

Where deemed appropriate, the HSE may exercise discretion and grant a medical card where an applicant exceeds the income guidelines but where he or she faces difficult financial circumstances, for example, costs arising from an illness. The HSE affords applicants the opportunity to furnish supporting information and documentation to fully take account of all the relevant circumstances that may benefit them in the assessment, including medical evidence of cost and necessary expenses. Greater discretion is being exercised by the HSE as is evidenced by the number of discretionary medical cards in circulation, which has increased from approximately 52,000 in mid-2014 to nearly 96,000 on 1 November this year.

On foot of the Keane report, published last year, the HSE established a clinical advisory group to develop clinical oversight and guidance for the operation of a more compassionate and trusted medical card system. The group is continuing its work on the development of guidance on assessing medical card applications involving significant medical conditions. I hope this clarifies the matter for the Senator and reassures her that the HSE endeavours to operate in a fair manner within its legislative framework.

Senator Marie Moloney: The reason I did not supply the details is because I am talking about a policy rather than an individual but I will supply the details to the Minister of State to show that what I outlined has happened. According to the reply, the Minister of State said any student with an income of €164 in his or her own right will be assessed on his or her own means. Is that correct? Does that mean any student whose parents do not have medical cards but where

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he or she is working part-time and earning €164 will be assessed on his or her own merits? I wish to clarify that point.

Deputy Aodhán Ó Ríordáin: Yes.

Senator Marie Moloney: That is grand. Basically, what we are saying to students is that they are far better off to earn their own income and to get more than €164 a week and they will get a medical card even if their parents are not entitled to one. I wish to clarify that the change was made across the board and that the PCRS was not picking and choosing who to assess and who not to assess. I will supply the Minister of State, Deputy Kathleen Lynch, with the details to show that it is happening as she does not appear to be aware that is the case.

Autism Awareness

An Cathaoirleach: I welcome the Minister of State, Deputy Jimmy Deenihan, to the House.

Senator Tom Sheahan: I welcome my fellow county man, the Minister of State, Deputy Jimmy Deenihan, to the Seanad. I raise the need for the Minister of State at the Department of Health with special responsibility for primary care, social care, disabilities and older people, and mental health to introduce Ireland's first ever national autism awareness week from 1 April to 8 April 2016 and to have Ireland's first ever national autism awareness day on 2 April 2016 as a commencement debate. This is a very important matter and one which I will champion. The reason I have suggested 1 April to 8 April is that it coincides with World Autism Week, and 2 April coincides with World Autism Day.

For too long, people with autism have suffered in silence, many not even knowing that they have the condition. More must be done in order to highlight autism and its effects. I have been in contact with Irish Autism Action which agrees with me that we need to educate society about autism. It is its belief and mine that the people of Ireland are unaware how many suffer with autism. Irish Autism Action refers to a study which shows that one in 100 people in Ireland suffer with this condition at some level on the spectrum. However, that might be a conservative estimate, as in the UK it is believed that one in 88 people are on the autism spectrum.

The purpose of this Commencement debate is to raise awareness about autism. For every one that has the condition, five to six other people in the family are also affected. It is important that this message is delivered throughout society, and to one and all, to let people who are dealing with autism on a daily basis know that they are not on their own. The Government has implemented a number of measures to help improve the lives of people with autism. An additional €4 million was allocated in 2014 to assist in the implementation of the progressing disability services programme, equating to approximately 80 additional therapy posts. Further investment of €4 million has been provided this year to support the programme's ongoing implementation.

Improving access to therapy services for children in primary care and in disability services is a particular priority for the Government. Additional funding of €12 million was allocated by the Health Service Executive to meet the needs of approximately 1,400 young people who required continuing health-funded supports on leaving school or rehabilitative training this year. However, we can and must do more. We can also look to the Step Ahead programme and, in turn, roll out the programme throughout the country. Step Ahead is a unique 14 week interdis-

ciplinary programme, providing both direct intervention and parent training and education to children under the age of five diagnosed with an autism spectrum disorder. The child receives four hours of direct support weekly, two hours each Monday and Thursday, by skilled interventionists under the guidance and direct supervision of the team's speech and language therapist, occupational therapist and board certified behaviour analyst. The aim of the programme is to provide meaningful assessment across all early learning domains to establish strengths and needs, identify the most effective individualised intervention strategies and support parents to learn the intervention techniques to promote continued growth beyond the duration of the programme. Ultimately, the goal is to encourage at as young an age as possible those skills necessary to benefit from the most naturalistic and inclusive settings. We need to help extend this model to more families.

Minister of State at the Department of the Taoiseach (Deputy Jimmy Deenihan): I thank Senator Sheahan for raising this issue today and I compliment him on his presentation and its content. I am pleased to outline the position on the situation on behalf of my colleague, the Minister of State, Deputy Kathleen Lynch.

I am aware that every year, autism organisations around the world celebrate World Autism Awareness Day in early April with unique fundraising and awareness-raising events. This is a very good way of maintaining focus on citizens with autism and their families. However, what has struck the Minister of State, Deputy Kathleen Lynch, again and again, is that the one thing that people with a disability want more than any other, regardless of their condition, is to live as normal a life as possible in the community and to have the same opportunities as all other citizens to participate in their community. Government policy in relation to disability is not condition specific and encompasses all citizens who have a disability. At this stage, the Minister of State does not believe there is a need to introduce a specific national autism awareness week. The Government is already committed, under the national disability strategy, NDS, to ensuring that people with autism are empowered by policy and programmes to participate meaningfully as citizens in society. The NDS is driven by this basic but fundamentally important objective and is the most effective combination of legislation, policies, institutional arrangements and services to support and reinforce equal participation for all people with disabilities.

A comprehensive consultation process is under way with a view to putting in place a new national disability inclusion strategy. This process is being led by my colleague, the Minister of State, Deputy Aodhán Ó Ríordáin. This will allow interested parties to make recommendations in key areas such as service provision, accommodation, health, employment, and education.

The Cabinet committee on social policy has been examining issues around autism across Departments in association with the National Disability Authority, NDA. This work by the NDA, which has included consultation with families, has been of significant assistance in informing how best to address the needs of people with ASD as part of the national disability strategy, which covers a wide range of policy areas across Departments and agencies, so that we can be sure that they are appropriately reflected and included in policies and actions. The proposed approach was also discussed with the national disability strategy steering group. A programme of specific measures has now been agreed for delivery by the relevant Departments and agencies, including specific actions to be delivered by the NDA.

Senator Tom Sheahan: I thank Deputy Deenihan for his reply on behalf of the Minister of State at the Department of Health, Deputy Kathleen Lynch. I am quite disappointed that she does not feel there is a need to introduce a specific national autism awareness week. Why is that

the case? We want to highlight autism and it would be of no cost to the State or Department. I believe strongly that we should have a national autism day and week in order to raise awareness of autism spectrum disorder. I will speak directly to the Minister of State, Deputy Kathleen Lynch. The only direct question I have for her is why can we not have a national autism day and week to highlight autism, the people who suffer from it and the families that live with it every day?

Deputy Jimmy Deenihan: I will convey Senator Sheahan's comments to the Minister of State. His commitment to having an awareness week is very much reflected in his contribution here this morning. It should be examined further and I will request that the Minister of State facilitates this.

Charities Regulation

Senator Mary Ann O'Brien: I thank the Minister of State for coming to the House. I wish to discuss the position in respect of the charities regulator. Even though the relevant legislation was enacted in 2009, the regulator was not put into place until 18 months ago. The Minister of State is very involved in the area of philanthropy, fundraising and charity. I am here to speak on behalf of the Exchequer, the public and the charity sector. One has to look into every section of the Government. We gave between €4.5 billion and €5 billion to the charity sector. I have read the answer given by the Minister for Justice and Equality in reply to a question in the Dáil recently. The regulator is in place but when will the Minister seek to give it teeth? There are problems and Christmas is coming. I am involved in a very good charity, the Jack & Jill Foundation, of which the Minister of State will be aware. Trust is a word that is terribly precious in our society. The Irish are incredible givers but trust is in short supply with charities because of events that occurred in recent years. In addition, information relating to other events is out there and will come to the surface.

I visited the Office of the Scottish Charity Regulator, OSCR, which does a very good job of administering 23,500 charities. It has 55 employees and a budget of £3.5 million. I am glad the Minister of State has increased the budget of the Irish regulator to €2.66 million for 2016. Perhaps this will help us to reach the necessary level. I hope the Minister of State will not give me the comforting answer that the regulator has compiled the statutory register of charities and is waiting for the remaining charities not established under the Companies Registration Office, CRO, to put in their paperwork and register. Before this regulator was put in place, the Irish Nonprofits Knowledge Exchange, INKEx, had a register ready to go and most charities are registered with the CRO, so most of that work has been done. The public needs to know that charities are using their resources correctly and who exactly is responsible for running a particular charity. It also wants to know that the Government has an up to date database of charities, that charities are compliant, what is spent on marketing and payroll and where exactly their money is going.

Deputy Jimmy Deenihan: On behalf of the Minister for Justice and Equality, Deputy Fitzgerald, I thank Senator Mary Ann O'Brien for raising this important issue. The Minister regrets that she cannot be present here this morning because of pressing issues.

The Charities Regulatory Authority was established as an independent agency on 16 October 2014 under the provisions of the Charities Act 2009. The aim of the authority is to provide better regulation of charitable organisations through a framework of registration, regulation

and support. This framework is intended to enhance public confidence in the vast majority of charities which do immense work to improve outcomes and circumstances for those they are established to help. As was indicated by the Minister for Justice and Equality on the establishment of the authority, it has a wide range of functions under the Charities Act 2009, which are being introduced on a phased basis, beginning with the compilation of the statutory register of charities. The initial priority of the authority was the development of the register. Some 8,500 CHY charities with tax exemption status were registered automatically on the register of charities on the establishment of the authority. In addition, any charity established before 16 October 2014 and not automatically registered must apply directly to the authority for inclusion on the register by 16 April 2016.

The authority has undertaken a variety of work since its establishment, including the establishment of the register of charities and a fully online system for registration and annual reporting by charities; communication with the 8,500 CHY charities with tax exemption status regarding the additional information and legal documentation required to support their registered status; development of an online system for organisations to apply for inclusion on the register of charities; provision of information to the charities sector on its obligations and duties under the new regulatory regime; and the continuation of services hitherto provided by the commissioners of charitable donations and bequests for Ireland.

The range of services to be provided by the authority is being developed on an ongoing basis. These services include the development of an annual reporting framework for registered charities, the development of a monitoring and compliance programme and the development of the investigative role of the authority under Part 4 of the Act, which has not yet been commenced. The register, when more advanced, will underpin the investigative and other regulatory work of the authority. In the meantime, the authority has put in place an interim process for the handling of complaints it receives about suspected abuse of charitable status or fraud in charities.

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Under this process, all complaints received in writing will be subject to an initial review and assessment by the authority to determine whether any further action is appropriate. The Minister for Justice and Equality is committed to ensuring the authority has the necessary resources available to enable it to fulfil its statutory mandate. Significant additional resources and a budget allocation for 2016 of €2.665 million, which represents an 88% increase on the allocation for 2015, are being made available to the authority. This includes additional funding of €1.25 million which will enable an expansion of staffing levels and other resources available to the authority in 2016. The approval of additional staff for the authority during 2015 and the provision of significant additional resources in the 2016 Estimate to facilitate the recruitment of further staff amount to clear evidence that the Minister is determined to ensure the authority is appropriately resourced.

Senator Mary Ann O'Brien: I thank the Minister of State for his reply from which I do take comfort. I ask him to imagine an analogy. If he and I had started a business and were spending €4.5 billion in approximately 12,000 charities, we would want to know which of them were efficient, how the funds were being used and the value being delivered to the taxpayer. I welcome the extra budget provision, for which the Minister has fought, for the regulator. I hope the Minister of State, following our interaction, will inform the Minister that I cannot stress enough the importance of this matter. The public wants to go on giving, but we need to give the

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regulator teeth. If there are complaints or inefficiencies in the sector, we need to give enough money to the regulator to staff the authority.

I referred to the Office of the Scottish Charity Regulator, OSCR. Scotland has a similar charity landscape to ours. We can achieve a satisfactory result. The sum of €4.5 billion is a lot for the Exchequer. One could sleepwalk into the area because a lot is going on. We have to keep trust in the sector and the sector on the straight and narrow. It is wonderful. If we were to talk long and hard about it, we would find every single sector of Irish society was dependent on the charity sector. For instance, there are many good charities doing work in the medical, hospital, education and disability fields.

Deputy Jimmy Deenihan: I thank the Senator for raising this important issue. Like her, I, too, am involved in a number of fundraising initiatives and have been so involved for possibly the past 40 years. I agree that where there is considerable Exchequer and private funding involved, it is important to ensure the confidence and trust of the donor are paramount. Otherwise people will stop giving. I empathise with what the Senator is saying and assure her that the Minister for Justice and Equality is fully cognisant of the need to ensure the highest standards of transparency and good governance in the charity sector. Accordingly, she is committed to ensuring the Charities Regulatory Authority will be an effective regulator of the sector.

Among the principal functions of the authority set out in section 14 of the Charities Act 2009 is the requirement for the authority to increase public trust and confidence in the management and administration of charitable trusts and organisations. The staffing of the authority has been increased since its establishment on 16 October 2014. It must be noted that the authority is just more than one year old and still very much in a capacity building phase. The significant increase in resources being made available by the Government to the authority in 2016 is a clear signal of the Government's determination to ensure the authority will continue to expand its range of activities and become a strong regulator of the sector.

Middle East Issues

Senator Averil Power: On 22 October and 10 December 2014 Seanad Éireann and Dáil Éireann, respectively, adopted motions calling on the Government to recognise the state of Palestine. A wave of EU parliaments, including those in the United Kingdom, France and Spain, have passed similar motions. In most cases, recognition is part of an overall approach to the Middle East peace process. In May 2015 the Vatican concluded its first treaty formally recognising the state of Palestine, with an agreement on church activities in areas controlled by the Palestinian Authority.

After this House and the Dáil passed the motions referred to last year, the Minister for Foreign Affairs and Trade, Deputy Charles Flanagan, stated in the Dáil that he was open to early recognition, if that would be helpful. The Minister said he would reflect on the question, including by engaging in a reflection at EU level on the European Union's overall approach to the Middle East process. This reflection was initiated by High Representative Mogherini. The Minister has also stated a move towards recognition would help to jump-start a peace process that has stalled.

One year on I am very disappointed that the Government has not acted on the recommendation of the Seanad and the Dáil. The latest direct negotiations between Israel and the Palestin-

ians broke down in March 2014 and there is no expectation of a resumption of the negotiations in the foreseeable future. There is no political or peace process in being. The latest Israeli Government, formed by Prime Minister Netanyahu in May, is a coalition of nationalist and religious parties, most members of which are openly hostile to the establishment of a Palestinian state and support ongoing expansion of the legal settlements. On the Palestinian side, the Palestinian factions are fragmented. The West Bank and Gaza are disconnected and there are serious leadership and legitimacy issues.

The Minister appears to be waiting for a broader EU consensus to grow on the issue of recognition of Palestine. One third of the member states of the European Union already recognise Palestine, with Sweden being the most recent, having done so last year. Given the division among EU member states on the issue, consensus is unlikely to be reached in the short term. Granting recognition is a member state competency; it is not one which is reserved to the European Union. This would be a progressive measure for Ireland to take and one which does not require consensus at EU level. A full year on since the motions were passed by the Oireachtas, it is clear that it is time for Ireland to follow the example of Sweden and recognise Palestine without further delay.

I have tabled this matter to draw the Minister's attention to it and, in particular, to the fact that more than one year has passed since the motions were passed by the Seanad and the Dáil. Will Ireland now move to recognise Palestine without further delay?

Deputy Jimmy Deenihan: I thank the Senator for raising this issue. The Minister regrets that he cannot be in attendance and wishes for me to convey his apologies to the Senator in that regard.

The achievement of a sovereign Palestinian state, recognised not just by Ireland but by everyone, including Israel, has been a major foreign policy objective of the Government since it took office. It is something we seek to achieve in reality, not just in words, and all of the Government's actions in relation to the Middle East conflict are directed towards that end. Only a two-state solution, with a Palestinian state existing alongside and in peace with Israel, can satisfy the need of both peoples for security and prosperity.

Last year the Seanad, on 22 October, and the Dáil, on 10 December, passed motions calling on the Government to recognise Palestine and to help to achieve a two-state solution. The Government did not oppose or seek to amend the motions which were calling for something on which we were already working. There were similar motions in other European parliaments, prompted by the decision of Sweden in October to recognise Palestine. In Ireland, as in most countries, recognition of sovereign states is a matter for decision by the Government. The views of the Oireachtas are, of course, a very important factor in that consideration, but it remains for the Government and, in the first instance, the Minister for Foreign Affairs and Trade to consider if this would be an appropriate step and, if so, when it might be best to take it.

With other Ministers, the Minister spoke in the Dáil debate on 9 and 10 December. They set out in detail the Government's view on the issue. The Minister made it clear that, while successive Governments had always seen recognition as part of an overall peace agreement, he had no difficulty with early recognition by Ireland if he felt it could be helpful to the situation, that is, the efforts to reach such a peace agreement.

The statements in that debate also set out, in more detail than I can state today, the many and

various factors which the Minister would weigh up when making that decision. We all know that recognition by Ireland will not of itself bring a Palestinian state into being. We need to consider not just the positive symbolic significance that recognition might have for Palestinians but also what effect it might have on the Israeli side whom we seek to influence and persuade. We must consider how it might affect Ireland's influence and voice on the issue both in the region and in international discussions, particularly at EU level, and any impact it might have on Ireland's ability to continue its work on the ground. There are potential downsides to be considered as well as gains.

In terms of timing, clearly some events in the past year would have weighed on the consideration as regards when might be the right moment for a decision to be made on recognition. These include the lengthy election and coalition building process in Israel in the first half of the year, the continuing debate in the EU on Middle East policy and latterly the upsurge of violence in Jerusalem and elsewhere. During that period, the Minister has visited Israel and the Palestinian territory. He has also discussed the recognition question with some EU colleagues and the Palestinian Foreign Minister. It is also worth noting that no further EU partner has followed Sweden's example and recognised Palestine. The Minister for Foreign Affairs and Trade is continuing to consider the question of early recognition by Ireland of the state of Palestine.

Senator Averil Power: I thank the Minister of State for his reply and appreciate that he will bring this issue to the attention of the Minister. I wish to stress that recognition by itself will not end occupation and only Israel can do so. Ireland's recognition of the state of Palestine would have enormous symbolic significance.

Last year, after this House passed a motion that I had initiated, I was invited to speak at a UN conference on Palestine that was held in New York. At the conference other countries warmly welcomed the fact that Ireland had taken such a step and there was a sense that it would be positive and helpful if more countries did so. The Minister of State pointed out that Sweden had been the only EU state to have recognised Palestine. Twelve to 18 months have elapsed and one third of the EU already recognise Palestine so there is a significant group.

Throughout its history Ireland has had a proud tradition of standing out and not just following the herd, and waiting for common consensus. On issues of human rights and international justice, we have proudly stood out and led the way and this is another area where we need to do so. As Trócaire has pointed out, the recognition of the state of Palestine would be anti-occupation and not anti-Israel. Ireland has recognised the State of Israel and recognising the state of Palestine would help to create a parity of status which could only be helpful in getting the peace process off the ground and jump starting it which the Minister said was necessary a year ago. I ask the Minister of State to bring my remarks to the attention of the Minister and to ask him to correspond with me directly when he has had a chance to consider the issue again.

Deputy Jimmy Deenihan: I thank the Senator and congratulate her on being invited to speak on this issue at the UN. Both the Minister for Foreign Affairs and Trade and the Government are quite willing to move on early recognition of Palestine if it is concluded that it can be helpful, and if now is the right time. Such a commitment is significant and sends out a very clear message of support for a Palestinian state. The Minister made this viewpoint very clear during the debate in the Dáil last year, as well as the factors which would guide that consideration. I know that he is continuing to carefully consider this question. I will be happy to advise him of the arguments advanced by the Senator here today and I advise her to write to him directly. I know from speaking to the Minister that he has a special interest in this area. He

has travelled to Palestine and Israel so he has a very good understanding of what is happening on the ground there and he has seen it at first hand. I am convinced that he will make the vital decision on recognition when it is appropriate.

Sitting suspended at 11.15 a.m. and resumed at 11.30 a.m.

Tributes to Member of Staff

An Cathaoirleach: Before I call the Leader to announce the Order of Business, I wish Mr. Bernard Hand the best of luck on his retirement tomorrow. He has spent more than 20 years around the Houses and his is the face that greets visiting dignitaries to this House. Having served for more than 20 years and been in close contact with him, it has been a joy to watch him work. He has a very friendly face and is always smiling. Nothing is a problem to him, which is the reason he is a team leader and has got on so well with everybody in the House.

Bernard is a great GAA man. He played for Trinity Gaels in Dublin.

Senator Gerard P. Craughwell: Will the Cathaoirleach, please, repeat that?

An Cathaoirleach: He played for Trinity Gaels. After his playing career, he was a well known referee for nearly 20 years on the Dublin senior championship circuit. He also refereed inter-county matches. He played football with O'Connell Boys GAA Club with the famous Paddy Cullen who was heard to say Bernard was one of the best he had ever played with. I remember when a famous Dublin footballer from the 1960s, who now lives in Castlebar, arrived at the inquiry desk in Leinster House. Bernard was the first to welcome Brian McDonald. Nobody else recognised him as he had not been seen much since the 1960s, but he was delighted when Bernard recognised him.

We wish Bernard well in his retirement. He will now have plenty of time to spend with his wife and family for the next 20 years and more. It has been a great pleasure to work with him in Leinster House. On behalf of all Members and the staff, we wish him well and hope he will have a long and healthy retirement.

Senator Terry Leyden: May he make a speech?

Senator Maurice Cummins: I join the Cathaoirleach in wishing Mr. Bernard Hand well in his retirement. Like all of his usher colleagues, he treats all Members and their guests with respect and dignity. We are grateful to all of the ushers. Bernard has been a wonderful person to everybody in the House for many years. I wish him well in his retirement.

Order of Business

Senator Maurice Cummins: The Order of Business is No. 1, Planning and Development (Urgent Social Housing Supply) Policy Directive 2015, back from committee, to be taken without debate on the conclusion of the Order of Business; No. 2, Financial Emergency Measures in the Public Interest Bill 2015 - Committee and Remaining Stages, to be taken at 12.45 p.m. and to conclude not later than 2.25 p.m., if not previously concluded; No. 3, motion re earlier signature of the Financial Emergency Measures in the Public Interest Bill 2015, to be taken without debate on the conclusion of No. 2; No. 4, Legal Services Regulation Bill 2011 - Report and Final Stages, to be taken at 2.30 p.m. and to adjourn not later than 5 p.m.; and No. 5, state-

ments on emergency department waiting times. On the Order of Business yesterday, Senators requested that the Minister for Health would come to the House to speak on emergency department waiting times. The Minister has facilitated that request and will be here from 5 p.m. until 5.40 p.m. The contribution from group spokespersons must not exceed five minutes, with the Minister to be called on to reply not later than 5.35 p.m.

Senator Mark Daly: I join colleagues in wishing Bernard Hand a long and happy retirement. If he can solve the mystery of how to spend time without spending money, he might share it with all of us in this House. I am sure that Paddy Cullen would have been delighted with Bernard's services when Kerry scored that famous goal. Paddy was described at the time as being like a woman who smelled the cake burning but if Bernard had been on the field at the time, he might have prevented that famous goal.

I am delighted that the Minister for Health will be in the House today to discuss the situation in emergency departments but I note that he will only be here for 40 minutes, which is not a lot of time. There is an issue about the length of time it takes emergency ambulances to reach patients in some instances. In Roscommon, it took over three hours for an emergency ambulance to arrive at the house of a stroke victim, even though the house is located next door to the ambulance depot. There are numerous similar cases all over the country. The 40 minutes that the Minister is granting to this House to debate the issue is the same amount of time it takes ambulances to reach stroke and heart attack victims and the scenes of car accidents. The term "death by geography" is relevant here. A report by Dr. Browne of UCC points out that people in Kerry, Donegal, Roscommon and other parts of the country are dying because there is a shortage of emergency ambulances, never mind them actually reaching the accident and emergency departments. This is due to the Minister's lack of management. He says that his popularity is due to his better bedside manner but he is like a doctor who, instead of using his knowledge as a doctor to treat the patient, just gives tea and sympathy and says, "If only there was something I could do". If only he had been elected to Dáil Éireann, had been in the Cabinet and was appointed as Minister for Health. All he is at present is an apologist for the health service. I am delighted he is coming into the House this afternoon. I am disappointed that he will only be here for 40 minutes but, as I said, that is about the length of time it will take an emergency ambulance to reach someone who needs it.

I ask the Leader to reconsider the plan to take all Remaining Stages of the Financial Emergency Measures in the Public Interest Bill 2015 this afternoon and to consider just taking the Report Stage debate today. I also ask the Leader to arrange a debate on the case of Ibrahim Halawa. My party will be tabling a motion on same in the context of a report published by Doughty Street Chambers, the legal team representing this Irish citizen. Mr. Halawa has been on hunger strike for 35 days in a prison in Egypt. His legal team's report contradicts the stance of this Government in not pursuing the same course of action as that pursued by the Australian Government. The Irish Government is saying that nothing can happen in Mr. Halawa's case until such time as the trial is completed but Mr. Peter Greste was released by the Egyptian authorities prior to his trial being completed and while he was still on remand in prison. He was sent back to Australia because the Australian Prime Minister got involved in his case. That has not happened in the case of this Irish-born citizen and we must ask why that is so. If the Australians can do it for their citizens, why are the Irish not doing it for theirs? I ask the Leader to support the aforementioned motion next week because Mr. Halawa has been in prison for two years and has now been on hunger strike for 35 days. However, the Irish Government, a bit like the Minister for Health, is saying "Sure, what can we do about it?". It is not like we have

a Department of Foreign Affairs and Trade-----

Senator Maurice Cummins: That is totally incorrect.

Senator Mark Daly: I will forward the opinion from Doughty Street Chambers to the Leader-----

An Cathaoirleach: The Senator is way over time.

Senator Maurice Cummins: That Senator Daly would seek to make political capital out of a man who-----

Senator Mark Daly: This man has been on hunger strike for 35 days and has been in prison for two years-----

Senator Maurice Cummins: Senator Daly is trying to make political capital out of the man. He is a disgrace.

Senator Mark Daly: -----and the Government is sitting on its hands, doing nothing about it-----

An Cathaoirleach: Senator Bacik is next.

Senator Maurice Cummins: The Senator is trying to make political capital. It is a disgrace.

An Cathaoirleach: Senator Daly, please resume your seat.

Senator Mark Daly: -----despite the fact that his legal representatives have argued that everything the Government has said about the case has proven to be incorrect.

An Cathaoirleach: Senator Bacik is next. Senator Daly is way over time and must resume his seat.

Senator Mark Daly: The Government has said that it can do nothing about the case but the Australian Prime Minister got involved in the case of one of his country's citizens who was in the same position as Mr. Halawa. There is no difference between the cases legally, but this Government chooses to do nothing.

An Cathaoirleach: Senator Bacik.

Senator Mark Daly: It is the Government's choice to do nothing.

Senator Ivana Bacik: I join the tributes to our colleague, Bernard Hand, who is retiring tomorrow after more than 20 years as an usher in this House. I join others who have complimented and commended Mr. Hand on his unfailing kindness, calmness and good humour. We will miss him in the House but I hope he has a very long and happy retirement. I wish him, his wife, children and grandchildren well on my own behalf and that of the Labour Party Senators.

I thank the Leader for organising the debate on accident and emergency waiting times. A request for a debate was first made on Tuesday, when I took the Order of Business in my capacity as Acting Leader. We submitted a request to the Minister's office on that day and I welcome the fact that he has now acceded to that request, as Members are anxious to have an opportunity to discuss the matter with him.

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In respect of Ibrahim Halawa, I support calls for a debate on his case although I am conscious that we have a hugely busy schedule between now and Christmas, with much legislation to be dealt with. It is distasteful to see the Senator seeking to make political capital out of this very difficult and complex case. I was interested to hear lawyers acting for Mr. Halawa from Doughty Street Chambers speaking on radio recently. They spoke in a very careful and circumspect manner about the case. Clearly, there is a good deal of diplomacy going on behind the scenes and we should be united in seeking to see an early resolution of the matter for Mr. Halawa-----

Senator Mark Daly: The Australians had no problem in going public and their Prime Minister-----

Senator Ivana Bacik: I did not interrupt Senator Daly-----

An Cathaoirleach: Senator Daly, please allow Senator Bacik to speak without interruption.

Senator Ivana Bacik: I do not think it is appropriate-----

Senator Mark Daly: -----went international but our Taoiseach has refused to get involved.

An Cathaoirleach: Senator Daly should allow Senator Bacik to speak.

Senator Ivana Bacik: As I said, I do not think it is appropriate to be heckling, interrupting or seeking to make political capital out of the case of somebody who deserves everyone's support-----

Senator Mark Daly: I wish to make a point-----

Senator Ivana Bacik: -----for his sake and that of his family.

Senator Maurice Cummins: Hear, hear.

Senator Mark Daly: We are highlighting the issue because-----

An Cathaoirleach: Senator Bacik, without interruption.

Senator Mark Daly: -----the Government is failing to do anything on this case.

Senator Ivana Bacik: This is a case which should be treated with respect and people should be-----

Senator Mark Daly: He has been on hunger strike for 35 days.

Senator Ivana Bacik: -----mindful of the need for diplomacy and the need for an early resolution for the sake of Mr. Halawa's family.

Senator Mark Daly: There is a need for urgent action.

Senator Ivana Bacik: I welcome the passage of the Climate Action and Low Carbon Development Bill yesterday. I am conscious that it must go back to the Dáil so that the amendments to it can be passed there. I compliment Senator Barrett on having some important amendments accepted, in support of which a number of Senators spoke during the Committee Stage debate. Those amendments will ensure greater scrutiny by both Houses of the Oireachtas over some of the reporting mechanisms in the Bill. It is great to see this Bill finally being put in place. It

has long been promised and will provide for a much stronger framework - a proper statutory framework - for the meeting of our emissions targets. I hope we will see great progress made at the Paris talks on climate change next week. I also hope that we will have time in the New Year for a debate on the outcome of those talks in the context of the Climate Action and Low Carbon Development Bill, which has now been passed by this House and which will have become law by January 2016.

Finally, I was pleased to launch, along with Labour Women and former Members of this House, Ms Justice Catherine McGuinness, Ms Mary Henry and Dr. Peter Boylan, legislation produced by Labour Women on the repeal of the eighth amendment, which sets out the framework within which legal terminations of pregnancy would be provided for upon repeal of that amendment. This is a crucial part of Labour Party policy and our manifesto states that we will be seeking repeal of the eighth amendment if elected to Government at the next general election. I would like the House to debate this matter in the new year, particularly in light of the comments made by the Taoiseach last night to the effect that he would support the concept of establishing a convention to examine this it. Many of us who were involved with the Constitutional Convention, particularly with regard to the issue of marriage equality, would be very supportive of such a mechanism. Whatever the mechanism, we need to see a referendum on repeal of the eighth amendment in the early course of the next Government.

Senator Sean D. Barrett: On behalf of the university Senators, I pay tribute to Bernard Hand. I hope he will drop into the House from time to time because wise counsel is always most welcome here. Reference has already been made to Paddy Cullen. Many stories are told about Paddy, one of the great characters in Irish sport. One was that after four games between Dublin and Meath in 1991, which 250,000 people attended, his team lost the fourth by one point. Sean O'Rourke asked him if there was any future for him in management and he said, "I don't know. I'm off to the airport. I'll check if there's anything for Siberia one-way." Of course, there was no need for that. Paddy remains one of the great characters and I am sure Bernard also has many stories about him.

Today's edition of *The Irish Times* contains an article by David Robbins in which he discusses the coverage of climate change issues. Senator Bacik introduced the first Bill here on climate change and we debated the topic yesterday. According to Mr. Robbins, "Irish coverage stood at 10.6 stories per title per month, compared with 58.4 in the rest of Europe." Our three or four-hour debate yesterday would form the basis for many articles to remedy that deficit. I hope the climate change march in Dublin is a success and, like Senator Bacik, I also hope the Paris conference will a success.

I welcome the Irish Fiscal Advisory Council report. I esteem Professor John McHale and the Ministers involved, Deputies Noonan and Howlin. The warning, however, is that budget 2016 does not address weaknesses with the Government's medium-term fiscal plans beyond 2016 and multi-year expenditure ceilings are not being implemented. The large increase in spending in 2015 through the Supplementary Estimates process was a deviation from prudent policy. We have to keep that under review. Perhaps one of the Ministers should come to the House to tell us how he sees the situation.

Having wished Bernard a happy retirement, it is a time for congratulations because Senator Norris will receive an honorary doctorate from Trinity College, Dublin at 3 p.m. tomorrow. That is a great honour for the father of the House.

Senator Michael Mullins: I join my colleagues in wishing happiness and good health to Bernard Hand on his retirement tomorrow. I hope he will have a long and happy retirement. Bernard is a true gentleman, courteous and always good-humoured and he always had great banter with visitors to the House. I hope that in his retirement he will spend some time in east Galway where he visited often during his early years. I hope he goes back to see some of his relatives in Woodlawn and Menlough. We wish him well and I hope he will drop in on us regularly.

I am very disappointed with Senator Daly's contribution on the Ibrahim Halawa case. He was present yesterday at the meeting of the Oireachtas Joint Committee on Foreign Affairs and Trade when the Minister for Foreign Affairs and Trade, Deputy Charlie Flanagan, outlined the efforts he, the Taoiseach and the diplomatic staff are making to bring about a successful resolution to this case. We need to work together on this. Quiet diplomacy is required.

Senator Mark Daly: That is not what the Australians did and it worked for them.

Senator Michael Mullins: I hope both Houses will unite in the efforts being made to bring about his release and return to his family and education.

Yesterday the Road Safety Authority, RSA, the Garda Síochána and the Minister for Transport, Tourism and Sport launched the Christmas-new year road safety campaign. It calls on all drivers to be very drink aware over Christmas. It is frightening that a survey conducted on behalf of the RSA shows that up to 284,000 drivers admit to having driven while under the influence of drink in the past 12 months and that 150 people are arrested every week for drink driving. Men are by far the worst culprits, at 85%. Some 50% of those people who drank and drove are in the age category 20 to 39. Most arrests take place on Saturdays and Sundays. As we come into the Christmas party season, I advise everybody to leave the car at home and organise a taxi or designated driver. We do not want to hear any more heart-rending stories, such as Gillian Treacy's account of the heartbreak her family has endured as a result of the loss of her four-year-old son. As well as the potential loss of life, people need to be conscious of the loss of their livelihoods as a result of a driving ban. No family should ever be bereaved as a result of a drink driving accident. I urge everybody this Christmas and new year, and for all of 2016, to keep that in mind and to make sure they never get behind the wheel of a car after having consumed alcohol.

Senator Terry Leyden: I wish to be associated with the words to Bernard Hand for his diligence and commitment to the House. He represents all the wonderful staff in the House, particularly the ushers, who have been so helpful over the years. He showed the same respect to Members and former Members, such as I have been. I compliment him and all his colleagues on that.

I also offer best wishes to Senator Norris on receiving an honorary doctorate. It is not before time. He was never recognised in his own land. I thought he was professor of English in TCD and was disappointed when he told me he was not and that he was a lecturer. The college lost an opportunity in not appointing an international expert in English. Maybe it will make it up to him tomorrow.

An Cathaoirleach: Is the Senator making a proposal?

Senator David Norris: I decline any proposals.

Senator Terry Leyden: Even though it is legal now.

I compliment the handlers of FBD insurance who challenged a claim for a couple who knew each other, crashed into each other and claimed approximately €15,000 each. The case was exposed through Facebook. It highlights and exposes the point I made yesterday in respect of alleged fraudulent cases. The Injuries Board is too quick to settle without questioning the details and the insurance company is afraid to go to court because the courts award enormous damages in addition to the cost of solicitors and barristers.

I also compliment An Garda Síochána, particularly Detective Superintendent Dave Dowling, for exposing 1,000 sham weddings. Clients paid between €15,000 and €20,000 to have these sham marriages arranged. There were eight swoops in the Cathaoirleach's county, Mayo, four in Louth, three in Kildare, two each in Longford and Limerick and one each in Meath and Cork. Marriage registrars should be more diligent in exposing these sham weddings. There are over 1,000 applications which are being challenged. It is a very serious abuse of the EU treaty rights. It is only fair to commend An Garda Síochána's work and to ask it to brief the marriage registrars who should brief their staff on how to detect this serious abuse of marriage. The couples do not even have to consummate the marriages. People pay €15,000, get a bride and gain access to the EU. It is about time it was exposed in this country.

Senator Paul Coghlan: I too join the Cathaoirleach and the other Members in paying tribute to Bernard for his 20 years' service. He was always friendly, helpful and jovial. He is too young to retire but I wish him well. I am also delighted that Senator Norris is receiving a well-deserved honour. I wish him well too.

I was delighted to read this morning in *The Irish Times* that the construction of a McDonald's opposite three schools in Greystones will not proceed. I mentioned this yesterday and I am delighted people have got sense. This was going to be close to three schools, which expect to cater for 1,800 pupils.

12 o'clock

It was not in line at all with national policy as far as I am concerned. I am glad it is not going ahead.

We have recently seen the huge difficulty and turmoil that the IFA has gotten itself into as a result of the hefty remuneration package it paid to one of its officials. I am glad that as a result, CEOs of many other quangos and national organisations have decided to reveal the remuneration they pay to their top officials. These are people who frequently lecture society on the need for transparency and accountability. It is natural for unions to seek more for their members - that is part of their job - but there is something remiss in the fact that some of the CEOs of those organisations are refusing to reveal what they are earning as a result of their members' fees. They need to reflect and examine their own consciences. All should be prepared to have that information in the open so that there is no argument or controversy. This will affect other organisations unless they make a clean breast of it.

An Cathaoirleach: I call Senator Norris. I would like to be associated with the good wishes and congratulations to him and hope he has a very good day tomorrow.

Senator David Norris: Thank you, a Chathaoirligh, I appreciate your good wishes. I would like to send my good wishes to Bernard Hand. He is, as everybody has said, courteous

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and very knowledgeable. Anyone who has eavesdropped on the tours he gave of the House will know that. It is of course in the tradition of the ushers who, since the day I entered Leinster House nearly 30 years ago, have been very helpful, kind, efficient and courteous. It is rather sad to lose one of the old faces but there is a constant turnover.

We will miss Bernard's particular skills. I could not help noticing the efficient way in which, a few minutes ago, he detected the presence of a stray mobile telephone on a seat and immediately and quietly removed it so it could not cause any further nuisance. We will miss those talents. I was unaware of his prowess at football but could not help noticing the wide smile that spread across his face when the GAA, football and Paddy Cullen were mentioned. It is very close to his heart and he will now have an opportunity to follow his favourite teams and attend matches. I wish him every happiness in his retirement.

I would like to raise one issue following on from what Senator Mullins said about drinking over the Christmas. I was listening to the wireless this morning and there was an item about the way in which the drinks companies are specifically and deliberately targeting young people. They are doing so with merchandise. It has been demonstrated by academic studies that children in possession of drinks company merchandise are, I think, four times more likely to become involved with drink in a damaging way. It is time we took on the drinks companies on this.

The voluntary approach to this is rubbish. Some stupid creature goes around blathering about drinking safely and such like. There are large advertisements that suggest one will be sexually, socially and financially successful if one has a good slop of a particular brand of beer, gin or whisky, and then at the bottom appear the words "drink carefully". That is not what they want at all. They want us to gorge ourselves on their products and make profits for them.

It is no longer Uncle Arthur, who was a fairly benevolent figure in this city and did contribute; it is now Diageo, which makes underground railway trains, lavatory paper, contraceptives - I do not know what else it makes but it is not a bit interested in the welfare of people here. These executives sit in boardrooms in London and New York and look at graphs. The only way they want to see them go is up, and damn the consequences for the young people. I would like to ask the Leader if we can have a debate on the problem of alcohol in this country.

Senator Terry Brennan: I would like to be associated with the good wishes to our friend and colleague, Bernard Hand, on his retirement. He is an avid GAA fan like myself and unfortunately I must admit that I did not take his good advice on all occasions. It was always a pleasure to listen to him. I also join in the good wishes for Senator Norris tomorrow. I wish him well. He is back to his brilliant best from a recent illness and I wish him continued good health, as I do Bernard Hand, to whom I also wish long life and happiness in his retirement.

I refer to the record number of visitors and overall trips to our country this year. It is up 12.8%, while our August to October visitors have increased by 14%, which is significant. Our European visitors are up 14.1% while those from the United States are up 13.3%, which will hopefully continue. Our visitors from Great Britain have increased by 11.3%. From January to October, almost 3 million have visited our country from there. Our long-haul overseas visitors from China and Japan and such far-off places number 461,000. I did not realise that. These are CSO figures issued this week.

I call on the Leader for a debate. While these visitor numbers are most welcome, I would

like to think that all parts of our country have gained by them. I would like to see that the north west, the north east, the south west and the south east have gained accordingly and that tourists are moving out from the capital city to the countryside.

Senator Paschal Mooney: I endorse everything that has been said and wish Bernard every happiness in his retirement. He will be a loss around this House. We will miss the various exchanges about the football. Leitrim would not come anywhere close to Dublin's success but Bernard was always aware of how Leitrim was doing in the various championships and leagues. It was always great to have a chat with him about that. I wish him every happiness.

Should we refer to our distinguished friend and colleague, Senator Norris, as Doctor Norris from now on? I understand he would not be the only doctor in the House - I mean in academic terms. I think we would also be correct in referring to Professor Barrett as Doctor Barrett. I congratulate Senator Norris on his elevation.

I want to correct the record. Yesterday I quoted a statistic on the wearing of seat belts and did not have the actual note with me at the time. I referred to 65 fatalities due to people not wearing seat belts. In fact, to date in 2015, 65 drivers and 24 passengers have lost their lives on Irish roads. Some 16 of the 65 drivers who were killed, or 25%, and eight of the 24 passengers, or 33%, were confirmed as not wearing a seat belt at the time of the collision. Although I might not have gotten the figures exactly right, it is shocking that 24 people were killed on Irish roads so far this year and were not wearing seat belts.

I thank the Leader for his response yesterday. It was universally felt across the House that these statistics are shocking. In light of Senator Mullins's comments about drink driving coming up to Christmas and being drink aware, surely the most basic requirement for anybody getting into a car is that they should instinctively put on their seat belt. The statistics bear out the severe consequences of not wearing one.

Senator Gerard P. Craughwell: I also join my colleagues. I did not know Mr. Hand for very long but I wish him well in his retirement and I am sorry I did not get to know him better. Perhaps he will come in from time to time, take a tour of the House and give the ushers marks out of ten for their performance on the day. I join my colleagues regarding Senator Norris's receipt of an honorary doctorate in Trinity College, which is not before time.

The Financial Emergency Measures in the Public Interest Bill 2015 is before the House today and we are taking Committee and Report Stages as far as I am aware. I ask the Leader to reconsider this and schedule Report Stage for some day next week. It is wrong to push legislation like this through so quickly. I do realise that there are people who are depending on the legislation to get their pay rises and I would want to see it passed before Christmas, albeit that I have submitted amendments, all of which have been ruled out of order, which I will discuss at a later stage.

I am deeply concerned by comments this morning from the Irish Fiscal Advisory Council regarding budget 2016. It is something we need to get a grip on. I would hate to see Fine Gael's meteoric rise in the polls achieved on the basis of a purchased election. There are some serious questions to be answered. The economists involved have raised some serious issues around the budget and its expansionary nature. We should have a debate in this House with the relevant Minister to tease out some of them. I am aware that there is a serious issue regarding the price of property, particularly on the east coast. When we couple that with warnings from the Irish

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Fiscal Advisory Council, are we heading down the same miserable route we headed down in the early noughties? It is better for us to put it out in the open, have a debate in here about it and see what emerges from that.

Senator John Crown: Following on from Senator Norris's comment about the very hypocritical admonition of alcohol companies to drink carefully, they mean "don't spill it". The truth is that alcohol companies have one ambition and that is to sell more alcohol. I have said here and in the Oireachtas Joint Committee on Health and Children that any attempt by the authorities to engage with the alcohol industry as some sort of partner in alcohol limitation is absurd.

I do take a drink from time to time but I am going to talk about my favourite vice for a few minutes. Again, it is the latest onslaught by the tobacco industry against the children of this country. Please remember that the entire business plan of the tobacco industry is summed up in four words - "addict children to carcinogens". When you lose 50 of your customers every day from smoking-related illnesses, you must replace them. The overwhelming majority of smokers start as children. The majority of smokers wish to stop and the majority of those who wish to stop fail to stop. Our best strategy is to stop people starting in the first place and we need to be eternally vigilant in our attempts to do this, so I was appalled to discover that there is a new and discretely available product that is often labelled "good things come in small packages". These are starter cigarette packs - small little pouches that contain tobacco and cigarette paper - that are sold in small amounts at a price that is substantially below that which applies to the smallest pack of cigarettes that is currently available. These products are placed within the price range where children on pocket money or small change can afford to purchase them.

The tobacco industry is extraordinarily well resourced. In case people do not know, it is the second largest lobbying industry in the EU after the agricultural sector. Members will know I attempted to bring in an anti-tobacco lobbying Bill here when it was disclosed that the Taoiseach and two senior Ministers had breached the international guidelines of the WHO in their dealings with the tobacco industry. Prior to that debate, we found in the well of this Chamber the business card of a public relations candidate who works with the tobacco industry. Given this, it is apparent this is an issue we need take relentlessly seriously. I propose to the Leader that we have a debate on this House not just on tobacco policy but specifically on the issues of marketing and how we can strengthen the regulatory process in terms of limiting the eternally clever ways the industry has of getting around the tobacco regulations in this country.

I also propose an amendment to the Order of Business, that No. 59 be taken before No. 1. As I have stated previously, the reason for this is because I have three outstanding Bills. They are outstanding in the sense that they have not gone anywhere. While I do not suggest they are outstanding legislative measure, I hope history will deem that they are. However, I am not that ambitious. These Bills have passed Second Stage and in the time-honoured tradition of Pyrrhic victories in this House, I am supposed to be happy as an Opposition backbench Independent Senator that they have got this far and am then expected to let them die with the Oireachtas. I do not want them to die. I want them to be either passed or defeated. That is why I was elected to this House - to introduce legislation - and that is why I am asking for an amendment to the Order of Business, to take No. 59 before No. 1.

Senator Diarmuid Wilson: I second Senator Crown's proposed amendment to the Order of Business.

I join colleagues in sending my best wishes to Bernard Hand. Since the day I became a

Seanad Éireann

Member of this House, he has been very courteous, polite, unassuming and helpful. I thank him for that. As has been stated here by other colleagues, he is an avid GAA fan. I understand he got his love for the GAA from his late father, Benny, who was from a quiet village in County Monaghan called Scotthouse. The people of Scotthouse are very proud people who love their GAA. They are just unfortunate in that they are on the Cavan border and nearly made it as far as becoming Cavan people. Bernard always had a great interest in Cavan GAA and would regularly ask me how we were getting on. It was not very difficult to answer that question because it was only asked about once a year or twice a year at the most. Things are improving and we are getting there. Bernard always reminded me that his father was a great Cavan supporter in the 1930s, 1940s, 1950s, and 1960s. We look forward to the day when Bernard not only has Dublin to support but will be able to go back and support the Cavan team in the not too distant future. I wish him and his family many years of happiness and join other colleagues in wishing Senator Norris the very best on receiving an honorary doctorate tomorrow from Trinity College Dublin.

Could the Leader arrange a debate with the Minister for Defence on the Defence Forces?

Senator Feargal Quinn: I support Senator Crown's amendment to the Order of Business in respect of No. 59, which concerns the healthy living Bill.

Bernard Hand has been a joy ever since I came in here. He has been a joy to meet and has been a joy to anybody he has shown around this House because he has not just shown people around the Houses of the Oireachtas as part of his job, he has done it with enthusiasm, interest and a love of the place and its history. We are going to miss him but we assume he will drop in on a regular basis in the future. I thank him for those years of service he has given us.

As we heard earlier on today, we have had some very good tourist numbers. However, during the week, the US Government issued advice to its citizens warning them to be careful about where they travel. I want to make sure we take whatever steps we can to ensure that there is no fear among Americans who are thinking of coming here and that they feel very safe in Ireland. We hope they do. I am not sure what we must do about it and how we draw attention to it. I know that ISIS has included Ireland in a list of 52 countries it is unhappy with. However, we should work on the issue and do something about it. I am sure the Irish tourism industry is already working on that and doing whatever needs to be done.

Senator Paul Bradford: I join colleagues in the tributes to Mr. Bernard Hand and wish him well for the future. I am sure like many of his previous colleagues, he will continue to visit us here from time to time. He will probably learn, as all of us have learnt, that nothing much changes. I concur with what has been said about Senator Norris as he collects another award of distinction tomorrow.

I support Senator Bacik's call for a debate in the House on abortion services because a democratic debate is always useful and helpful. The Senator put on record her pleasure at the pronouncement of the Labour Party's proposal on abortion. While I disagree in every respect with the Senator on the matter, she is absolutely entitled to her opinions and I am sure she will fully respect mine. I am sure she will fully respect my view that what she and the Labour Party are proposing is absolutely akin to the British and American regimes on abortion, about which I and many other people in the country are deeply disturbed. Let us have that debate.

It appears the Taoiseach has reflected and revised his views on how a Government should operate and he might well allow a free vote of his parliamentary party colleagues on the mat-

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ter. I am not sure if it is a question of Sunningdale for slow learners or a question of trying to rewrite history. I regret the Taoiseach did not allow such a facility when he and his Government presided over the abortion introduction in this country in 2013. If he had been as willing then to allow the free vote he now claims he might allow, things would be different. It is important that in a House of democracy, we debate all subjects - the difficult ones as well as the easier topics. I look forward to that debate in the new year.

What the Labour Party proposed yesterday is exactly what was proposed in Britain in 1967 and in the United States in the 1970s.

Senator Ivana Bacik: It is more conservative.

Senator Paul Bradford: It has caused huge destruction and I certainly hope it will not be visited on the Irish people.

Senator Rónán Mullen: Senator Bradford speaks for me 100% in what he has said. The Labour Party on this issue has lost all credibility and any claim to be defenders of human rights has gone out the window. Senator Bacik and others have never expressed opposition to abortion in any of its aspects internationally, which is a remarkable and disturbing fact.

I wish to be associated with the tributes to Mr. Bernard Hand. Our ushers are a treasure to us, as those of us who have guests in here frequently are constantly witness to. Bernard has always been up there with the best of them. I thank him for all that he has done and I hope to see him often into the future.

As politicians, we know that full disclosure and transparency increase public confidence in our institutions. The register of Members' interests, the SIPO requirements and other statutory provisions in ethics all give the public confidence, hopefully, in the Oireachtas and in public representatives. Referring to transparency, the former US Supreme Court Justice, Louis Brandeis, said, "Sunlight is said to be the best of disinfectants". Touching on some of what Senator Crown said, allowing the public full disclosure on financial matters, including payment and commercial interests, fosters accountability and prevents obvious corruption. It is remarkable that for so long in Irish life, secrecy and lack of transparency around pay packages and salaries of senior staff in representative organisations continue to be an issue.

Speaking as a son of the land and as somebody whose family farm would take about 200 or 300 years of activity to match the pay packet of the famous retiree from the IFA, I do not find it surprising that farmers are outraged and horrified that they, as members, were contributing to what can only be described as grossly inflated pay and compensation packages for senior management. The *Irish Independent* revealed that over the past 14 months, the IFA refused repeated requests to furnish details of the general secretary's package and also the level of compensation paid to the president. I can only assume the ordinary rank-and-file members were also kept in the dark, which is not good enough. How many more unions and representative organisations throughout the country conceal the pay and compensation packages of senior managers from their members?

We need an urgent debate to establish what options are open to compel transparency in this sector. In the charity sector, the Oireachtas was required to pass legislation so that practices could be reformed. Perhaps it is time to consider covering unions and representative organisations also. There used to be a line that senior trade union officials needed to earn as much money as their industry counterparts so they could eyeball them across the table effectively.

Where did that nonsense come from? What a lack of idealism. What a lack of a sense of service to the people they represent.

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

Senator Rónán Mullen: Of course, it was all about spin and justifying the padded cushion on which they sat because it should not require-----

An Cathaoirleach: The Senator is way over time.

Senator Rónán Mullen: -----exorbitant salaries to give good service to the people they represent.

Senator Ned O'Sullivan: I join other Senators in passing on best wishes to Mr. Bernard Hand on his retirement, which, I hope, will be long and happy. We have had references to Cavan football for two days in succession and it all seems to rest on the infamous occasion in the Polo Grounds in 1947. I wish Bernard every success. He was always a gentleman as far as I was concerned.

This matter may have been mentioned on the Order of Business; I was late coming in. Irish Water has firmed up on its plans to extract water from the River Shannon and to pipe it through the midlands and into Dublin. I was chairman of the Shannon water advisory board when that plan was first mooted eight years ago. The initial reaction was a knee jerk one. The people in the west were of the view that their water was being stolen and so on. I think people have had a better look at it since. I hope when this is going ahead, the local authority members will be consulted first and last because they are the people who know most about the environmental impact it will have on their area.

It is disappointing Bord na Móna's plans to create an eco-lake in the midlands as part of the scheme seem to have been shelved. Apparently, it will be one pipeline with offshoots in the various counties where water is required. It is a big project that will create a great number of jobs. It is not exactly draining the Shannon as was promised in these Houses for decades. However, it is basically a step in the right direction, provided the local authorities are involved in the process at all stages.

Senator Máirí Cahill: I welcome the publication of the scheme of a Bill from Labour Party women yesterday with regard to repealing the eighth amendment. Far from being disturbing, as some Senators have said today, it is actually an attempt to deal with the issue in a very sensitive way. It is a constructive attempt to deal with an issue that has been repeatedly pushed down the line. It is not good enough that this country forces 12 women a day, some of whom are in very difficult situations, to travel to England. We need to take the nastiness out of this debate. We need to listen to women and deal with the very real and emotive issues in a sensitive way because we do women a great disservice by not doing so. I echo the calls for a debate on the issue.

Senator Fidelma Healy Eames: I will be sorry to see Mr. Bernard Hand leave the House but I expect he will return. He has treated everyone with warmth and great attention. I will miss him.

Further to Senator Mullen's comment about farmers and the IFA salaries, farmers feel very deceived at the unacceptable and undisclosed levels of salaries for senior IFA personnel that

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have gone on for a long time. I hope that will resolve itself and we will have a new future there because farmers' representation is vital.

On the issue of the abortion debate, I would certainly welcome a debate in this House on the human right to life for mother and baby. I want it to be as broad as that because we are talking about two people here and not just one person. We have heard overnight that the Taoiseach is now willing to give a free vote to parliamentary party members in the event of a referendum on the repeal of the eighth amendment. I would not be so presumptuous as to claim that he learned from the seven members who were expelled for keeping our promises to the electorate. The narrative is more likely to be, "Steady the ship, boys, we have a second term in sight. A free vote is no problem, so let us high five that, lads. Stick with the party and I will be Taoiseach again." The offer of a free vote by the Taoiseach, Deputy Enda Kenny, is as meaningless as the letter from Fine Gael to the people of Ireland before the last election which stated that the party would not legislate for abortion. Fine Gael did legislate for abortion.

The reason I am on this side of the House is that I kept my promise to the people, as did Senator Bradford and five Deputies in the Dáil. Somebody is right and somebody is wrong. I am not trying to score points here but I am speaking about the truth and not using a subject that is so deeply human and important to the existence of life as another joy-ride into power. That is what we are talking about here. I ask the Leader to arrange for that debate and to hold it before this Seanad term ends.

Senator Maurice Cummins: As I mentioned, it was Fianna Fáil Members and the leader of their group who requested on Tuesday and yesterday that a debate be held on accident and emergency services and that the Minister be invited to the House for whatever short period of time to debate the issue. The Minister has acceded to that request and I am glad he is coming to the House today for the debate. Obviously, it is not welcomed by Senator Daly but it was requested by his party yesterday and on Tuesday-----

Senator Mark Daly: Forty minutes is not a huge amount of time but we are glad he is able to spare some time for us.

Senator Maurice Cummins: -----when the Senator was not present.

With regard to the unfortunate Irish citizen, Ibrahim Halawa, Senator Mullins informed the House that the Minister for Foreign Affairs and Trade attended yesterday's meeting of the Joint Committee on Foreign Affairs and Trade at which he gave full details of his and the Government's efforts to secure the release of this Irish citizen. I hope there would be unity of purpose from all sides of the House in trying to secure this chap's release from custody. I presume it is the intention of every party that we would do everything possible to try to secure his release, and the Government is doing that.

Senator Bacik also spoke about the Halawa case. In addition, she called for a debate on the Paris talks on climate change. We will try to facilitate that in the new year. She also called for a debate on the repeal of the eighth amendment of the Constitution. There have been many such requests in the House today, for different reasons, including from Senators Bradford, Healy Eames, Mullen and Cahill. I have no intention of having that debate before Christmas but we will try to facilitate one in the new year.

Senator Barrett referred to keeping financial measures under review and Senator Craughwell spoke in a similar vein in respect of the budget and so forth. There will be ample opportunity to

discuss the budget in the debate on the Finance Bill, which will be before the House in the next week or two. It will also be an opportunity to discuss the matters mentioned by Senator Barrett.

Senator Mullins raised the issue of road safety and drink driving and the need for all of us to change our attitudes. I believe attitudes to drink driving have changed significantly over the years but there is a need to continue monitoring it. The message must be conveyed that if one drinks, one does not drive. Obviously, that message has not got through to everybody but let us hope it will get through, especially during the Christmas period.

Senator Leyden referred to a point he raised yesterday about motor insurance. He highlighted the fact that FBD challenged a case recently and won. He also complimented the Garda for highlighting the number of sham marriages that are taking place in this country. I agree with Senator Leyden and I compliment the gardaí involved.

Senator Paul Coghlan welcomed the decision of McDonald's not to proceed with a planning application for a premises adjacent to a school, a matter that was raised by several Senators yesterday. Both he and Senator Mullen raised the need for greater transparency regarding CEO payments. This matter was also raised on the Order of Business on Tuesday and Wednesday and I agree with the sentiments expressed.

Senator Norris spoke about drinks advertising and the problem of alcohol. I am assured that an alcohol Bill, which will deal with alcohol, pricing and so forth, will be brought before the House before the Christmas recess.

Senator Brennan highlighted the excellent news on tourism figures, which are up 12.8%. Tourism has been a tremendous boost for the economy. I recall that when the Minister for Finance, Deputy Noonan, took office four years ago he emphasised that tourism would be one of the engines that would drive our economy. That is the reason the 9% VAT rate was introduced. He was proved correct and it has proven to be a great boost to the economy and to the growth we are witnessing at present. Long may it continue. I will try to arrange for the debate the Senator requested but I doubt that it will be held before Christmas due to the amount of legislation we must deal with between now and then.

Senator Mooney corrected the record of the House in respect of the wearing of seat belts and the number of people killed on our roads as a result of not wearing them. Irrespective of the numbers involved, it is crazy that people do not wear seat belts in their cars in this day and age. The message must be conveyed that people must belt up at all times when in a car.

I referred to Senator Craughwell earlier. He spoke about the expansionary nature of the budget. I assure him there will be no return to what we witnessed in the economy over many years. The Senator will have the opportunity to discuss that during the debate on the Finance Bill.

Senator Crown rightly highlighted the ploys of the tobacco companies and the tobacco industry to get young people to start smoking. I will try to organise a debate on the matter in early course. With regard to the proposed amendment to the Order of Business to take No. 59 before No. 1, No. 59 deals with not just finishing Second Stage but also taking Committee Stage of that Bill. I cannot afford the opportunity of holding Committee Stage of that Bill today before No. 1. It was pointed out yesterday that a number of Bills had concluded with five seconds or so left on Second Stage. It would be appropriate to try to deal with those. I ask the Members concerned either to remove them from the Order Paper or to deal with the concluding seconds

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of the Bills. I will facilitate them in doing that if they wish. If a vote is required to conclude Second Stage, we can deal with that. I will consider what can be done with regard to the Bill mentioned by Senator Crown.

Senator Wilson called for a debate on the Defence Forces. I agree that such a debate is long overdue. I will try to schedule it in the new term.

Senator Quinn spoke on tourism and the need to ensure that people from the US feel safe when travelling in Ireland. That is very important for our tourism industry and I am sure Fáilte Ireland and all concerned are working on that.

I have referred to the contributions of Senator Bradford and Senator Mullen.

Senator O'Sullivan referred to plans to extract water from the Shannon to supply houses in Dublin and the need for local authority involvement. He also referred to the need for environmental impact studies and I am sure they will have to be carried out. I agree with him that local authorities should be involved in the process.

I have referred to the matters relating to the repeal of the eighth amendment raised by Senator Cahill and Senator Healy Eames.

An Cathaoirleach: Senator John Crown has proposed an amendment to the Order of Business, "That No. 59 be taken before No. 1." Is the amendment being pressed?

Senator John Crown: I join in the thanks and praise to Bernard Hand.

Will the Leader clarify if he will make time available for outstanding Bills on Committee Stage before the expiration of the current Oireachtas? If not, I will press for a division on the amendment today.

Senator Maurice Cummins: I am not giving a commitment. I said I would try.

Amendment put:

The Seanad divided: Tá, 15; Níl, 20.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Byrne, Thomas.	Brennan, Terry.
Craughwell, Gerard P.	Burke, Colm.
Crown, John.	Cahill, Máiríá.
Daly, Mark.	Coghlan, Eamonn.
Healy Eames, Fidelma.	Coghlan, Paul.
Leyden, Terry.	Comiskey, Michael.
Mooney, Paschal.	Conway, Martin.
Mullen, Rónán.	Cummins, Maurice.
Norris, David.	Gilroy, John.
O'Sullivan, Ned.	Hayden, Aideen.
Quinn, Feargal.	Keane, Cáit.
Reilly, Kathryn.	Kelly, John.

Seanad Éireann

White, Mary M.	Moloney, Marie.
Wilson, Diarmuid.	Moran, Mary.
	Mulcahy, Tony.
	Mullins, Michael.
	O'Donnell, Marie-Louise.
	O'Neill, Pat.
	Sheahan, Tom.

Tellers: Tá, Senators John Crown and Feargal Quinn; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared lost.

Order of Business agreed to.

Planning and Development (Urgent Social Housing Supply) Policy Directive 2015: Motion

Senator Maurice Cummins: I move:

That Seanad Éireann approves the following Policy Directive in draft:

Planning and Development (Urgent Social Housing Supply) Policy Directive 2015, a copy of which has been laid in draft form before Seanad Éireann on 29th October 2015.

Question put and agreed to.

Financial Emergency Measures in the Public Interest Bill 2015: Committee and Remaining Stages

Acting Chairman (Senator Diarmuid Wilson): I welcome the Minister for Public Expenditure and Reform, Deputy Brendan Howlin.

Sections 1 and 2 agreed to.

SECTION 3

Acting Chairman (Senator Diarmuid Wilson): Amendment No. 1 has been ruled out of order because it involves a potential charge on the Exchequer.

Senator David Norris: In contemplating reform of the Seanad the provision which prevents the Seanad from creating a charge on the Exchequer should be removed. The Dáil could not possibly have made a bigger balls of the economy than it did under a previous Administra-

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tion. Seanad Éireann, with its expertise, should be allowed to make suggestions in this area.

Acting Chairman (Senator Diarmuid Wilson): The amendment has been ruled out of order. I will allow Senator Rónán Mullen to speak to the section, if he wishes, unless he has another point to make.

Senator Rónán Mullen: We find ourselves in a situation where a series of excellent amendments tabled by Senator Gerard P. Craughwell which I had intended to support have been ruled out of order. We do not have a chance to discuss them because of the overly broad interpretation of the rule that amendments which involve a potential cost on the Exchequer cannot be considered by the Seanad. I know that the Seanad has a different role from that of the Dáil, but in at least one case the amendment tabled by the Senator, who will speak more eloquently to this matter, could not be interpreted as necessarily involving a potential cost on the Exchequer because it would remain for the Executive to make a decision on whether it should take a particular step that might or might not involve a cost. As elected representatives, we find ourselves unable to carry out one of our functions to help a proper consideration of legislation.

I o'clock

There are issues of fairness in regard to people's pensions, people in different unions being pitted against each other and the Financial Emergency Measures in the Public Interest, FEMPI, legislation being used as a weapon. We are not in a position to contribute properly to the discussion of these issues because of a simple administrative ruling out of order of this amendment. Sleight of hand is what I would call it.

Acting Chairman (Senator Diarmuid Wilson): I cannot open up a discussion on this amendment. Members can speak to the section. The Cathaoirleach has made his decision. I am not trying to be dictatorial. My hands are tied as colleagues are well aware. The Cathaoirleach has made his decision that the amendment involves a potential charge on the Exchequer and on that basis it has been ruled out of order. I am moving on. Members can make their points when they speak to the section.

Senator Gerard P. Craughwell: Before the Acting Chairman moves on, under the Bill there will be substantial gains for senior members of the Government, while some of those who are worst off in the country-----

Acting Chairman (Senator Diarmuid Wilson): The Senator can make that point when he speaks to the section. I must move on.

Senator Gerard P. Craughwell: In fairness, the time when this could have been done was during the debate on the legislation in the Dáil, but similar amendments were ruled out of order.

Acting Chairman (Senator Diarmuid Wilson): The Cathaoirleach has made his ruling on this amendment. As I said, my hands are tied. The Senator can make his comments when he speaks to the section. I ask him to resume his seat.

Senator Gerard P. Craughwell: I find this very disheartening.

Amendment No. 1 not moved.

Acting Chairman (Senator Diarmuid Wilson): Amendment No. 2 is in the names of Senator Kathryn Reilly, David Cullinane and Trevor Ó Clochartaigh. Amendments Nos. 2, 5,

6, 9 and 15 are related and may be discussed together, by agreement. Is that agreed? Agreed.

Senator Kathryn Reilly: I move amendment No. 2:

In page 6, to delete lines 3 to 29.

I welcome the Minister back to the House. As he knows, these amendments were thoroughly thrashed out in the Dáil. I have resubmitted them as a matter of procedure and will outline the rationale for them. I am sure the Minister will respond with his own interpretation.

A stated objective of the winding back of the FEMPI legislation, as the Minister said, was, in the first instance, to give relief to public and civil servants on low and middle incomes. I acknowledged on Second Stage that those on lower and very low incomes in the civil and public service would receive some relief under this legislation. I also said any alleviation would be welcomed.

With respect to the amendments, the point was made to the Minister during the debate on the legislation in the Dáil - I make it again now - that in terms of equity and delivering maximum relief to those on middle, low and very low incomes in the civil and public service, efforts should have been totally focused on those in the lower income brackets, but we note in this legislation that the only incomes in respect of which complete income restoration is envisaged and set out stage by stage are those above €65,000 and €110,000. This series of amendments seeks to remedy this. Some of them seek to deal with the issues of salaries and pensions.

The Minister rejected similar amendments in the Dáil and I imagine he will reject these amendments also. The reason I have resubmitted them is to outline what could be interpreted as a more favourite position for those on higher incomes. The question that arises is how in the staged process of full restoration of pay and conditions and all other aspects the process is not similar for people on lower incomes? This measure purports to unwind the financial emergency measures in the public interest legislation, but this should be done in a way that is fair and equitable to all.

Amendment No. 6 sets out that nothing in this section will provide for an increase in the salaries of Members of the Houses of the Oireachtas or Ministers of the Government. In the debate on the legislation in the Dáil the Minister stated current Ministers would voluntarily forgo any portion of income returned to them. However, it should be noted again that it is very much a voluntary action and not set out in legislation. We believe that is a mistake. For how long will that voluntary measure last? Can we rely on politicians' goodwill? Circumstances change and those who voluntarily forgo such income may decide they do not want to do so anymore. Given that Members of the Oireachtas, particularly members of the Government, brought forward previous FEMPI legislation which introduced broad menus of cuts, it is appropriate that Members of the Oireachtas should lead from the front in the recovery.

Amendment No. 9 is a similar amendment with respect to pensions. Amendment No. 15 is particularly controversial. I know that the Minister has mentioned the constitutionality issue, but this amendment focuses specifically on former Members or Ministers. There has, rightly, been much public concern about this issue, particularly the very high pensions of which former Ministers and politicians are in receipt. It is not lost on many people that some of those in receipt of these pensions were at the helm of the economy and subsequently when the economic crash occurred. The Minister has mentioned that the constitutionality aspect could bring down the FEMPI legislation, but I have tabled this amendment not least to make the political point

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that there is considerable concern that while those on lower incomes will not have their incomes totally restored, the big players with big pensions will have their pensions increased.

Senator David Norris: I do not agree with these amendments. This is the typical public relations stunt to attack the salaries and pensions of Members of the Oireachtas. Whatever about the pensions of former Taoisigh, the pensions of former Members are not enormous by any means. Those who serve the country well deserve to be properly treated.

Senator Kathryn Reilly spoke about relying on the goodwill of Members. Of course, we can rely on their goodwill; politicians fall over themselves to sacrifice themselves and take pay cuts and all the rest. I was around when some of the allowances were created by the then Minister, Mr. Charlie McCreevy. It was sleight of hand because Members of the Oireachtas had decided not to accept the pay increases members of the general public were to receive. It was sleight of hand compensation for the trade unions. Civil servants had them streamed into their pay. Our pay was supposed to be linked with pay rates in the Civil Service, but that coupling was undone. I do not agree with this idea and do not think the public pays much attention to the self-sacrifice of politicians. I have said previously that if we were to strip ourselves naked, give all of our possessions to the Society of St. Vincent de Paul and jump off the roof of Leinster House, the general public would be quite unimpressed. I stand alone in public in saying I think we should receive proper remuneration for the job.

On an allied subject, the allowances paid, they are a mess. The interpretation of the regulations is chaotic. Why does the Government not just consider giving Members of the Oireachtas the proper rate for the job? It should have an outside person look at our work ratios and all the rest, pay the rate for the job and cut out all of the allowances. That would cut out the controversies and we would then receive the rate for the job. In the New Year I am seriously contemplating throwing the old allowances back in the face of the Government and saying: "Keep them, they are not worth a tuppenny damn." I do not agree that Members of the Oireachtas should be sacrificed. I do not see why we should be excised from a public movement of pay restoration. Why should we? Why should Members of Parliament be exceptional in being penalised when everybody else's income will be restored gradually by the Government? Ours should be too and I say this quite openly and publicly, although I know that it will not be popular, but I do not give a damn. It is what I believe. I do not accept the amendments.

Senator Paschal Mooney: This is a very sensitive subject for politicians on which even to engage in a debate, as the Minister will be aware. I admire Senator David Norris's forthrightness and political courage, not for the first time, on this issue, but one has to tread like one is walking on eggshells when one talks in the Houses of the Oireachtas about the specifics of the amendments which, in general, are about restricting increases for politicians. There is no question but that it is a populist measure. However, there are a number of contrary views. One is that the Government, in its attempt to abolish the Seanad, played on what the focus groups seemed to suggest would go down well with the general public, that not only would it get rid of a bunch of politicians but that it would save the State some money. Members may remember that they were the two main planks of the proposal-----

Senator David Norris: All of their figures were wrong.

Senator Paschal Mooney: -----yet the public did not bite. About three or four years ago *The Irish Times* carried out an attitudinal behavioural survey which was quite extensive, and I vividly remember one of the key questions. All of the questions offered respondents a selection

of answers labelled A, B or C. One of the questions was whether readers believed politicians' pay had increased, decreased or stayed the same since 2008 or 2009. Most respondents opted for choice A, that politicians' pay had risen. In other words, there was no recognition of all the efforts in this area by the former Minister for Finance. As Senator Norris noted on Second Stage, that Minister uniquely took away the increment from Deputies and Senators. We are the only group in the public service that does not have increments. Even in the private sector, the provision of incremental pay increases is a normal part of employment practice. It does not happen in all cases but it certainly is an accepted model. We were sacrificed on the basis of a populist decision of the day. Does anybody know or care about that? No, they do not.

Senator David Norris: The amount of money involved was piddling.

Senator Paschal Mooney: It was a small amount but, as Senator Norris pointed out, it affected pensions. I will always defend the right of people in these Houses to a pension. The question of how that pension is calculated should be a matter for outside agencies. It is important to remind people that the pay and conditions of politicians were not set by politicians. We need to go back to the infamous benchmarking exercise of 2002, which I consider to be the most anti-democratic action taken in the course of the 15 years or so in which my party was in government. It involved the Government of the day and the trade union movement cooking up this wonderful agreement to ensure politicians and public servants were looked after. Of course, as public servants ourselves, Oireachtas Members gained from that. However, I recall being very uncomfortable at the time about all the money that came pouring out of that agreement in 2002 and in subsequent years. It was morally wrong, as I said when it was done. I remember getting cheques and not having a clue what they were, the only reference being to "arrears". There was a lack of transparency because of the manner in which the deal was done, which was behind closed doors and without any involvement by either House.

Going back to the survey to which I referred, it really brought home to me the point Senator Norris made and on which I am in full agreement with him. Every politician in this and the other House would agree with him, privately if not publicly. The fact is that people in this country generally do not care to know that politicians have taken pay cuts or, if they do know, they very quickly forget it. The general view, irrespective of any reality, is that politicians are lining their own pockets. The reality, of course, is that the reductions Deputies and Senators have taken in the past five or six years amount to a cut of well in excess of 30% of their pay. I am not complaining about that but am simply pointing out that reality and public perception do not always align.

Another source of irritation to me is the lack of acknowledgment of the fact that over the past 30 or 40 years, the average turnover of Members of both Houses at each general election was 30%. As a result of the fluidity of the political situation in the past six years or so, that average might even be higher. The rate of turnover was certainly higher at the 2011 election and it could be high again at the next election. What happens to the people who leave their jobs to come into the Oireachtas, serve one term and then have to try to pick up the pieces of their career? It is not easy for them but there is no attention given to their situation by the media. Instead, the focus is on the amount of money Deputies and Senators receive in their salaries. Moreover, the impression is effectively conveyed that Oireachtas Members receive that money from the cradle to the grave. In reality, a significant cohort of people are elected to these Houses for one term only before having to relaunch their career on the outside. What is worse, some accrue so many expenses in the course of their election campaign, they are left paying off bills right through their term.

To be clear, what I am saying here does not amount to a plaintive cry. I am merely articulating certain realities that do not always seep into the public awareness. The only view presented to people is one that says Deputies and Senators are out to look after themselves. There is a human dimension behind the statistics I mentioned that is forgotten about. It is neither remarked on nor even conceded that there are people trying to keep body and soul together and who, once they leave the Oireachtas, find it very difficult to return to their previous line of work.

To reiterate, I am not against these amendments but am taking the opportunity to point out a few facts. As I said at the outset, I realise I will not gain any friends by saying what I have said. I probably will be accused of defending the indefensible. All I am trying to do is point out the political and human realities behind the facts and figures. Despite all the efforts by the last Government, the results of *The Irish Times* survey show people's views are not in line with the reality. I have no doubt that if a similar question were put to the public in respect of this Government, the majority would go for option A, that politicians have increased their pay.

Senator Aideen Hayden: The sentiments behind these amendments are understandable. It is important to iterate, however, that there is a very strong bias in this legislation towards the lower paid. Another important point is that public servants in general, at every level, took significant cuts as a result of the various FEMPI Bills. The point was made on Second Stage that although more is going back to the lower paid, everybody is getting something back. It is more a statement of gratitude and appreciation for the work all civil and public servants have done, and the Minister, rightly, has put the emphasis on the lower paid.

Oireachtas Members are public servants and our pay is linked to a pay grade within the public services. Deputies are linked to principal officers, Senators are linked to Deputies and councillors are linked to Senators. The independence of that link is valuable and it should be retained rather than going down the road of a commission that would evaluate the work of public servants. As Senator Mooney noted, there is a danger in asking for the work that is done by Oireachtas Members to be appropriately recognised. The best thing is to have a link with the public service generally. The work we do is a public service role and that is where it rightly belongs. As I said, the sentiment behind the amendments is understandable but it is also misplaced. We are public servants and we, like others, have given up of our salaries. We are not getting a lot back now but we are getting back what is appropriate to people of our pay grade. It is the same for all public servants.

Senator Gerard P. Craughwell: I said on Second Stage that this Bill is biased to some degree in favour of people who are on very good salaries. My colleague, Senator Keane, noted on Second Stage that councillors get nothing out of it. Indeed, it is very hard to figure out what local government members actually earn. They are not employees but officers, a role for which they get a miserable €16,000 per year. For 33% of them, it is the only income they have, but they are being hit with the pension levy, universal social charge, tax and so on. In the case of the spouse of a public service pensioner, assuming the latter had full service, the spouse will receive a quarter of that person's income. Many are on less than €12,000 per year.

Senators gain nothing from this Bill but the Taoiseach is to gain €15,900. The Minister will undoubtedly tell us this increment will be waived. I probably know more about the effects of the financial emergency measures than most people, having taken all the cuts as a teacher and a further annual cut of €8,000 when I came in here, under the relevant statutory instrument. I sit in this House alongside people who can work in the private sector and earn up to €100,000 on top of their Senator's salary.

There is something very wrong with the way in which we balance things in this country. The Minister tells me the senior Government people will waive this. Both he and I know that we are approaching an election and it is likely that some senior Government people will lose their seats. When they waive this, will it be underpinned by some form of statutory instrument so they cannot come back and say they have changed their minds, are no longer waiving it and would like to have it included their pensions? Is that the case? Is the waiver voluntary for as long as one wants it to be but not thereafter?

We sought some small changes to the Bill. One such change, as I pointed out, imposed no cost whatsoever but it was ruled out of order, which is totally unacceptable. I complimented the Minister the other day, and will do so again, on the Lansdowne Road agreement and on the Haddington Road agreement, in which I was involved. As far as I am concerned, and as distasteful and all as the agreements were for those at the receiving end, the agreements were without doubt the saving of this country at the time they were brought in. The Minister took a huge political risk when he brought them in and I commend him for doing so. I hold him in the highest esteem but we have got it slightly wrong in this case. I have found myself having to walk a thin tightrope because many of my trade union colleagues will benefit significantly from this, which is commendable. However, there are a few who are outside of the frame. None of them is looking for money but rather negotiation on things like flexible hours in universities. It was a bit disingenuous of the Minister the other day to discount the 78 hours given up by lecturers in institutes of technology as just 78 hours. We both know that those 78 hours have found their way into the *de facto* timetable which means people work far in excess of 78 hours. My colleague, Senator Healy Eames, has estimated that there is four hours per hour of delivery. The 78 hours have become delivery hours, so it is a substantial number of hours.

Colleagues in the Garda Síochána have taken great exception to the fact the Minister has discounted the 30 hours they gave through the Haddington Road agreement. It has been thrown away; it is at the bottom of the scale and it is not considered that important. I want some form of guarantee that senior Ministers, the Taoiseach and the Tánaiste will not benefit from this. We need to look at cases where people in this House have sizeable incomes outside it. Decent people gave their lives to this country and have taken massive cuts in their pensions and yet those who have lived a fairly comfortable life through the public service, including public representatives at the top of the public service scale, will benefit to the tune of more than the pension payable to the people at the bottom. That shows there is something terribly wrong with this.

I want to see the Lansdowne Road agreement agreed, over the line and working. The colleagues I left behind in the teaching profession do not want money. Instead, they want somebody to sit down and discuss their concerns, which is not a lot to ask. The Minister could say today that he will see to it that happens. I also want my colleagues who are not on a full salary to be looked after. The other day I gave the Minister the example of the teacher on €23,500 who will not benefit from this. If his or her next door neighbour who is a civil servant on €23,500, he or she will get all of the benefit because, unfortunately, the teacher, or casualised public servant, does not get any benefit from the pay rise *per se* because it is based on the salary for the scale and not the income of the individual, a matter which needs to be addressed. The Minister said he would address any anomalies if we specify them to him. I am having the costings done on those scenarios and I will send them to the Minister, who I believe will try to resolve them. I see a situation where we will probably finish up with 50 different points on every salary scale in the public service where casualised people are employed. I do not want to trip this up but I need some serious answers which will allow me to support the legislation in some way.

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Acting Chairman (Senator Diarmuid Wilson): Has Senator Brennan indicated a wish to speak?

Senator Terry Brennan: No, I am just a keen listener.

Senator Fidelma Healy Eames: We had a fairly good and open debate here on Tuesday. I recognise the considerable skills of the Minister. He is forensic, very able and he has considerable negotiating skills. However, I am troubled that all of the amendments that had anything to do with a potential cost to the Exchequer have been ruled out of order. I know that the Minister did not make the ruling. By ruling them out of order, what we are saying is that there is no debate and we should throw them out. I do not know why I have bothered to stand up and speak.

Acting Chairman (Senator Diarmuid Wilson): I outlined at the very start that-----

Senator Fidelma Healy Eames: I know it is not the fault of the Acting Chairman and that he is only sitting in for the Cathaoirleach.

Acting Chairman (Senator Diarmuid Wilson): The Cathaoirleach has made a decision on the amendments under the Standing Orders of the House. I am sorry to interrupt the Senator but I must remind her that the amendments were ruled out of order, as indicated, because there is a potential charge on the Exchequer.

Senator Fidelma Healy Eames: I know.

Acting Chairman (Senator Diarmuid Wilson): Colleagues will have an opportunity to speak on the section, if they so wish, when we reach it.

Senator Fidelma Healy Eames: I am speaking on the section.

Acting Chairman (Senator Diarmuid Wilson): We are now dealing with the amendments.

Senator Fidelma Healy Eames: On that note, I will proceed. The Minister's answers to the questions will be important in terms of providing guidance for staff. I will focus largely on the teaching profession at second and third levels and on pensioners. I will make one point on councillors because other Senators have referred to them. What are councillors? They are not public servants and they do not in any way benefit from this Bill. They are not even classed as public servants. They have no PRSI entitlements and as a result have no pension entitlements. If one works out their actual pay then, in my view, it is way less than the minimum wage. They have got the rawest deal in the country and yet they are the underbody of the entire democratic system.

Senator David Norris: They are the underbody of the Senator's constituency.

Senator Fidelma Healy Eames: They are.

Acting Chairman (Senator Diarmuid Wilson): Senator Healy Eames, without interruption.

Senator Fidelma Healy Eames: One rarely hears me in here talking about this issue but I respect people who serve the public. I spent three years working as a councillor, so I know the workload. With respect, Senator Norris cannot say the same, although I know that he does a lot. The pay, conditions and entitlements of councillors are worthy of attention and I ask the Minis-

ter to tell me where that can happen. I have not seen anything in the legislation for councillors. Democracy relies on councillors. They glean an awful lot of information from the public, their opinions and feedback matter and all of that feeds into the entire democratic system.

I wish to make other points about the section, the first of which is on pensions. As it stands, a huge number of pensioners will not have full restoration of pension under the FEMPI Bill and some have estimated that up to half of retired pensioners will be affected. The Minister can clarify if the estimate is wrong because that is the whole purpose of a debate. If he could give a commitment that the pensions will be fully restored in time, that would be appreciated. Can he give a commitment that people's pension entitlements which they signed up for, paid into and are their right will be restored in time? I am not talking about high flyers or top public servants. I am talking about pensioners who are on marginally above €35,000 a year. I have been speaking to some of them. They are still paying off mortgages, helping their young children by paying college fees and huge rents in Dublin. I had a call from one woman before I came into the Chamber. She had to take early retirement due to ill health. She told me her outgoings are significant and she has a poor quality of life due to the level of these outgoings. The Tánaiste and Minister for Social Protection, Deputy Joan Burton, said she felt everybody in this country should have a maximum pension of around €65,000. That was her benchmark. I see much merit in her proposal; that is a very decent pension.

Senator David Norris: Did the Senator say €65,000?

Senator Fidelma Healy Eames: Yes.

Senator David Norris: That is what Senators get as an annual salary.

Senator Fidelma Healy Eames: I am not knocking that.

Acting Chairman (Senator Diarmuid Wilson): Senator Healy Eames should speak through the Chair.

Senator Fidelma Healy Eames: I am talking about those who are on considerably less than that, almost €30,000 less than that. Given that the good Cathaoirleach - who is not in the House - has ruled amendments out of order which could have addressed this-----

Acting Chairman (Senator Diarmuid Wilson): They were ruled out of order because of Standing Orders.

Senator Fidelma Healy Eames: I know. However, what is the point of having a debate when one cannot change legislation? The purpose of our being politicians is to be able to force change, win it or lose it. I am relying on the Minister to answer this question. Will he restore the pension rights to almost half of the people who will not benefit due to the FEMPI cuts?

Deputy Brendan Howlin: That is not true in the first place.

Senator Fidelma Healy Eames: I want the Minister to answer that question.

I also want to address a cost the Minister is going to impose on the Exchequer as a result of his not negotiating with lecturers, particularly with those in institutes of technology. Lecturers are doing 18 to 20 hours lecturing a week. Come next summer, when the Minister may not honour the moneys due to others, and then come next September, when those lecturers are likely to go back to the 16-hour or 18-hour week, will the Minister appoint extra staff? He will have to

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if he enforces this measure. If he enforces, they are likely to enforce back. Who will lose out? The State, the students and the quality of education will lose out. This is not right. We need to have a long-term view on this. If the Minister rejects them now, they are surely going to enforce and bring back their week's lectures to 16 hours and 18 hours, as opposed to the 18-hour and 20-hour weeks they do now. The Minister might claim that is to do with their vote.

Deputy Brendan Howlin: This has nothing to do with the amendments.

Senator Fidelma Healy Eames: They are, however, honouring the hours at the moment, which is significant.

My final question is on casual teacher staffing. Thousands of young teachers under 35 are on part-time hours. They have insecure employment, low hours or both. With respect, I spoke to the Minister's official outside the Chamber and I have checked it again. There is disagreement over the Minister's explanation, although I respectfully accept it.

I have learned the Lansdowne Road agreement pay increases of 2.5% and 1% are due in January. However, they are linked to the pay scale of a full-time teacher. The lowest point on the scale for a full-time teacher is €31,000. A person on 11 hours' teaching, who is in insecure and part-time employment, earns €15,000 a year. According to the Teachers Union of Ireland, these teachers, who comprise half of all the under 35-year old teacher cohort, will not benefit from the Lansdowne Road agreement because its increases are linked to points on the salary scale. This needs to be clarified on the record of the House.

We have to plan ahead for teacher supply. That is the job of the Department.

Senator David Norris: How is this relevant to the amendments under discussion?

Senator Fidelma Healy Eames: The casualisation of staffing arrangements in the teaching profession is leading to talent loss. If the teachers in question will not be linked into the Lansdowne Road agreement, they will move. Half of the current home economics graduates from St. Angela's College, Sligo, have gone into the food industry because they will have more job security and better pay in it. This is a fact. Who loses out as a result? The young people of this country will lose out. Physics graduates are going into industry too. We need quality in our teaching profession because teachers are the drivers of the economy at a personal and national level. We have to keep up there to be benchmarked internationally or we will lose out completely.

There is a huge load on the Minister's shoulders because it is not about today or the coming year but about the future of our country. I appreciate that, because the amendments have been ruled out of order by the Cathaoirleach under Standing Orders, we are now relying on the Minister's answers to guide me and the profession.

Acting Chairman (Senator Diarmuid Wilson): A fair bit of latitude has been given to colleagues. Will Members stick to the relevant amendments, as the order of the House is that this Bill has to be completed by 2.30 p.m.?

Senator David Norris: I was a bit bewildered about the relevance of the previous contribution but I did not interrupt because it is always useful to let colleagues have their say.

There has been a rather mean-minded reference to the Taoiseach's income. He is the Taoiseach of this country. The fellow from the IFA got €500,000 plus, while the Taoiseach took a

pay cut of 30%.

Deputy Brendan Howlin: It was 40%.

Senator David Norris: Was it 40%? That is a hell of a cut. Let us have a bit of respect. We have a Taoiseach making decisions about billions of euro and the future of the country, as the previous Senator referred to, yet we are cheeseparing. Come on. Let us have a bit of respect for the profession of politics. Let us pay people a decent and reasonable wage. If the Taoiseach was earning €200,000, a 40% cut would mean it was €80,000. I welcome openly and publicly the fact that he will be getting €15,000 back. I do not like this kind of begrudging and cheapness. It is wrong and reprehensible. It is a stunt.

A begrudging reference was also made to Members with other incomes from outside the House. I am one of them. I taught for 30 years in Trinity College Dublin. I was bloody good, bringing in people from all over the world to the university. I get a small pension from Trinity but I am damned if I am going to sacrifice it. I worked hard for it. I earned it and deserve it. I am taking it and I am not giving a solitary cent of it back. I would advise Ministers in the other House to grab it while it is going. Take it. They work hard and unsociable hours. They get dogs abuse from the public. They get hemmed in in their motor cars when they go to give educational awards. Money would not compensate for the lives that some politicians have to lead. They are entitled to it. I make no apology for saying that. The Taoiseach took a huge cut, equating to 40%, but we heard nothing about this. It is never advertised around the place that he took a 40% pay cut, but when he gets back €15,000, everyone screams about it. That is rubbish.

Senator Terry Brennan: As we are discussing remuneration and public service pay in general, I wish to refer to the situation of local councillors. I was a councillor for 25 years before I came into this House and for the first 15 or 16 years we received no remuneration whatsoever. We were serving the people and wanted to do so. It was a joy and a thrill to be elected and we all got great satisfaction from doing the job. I have to admit that I was one of the councillors who approached the then Minister for Finance on behalf of councillors to advocate quite strongly that they should be paid for their work. I met the Minister with a fellow councillor and my local Deputy. The Minister recognised the work that councillors were doing. I am not sure whether it was him or his successor who introduced in 2001 or 2002 a salary of approximately €10,000 per annum, but for the first 15 or 16 years that I served as a councillor I received no remuneration.

Councillors are not classed as public servants in the context of this Bill, but they are public servants who serve the public, often from their own homes, on a five-day week basis. While they are paying PRSI contributions, they are not entitled to claim anything on foot of them. I ask the Minister to clarify whether they are totally excluded from the provisions of the Bill. Will they be entitled to increases in remuneration? As other Senators have said, councillors are working for far less than the minimum wage. Like others, they should benefit from the provisions of the Bill.

Senator Cáit Keane: One of the very first acts of the Government on entering office in March 2011 was to cut the pay of all Ministers. In July 2013 the Taoiseach's pay was cut. Many people do not realise that the Taoiseach was the first in the history of the State to cut his own pay - by a cumulative figure of 40%. Former Taoisigh Bertie Ahern and Brian Cowen each had their pensions cut by €30,000. In the past, once a Deputy retired from the House, he or she could collect a pension but now Deputies must wait until they reach retirement age to do so.

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The Government has implemented a lot of cuts and brought about considerable change which should be enunciated and acknowledged. The cuts were progressive, with those earning less than €65,000 protected. The pay of Senators was reduced by only a small amount.

Many colleagues have spoken about councillors, but they were not affected by the cuts because they were not earning more than €65,000 per year. They would love to be earning even €30,000, but they are actually in receipt of €16,000 per annum. Their wages were cut in accordance with the terms of the local government reorganisation. They now travel more, but they are paid less. When I was a councillor back in 1991, I was able to fulfil my role while holding down a full-time job. However, when I was elected mayor, I had to give up my job. I probably could have continued to do both, but I could not have done either of them right. As a Senator, one must be here and if one cannot, one must make sure someone will stand in. There are both full-time and part-time Senators in this House, but I contend one cannot be in two places at once.

On the issue of the restoration of pay for public servants, legal issues may arise with the differentiation between elected and non-elected public servants. Under the Regulation of Lobbying Act, county councillors are defined as public office holders and designated as having to report on A, B and C. For the first time ever-----

Deputy Brendan Howlin: They do not have to report anything. It is the lobbyist who must report.

Senator Cáit Keane: Yes, but the Act designates county councillors as officers rather than as public servants.

Senator Terry Brennan spoke about being a councillor and not receiving any remuneration, but there is no comparison between the workload in the 1990s and today. It is a full-time job and many councillors cannot take up other full-time employment. They have to accept part-time employment if they want to serve those who elected them well. One could take on a full-time job if one simply signed in as a councillor and did not take the role seriously. That is possible, but most councillors are totally committed to performing their role.

As I said, I would have no problem with delaying the restoration of pay and pensions for politicians and Ministers. However, I ask that the Minister facilitate teachers, although I must declare a conflict of interest because my husband is a teacher. It is important that I declare such a conflict of interest as it could be argued I stand to benefit from the legislation we are discussing.

Minister for Public Expenditure and Reform (Deputy Brendan Howlin) (Deputy Brendan Howlin): This is a difficult set of amendments to which to respond because not only were many of the contributions not germane to the amendments, they were not even germane to the Bill. Senators spoke with passion, but some of the issues raised were well outside the remit of my Ministry. However, I will do my best to address them.

I will begin in a pedestrian manner by speaking to the amendments. All of the amendments boil down to one issue, namely, that nobody in receipt of a salary above €65,000 should receive one cent by way of pay restoration. That is what the amendments are about. The first amendment in the group provides for this, while the remainder are not necessary because there is no point in saying nobody earning more than €100,000 should have his or her pay restored because we have already said nobody earning more than €65,000 should enjoy pay restoration. Equally,

there is no point in saying Ministers should not benefit from pay restoration for the same reason. I do not agree with this.

We have structured the reductions in a very progressive way. The only reductions in pay the Government of which I am a member introduced for the public service - there were two reductions before our time in office under previous FEMPI legislation - were for those earning more than €65,000. As part of the negotiated settlement, namely, the Haddington Road agreement, with which Senator Gerard P. Craughwell, in particular, will be familiar, the pay-back period was an intrinsic part of the settlement presented by the Labour Relations Commission and endorsed by the Irish Congress of Trade Unions and the Government. I am not going to come before the House and accept a recommendation to break the terms of that agreement because that would completely undermine the basis for engagement with any union in the future. I do not recall any political party asking for such a straightforward reneging on a solemn agreement. Members might also recall that even the reductions in salaries above €65,000 were carried out on a progressive basis, ranging from 5.5% to 10%. The higher the pay, the greater was the impact. The Lansdowne Road agreement was the restoration element of it. That agreement is exclusively about restoration to the lower paid. Obviously, everybody gets something, but it is focused on the lower paid. On a percentage basis it hugely advantages the lower paid, as I promised it would do. That point is acknowledged by Senator Craughwell. However, I cannot ignore a pre-existing agreement, the Haddington Road agreement, which is what Senator Reilly is taking into account.

I will move to the more contentious issue of whether politicians should be excluded. There is a school of thought that if we all had sackcloth and ashes and went out on the plinth to flagellate ourselves, it would not be enough. I respect the business of politics, and I am sorry Senator Norris is not here at present. I am also in the business of hoping people will get involved in politics and get a decent living from it in a fair way, so they can afford to pay their way and maintain their families. I am a member of the Labour Party and I am mindful of the fact that one of the first measures sought by the Labour Party in Britain, when it was first elected to parliament early in the 20th century, was to have salaries for Members of Parliament, so it would not be an exclusive club for the landed gentry or the barristers, with all due respect to the barristers present, who could breeze in after hours. When I was first elected to the Oireachtas, the sitting hours were often designed to suit some of the professions, so its members could come to the Houses after hours.

That is not how a modern parliament works. Modern parliaments work on the basis of having decent remuneration appropriate to the skills set demanded for the job. Certainly, I would be interested to see the salary scales of the people I have been negotiating with in the trade union movement for the last time. There were many blanks in the newspapers yesterday, but perhaps we will find out what everybody is paid in the future. Transparency should be part of all of this.

Some people perceive that there is a political advantage in making that argument. It is not one that I make. It is actually protected by a more fundamental argument. Reducing people's pay or pension is an extraordinarily exceptional measure. As I have said repeatedly, it can only be justified by a set of circumstances, one of which is the existence of a financial emergency. That is the reason all of the legislation that does these things is called financial emergency legislation. Please God, and I am confident the day is not far away, there will be no justification for an emergency. This legislation will end entirely, and there will be full pay restoration for everybody when that day arrives. This matter has been repeatedly-----

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Senator David Norris: Will that include the increment?

Deputy Brendan Howlin: No, not what was forgone. However, from the date of the ending of the emergency and the certification of that, there will be full restoration. I was mindful of that when early this year I set about negotiating an orderly unwinding rather than a sudden unwinding, which would be catastrophic for the State. The cost of losing the measures that are implicit in the FEMPI suite of legislation is €2.2 billion per annum. If I was asked to pony up that amount of money to restore pay for pensioners and public servants right now, I would have to find it by cutting services. That is not a way I could possibly go. It was on the basis of having that dialogue in negotiation with the trade union movement, which fully accepted and understood this, that we have reached a situation where we have a negotiated agreement.

Not only must the financial emergency continue to exist for this legislation to be valid, I am legally advised that there are also other criteria. One is that it must have general application. In other words, it cannot be arbitrary. I cannot decide that I do not like a certain category of public servants, so they will be excluded from any pay restoration or will have particular cuts. That is what the Senator is doing. Legally, that would not last jig-time in the courts. Imagine saying to the judge that the Minister has taken it upon himself to be selective about individuals in respect of pay restoration or, in the first instance, pay cuts. It must have general application across a negotiated agreement. That is the reason we couched it in a formal negotiated agreement, agreed by the Irish Congress of Trade Unions.

There are a number of other issues, some of which have nothing to do with the Bill, but I will do my best to respond. One of them is pension restoration. We intend to deal with pension restoration separately. We are dealing with pay restoration in this suite of measures. Under this Bill when it becomes operable, and we have tabled an earlier signature motion so it can have effect from 1 January next, there will be three restoration payments in terms of pensions alone - one on 1 January 2016, one on 1 January 2017 and one on 1 January 2018. It is a 24-month period. At the end of that period everybody who has a pension of up to €34,152 will have full restoration. That is 80% of all public sector pensioners. Everybody will have some restoration. To deal with the specific point made by Senator Healy Eames, if somebody is on €35,000 or €36,000 they will get their €34,152 as the impact is the same as on everybody else. It might be more helpful if I give the figures. Up to the level of €34,152 there is no further pension reduction.

Senator Fidelma Healy Eames: Good.

Deputy Brendan Howlin: On €35,000, one currently has a deduction of €2,280. At the end of this period, it will be a deduction of €600. I can go through the entire scale but at the other end of it, for example, €165,000, which is an extraordinary pension, one will still be paying €30,280 in a pension deduction at that stage.

Senator Fidelma Healy Eames: Can the Minister say what the effect is for a person on €40,000?

Deputy Brendan Howlin: On €40,000, one is currently paying €2,280 and that will fall to €1,200. On €60,000, one is currently paying €5,280 and that will fall to €3,600. It ratchets up the further one goes up the scale. I can provide the full table to the Members.

Senator Gerard P. Craughwell: I appreciate what the Minister is doing in this. All pensions will be restored for 80% of pensioners. I do not wish to tie the Minister into anything in

this regard but can he give a rough time-line for the final 20%?

Deputy Brendan Howlin: I do not have a time-line for that. What we have done is focus on what could be afforded in the time-line that I have. I do not wish to stray into even more dangerous territory but the expenditure that we have signed up for already for next year has generated some controversy, with people saying we are profligate in our spending. As it happens, I was the guest at a dinner last night of the Retired Civil and Public Servants Association, which represents everybody. There were teachers, prison officers, civil servants and a variety of people at my table and I spoke to everybody there. They fully appreciate what is being done. They understand that as the horizon improves, there will be an imperative on whoever holds my office to unwind this at the quickest pace the economy will allow. Ultimately, as the emergency abates the legal robustness of the legislation will become more fragile.

Senator Gerard P. Craughwell: What if there is a continued improvement between 2016 and 2018?

Deputy Brendan Howlin: I will not make any commitments-----

Senator Gerard P. Craughwell: I understand what the Minister is saying.

Deputy Brendan Howlin: That will be a matter for whoever follows me in this office.

A number of Senators raised the issue of councillors. I am well beyond my competences here but councillors, like everybody else, will benefit from the PRD abatement.

Senator Terry Brennan: Is that from the first day?

Deputy Brendan Howlin: It is because we are moving the threshold.

2 o'clock

The threshold is going up from €15,000 to €17,500 so under this arrangement no income below €17,500 would be subject to the pension-related deduction, PRD. Since the basic rate for councillors is currently €16,250 councillors are below the €17,500 threshold and no PRD would be taken from their base allowance. Some councillors would have allowances for mayoral positions or for strategic policy committee chair positions, but I am talking about the core salary. However, all income will benefit from the new thresholds from PRD.

Senator Terry Brennan: The councillors do not pay into a pension scheme so how can a pension deduction be reduced?

Deputy Brendan Howlin: The Senator is opening a very large debate there, and I understand there is an informality here, but this is not a payment into a pension, it is a pension-related deduction. Under the Act any public servant, including those who are not paying into a pension scheme, are captured by it. It has been tested repeatedly in the courts and I have very little flexibility in this without threatening the basis of the FEMPI itself. It is a complicated and long debate which I am happy to have on another occasion.

I will now turn to Senator Healy Eames's contribution on teachers. I have said previously that this is completely outside my level of responsibility. There is, however, a real issue to be tackled in the casualisation of the teaching profession at secondary school level. It suits some schools to have people in for a small number of hours and to have them captured in that cycle. I

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have tried to address this and I have discussed it with my colleague, the Minister for Education and Skills, Deputy Jan O'Sullivan. I have tried to address this concern in other areas also by pushing strongly to replace agency nurses with full-time nurses, and that is what we have been running to do. Even in the Civil Service people are hired on short-term contracts. It is much better if there are full-time contracts for people and that is what I want to do. In the interim, casual, part-time teachers working fewer than 150 hours per school year are on an hourly rate of €38.78. That is a decent hourly rate.

Senator Gerard P. Craughwell: That includes holiday pay.

Deputy Brendan Howlin: That is the hourly rate. The problem is not the rate. The problem is the lack of hours, which needs to be addressed.

Senator Fidelma Healy Eames: Exactly, and those hours are spread thinly over a number of days.

Deputy Brendan Howlin: With regard to this legislation, and from my perspective, that is not something we can compensate for by boosting the hourly rate. To do that would dislodge the symmetry between people working full time and people working a number of hours, but I hear the point the Senator makes.

Senator Gerard P. Craughwell: With respect to the Minister it is not the ones under----

Acting Chairman (Senator Paschal Mooney): I do not want toing and froing. That is not the way debate operates in the House. I would prefer to allow the Minister to respond.

Deputy Brendan Howlin: With respect if I am completely out of order, but none of this has anything to do with the amendments we are debating. On the basis of the fact that such latitude was given to people to make the case----

Acting Chairman (Senator Paschal Mooney): That is why I do not wish to extend the discussion because there are relevant and pertinent issues to be raised.

Deputy Brendan Howlin: Yes. However, with regard to the issues themselves and how they are dealt with, what is being asked in essence is that nobody above €65,000 should get a cent back, despite the solemn agreement negotiated with the trade union movement. I do not think the consequences of that have been thought through. For example, principals and deputy principals in secondary schools and some primary schools, senior nurse managers and people who work at superintendent level and above would be affected. It would flatten the differentials. Why would anyone want to be a nurse manager if the pay was static? Why would they take on the job? Why would anyone become a school principal if there was a ceiling on the income?

The amendment is designed ostensibly to pretend that high pay is to be cut, but in fact it is to malogen down all pay in the public service. Most of us would regard high pay as over €100,000, with judges and academics getting sums above that. However, more than half of the people in the entire public health service are consultants in our hospitals. We are struggling to get consultants into many of our rural hospitals, but if pay begins to be cut it will ensure there is no public health system. There would only be a private health system.

Senator Fidelma Healy Eames: The Minister would need to tell Sinn Féin.

Deputy Brendan Howlin: That would be a disastrous path to follow. It might sound populist but if it collapsed the possibility of staffing our public hospitals, that would be ruinous. That is why I oppose these amendments.

Senator Kathryn Reilly: I thank the Minister for his response. I thought I had opened a can of worms with the debate around my contribution. I wish to set out very clearly that we are not against anyone who earns more than €65,000 earning a cent above that. I will not make that argument as it is not the point.

The rationale for the amendments is that we should start at the beginning and totally restore income for those who earn under the €65,000 threshold. That would be a good, equitable way to proceed given that this legislation only partially restores the income for those who earn under €65,000. Those on incomes over €65,000 receive the full restoration whether it be over two or three stages. That was the rationale for the amendment. It is not against those who earn over €65,000 getting income restoration but the restoration should start with those who are below €65,000. I want this to be clear on the record.

Senator Gerard P. Craughwell: I thank the Minister for a comprehensive set of answers. I agree that the debate went beyond where he expected to go. He is making it difficult for me to vote against this Bill as he has been so forthright in his answers but perhaps the Minister could clarify some issues.

With regard to the teacher who works up to 150 hours, the Minister has satisfied my concerns there. The teacher who is on a fixed-term contract - previously called the EPT contract - and who is over 150 hours per annum has a salary calculated on the point of the scale. If this teacher's take-home pay falls below the €32,000 or the point where he or she would benefit from the PRD reduction of 2.5% because the salary for the scale is above the cut-off figure, the teacher then falls into an anomalous section.

The Minister said he had an agreement. I congratulated him on both the Haddington Road and Lansdowne Road agreements, which we fought hard on. Many people within the trade union movement are very dependent upon this legislation getting through. However, I can see that we have two difficulties. One is gardaí and the other is teachers. Gardaí say the Minister has reneged on a promise which was a review of structures, remuneration and the industrial relations process within the Garda Síochána. I do not know if the Minister can address those concerns and I do not wish to put the Minister on the spot.

The other difficulty is that of flexible hours in the teaching profession and the institutes of technology in particular. The Minister referred to the lecturers' 78 flexible hours during a previous debate here. There is no cost in dealing with this issue. The teachers and lecturers just want someone to sit down with them to discuss the usage of those hours. In light of the junior certificate and the hated 33 hours that have been brought in under the Croke Park agreement - I believe that even school principals hate those hours - it is the usage of those hours that needs to be addressed. Sitting down and discussing these hours would not breach the Haddington Road or Lansdowne Road agreements. I ask the Minister that while he may not be able to give a commitment here, he could talk to his colleagues in the relevant Departments to see if they were willing to sit with the various representative bodies to solve this problem. Nobody wants this to fail. I thank the Minister for his comprehensive answers and for being so generous with his time.

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Senator David Norris: I was interested in what the Minister said regarding the Constitution. Under the Constitution one cannot discriminate against a subset of a group. The Minister's predecessor, Brian Lenihan, by selecting from the public servants Members of the Oireachtas alone to suffer the complete abolition of increments, accorded selective treatment to a subset of the public service. That seems to open the way to legal action because it appears to be against the Constitution. A small subset of the Civil Service is being discriminated against and is the subject of selective treatment.

Deputy Brendan Howlin: I will do my best to bring Senator Craughwell on the final leg of the journey to be with me at the end.

Senator Gerard P. Craughwell: The Minister is very kind.

Deputy Brendan Howlin: The teachers working more than 150 hours are paid a *pro rata* rate of a full-time rate. It depends on how many hours they work over the 150. Taking the minimum annual salary at €30,702, divided by 52 and again by the 22 hours to be worked, the indicative hourly rate is approximately €26.83. That would be paid to teachers who are not full-time but work more than 150 hours per year. The solution as I see it because that is not a bad hourly rate-----

Senator Fidelma Healy Eames: After six years of education?

Deputy Brendan Howlin: The problem is there are not enough of them-----

Senator Fidelma Healy Eames: Not enough at all.

Deputy Brendan Howlin: -----if they were getting full-time work but the issue will not be resolved on the pay side.

In response to Senator Norris, it seems to me that these protections in some people's eyes do not apply to politicians, that they apply to everybody else. I am not accepting the amendments in respect of picking out politicians or anybody else because I believe the Haddington Road agreement cuts imposed on people earning over €65,000 were done in a very fair way, picking a reasonable salary below which nobody was affected by additional wage cuts although they were asked to work additional hours and that is why in the restoration of it I have to be mindful of that too. Everybody will have *pro rata* restitution and I am not going to parse and analyse categories of people and say some public servants are worthy, some are not. My successor might feel differently about this. Even if the sins of the past are ascribed to some I am not going to say they are not worthy. That would be not only an invidious but an unconstitutional position for a Minister to take. If the day comes when a political party or a government should determine who is worthy or not, that would be a dangerous, slippery slope which I hope we would avoid. Maybe that is the view taken by Senator Reilly's party, although I do not want to sound contrarian. I hope in terms of this set of amendments that I have said enough to assuage people's concerns.

I will return to the Garda structure.

Senator Cáit Keane: Under the Haddington Road agreement the pension-related deduction measures will increase the take-home salary of all public servants earning in excess of €15,000. Counsellors earn €16,000 which is in excess of €15,000 but they are not getting anything back under the Bill. Will the Minister please consider that?

Deputy Brendan Howlin: I do not think the Senator was listening to me.

Senator Cáit Keane: I was.

Acting Chairman (Senator Paschal Mooney): I am not sure it is relevant to the amendment.

Senator Cáit Keane: A sum of €16,000 is €1,000 over €15,000.

Deputy Brendan Howlin: In terms of the pension-related deduction, nothing was deducted from a salary of €15,000. We are increasing the threshold to €17,500. Those people will benefit because that portion of their salary that was subject to a pension-related deduction will now not be subject to it.

Senator Cáit Keane: How much will they benefit by?

Senator Fidelma Healy Eames: I appreciate that some of the issues the Minister responded to were perhaps outside the remit of the Bill. However, they were part of the Second Stage debate and there were unanswered questions.

Deputy Brendan Howlin: Just because the Senator raised them does not mean we put them in order.

Senator Fidelma Healy Eames: They have been raised by many people, public servants, in the context of the Bill.

I appreciate the Minister's understanding of the damage that casualisation can do to the teaching profession. It is a huge problem because we are losing talent. If we lose the talent standards go down. We cannot say that often enough. The Minister did not address the impact of the Bill on the lecturers' hours come 2016. They now do 18 and 20 hours. If they go back to 16 and 18 hours, extra staff will be needed in the institutes of technology. Where does the Minister stand on that? He might say that is for the Department of Education and Skills but it is triggered by this measure being pushed through. If the Minister could touch on that I would appreciate it.

Senator David Norris: I am intrigued and would like to follow on with this. The Minister, I think under advisement, suggested that politicians were a separate and special category.

Deputy Brendan Howlin: No. I was saying that in the eyes of some but obviously not in the eyes of the Constitution.

Senator David Norris: That means that in fact there is a constitutional question over the removal of the increment because it was not removed from any other group within the public service. That is a specific targeting of Members of the Oireachtas as against the larger group of civil servants involved.

What would the Minister's sentiments be towards the restoration of the increment? People who have been here for 30 years earn exactly the same as people who have just been elected at a by-election.

Senator Gerard P. Craughwell: New kids on the block.

Senator David Norris: Yes, exactly. I very much take the Minister's point, which I heard when he talked about the way the Labour Party in Britain introduced pay for the first time. We do not want a parliament of industrialists and squires. We want to make it possible for people

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to come in but given the way politicians are treated that is increasingly unlikely. I have heard several young people who had an interest in politics saying they would not go near it now. They say we are not financially rewarded and are subject to continuous abuse. The Minister is not saying that politicians are a special category but that in the view of some people they are. However, in the view of some people we are all complete blaggards in both Houses. We can discount the views of some people. It is a very nebulous concept.

I am interested in this aspect because it seems there is a kind of masochism about politicians generally and they rush to embrace cuts and pretend to be coy in public about getting restoration of these things but it is a different thing in the Members' bar or in the restaurant or in the coffee dock. I will say what everybody else is thinking, apart of course, from the honourable people of Sinn Féin but I cannot supplement my income by doing a bank.

Senator Kathryn Reilly: We do not all have pensions from Trinity.

Senator Fidelma Healy Eames: *Touché.*

Amendment put and declared lost.

Acting Chairman (Senator Paschal Mooney): Amendments Nos. 3 and 4 are out of order.

Amendments Nos. 3 and 4 not moved.

Section 3 agreed to.

NEW SECTIONS

Senator Kathryn Reilly: I move amendment No. 5:

In page 6, between lines 29 and 30, to insert the following:

“4. Notwithstanding the generality of the foregoing, nothing in this section shall provide for increases in the salaries of public servants in receipt of salaries in excess of €100,000 before the coming into effect of this section.”.

Amendment put and declared lost.

Senator Kathryn Reilly: I move amendment No. 6:

In page 6, between lines 29 and 30, to insert the following:

“4. Notwithstanding the generality of the foregoing, nothing in this section shall provide for increases in the salaries of members of the Houses of the Oireachtas or Ministers of the Government.”.

Amendment put and declared lost.

Amendment No. 7 not moved.

Section 4 agreed to.

SECTION 5

Amendment No. 8 not moved.

Question proposed: “That section 5 stand part of the Bill.”

Deputy Brendan Howlin: If I may raise one point on section 5, I draw the House’s attention to line 13 on page 7 of the Bill. There is a small administrative change in section 5(2). The original word “is” in the Bill as distributed is now “was”, which is better English, I am afraid. The text now reads: “Where an amount was deducted ...”.

Acting Chairman (Senator Paschal Mooney): Is the Minister asking for a correction?

Deputy Brendan Howlin: Yes. It is corrected.

Acting Chairman (Senator Paschal Mooney): I will direct the clerk to make that correction.

Deputy Brendan Howlin: Excellent.

Question put and agreed to.

NEW SECTION

Senator Kathryn Reilly: I move amendment No. 9:

In page 9, between lines 4 and 5, to insert the following:

“**6.** Notwithstanding the generality of the foregoing, nothing in this section shall provide for decreases in the pensions related deduction of members of the Houses of the Oireachtas or Ministers of the Government.”.

Amendment put and declared lost.

SECTION 6

Amendments Nos. 10 to 14, inclusive, not moved.

Senator Kathryn Reilly: I move amendment No. 15:

In page 12, between lines 8 and 9, to insert the following:

“(8) Notwithstanding the generality of the foregoing, nothing in this section shall provide for a reduction in Public Service Pension Reduction of former members of the Houses of the Oireachtas or Ministers of the Government.”.

Amendment put and declared lost.

Section 6 agreed to.

Section 7 agreed to.

NEW SECTION

Senator Ned O’Sullivan: I move amendment No. 16:

In page 13, between lines 6 and 7, to insert the following:

“Report on public service pensions

8. The Minister shall, within one month of the passing of the *Financial Emergency Measures in the Public Interest Act 2015*, prepare a report on the number of people whose annualised amount of public service pension exceeds €34,132.”.

Deputy Brendan Howlin: Amendment No. 16 is not accepted for two reasons. I am happy to give the information and we had this discussion in the Lower House. What the Senator is asking is that I cause a report to be made on information that is already in the public domain, as I have given it to the Dáil and answered on it by way of parliamentary questions. It can be answered and updated at any time. I do not intend to put it in as a formal part of legislation to give a single report when it should be answerable to a Member of the Oireachtas as a matter of course.

Amendment, by leave, withdrawn.

Sections 8 and 9 agreed to.

SECTION 10

Acting Chairman (Senator Paschal Mooney): Amendments Nos. 17 and 18 are related and may be discussed together by agreement.

Senator Kathryn Reilly: I move amendment No. 17:

In page 14, lines 4 and 5, to delete “in a collective agreement” and substitute “in collective agreements”.

These issues were discussed in the Dáil. In the Lower House, the Minister outlined that negotiations on public sector pay are extraordinarily complicated because there are so many unions and so many different agreements. I accept that it is important to take a sectoral approach and that such an approach has been taken with a number of key organisers. In terms of amendment No. 17, we are seeking an assurance that this legislation will not render null and void other agreements outside the Lansdowne Road agreement.

Amendment No. 18 was submitted to seek reassurance that this legislation is not going to render null and void other agreements. In the Lower House, the Minister referred to issues surrounding the striking of different sectoral arrangements between different categories of workers in bilateral arrangements and agreements. Perhaps he could clarify the position for the Seanad by reading his speaking note into the record.

Deputy Brendan Howlin: I can give the Senator that assurance. This Bill relates to a particular agreement. That is why it refers to “a collective agreement”. It is the legislation to implement the Lansdowne Road agreement. It does not, of course, void collective or sectoral agreements that are in place in any event.

Amendment, by leave, withdrawn.

Amendment No. 18 not moved.

Acting Chairman (Senator Paschal Mooney): Amendment No. 19 is out of order.

Senator David Norris: Can the Acting Chairman give the reason amendment No. 19 was

ruled out of order?

Acting Chairman (Senator Paschal Mooney): It would involve a potential charge on the Exchequer.

Amendment No. 19 not moved.

Section 10 agreed to.

Sections 11 and 12 agreed to.

Title agreed to.

Bill reported without amendment, received for final consideration and passed.

Financial Emergency Measures in the Public Interest Bill 2015: Motion for Earlier Signature

Senator Tom Sheahan: I move:

That, pursuant to subsection 2° of section 2 of Article 25 of the Constitution, Seanad Éireann concurs with the Government in a request to the President to sign the Financial Emergency Measures in the Public Interest Bill 2015 on a date which is earlier than the fifth day after the date on which the Bill shall have been presented to him.

Question put and agreed to.

Legal Services Regulation Bill 2011: Report Stage

An Cathaoirleach: Before we commence, I remind Senators that a Senator may speak only once on Report Stage except the proposer of an amendment who may reply to the discussion on the amendment. Also on Report Stage each amendment must be seconded. Government amendments Nos. 1 and 290 to 292, inclusive, are related and may be discussed together, by agreement. Is that agreed? Agreed.

Senator David Norris: I wish to raise a general point and ask the Minister to respond. More than 300 amendments have been tabled. It is indicated that quite a few are intended to reverse amendments made on Committee Stage in this House. Are the majority of these Government amendments on which it has had second thoughts or are they amendments made by the Seanad at the instance of Members of the Seanad? It seems extraordinary that on Report Stage there are 300 amendments and it suggests a certain dithering by Government. I know there have been certain withdrawals from positions that were originally taken by the former Minister, Deputy Alan Shatter. I am curious as to the reason for such an enormous number of amendments, the overwhelming majority from Government and quite a few reversing amendments made recently by the Seanad. Can the Minister give us an elucidation at this point?

Senator Sean D. Barrett: I echo everything Senator Norris has said. More than 200 of the amendments seek to amend the amendments made on Committee Stage. The Bill is now an item of solely historic interest. It is impossible to proceed with the Committee Stage amend-

ments, the Report Stage amendments and the Bill, all side by side. We should reprint the Bill as it now is. More than 200 amendments are amending the Committee Stage amendments. What documents are we working off? It is an impossible way to make legislation.

Senator Trevor Ó Clochartaigh: I do not want to delay proceedings but, as has been noted, we are concerned that so many amendments have been tabled so late in the day. We also had hundreds of amendments on Committee Stage which came to us only two days beforehand. I accept we did have a briefing with the Minister's officials but I am concerned that if technical changes are being made at this late stage, something could be missed and, therefore, the Bill will have loopholes and there will be mistakes in it. I wish to note Sinn Féin's dissatisfaction at the way in which the Bill is being rushed through the House. I appreciate why it is being done but I wish to note that this is not the way to make legislation.

Senator David Norris: The Bill has 120 pages and there are more than 50 pages of amendments. Therefore, the amendments are half the size of the Bill. I cannot recall a situation quite like this before.

Minister for Justice and Equality (Deputy Frances Fitzgerald): May I explain? As Senators are aware it is a complex Bill. Obviously at this point in the development of the Bill we are taking a legal overview of it as a whole. It is primarily technical fixes, given the changes to various sections. As the Senators will see when they go through the amendments, many are grouped which are about technical changes. There is a mix of simple corrections to the layout of the Bill and a series of amendments which we have just introduced at this Stage to the Solicitors Acts. There is quite a number of those which are being inserted. When those are inserted consequent changes are necessary in regard to references. There is also a series of amendments, for example, where we use the phase "practising barrister", as opposed to "barrister" which go through the Bill. There are changes like that which account in large part for the number of amendments.

The original Bill, effectively, was a framework only. A large volume of amendments was always going to be necessary. In terms of policy, as we go through the amendments, if there is a new insertion I will point to that. We are starting off with a new section which I think all Senators will support which is the insertion of pre-action protocols. That is the major issue I am introducing today. Many of the other changes have to do with the rearrangement of the Bill due to the insertion of the new sections and the subsequent changing of numbers. When I say technical I mean literally minor changes to the text as opposed to any substantive change. I ask for the support of Senators to begin to go through this very important Bill which is far-reaching and which, for the first time, sets out independent regulation of the legal profession. We want to move ahead with that.

I appreciate there is much to the Bill. We have new procedures, which we discussed last week, for powers of inspection in terms of discipline and complaints being dealt with by an independent body and the establishment of legal partnerships in the first year of the operation. I have also accepted a number of amendments which came forward here last week, to which I will allude, as I go through some of those suggested by Senator Barrett. I am open to discussing a number of amendments which I will be accepting. I seek the support of Senators to move ahead with the Bill and proceed to the detailed discussion.

Senator David Norris: I will not hold up the debate. It appears to me that it was hastily and unprofessionally drafted.

Deputy Frances Fitzgerald: No. There is months of work gone into it.

Senator David Norris: That is what it looks like to me.

Deputy Frances Fitzgerald: No.

Senator David Norris: The Minister said the Bill has been through the Dáil, it has been through Committee Stage in the Seanad and yet we have this astonishing number of amendments. The Minister said the Bill was presented as a framework only. It is a Bill; it should not be a framework. I do not want to hold up the debate but I want to express my reservations about the situation. Bills are presented as Bills subject to amendment but I have never heard of a Bill introduced as a framework only. I am not going to hold up the debate. We want to get into the discussion of the Bill but it is unusual.

Senator Sean D. Barrett: On Committee Stage the Government side relied heavily on the fact that Second Stage was taken in this House on 13 May. I checked my records and found that I was detained at the banking inquiry and, unfortunately, was compelled to attend that inquiry. I apologise to the House for that. I read the debate where the Minister made her contribution. Not mentioned were the conveyancing monopoly, the right of audience or the transfer of Law Society and Bar Council staff to the new authority. That was unsatisfactory and the procedure by which we are now working off three documents is also unsatisfactory. The Minister said on 13 May that she could not give a comprehensive account of the Bill in all its detail. We are progressing in a most unsatisfactory manner. Bits are being added and then changed again subsequently on Report Stage. I appreciate what Senator David Norris has said. We have to ask the Minister, given that she has changed her mind so many times, to explain at each stage what precisely we are asked to vote upon. There are so many sections, and accepting an amendment means we reject the amendment we accepted the last day.

What is the configuration of the Bill? The Competition Authority was invoked as being supportive of the Bill but listening back to the “Prime Time” programme in question gave me the opposite impression. No discussions have taken place since last April with the Competition Authority and Isolde Goggins said this quite plainly on “Prime Time” on 19 November. We have to conclude this is a producers’ Bill. The consumers have been neglected and this House has been neglected and bypassed where it was felt necessary.

Deputy Frances Fitzgerald: On the amendments we accepted the last day, the only new amendments submitted today are ones that are tidying up the Bill. I would say there is no policy change. Where there is any key point on policy, I am noting that, with the main one today being that concerning the pre-action protocols.

I have to say to Senator Norris that there is no question of the work that has been put into this. I cannot emphasise enough the amount of work that is being carried out by the Office of the Parliamentary Counsel and the Office of the Attorney General. We are making major changes in terms of the work of the Bar Council and the Law Society and in terms of transitioning to a new regime. With regard to the compensation fund, my predecessor, Deputy Alan Shatter, decided it would stay with the Law Society. There were good reasons for that but I have had to work through the consequences of it. The issues about public liability, which I discussed the last day and will discuss again today, have to be dealt with. I was asked by Senator Barrett to build in a longer opportunity for people to make complaints, and I have accepted that. I have also accepted from the last Seanad debate the amendment which means people who live outside

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the State can be on the board of the legal services regulatory authority, and I have accepted a number of other amendments put forward by Senator Barrett.

As we go through the Bill, one will see there is a huge amount of what I would genuinely call tidying up, for example, having to change sections because new sections have been inserted. I would ask for the forbearance of the House in going through the Bill. I will address whatever sections I have to and I am here to give Members as much information as possible in regard to what is a large, complex Bill. A huge amount of work has been done and needed to be done on it, and it is hugely detailed work. For example, the issue of complaints and discipline was dealt with by the solicitors under the Solicitors Act, and they have built up decades of experience in that regard. To now move it into an independent statutory body like the legal services regulatory authority requires hugely detailed knowledge of how it was being dealt with to date.

Huge care has been taken to deal with all of these issues because they are very important. How the courts and the law operate, and how the professions of the Bar and solicitors operate, are critically important in our democracy. That is what we are dealing with in the Bill. I appreciate there are a lot of amendments but, as we go through them, I will point out where there is any policy change, with the big issue being in regard to the pre-action protocols. I gave a lot of detail on Committee Stage. The amendments I am bringing in are mostly technical as a result of insertions.

Senator David Norris: The Minister uses the phrase “tidying up”. I think it is more than tidying up; it looks like a major spring clean to me. However, we will leave it at that and get on to the Bill.

An Cathaoirleach: We move to amendment No. 1. Amendments Nos. 290 to 292, inclusive, are related and the amendments may be discussed together, by agreement. Is that agreed? Agreed. Recomittal is necessary in respect of this group of amendments as they do not arise out of committee proceedings.

Bill recommitted in respect of amendment No. 1 and amendments Nos. 290 to 292, inclusive.

Government amendment No. 1:

In page 9, line 12, after “counsel,” to insert “to provide for matters relating to clinical negligence actions.”.

Deputy Frances Fitzgerald: I am very pleased to begin this afternoon’s proceedings with a group of amendments that provide the statutory basis for the introduction of what is termed a “pre-action protocol”, which will take the form of ministerial regulations. The pre-action protocol will set out the steps to be followed and the obligations on all relevant parties to the handling of inquiries into and allegations of clinical medical negligence. As Senators will be aware, this legislative step has been repeatedly called for over a number of years by a wide variety of interested parties ranging from patients advocacy groups to medical professionals and the Judiciary.

The expert Working Group on Medical Negligence Litigation and Periodic Payments was established by the President of the High Court in February 2010, with terms of reference that included the following: the examination of the present system within the courts for the management of claims for damages arising out of alleged medical negligence and to identify any shortcomings within that system; and the making of such recommendations as may be necessary

in order to improve the system and eliminate the shortcomings. The group published its final report in March 2012, so I am pleased that, without further delay, the implementation of many of the working group's key recommendations are taking a big step forward today.

As Senators will know and understand, the insertion of a ministerial regulation-making power into a primary statute, such as the Legal Services Regulation Bill, means that the scope and purpose of the regulations, as well as any legal-technical matters are set out, with the actual detail being left to the regulations themselves. I should like to point out, however, that my Department has already laid the groundwork for that work to take place in consultation with a range of interested parties, with the development of detailed legislative heads. I expect that the actual pre-action protocol will be finalised and in operation within a short time of this new Part 15 of the Bill being commenced.

The aim of a pre-action protocol is to encourage the early resolution of inquiries or allegations relating to possible clinical negligence and to promote good, non-adversarial communication between the parties, with a view to reducing the need to go to court. Access to the courts will still be available to parties where it is warranted but the pre-action protocol steps will ensure that a full disclosure of all relevant information, grounds of complaint and supporting evidence will be made clear at an early stage, thus greatly reducing the likelihood of court adjournments, which are a key factor in the high cost of litigation in this country. I believe this pre-action protocol will have knock-on effects for efficiencies in court, as well as in the cost of litigation, and could possibly lower insurance costs in the medical sphere, which will be to the benefit of all.

Senator David Norris: This is a very important matter which involves several new sections. It is worthwhile to point out that its introduction at this stage means Members of the Seanad can only speak once-----

An Cathaoirleach: No, we are on Committee Stage.

Senator David Norris: I beg your pardon. I had come from the previous debate, which was on Report Stage.

An Cathaoirleach: Amendments Nos. 1 and 290 to 292, inclusive, have been recommitted, so it is the same procedure as Committee Stage.

Senator David Norris: Thank you for the clarification. I very much welcome section 159, in particular that an apology is not to constitute an admission of guilt. That is a very important point. In situations of clinical liability, where, for example, a child is brain-damaged as a result of some procedure that went wrong in the hospital, these things very often take years and the hospital is inhibited in giving an apology, which would be emotionally satisfying to the parents of the child, because an apology constitutes or can be held to constitute an admission of liability. It is in everybody's interest that a hospital can issue a heartfelt apology that leads to some comfort being given to individuals, for example, the parents of a brain-damaged child, without liability coming into question. I very much welcome this section, which is very good, humane and decent.

Deputy Frances Fitzgerald: As the Senator said, it is an important section, which provides that an apology by a medical practitioner is not to constitute an admission of liability or invalidation of insurance. It is a key plank of this innovation and was very strongly recommended by the working group report on this issue. It is also mirrored in several other common law jurisdic-

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tions. For obvious reasons, the Minister for Health was extremely keen from the point of view of patients and having more efficient legal processes that we would succeed in getting this into the Bill. The Attorney General and her staff worked very hard in recent times to ensure we got this into the Bill. It is a strength to have it in there and it will be very helpful.

It takes the fear of litigation out of the giving, at an early stage, of an apology or the expression of regret. We have seen many cases recently where this has been an issue. It makes a difference to the patients, the clients, the people concerned and the medical professionals who have often been caught in an adversarial situation where they did not have the option to do this. I think this now clarifies that and is very much in line with the working group report.

Senator David Norris: I congratulate the Minister. It is a good humane measure that improves the Bill.

Amendment agreed to.

Bill reported with amendment.

An Cathaoirleach: Amendments Nos. 2, 3, 183, 185, 187 to 189, inclusive, 194, 197 to 200, inclusive, 202 to 209, inclusive, 211, 213 and 214 are related and may be discussed together by agreement.

Government amendment No. 2:

In page 9, line 19, to delete “*sections 85 and 87*” and substitute “*section 85*”.

Deputy Frances Fitzgerald: Amendments Nos. 2 and 3 set out the date of coming into operation of the new legal partnerships model being introduced under the Bill, which is to be within six months of the completion of the relevant public consultations. This will allow for the new legal partnerships, barrister-barrister or barrister-solicitor, to be introduced within a year of the establishment of the new regulatory authority. I would hope to see the first of these coming into existence before the end of 2016.

The other amendments have been tabled by Senators Cullinane, Ó Clochartaigh and Reilly. Obviously, if I accepted these amendments, I would be stripping the Bill of a central part of the alternative business models it proposes by way of structural reform of the legal services sector. As this would run totally against Government policy as expressed in this part of the Bill, I cannot accept this cluster of amendments. Indeed, it is not only the Government’s view as a series of reports going back to 1982, including one by the Competition Authority in 2006, have expressed the clear view that people should be given a choice in how legal services are provided. Moreover, that no choice is to be given to consumers of legal services and that we just stay with the *status quo*, as suggested by these amendments, is the very antithesis of what this Bill is about. We will have to differ on those amendments.

Senator Trevor Ó Clochartaigh: On amendments Nos. 183, 185, 188, 189, 197 to 200, inclusive, and 202 to 211, inclusive, obviously we have a difference in policy. I accept that. However, I want to put on record on Report Stage that these amendments reflect Sinn Féin’s opposition to the multidisciplinary practices where solicitors, barristers and accountants operate one practice under the same roof and the same company. The evidence we have reviewed shows us that this model has failed internationally. Our fear is that the best and brightest will be secured by the wealthiest in our society. Big business and large corporations, in particular, will

be the ones to gain to the detriment of the average citizen seeking legal representation.

We are very much concerned for the people in rural areas and smaller towns who do not have the wherewithal to go to a big firm and are looking to the smaller companies in their local area to represent them. They will not have the resources that these MDPs would have. We want a level playing pitch for all citizens and we are particularly concerned that citizens in these rural communities should be able to access the barrister with the appropriate skills to represent them through the offices of a local solicitor, as is generally the case at present.

I take the Minister's point that this is definitely a difference of policy. It is obviously part of the Government's policy to go towards this more corporate version of the legal practice and that is where we differ on policy.

Deputy Frances Fitzgerald: I do not agree with the Senator's analysis. It is about offering different models of legal services to the public. It is about choice. The 2006 Competition Authority report, the vast majority of the recommendations of which we are implementing, highlights the need for a choice of different legal models. Sinn Féin is staying with the *status quo*. The Government is proposing to introduce choice.

I do not agree with the Senator's use of the word "corporate". It is not about corporations. Under the changes proposed, greater choice will be offered to the public in any town around the country. It is in the consumer's interest to have greater choice. What the Senator is saying is obviously quite different from what other Senators are saying. Other Senators are suggesting that we should accelerate the process towards multidisciplinary partnerships whereas the Senator is saying we should not go there at all.

Senator Trevor Ó Clochartaigh: It is a bit disingenuous for the Minister to say that we are not supporting-----

An Cathaoirleach: We are not on Committee Stage; we are on Report Stage.

Senator Trevor Ó Clochartaigh: I just make the point that it is a bit disingenuous. We have shown support for the general thrust of the Bill. This is the one section we do not agree with. That should be recognised.

Senator Sean D. Barrett: Amendment No. 2 proposes to delete sections 85 and 87, presumably from the Committee Stage. On Committee Stage, the Minister introduced amendment No. 100 to section 85 and amendment No. 101 to section 87. In order to alleviate confusion, what happened between last week and this week such that what the Minister thought was a good amendment last week is amended again this week? What is the practical difference? The sections refer to legal partnerships and professional codes, and multidisciplinary practices and professional codes. To help Members of the Oireachtas to explain to the public, what is the difference between these multidisciplinary practices and professional codes and the ones the Minister sought the House to approve only a few days ago?

Deputy Frances Fitzgerald: There is no policy difference. It is just a technical amendment to changed sections in the Bill. There is no policy difference versus what we agreed last week.

An Cathaoirleach: I remind Senator Barrett that we are not on Committee Stage.

Senator Sean D. Barrett: What is the purpose of the amendment if there is no difference?

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We have to explain to people what this is about. As it is presented, it is certainly most confusing.

Deputy Frances Fitzgerald: I have nothing further to say.

Amendment put and declared carried.

Government amendment No. 3:

In page 9, to delete lines 23 to 27 and substitute the following:

“(3) *Section 85* shall come into operation on such day, not later than 6 months after the laying before each House of the Oireachtas under subsection (4) of *section 102* of a report referred to in subsection (2) of that section, as the Minister shall appoint by order.”.

Amendment agreed to.

An Cathaoirleach: Amendments Nos. 4, 9, 11, 12, 19, 42, 43, 49, 56, 57, 79 to 82, inclusive, 102, 103, 105, 107, 109, 112, 115, 119 to 121, inclusive, 193, 195, 196, 225, 225a and 225b are related drafting amendments and may be discussed together by agreement.

Government amendment No. 4:

In page 9, in the subsection inserted by amendment 1 at Committee Stage in the Seanad, to delete “Solicitors Act 1954 to 2008 and *Part 14*” and substitute “Solicitors Act 1954 to 2011 and *Part 13*”.

Deputy Frances Fitzgerald: I will go into detail on this so that people understand that these really are technical changes - corrections might be the word.

This group of amendments concerns a range of corrections to wording and to cross-references contained in the Bill at this point - for example, wrong wording or references to legislation including those that are as a direct result of the ongoing amendments being made here in the Seanad by way of progressing the Bill.

I will give some examples. Amendment No. 11 is a technical amendment relating to the definition of qualified barrister which better defines the reference to the timing of a disbarment, if one has occurred, which precludes a person from being within the definition. Amendments Nos. 79 to 82, inclusive, deal with the removal in four places of the words “under this Part” since in final drafting, they became superfluous. Again, that is just a change because of new amendments that have come into the Bill. Amendments Nos. 225a and 225b on the additional list are consequential technical amendments to correct references following on from amendment No. 225 to update references to the Companies Act 2014.

While I accept that there is an extent to which these types of amendment have to be taken in good faith as a grouping, they will not, of themselves, prevent or disrupt us from discussing those substantial matters of amendment that are before us today.

3 o’clock

I ask Senators to accept what I am saying, that these are a range of corrections to wording and cross-references contained in the Bill at this point. This change in referencing is needed

because of some of the changes we are making. This series of amendments is purely to deal with that aspect. They are consequent to amendments and update references to the Companies Acts and various other definitions in the Bill.

Senator Sean D. Barrett: The note beneath amendment No. 3 on the list of amendment states: “For the information of Senators, there is a reference to section 85 inserted by amendment 100 at the Committee Stage”. If one reads the Government’s Committee Stage amendment No. 100, which refers to legal partnerships and professional codes, there is a note below it on the list of those amendments stating: “Acceptance of this amendment involves the deletion of section 85 of the Bill.” We are working at such distances from the reality of what this legislation would look like when we eventually see it in full. Perhaps people with legal training can operate in the way in which we are being asked to do so this afternoon, but it is unfair to elected representatives to have to try to figure their way through this maze of amendments to amendments and deletions from the original Bill, as drafted, which was dated 2011 and which is the basic document from which we are working. This is a most unsatisfactory way to do business in the House.

An Cathaoirleach: Does the Minister wish to respond?

Deputy Frances Fitzgerald: I have explained it.

Amendment put and declared carried.

An Cathaoirleach: Amendments Nos. 5, 6, 58, 59, 86, 87, 164 to 166, inclusive, 168 to 174, inclusive, 176, 177, 184, 186, 218, 219, 227 to 230, inclusive, 233 and 234 are related drafting amendments and may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 5:

In page 9, between lines 29 and 30, to insert the following:

“ “Act of 1954” means the Solicitors Act 1954;

“Act of 1960” means the Solicitors (Amendment) Act 1960;

“Act of 2002” means the Solicitors (Amendment) Act 2002;”.

Deputy Frances Fitzgerald: As will be seen from a perusal of this cluster of amendments, they fall very much under the tidy-up category in regard to this Bill. I have said, for example, that the phrase “practising barrister” for each occurrence of the word “barrister” concerned is a substitution of that. It makes the relevant provisions coherent with the fact that this Bill will now regulate practising barristers under the proposed levy framework contained in Part 7 of the Bill, as passed by the Dáil. To be a practising barrister one has to be on the roll of practising barristers being maintained by the new regulatory authority.

The other amendments being tabled by the Government in this group address similar issues of congruity across the Bill and their acceptance will enhance the Bill in each instance. It is very much similar to what I have said in regard to the previous section. These amendments are the consequence of changes based on amendments that have been moved and accepted in the Seanad.

Amendment agreed to.

Government amendment No. 6:

In page 10, to delete lines 14 and 15 and substitute the following:

“ ‘complaint’ means a complaint made under subsection (1) or (2) of section 42;”.

Amendment agreed to.

An Cathaoirleach: Amendments Nos. 7, 8, 18, 22, 61 to 65, inclusive, 74 to 77, inclusive, 91, 110, 190 to 192, inclusive, 216, 217, 222, 243 and 280 are related drafting amendments and they may be discussed together by agreement. Is that agreed?

Senator Sean D. Barrett: It is not agreed. We are now debating amendments in bunches of 20. I have to object to that procedure.

An Cathaoirleach: If the Senator is objecting, we will have to take them individually.

Deputy Frances Fitzgerald: If I may explain, this group of amendments relates to section references. It is not that there is any substantive amendment in each of these amendments. They made changes to the section references. They only relate to the section references. We are reconciling the section references of the Bill with the various amendments made to the Bill since its inception and since it has come before the Seanad. It will be appreciated how difficult it is to maintain correct numbering as we go through the numerous amendments that a Bill of this complexity will generate by way of realising what we are trying to do here from a whole-Bill point of view. These amendments literally deal with the section numbering that we are putting together. As we have inserted new amendments, the section numbering is changing. I am not sure there would be much point in discussing each of those number changes. That is effectively what we are doing here to take account of the amendments that have been made.

An Cathaoirleach: Is Senator Barrett happy with that or does he want the amendments to be taken individually?

Senator Sean D. Barrett: I would prefer if they were taken individually. As non-lawyers, we have to understand what is going on in this legislation.

Government amendment No. 7:

In page 10, line 16, to delete “*section 51*” and substitute “*section 59*”.

Amendment agreed to.

An Cathaoirleach: We will move on to amendment No. 8 which has not been discussed with amendment No. 7.

Government amendment No. 8:

In page 10, line 19, to delete “*section 62*” and substitute “*section 64*”.

An Cathaoirleach: Does the Minister wish to comment?

Deputy Frances Fitzgerald: I do not have anything further to add because each one of these changes is literally a number change to the section, consequent on the amendments that have been inserted.

Amendment agreed to.

Government amendment No. 9:

In page 11, in the definition of “legal partnership” inserted by amendment 8 at Committee Stage in the Seanad, to delete “barrister” and substitute “practising barrister”.

Amendment agreed to.

An Cathaoirleach: Amendments Nos. 9a, 27, 31, 32, 34, 37, 39 to 41, inclusive, and 210 are related and may be discussed together by agreement. Is it agreed to take all of them together?

Senator Rónán Mullen: No, it is not agreed.

An Cathaoirleach: We will deal with amendment No. 9a.

Senator Rónán Mullen: I move amendment No. 9a:

In page 11, line 30, after “Society” to insert “, the Honourable Society of King’s Inns”.

My amendment would insert the words “the Honourable Society of King’s Inns” to add that society to the list of professional bodies in the definition section. I should also stress that adding the King’s Inns to the list of professional bodies in this section does not interfere in any way with the scheme contemplated by the Bill for the future regulation of this sector.

I do not understand why this amendment has been grouped with other amendments and somebody might be able to explain it. Leaving that aside, in the interests of full transparency, I should declare a personal interest. I am a graduate of the King’s Inns, having spent four happy years there, and I am currently a barrister on leave.

The King’s Inns is the original professional body for lawyers in Ireland with a recorded history going back to 1541. It is the original professional body from which the two more recently established legal professional bodies, the Law Society and the Bar Council originally sprang. Its continuing role in the legal world is explicitly recognised at several points in the Bill, including the provision giving the King’s Inns the right to nominate a member to the board of the new Legal Services Authority. It remains the disciplinary body for the barrister profession for the purposes of processing outstanding cases of complaints against barristers referred to it by the Bar Council, and it retains that power until the new regulatory body ultimately takes over the responsibility to process complaints against barristers and to impose sanctions against them up to and including disbarment. Those are the reasons that I believe the Honourable Society of King’s Inns needs to be added to list of professional bodies.

An Cathaoirleach: Has the Senator a colleague to second the amendment?

Senator Martin Conway: I second the amendment.

Senator Rónán Mullen: I am grateful to all my friends. I am sure even if there was not a Seanad election in the offing that I would have a colleague to second the amendment on this occasion.

Deputy Frances Fitzgerald: I am happy to accept amendment No. 9a proposed by the Senator providing that the Honourable Society of the King’s Inns be inserted into the Bill for

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the purposes of definition of a professional body. This was something of an oversight to begin with and I am happy to accept the amendment.

Senator Rónán Mullen: I thank the Minister for that.

Amendment agreed to.

An Cathaoirleach: Amendments Nos. 10, 16, 17, 25, 26 and 161 are related and may be discussed together by agreement. Is it agreed that they be discussed together? Agreed.

Government amendment No. 10:

In page 11, line 31, to delete “Minister” and substitute “Authority”.

Deputy Frances Fitzgerald: This amendment has been tabled to make it clear that the definition of a “professional body” means the Bar Council, the Law Society or such other body of legal practitioners as the authority may prescribe. The substitution of “Authority” for “Minister” is in line with the overall objective of the Bill, which is to have an independent body established to regulate legal services. We will now have a new regulatory authority which will perform many of the functions that were previously completely by reference to the Minister for Justice and Equality. This is obviously a change that came in very early on in the discussions in the Dáil that we should have an independent body. In the early publication of the Bill, the Minister had quite a number of roles in relation to the body. They have all been changed now. It is very clearly an independent regulatory legal services authority that is being established. This makes it clear that in relation to the definition of professional body, it is the authority which decides on that and not the Minister.

There are a number of technical amendments from a public interest point of view. The line Minister for the sector approves, with the consent of the Minister for Public Expenditure and Reform, the holding or disposal of land by a public body. This is a fairly normal provision and obviously there is some management in terms of the remuneration and allowance levels for board members and that would be overseen in the normal way by the Department of Public Expenditure and Reform and by the Minister. Most of the other amendments are to do with prudential oversight by the Minister, with the consent of the Minister for Public Expenditure and Reform, of various fees and expenses rates for the committee members. The main point is that the legal services regulatory authority is the body that decides these issues in relation to professional bodies.

Amendment agreed to.

Government amendment No. 11:

In page 12, line 5, to delete “he or she has been” and substitute “he or she, before the date on which *Part 5* comes into operation, has been”.

Amendment agreed to.

Government amendment No. 12:

In page 12, in paragraph (c) of the definition of “Solicitors Accounts Regulations” inserted by amendment 13 at Committee Stage in the Seanad, to delete “Solicitor’s Act 1954” and substitute “Act of 1954”.

Amendment agreed to.

An Cathaoirleach: Amendments Nos. 13 to 15, inclusive, and 212 are related and may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 13:

In page 13, in subsection (1)(a) of the section 6 inserted by amendment 14 at Committee Stage in the Seanad, to delete “2 years” and substitute “18 months”.

Deputy Frances Fitzgerald: This amendment reflects the policy decision taken by Government that a review of the effectiveness of the legislation should be conducted within 18 of the enactment of the Bill rather than within the longer two-year period we agreed earlier. Amendment No. 14 is a technical amendment to better clarify the application of the section, specifically by reference to Part 7 of the Bill, which would be a review of the operation of the levy that will fund the new authority and disciplinary tribunal.

The intention behind amendment No. 15 is to ensure that the Competition and Consumer Protection Commission will be among the bodies consulted in the periodic review of the functions of the Act. I have made sure it is included and that when the review is taking place within 18 months, the Competition and Consumer Protection Commission will be involved in the review of the function of the authority, ensuring that the commission’s two areas of competence are taken into account and the first such review will be 18 months after the establishment of the new authority.

In respect of Opposition amendment No. 212, while I appreciate what Senators Barrett and Quinn are trying to do here in that they want to expedite the review of the operation of the section dealing with the legal partnerships, which was discussed some time ago, it would be very difficult for the legal services regulatory authority to compress the period of review from four years to two years. There is a critical degree to which we have no ensure that the new authority is not hindered from bedding down into what I would call its effective core business and core functions on establishment by the imposition of too many reports that it has to do after establishment. We have to take a position on this that the first job of the authority is to start to set itself up as an efficient authority, hire staff and begin to embed the processes that it will use during the work it does. Obviously, we have given it a series of reports to do. The first job is to establish itself and to hear the complaints that come in from the public. Approximately 1,500 complaints come in every year in relation to solicitors and barristers. That is the core job. We have asked it to establish a new form of legal partnerships within the first year, which is a very important job. That is quite a sea change. We have given it a series of dates for it to do other reports.

If we bring back the timeframe I have given in relation to multidisciplinary partnerships from the four years, it will be a very demanding request on a new authority at this point. I have considered very carefully the timeframe within which the LSRA can do the various reports and all things considered with a new body, the approach we are taking is reasonable.

Senator Ivana Bacik: I welcome the Minister and this change to the review period. I welcomed the review period, which was inserted on Committee Stage. An 18-month review period is a very positive change. Others have spoken about the large volume of amendments on Report Stage. I absolutely agree with colleagues that is not ideal to be trying to read between different texts. I agree with the Minister that most of the amendments are technical but this amendment

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will make a significant difference to the work of the authority. The Minister pointed out just how much work the authority is being obliged to do.

I hope that in the review that is to be conducted 18 months after the Bill has been passed, we will see consideration being given to extend the remit of the authority to look at issues around access to justice, support for litigants in the public interests and so on, as FLAC has advocated. That is the sort of role the authority could take on in the future once it has fulfilled the functions that it is being tasked with doing in this Bill, as it is being changed. I also note the Minister's acceptance of amendments on Report Stage, which is very positive.

Senator Sean D. Barrett: I thank the Minister for reducing the time period and for involving the Competition and Consumer Protection Commission. I commend Ms Isolde Goggin for saying on "Prime Time" that she had not been involved since last April. If this is mending fences and getting proper consultation set up, it is very welcome. The report has been there since 2006 and one can go back 38 years when some of these malpractices and abuses were spoken about. They were ignored in the past six months. It takes much courage for the chair of a quango to bat against a Government policy on a matter. It happens far too frequently that people are overlooked when they should be consulted. This is a welcome development in that it is now in law that people can no longer proceed as if the Competition and Consumer Protection Commission does not exist.

Deputy Frances Fitzgerald: I thank Senator Barrett. This is important. It also suggested the 18-month review and I am very happy to do that. We will have new legal partnerships and a new body. It is important to review that and I am happy to do the 18-month review.

Amendment agreed to.

Government amendment No. 14:

In page 13, in subsection (2) of the section 6 inserted by amendment 14 at Committee Stage in the Seanad, to delete "for amendments to this Act" and substitute "for amendments to this Act (including amendments to *Part 7*)".

Amendment agreed to.

Government amendment No. 15:

In page 13, in subsection (3) of the section 6 inserted by amendment 14 at Committee Stage in the Seanad, to delete "professional bodies" and substitute "the Competition and Consumer Protection Commission, professional bodies".

Amendment agreed to.

Government amendment No. 16:

In page 14, line 6, to delete "with the approval of the Minister given with the consent of the" and substitute "with the consent of the Minister given with the approval of the".

Amendment agreed to.

Government amendment No. 17:

In page 16, line 27, to delete "as the Minister for Public Expenditure and Reform may"

and substitute the following:

“as the Minister with the consent of the Minister for Public Expenditure and Reform may from time to time”.

Amendment agreed to.

Government amendment No. 18:

In page 17, in the paragraph (c) inserted by amendment 18 at Committee Stage in the Seanad, to delete “*section 75*,” and substitute “*section 75, or*”.

Deputy Frances Fitzgerald: This is the reference to the numbers in the sections.

Amendment agreed to.

Government amendment No. 19:

In page 17, in the paragraph (d)(ii) inserted by amendment 18 at Committee Stage in the Seanad, to delete “that Act, or” and substitute the following:

“that Act,

or”.

Amendment agreed to.

An Cathaoirleach: Amendments Nos. 20, 21 and 23 are related and may be discussed together by agreement. Is that agreed? Agreed.

Government amendment No. 20:

In page 17, line 25, to delete “that Act, or” and substitute “that Act.”.

Deputy Frances Fitzgerald: Amendment No. 20 is a technical amendment to ensure the correct reference to the Act concerned. Amendment No. 23 is being tabled so that the provisions on the functions of the authority better reflect the new powers of inspection provided for in Part 3, as inserted, that is, the authority’s powers to investigate complaints under Part 5 and the authority’s responsibility to maintain the roll of practising barristers as passed by the Dáil. I wish to advise Senator Barrett that I undertook, on Committee Stage, to examine his amendment to remove, as a reason for disqualification from being a member of the authority, the fact that a person was no longer resident in the State. On reflection, there is absolute merit in what he had to say and, therefore, I shall table an amendment to remove that element of the section.

Senator Sean D. Barrett: I thank the Minister. It was an oversight that the provision was there and I refer to the great Members of this House who have come from Northern Ireland.

I wish to raise an additional point which is of interest. On the Pat Kenny radio programme reference was made to insurance. It was claimed that in Northern Ireland the legal system accepts the bill of quantum without the amount of litigation that goes on in this jurisdiction which results in lower legal and insurance costs. In addition to the principle, on which I fully support the Minister, there may be practical benefits from having some people from a law system other than ours saying how we can reduce costs. We could get an extra benefit from this provision and I thank the Minister for her amendment.

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Senator Feargal Quinn: I appreciate what the Minister has said. In terms of having somebody who has the expertise but comes from, lives or has moved outside of the State, it would be a shame to limit ourselves and not have that benefit.

Deputy Frances Fitzgerald: I think the amendment is appropriate and I am glad to accept it.

Amendment agreed to.

Government amendment No. 21:

In page 17, to delete line 26.

An Cathaoirleach: Amendment No. 21 is also in the names of Senators Barrett and Quinn.

Amendment agreed to.

Government amendment No. 22:

In page 19, line 32, to delete “referred to in *section 38*” and substitute “in accordance with *sections 38 and 39*”.

Deputy Frances Fitzgerald: This is a reference to the numbers of the sections again.

Amendment agreed to.

Government amendment No. 23:

In page 19, to delete lines 33 to 39 and substitute the following:

“(d) establish and administer a system of inspection of legal practitioners for such purposes as are provided for in this Act,

(e) receive and investigate complaints under *Part 5*,

(f) maintain the roll of practising barristers in accordance with *Part 9*.”.

Amendment agreed to.

An Cathaoirleach: Amendments Nos. 24, 60, 89, 116, 160, 201, 220, 221, 223, 224, 226, 231, 232, 235 to 241, inclusive, 299 and 300 are related and may be discussed together by agreement. Is that agreed? Agreed.

Senator Sean D. Barrett: I move amendment No. 24:

In page 20, line 1, after “services” to insert the following:

“and cases where the cost of a grant of probate is charged by the Probate Office at a higher rate to a lay person than to a legal practitioner”.

Senator Quinn and I tabled our amendment because we wanted to look at cases where the cost of a grant of probate is charged, by the probate office, at a higher rate to a lay person than to a legal practitioner. Our source of inspiration came from an article published in *The Examiner* on 25 November 2011. It reads: “A solicitor taking out a grant of probate on an estate valued at €750,000, pays €375 in fees. A non-solicitor taking out the same grant of probate is charged

€750. It's unfair and discriminatory but that's the way it is". Do State offices charge more to lay people, by a factor of two, than to solicitors?

Senator David Norris: I second the amendment because it seems that a two-tier system has been established which goes back to the old paternalistic days. For example, in Trinity College, if one's father was a doctor one got into the medical school and so on. It is jingoism, which is wrong. There should be a level playing field and the ordinary citizen should be treated exactly the same. Therefore, I strongly approve of and support Senator Barrett's amendment.

Senator Feargal Quinn: I am sure the Minister has an explanation for this situation. It does not seem to make sense to have two different charges in a modern era. The prices differ by quite a substantial multiple although we did not do the sums. It seems to me to be out of the question to have two different rates.

Deputy Frances Fitzgerald: Amendment No. 24 has been tabled by Senators Barrett and Quinn. It proposes to insert a reference to the disparity of costs arising in regard to a grant of probate as between a lawyer and a lay person. While I can see that this is intended to highlight this specific issue there are numerous other issues like this which I am sure the new regulatory authority will, undoubtedly, be dealing with. As the section to which the amendment is proposed concerns the public awareness functions of the new authority I do not want to turn it into a list of all of those issues that the new legal authority will need to address. I do not want to accept the proposed amendment but it is not because I do not believe that the legal services regulatory authority will have to deal with this issue. As has been said, it is a cost anomaly and it is an example of the kind of issue that the new legal regulatory authority will be empowered to deal with. There are many such examples. I do not think, from a legislative point of view, to begin to include a particular one is the way to go. This is the type of issue that the legal services regulatory authority will examine under the costs issue.

Senator Sean D. Barrett: I thank the Minister. I am a little worried that she has found far more issues. We found this issue quite by accident.

Deputy Frances Fitzgerald: Yes.

Senator Sean D. Barrett: Could we not do it now as we set up the authority if we know that discriminatory pricing takes place? I would be happy to endorse any of the items that are on the Minister's list. We know about these matters now so there is no need to wait until a new body sets itself up and has establishment costs. Let us tackle the list of anomalies now, which is what the public outside wants. I am worried that the Minister has found far more than the one that came to our attention here. That is the context. I dislike the phrase "kicking the can down the road" but let us do something about this matter instead of kicking everything down the road. We know about this matter so let us tackle it.

Deputy Frances Fitzgerald: All I can say is that it is those kinds of cost anomalies that one would expect a legal services regulatory authority to deal with. Schedule 1 deals with the whole cost issue. We are bringing a new transparency to costs. For example, somebody availing of legal services must be told upfront what the costs are going to be. As the Senator will know, in the past we have had a lot of complaints about cost issues. We have a schedule that deals with the range of costs and making sure the consumer is informed. If there is any expectation, as cases develop as they often do and different costs come into play, then the consumer or client has to be kept informed. There is a new legal costs adjudicator as well. The whole question of

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costs is central to the Bill in terms of a new transparency and an obligation on the legal services regulatory authority to oversee that.

An Cathaoirleach: There is no provision on Report Stage to act like Committee Stage and Senator Barrett has already spoken.

Amendment put:

The Seanad divided: Tá, 13; Níl, 16.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Byrne, Thomas.	Burke, Colm.
Craughwell, Gerard P.	Cahill, Máirí.
Heffernan, James.	Coghlan, Eamonn.
Leyden, Terry.	Coghlan, Paul.
Mullen, Rónán.	Comiskey, Michael.
Norris, David.	Conway, Martin.
Ó Clochartaigh, Trevor.	Cummins, Maurice.
Ó Murchú, Labhrás.	Hayden, Aideen.
Quinn, Feargal.	Keane, Cáit.
Reilly, Kathryn.	Moloney, Marie.
Wilson, Diarmuid.	Moran, Mary.
Zappone, Katherine.	Mulcahy, Tony.
	Mullins, Michael.
	Noone, Catherine.
	O'Neill, Pat.

Tellers: Tá, Senators Sean D. Barrett and Feargal Quinn; Níl, Senators Paul Coghlan and Aideen Hayden..

Amendment declared lost.

Government amendment No. 25:

In page 23, lines 6 and 7, to delete “with the approval of the Minister for Public Expenditure and Reform, may” and substitute the following:

“with the approval of the Minister given with the consent of the Minister for Public Expenditure and Reform may from time to time”.

Amendment agreed to.

Government amendment No. 26:

In page 23, lines 29 and 30, to delete “as the Authority, with the approval of the Minister for Public Expenditure and Reform, may determine” and substitute “as the Authority may determine”.

Amendment agreed to.

Government amendment No. 27:

In page 23, between lines 30 and 31, to insert the following:

“(3) Any fees or allowances for expenses due to a consultant or advisor appointed under this section shall form part of the expenses of the Authority.”.

Deputy Frances Fitzgerald: This amendment creates a new subsection (3) which provides that any fees or allowances due to consultants and advisers shall form part of the expenses of the new authority.

Amendment agreed to.

An Cathaoirleach: Amendments Nos. 28 to 30, inclusive, are related and may be discussed together by agreement.

Government amendment No. 28:

In page 23, between lines 32 and 33, to insert the following:

“Legal privilege

17. (1) Nothing in this Act shall compel a person, other than a person to whom *subsection (2)* applies, to disclose any information or documentation that the person would be entitled to refuse to produce on the grounds of legal professional privilege.

(2) Notwithstanding the relationship between, or rights and privileges of, a legal practitioner and his or her client, a legal practitioner shall, if so requested by a person authorised in that behalf by the Authority, provide the person with any information (in such form as that person may specify) or documentation which is required by the Authority for the purpose of enabling the Authority to discharge its functions under this Act.

(3) Information or documentation provided by a legal practitioner in accordance with *subsection (2)* may only be used for the purpose of enabling the Authority to discharge its functions under this Act in relation to legal practitioners.”.”.

Deputy Frances Fitzgerald: Amendment No. 28 deals both with the power of the legal services regulatory authority to obtain information and documentation from legal practitioners and the protection of the legal professional privilege rights of persons in respect of any such information and documentation. The amendment inserts a new section 17 which obliges a legal practitioner, if so requested by the authority, to provide any information required by the authority for the performance of its functions and, at the same time, to protect a person, other than a legal practitioner - for example, a client - from having to disclose any information or documentation the person would be entitled to refuse to produce on grounds of legal professional privilege. A legal practitioner is obliged to provide any information requested, but subsection (3) of the new section 17 provides that this may only be used by the authority for discharging its functions under the Act in respect of legal practitioners. In other words, it is essentially about

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regulating practitioners and dealing with complaints. I have been advised by the Attorney General that it is legally necessary to provide for these matters in the Bill, particularly as regards protection of legal professional privilege. The new section serves to protect clients while also retaining the obligation on practitioners to provide information required by the legal services regulatory authority.

Senator David Norris: I am concerned that these provisions will effect a clear weakening of legal privilege. It is a valued principle in law that the documents and other information exchanged between a lawyer and his or her client are privileged. That privilege is being diluted under this provision. I am not at all sure, moreover, that what is set out here is watertight. Once the information gets out, it is effectively abroad. Amendment No. 30, meanwhile, provides that a client of a legal practitioner may apply to the High Court to determine matters of privilege. That is a bloody expensive route to take. The provision, in effect, is creating a charge for citizens to assert their right to legal privilege. That does not seem right and I am very concerned about it.

The whole area of client privilege is so fundamental to law that I would be very hesitant to change it in any way, which these amendments certainly seek to do. Of course, where a client is willing to give a waiver, there is no problem. The problem arises where the client considers it is in his or her interests not to have certain information disclosed. For instance, if there was information about a possible infringement of law, whether of a slight or major kind, I imagine a client would be very loath indeed to have the types of discussions he or she had with a lawyer bruted abroad.

I will not have an opportunity to come back again on this proposal, so I emphasise the importance of this matter. I am greatly concerned about the violation of privilege. As I said, it is fine if there is no client involved or if the client gives a waiver. If no waiver is given, however, there is cause for serious concern. Moreover, if such a client seeks to defend his or her rights, there is a considerable cost involved in going to the High Court.

Senator Gerard P. Craughwell: Amendment No. 29 deals with transfer of staff of the Law Society and Bar Council and refers specifically to “appropriately qualified” staff. As a trade unionist, I have a difficulty with the words “appropriately qualified”.

Senator Ivana Bacik: The Senator is referring to another amendment.

Senator Gerard P. Craughwell: I apologise. Senator Bacik is correct, I was looking at the wrong amendment.

Deputy Frances Fitzgerald: We must be able to hold lawyers in breach of regulations to account while also protecting the client. The purpose of the original section 17 was to provide protection against the disclosure of confidential information obtained by the authority or its staff in the course of the performance of its functions and make any such disclosure, other than in accordance with the section, a criminal offence. The bar on disclosure of confidential information is subject to some exceptions whereby information may be disclosed to the authority, the Minister or, in certain circumstances, enforcement bodies such as the Garda, the Competition Authority and Revenue, among others.

Amendment No. 29 proposes to remove the Minister as a person to whom confidential information may be disclosed, since the Minister has no residual role in the functions of the new authority, which will be independent.

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Amendments Nos. 28 and 30 provide for the power of the authority to obtain information, the protection of legal professional privilege and confidentiality and the disclosure of confidential information in certain circumstances to certain parties, subject to the protection of any privilege which exists. I reiterate that we are seeking to provide for circumstances where a request is made to a legal practitioner by the authority to provide any information which is required by the authority for the performance of its functions, while, at the same time, protecting a person, other than a legal practitioner, for example, a client, from having to disclose any information or documentation that the person would be entitled to refuse to produce on grounds of legal professional privilege. The provision meets the criteria set out by the Senator. A balance has been struck between the demands that can be made on lawyers in respect of legal privilege and the rights of clients. We have taken extensive legal advice from the Attorney General on providing for balance.

Senator David Norris: The provision still allows the disclosure of information which a client may not want to be disclosed.

Deputy Frances Fitzgerald: It is subject to certain exceptions.

Amendment put:

The Seanad divided: Tá, 20; Níl, 10.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Burke, Colm.	Byrne, Thomas.
Cahill, Máiríá.	Daly, Mark.
Coghlan, Eamonn.	Heffernan, James.
Coghlan, Paul.	Leyden, Terry.
Comiskey, Michael.	Norris, David.
Conway, Martin.	Ó Murchú, Labhrás.
Craughwell, Gerard P.	Quinn, Feargal.
Cummins, Maurice.	Wilson, Diarmuid.
D'Arcy, Michael.	Zappone, Katherine.
Hayden, Aideen.	
Keane, Cáit.	
Moloney, Marie.	
Moran, Mary.	
Mulcahy, Tony.	
Mullins, Michael.	
Noone, Catherine.	
Ó Clochartaigh, Trevor.	
O'Neill, Pat.	
Reilly, Kathryn.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators Sean D. Barrett and David Norris.

Amendment declared carried.

4 o'clock

Government amendment No. 29:

In page 24, to delete line 10. Amendment agreed to.

Government amendment No. 30:

In page 24, between lines 20 and 21, to insert the following:

“(4) If information disclosed in accordance with this section is subject to legal professional privilege, that information may not be used by the persons to whom the information is disclosed as against the client in respect of whom the privilege is vested.

(5) Where any question arises as to whether information is or is not subject to legal professional privilege, or the use to which such information may be put, the client of the legal practitioner asserting such privilege may apply to the High Court for the determination of any matter relating to such information and the use to which such information may be put and the Court may make such orders as it considers appropriate in determining the matter before it.”.

Amendment agreed to.

Senator Sean D. Barrett: I move amendment No. 31:

In page 25, lines 35 and 36, to delete “, in such manner as it considers appropriate, with” and substitute “with stakeholders including, but not limited to”.

As it stands, the section reads, “the Authority shall consult, in such manner as it considers appropriate, with” a number of listed bodies. We are not very interested in what it considers appropriate. It has a duty to consult stakeholders who are listed, but it should not just be limited to them. I am concerned with much of our legislation where people choose what constitutes consultation and whom they will consult. It is inappropriate to provide for discretion “as it considers appropriate”. The legislation should state it is compulsory, not what people consider appropriate. The amendment would strengthen the Bill.

Senator David Norris: I second the amendment and seek clarification on a matter. The amendment refers to page 25, lines 35 and 36, of the Bill. I do not see the phrase referred to.

Senator Sean D. Barrett: Line 35 reads, “the Authority shall consult, in such manner as it considers appropriate”.

Senator Ivana Bacik: Perhaps I might assist. In page 25, lines 35 and 36, Senator Sean D. Barrett seeks to delete “, in such manner as it considers appropriate”. I understand what the Senator is seeking to do, but the amendment would not be appropriate because it refers to “stakeholders including, but not limited to”. There is a difficulty in using a term as vague as stakeholders when we are imposing a requirement on the authority to consult. The section

states it “shall” consult the professional body and such other interested parties. There is, therefore, an obligation to consult in such manner as the authority considers appropriate. Without any definition of what is meant by stakeholders, it would not be safe to insert an amendment of this type into this very specific provision which has been drafted in quite a focused manner in respect of the authority issuing codes of practice.

Senator David Norris: Perhaps I might explain that I was provided with a previous version of the Bill.

Deputy Frances Fitzgerald: Are we dealing with amendments Nos. 31, 32 and 34?

An Cathaoirleach: No. We are discussing amendment No. 31 on its own.

Deputy Frances Fitzgerald: Consultation with the legal professional bodies is already provided for in several sections of the Bill. It is provided for in dealing with matters such as the authority’s drafting of codes of practice under section 20; its review of professional codes under section 21; its review of the operation of the Bill under section 6; and its development of regulations for professional indemnity insurance and legal services advertising. In the earlier discussion I said we would be fully compliant with the EU directive on the advertising of legal services. There are various consultations and reports. Obviously, people involved in the legal professional bodies will have plenty of opportunities to make their views known.

A key purpose of the Bill is to set up an independent authority that will have regard to but be independent of the representative bodies. In that context, it would be a step too far to place a requirement on the authority to consult the legal professional bodies on the staff it may hire to supervise these very bodies. Moreover, the professional bodies will have an adequate say on such matters by virtue of the fact that their nominees will be members of the authority. In these circumstances I cannot accept amendments Nos. 31, 32 and 34.

Senator Sean D. Barrett: Amendment No. 31 is in my name and I thank the Minister for her response. I would like Parliament to tell the bodies the degree of consultation in which they need to engage. Across the sphere there is regulatory capture of regulatory agencies by the bodies they are supposed to regulate in the public interest. Parliament should make a stand on that issue. I appreciate what the Minister has said and will not press the amendment. I am not interested, however, in what the authority thinks is appropriate. I want it to do the job of regulating the sector. The other amendments are in the name of Senator Trevor Ó Clochartaigh.

Senator Trevor Ó Clochartaigh: I wish to clarify that we are only discussing amendment No. 31.

An Cathaoirleach: Correct.

Amendment, by leave, withdrawn.

Senator Trevor Ó Clochartaigh: I move amendment No. 32:

In page 29, line 10, after “may” where it firstly occurs to insert “, after consultation with the professional bodies.”.

Sinn Féin is concerned that the staff currently employed by the Law Society of Ireland and the Bar Council of Ireland to handle and investigate complaints may lose their jobs and be replaced by staff in the new authority essentially carrying out the same role. Trade unions have

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called on these staff to be employed by the new authority.

Senator Kathryn Reilly: I second the amendment.

Deputy Frances Fitzgerald: The points Senator Trevor Ó Clochartaigh has just raised are dealt with in amendments Nos. 33, 35 and 36. We are making provision for the staff working in the Law Society of Ireland who are currently handling complaints to transfer. Senator Gerard P. Craughwell raised a question about qualifications. As laid out in the Bill, the reference is to staff who have experience of dealing with complaints. There was cross-party agreement in the Dáil that the transfer was appropriate for a certain number of staff who were dealing with complaints and had expertise in this area. It is dealt with primarily under amendments Nos. 33, 35 and 36. The amendment we are dealing with now is the Senator's request to have consultation with the professional legal bodies. There is adequate opportunity for the legal services regulatory authority to consult with the legal professional bodies. In the consultations afterwards, when they are drawing up the various reports, the legal professional bodies will also have an opportunity to put their points of view. It will be part of the work. Given that it is a legal services regulatory authority, there would be consultation with the relevant bodies.

Senator Sean D. Barrett: I regret that I oppose what the Minister and Senator Ó Clochartaigh said. If one wants independent regulation, one does not hire those who were responsible for all the restrictive practices through the Law Society and Bar Council. It invites regulatory capture. The public will not be convinced. Somebody said it was Irish Water coming back to haunt us. Those who had been wasting water for years were all hired by a new body called Irish Water. The authority should have nothing to do with those who have very successfully held up progress in this field for 40 years or more. The public will not be convinced if those who they are used to seeing on television defending the restrictive practices of the legal profession are now supposed to be pro-consumer.

Senator David Norris: The Minister is, sadly, shaking her head.

Amendment put and declared lost.

An Cathaoirleach: Amendments Nos. 33, 35 and 36 are related. Amendment No. 36 is a physical alternative to amendment No. 35. The amendments may be discussed together by agreement.

Senator Trevor Ó Clochartaigh: I move amendment No. 33:

In page 29, between lines 11 and 12, to insert the following:

“(2) The Authority should initially seek to appoint members of the Law Society and the Bar Council’s existing administrative staff, with the requisite qualifications and whose positions will be displaced with the commencement of the authority.”.

Again, the section and these amendments deal with the staff of the authority. Notwithstanding what the Minister has outlined about discussions going on, it is important, given that the Bill has had so many amendments and adaptations, to tie this down. We have outlined our concerns about the current staff and their expertise being handed over. While I accept the Minister’s bona fides that the discussions are ongoing, if it is not in the legislation, it is not in it.

Senator Kathryn Reilly: I second the amendment.

Deputy Frances Fitzgerald: Amendment No. 33 is consistent with the new section I introduced to the Bill on Committee Stage in the Seanad to deal, in a practical way, with the staff of the two legal professional bodies who have appropriate expertise in dealing with public complaints and whose functions are about to be taken up by the new regulatory authority under the Bill. Given there was cross-party support for it and I have already provided for the kind of practical solution to the staffing issue the Senators had in mind, I ask them to forego the amendment. We have made the relevant provisions on the other issues that arise regarding terms and conditions.

In response to Senator Barrett, the authority will be a new, independent body with independent management. The vast majority of staff will be recruited afresh. However, the authority will also have a group of staff who have expertise, built up over decades, and who are regarded as having done the job of dealing with the complaints that have come in. The issue has been raised across the House and we have come up with the solution. It will be to the benefit of the authority to have this group of people who have expertise in the area and that we are making provisions for the transfer across.

Amendment put and declared lost.

Senator Trevor Ó Clochartaigh: I move amendment No. 34:

In page 29, line 12, after “Authority,” to insert “after consultation with the professional bodies and”.

There is no need to rehash the argument. We have a difference of opinion on it. For the reasons already outlined regarding amendments No. 32 and 33, we are pressing the amendment.

Senator Kathryn Reilly: I second the amendment.

Amendment put and declared lost.

Senator Sean D. Barrett: I move amendment No. 35:

In page 29, to delete lines 19 to 38, and in page 30, to delete lines 1 to 17.

In general, it is a bad principle that people who have operated very successfully in one role defending producers of a product are meant to turn around and become defenders of the consumers of the product. It invites regulatory capture and will not impress the public. The staff dealt with the complaints in an unsatisfactory manner and this is why we have the Bill before us to change it. However, the same people will be coming back to operate the new system.

Senator David Norris: I second the amendment.

An Cathaoirleach: We have already discussed the amendment.

Amendment put and declared lost.

Government amendment No. 36:

In page 29, in the subsection (1) inserted by amendment 30, to delete “Single Service Pension Scheme” and substitute “Single Public Service Pension Scheme”.

Amendment agreed to.

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Senator Sean D. Barrett: I move amendment No. 37:

In page 32, line 19, after “Authority” to insert “subject to the approval of the Minister”.

The amendment relates to who sets the fees charged by the authority. On Committee Stage, I proposed that the Competition and Consumer Protection Commission might. This was unacceptable, which I accept. Does the Minister set the fees, or will the authority have total discretion?

Deputy Frances Fitzgerald: The amendment proposes inserting an approval by the Minister into the provision allowing the new authority to set fees by regulation for the performance of its functions etc. Given that this discretion is to be exercised by the new and independent regulatory authority, I do not see a need for the amendment.

Amendment, by leave, withdrawn.

An Cathaoirleach: Amendments Nos. 38, 73, 162, 163, 167, 175, and 178 to 182, inclusive, are related and may be discussed together by agreement.

Government amendment No. 38:

In page 32, to delete lines 30 and 31.

Deputy Frances Fitzgerald: Amendment No. 38 follows further consultations with the Department of Public Expenditure and Reform and rightfully recognises that the independent legal services regulatory authority will not handle fees for the benefit of the Exchequer but rather in support of its own functions under the Bill. Amendment No. 180 provides for the change in the manner in which the authority will handle the levy to be paid by the Law Society, the Bar Council and other barristers. The amendment makes it clear that finance coming into the authority from the levy will be used by the authority to defray its operation costs. Amendment No. 73 is intended to safeguard the public interest regarding regulatory costs and ensuring affordable public access to the new complaints process.

Amendments Nos. 162 and 163 have been tabled to ensure the delicate balance of payment between the legal professions is maintained and enhanced. The amendments are designed to ensure the levy is properly apportioned amongst solicitors and barristers. The amendment makes it clear that the cohort of barristers liable for payment of the levy include those who may have ceased to practise after the date of the act or omission cited as the cause of a complaint. Amendment No. 181 is a linked amendment which sets out a definition. Deputy Sean D. Barrett’s amendment, No. 182, would prevent the new regulatory authority from raising a levy on those barristers who will be regulated by it and who choose to practise outside the Law Library model. It would also prevent the authority from issuing the relevant notice to those practitioners or professional bodies that will give rise to its regulatory costs each year. As that would be the effect of the Senator’s amendment, he might reconsider it, as I cannot accept it in that format.

Senator Sean D. Barrett: The amendment to which the Minister referred was No. 183.

Senator David Norris: It is very difficult to follow what is happening when there are so many amendments which skip all over the place. I am sure the Cathaoirleach will be indulgent while we find the correct places in the Bill. One has to correlate the amendments and the pages referred to in the Bill all the time. When there are about ten amendments being discussed together, it becomes more difficult.

An Cathaoirleach: It was amendment No. 182 to which the Minister-----

Senator David Norris: What number was it?

An Cathaoirleach: Amendment No. 182.

Deputy Frances Fitzgerald: Amendment No. 182 in the names of Senators Sean D. Barrett and Feargal Quinn.

Senator Sean D. Barrett: I do not wish to move that amendment.

Amendment agreed to.

Senator Sean D. Barrett: I move amendment No. 39:

In page 35, between lines 25 and 26, to insert the following:

“(d) the right of direct access to a barrister other than through a solicitor;”.

This amendment concerns right of access to a barrister without the need to have a solicitor present. It could be a major way of cutting costs in the system. There are barristers in the Law Library who cannot be approached except through a solicitor which adds to costs. A later section increases the right of access. I will support the Minister on that section, but it only applies where a matter is non-contentious. As an outsider, it seems that most of what barristers do is contentious. We have a high cost legal system which the Minister is seeking to correct. We support her in that regard and the issue has been spoken about for a long time. I gather it is a Bar Council rule, but why, if people have degrees and qualifications, can we not talk to them without having a third party present, given that it seriously adds to costs? The proposal to reduce costs has been around for long time. Partly because of the recession, to which the Minister referred the last day, there is a surplus of barristers who have the required knowledge, are young and enthusiastic. Why can we not talk to them without having a solicitor present, thus imposing extra costs on the transaction? I do not know what the analogy might be. One can talk to a pharmacist without a doctor being present and the professions are interlinked. If I want to speak to a barrister and take advice from him or her, why should this not be allowed? Why should it not be deemed to be a priority? We should immediately address the issue of why people cannot talk to a barrister without a solicitor being present.

Senator David Norris: I second the amendment. This is a necessary reform. It is common practice in the United States where there is no division between barristers and solicitors. I understand this formed a crucial part of the original Bill introduced by the former Minister, Deputy Alan Shatter. The Minister can correct me if I am wrong, but I am pretty sure I am right. Certainly I have heard Deputy Alan Shatter say on the wireless that he approved of this reform. The rights of the profession, those of the Bar, are being placed ahead of those of citizens. The citizen comes first; as my colleague, Senator Feargal Quinn, used to say, the customer is king. In this instance, however, it seems the profession is king and it directs that one cannot consult a barrister directly. That is ridiculous; it is feudal stuff. It is acting like a monarch who one cannot approach except through a courtier. I see no reason one should have to go through a solicitor. I am interested in hearing if the Minister can give a reason one has to go through a solicitor to speak to a barrister. It seems idiotic and is time wasting, as well as money wasting. An obstacle is being placed between the client and his or her professional adviser. If there are matters which require the attention of a solicitor rather than a barrister, that is fine. I have had

many cases before the courts and sometimes one requires a solicitor to gather information to research certain matters and so on, but that is by no means always the case. I see absolutely no reason one should have to use a solicitor to get through to a barrister. There should be direct and easy access. This Bill is about cleaning up the law to make it more consumer friendly, the client feel more at ease and less exposed to risk and expense. This is a very worthwhile amendment.

Deputy Frances Fitzgerald: No, this provision was not included in the original Bill. It was always envisaged that there would be consultation on this issue. There was a timeframe, which is what we still have.

I want to give the definition of “contentious matter”. It means a matter that arises in and relates to the subject matter of proceedings before any court, tribunal or other body or person before which the respective legal rights and obligations of two or more of the parties are determined and to which the person instructing the barrister concerned is a party. Obviously, the non-contentious issue is also dealt with. The approach under the Bill is to provide elsewhere for it. I cannot accept the moving of the direct access issue to this location also. There is a process in place. There is also the issue of clients’ moneys in relation to barristers. There is quite a number of complex issues that need to be addressed. That is linked with amendment No. 40 which is about the unification of two legal professions in one year. We need the new authority to bed down and be fully functional in its first year. It already has many reporting obligations in the period of its early establishment. The question of fusing the two professions will have to take account of the developments being enabled to take place under the Bill, particularly the roll-out of the new legal business models. It must be remembered that they are being brought in next year. Legal partnerships are being put in place. If the authority is established on 1 January, as we intend, legal partnerships will have to be in place within six months. That is a totally new model in terms of access to barristers and solicitors practising together. That is extremely important.

Senator Sean D. Barrett: I will press the amendment. It states that “without prejudice to the functions of the authority referred to, the authority shall, following appropriate public consultation, prepare and furnish reports to the Minister”. That is what we are asking for. Will it, please, prepare a report on an idea that has been around for ages, a right of direct access to a barrister, other than through a solicitor, which has been cogently argued for by my colleague, Senator David Norris? If the Minister rejects the amendment, we will not even receive a report on it. We will have made up our minds and it will become extant. Discussing an item that is absolutely crucial to the reforms and availing of barristers who can only be approached through a solicitor and are sitting in the Law Library would be fantastic to have that knowledge put at the disposal of wider society. I have experience of this, regardless of whether I had complied with the law or whether the matters were contentious. I like talking to barristers and would like wider society to have that privilege. We should at least have the authority study the matter. That is the reason we have tabled the amendment at this point. It is not obvious to very many people why one cannot talk to a barrister without having a solicitor present. If the amendment is rejected, we will not have the issue reported on. If it were accepted, I presume what is now paragraph (d) would become paragraph (e). Why can the authority not give its views? It may be extremely hostile to the idea. I have tried unsuccessfully to find out the basis on which this practice developed. Let us at least examine the issue, as per the amendment. If such a study were to take place, I would be strongly in favour of the proposal before the House.

Deputy Frances Fitzgerald: It is worth making the point that the new independent legal services regulatory authority will be a great catalyst for change. As I indicated, for the first

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time, we will have oversight and complaints and discipline being dealt with independently as well as the establishment of the new legal partnerships. This is serious reform and further reforms will be introduced.

The Bill provides for various reports and assessments to be done in the first couple of years after the establishment of the legal services regulatory authority. We are not establishing a large body to take over all functions. It was decided in the Dáil, for example, that the compensation fund would remain with solicitors who have managed it to date, meaning this liability will not be transferred to the State. I will introduce a number of amendments on that issue later.

Provision is made to have the issue the Senator raises examined. As I indicated to Senator Norris, a consultation process was built in to the Bill and I have not made any change in terms of that consultation taking place. It is important that it is allowed. The change in respect of legal partnerships will be implemented immediately next year.

Amendment put:

The Seanad divided: Tá, 11; Níl, 17.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Byrne, Thomas.	Burke, Colm.
Craughwell, Gerard P.	Cahill, Máiríá.
Daly, Mark.	Coghlan, Eamonn.
Leyden, Terry.	Coghlan, Paul.
Norris, David.	Comiskey, Michael.
Ó Clochartaigh, Trevor.	Conway, Martin.
Ó Murchú, Labhrás.	Cummins, Maurice.
Power, Averil.	Hayden, Aideen.
Wilson, Diarmuid.	Keane, Cáit.
Zappone, Katherine.	Moloney, Marie.
	Moran, Mary.
	Mulcahy, Tony.
	Mullins, Michael.
	Noone, Catherine.
	O'Neill, Pat.
	Sheahan, Tom.

Tellers: Tá, Senators Sean D. Barrett and David Norris; Níl, Senators Paul Coghlan and Aideen Hayden..

Amendment declared lost.

Senator Sean D. Barrett: I move amendment No. 40:

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In page 36, line 32, to delete “4 years” and substitute “1 year”.

I welcome the Minister. The Bill states:

“A report in respect of the matter referred to in subsection (1)(b)—

(a) shall be provided to the Minister within 4 years of the establishment day,”

As much of what we are attempting to do in the Bill is well known, why is there a need to wait for four years? Can matters be speeded up rather than having four more years of costs imposed, as the National Competitiveness Council and the Competition and Consumer Commission have stated?

Senator David Norris: I second the amendment. It seems four years is an inordinately long time.

Deputy Frances Fitzgerald: I make the point again that it will be a new independent body set up to provide for independent regulation. It will have a range of tasks to perform in its first year. It will have to deal with complaints and set itself up as an effective and efficient body. There is a range of tasks which we are asking it to do. I have looked at what it is feasible to do in the first period and do not want to overcrowd the LRSA with work. The two professions will need to take account of the developments being enabled by the Bill, particularly the roll-out of the new legal business models.

Senator Sean D. Barrett: I just wish that we were moving faster, but I accept what the Minister has said. She is the person who is trying to accomplish this task and we are on the Opposition benches.

Senator David Norris: The Independent benches actually.

Senator Sean D. Barrett: I express the wish that it should happen sooner and earlier than four years. I thank the Minister for her response.

Amendment, by leave, withdrawn.

Senator Sean D. Barrett: I move amendment No. 41:

In page 37, to delete lines 14 to 18 and substitute the following:

“(5) Reports on the creation of a new profession of conveyancer including the conduct of conveyancing by other professions, the extent of monopolistic provision of legal services in the State and the right of direct access to a barrister other than through a barrister shall be provided to the Minister within 1 year of the establishment day.”.

This amendment refers to the reports to be made to the Minister and asks that a report be made available on conveyancing. This is a growing problem. House prices in Ireland used to be two and half times average income levels; they then went to 12 times average income levels and now they are somewhere around five times average income levels. Nobody has been as successful at tying his or her income and the charges for the services he or she provides than a solicitor operating as part of the conveyancing monopoly. We are trying to deal with the consequences of this. The Minister for Public Expenditure and Reform, Deputy Brendan Howlin, was in the House earlier trying to unravel some of the consequences. Why do we not know what a competitive conveyancing market should look like? Why does the cost of the transac-

tion have to be linked with house price in a country in which the rate of inflation in house prices was the worst in any country in the OECD and in which the banking system was eventually brought down, resulting in the State having to avail of an IMF bailout? Why can the conveyancing service not be priced separately? Judging from her statements on earlier Stages of the Bill, I believe the Minister would like this to happen. I said to her on Committee Stage that I had quotes for conveyancing from a company which dealt with emigrants returning to Ireland, a cause dear to her heart and absolutely that of the Minister for Finance, Deputy Michael Noonan. The websites which provide information on returning to Ireland state returnees should be prepared to pay as much as 1.5% of the purchase price of a house or, for example, €4,500 on a house valued at €300,000 which is actually less than the average price of a house in Dublin. The websites state the comparable fee in the United Kingdom could be as low as £200 or €285. The conveyancing monopoly has been criticised, especially by the Competition Authority which has conservatively estimated a potential saving of 25%. That was written before the burst of inflation in house prices which must have seriously enriched conveyancers who charge a fee based on price of a house.

So many people have drawn attention to that, that we must get all aspects of house prices back to some reasonable multiple of incomes because it causes homelessness among other problems. I do not wish to exaggerate the conveyancing part of it but a service that is available for the equivalent of €250 in England can cost €3,500 in this country. Research for the prices commission showed that the conveyancing super normal profits cross-subsidised pretty well everything else that solicitors did, including, as somebody rather wittily pointed out, court work. The point was that the person who buys the house is overcharged the conveyancing fee so that the solicitor involved can subsequently give subsidised legal aid to a person who burgles the same house. It does not make any sense to overcharge people so heavily, as we have been doing through the conveyancing monopoly, on the purchase of a house.

Economists do not like it because this monopoly has gone on for so long. Most house purchasers do not like it much either. We want that to be reported on and not to have to wait for four years. We want reports on the conveyancing profession. I know that solicitors in this country say they do not charge 1.5% any more. The conveyancers did not get much of a market share in the UK but they certainly reduced prices in the UK. The website advising Irish people returning from the UK says they can expect to pay a lot more for their conveyancing because it is related to the house price, in a country where house prices went out of control and one cannot get the flat fee, which the website claims to be £200. I have seen adverts for conveyancing in the *Yellow Pages* and other places in the United Kingdom. One would expect that having people other than solicitors carrying out this function would lead to a reduction in costs. We need an up-to-date report on the issue because I have never seen any evidence to support the claim that having a solicitor monopoly on conveyancing keeps the price down. It is much more likely to keep it up and the evidence comparing jurisdictions where one has got other people doing it is very definitely in favour of competition.

Senator David Norris: I second the amendment. The process of conveyancing, as I understand it, deals with legal aspects of the transfer of property from the vendor to the purchaser. It does lead to excessive costs. I know of situations, for example, in which a house has been sold and resold and they go through the whole rigmarole of going back to 1787. That happened in my case many years ago. The house was sold and then immediately sold back to me and the solicitors insisted on doing the whole yoke again. It is just drudgery work; checking up on all the deeds, transfers, purchasers and all that kind of stuff. There is no necessity for it to be done

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half a dozen times when there are no changes in title involved. I do not see why there should not be a conveyancing and then the conveyancing is lodged in the conveyance office or wherever it is and unless there is a change in status, it does not have to go all the way back to stage one.

It is just a simple transaction that should not cost thousands of euro. One buys a house, one has the deeds and they are certified. I have a house that was built in 1787 and they went back all the way to 1787, and then they went back again, a second time, to 1787. The work should have started in 1978 or whenever I bought the house. Everything up to then had already been certified and lodged, so it was accepted. Why the hell should it not be accepted up to the point that it was lodged previously and anything else could be checked after that but they go through this rigmarole of going all the way back. It does not matter very much in a modern house because it may be the first purchase or first transfer of ownership but when one has a Georgian, Victorian or Edwardian house, it matters and it is complete nonsense to have people going backwards all the time to the beginning. This is a good amendment and I am very happy to support it. I am sure the Minister is also against the monopolistic provision of legal services and the amendment attacks that quite directly. I approve of the amendment and I am happy to second it.

Deputy Frances Fitzgerald: One of the other reforms in the Bill is to create a consultation on the establishment of a profession of conveyancer. The Senators made the point about the efficiencies of how that is done at present but it is another reforming part of the Bill.

There is not a timeframe on this section. A report in respect of the matters referred to shall be provided to the Minister within a period specified by the Minister in a written notice to the authority, requesting a report. I took note of what Senator Barrett said on Committee Stage and today, and I will write to the authority in respect of dealing with this issue as a priority. No time period is specified as the matter is at the discretion of the Minister but in response to the points made by the Senator, I will give him an undertaking that I will say to the legal services regulatory authority that I consider this to be a priority issue and I would like to see it done in the short term rather than the medium or long term. If Senator Barrett is happy to accept that, it would be a response to the points he has made on the section. I reiterate that the Bill is a reforming one and that is evident in the opening up of the system in terms of the issues both Senator Barrett and Senator Norris raise about conveyancing.

Senator Sean D. Barrett: I thank the Minister, as always, for her thoughtful and courteous reply. To return to the website for returning emigrants, it says that in Ireland a solicitor must be qualified and registered with the Incorporated Law Society of Ireland. All practising solicitors must hold a practice certificate issued by the Law Society on an annual basis. Unlike the UK and other EU countries, there are no licensed conveyancers, so solicitors have a monopoly here. I appreciate what the Minister wants to do but I want it done today. This is a monopoly which seriously overcharges people in the simple purchase of the basic necessity of a house and I wish to tackle the issue right now. I appreciate the Minister wants to put it at the top of the list but I do not know how much of a delay will be involved in terms of setting up the authority or whether the lawyers on the authority will outmanoeuvre the lay people and preserve their monopoly.

Deputy Frances Fitzgerald: The authority has a lay majority.

Senator Sean D. Barrett: One of the rules in dealing with monopolies over the years is that one never asks them for permission to have their monopoly dispensed with. One does it in the wider national interest. I wish to press the amendment because many desirable elements of what the Minister has said appeal to people but it really annoys people that the purchase of

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a house in this country involves such monopolistic earnings for solicitors given that their fee relates to the price of the house and not the actual transaction. This is the sharp end of high cost legal systems in Ireland for the simple, normal transaction of buying a house, which is such a basic human need. I will press the amendment.

Amendment put:

The Seanad divided: Tá, 10; Níl, 16.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Craughwell, Gerard P.	Burke, Colm.
Daly, Mark.	Cahill, Máirí.
Leyden, Terry.	Coghlan, Eamonn.
Norris, David.	Coghlan, Paul.
Ó Clochartaigh, Trevor.	Comiskey, Michael.
Ó Murchú, Labhrás.	Conway, Martin.
Power, Averil.	Cummins, Maurice.
Wilson, Diarmuid.	Hayden, Aideen.
Zappone, Katherine.	Keane, Cáit.
	Moloney, Marie.
	Mulcahy, Tony.
	Mullins, Michael.
	Noone, Catherine.
	O'Neill, Pat.
	Sheahan, Tom.

Tellers: Tá, Senators Sean D. Barrett and David Norris; Níl, Senators Paul Coghlan and Aideen Hayden..

Amendment declared lost.

Debate adjourned.

Emergency Department Waiting Times: Statements

Acting Chairman (Senator Michael Mullins): I welcome the Minister for Health, Deputy Leo Varadkar, who will address the House first and will be followed by group spokespersons.

Minister for Health (Deputy Leo Varadkar): I welcome the opportunity to update the House on what is being done to improve access to services in hospitals. I acknowledge that too many patients across Ireland are still spending far too long in emergency departments waiting to be seen, admitted or sent home. This causes difficulties and distress for patients and families

and makes working conditions difficult for staff. That is why dealing with the issue remains a key objective for the Government.

There is no simple quick-fix solution to the problems which are long standing, complicated and have multiple causes. They all need to be addressed and any effort and action must be sustained. I convened the emergency department task force in 2014 to provide a focus and momentum in dealing with the challenges presented by emergency department overcrowding. The Government allocated more than €117 million in additional funding this year to reduce overcrowding; it has reduced the fair deal scheme waiting time to between three and four weeks, thus freeing up hundreds of hospital beds everyday, and it is supporting hospitals to reopen closed beds and add more. Some 197 hospital beds have been opened nationally since October, with a further 44 due to be opened in the next two weeks.

Some 750 more nurses are working in the health service than this month last year. It is important that we compare this figure with that in the same month in the preceding year because there is a seasonal variation in nursing staff levels based on when pregraduate nursing students qualify. At 19,000, we also have more registered doctors than ever, including more in the public health service than ever before. Some 338 non-consultant hospital doctors, NCHDs, and 78 consultants have been appointed this year, many more than last year. In this context, the Irish Nurses and Midwives Organisation's ballot is regrettable, particularly when we are starting to see the emergency department task force's plan taking effect. Industrial action will not get a single patient off a trolley, but it will make life harder for other non-nursing staff.

The significant increases in capacity are being reflected in emergency department performance. While it is still challenging and there is a long way to go, the average number of patients waiting for longer than nine hours on trolleys was 111 in November. This compares with 127, on average, in June and 173 in February. There are 15% fewer patients on trolleys for nine hours, longer or at all than on this day last year. While a number of hospitals were overcrowded this morning, the total number of patients on trolleys for any length of time was 244, 90 of whom had spent longer than nine hours on trolleys. This compares with a figure of 289 on this day last year, or 123 waiting for longer than nine hours. This represents a 15% improvement on the figure for patients spending any amount of time on a trolley and an improvement of approximately 30% for those spending longer than nine hours on a trolley. By 2 p.m. today, the numbers had fallen to 136. For example, the Mater Hospital which was overcrowded this morning with 33 patients, had 12 waiting on trolleys by 2 p.m.

While the Irish Nurses and Midwives Organisation and the special delivery unit calculate the numbers slightly differently, both sets of statistics agree on the following. The level of overcrowding in November 2015 is lower than the level in November 2014. The picture has changed considerably since August, when the situation was 40% worse year on year, to a position where it evidently is not. We are nowhere near the figure of 500 or 600 that we witnessed in the new year. We should all be focused on implementing the task force's plan. It would be regrettable if a focus on industrial relations and talks at the Workplace Relations Commission on how many staff there should be per trolley distracted us from implementing it and getting patients off trolleys altogether.

The number of delayed discharges is reducing steadily. The latest figure is 558 compared with 830 last December. This is the lowest number in nearly seven years. By the end of 2015, we will have provided more than 1,200 additional home care packages, 149 additional public nursing home beds, 24 additional private contracted beds in Moorehall Lodge, Drogheda and

65 short-stay community beds in Mount Carmel Community Hospital and elsewhere.

When it comes to scheduled care, health services are expanding and the level of activity is increasing, with an average figure of 250,000 outpatient appointments and between 120,000 and 130,000 inpatient or day case procedures each month. The public health service provided more than 1.1 million inpatient and day case treatments and more than 2.4 million outpatient appointments up to the end of September this year, an increase of 8% in the number of inpatient and day case treatments or procedures and 2.3% in the number of outpatient appointments compared with the same period in 2014. Anyone who talks about cuts needs to examine the facts.

Additional funding of €51.4 million provided by the Government in 2015 has allowed the HSE to increase capacity across public hospitals and outsource activity where capacity is not available to meet patient needs. These are real actions, implemented at my direction with funding that I secured from the Government. The detached commentators are those on the Opposition benches who have nothing to offer other than criticism that is often based on a poor or limited understanding or knowledge of the real issues and how the health service works.

The latest National Treatment Purchase Fund figures - these are not the HSE's figures - published on 6 November showed reductions in the total inpatient day case waiting list and the numbers of patients waiting between 15 and 18 months or longer than 18 months. Similarly, there was a reduction in the total number waiting for outpatient appointments, which has fallen below 400,000 for the first time this year. Senators should bear in mind that this figure includes anyone waiting any amount of time, including three, four, five or six weeks. Some 85% of patients still wait less than one year to be seen.

We are facing into what is likely to be a challenging winter period. It is imperative that we sustain the momentum of the various initiatives under way. In politics the Opposition will try to exploit problems in the health service for political gain. It was always thus, including when we were in opposition, and always will be. When the Opposition has no solutions other than calling on the Government to do what it is already doing, just a little more or a little faster, it resorts to attacking the Minister for Health of the day personally. That is how politics works, but my focus is not on politics but on finding solutions and implementing them. That is what I will continue to do.

Senator Thomas Byrne: I compliment the Minister on one thing: his speech was astonishing in its brevity. It was one of the shortest speeches ever made by a Minister to the Seanad and did not reflect the seriousness of the issue or the approach that needed to be adopted. The Minister used a considerable portion of his time in making such a short speech on this serious issue to attack the Opposition and he referred to himself in the third person. The only one who gets away with that, as far as I know, is the Pope. I point out to the Minister that there has been no personal attack on him by my party at any stage.

Senator Maurice Cummins: Listen to this morning's Order of Business.

Deputy Leo Varadkar: Senator Darragh O'Brien made comments in the newspapers. Perhaps Senator Byrne does not listen to his colleagues.

Senator Thomas Byrne: There has been no personal attack.

Senator Maurice Cummins: Listen to this morning's Order of Business.

Senator Thomas Byrne: The Opposition is very determined. It is determined to ensure this Government does what it was elected to do, that is, to sort out the problems in accident and emergency departments, make life better for patients and not allow nonagenarians - people in their 90s - or, as happened three years ago, a woman in her 100s, to be left on trolleys for hours or more than one day. The Minister has cherry-picked some figures but the reality is that from October 2014 to October 2015, the situation has got worse. In a number of smaller hospitals, the situation has improved, although there are 33 people on trolleys in Our Lady of Lourdes Hospital today.

The Minister has absorbed the criticism of him as a commentator and reflected it back on the Opposition. The reality is he is the commentator in chief and the health policy analyst, which he has set himself up as. However, that is wrong. He is the Minister for Health and he needs to solve these problems. How much political energy and capital was spent by Fine Gael over a period of approximately seven years before the last election promoting universal health insurance, which was called fair care? There were meetings up and down the country on fair care, which was supposed to solve problems in the health service in general but specifically solve the trolley crisis. It has now bitten the dust, a year after the Minister wanted it to bite the dust. There was a year of pretence, with time and money wasted and with the problems in the health service getting far worse. As I said to the relative of a woman in her 90s who was left in a trolley for more than 24 hours, this is the price Fine Gael is prepared to pay for the budget giveaway that was criticised by the Irish Fiscal Advisory Council. Fine Gael does not mind this happening but the people who are queuing up or are in inappropriate accommodation in our hospitals are suffering badly. The Government is not prepared to deal with the issue. The nurses' unions have effectively said they have had enough. I note the Minister drew them in today to try to back up his argument. By calling for industrial action, the nursing unions have a different view from the Minister. It is a bit cheeky of him to involve them in support of his arguments.

This crisis is absolutely intolerable. It must be tackled but that is not happening. Some of the worst overcrowding was during the summer when traditionally that should not be the case because the winter is often worse. That was a direct result of Government funding cuts and the mismanagement of the Government service. How much energy, time and resources did the former Minister, Deputy Reilly, put into the special delivery unit, which was sending invoices across oceans to enable people not to pay VAT? How much time was devoted to that special delivery unit when the National Treatment Purchase Fund was abolished to pay for it, with no results whatsoever? Everybody in Cabinet, including the Minister, seemed prepared to give the then Minister, Deputy Reilly, a free pass because he was a doctor and knew what he was talking about. It was very clear that he did not know how to handle the problems in our health service.

The failure of the Minister to take definitive action to solve this problem continues to threaten the lives and safety of particularly vulnerable and elderly patients. It is rich of the Minister to criticise the Opposition and to blame it for criticising him. It is our solemn duty to stand up for those who are on trolleys or who may be about to be left on trolleys and to keep the pressure on the Minister to ensure he is not simply a commentator but does his job as Minister for Health, a post to which he was appointed by the Taoiseach. We must insist that he does that job and that he solves the trolley crisis.

Senator Colm Burke: I welcome the Minister to the House and thank him for his statement. I remind my opponent that the health budget in 1997 was €3 billion. By 2007, it was €15 billion but there was not a five fold increase in the services available. There was very little change in that ten-year time period. Since we have come into office and over the past few

months in particular, the waiting time for the fair deal scheme has been reduced from 12 to 14 weeks to approximately two to four weeks as a result of opening up nursing home beds, making money available and ensuing applications are processed in a timely manner.

It is important to talk about the numbers when people complain about the health service. We seem to forget the volume with which we are dealing. The total number of outpatient appointments and day case procedures is more than 3.2 million in a 12-month time period. That is a huge number going through the system. In real terms, it is 60,000 people a week attending hospitals. The figure for accident and emergency is 1.2 million attendances per annum, which is approximately 27,000 per week. If there is a 20% increase, that is between 4,000 and 5,000 additional people using accident and emergency departments in any one week. That is a significant increase in a very short timeframe. The Minister is taking the right action in opening additional beds and he has outlined where they will be. He also outlined the fact that 750 additional nurses are working in the service. These are important changes that have occurred.

There has been a great deal of criticism about the number of nurses in this country but the OECD report is quite interesting. It outlines the number of nurses actually working rather than the number of registered nurses and the ratio of nurses per head of population is above average. It is amazing how people distort figures. There is much more that could be done. The main area where we face a challenge is in ensuring we have an adequate number of front-line staff, such as consultants, and adequate availability of space in theatres to do surgical procedures. That is an area on which we need to work.

We also need to engage in long-term planning. We have a hospital which is more than 150 years old and over the past 50 years, bits and pieces have been added on to it without any real long-term planning. Now is the time to start to engage in long-term planning in relation to our health services. We need to put in place plans for the next five, ten, 15 and 20 years. We cannot sort out these problems overnight. The Minister has responded in a very positive manner to the issue in accident and emergency departments. The scare-mongering is uncalled for and is not accurate. It is important we do not give a false impression.

An area we need to examine is the admission to hospital of elderly patients from nursing homes. We need to reduce the number of admissions. I have stated previously that we need to allow nurses to do certain procedures which, at present, can only be done in hospitals but which nurses in nursing homes are competently qualified to carry out. We need to change the regulations to allow qualified nurses, who have the experience, to provide that care in the nursing home without the person being admitted to a hospital. Someone from a nursing home who needs to see a dietitian has to be taken into the hospital and reviewed there. There are some issues we could easily deal with and that needs to be done. Overall, the work that is being done by the Minister, his Department and the HSE has brought about changes, is reducing the waiting times and progress is being made. Long may it continue. There is no difficulty about people highlighting issues, but let us be positive about it and about the changes that have been made.

Acting Chairman (Senator Michael Mullins): The only other spokesperson present is Senator Moloney. She has five minutes. The order of the House is that group spokespersons are given five minutes.

Senator Marie Moloney: I will make it very brief because I know others want to get in and the time is short. I thank the Minister for coming in and for his statement here. The extra nurses, doctors and so on look good on paper. However, nurses do not go on strike just for the

fun of it. They are encountering problems in emergency departments and there is a domino effect, because if there are not enough beds in the community and in community hospitals, people cannot be moved out to those and then there are no beds for people in emergency departments to be moved into. I was listening to a nurse on the radio yesterday morning and she said that much of the problem was not just in emergency departments, but about the availability of beds. These patients have been seen by emergency department staff and they are supposed to go onto the wards for whatever care they need, but the beds are not there, so they end up staying on trolleys. There is a domino effect. For example, there is a hospital in Dingle, County Kerry, and beds have been put into a section of it, but they are not open.

There is clearly a staff shortage there and while I appreciate that there are 750 more nurses we still do not have enough, so we need to concentrate on that area. I will give the Minister one example of a nurse I was dealing with. I think I have written to his office about it. An Irish woman who went to America and trained as a nurse there came back home to live with her family and decided she would take up nursing in Ireland. Lo and behold, she has to go back to college in Ireland for four years before she can nurse here. That cannot be right. She has been nursing in America but she has to come back now and do four more years in college. She has to start at the very same place as someone coming out of secondary school. There are places we could look at to bring in some extra nurses.

The home care package has been increased and I can see that, but it is vital to help people keep the patient in the home. As I spoke on the Social Welfare Bill yesterday on the Order of Business, I complimented the carers who care for people in their homes because emergency departments and hospitals would be far worse off if these people were not caring for people in the home. The home care package is vital to help those people. I wonder if it would help if GPs could send people directly for an x-ray without having to go through emergency departments. I know there will be x-ray machines in the primary care centres when they are up and running, but if one sends someone over to an emergency department, they must wait there before being sent on for an x-ray, so that is using up more time.

I could keep talking about it, but I know others want to get in and the time is very short. The spokesperson on health sends his apologies because he could not be here to speak on this, so I will let others have their say and we will wait to hear the Minister's responses.

Senator Sean D. Barrett: I welcome the Minister to the House. Looking at the notes on this issue prepared for Members by the Oireachtas Library and Research Service and updated on 15 February, the Minister inherited a situation where Irish expenditure on health is actually higher than the OECD average: \$3,890 as against an average of \$3,484 for the OECD. The United Kingdom figure is \$3,289. There are resource allocation issues. That is a big budget. Most recent Ministers for Health have been an endangered species. They are pursued as if they were Scrooges, looking for new ways to grind down the sick and the poor.

There is a budget, which seems large. Other commentators would say that if one takes into account that the Irish population is younger than typical in an OECD country, there are genuine questions about what is happening here. I welcome the Minister's contribution on this. Is there excessive hospitalisation? That is expensive. Have outpatient appointments replaced GPs? I have heard people, including the Minister's predecessor, say there is evidence that GPs are deskilled in the neighbourhood of major hospitals. It is easier to refer a patient on to a consultant at the hospital rather than tackling the problem oneself. I am worried that we have been running down GPs to some degree and giving away their services for free to the under-sixes

and over-70s, regardless of income. I would not have implemented either of those policies. Do we have hospital wards that are designed for nine beds but which the people upstairs only allow eight into, putting pressure on emergency departments? Senator Moloney has mentioned care for patients in their own homes. Can we have clinics attached to pharmacies, for example, and break down the huge hospital monolith, of places with huge premises, many of which were built relatively recently at huge capital costs? We need step-down facilities. Since I raised it with the Minister recently on a Commencement debate, many people would say Baggot Street Hospital is there to replace a number of beds as a step-down facility. It would probably cost about €40 million. We have these facilities. That is a shortage in the system. We have highly-trained and skilled consultants and nurses.

It raises the question of whether the Irish inpatient hospital population needs to be there, whether there is something wrong and whether management can do something in co-operation with doctors and nurses. The numbers prepared by the World Health Organisation, WHO, and the OECD, which the Minister's Department publishes each year and which the Oireachtas Library and Research Service has updated, show there is a big budget, which is generous in comparison with OECD countries. It should always be more, but that reminds me of a definition I read a long time ago. The WHO definition of health was that one should feel perfectly splendid all the time. I am afraid that is not the real world and the Minister has scarce resources over many competing uses.

Now is the wrong time to ask, when strikes are pending, but is there a way that very big budget could be turned into more healthcare with the co-operation of nurses and doctors? Are there excessive layers of administration? Every time somebody makes a comment like that, each of the groups involved says that it is not responsible, but overall the budget is high per head, as those numbers show, at \$3,890 in 2012 compared to an OECD average of \$3,484. The United States is outstandingly high - that is the way it has decided to go - but many other OECD countries are able to run a health service without the kind of political agitation and distress caused to people by ours. Could we do better out of that budget? If the Minister can, I wish him the best of luck with that and every success and support, but I do not think the problem is entirely one of budget.

Acting Chairman (Senator Michael Mullins): I now call on the Minister to respond.

Senator Trevor Ó Clochartaigh: I would like the Chair to clarify whether other Members will be allowed to speak.

Acting Chairman (Senator Michael Mullins): My hands are tied by the Order of Business. What was decided this morning was that group spokespersons would contribute to the debate, with contributions not to exceed five minutes.

Senator Trevor Ó Clochartaigh: It does not say group spokespersons only, it says group spokespersons. Surely it is very unusual in a debate such as this in this House that only they speak. No other debate I have attended has been confined to spokespersons. This discriminates against any Senator in the House who is not in a group and is a mechanism to gag other Senators who want to speak and who have stayed here until 5.40 p.m. on a Thursday evening so that we could take part in the debate.

Acting Chairman (Senator Michael Mullins): I can only go by the order of the House. My hands are tied.

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Senator Trevor Ó Clochartaigh: I am asking for a ruling. I have listened carefully to the Acting Chairman but there is no reference to group spokespersons only being allowed to contribute. May other Senators speak to the issue?

Senator Thomas Byrne: On a point of order, the Order of Business from this morning allows 40 minutes for debate and we have not exhausted that time.

Senator Trevor Ó Clochartaigh: Yes.

Senator Thomas Byrne: Perhaps the Acting Chairman could use that wriggle room to allow other Members to speak and we could hear the Minister's response as well.

Senator Gerard P. Craughwell: I have a point of order as well. As I have been refused access to any group, I am, as such, debarred from having my views passed through a group. I agree with my two colleagues. I have not come here to have a pop at the Minister but rather to place a few issues on the record. I am really getting tired of being excluded from debate in this House.

Acting Chairman (Senator Michael Mullins): With respect, the appropriate time to object to this was this morning.

Senator Gerard P. Craughwell: At no stage this morning were we told that we would be excluded.

Acting Chairman (Senator Michael Mullins): It was indicated this morning that statements on emergency department waiting times would be taken and would conclude no later than 5.40 p.m., with the contribution of group spokespersons not to exceed five minutes and the Minister to be called upon to reply no later than 5.35 p.m.

Senator Trevor Ó Clochartaigh: That is usually what we hear and in the normal course of any debate I have listened to which has been ordered similarly, after the group spokespersons, others are allowed to contribute. It does not exclude anybody else or refer to group spokespersons only. That is misleading. I call on the Acting Chairman to make a ruling on that.

Senator Thomas Byrne: The order has already been breached in allowing the debate go past 5.40 p.m. so with that in mind, perhaps the Acting Chairman could allow colleagues to speak.

Senator Gerard P. Craughwell: Three more Senators wish to speak so it is hardly the end of the world.

Acting Chairman (Senator Michael Mullins): My hands are tied and I can only vary it on the recommendation of the Leader or Acting Leader.

Senator Gerard P. Craughwell: Senator Colm Burke is Acting Leader.

Senator Colm Burke: My understanding is the Minister has prior commitments and, unfortunately, cannot stay longer than the time allocated. I do not think we can extend the time at this stage. I am sorry and I would like to accommodate my colleagues but the Minister has a prior commitment.

Deputy Leo Varadkar: I am not involved with organising the business of the House.

Senator Thomas Byrne: We need a nod from the Minister.

Deputy Leo Varadkar: I cancelled a visit to Tallaght hospital today - which would have included a trip to the accident and emergency department - in order to be here. That was on the basis of a 40-minute debate. If the House arranged its business for a longer debate, I could have made alternative arrangements. I cannot do so now.

Senator Gerard P. Craughwell: I respect what the Minister has said and I fully appreciate that this is not of his doing. I acknowledge his coming to the House. He will not know the number of times I have gone through this issue in the Seanad and it is unfair to involve the Minister in my grievance. I thank him for coming and I am sorry about this.

Deputy Leo Varadkar: I absolutely have to leave by 6 p.m. but I would be happy to waive my time to allow others to speak up to 6 p.m., if permitted. I cannot organise the business of the House, Senators must do that. This is a regular occurrence.

Senator Thomas Byrne: It is well organised by the Opposition.

Senator Gerard P. Craughwell: Bearing in mind the Minister's comments, I ask the Acting Chairman to allow the two remaining speakers to contribute.

Acting Chairman (Senator Michael Mullins): I must take direction from the Acting Leader.

Senator Colm Burke: In fairness, the Minister needs an opportunity to reply. I would have no problem with the speakers having something like three minutes. That would allow time for the Minister to reply. In fairness, the Minister needs five minutes to reply.

Senator Sean D. Barrett: I thank the Acting Leader and the Minister for their generosity. Perhaps we could move on rather than discussing the order. Senator Craughwell's views on health would more usefully take up the time that the Acting Leader and Minister have so generously provided.

Senator Colm Burke: I propose that we extend the debate to 6 p.m. but the Minister should be allowed five minutes to reply.

Acting Chairman (Senator Michael Mullins): Is it agreed to provide three minutes to the speakers? Agreed.

Senator Gerard P. Craughwell: I have come to congratulate the Minister on the work he is doing. He is dead right that we hear much talk about this every year, no matter who is in government. I recall, as a ten-year-old, being lined up in what we called "the long ward" in the regional hospital in Galway because it did not have enough beds. That was a long time ago - 52 years ago to be precise. Every year since, I have heard of the problems of overcrowding. I married an accident and emergency department nurse and I know the Minister has worked in those departments. They are a disaster zone as far as I am concerned.

I have a deep-seated problem with the way the personal dignity of some patients in accident and emergency departments is constantly on the line. I had a relation who was in such a department and she was placed between two men and the beds were so close together, I could not walk between them. Another relation, a young woman, was moved from the accident and emergency department to a ward, for which we were grateful, but there were three men in there.

That is totally wrong.

The Croke Park agreement - that was before the Minister's time - and the Haddington Road and Lansdowne Road agreements have all cut resources in hospitals and made them very difficult places in which to work. I fully support my colleagues in the nursing unions on the stance they have taken. I am not so sure the Minister could solve this problem tomorrow morning. He is not working in every accident and emergency department in the country but he is the Minister responsible. He is trying his best and I am not 100% sure he has the full support of the HSE right across the board. I compliment him on what he is doing and I thank him for taking the time to allow me to speak this evening. I would like to see the Minister trying to put an end to the industrial dispute that is about to confront us in the very near future with respect to nurses. We have a problem recruiting them. I do not know what else the Minister can do, as he has offered training money and payment for registration. We lost many of these young nurses to Australia, New Zealand, Canada and various other places and I do not know how they can be encouraged to return.

This is not the first Minister for Health to have this problem on his plate and something tells me he will not be the last. I appreciate his efforts and I wish him luck. I thank the Acting Chairman for giving me those few minutes to speak.

Senator Mark Daly: I thank the Minister for coming to the House and making time for this issue. Mark Twain spoke about statistics being pliable and the facts being stubborn. The facts are that the position regarding accident and emergency departments is disastrous. I know the Minister said we are resorting to personal attacks but we are doing our job as members of the Opposition. We are pointing out where the system is failing, so we are not being personal with the Minister. We are asking the Minister to do his job. We are not asking him to be the commentator-in-chief or an apologist for the HSE, which seems to be the role he has assumed. That was pointed out on "The Late Debate" by all four commentators of varying hues, with one saying that if only he was a Deputy and a member of the Cabinet, he might be able to fix the system. We are asking Deputy Varadkar to be the Minister for Health. We are not saying that what he is doing in his capacity is good enough and we think he should do more and do better. He is not the victim and the victims are those on trolleys. This is not a personal attack on the Minister but we do not want him to be the victim-in-chief either. We want him to fix the system.

The victims are on the trolleys or waiting for emergency ambulances. A HSE report pointed out that because Ireland is such a rural country, it is accepted that ambulances will not get there on time. Senator Moloney and I know that happens in Kerry, as every month there is a story about an ambulance not arriving in time. It happens in Kerry and Roscommon and we see it every day of the week. Ambulances are not showing up, let alone getting to an accident and emergency department. Sometimes they show up too late and the patients are the victims. This is not a personal attack and our job is to be the Opposition, highlight what is going wrong in the system and seek solutions. We are not the people who can make the solutions happen.

Accident and emergency departments are not working. January is approaching and we all know what happens in January. The HSE is hiding the problem. When the Minister visited Our Lady of Lourdes Hospital, they moved beds out of accident and emergency departments into the wards and returned them to the department when he left. Any Government with its own health service hiding beds when the Minister arrives would be straight out of "Yes, Minister". It is happening, which is a sad reality. Not only is the HSE hiding the facts, it is hiding patients when the Minister visits a hospital. I am sure one hell of a job was done at Tallaght Hospital

when he visited. Everybody was put into a broom closet and hidden away. If he went back-----

Senator Thomas Byrne: It happened in Drogheda, too.

Senator Mark Daly: The victims are the patients on trolleys.

Minister for Health (Deputy Leo Varadkar) (Deputy Leo Varadkar): I apologise to Senator Thomas Byrne for making a short speech. Sometimes, it is possible to say what one wants to say concisely without repeating the same things *ad nauseam* all the time, as if it would achieve anything. Solutions are not found in long speeches, commentary or analysis. That is why my job is to be in HSE headquarters, where I was today, in my Department, where I was yesterday, and on the ground in places such as Tallaght hospital, where I had intended to be this afternoon. I will reschedule my visit. I accept, however, that it is the duty of Opposition Members to put pressure on me to do my job, but they also have a duty to proffer solutions and I did not hear one in the entire debate from Fianna Fáil Members, which says much.

Senator Marie Moloney is correct that overcrowding in emergency departments is caused by a number of factors, most of which are outside the emergency department. It is not a simple function of bed capacity. If it were, we would have had the problems in Drogheda solved by now, given that there are 24 additional nursing home beds and 12 out of 24 open in the hospital. There are other issues, including how beds are used. A hospital in which the average length of stay is eight nights needs twice as many beds as a hospital in which the average length of stay is four nights. It does not get any more work done; it just does it slowly. The same applies to admission rates. In some hospitals 25% of patients who attend the emergency department are admitted, while in others 50% are admitted. The hospital that admits twice as many patients needs twice as many beds. There are many reasons a hospital admits more patients. Although I would love to be able to personally manage every hospital in the country, I cannot. I can give policy directions on how things should be done and try to fund them.

I can check the issue of the American nurse. Nurse training in America is different and not equivalent to training here. Our nurses earn BSc degrees, whereas American nurses are still trained in the old way. I am sure this applies to other professions also. GPs often have direct access to X-ray facilities. Although such access may not be available every day, it is available in most cases. On the western seaboard, we have a pilot project to give all GPs access to an ultrasound service within five days for urgent cases and ten for non-urgent cases. Expanding GPs' access to diagnostics in the coming years is part of the solution.

Senator Sean D. Barrett mentioned spending. It is important that we always compare like with like. Much of what the health service does in Ireland such as in providing social care services for older people is done by local authorities in the United Kingdom. Our spend includes both public and private services and the money spent on private services is probably not spent in the same way as it would be by the State. We are not an outlier in spending. We are somewhere in the middle and do not get the value we should. We have corresponded on Baggot Street hospital. I was there on Tuesday night to check out some of the sexual health services offered. There are no inpatients in the hospital; there have been no beds in it for 25 years. As it is used as a day facility, we are not losing beds.

I thank Senator Gerard P. Craughwell for his very measured comments. As he said, the issue of emergency department waiting times has plagued us for a long time and occurs in all countries in different ways. I want to do the best I can to alleviate the problem. There is variability

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in implementation and co-operation from site to site.

On ambulance service response times, the target is 80% or 60%, depending on whether it is an echo or a delta call. They have not been invented in Ireland because we are a rural nation; they have been taken from other jurisdictions. It is accepted worldwide that it takes longer for an ambulance to reach a remote location and it always will. No matter how many ambulances we have or who the Minister for Health is, an ambulance will not always get there on time. That is the truth of real life and people who think they can change it by changing the Government or the Minister are mistaken. We are increasing resources for the national ambulance service. During the recession spending was not cut back but increased. An air ambulance was provided. Last year the budget was increased by €5 million and it will be increased by €5 million next year.

Senators may not be aware that I visited Our Lady of Lourdes Hospital twice. I visited it once on the way home from the funeral of the garda who was murdered. I telephoned reception from the motorway to say I would be there in 20 minutes. I do not know how many patients they managed to move in 20 minutes, but it was probably not many, particularly in a crowded hospital.

Senator Mark Daly: Given the accident and emergency department crisis, they are not moving them fast enough.

Deputy Leo Varadkar: I visited a second time officially. I regularly visit hospitals at short notice. I can do so, given that I know many people who work in hospitals and can walk in. I have visited, without notice, Connolly hospital in Blanchardstown, St. James's Hospital, the Mater Hospital, Tallaght hospital at 8 p.m. and St. Vincent's University Hospital and will do so again. Any time a Minister, an important person or a VIP visits anywhere, there will be those who will want to put their best foot forward and make things look as good as possible. If Senator Mark Daly ever has the opportunity to be a Minister, he will know this. The reverse also happens. At a union meeting a nurse admitted to having moved a patient out of a cubicle to a corridor in order that I would see what the hospital looked like on a bad day. Therefore, it happens both ways. When people know the Minister is coming, they organise protests and confront me with issues that might not arise on the day. I did not come down in the last shower; I am not that stupid, which is why I make visits at short or no notice, as well as planned visits.

Acting Chairman (Senator Michael Mullins): When is it proposed to sit again?

Senator Colm Burke: At 2.30 p.m. next Tuesday.

The Seanad adjourned at 6 p.m. until 2.30 p.m. on Tuesday, 1 December 2015.