



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

Business of Seanad	426
Commencement Matters	427
Defence Forces Ombudsman Complaints	427
Copyright Legislation Review	430
Order of Business	432
Misuse of Drugs (Amendment) Bill 2016: Committee Stage	452
Request to move Adjournment of Seanad under Standing Order 30.	467
Immigration (Reform) (Regularisation of Residency Status) Bill 2016: Second Stage	467

SEANAD ÉIREANN

Dé Céadaoin, 29 Meitheamh 2016

Wednesday, 29 June 2016

Chuaigh an Leas-Chathaoirleach i gceannas ar 10.30 a.m.

Machnamh agus Paidir.
Reflection and Prayer.

Business of Seanad

An Leas-Chathaoirleach: I have received notice from Senator Gerard Craughwell that, on the motion for the Commencement of the House today, he proposes to raise the following matter:

The need for the Minister for Defence to explain why the decision of the Defence Forces Ombudsman on the redress of wrongs in relation to a person, details supplied, has not yet been implemented.

I have also received notice from Senator Ivana Bacik of the following matter:

The need for the Minister for Jobs, Enterprise and Innovation to inform the House when she proposes to implement the recommendation of the Copyright Review Committee in its report entitled Modernising Copyright, published in October 2013, concerning the extension of the small claims procedure in the District Court to include intellectual property claims up to the value of €15,000, as provided for within the draft statutory instrument prepared by the committee.

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

The need for the Minister for Health to introduce an independent appeals process under the fair deal scheme to allow a right of appeal to nursing home providers that are unhappy with the fee proposed by the National Treatment Purchase Fund, NTPF.

I have also received notice from Senator Lynn Ruane of the following matter:

The need for the Minister for Health to discuss the details of the lifting of the MSM blood donation ban and to outline a clear timeline for its delivery.

I have also received notice from Senator Victor Boyhan of the following matter:

The need for the Minister for Agriculture, Food and the Marine to outline his plans to develop agrifood business opportunities in key international markets, such as China and the USA, for Irish beef and lamb and to optimise the use of the Origin Green quality assurance scheme.

29 June 2016

I have also received notice from Senator Maura Hopkins of the following matter:

The need for the Minister for Transport, Tourism and Sport to provide an update on the N5 Ballaghaderreen to Scramogue road project, the estimated timeframe for delivery of this project and the interim measures required to address current identified road safety issues on the existing N5 route, particularly between Frenchpark and Tulsk.

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

The need for the Minister for Foreign Affairs and Trade to state if he approved the landing or transit through Irish airspace of certain US military aircraft and, if so, why given that the presence of these aircraft, belonging to a belligerent state, in or over Irish territory is a clear breach of Ireland's international law obligations as a neutral state.

I have also received notice from Senator Kieran O'Donnell of the following matter:

The need for the Minister for Education and Skills to provide an update on plans for the provision of two new secondary schools at Castletroy and Mungret in Limerick.

I regard the matters raised by the Senators as suitable for discussion. I have selected Senators Gerard Craughwell and Ivana Bacik and they will be taken now. Senators Colm Burke, Lynn Ruane, Victor Boyhan and Maura Hopkins may give notice on another day of the matters they wish to raise. Senators Paul Gavan and Kieran O'Donnell have withdrawn their Commencement matters.

Commencement Matters

Defence Forces Ombudsman Complaints

An Leas-Chathaoirleach: I welcome the Minister of State at the Department of Defence, Deputy Paul Kehoe, to the House. Senator Craughwell has the floor.

Senator Gerard P. Craughwell: Cuirim fáilte roimh an Aire. I thank the Minister of State for taking the time to come to the House to deal with this important matter for a second time. He will recall that on 27 January, we both participated in a Commencement debate concerning a case of a former Permanent Defence Forces officer, a lieutenant colonel with a distinguished service record, and the recommendations of the Defence Forces Ombudsman. The submission was in the form of an appeal for redress of wrongs made under section 114 of the Defence Act 1954, on foot of the considered findings of the Chief of Staff that the complainant had not been wronged in the view of the Defence Forces. The complaint, as the Minister of State will know, was referred to the ombudsman and was upheld. The Minister of State will also recall that in his final report, the ombudsman concluded that the promotion competition process was administered in a procedurally unfair manner as, in his view, there was ambiguity in relation to the provisions regarding length of service marks. In addition to his findings, the ombudsman made a range of recommendations arising from this case. Last January, the Minister of State told me the following:

The recommendations of the Ombudsman for the Defence Forces are under active con-

sideration. I am advised that the matter may require obtaining advices from the Office of the Attorney General before any decision on the matter can be made and the issue of such advice is also under active consideration.

As a former member of the PDF myself, I was not going to allow this exemplary officer's case to lie forgotten on some dusty shelf in the Department and, as such, I have maintained contact with the officer in question.

It is my understanding that the former senior Minister issued an instruction to Department officials to implement the ombudsman's recommendations on the matters we are referring to today. I was delighted to get this information and immediately passed it to the officer concerned. However, he informed me that he had not been contacted by the Department and feared nothing would happen. I contacted the Department and spoke to a principal officer. I asked him why the Minister's instruction had not been carried out and I was shocked by his answer. I was told that it was felt within the Department that the Minister was wrong and that the case was referred to the Attorney General for advice. I asked when it had been referred was told it had been referred a week or so earlier. As this was several months since the Minister of State, Deputy Kehoe, and I had spoken in this House, I decided to submit some freedom of information requests. Is it the case that officials in the Department are second guessing ministerial instructions?

I submitted seven FOI requests. I sought the date of the final report supplied by the ombudsman and was told it was 30 June 2015 so my request was granted. I asked for the date that the report of the ombudsman was brought to the attention of the Secretary General of the Department. I was told it was brought to the attention of the Assistant Secretary on 30 June 2015 but they could not tell me when the Secretary General, the most senior civil servant in the Department, received the report. I asked when the Minister of State and his predecessor received the report and I was told they could not have it because it was a matter under active consideration. I asked for any internal correspondence and I was told I could not have it because it was a matter of internal consideration. I asked for correspondence between the Minister of State and the former Minister and I was told I could not have it because it was a matter of ongoing discussion. I asked when the final decision with respect to referring the case for advice to the Attorney General was made and I was told I could not be told when it was referred because the matter was ongoing. I asked when the final report of the Defence Forces Ombudsman on redress of wrongs in respect of the officer in question was sent to the Attorney General and, again, I was told I could not be told because the matter was ongoing.

I then found out that the Department has seconded to it a full-time member of the Attorney General's staff. The Minister of State is a reasonable man but this looks like the Department is deliberately frustrating a favourable outcome for a complainant through an ombudsman's decision. I have never heard of such a decision being challenged and I do not know what is going on in the Department. I have made a number of freedom of information applications regarding cases sent to the ombudsman over the past number of years. I would like to get to the bottom of what is going on in the Department. The Minister of State came to the House in good faith last January. I believe him to be an honest, decent man and he outlined in reply to me what he thought was the clear state of affairs. It seems to be anything but clear and somebody somewhere is frustrating this. I am sorry to drag him back to the House this morning but I look forward to his reply.

Minister of State at the Department of Defence (Deputy Paul Kehoe): I thank the Senator. He is correct that I replied to a similar Commencement matter in January. This case in-

volves the submission by a former officer of the Permanent Defence Forces to the Ombudsman for the Defence Forces. The submission was in the form of an appeal from redress of wrongs made under section 114 of the Defence Act 1954 on foot of the considered findings of the Chief of Staff that the complainant had not been wronged in the view of the Defence Forces. The complainant alleges that he was wronged by an administrative error in a promotion competition held in 2012 and, as a consequence, he was not promoted to the next higher rank with consequential implications relating to retirement on age grounds, gratuity and pension entitlement.

In his final report, the ombudsman concluded that the promotion competition process was administered in a procedurally unfair manner as, in his view, there was ambiguity in respect of the provisions regarding length of service marks. In addition to his findings, the ombudsman made a range of recommendations arising from the case, some of which may have wider implications for the defence organisation. While, under statute, I am not bound to accept the ombudsman's findings, I am keen to ensure a conclusion to this matter is reached shortly. Given the complexities involved, it is right and proper that the Department fully deliberates on the potential implications of the findings.

As acknowledged to the Senator earlier this year, the Department has sought and has now received legal advice on the matter. I am aware that the Senator has been in discussions with my officials and has been advised that the matter is under active review. I am sure he will appreciate that given the complexities of this case, the Department must exercise due diligence in its approach. However, I acknowledge his concern that this matter be resolved as soon as possible and I will bear this in mind when I receive the Department's report. In light of this, the House will appreciate it would be not appropriate for me to comment further on this case at this point in time.

Senator Gerard P. Craughwell: The reply is very much in line with the reply I received last January. At the end of the day, it is outrageous to think the Secretary General of the Department, from what I can gather, has not seen the ombudsman's report. It is even more outrageous that a junior official would take it upon himself to countermand a decision by a Minister, albeit that it was verbal, to decide to send the case to the Attorney General. Why send it to the Attorney General's office when one of her staff members is on site? What is going on? I acknowledge the Minister of State cannot watch everything that is going on all day, every day but this is an affront to the governance of the Department itself and to the political system that manages the Department. I feel strongly that I must get an answer to this case within a set timeframe. If the Minister of State has the legal advice, I am sure his officials can advise him immediately. I would like him to outline a timeframe in order that I can give this man some peace of mind or are we to wait until he dies before we sort it?

Deputy Paul Kehoe: We received the report from the ombudsman and there was nothing wrong with seeking legal advice upon receipt. It is right and proper for the Department to do so. We have received the legal advice. I am not aware of anyone from the Attorney General's office based in our offices.

Senator Gerard P. Craughwell: I can give the Minister of State the name.

Deputy Paul Kehoe: The person might be in the office for different reasons-----

Senator Gerard P. Craughwell: No, the person has been seconded to the Department.

Deputy Paul Kehoe: -----and not particularly to deal with this case. I do not believe a full-

time member of staff from the Attorney General's office has been seconded to the Department's office in Newbridge specifically to deal with this case.

Senator Gerard P. Craughwell: I do not believe that.

Deputy Paul Kehoe: The Department has received the legal advice. A report is being put together for me to consider. As soon as I have it, I will consider its findings and I will make a recommendation to the Department. The gentleman in question has written to the Taoiseach who has given me the correspondence. He also wrote to the other Members of the Oireachtas, in particular, two Members of the Lower House, and they have also been in contact with my office. I understand the gentleman has distinguished service in the Defence Forces and I respect him for that, as I do every member of the Defence Forces. This case is being dealt with at a senior level within my Department and it will not go unnoticed. As soon as I have received the full report and the legal advice, I will make a decision on it and I will bring the case to a conclusion as soon as possible.

Copyright Legislation Review

Senator Ivana Bacik: I welcome the Minister to the House. I congratulate her on her appointment, about which I was delighted. I wish her the best with it and I look forward to working with her in this House in her new role.

This question concerns a matter which I know has been the subject of ongoing communications with the Minister's predecessor and with herself. It is the need for her to inform the House when she proposes to implement the recommendation of the Copyright Review Committee in its report, *Modernising Copyright*, published in October 2013, concerning the extension of the small claims procedure in the District Court to include intellectual property claims up to the value of €15,000 as provided for in the draft statutory instrument prepared by the committee. This matter concerns the ability to enforce intellectual property rights before the courts in Ireland and, in particular, the ability for companies to represent themselves before the courts in lower-value intellectual property claims.

As stated, this matter has been the subject of correspondence with the Minister's predecessor, Deputy Bruton, as well as the Minister for Justice and Equality, Deputy Fitzgerald. I know colleagues, including Senator Kevin Humphreys, then a Deputy, as well as Deputies Simon Harris and Eoghan Murphy, corresponded with the Minister, Deputy Bruton, last year in respect of the matter. I have seen a response dated 1 June this year from the Minister's private secretary on the matter. While she recognises there is a wider issue concerning access to justice which falls within the policy responsibility of the Department of Justice and Equality, she states that nonetheless this also impacts on the area of intellectual property for which she has policy responsibility. I was delighted to see in the correspondence from her private secretary to this particular individual, who has raised the matter with me also, that officials from her Department are actively examining options to improve access to justice.

This raises a number of different issues and the individual who has brought the matter to my attention as well as the current and former Ministers' attention has a meritorious point. He points out that the Government encourages the creative industries to produce in Ireland and offers many incentives to boost the number of jobs in the economy but still has not implemented a clear recommendation from the Copyright Review Committee of 2013 concerning the need to

improve access to a mechanism for enforcing intellectual property claims.

The October 2013 report of the Copyright Review Committee, *Modernising Copyright*, makes a clear reference to the reforms in England which established the special jurisdiction of patents county courts, now renamed the intellectual property enterprise courts. In Britain, these procedures have been streamlined to save parties time and money. The report went on to recommend that the small claims procedure in the District Court be extended to include intellectual property claims up to the value of the standard limit of the District Court jurisdiction. The committee proposed certain amendments to existing legislation as well as a draft statutory instrument to bring such claims within the remit of the small claims procedure. The recommendation seems a sensible one which would improve on the current difficulties with access to the courts in respect of this sort of claim.

In terms of our obligations under EU law, it also appears that the current regime whereby companies must be legally represented must be complemented by some mechanism to improve access to the courts, particularly in respect of small intellectual property claims. The sort of reform proposed by the Copyright Review Committee offers us a way forward. It is a solution that would offer easier access and an easier method of resolution to companies and individuals with intellectual property claims. It would also enable us better to ensure compliance with EU law.

I look forward to the Minister's response.

Minister for Jobs, Enterprise and Innovation (Deputy Mary Mitchell O'Connor): I thank Senator Bacik for her warm welcome. I am delighted to see her, as an elected Senator, here too. I am also delighted to see Senator Victor Boyhan, my constituency colleague from Dún Laoghaire. Senator Bacik has raised an important matter. An independent Copyright Review Committee was established in May 2011 with the objective of examining copyright in the Irish context. This included considering the need to review and modernise existing legislation. The committee held a consultation to help gauge stakeholder opinion and this led to a series of recommendations by the committee. The committee then held a second consultation on those ideas. Its report, entitled *Modernising Copyright*, was published in October 2013 and contains in excess of 60 recommendations.

My Department has conducted extensive analysis of the committee's recommendations. This includes an assessment of the complex legal issues involved. Advice was obtained from the Office of the Attorney General, and relevant Departments were consulted to develop proposals. One recommendation relates to improved access to justice before the courts, a point raised by the Senator. This included extending the small claims procedure to intellectual property claims. The small claims procedure operates in the District Court and currently excludes intellectual property claims. My officials examined this recommendation with the Department of justice, which has policy responsibility for the Courts Service. Meanwhile, I have policy responsibility for intellectual property issues. We looked at enforcement of lower-value intellectual property claims and together we examined the potential for improvements in this area.

The issue of access to justice is important and I am anxious that rights holders can enforce their intellectual property rights. We conducted an analysis of the recommendations in the report. This included any constraints imposed by EU law and involved considering potential impacts on all Irish stakeholders. It also involved considering costs and benefits for Government. My Department is currently finalising legislative proposals for Government consideration and

I expect to bring these proposals to Government before the summer recess. Meanwhile, the EU Commission has continued its work on copyright. A number of consultations have been undertaken by the Commission which are used to gauge stakeholder views on copyright modernisation.

Copyright is a priority also in the digital single market strategy. We have already agreed a proposal on portability of content which allows EU consumers to access subscription services while travelling. We expect the Commission to make further proposals in September. Ireland supports greater harmonisation of copyright at EU level. Proposals creating opportunities for education and research are particularly welcomed. We support access to copyrighted material for people with disabilities. Overall, we want to ensure balanced solutions for all stakeholders. I look forward to the Senator's support for my Bill.

Senator Ivana Bacik: I welcome the Minister's full response to my question and thank her for it. I am particularly grateful to her for stating her own anxiety that rights holders will be able to enforce their intellectual property rights. As I have indicated, the current legal position amounts to a serious obstacle to the enforcement of intellectual property rights, particularly for small companies and independent individuals. This is the difficulty the copyright review committee has so clearly addressed in its recommendation. I am also grateful to the Minister for her statement that the Department is finalising legislative proposals for Government consideration based on the 2013 report and that she expects to bring the proposals to Government before the summer recess. I will be happy to support those proposals if they address the issue I have raised.

By way of follow-up, will the Minister state at this point whether the proposals will include implementation of the recommendation that I have focused on, namely, the reform of the small claims procedure to cover intellectual property claims? Will the Minister state whether that particular recommendation will be addressed in the proposed legislation? I welcome the announcement that we will, hopefully, see this legislation, at least in draft form, before the summer recess. I would be grateful for a response on that specific point.

Deputy Mary Mitchell O'Connor: I am bringing the memo to Government before the summer recess. I do not want to pre-empt the discussion that will take place in Cabinet. This will be the Government's opportunity to consider the committee's recommendations. I have heard the Senator loud and clear today. The memo will seek approval for legislative proposals to modernise copyright.

Senator Ivana Bacik: I thank the Minister.

Sitting suspended at 11 a.m. and resumed at 11.30 a.m.

Order of Business

Senator Jerry Buttimer: The Order of Business for today is No. 1, the Misuse of Drugs (Amendment) Bill 2016 - Committee Stage, to be taken at 12.45 p.m.; and No. 2, Private Members' business, the Immigration (Reform) (Regularisation of Residency Status) Bill 2016 - Second Stage, to be taken at 4 p.m., with the time allocated for this debate not to exceed two hours.

Senator Catherine Ardagh: I raise the issue of charities regulation and, in particular,

the case of corporate governance irregularities and mismanagement within the organisation Console, which has been the subject matter of a “Prime Time” investigation lately. The Health Service Executive, HSE, started an audit last April and the findings of this audit are now with the senior management of the HSE.

Console is a well-known national charity founded in 2002. It helps people who are distressed and have suicidal thoughts. It has offices throughout the country and its patron is our President, Michael D. Higgins. This charity recently expanded to the United Kingdom and it has been endorsed by many celebrities in the UK. It provides a 24-hour help line that anyone can call if they or members of their family are distressed. It receives approximately 3,400 calls per month.

People who watched the programme last night were shocked and appalled at the misappropriation of funds. Console has received at least €2.5 million from the HSE in the past five years alone for providing suicide prevention services. Its last filed accounts show that Console received grants of €817,000. The grants included €783,000 from the HSE and €31,000 from Tusla. It also received a further €3,500 from the national lottery, €521,000 from fundraising and €551,000 from donations. In addition, the Department of Foreign Affairs and Trade has allocated €130,000 to Console to allow it support Irish immigrants in the UK.

Console depends on the goodwill of thousands of people who do charity walks, runs and cycles around the country. I read in *The Irish Times* that the founder of Console, his wife and son ran up credit card bills of almost €500,000 on items such as groceries, designer clothes and foreign trips over a period of three years, according to the HSE audit. The audit also established that the family benefited by almost €500,000 in salaries and cars from the period between 2012 to 2014. Among the items the credit cards were used for were large unvouched withdrawals of cash from ATMs, trips to Australia, New Zealand, Singapore and other destinations, designer clothing from outlets such as Ralph Lauren and Hugo Boss, dining out, Rugby World Cup tickets and dental work.

“Prime Time” alleged that the Console chief executive officer had received director’s payments totalling €215,000 between 2010 and 2012, which allegedly is in breach of company law and Revenue regulations. These allegations raise serious questions with regard to charities and how State and privately raised funds are used and abused for people’s personal gain.

I ask the Leader to request the Minister to address the House on the role of the Charities Regulator in this matter and any other matters the HSE or the Charities Regulator is investigating. It is not acceptable that State funds are used in the manner alleged. It is particularly disturbing in light of the recent U-turn on mental health funding and the rise in mental health issues and suicide in our society. With so many people on waiting lists for therapies, this wanton waste makes me sick to the core when others are left anxiously waiting for appointment times.

My heart goes out to the many staff employed by Console who are 100% dedicated to their jobs. This incident is another blow to the charities sector when the majority of people working in the sector are hard-working, honest individuals living on modest incomes.

I would like to know the action the Minister is taking to ensure that other charities are being monitored and audited to prevent such abuse of State funding and people’s donations being spent on director’s payments, luxury cars and luxury travel. In particular, I would like to know the number of investigations the Charities Regular is involved in currently and whether other

charities that have been audited are being investigated. Can the Minister confirm to the House that the Charities Regulator will use all the powers it has under the Act to take over Console to ensure that the vital services it provides can be continued and extended?

Senator Gerard P. Craughwell: I am a little concerned about some of the utterances from the political class in Ireland as a result of the Brexit referendum. I hear people talking about how they got it wrong. We are democrats in this House and I ask the Leader, as a democrat, to acknowledge the fact that 72% of the electorate of the UK turned out, and 52% of those voted to leave the European Union. Whether we like that or not, it is wrong that we would in any way condemn the electorate of the UK for deciding to exit the European Union. I accept it has left many problems and I was delighted to hear on “Morning Ireland” earlier that Sinn Féin has parked its suggestion that there be some sort of Border vote. It is not the time to start rattling cages that do not need to be rattled just yet but we do need to look to the UK and to our brothers and sisters in Northern Ireland and respect their decision.

Senator Trevor Ó Clochartaigh: Dreaming again, Gerry.

Senator Gerard P. Craughwell: They have made their decision.

Senator Máire Devine: To remain.

Senator Gerard P. Craughwell: We must now work towards finding a way for us jointly to go together and ensure our Border remains open and that we remain part of the island of Ireland along with our brothers and sisters in Northern Ireland. It is not the time for people to start second guessing electorates or what might happen if we decide to go for an all-Ireland solution. It is a bit too early for that. I ask the Leader to acknowledge that in his reply.

Senator Rose Conway-Walsh: It might be parked but the engine has not been turned off.

I condemn the attack on Istanbul airport and offer condolences to the families of all those who were killed and those who were injured. It is a frightening time for those whose loved ones travel to areas targeted by such attacks, not knowing if their relatives have been caught up in them.

I want to table an amendment to the Order of Business to allow for time to discuss the motion put down by Sinn Féin Seanadóirí on Seanad reform. It is essential that if parties are serious about reform, they at least agree to allow time to discuss one of the first motions laid before the current Seanad.

I raise the issue of spending by the suicide charity, Console. I am aware that an administrator has been appointed and it is important to stress that services offered by the charity continue.

Following the charities sector wage scandals, arguments were put forward for the 2009 Charities Act to be implemented, with full accountability in terms of the salaries of senior employees. The Government dragged its feet on this issue to the degree that Sinn Féin introduced a Private Members’ Bill to move on the Act. Eventually, aided by the huge public demand for full financial accountability, the Charities Regulatory Authority was established in 2014 aiming to regulate charities to ensure their effectiveness, accountability and transparency to their donor and beneficiary communities.

Despite the controversies faced by charities in recent times, it is essential that the HSE continues to reassure those who use their services or who may need them that there is no break in

support. I commend all the workers in the many charities who do wonderful work across this country.

There were many contributions to the debate on mental health in the House and much stress was placed on the role charities and voluntary organisations play in aiding those worst affected. It is a hugely important issue for the House and action should be taken immediately on it to ensure we do not see the contagion effect on other charities as well as Console. I want to raise one other point briefly on the issue of Brexit, which is what we can do in Ireland. There are many conversations going on in Brussels and throughout the EU and Britain, but there are certain things we can put in place. I speak for the cohort of people who live in this State who have English pensions. While they may only be small English pensions, the Irish contributory pension that they receive is paid on a *pro rata* basis, and it is very important that the Department of Social Protection immediately take cognisance of the fluctuations in sterling and increase the payments here in line with the decreases in sterling. I believe this needs to be done immediately.

Senator David Norris: Hear, hear. It is great to hear Sinn Féin promoting English pensions-----

An Leas-Chathaoirleach: Will the Senator please clarify-----

Senator David Norris: -----and the good old English Government.

An Leas-Chathaoirleach: Will Senator Conway-Walsh please clarify to which motion she is referring as regards the amendment?

Senator Rose Conway-Walsh: It is to the motion on Seanad reform. It is the original motion tabled by Sinn Féin on one of the first days; it is all on the Order Paper.

An Leas-Chathaoirleach: I am grateful to the Senator. I called Senator John Dolan, but he was not offering to speak. I invite Senator Gerald Nash.

Senator Gerald Nash: I would like to share in the expression of sympathy to the people of Turkey after yesterday's horrendous terrorist attack and utterly meaningless loss of life. I share the condolences expressed by Senator Conway-Walsh. I visited Turkey on a number of occasions in recent years, once in an official capacity, and I was really struck by the warmth and hospitality of the Turkish people. Notwithstanding the fact that I am personally quite disturbed about the moves in Turkey towards a more autocratic style of government, our affection for the people of Turkey should remain. Our sense of anger at the horrendous attack in Istanbul airport yesterday is shared by everybody. We should all express our sympathy to the people of Turkey and the Turkish Government on the horrendous loss of life in Atatürk airport.

With regard to the situation at Console, I believe the comments made in the House by a number of speakers reflect the real public anger at the way in which certain directors of Console appear to have used the organisation as their own personal ATM in recent years. Over a period of time, lavish spending was clocked up on the charity's multiple credit cards, including on clothes, dental work and cash withdrawals. What we know now about how Console was run makes it very hard to comprehend where Console starts and where the interests of a number of directors ends. A charity should not be made or operated in the image of its founder or of any one person. If anything, it should be held up to an extremely high standard of corporate governance and ethical codes.

The scandal is a major test for the relatively newly founded Charities Regulatory Authority. A number of very important questions must be answered by the charities regulator, by the Government and by other agencies in an effort to restore trust in what is a very important organisation. In the first instance, there needs to be an unambiguous statement from the charity itself that its founding director is not still in charge, as there appears to be ambiguity around that. The charities regulator must make it very clear how and when it is going to deploy a number of independent trustees to ensure there is robust governance in the organisation and that the organisation restore the public trust, which has been so badly damaged.

I also wish to establish whether the Office of the Director of Corporate Enforcement, ODCE, will investigate the alleged conduct of the directors concerned, which has been revealed in media reports in recent days. I agree that there has been a huge amount of public investment in Console. It was not only a matter of public financial resources; people trust the organisation and people trust the staff in Console. I would argue that there are a considerable number of people in this country who owe their lives to the services delivered to them by the organisation. In the efforts to establish the facts around this case and our efforts to re-establish trust in the organisation, which must happen, we should not in any sense blame the staff. Trust has to be restored, and it is the job of Government, the organisation itself and the relevant regulator to do that.

An Leas-Chathaoirleach: The Senator is over time.

Senator Gerald Nash: We are all concerned about transparency in public life. Yesterday was actually a good day for transparency in public life in Ireland because, as a result of the Lobbying Act introduced by the Labour Party in the last Government, the Standards in Public Office Commission, SIPOC, published its first report concerning the behaviour of registered lobbyists in the State. The report found that 2,500 returns were made by 1,000 registered lobbyists. There is still more to be done around this issue and we would like to see SIPOC given more teeth to investigate breaches of the Act and to ensure there is more compliance than seems to be the case at the moment. I do not believe that anybody in all seriousness would accept that there should only be 2,500 returns on 1,000 registered lobbyists in the State. We know that the picture is actually very different from that.

Senator John O'Mahony: I wish to discuss the PSO levies on electricity charges and the proposed increases for 2016 and 2017. The PSO is a Government levy on all customers, both domestic and industrial. It has been increased substantially over the years and it is used to subsidise renewable energy generation. The proposed increase of 36% comes into effect in October. I have been contacted by a number of companies that would be greatly affected by this increase. In one case, a company whose bills during 2015 and 2016 were €5,500 per month, or €66,000 per annum, will face bills of €7,500 per month, or €90,000 per annum, if this goes ahead.

We all know the importance of small businesses, job security and job creation, but this increase would negatively affect that. I know some decreases in electricity prices have been implemented by energy companies in recent times, but this would wipe all of that out. I ask that the Minister with responsibility for this area - the Minister for Communications, Energy and Natural Resources, Deputy Naughten - be invited to the House to explain the justification for this increase and the effect it would have on jobs and particularly for small businesses.

Senator Robbie Gallagher: I refer to a development in the last number of days in which

the talks between the Garda Representative Association, GRA, and the Department of Justice and Equality have broken down. It is very worrying. I understand that the GRA is frustrated that the commitments given during negotiations on the Lansdowne Road Agreement have not been adhered to by the Department. It is a worrying development, and I ask the Leader to invite the Minister for Justice and Equality to the House to address it. The last thing we want is a threat from the GRA of industrial action. I appeal to the Minister to engage with the GRA with a view to ironing out the issues that are outstanding between both parties so that this can be avoided at all costs.

Senator Martin Conway: I am disappointed to note that the trial in Egypt of the Irish citizen Mr. Ibrahim Halawa has today been postponed for the 14th time. That is a worrying development. Seanad Éireann should again send our concerns on this issue to the Minister for Foreign Affairs and Trade, who I know is doing everything he can to expedite a resolution of this situation.

Like everybody else, I was quite shocked at the contents of the “Prime Time” programme last night with regard to Console. It is a pity because, as Senator Nash and others have said, Console has done some remarkably good work, but unfortunately the good work is negated by the fact of these scandalous revelations. Unfortunately, they are not the only scandalous revelations about charities that we have seen in recent times. There is a simple solution to this. The Minister for Justice and Equality could commence section 4 of the Charities Act. Section 4 of the Charities Act, if commenced, would give the regulator considerable powers to send an investigator into this charity and to demand to see all the books and accounts and speak to all the personnel, including the auditors and everybody else, who have had a hand, act or part in this scandalous abuse of not just taxpayer’s funds but funds from people who have worked hard to raise money for the charity. The Minister for Justice and Equality should immediately commence section 4 of the 2009 Charities Act without delay.

The HSE has a serious role to play in this matter. Earlier I heard Deputy Sean Fleming speak on radio. He is correct that the HSE should go to the High Court today to get an order to seize everything to do with the administration of Console. The HSE should also send in people to run Console. This is what the public demands and it should happen. The HSE has an absolute responsibility to deal with this situation today.

Senator Victor Boyhan: I share the concerns of Senators who spoke about Console. Yesterday we discussed the matter on the Order of Business and we had somewhat of a reply. On that occasion, a number of Senators expressed their concern.

Today I raise one simple issue, namely, the European Commission and the Water Framework Directive. This week the European Commission said that Ireland cannot abolish water charges without breaching the EU Water Framework Directive. EU Commissioner, Karmenu Vella, has said the flexibility offered to Ireland ended in 2010 when the then Government pledged to introduce water charges. He also said that derogation from water charges could have been sought in 2010 but it was not. No one did so and the opportunity has now been missed. Subsequently, the Government applied water charges. The Commission said that it does not consider that Ireland can now revert on the water charges. Commissioner Vella’s comments are significant, particularly in the recent days and given the debate on water charges in both the Seanad and the Dáil.

The Minister for the Environment, Community and Local Government plans to travel to Brussels next week to meet Commissioner Vella. Will the Leader invite the Minister to the

Seanad when he returns to explain what is the correct situation? Is it correct that Ireland may be subject to fines for breaches of the Water Framework Directive?

Senator Maria Byrne: I would like to raise a few issues. Last week we had a very good debate on mental health but I wish to raise the issue of unit 5B in University Hospital Limerick, from which five people were missing for a number of days, and security on the hospital campus. People were in the hospital for a particular reason and were receiving a lot of valid help. The fact they were able to walk out of the hospital and remain undetected is frightening. One lady was missing for an entire weekend.

I welcome the fact the number of rheumatology clinics in the hospital has more than halved. However, pain relief clinics have been cancelled each week for the past number of weeks. Will the Leader take up the matter with the Minister for Health?

A Garda-led programme called Operation Prowl was rolled out on the streets of Limerick over the past three or four years, ensuring that gardaí were visibly seen during the working day while businesses were open, especially on the main streets. The programme helped to reduce the number of robberies in shops. Unfortunately, the Garda has announced the programme has ceased. The business community is very put out by the news because the number of thefts had reduced.

Senator Fintan Warfield: I second the proposal by Senator Rose Conway-Walsh to amend the Order of Business today. It has been mentioned that Ibrahim Halawa's trial has been postponed for the 14th time. Sinn Féin believes it is high time that Enda Kenny picked up his phone and called Egypt.

I take this opportunity to congratulate the participants and organisers at every level of Dublin Pride. I hope that the LGBTQI community, our friends and comrades had a safe, happy and healthy Dublin Pride. I would like to express my solidarity with those who joined the protest for the first time. I recall still being in the closet when I marched with Sinn Féin friends and comrades who, without direct knowledge and alongside all of the participants in Dublin Pride, facilitated my being there and provided a safety net. We understand acutely what it means not to be in a position to celebrate and protest at Dublin Pride.

Yesterday, Senator Rónán Mullen referred to the national broadcaster in this Chamber. In an effort to promote inclusion and to reach out to those who struggle with their sexuality, there should be an onus on our public service broadcaster to cover the occasion-----

Senator David Norris: Hear, hear.

Senator Fintan Warfield: -----that has become the second largest festival parade after St. Patrick's Day.

This year's Dublin Pride festival followed the harrowing, tragic and senseless attack on the LGBTQI community in Orlando that left 49 people dead. The news from Florida struck the Irish community to its very core and Dublin Pride reflected that sombre mood. Many beautiful and moving reminders of those no longer with us were visible along the route taken by the parade. One older couple displayed a rainbow flag that had the words "Keep partying Yvonne. You will always be in our hearts."

Dublin Pride began following the public outcry and response to the homophobic attack and

murder of Declan Flynn. To this day, we march visibly, proudly and publicly against persecution and discrimination.

Senator Maura Hopkins: I wish to continue our discussion on Brexit and to raise the serious implications for the Irish agrifood industry following the decision by the people of the UK to leave the EU. The UK is our single biggest trading partner and Irish agribusiness will, undoubtedly, be the most exposed. Ireland exported €5.1 billion in farm produce to Britain in 2015. A recent Teagasc survey has suggested that it could drop by up to 8% or €800 million per year.

There are major issues in this regard. The collapse in the value of sterling makes Irish exports expensive and will have an immediate negative impact on agriculture. Some 41% of all Irish food and drink exports go to the EU. The impact of the pound falling to an all-time low will see lower prices for Irish farmers in the coming months.

I am concerned about the possibility of trade barriers and tariffs. They are real possibilities for the UK and Northern Ireland. There is extreme uncertainty. Quite a number of farmers have contacted me over the past number of days and they have genuine and sincere concerns in this regard.

In 2014 the UK's contribution to the Common Agricultural Policy budget was €1.27 billion. As we know, CAP payments sustain many Irish farm families. Similarly, we are concerned that EU farm payments, which are so essential for Irish farmers, could be severely hit.

The exit will take a number of years to negotiate. We are very concerned about the terms of the negotiations, particularly the impact an exit will have on Ireland. I welcome the contribution made by the Minister for Foreign Affairs and Trade yesterday in terms of trying to use all of the resources available to meet those challenges. Will the Minister for Agriculture, Food and the Marine address the Seanad? Agribusiness is a key sector of the Irish economy. Therefore, it is important that we understand what short-term and long-term implications there be and what measures will be put in place to help us get through this process.

Senator John Dolan: I wish to raise a couple of matters. Much has been said about Console and I do not want to say anything that is unhelpful. People are quick to point to other people's behaviour. It is clear that wrong has been done in this instance and that there have been clear governance failures.

12 o'clock

At a macro level, our Oireachtas has to look at how difficult it was for us to get the Charities Act in place and to resource the regulator's office. We need to think about those things also.

I will make one other brief observation on this issue, which is that we use the word "charity," and it is also used in the legislation. It is in the name of the Act. However, this is about public and community benefit. It is important to remember that it is not just charity in the sense of giving away money or something else. It is about being in concert with the State in the provision of public benefit and services.

On Brexit, all of us are quick to say how others should have behaved and acted and what decisions they should have made. However, there is not one of us in this Chamber, in our business life or in our work in the Oireachtas who has not turned around and said, "Perhaps I should

have made a different decision; perhaps I should have measured twice before cutting the plank of timber.” That is an important approach to bring to the issue. From my own work in Europe on disability and social inclusion and the different organisations in which I am involved, my reflection on it is that the European Union is a difficult entity to love sometimes. It makes it difficult for us all to love it. However, we should still remember that it is a precious entity in a world that badly needs it. That should be our instinct.

I am coming to the end. The situation in Istanbul hardly needs commenting on. People have already mentioned it. However, I wish to make one observation and draw an Irish connection. This concerns the man who threw himself down to save others. I am reminded of an incident that took place 100 years ago, perhaps to this day, when a man named Billy McFadzean saved his comrades in the trenches in the Somme. He was a member of the 36th Ulster Division. There are great people. We should always remember that.

Senator Gerard P. Craughwell: Hear, hear. Well said.

Senator Michelle Mulherin: I wish to raise the issue of our archaic and discriminatory motor tax system. It is years old and not fit for purpose. It militates, in particular, against those on low incomes or whose personal finances are stretched. People who are renewing their motor tax and wish to pay by instalments, which people who are on a tight budget often wish to do, end up paying more over the course of the year than they would if they paid in one lump sum. I was speaking to a person who had the option of paying their motor tax on a three-monthly, a six-monthly or a 12-monthly basis. They pay it on a three-monthly basis and, therefore, end up paying €170 more. It is obvious that, unless someone is leaving the country or not using the vehicle anymore, in most cases people are paying it in instalments due to the financial pressures they are under.

Another motor tax issue that was brought to my attention concerns a vehicle that has been put off the road. There was a big problem with petrol stretching in my constituency of County Mayo and many vehicles were destroyed. The owners could not get a refund of motor tax, even if their vehicles were off the road, unless there were at least three months left to run on the motor tax. This hits people who can ill afford to be hit in this way.

There is a big disparity in the amount of motor tax paid on vehicles registered after July 2008 and those registered before that, even those with the same engine size. A person might pay €180 to tax a 1.6 litre vehicle while another would pay in or about €500 due to the age of the vehicle. I understand the rationale behind it, and that it is designed to encourage people to buy vehicles with lower emissions. The reality, however, is that it requires people to buy newer, if not new, vehicles, and not everyone can afford to do so. People with older vehicles are shouldering this cost even if they are not using the road as much as someone with a newer vehicle.

Senator David Norris: Well said.

Senator Michelle Mulherin: It is inherently unfair. As we face into budget discussions, I would like the Leader to bring this issue to the attention of the Ministers for Finance and Transport, Tourism and Sport so that it might be corrected. In fairness to people and the difficult circumstances in which they find themselves, we could develop a new system. It was previously proposed that the tax should relate to the amount of fuel used.

Senator David Norris: Hear, hear.

Senator Michelle Mulherin: I am not suggesting that that should be the system. However, the tax could be added to the cost of petrol or diesel at the filling station. This would, of course, mean that filling stations were collecting another tax on behalf of the State, but I do not think the current system is fair and we should do something about it.

Senator Denis Landy: On a point of order, before I start, will the Leas-Chathaoirleach advise the House how many items we are allowed to raise? In the last Seanad, we were allowed to raise one item. Are we allowed to raise more than one item now?

Senator David Norris: For God's sake.

An Leas-Chathaoirleach: I have no control over the number of items the Senator raises, but he has only two minutes.

Senator David Norris: That is telling him.

Senator Denis Landy: I can say what I like so, can I?

An Leas-Chathaoirleach: The Senator should not waste his time. Carry on.

Senator Denis Landy: I will not waste my time. Nor do I think I wasted it asking the question. The Leas-Chathaoirleach might get clarity on the question for us.

An Leas-Chathaoirleach: There is no clarity required. I have no control over it. The Senator has two minutes and he can raise what he likes.

Senator Denis Landy: I am sorry, a Leas-Chathaoirligh, but there was a ruling in the last Seanad that when a speaker other than the Leader went beyond one item on the Order of Business he or she was told it was not permitted to bring up more than one item.

An Leas-Chathaoirleach: That was a different Cathaoirleach and a different Seanad.

Senator Denis Landy: Yes, and I am asking for clarity on the matter. If the Leas-Chathaoirleach is not prepared to do it-----

An Leas-Chathaoirleach: I am telling the Senator now that he can say what he likes within the two minutes.

Senator Denis Landy: -----I will wait until the Cathaoirleach is back-----

An Leas-Chathaoirleach: I am giving the Senator the ruling. Carry on.

Senator Denis Landy: Okay. No problem.

I want to raise the issue of Console, which has already been raised by a number of Senators today. Unlike some Senators in this Chamber, I am not prepared to wait and see. This is black and white. It is quite clear that what has been done is an absolute disgrace. It is robbing money out of the pockets of people who provided funding and supported the charity over the years. At this point in time, there is no reason for any course of action other than a full investigation by An Garda Síochána. I understand the board has put in two people to examine and audit the books, but that alone is not acceptable. This is in the public arena and it is not being challenged by anyone. It is quite obvious that ordinary people's money has been stolen. We need these people to be called to heel. We also need a quick investigation and a visible result.

The last time this happened - it concerned another national entity - we saw a drop-off in support for genuine charities by 20% or 30% within weeks. Every time this happens, people will be less willing to support genuine charities. There are genuine charities, but the regulator is not doing its job adequately. The regulator should be inspecting the books of any registered charity he wishes and auditing them without notice. That is not happening. The gangsters in Console were chancing their arm and spending donations for their own gain and entertainment. I call on the Minister to instruct the Garda Síochána to start a full and open investigation into the matter.

Senator Colm Burke: I agree with Senator Landy on the number of items being raised during the Order of Business. It would be far more practical if we stuck to one item.

I wish to mention an issue raised by the retailers' group, RGDATA. This concerns the report from the Data Commissioner on the use of CCTV footage to prevent crime in retail units. Retailers have now been advised that they cannot share this footage with other retailers. It is a disgrace that this is allowed to happen. Someone is clearly identified as a shoplifter, but the retailer in whose premises it occurs cannot share that information with other retailers, including those in the same centre. That is outrageous, and we need clarification on the matter. If someone produces a knife in a retail unit, can that footage be used? If necessary, we should introduce amending legislation to deal with the issue. We have a situation whereby retailers are required to pay rates, insurance costs, service charges and security charges, and it now appears that they are being asked to pay shoplifters as well. We need the Minister to come before the House to explain what will be done to ensure that legislation is introduced immediately to allow retailers to share information where crimes are being committed. This is a serious issue. Retailers' margins are at an all-time low and it is important that we deal with this issue immediately and do not put it on the long finger. Will the Leader to ask the Minister who deals with data protection to come before the House to outline what amendments he intends to introduce and when?

Senator David Norris: With regard to the matter of Console, it is extremely sad but we should remember that it is a very useful organisation. It provides help to a large number of people who are in great distress. I will not name the gentleman who founded it, but I have met him and he seemed to be a very decent person. One cannot always tell. He was certainly affected by the tragedy in his family. It seems he is a kind of Walter Mitty character, having turned up in various roles as an Aer Lingus pilot, a doctor and a Roman Catholic priest and so on. It is also tragic for his family.

I agree 100% with Senator Mulherin about motor tax. It is completely ridiculous. Lots of people, myself included, have very old cars. My car is large and I pay as much for it in tax and insurance every year as it cost me to buy it. The polluter pays principle should be implemented. I raised this issue when Mr. John Gormley was Minister. Mr. Gormley agreed with me but said it is a matter for the Department of Finance, which would not let him make the relevant change. I support Senator Mulherin in calling for the position regarding motor tax to be examined.

Senator Paul Daly: I also wish to refer to the debate on Brexit yesterday. There is a lot of insecurity and instability at present. While we, as democrats, accept the decision made by the United Kingdom, I cannot accept that it is now holding the Irish, UK and world economies to ransom by kicking to touch a decision for a minimum of three to four months. The Leader needs to put pressure on the Taoiseach and the Ministers who will be in attendance in Europe in the coming weeks to move the process forward. Europe is now saying it will not discuss the exit details until the British invoke Article 50. Markets react to instability and will always err

on the side of caution in their own interests. As has been said before, the biggest problem facing various businesses, in particular agribusiness, is the sterling exchange rate. Our exporters are suffering terribly. While insecurity and instability remain ongoing, the markets will control the sterling exchange rate. This influences people's pensions and our exports. We cannot stand on the sidelines and watch Europe and the UK kick the decision down the line. The UK is looking for three months to sort out its political affairs. Our biggest loss will take place during that period. Once the exit details are being negotiated, who knows what will happen. We are in the EU and can be part of the negotiations. Things may not be as bad as certain people have painted them. The one thing that is sure and certain is that while insecurity and instability continues for three or four months we will suffer in terms of our exports, agribusiness and as a community in general terms of the fluctuation of sterling. The situation will not stabilise while there is insecurity.

I accept the decision of the people of the UK. It was a democratic decision. I do not and cannot accept that once they made the decision, they cannot enact it and are entitled to postpone it for three months in order to get party political leadership in order. This is happening at the expense of the Irish, European and world economies. The Leader must put pressure on our representatives in Europe to try to move the process forward and eliminate the current instability.

Senator Frank Feighan: I join other Senators in condemning the awful massacre in Istanbul Atatürk Airport. It happened during Ramadan, which is a period of prayer, fasting, religious devotion and charity. It belies the contention that ISIS is an Islamic or Muslim organisation. It is antithetical to Islam and that should go on the record of the House. It does not represent Islam or Muslim countries.

Brexit has happened and is causing major turmoil around the world, including on the island of Ireland, in the UK and across Europe. I am angry that people have decided to leave Europe, but they did not think of the Republic of Ireland, Northern Ireland - which comprise the island of Ireland - Scotland or Europe. The vote has major implications. The British-Irish Parliamentary Assembly will meet in Malahide on Sunday. This is a plenary session that happens every six months and the most recent meeting was held in the UK. It brings MPs, Deputies, Senators and many others from Scotland and Wales together. There will be a very interesting discussion at the assembly which meets from Sunday until Tuesday. I look forward to making contributions.

One aspect of the assembly is British-Irish friendship. We are dealing with a century of Irish independence and the peace settlement in Northern Ireland. We are forgetting that we now have to consider Scotland and ensure that a deal is done to ensure it remains in the EU. The people of Scotland are reaching out because they feel left out by the UK. We must work to ensure that whatever happens will be in the interests of Ireland and countries such as Scotland.

David Cameron is gone and the head of the Labour Party is almost gone. These matters are making fifth page headlines. The Minister for Foreign Affairs and Trade, Deputy Flanagan, is visiting Northern Ireland today. I welcome the latter because we need to keep the lines of communication open during what is a very difficult and dangerous time for our country and for Europe.

Senator Alice-Mary Higgins: I would like to note that the Irish Human Rights and Equality Commission has published its annual report and laid it before the Houses of the Oireachtas. It highlights issues we have discussed, such as the importance of strengthening equality and

human rights in the post-Brexit context, the importance of addressing the scandal that is direct provision, something we will debate today and I hope will take action on, the importance of addressing austerity in terms of economic, social and cultural rights and the importance of moving forward on the rights of people with disabilities, something our group has previously debated in the House. I ask the Leader to facilitate a discussion on the report and the issues it raises.

Senator Tim Lombard: I refer to the future of the dairy industry in Ireland. Average milk prices this year will probably be in the region of 24 cent or 25 cent per litre. In 2014 dairy farmers got 38 cent per litre. The income of an average dairy farmer milking roughly 70 cows will be down by up to €50,000 this year. This crisis is affecting every part of rural Ireland and there is no real solution. As a nation, we need to examine how we will support family farms. Retailers and the industry need to move together. Today, one can buy milk in Aldi, Lidl and other outlets for six times the farm gate price. One can buy a smaller 250 ml product for the same price as a farmer is paid for 150 litres, which is roughly 25 times what a farmer receives. The situation cannot continue unless retailers work with industry and farmers. If this does not happen the dairy industry will not survive.

A labelling process should be put in place. The farm gate price of products should be put on labels. I do not believe the general public know that they are paying six times the price of the product, or in other places up to 25 times, depending on where you buy it. There needs to be a debate on this. The Minister needs to come to the House and look at what legislation we can pass to put a labelling system in place so the actual price of the farm gate product is put on the product itself. If we can do that, the general consumer will realise exactly what the farming community is making, or how little it is making. If we fail, we will have a situation that, unfortunately, our dairy industry and our family farms will not survive.

An Leas-Chathaoirleach: I call Senator Máire Devine. I assure her that I am strictly adhering to the rota on the list.

Senator Máire Devine: I want to bring to the attention of the House a group that will hold a protest outside the Dáil. It is Sarcoma Action Group Ireland. Sarcoma is a rare cancer of the soft tissue or bone, diagnosed in about 250 new patients each year. They require ongoing care from multidisciplinary team specialists, surgery, radiotherapy and chemotherapy. Unfortunately, on Thursday 30 June, Ireland's only specialist oncologist in sarcoma chemotherapy will leave her post at St. Vincent's hospital. The ongoing care for these 200 to 300 patients a year is at risk.

We have utmost respect for the other oncologists, but nobody has the expertise that this oncologist has. Her name is Dr. Bertuzzi. She has been contracted as a locum for the last three years. The previous oncologist has now returned and Dr. Bertuzzi, apparently, is no longer required. Patients from all over Ireland have been referred to her for chemotherapy for the various types of sarcoma. The oncologist taking her place does not have expertise in sarcoma cancers, which are quite different. It is like referring somebody who has brain cancer to a person who specialises in breast cancer. It just would not happen. This is a specialist service. The patients are devastated. To listen to them would make you cry at how vulnerable and very sick they are. Dr. Bertuzzi has expertise and brings to it a very thoughtful, caring and researched approach. She has been able to diagnose not just on research but on her own intuition. She has even proved popular in Britain, where people are being referred to her, yet she is to go tomorrow, leaving 300 patients with no specialist oncologist. The Minister for Health, Deputy Harris, has passed it over to the HSE. He has made meaningless statements that he has been struck by

the number of phone calls his office has received and that they will look into it. Unfortunately, this will happen tomorrow. Perhaps the Leader could ask the Minister, Deputy Harris, to make a meaningful statement. I ask for the specialist oncologist to be retained while we work out further detail. If anybody is interest, there is a protest at 1 p.m. outside the Dáil.

Senator Neale Richmond: I had not intended to speak, but I was very troubled to hear the news from the Oireachtas Committee on Transport, Tourism and Sport that the Minister for Transport, Tourism and Sport, Deputy Ross, has announced that there will not be any sports capital grant this year. It is somewhat fitting that I wrote my wee notes with a pen given to me by the Federation of Irish Sport while sitting beside Senator John O'Mahony, one of the most famous bainisteoirí in Gaelic football history. It is an absolute travesty for many clubs around the country to know that the preparations that have been ongoing on submissions for sports capital grants will not now be needed, as the grants will not be provided in 2016. I ask the Leader of the House to ask the Minister, Deputy Ross, to come in and reflect on this. Sports capital grants are vital for sport, communities and our nation's health, but also for the economy. They provide direct returns in VAT for works and in PAYE for the workmen carrying out the works, and for the local economies close to clubs in many areas around the country. One of the most disappointing aspects is that sports capital grants are a little bit of a mystery. We do not exactly know when we will get them. We know that we are promised them and that they are good things, but we do not know for sure. That has a huge impact on clubs and communities. I have been working with a number of clubs in my area that are getting ready to prepare on foot of expecting a sports capital grant this year. This is now going into next year. Money that has been saved and preparations that have been made will have to be delayed. It would be a far better idea if the Minister, Deputy Ross, brought in a system where a smaller, annual allocation would take place.

Senator Trevor Ó Clochartaigh: Ba mhaith soiléiriú a fháil ón gCeannaire, más féidir, maidir leis an díospóireacht faoin diaspora. Cén uair a bheidh muid á thógáil sin? Bhí sé sin iarrtha ag roinnt daoine.

I also propose an amendment to the Order of Business: that we take motion No. 7 on the Order Paper today. I had phone calls from a very irate constituent yesterday who told me that she has been a customer for 23 years with one of the waste disposal companies and has always used the system where she buys the refuse sacks in her local shop to dispose of waste. She can no longer do that under the new system that has been set up. This is a change from what we were told last week in a debate in this House - that "under no circumstances would the Government allow a situation whereby households would be mandated to switch over to a new charging system that would result in dramatic increases for many households". That is exactly what is happening, contrary to what the Minister for the Environment, Community and Local Government, Deputy Coveney, told us here last week during a debate. This new regime is to come in on 1 July. I have been contacted by people across the country, so it is quite clear to me that there are still issues with the waste companies across the country on this. I still believe that the Minister, Deputy Coveney, wittingly or unwittingly misled us in the Seanad last week. I do not know whether that is because the refuse companies did not tell him the full truth, the whole truth and nothing but the truth, or whether he was aware that anybody who had been disposing of their refuse to date or who had been using bags or tag systems that they bought through the local shop would now be forced into a situation where they first have to register with the companies and then pay by weight, which is a fundamental change and very different from what we were told in the House last week.

I call on Fianna Fáil to support this amendment to the Order of Business because I am not sure whether its members were aware, when they proposed last week that they would give full support to the Minister on this, that they were not being given the full picture and the full information, or whether, under the new arrangement between Fianna Fáil and Fine Gael, Fianna Fáil was aware of it as well and this was part of the collusion that happened here last week. This is a very urgent debate. We need the Minister, Deputy Coveney, to come before us to clarify this very quickly. We need action to ensure that the new system is not brought in and that people are not penalised, because there is a huge cohort who either dispose of their own waste or use the bag or tag system who will now be forced to register, pay standing charges and pay extra costs.

Senator Mark Daly: I ask the Leader to organise a debate today or, at the latest, tomorrow, on the case of Ibrahim Halawa, whose trial has been postponed yet again until October. The Government has not been doing enough on this case. Some 494 people face a mass trial with Ibrahim Halawa. Two were released today and three have died in custody. The questions all of the Government should ask are: why were the two released and how did the three die in custody? Ibrahim could face the same fate, because according to his legal team he faces the death penalty, yet our Government says that he does not. The ambassador from Egypt says that he prays that Ibrahim is not facing more serious charges. If he faces the death penalty and gets convicted on that charge, the presidential decree that our Government is hanging its hat on, saying that we can intervene after the trial, does not apply. Our Government wants transparency; it says that it needs and likes transparency. Yet, Fine Gael and the Labour Party in the Joint Committee on Foreign Affairs and Trade refused in a vote to have Ibrahim Halawa's legal team come before it. The committee did not want to hear what they had to say. I ask the Leader to organise this debate tomorrow. Ibrahim is an Irish citizen. He is the only Irish citizen that Amnesty International has declared a prisoner of conscience, yet our Government says that soft diplomacy is what will work. It has not worked, but what does work and has worked for the Australians is hard diplomacy. They got their citizen, Peter Grete, released on a presidential decree while awaiting trial.

Senator Trevor Ó Clochartaigh: Hear, hear.

Senator Mark Daly: He had faced trial. The trial was quashed, the verdict was overturned and he faced trial again. He was in the exact same legal position as Ibrahim Halawa. Australia's Prime Minister intervened directly with President el-Sisi and secured the release of its citizen awaiting trial. Yet we will be told that soft diplomacy works. Our citizen is in jail and has gone through 13 trials, none of which was heard. Now he faces waiting until October with no guarantee that he will get a hearing that day either. I ask the Leader as a matter of urgency to ensure that there will be a special debate today or tomorrow on this issue.

Senator Paul Gavan: I second the motion Senator Ó Clochartaigh spoke about in regard to bin charges. I appeal to everyone in the Chamber to read the motion. There is nothing here that anyone could object to. We are simply asking that what the Minister told us was the situation would in fact be the situation. It is very clear that there are several issues connected with bin charges. I too have heard of companies which are moving the goal posts as we speak, and from 1 July will increase charges. According to the report in *thejournal.ie* yesterday, one of the biggest companies, Greyhound, has declared that it will move to new charges unless the customers write in and request it not to. That is not how the situation was explained to us last week. This is a major problem that will affect tens of thousands of people across the country. We have the opportunity and the duty to look into this. There is nothing in the motion that any of us could object to.

I commend Senator Daly's comments on Ibrahim Halawa. It is extremely important that we address this issue.

Senator Jennifer Murnane O'Connor: I spoke on the pay-by-weight issue last week. There is confusion. The Minister needs to clarify this for us, especially for the people using Greyhound and other facilities. I would like the Minister to come to the House to explain the situation. I believe it will be sorted but we need confirmation of what the situation is.

In the last local elections, the name of the Leader programme changed to local community development committee, LCDC, but no payments have been made to any local authorities for more than two years. I want the Minister to ensure that every local authority is paid. Carlow County Council should be paid €6.4 million for necessary projects. All local authorities have 12 or 14 projects waiting to be assessed and get the go-ahead. I believe that under this new process, they have to reapply. That is not good enough. Any project waiting more than two years to be assessed needs to get the go ahead. That is only fair play. I want the Minister to look at the projects listed for the past two years and put them forward.

Senator Rose Conway-Walsh: On a point of order, I asked last week that the Minister responsible for the rural development programme, RDP, come to the House to answer those questions.

An Leas-Chathaoirleach: That is not a point of order.

Senator Jerry Buttimer: I thank the 26 Senators who contributed to this morning's Order of Business. Eight Senators, including Senators Ardagh, Conway-Walsh, Conway, Boyhan, Dolan, Landy and Norris, raised the issue of Console. I think all of us in this House will join in condemning the lack of transparency and accountability in regard to the governance and use of public moneys in a charity like Console. It is equally important to segregate the two parts of this story. Console, with the Health Service Executive, HSE, is providing a service to people requiring intervention of some type or another and they must have confidence in the service being continued. In tandem with that, there is very important work to be done by the HSE and the Charities Regulator in holding the board or chief executive of the charity to account for the expenditure of money and the governance of the organisation. The revelations are appalling and unacceptable. Those of us involved in the charity and community sector or in sporting organisations expect and demand high standards of probity when dealing with public moneys, in particular money raised by volunteers across the country. It is also important we understand that the HSE in its auditing of accounts of section 38 or section 39 organisations must do so to the letter of the law. The Charities Regulator has been appointed but not because of a Sinn Féin motion. The Charities Act was passed in this House in 2009 and to give Senator Conway-Walsh a history lesson, it was the only time in that Seanad when the Opposition combined to defeat the Government on a Bill. I was the Fine Gael spokesperson on the community sector.

Senator Rose Conway-Walsh: Fine Gael took credit for Iceland because it had blue shirts.

Senator Jerry Buttimer: We must have probity such that the strict rules applying to the charity sector are implemented. Senator Conway referred to Part 4 of the Charities Act. It is a staffing issue. There is an obligation on the Government to work with the Charities Regulator and give him a full complement of staff to implement the Charities Act with its full rigour. We cannot condone any wrongdoing and must condemn it and hold those involved to account. These were public moneys, charitable money and money we all work hard to accrue and spend.

The accrual of personal largesse is despicable and there is no other word for that kind of behaviour. I hope the breach of trust arising from this “Prime Time” programme will lead to a better corporate governance structure across the charity sector. In the previous Dáil and Seanad, we saw breaches of trust in section 38 and section 39 organisations. I hope this is a watershed moment when we can turn the corner and say it will happen no more.

Six Senators mentioned Brexit. I say to Senator Craughwell that we accept the democratic will of the people of the United Kingdom to vote the way they did. That does not mean it is the right decision. What is important now for us is that our Government, on behalf of the people, acts in our interests within the European Union. As a very proud advocate of the European Union and as a republican, I believe it is imperative that we put the green goal forward to protect the North and South of the country, to protect jobs and to highlight the issues raised this morning in regard to agriculture and, in particular, trade. The Minister for Agriculture, Food and the Marine will come to the House next week.

Senator Conway-Walsh mentioned currency fluctuations for those on social welfare. The Department of Social Protection has said it will monitor the situation and take steps to adjust and rebalance the amounts payable to pensioners, in particular. It is important to keep a watching brief on that.

The relationship between this country and the United Kingdom is important and special. The repercussions of the vote will have a profound impact on this nation. There is a need now, within the EU, for a calm reflective debate on how best to further the European project. If that means changing the democratic institutions and how they operate, let us do that. For now, we need a period of calm and certainty to allow the UK trigger the mechanism to exit but in so doing, perhaps it will recognise the error of its ways and revisit the vote at a later date before triggering that mechanism.

I thank the Minister for Foreign Affairs and Trade for coming to the House yesterday for the debate, which was very good. I thank all Senators for their participation in it.

Several Senators mentioned the awful and tragic killings in Istanbul yesterday. I hope all of us will join in the condemnation of those senseless and meaningless attacks in the name of whatever. Violence has no place in our world. There is no justification for any type of violence in the pursuit of peace or a common cause.

Senator Conway-Walsh also proposed an amendment to the Order of Business. I will not accept the amendment for the reasons I have already outlined. All of us want the Seanad to move forward in a way that is productive and reflective of the new dynamics in the House, but there is a structure in place. I have explained the rationale for that. I hope the legacy the Members of this Seanad leave is a reformed Seanad that will work better for generations of people to come.

Senator Nash raised the report of the Standards in Public Office Commission. I welcome that report. Senator O'Mahony raised the PSO levies on electricity charges. I will be happy to invite the Minister for Communications, Energy and Natural Resources, Deputy Naughten, to the House to explain this and have a debate on it. If the Senator wishes, he could table a Commencement matter to get a reply more quickly but I will facilitate the Minister coming to the House as well.

Senator Gallagher raised the talks between the Garda Representative Association, GRA,

and the Department of Justice and Equality on the Financial Emergency Measures in the Public Interest, FEMPI, Acts and the Lansdowne Road agreement. The FEMPI legislation is very important legislation which the last Government began to roll back in terms of the reduction it contained. Industrial action of any type is regrettable and I appeal to the GRA and, indeed, to the teachers, particularly the Association of Secondary Teachers in Ireland, ASTI, to re-engage and not take their members to the brink.

I am a public service worker and have been a member of a union all of my working life. It is important that 200,000 public sector workers signed up to the Lansdowne Road agreement. Further engagement is needed and is desirable. There are issues to be addressed, and I understand the frustrations of the two unions involved regarding the pay and conditions of their members. Those of us who were involved in this debate previously will recognise that there is a road to travel. However, there is an understanding, which should have been conveyed by the unions, that when one did not sign up to the Lansdowne Road agreement there was a consequence, however regrettable that is. I hope that there will be compromise and further engagement at this 11th hour. I have no wish to see any member of the Garda Síochána or a teaching union representative losing pay or losing out on receiving money as a result of the FEMPI legislation being rescinded, but I hope there will be further engagement on the matter.

Senators Conway and Mark Daly raised the Halawa case. I will do my best to get the Minister to come to the House at the earliest opportunity. It might not be possible tomorrow, but I will do my best.

Senator Boyhan raised the important issue of Irish Water. We heard this morning that the former Senator, Mr. Joe O'Toole, has been appointed to chair the commission. I am glad Senator Boyhan referred to the fact that it was the Fianna Fáil Government in 2010 which conceded the derogation. However, it is important that we allow that piece of work to be done and have the debate. It is part of the programme for Government and the confidence and supply arrangement between Fianna Fáil and the minority Government to have that report commissioned. I wish Mr. O'Toole every success in his work.

Senator Maria Byrne raised two important issues relating to security in Limerick. I will ask the Minister for Justice and Equality to report to her on Operation Prowl.

Senator Warfield spoke about Dublin Pride. I was a proud participant last Saturday in Dublin when there were 70,000 people on the streets. It is regrettable that there was an incident late that night in which somebody was attacked, for whatever motivation. Contrast the carnival and celebratory atmosphere in Dublin with what happened at the Istanbul pride parade. It shows the progress this country has made. I thank the many parents and grandparents of LGBT people who came out on the streets of Dublin on Saturday and celebrated. It was worth seeing. There was a Mardi Gras atmosphere. Is it not fantastic that, as we remember the late Declan Flynn and people such as Chris Robinson, in 2016, as we celebrate the centenary of the Rising, we can walk as free and equal citizens across our capital city?

Senator Hopkins raised the issue of agriculture, as did Senator Lombard. The Minister will be in the House next week to discuss agriculture issues.

Senator Dolan, who has been a strong promoter of the charity and disability sector, made a poignant point about the Battle of the Somme and the role of Irish people in that battle. The Minister is travelling there to take part in the commemoration events. We certainly recognise

the importance of that event.

Senators Mulherin and Norris raised the issue of motor tax. I will be happy to invite the Minister for Transport, Tourism and Sport and the Minister for Finance to the House to discuss that issue.

Senator Landy and Senator Colm Burke spoke about the Order of Business. It would be a great help to me if a Member could raise only one item on the Order of Business, but that is a matter for the Cathaoirleach to decide. Senator Colm Burke also raised the important issue of not being able to share closed circuit television, CCTV, footage. I am a member of the Cork city joint policing committee on which there is representation from the Garda. The Garda is absolutely tied in not being able to allow this to happen in the sharing of information. The Senator is right and I agree with him that the legislation should be amended to reflect the new technological world in which we live whereby we can share information which could prevent crime and theft occurring, at the flick of a switch. I agree that we should invite the Minister with responsibility for data protection to the House. I will endeavour to do so at the earliest convenient opportunity.

Senators Feighan and Paul Daly raised the issue of Brexit and the British-Irish Parliamentary Assembly. As I said, the Minister will come to the House to discuss agriculture. The Senators are correct that it is important to have an urgent debate on agriculture.

Senator Alice-Mary Higgins raised the report of the Irish Human Rights and Equality Commission. I will be happy to invite the Minister to the House to discuss the broader issue.

Senator Lombard raised the role of the family farm and he highlighted the price differential in a startling way. I hope the Minister for Agriculture, Food and the Marine, Deputy Creed, will address that when he comes to the House.

Senator Devine raised the issue of oncology services for the treatment of sarcoma. This is predominantly an operational matter for the HSE, so I will take it up with the Minister and the HSE.

Senator Richmond raised the sports capital programme and the non-allocation of sports capital grants this year. If that is the case, it is a very disappointing announcement by the Minister. As the Senator rightly said, this is about sport and community. It is about benefitting sports grounds for communities, clubs and sports organisations. It is also about the local economy and allowing small builders, in particular, to make an income. It is disappointing and I will invite the Minister to the House at the earliest opportunity.

Senator Ó Clochartaigh raised the issue of waste. I will not accept the amendment as we had a debate on the matter last week. The Senator can table a Commencement matter on it as well if he wishes, but the Minister gave a clear outline to the House last week and the circumstances have not changed. Senator Murnane O'Connor raised the issue as well.

Senator Trevor Ó Clochartaigh: He misled us.

Senator Jerry Buttimer: I do not believe so, to be fair. It is very unfair of the Senator to say that.

Senator Trevor Ó Clochartaigh: He did it wittingly or unwittingly, but we were certainly misled.

An Leas-Chathaoirleach: The Leader without interruption.

Senator Jerry Buttimer: With regard to Leader funding, the Minister announced 18 new projects last week. Senator Conway-Walsh raised this matter and I have invited the Minister to the House. I will follow up with her on that.

Senator Trevor Ó Clochartaigh: On a point of clarification, will the Leader respond on the diaspora?

Senator Jerry Buttimer: I have spoken to the Minister of State, Deputy McHugh, about that, because the Senator raised it previously if memory serves. He has agreed to come to the House but timing is the problem. However, I will pursue it for the Senator.

An Leas-Chathaoirleach: Senator Conway-Walsh proposed an amendment to the Order of Business, “That No. 9, motion 1, be taken today.” Is the amendment being pressed?

Senator Rose Conway-Walsh: I can leave it until tomorrow, unless there is a clear pathway before the end of today’s business.

An Leas-Chathaoirleach: You wish to defer it until tomorrow, so you are withdrawing the amendment today?

Senator Rose Conway-Walsh: Yes, but I will raise it again tomorrow.

Amendment, by leave, withdrawn.

An Leas-Chathaoirleach: Senator Ó Clochartaigh has proposed an amendment to the Order of Business “That No. 9, motion 7, be taken today.” Is the amendment being pressed?

Senator Trevor Ó Clochartaigh: Yes.

Amendment put:

The Seanad divided: Tá, 10; Níl, 18.	
Tá	Níl
Conway-Walsh, Rose.	Boyhan, Victor.
Devine, Máire.	Burke, Colm.
Gavan, Paul.	Buttimer, Jerry.
Humphreys, Kevin.	Byrne, Maria.
Mac Lochlainn, Pádraig.	Conway, Martin.
Ó Céidigh, Pádraig.	Craughwell, Gerard P.
Ó Clochartaigh, Trevor.	Feighan, Frank.
Ó Ríordáin, Aodhán.	Hopkins, Maura.
Ruane, Lynn.	Lombard, Tim.
Warfield, Fintan.	McFadden, Gabrielle.
	Mulherin, Michelle.
	Noone, Catherine.
	O'Donnell, Kieran.
	O'Donnell, Marie-Louise.

	O'Mahony, John.
	O'Reilly, Joe.
	Reilly, James.
	Richmond, Neale.

Tellers: Tá, Senators Paul Gavan and Trevor Ó Clochartaigh; Níl, Senators Tim Lombard and Gabrielle McFadden.

Amendment declared lost.

1 o'clock

Question, "That the Order of Business be agreed to", put and declared carried. **Senator David Norris:** I was having a cup of coffee in the Oireachtas bar and the division bells never went off so I have missed one or two votes. I do not mind particularly but I just thought I would mention it.

Acting Chairman (Senator John O'Mahony): I thank Senator Norris but I do not think there is anything we can do about it at this stage.

Misuse of Drugs (Amendment) Bill 2016: Committee Stage

Acting Chairman (Senator John O'Mahony): I welcome the Minister of State, Deputy Catherine Byrne.

Sections 1 and 2 agreed to.

SECTION 3

Acting Chairman (Senator John O'Mahony): Amendments Nos. 1 and 2 are related and may be discussed together by agreement. Is that agreed? Agreed.

Senator Lynn Ruane: I move amendment No. 1:

In page 3, after line 28, to insert the following:

"Amendment of section 3 of Principal Act

3. Section 3 of the Principal Act is amended by the insertion the following subsection:

"(2A) That possession of the substances listed in Part 1 and Part 2 of the Schedule not be subject to prosecution for amounts equating to personal use."."

The relentless warfare on drugs has failed. It failed long ago. It fails every time an addict dies from the effects of an unknown substance. It fails every time a parent has to pay the drug debt of a child. It fails every time we imprison an addict for possession and it fails every time

we introduce legislation to further criminalise the addict. The addict has become collateral damage in the State's fight to dismantle the drugs trade. Legislation that criminalises possession reinforces the stigma associated with addiction. We cannot continue to try to separate the addict from the dealer. I have had dozens of conversations in recent weeks with people who both sell and use substances. I refer to two of the contributions which I raise in order to communicate the reality of the amendments and the people they affect. A 34 year old woman from Tallaght said:

Even after I was raped, imprisoned, battered, pimped and hospitalised I have been refused treatments for benzo addiction. Apparently I am not ready, or so some stranger likes to decide. I sell benzos, not a huge amount, just enough to fund my own use and to do some food shopping. I often have boxes of benzos in my possession.

A young 17 year old male from Crumlin said:

My brother and I started taking tablets after weekend sessions. We used to rob my Mam's zimos when we were children and I deliver benzos for my cousin so I can get some for myself. I would like to join the Army some day but I can't seem to stop messing around, ever since my brother died and my cousin was murdered. Both of these used zopiclone amongst other tablets.

That young boy will never make it to the Army if he is prosecuted for possession and the woman from Tallaght risks being imprisoned again if treatment for benzo addiction does not become the priority instead of treating her like a criminal.

In Portugal, if the two individuals in the cases outlined were caught in possession they would have a greater chance of access to much-needed services. A commission for the dissuasion of drug addiction convenes when an individual is found with drugs. These commissions are made up a social worker, a solicitor and a doctor or a psychiatrist and the outcome is a fine or treatment. Nearly 16 years on, Portugal has not seen an increase in addiction. In fact, statistics from the Transform Drug Policy Foundation shows a decline in the population reporting to have used drugs. Statistics also show that drug use declined in the most at-risk group, namely, 15 to 24 year olds.

We cannot continue to ignore the positive progression of Portugal's decriminalisation policies. The British Journal of Criminology in 2010 found that Portugal also shows a decrease in imprisonment for drug-related charges and there has also been a surge in visits to addiction centres. We will never control the flow of drugs by banning them. Instead, we should create policy that increases access to drug treatment and addresses inequality and poverty. Leaving the most vulnerable at risk of arrest reinforces the cycle of criminality. Addiction begins and ends with pain. Before Members vote today I urge them to consider the fact that criminalising drug possession, which will affect the addict, just adds to the cycle of pain. We live in a culture emotionally, psychologically and economically that punishes those already suffering. The moment we flip those policies on their head and move away from criminalisation, the closer we move to opening up the pathways to recovery and support for our friends, communities and values. I hope Members will take that into consideration when considering the amendments today.

Senator Aodhán Ó Ríordáin: There are very few issues in public policy that I feel more strongly about than this. I was in the position of the Minister of State not that long ago. In public life, it is very rare to come to the conclusion that everything we are doing is wrong. We

have come to the conclusion that the issue with drugs lies with the substances and that if we just control them, everything will be fine. Addiction, however, is not just about the substance, it is about circumstances, disconnection and marginalisation. For the life of me, I cannot understand why we still think it is a good idea to effectively criminalise marginalisation and addiction. What my amendment is trying to achieve - it is very similar to Senator Ruane's amendment - is to stand by what the programme for Government said that drug policy would take a health-centred approach and not a criminal justice one. It makes absolutely no sense to try to dissuade somebody from a life of addiction by criminalising him or her for his or her drug use. My amendment clearly states that it should be a defence for anybody caught in possession of an illegal substance to argue that it was for his or her own personal use. As Senator Ruane has quite correctly said, Ireland could follow the example of Portugal by saying to individuals that we understand they are addicted, they have a medical need and that they need help and compassion and that we are not going to blame the victim. What happens in this Republic is that we blame the victim and all the resources that could be spent dealing with the pushers and the trade are being spent on the victims of the trade.

There are silent victims of this industry who nobody ever hears about. I mentioned in the House a couple of weeks ago that in March of this year two people were found dead on the streets of our capital city from heroin overdoses but that never made it into the newspapers. One gentleman was found dead in the public toilet of Connolly Station and another gentleman was found dead after two nights in the open air in Foley Street. The stories did not make it into any newspaper, there was no protest and there was no political comment about it because on some level, in this society, we have decided that these people are to blame for their own addiction. We blame the victim and criminalise the victim.

If one speaks to any group from the equality sector, whether the LGBT community, the Traveller community, people with disabilities or migrants, they will all say that there is disproportionate drug usage issue in these communities because of disconnection and marginalisation. When a person falls into addiction, surely our response should not be a criminal justice one but a health one. I am not sure if the Minister of State has been to the Drug Treatment Court, which is an initiative to try to keep people away from the criminal justice system, but all one sees there is a bunch of sick people sitting in a court room. It makes no sense whatsoever.

Fundamentally, what we are trying to achieve here is to ensure the victim of this trade, the addict or the drug user, is not a criminal because of his or her drug use. The people who sell, trade in and profit from drugs should be criminalised. They should be taken out of circulation and we should use the criminal justice system to do that. However, the victim, the addict or the user, should not be criminalised because of his or her medical need or medical condition. What we propose is common sense. It would shift the whole drugs issue away from a moralising pathetic attempt to say Ireland is black and white to actually humanise the individual who is affected by this.

I refer to our friends in the media. We, in Ireland, constantly use terminology that dehumanises people who need services and resources, and the media is culpable in this. We call them names; we call them junk. When we do that it inevitably results in the public consciousness believing that, in some way, these people are less worthy of resources. Let us take a course of action that might actually work because what we are doing at the moment is not working. We should look at what they do in Portugal and we should say to citizens that they have an addiction and they are not criminals but that they are patients with a medical need and we will treat them as such.

Acting Chairman (Senator John O'Mahony): Senator Reilly is next. A number of Senators are offering but we will get to everyone.

Senator James Reilly: I welcome the Bill because we have a serious issue with prescribed drugs being made available on the street and the trade in them. It is an ever-increasing problem. The point made by the two previous speakers on the amendments they have put forward are points that are very well made. The key here for many people who are addicted is to access treatment for addiction and that is an issue that remains to be addressed. Coincidentally, when I was with President Michael D. Higgins in Portugal last year, I had the pleasure of speaking with the Minister who brought in this system into Portugal. The measure is working very well and I believe it is something we should examine and introduce. The system changes the offence to an administrative offence rather than a criminal one. I agree with previous speakers who spoke about the implications for a person who is caught, in his or her youth, with a joint or a couple of tablets for his or her own use and is criminalised and has a record for the remainder of his or her life, with all that implies from the point of view of job prospects and further training abroad. That is clearly wrong and society has moved on. What we want to do is to protect people from drug abuse and a system such as that introduced by the Portuguese should be brought in here. It may need to be tweaked from the Irish perspective but I know that the Minister intends to examine that in the future and to bring in a more comprehensive legislation to address that issue.

I do not believe it is acceptable to supply others with drugs to maintain one's habit. That person is a pusher, regardless of what the motivation is. It is an entirely different matter if one is addicted and one is caught with a small quantum.

I could not agree more that, in many instances, it is in areas of deprivation and marginalisation that people turn to drugs. This benzodiazepine prescribing goes back to the time when much of the inner city was moved out to the outer rounds of Dublin which, on the face of it, looked wonderful in that there was a house with a garden. However, the aunty was not down the road anymore, the brother was not up the street anymore and the infrastructure was not there to support families in the extended family way people had been used to up to then. When people suffered frustrations, distress and anxiety, tablets became the cure and sadly that became a really big problem. Now we have more enlightened ways, through counselling, of dealing with issues like this but the bottom line is that we need to control these drugs. They have become a major problem. I know from talking to people that very often the source of the tablets is a well-meaning older person who gets them from the doctor but who allows somebody younger to take them off his or her hands.

I support the Bill as it is and look forward to the Minister bringing forward more comprehensive legislation in the future to address this area, the issue of the places in which to inject and other supports for addicts.

Senator Victor Boyhan: I welcome the Minister and the Bill. I also thank the two Senators who tabled the amendments for setting out their stall, or their case. The bottom line is that drugs are the scourge of all communities. They know no bounds. I accept that while there are major problems with drugs in certain deprived areas, there are also drugs in very affluent areas. Cocaine is to be found on the high streets of Dublin, in the suburbs of Dublin and in the well-to-do places all over Ireland. There are all forms of drug addiction but I am of the view that it is a health issue and not a criminal one and we must support the people who are the victims of the drug barons and those who have peddled these drugs in our society for years.

I live in Dún Laoghaire where the settled community has constantly resisted the drugs and rehabilitation centre on Patrick Street. Communities say that people are coming from way beyond the community. Drug rehabilitation and treatment has to be in each of our communities and each community has to take responsibility. The sad reality in many cases is that local representatives in councils, Deputies, Senators and politicians of all hue have been an obstacle to allowing the rehabilitation of people in their communities. People respond to those who complain and speak the loudest. Politicians respond to people who engage in the voting process. Many people who are marginalised by drugs do not necessarily play a full and active role in their communities for various reasons; that is not to condemn them, but to acknowledge the fact.

I am more interested in hearing about rehabilitation. I am more interested in having small micro-services in every community on the island of Ireland. For far too long, politicians have said one thing but do not follow up with the necessary supports. In my own community, two drug addicts live very close to me. I remember when they were children. They were someone's two sons. Their parents set out with high ideals and ambitions for them. They sent them to school. One did well in sport and one got an amazing leaving certificate. Where are they now? They are walking around our town and my community alienated, forgotten, condemned and considered hopeless. What hope have they got? Is it enough to put them into some detention centre and condemn them, or can they get support? Another mother called to my home two weeks ago to say her daughter's daughter had been in a hospital in the west for six months after being born. This is another victim, someone who was detox-born. These are decent, ordinary people who have aspirations. Until we bring it home and talk about our brother or our sister, our mother or our father, our child, then it becomes a different story. We have got to make it more human. These people are victims and they need support.

While I accept that what the former Minister for Health, Senator James Reilly, has said is true, many drug users do push drugs to fund their habit. They are drug pushers and we cannot apologise for that. That is the dilemma with this problem. How can we say that a person can be permitted to have a certain amount of drugs when in effect many of these drug pushers have no control over anything they do because they have fallen so low? These are the dilemmas and the problems, and we all know them. If we are truly honest, we must know people involved at some level, be it sniffing cocaine, doing drugs, tabs or whatever it is. It is a human tragedy that is the scourge of our communities. I want to hear the Minister of State's response to these two amendments. I am interested in hearing what she is going to do and how she is going to empower our communities, our families and our friends in the form of rehabilitation so that these people can have meaningful lives for themselves but also play a meaningful role for their families, their children and their communities.

Senator Colm Burke: I thank the Minister of State for coming to the House and introducing the legislation. It is important that it be enacted at the earliest possible date. It is important also that we take account of the amendments tabled, but not in the sense of incorporating them in this legislation. Instead, they might be incorporated into a more comprehensive Bill, which I understand will be introduced in the autumn, on this whole area. There is the issue of users and the issue of pushers. Coming from a legal perspective, the problem for the courts is trying to decide on who is not the pusher. That is the reason we have to be very careful in regard to the legislation. It is an issue we need to examine very carefully. I accept that the Senators who tabled these amendments have vast knowledge and expertise in this whole area and have quoted Portugal as an area where some success has been reported. We should now look at that. In the

past four or five years, and even before that time, there have been cutbacks in support services. We need to know how we can help restructure these to ensure the funding is adequate and can support the people who genuinely want to move away from the drugs problem.

This legislation is necessary. If we cannot incorporate the amendments tabled today we should consider them in the context of the new legislation in the autumn to ensure the necessary procedures are in place for dealing with those who are not involved in the pushing or sale of drugs but want support from the services.

Senator Lorraine Clifford-Lee: Last week I spoke in favour of the Misuse of Drugs (Amendment) Bill 2016 presented by the Minister. In his contribution, the Minister, Deputy Simon Harris, outlined the reason the Bill is required. He said drug dealers carry relatively small quantities of drugs on their person and this then makes it difficult for authorities to proceed with sale or supply charges. Having spoken to representatives of community groups in the areas most affected by these substances, I cannot support the two amendments proposed by Senator Lynn Ruane and Senator Aodhán Ó Ríordáin. These community groups have expressed the view that making these small quantities illegal prevents drug pushers from operating and therefore prevents young people from falling into the cycle of drug addiction. I accept the contributions from Senators who have outlined that this will not help the addicts. That is unfortunate. Perhaps Senator Colm Burke's suggestion that these amendments be incorporated into an overall strategy for addiction services could be taken on board, because it is important that we help addicts. It was clear from the debate last week that adequate addiction services are not in place for addicts of all substances, but particularly those set out in the Schedule to the Bill.

I call on the Minister of State to outline her response to the amendments and to the requests in the House. While I welcome the Bill, I will not be supporting the amendments.

Senator Máire Devine: I thank the Minister of State for another visit to the House. A previous Senator used the word "alienation". I think I have used that word previously in discussing the Misuse of Drugs (Amendment) Bill. Swathes of communities and swathes of young people have been alienated because of drug misuse, drug abuse and drug addiction.

The global war on drugs, which has continued for more than 50 years, has failed. We are playing catch-up all the time and running around in circles while the big drug barons seem to be laughing from their lofty heights. The policies we have tried have failed miserably. There are too many people incarcerated for behaviours connected to addiction and drug possession. Unfortunately, this has not reduced the population addicted to drugs; instead, it is increasing.

The funds spent on imprisoning a person or dragging him or her through a policing or court process should be given to rehabilitation and treatment services. Realistically, these people need support. This is a waste of time, resources and energy. We must bring forward public health measures to increase harm reduction processes. Given that the Government has committed to approaching drugs as a public health issue, I urge it to accept these amendments or bring forward its own amendments. There are options for the Government. It could introduce statutory threshold quantities if it wants to amend it so that only appropriate persons are targeted by this legislation; a maximum use quantity threshold could attempt to distinguish between trafficking or sale offences and possession. We may examine the introduction of an amendment on Report Stage. Alternatively, the Government could introduce a provision to the effect that a personal possession offence be subject to an appropriate administrative penalty or non-prosecution.

Portugal, which appears to be a leading light within Europe, has made huge strides in its approach in recent years. This panel of experts listens to the arrested person to understand his or her situation and tries to halt what would otherwise be the ongoing alienation and criminalisation of the individual. There is a huge difference between those manufacturing and importing these drugs and an addict who has been legally prescribed them and is selling them on to fund other drugs or an addict who is a problem user of one of the drugs listed in the Schedule to the Bill. This is also something we could examine.

Other jurisdictions allow police and prosecutors to decide whether individuals would benefit from a treatment programme rather than deal with them through a court process. We need to put this approach at the heart of what we try to do. The difficulty in doing that in Ireland, however, is the appalling level of treatment services available for those with drug problems. Coming from a medical background, I know that there are only four detox beds in the State for drug addicts who are under 18 years of age. St. James's Hospital in Dublin South-Central has just one bed and its availability is extremely limited. This is the biggest hospital in the country and is located slap bang in the middle of areas ravaged by drugs, gangs and barons dealing in drugs and profiting from them. These areas are seeing an increased incidence of addiction and, unfortunately, a lot of fatalities, including fatalities in recent months. It is outrageous that there are only four of these beds in the country. While we may go down the same route as Portugal and applaud what it does, we need to ensure we have the infrastructure and services in place to care for, nurture and provide a new future to those who have been caught up in addiction.

Many of those in the throes of addiction are self-medicating following a lifetime of trauma, illness and poverty. Throwing them into the penal system will not address their issues and will not put a stop to the organised crime that is endemic in Ireland. I repeat that it is the lack of investment in these areas, groups and communities that have been alienated for years that has caused this result. We reap what we sow. In this case, we did not sow so we will not reap any positivity. The use of the penal system is a lazy and dangerous policy and it does not work. On that basis, I urge the Government to accept the amendments or to introduce its own. Sinn Féin's Better For Health policy outlines in detail the approach we believe should be adopted in regard to the treatment of the misuse of drugs. It should be treated as a public health issue and not a criminal one. There should be a holistic, health-based approach to addiction.

We note the comments of the Commissioner, Nóirín O'Sullivan, who has welcomed the debate on decriminalisation and given a commitment to contribute to it further. We also note the comments of P.J. Stone of the Garda Representative Association. He has called for a halt to the criminalisation of addicts and for addicts to be dealt with in a way that gives them a better chance. We request that Garda resources currently used to criminalise addicts be redirected to fighting the major drug barons and criminals who are destroying communities and families throughout the State. We reaffirm our request that from here on in drug addiction be addressed as a public health issue rather than a criminal one. This approach should be suitably and effectively resourced. This would lead addicts on to a new chapter in their lives and would support them to live those lives.

Sinn Féin acknowledges the intent of both amendments and agrees that most drug users are the victims of addiction. Sinn Féin policy clearly states that addiction is a public health issue. It is important that we try to avoid criminalising people for possession of drugs for their own use. We support both amendments. I wish also to note that I reserve the right to introduce further amendments to the Bill on Report Stage.

Senator Frances Black: I commend my colleagues, Senators Ó Riordáin and Ruane, on these amendments. I really feel that we need to consider this issue fully. Senator Ó Riordáin, when last in office, worked closely with those working in the field of addiction. We can see that in the fantastic work he has done. Senator Ruane has worked in the field of addiction and has done fantastic work and I work in the field of addiction also. I work with families daily. Mothers, fathers, grannies, brothers, sisters, adult children and people like the Minister of State are devastated when watching their loved ones go down the route of self-destruction and addiction. The heartbreak I deal with daily is horrendous. Now we are trying to criminalise these family members. It is awful. Are we to criminalise the loved ones of those who come to me pleading and asking about services? They ask where they can get help for their sons, fathers, daughters or grandchildren. What we are saying here is that we should just put them in prison. It is horrendous.

I worked with a group of women in the Dóchas prison who were trying to step from addiction into recovery. None of these women - they all said it to me - would have been in there only for their addiction. They do not want to be in there. Children do not say that when they grow up they want to be in prison or suffering from addiction. No one says that. This is not something people choose.

Will the Minister of State look at this as a public health issue? I implore her to consider these amendments. It is vital that we think of the families. We have to consider them. I ask the Minister of State to show compassion. She is a mother and a grandmother. I ask her to please listen to what we are saying. Three of us have worked in the field of addiction. Will she please listen to us? We know what it is like. I second these amendments.

Senator David Norris: I compliment my colleagues, Senators Ruane and Ó Riordáin, on tabling these amendments. They are valuable and have led to a useful discussion. I have spoken on this issue in this House for 30 years and I have always favoured decriminalisation. However, it is becoming much more complex, as is evidenced by the fact that there are four pages of jaw-breaking drugs that people have never heard of listed. People do not know the effect of these substances on the individual and that is very dangerous. I agree that we should look to the medical treatment of this situation rather than criminalising it. Criminalising it does nothing for the addict.

There is another aspect to this issue, which is the use of cannabinoid drugs for the relief of certain illnesses. Will the Government examine this closely? I have a series of harrowing letters from parents and people with specific illnesses that can only be effectively treated by cannabinoid drugs, but they are not available. They should be available. Here is a situation where we have the possibility of prescription by a doctor to get access to drugs that will relieve the symptoms. I cannot see any argument against that.

Virtually everyone has spoken in favour of this approach, which is interesting, except of course for the spokeswoman for Fianna Fáil. I listened with great interest to what she had to say. I accept that there is a problem in that we now have a situation where there is a drug dealer and a runner so that they are only in possession of small amounts, but surely that could be dealt with by police evidence in court. They know who the drug addicts are and who the pushers are. It should be possible to isolate the pusher on the grounds of this evidence, which would be given in court under oath. There is also something a little inconsistent in making that point, which is very well made, and then saying we can introduce the amendments later. If they are wrong now, they will still be wrong later. I will support the amendments, if it comes to a vote.

With regard to my earlier intervention when I said I did not hear the bell, I should have pointed out that I was in the outside space. I would ask the Cathaoirleach to recommend to the Committee on Procedure and Privileges that it puts a bell in the outside space because one just does not hear the division bell. I am not worried about the number of times I vote. I vote pretty regularly in this House. In the old days, columnists in the newspapers with nothing else to do would count up the number of times one voted and print it. Now they do not bother. It does not take a feather out of me if someone counts the number of times I vote. I will vote if and when I can. I will certainly vote with my conscience on these amendments and I will support both of them.

Acting Chairman (Senator John O'Mahony): I will pass on the Senator's request.

Senator James Reilly: I welcome the Minister to the House. I will be opposing the amendments not because I do not agree with their essence, but because the Minister will bring forward far more comprehensive legislation which will address this issue. In Portugal, they have a system, allied to the courts system, which deals with this area. If one is caught with drugs for one's own use, one does not walk away with a smile on one's face. There are consequences. People caught in this way are brought to an administrative court setting where they are offered options in the way of treatment or attendance at an outpatient service. They are monitored and have to go through a certain process before getting clear of the system. That would require legislation here because no such system is in place at the moment.

There is probably nobody in this room more experienced in dealing with communities and drugs than the Minister of State over her long political career. I include myself in that, a GP who dealt with drug addiction and attended Trinity House to look after young girls addicted to heroin who were being used by unscrupulous individuals, even within their own families, who pimped them on the streets. This is a very serious issue and I believe the Minister has the knowledge to deal with it and is going about it in the right way. I commend the two Senators on putting forward the amendments as they have raised the issue and it is something we should pursue. However, as Senator Ó Ríordáin will know, the legislation has to be complete in order to support amendments like these. At the moment, it is nowhere near being so.

Senator Colm Burke: The Fine Gael group is supporting the Minister and will not support the amendments. It is important we debate the matter but that these things are taken into account in future legislation.

Minister of State at the Department of Health (Deputy Catherine Byrne): I will make a few comments in response to comments from Senators and then I will refer to the amendments. I made it very clear in this House last week that I do not want to criminalise anybody who takes drugs because of addiction, but decriminalisation is a complex issue which has to be worked out properly before we can say that people should not be criminalised for carrying drugs in their pockets. This is because, if it is a person's intent to make a profit or simply to pass on an illegal substance, it is wrong. That person is interfering with somebody's life by giving them a medication they should not take and the consequences for that person can lead to death.

In answer to Senators Ó Ríordáin and Ruane, I know the victims of drugs as I have lived beside them all my life. I can give the Senators the names of families which have lost not just one child, but three or four. There is nothing as bad as going to a funeral where a family is being wiped out because of addiction. It leaves one haunted for the rest of one's life to see what happens to people who have grown up in an area with one's own children and friends. At the

21st or 30th birthday parties that come around each year, and to which I am invited, I sit and wonder if Mary, Jack or Paul might have been there had things been done differently. We need to do things differently but this is a very complex issue. Senator Boyhan hit the matter on the head when he said that in the past, when services were opened, there was huge hostility towards them and people, including myself in my own area, were marching on the streets against them but this was because proper information was not given to communities about what it was that was being opened. It created a them-and-us situation, and they should never have done that as tomorrow it could be my son, my daughter or my grandchild.

I bear this in mind as we look at how we deal with addicts who live on our streets or come from our own homes. This is how we should deal with addiction now. Millions of euro are going into local drugs task forces, community projects and addiction services but people are still becoming addicts and dying on a daily basis. What is going wrong and why are those services not working? If they are not working, we should find out why as a lot of money goes into them and we have to be accountable for every penny that is spent in communities because it is public money. If addiction rates remain high in certain communities, we need to look at the reasons. If funding is going into the wrong places, maybe we need to take it out and try to do something different. That is what this document, outlining the Portuguese model, is all about.

I understand Senators' frustration and appreciate that they are in touch with community groups which they represent. Senator Máire Devine asked about detox beds and I agree with her 100%. There should not be just four detox beds and only one for people under 18 in St. James's Hospital. That has to be looked at because it is a significant part of any addict's attempts to come off a drug. There are huge numbers of people on methadone in this country and who have not moved on. It is scary that we all know people in our neighbourhoods who go to work every week but survive on methadone and this is a challenge we have to take on. We cannot continue to imprison people in a drug that does not bring people anywhere and we need to find a solution. I entirely agree with Senator Norris that it is a medical issue. Anything that affects our health is a medical issue.

Everybody has spoken about the Portuguese model and I read the report of the Joint Committee on Justice, Defence and Equality on a harm reducing and rehabilitative approach to the possession of small amounts of illegal drugs. It is an excellent piece of work and should be commended as a model we should follow. I am sorry, but we cannot just follow it today. This is a complex issue. One recommendation of the committee was that a health counselling treatment approach may be more effective and more appropriate for those found in possession of a small amount of illegal drugs for personal use rather than imposing a criminal sanction resulting in a lifelong criminal record. We need to look at this model and to take it, dissect it and decide what is suitable for the country in which we live. This is possible and we all have a part to play in it. This is not a political issue for me as it covers the political divide. We need to pick out the good bits from this model and modify them for where we are in this country. This can be done but we need the co-operation of everyone to do it. I have spoken to people about the Portuguese model more than about any other issue in the past few weeks. I do not intend to fly out there to have a look at how it operates in practice as I have enough information from people who have told me how good it is. I suggest all Senators read the report as it makes good sense. It is common sense not to criminalise people who are mentally and medically sick. We have to find a mechanism to avoid criminalising these people.

I will not be accepting the amendments of Senators Ruane and Ó Ríordáin and I will explain why. I understand that the aim behind the amendments proposed by the Senators is exactly the

same, namely, to remove the offence of possession of small quantities of controlled drugs for personal use.

During the Second Stage debate last week it was made clear that the Bill is one part of a whole of government approach to dealing with the serious crime situation in the north inner city of Dublin. This Bill is not about targeting addicts but about disrupting gangs and giving the Garda Síochána the powers it needs to do so. The primary purpose of the Bill is to aid the law and enforcement functions of the Garda Síochána in tackling crime associated with the illegal sale of certain substances.

As Senators know, drug dealers on the street often carry relatively small quantities of drugs on their person, which makes it difficult for the authorities to proceed with sale or supply charges. I shall back up my comments by relaying a personal story. My son is a garda and a few months ago he stopped somebody who had a small amount of drugs in his possession. My son could not arrest the man and had to let him go. This law will change that situation by giving the Garda Síochána and customs officials an opportunity to deal with these situations on the street. I have outlined a typical example. My son is a garda and he is on the streets day and night doing his job. Heretofore, when he encountered people with small amounts of substances in their possession he could not arrest and charge them. That is why the legislation is being introduced and it was long in train before I came into this job.

Last week here in the Seanad the Minister for Health, Deputy Harris, and myself addressed the issue of an alternative approach to the current criminal justice approach to the simple possession of small quantities of illegal drugs for personal use. We intend to address the matter. That is why we are having a national drugs strategy and it is why we are having public consultation because we intend to listen to the concerns of people. We want to look at the model used in Portugal and see if the good bits will work here. I am very much in favour of doing so, with everybody's help in this Chamber and in the Dáil.

As we stated last week, consideration of the issue is part of the ongoing discussion on the drafting of the national drugs strategy. This will include a public consultation phase which will provide an opportunity to have a constructive public dialogue on this and other drug-related issues. I have spoken to a lot of people in the past couple of weeks, particularly because of my ministerial position. A lot of people have told me that they have no voice and nobody asks for their opinion. I can confirm that people do have a voice. We must listen to the opinion of people because they are living in these communities. We not only have to listen to the people who are involved in the services to combat drugs, we have to listen to the people living on the outside. We can no longer have a community of people working in drugs who look inward and instead they must look outward. We must look at the "Mary" and the "Joe" who live down the street perhaps beside the Merchant's Quay project. They may not like what goes on in there but accept it is providing a service. The service must also show respect for the people who live in the neighbourhood.

I believe it would be completely wrong to move on a complex social and legal issue such as this without first having that debate. The implementation of such a change in policy would need extremely careful consideration. Such consideration must be done through the national drugs strategy but it must come from the people on the ground and the public representatives. Accordingly, I do not propose to accept amendments Nos. 1 or 2. I hope, over the next couple of months in the run-up to the national drugs strategy and the public consultation, we will look at models such as the one used in Portugal. We must analyse how we treat people in communities

and, in particular, how we deal with people who want to avail of a detox bed yet find themselves trapped because suitable services do not exist. Services to help addicts recover should form part of the national drugs strategy.

Acting Chairman (Senator Kieran O'Donnell): Do Members wish to make further contributions?

Senator Lynn Ruane: I thank the Minister of State. It is really positive that so many people in the Chamber view the system used in Portugal as a possible way forward.

The Minister of State mentioned that an “us and them” scenario was created when projects were set up but I assert that it was created not by the setting up of the project but by the people who decided to oppose the scheme. As a result, people who wanted to attend the projects did not attend and there were marches against the projects. It was the other way around. There is a misconception that the project created an us and them.

The Minister of State spoke about doing things differently. She has an opportunity to do things differently by not pressing the Government amendments and holding off until we discuss the legislation and how to implement the Portuguese model, instead of further pushing criminalisation. We should wait until we have had conversations.

The Minister of State shared her personal story and I shall do the same. As a 13 or 14 year old child I was a benzo user and we used to buy them in packets in Tallaght. Had I been arrested for doing so my life would not have gone the way that it has. Instead, I received support and I am now standing here today as someone who has worked in addiction services for 15 years.

We spoke about talking to the people on the ground. I talk to them every day and I am speaking on their behalf. If Members want me to fill the room and committee rooms with those people in order to facilitate discussions then I will do so.

I ask Senators to consider the following. If we agree that the Portuguese model is a good one then I suggest that we completely remove the amendments to the Bill until those discussions have taken place.

Senator Victor Boyhan: I am only here a few weeks. I was very taken by the Minister of State's very passionate argument. She has made a cogent case. I am impressed. I do not doubt the Minister of State's commitment and her track record in her own constituency. She is someone who comes with a long tradition of consultation and engagement in her community. I want it to put it on record that I have been amazed by her contribution here. She has come across with passion and conviction. It is not the usual old script that is read into the record. I am impressed by the way she has stood up and her understanding of her community. I held a different view but having listened to the Minister of State that is somewhat changed. That is important. It is the job of any Minister to come to the House and make a strong case for his or her argument and I thank her for doing so.

In terms of future plans and timetabling, the Minister of State has stated that she wants to bring forward legislation. When will that happen? We need to strike a balance because what Senator Ruane has said is also true. That is the dichotomy and the dilemma we are faced with but there is a will to do something. Can the Minister of State reassure us by telling us when the Portuguese model will be rolled out? What about the four acute detox beds? What is she going to do about that? She is the Minister of State. Can she give me and the Seanad an undertaking

that this will be her No. 1 priority next week? In two weeks' time what if I call the Minister of State back to the House and ask her, "What have you done about the four detox beds?" She made the valid point that people who wish to be rehabilitated have nowhere to go and there is no further progression for them. I want to hear about timescales and timeframes. Has she enough resources and money to provide services? There is also the issues of the detox beds and rehabilitation. Two valid arguments have been made here. I would be inclined to support the Minister of State if she can convince us in terms of the timeframe being within a matter of weeks, rather than months.

Senator Aodhán Ó Ríordáin: I understand that we are taking Report Stage tomorrow. I withdraw my amendment on the basis that I shall resubmit it tomorrow on Report Stage. Therefore, I give the Minister of State 24 hours to consider my amendment.

I am a bit taken aback by Fianna Fáil's suggestion that unnamed community groups are jumping up and down because they have been upset by this proposal. That is not the case for the groups that I have dealt with such as Citywide, the USI and Peter McVerry. The political parties in both Houses have changed their position all of the time such as the Green Party, People Before Profit and AAA. Also, the justice committee of these Houses, as indicated by the Minister of State herself, also supports this position.

2 o'clock

I am not convinced that we will have this conversation at a later stage because the legislation was also supposed to include the provision for medically-supervised injection centres and that measure has been separated from the Bill. I do not accept the suggestion either that the Bill is a response to what is happening in the north inner city because the Bill before us is a reaction a year later to the High Court case of March 2015. I do not accept the suggestion that the Bill is motivated by the recent murder spree in the north inner city because it is a response to a legislative need arising, as I indicated, from a High Court ruling. It is not acceptable to constantly state we can have the conversation some other time.

I got support from the Minister of State's colleagues in Cabinet in the previous Government. The Minister, Deputy Paschal Donohoe, was very supportive of the idea to have injection centres. The initiative was passed by the Cabinet and was to be included in the Bill before the House but it has been separated and we will have to deal with it another time. The Minister of State indicated the Bill would be likely to come before us in the autumn. She said we would deal with decriminalisation at some other stage. There were 679 drug and alcohol-related deaths in 2013. Addicts have very limited access in terms of having a voice. What Senator Ruane, Senator Black and others have said is that it is surely a humane approach - that in the cold light of day in a courtroom situation, it should be a defence for somebody to admit to being an addict and that he or she is in possession of drugs because of the addiction. I am sure any prosecuting garda, judge or jury would be able to make a determination that the nature of the addiction is a reasonable defence for the individual.

To reinforce what we have always done because we have always done it does not stand up to scrutiny. I will press the amendment on Report Stage tomorrow. I urge the Minister of State to reflect on her position between now and then. I also ask those Members who have spoken against the amendment to think again about it and perhaps to re-engage with people who know what they are talking about. I mentioned the CityWide Drugs Crisis Campaign, Fr. Peter McVerry, and the report that was done by the Oireachtas Joint Committee on Justice, Equality

and Defence. USI has again come out in favour of the decriminalisation of drug use. We are not resiling from the ideal of a drug-free society. That is absolutely not the case, but what we want is for it to be realised that somebody with an addiction needs help, support, compassion and medical attention, and does not need to be sitting in a courtroom or have a criminal conviction because of the nature of his or her medical need.

Senator James Reilly: I listened carefully to the previous speaker and he has removed some of the reason for me to speak, but only temporarily. I was going to ask the Senators to withdraw the amendments given the fact that the vast majority of people in this Chamber are in agreement that this is a health issue and we do need to decriminalise it, but that in order to achieve that it requires a comprehensive piece of legislation and we cannot just do it as an amendment to the Bill. As I already outlined, there are all the other parts of it that the Portuguese have put in place that we do not have in place.

Notwithstanding the terrible tragedy of the deaths of which Senator Ó Ríordáin has spoken and the fact that behind each of those individuals lies a real person and a family bereaved and distressed and a community suffering loss, there must be a real organised approach to the issue. Accepting the amendment today will not bring any of those people back or prevent any more deaths from occurring unless it is supported by the ancillary issues I have already mentioned in terms of how to deal with people when they are caught in possession and how to help steer them away and keep them out of the criminal system. Some addicts will become drug pushers, not the big noises, but there is a chain and we must start somewhere within that chain. I concur with everyone in this Chamber who said this is a health problem and it should be treated as such, that people should be supported to get off drugs and they should not be criminalised for being an addict. I fully agree with that but we must do it in an organised fashion and in a way that will work and will deliver and will not create more problems for us.

The approach of the Minister of State is correct. I ask the Senators to consider withdrawing the amendments on Report Stage as well, given the fact that the Minister of State has undertaken to come back to us in the autumn for a debate which will result in comprehensive legislation to address the issue and to provide the infrastructure that is required. I again commend the Minister of State.

Senator Colm Burke: I also commend the Minister of State on her contribution, but I advise my colleagues that there is a legal aspect to the issue as well in terms of the interpretation the courts can give. The amendments tabled will cause problems in terms of taking action against any pusher if the amendments, as tabled, are adopted. I am coming purely from a legal perspective. If accepted, the amendments would cause legal technicalities to arise and that must be taken into account as well. The Minister of State has given a commitment to come back to the House at the earliest possible date with a more comprehensive package. We must also ensure we have comprehensive structures put in place to deal with the situation.

Deputy Catherine Byrne: I wish to address one or two points before I conclude. Does Senator Devine wish me to tell her now, tomorrow, next week or the week after that there will be four new detox beds in St. James's Hospital? I cannot do that, but I will give a commitment that I will do everything I can within my role as Minister of State with responsibility for the national drugs strategy to make sure that we make rehabilitation and detox beds very much part of the national drugs strategy and to increase the number of beds. There is no point in us bringing people through a process of working in the community with drug addiction, bringing in counsellors and project workers and trying to co-ordinate the area of substance misuse if when

people come out the other end there is nowhere for them to go. It is not adequate to have only a small amount of detox beds and that is something on which I will give my personal commitment. I do not have a chequebook but I give my personal commitment that I will come back to the House on the issue.

The public consultation will be announced near the end of July and people will have an opportunity to feed into the national drugs strategy. Then it will go back to the commission and when the national drugs strategy is being formulated, people will also have a chance to look at it and to contribute to it.

In response to Senator Ó Ríordáin, ten years ago when I was spokesperson on the drugs strategy for Fine Gael in opposition, one of the key points I made was about medically-supervised injection centres. That has not gone off the radar. It is there. The Bill is coming in the autumn and we will ensure it will happen. I will not give the Senator a commitment on a date, for example, that we will open a project on 31 December but I will give a commitment that in 2017 if I am still in this position I will prioritise and push for the establishment of medically-supervised injection centres because they work. They have been shown to work in various countries around the world. The issue has not gone off the radar. Is Senator Ó Ríordáin going to withdraw the amendment?

Senator Aodhán Ó Ríordáin: I will resubmit it tomorrow.

Deputy Catherine Byrne: Okay.

Acting Chairman (Deputy Kieran O'Donnell): Is Senator Ruane pressing amendment No. 1?

Senator Lynn Ruane: No. I will resubmit it on Report Stage.

Amendment, by leave, withdrawn.

Section 3 agreed to.

Sections 4 to 7, inclusive, agreed to.

NEW SECTION

Acting Chairman (Senator Kieran O'Donnell): Amendment No. 2 has already been discussed with amendment No. 1.

Senator Aodhán Ó Ríordáin: I move amendment No. 2:

In page 5, between lines 22 and 23, to insert the following:

“Possession of controlled drugs for personal use

8. Notwithstanding anything in the Misuse of Drugs Acts 1977 to 2015, in any proceedings for an offence under those Acts it shall be a defence to prove that the defendant had in his or her possession a controlled drug for his or her personal use and for no other purpose.”.

Acting Chairman (Senator Kieran O'Donnell): Is Senator Ó Ríordáin pressing the amendment?

Senator Aodhán Ó Ríordáin: No. I will withdraw it with a view to resubmitting it on

Report Stage.

Amendment, by leave, withdrawn.

Section 8 agreed to.

Schedule agreed to.

Title agreed to.

Bill reported without amendment.

Acting Chairman (Senator Kieran O'Donnell): When is it proposed to take Report Stage?

Senator Colm Burke: Tomorrow.

Report Stage ordered for Thursday, 30 June 2016.

Request to move Adjournment of Seanad under Standing Order 30

An Leas-Chathaoirleach: I have received notice from Senator Grace O'Sullivan regarding a motion she wishes to raise under Standing Order 30. I call Senator O'Sullivan to give notice of the motion before I give my ruling. The Senator can read the text of the motion.

Senator Grace O'Sullivan: What is the alternative?

An Leas-Chathaoirleach: The Senator must read the text of the motion.

Senator Grace O'Sullivan: I invite the Minister for Foreign Affairs and Trade to come to the House to explain the situation with regard to Ibrahim Halawa who this morning has been detained once again in an Egyptian prison. On that basis I would like to know what the Irish Government is going to do to resolve the situation where for the past three years an Irish citizen has been detained in Egypt. Ibrahim Halawa has an Irish passport. He is an Irish citizen, and in my view not enough is being done.

An Leas-Chathaoirleach: I cannot allow the Senator make a speech on the matter. Is that the text of the motion?

Senator Grace O'Sullivan: That is it.

An Leas-Chathaoirleach: I have given careful consideration to the matter raised by the Senator. I cannot consider it to be a matter contemplated by Standing Order 30. I regret, therefore, that I have had to rule it out of order. I am sorry about that.

Sitting suspended at 2.20 p.m. and resumed at 4 p.m.

Immigration (Reform) (Regularisation of Residency Status) Bill 2016: Second Stage

Senator David Norris: I move: "That the Bill be now read a Second Time."

I moved this Bill some two years ago, when we were promised speedy movement on it. Not much has been done, although I will grant that a certain amount has happened. It is rather appropriate that we are discussing it today in light of the fact that, coincidentally, the Irish Human Rights and Equality Commission has produced a report which was launched this morning at 11.30 a.m. The report contains a considerable section about refugees and asylum seekers. It points to Ireland's agreement to participate in the deal with Turkey and how it puts the whole of the European Union in danger of coming into direct conflict with the provisions of *non-refoulement* - that is, refusal to return people to places where they could be done harm.

There is an associated area, which I will not deal with today but I am sure will come up in Seanad Éireann, which is the existence of large numbers of undocumented migrants. There are 20,000 to 26,000 undocumented migrants in Ireland and their fate bears a direct relation to that of our own Irish people living in the USA, about whom we have argued so passionately in the past. Of these, 84% have been living here for more than five years, including 49% for more than eight years and 21% for more than ten years. This is a large body of people whose situation needs to be determined.

I am not a negative person, so I will accept that some progress has been made and that Ireland, for such a small nation, has done some wonderful and remarkable things. For example, we have sent our Naval Service to the Mediterranean Sea, where they have been involved in the rescue of significant numbers of people, and this is something of which I believe we as a nation can be justly proud. It is also important to note that Ireland has been chosen to co-facilitate the United Nations General Assembly high-level meeting in New York on refugees and migrants on 19 September 2016. Part of my motivation for tabling this Bill again in the House was to reactivate it and push to give the Minister of State support in doing what he has already started to do, but not - in my opinion - half quickly enough.

I reject the amendment. I am a political realist and I know they have done their numbers. We used to be governed by a four-person group in the previous Government and now it is down to two: Enda and Micheál. They have got together and decided to scupper the Bill. So be it, but I will still probably call a vote. They used the Brexit excuse - ho hum - and mentioned the European Union pact on migration and then the implementation of the International Protection Act 2015. I welcomed this, but perhaps the Minister of State could indicate an implementation date, particularly with regard to the single procedure. Can we please have a clear and specific date by which this valuable instrument will come into operation? There is also another piece of technical legal material, which I will leave to one side.

The Government established a working group under the distinguished former judge Dr. Bryan McMahon, who made his report. It is not entirely what I would like to see - it fails to address some significant issues - but it is extremely useful. One month ago, on 17 June 2016, Dr. McMahon said:

We recommend the Government now move to ensure the remaining measures to give effect to the recommendations are implemented so that people seeking asylum in Ireland can live with a greater degree of respect and dignity.

With regard to the asylum situation in Ireland, I have the latest figures, as far as I know. There are 35 centres with an occupancy of 4,371 people from 17 countries. One has to look at the report of the working group, because they did work very intensively and made it their business to visit many of these centres around the State. The working group discovered that

only three of the centres were custom-built. The other centres were accommodation facilities that had been lying idle, such as hotels and guest houses, which had been designed essentially for quite different purposes from that of maintaining people who were seeking asylum. The working group found that the majority of families were accommodated in a sort of single unit with no separate living space. To ask someone to live in these conditions for five, six, seven, eight, nine or ten years is pretty grim when one thinks about it. Living in one room is a pretty disastrous way to live. The members of the working group described the accommodation units, and particularly those that are really just bedrooms, as cramped and cluttered with inadequate storage and unsuited to the multiple purposes that they are required to serve. They also looked at the concerns around cooking facilities. I will not rehash that issue as two years ago I put onto the record of the Seanad the cultural need for people to be able to cook their own food; when children watch their parents preparing meals in a family environment, it consolidates the family unit.

I know the Government will say there were 173 recommendations. It has implemented 91 recommendations, many of which are associated with the legislation to which I have already referred, the International Protection Bill 2015. It has partially implemented 49 recommendations and further consideration is required on 33 of them. Therefore, approximately 50% of the recommendations have been implemented. That is not a terribly good average. It has attracted the attention, not just of Seanad Éireann, the Irish Refugee Council and the Human Rights and Equality Commission, but also of His Excellency, Uachtarán na hÉireann, President Michael D. Higgins, who, in 2014 in South Africa, said that the direct provision situation in Ireland was completely unsatisfactory. He said that the Irish system of direct provision did not address the human rights of people seeking asylum in Ireland. That was not the end of it, as he returned to this matter on 21 May 2016, questioning something that I would also question: the fact that dealing with direct provision was originally part of the agreement on the programme for Government, but then it disappeared. That must have been a specific and deliberate decision, because it was on the programme at one stage and now it is gone. Perhaps the Minister of State could clarify the reason for this.

I will return now to Dr. Bryan McMahon. In May 2016 he described the Government's treatment of asylum seekers as remaining "narrow" and "mean". These two simple words are very powerful and effective and they characterise what he sees as the approach of Government. This is the independent judge appointed by the Government to oversee this area. Dr. McMahon called for an immediate once-off amnesty for people who have been in the asylum system for five years. This is also in my Bill, but I call for an amnesty after four years. I called for this in light of the 1916 celebrations. The President also referred to the fact that the matter had fallen off the Government's agenda.

I would like to quote a direct voice from this community, a woman called Kany Kazadi. In an interview in the *The Irish Times* on 20 June, she said:

Integration does not happen in rural places with this system. It was clear there were two separate communities in this small town. I was always identifiable as a woman of colour walking down its main street. If I had been given the opportunity to work or to upskill, then it would have been a different experience. Direct provision has to go. We don't want to live like prisoners, we don't need your sympathy, we want to be understood. We have so much talent.

I refer to the provisions of the Bill I am presenting to the House today. The main section is

section 7 which addresses what I think are the essential elements we are considering today. It refers to the entitlement to reside in the State, the capacity to enjoy the right to travel, the same freedom to practise religion as Irish citizens, the ability to seek and enter into employment, the right of association, which is guaranteed in the Constitution, access to the courts, which is not fully granted under the present situation, and access to education. It is ridiculous that when asylum seekers come to the end of their second level education and want to go on to third level, they are expected to scrounge around and find €10,000 to meet their fees. Section 7 also states people are entitled to receive the same medical care and services and social welfare as those to which Irish citizens are entitled. These are the essential core demands that I have put forward in my Bill.

I have the support of the Irish Refugee Council for the Bill but it is hedged with some qualifications. The council is in favour of the intention of the Bill and the general principles behind it but it is worried about some of the language used, in particular the word “regularisation.” It seems to think, and it is a legitimate point of view, that the word “regularisation” suggests or implies that there is something irregular in asylum seekers’ status here at the moment. In a legal sense, this may not be true but I can say with my hand on my heart that the way in which such people are treated is as sure as hell irregular. That is what needs to be addressed and we can start the process here today.

I refer to the system whereby *ad hoc* permission to remain is granted. I would be very glad if the Minister could address this matter. I am particularly glad the Minister of State, Deputy Stanton, is here because he has been directly involved in this situation and, therefore, knows what he is talking about. Very often the people who avail of this *ad hoc* system do not fully understand the implications of so doing and the restrictions, for example, on their subsequent rights. I refer to the right to pursue family reunification and so on. This is a problem.

The Minister for Justice and Equality, Deputy Fitzgerald, has spoken about the International Protection Act. However, in April 2016, Mr. Justice Bryan McMahon said that it was regrettable that since the working group report, there had been no improvement in the living conditions and supports for almost 5,000 people. The Jesuit Refugee Service said that huge work needed to be done. A key recommendation was that people in direct provision for more than five years should be admitted to the system. Under the working group, there was also a recommendation that we opt directly into all instruments of the Common European Asylum System, including the recast reception conditions initiative.

I will pass over what the Government said because I know it will be well able to say it again. Two years ago, the then Minister of State, Deputy Deenihan, said that it took far too long for applications to be dealt with. It is still taking too long and the process is getting longer as we speak. It has gone from 12 months to 15 months and I am not quite sure what it is now.

This country is unusual in regard to the right to work. In the United Kingdom, Malta and Bulgaria, asylum seekers can work for a year after they submit their application. In Poland, the Netherlands, Italy and Belgium, the wait is only six months and I could go on.

One of the issues at the heart of this is the length of time involved. Uncertainty overshadows the lives of people. There is also a lack of personal autonomy over the most basic aspects of their lives and daily living. I refer to cooking, going to the shops, cleaning, the lack of privacy, the challenge of sharing with strangers, the boredom and isolation, the inability of people to support themselves or their family and contribute to society in a meaningful way, the impact

on children being born and-or living their formative years in an institutional setting, the impact on the capacity of parents to parent to their full potential and the loss of skills and the creation of dependency.

When I wrap up this debate, I would like to discuss the whole question of lesbian, gay, bisexual and transgender people. The people who interview them say, “You don’t look gay.” Well, hello. Maybe I look gay but I could not care less. The people conducting the interviews say, “You’re married or you have children.” Do we not know the history of this bloody country where people who were gay were forced into marriage? They had to get married in order to provide cover for themselves. I thank the Acting Chairman for his indulgence and look forward to hearing what the Minister of State has to say.

Acting Chairman (Senator Frank Feighan): I thank the Senator and call on Senator Boyhan.

Senator Victor Boyhan: I am delighted to support Senator Norris’s Bill and thank him for bringing it forward. When I first met him when I came in here, he was very exercised about it and was determined to bring it forward early in the session, which is welcome. His legislation has touched on some really important issues.

We need to be clear about what is meant by direct provision. It is a means of meeting the basic needs of food and shelter for asylum seekers while their claims for refugee status are being processed rather than providing cash payments. The system was introduced in April 2000. In 2014, asylum seekers were not entitled to any form of social welfare or social assistance except for the direct provision system. In 2014, a former Supreme Court judge, Mrs. Justice Catherine McGuinness, predicted that the State’s treatment of asylum seekers would be the subject of a future Government apology. They were very profound words from Mrs. Justice Catherine McGuinness.

Senator Norris touched on the fact that Mr. Justice Bryan McMahon completed a comprehensive report on the subject in 2015, which outlined his primary concerns and identified serious issues that needed to be addressed. Mr. Justice McMahon, in his report, recommended that no person should be in the system for longer than five years. We know that there are people in the system for well in excess of five years, which is unacceptable. Senator Norris has touched on this subject.

Clearly, there is a need for change. Mr. Justice McMahon’s report in June 2015 touched on a whole range of issues and objectives and asked that they would be addressed. There are in the region of 3,500 asylum seekers who have been living in direct provision for more than five years. In 2016, the Department of Justice and Equality stated that 91 of the recommendations of the report had been implemented in full, 49 had been partially implemented and 33 were marked as needing further consideration. In April 2016, ten months on from the launch of the report, Mr. Justice McMahon said that the implementation of key recommendations had been slow to be implemented and inadequately resourced. Clearly, there are issues.

I have received feedback from people who live in these centres. They talk about uncertainty and a lack of autonomy over the most basic aspects of their lives. They also talk about the challenges of sharing with strangers and of having many children in the one centre. They are concerned about the safety of their children and partners. All of these are very challenging issues. Every parent knows how he or she guides and monitors his or her own children in one’s

own environment and community. The people in these centres want to feel safe and free from exploitation. Many other issues affect people who live in direct provision centres, including the challenge of family life. This is the reality. Mrs. Justice Catherine McGuinness is right that this State will look back on these centres in the same way it had to look back on the institutional care of children in this State where it abandoned all responsibility. A redress scheme has since been set up in this State but it is too late. Saying sorry is no good, redress is no good and compensation is no good if the damage has been done. We have responsibilities. The most important word that stood out for me was “isolation”, people who feel isolated and vulnerable. While I take on board what Senator Norris said about four to five years, initially people want to have this addressed. There is no point in the State commissioning reports and judges chairing groups and coming back with recommendations and not implementing them. I will support the Bill. There will be amendments further on but it is worth pursuing. There are many valid reasons to do so and the State is failing these people.

I am not 100% sure about an amnesty now but I am not saying it should be ruled out in the future. Anyone waiting over five or six years has to be a priority and the Government needs to give those people priority. I hope the Minister of State will say what he envisages. The negative impact on anybody’s physical, emotional and mental health is important. It is a question of human dignity, respect and rights. That is the core of this Bill, that people have rights to their dignity, to their own self, to a feeling of their own empowerment and they need to be aided and supported in the State. The Senator is talking about a humanitarian response, which is the really important issue. Wherever these people are, wherever they have come from and are going, they must be afforded dignity and humanity. That is the core of what the Senator is trying to achieve and he has my full support.

Senator Martin Conway: I move amendment No. 1:

To delete all words after “That” and substitute “the Bill be read a second time this day 18 months to take account of the changed circumstances since the Bill was first introduced in 2014 and to ensure that there are no serious unintended consequences arising and to allow time:

(i) to ensure that, in accordance with national public policy, changes are not implemented that would impact the continuation of the Common Travel Area thus ensuring that Ireland’s negotiation position with the United Kingdom (U.K.) on the Common Travel Area is not compromised in upcoming negotiations following the outcome of their referendum to leave the European Union (E.U.);

(ii) in the light of Ireland’s commitments in the European Pact on Immigration and Asylum at the European Council where there is a specific commitment ‘to use only case by case regularisation, rather than generalised regularisation under national law, for humanitarian or economic reasons’, to ensure that our negotiation position with the E.U. on retaining the Common Travel Area is not weakened in the context of the U.K.’s decision to leave the E.U.;

(iii) to allow for the commencement of the International Protection Act 2015 which replaces the time consuming, multi-layered sequential applications system with a new single applications procedure in compliance with international standards, designed to address the issue of the length of time people spend in the protection system and to deliver determinations of applications within a shorter timeframe;

(iv) to provide for the completion of the implementation of the recommendations of the Working Group Report to the Government on Improvements to the Protection Process, including Direct Provision and other Supports which already addresses the position of international protection applicants who are the subject of this Bill; and

(v) in order to consider in detail any discrimination resulting from the different treatment of categories of applicants prescribed by the Bill which would have to be justified by objectively sustainable, and not arbitrary, reasons in order to be constitutionally compliant.”.

I welcome the Minister of State at the Department of Justice and Equality, Deputy Stanton, to the House and congratulate him on his elevation to ministerial office. He is in a very appropriate Department given his phenomenal apprenticeship because he had the premiership of briefings chairing the Oireachtas Joint Committee on Justice, Equality and Defence where he did a remarkable job. Senator Norris acknowledged that. I also congratulate Senator Clifford-Lee on her appointment as Fianna Fáil spokesperson on justice. It is a very important role and I have no doubt she will do a very good job.

Nobody can defend the direct provision structure and system as it is. In the last Seanad I called for a phased abolition of direct provision. It does not do this country justice. Tens of millions of our forefathers emigrated and received wonderful hospitality and an opportunity to flourish and blossom and to use their many skill sets to contribute meaningfully and productively to the creation and development of many cities and countries around the world. It is also true that many millions of our forefathers were blaggarded and not treated very well when they went abroad. We often hear stories of signs saying “no dogs, no Irish” in windows in different parts of the world. We have experienced both sides of this situation. Therefore we have a duty to be fair and humanitarian, and to treat people with respect, dignity and as equals. Direct provision certainly does not do that.

Senator Norris brought this Bill before the Seanad in 2014. Prior to that along with Senator Ó Clochartaigh and others, I formed an *ad hoc* all-party Seanad committee which was very effective, to address the issues of direct provision. We brought people living in direct provision into Leinster House where they briefed us. We took the initiative to travel to several centres, including Galway, where it was made abundantly clear to us how difficult, challenging and degrading it is and certainly not what our society wants. I agree with Senator Boyhan and with the eminent retired judge, Catherine McGuinness, who said we will be apologising for it as a nation in 20, 30 or 50 years’ time or perhaps even sooner when a Taoiseach will stand in Dáil Éireann delivering an apology similar to the apologies that have been made to people who suffered institutional abuse over the years. That will be the right thing to do. It is a shame and shocking that we will have to do that because of the behaviour and the lack of action of Governments since 2000.

In the renegotiated programme for Government in 2014 there was a commitment to tackle this issue. Mr. Justice Bryan McMahon was appointed to chair a working group which reported and many of its recommendations have been implemented. Not all the recommendations have been implemented and certainly not quickly enough but at least there has been action and movement. At the same time, Senator Ó Ríordáin was appointed Minister of State at the Department of Justice and Equality to take responsibility for this area. He made it a personal commitment and priority to drive this issue and try to find solutions. Coupled with those developments is the International Protection Act 2015, which was necessary and needs to be implemented. Its

provisions need to be put into action.

The kernel of the problem is the delay in processing people's applications. If people are denied the right to stay they properly have a right to appeal that decision but these appeals can take a considerable time to go through the courts. I am glad that the International Protection Act will streamline that process. There has been a significant increase in the number of people who have been given leave to remain. The process is moving much faster than heretofore and more people are moving into our communities. The system was set up in 2000. The Government of the day was caught in a situation it did not expect. Thousands of people were seeking refuge in this country. Direct provision was seen as a temporary little arrangement but unfortunately it has become too permanent for too many people.

I had the privilege as a guest of the Irish Refugee Council of visiting the direct provision system in Portugal which was most impressive. Nobody was left in direct provision or had an application delayed longer than six months. In Portugal six months was seen as the upper limit. The applications were dealt with in weeks in many cases but certainly within two to three months. If the process went on for six months it was seen as a failure. The direct provision centres provided education, access to employment and sporting activities. It was the premier-ship of direct provision centres. We need as a nation to have a conversation with ourselves and to ask if we need a direct provision system. My contention is that we do not.

The amendment proposes that we put Senator Norris's excellent Bill on hold for 18 months. I know the Minister of State having worked with him for five years, and he is very committed to equality and to ensuring that everybody has equal opportunity. He is uncomfortable with the direct provision system. Eighteen months is a reasonable period to allow the Minister of State and his officials build on the progress made as a result of the McMahon recommendations, to give him the opportunity to implement more of them, allow him to commence the International Protection Act 2015 and have the breathing space that he and the Government need to move this issue on significantly.

It is only proper that the House would acknowledge that since July 2014 - not before that because precious little was achieved before then - a number of important developments have taken place, as I outlined, and we are seeing a significant improvement in this most embarrassing situation. It is not just embarrassing for us as a people but also embarrassing for us internationally given the hospitality and welcome our forefathers have received over the years. In the spirit of unity and collegiality that this House is known for, I urge that we give the Minister of State the opportunity to make his mark in resolving the issue. This is in no way disrespectful to Senator Norris's Bill because I know the motivation behind it and the commitment to human rights he has shown through his role in Seanad Éireann and in taking cases to the European Court of Human Rights as far back as the late 1980s.

Senator Lorraine Clifford-Lee: The direct provision system currently in place for asylum seekers was established in 2000. When established, it was envisaged that applicants would spend a maximum of six months in direct provision while their applications were being processed. The past 16 years have shown that has not happened and currently there are approximately 2,500 people in direct provision for four years or more. Some of them have been there for up to nine years living in limbo and inhumane conditions in direct provision centres which are not fit for purpose. It is clear the situation is completely unacceptable and unforgivable. Over time, people in direct provision become institutionalised and their mental health is impacted severely. Our system of application and assessment has failed those people and we can-

not stand over the failure any longer.

Direct provision is perhaps the most important human rights issue of our generation. I commend Senator Norris and the other Senators involved on bringing this Bill before the House today. Fianna Fáil supported the Bill when it was first before the House in 2014. What is being sought is no more than what has been sought for Irish citizens living in undocumented limbo in the United States.

We fully support the report of the working group chaired by Mr. Justice Bryan McMahon and the recommendations of the group contained therein. A huge amount of time, effort, energy and resources went into the report. Mr. Justice McMahon is a person of impeccable credentials in this area and worked with numerous stakeholders such as NGOs, Tusla and the Department of Justice and Equality to produce the report. A total of 173 unanimous recommendations were made. I am informed by the Minister that 91 recommendations have been implemented, 49 are partially implemented and the remaining 33 are under consideration. I am also informed by people involved in the sector that the softer recommendations around personal privacy in direct provision centres have been implemented but the more meaty recommendations have not.

The wording of the Government amendment makes no mention of any recommendation of the working group being under consideration but merely states that time is being sought to provide for the completion of the implementation of the recommendations of the working group. Therefore, I can only assume that the recommendations can be taken as completely accepted by the Government and I call on the Minister to implement them immediately.

The main recommendations of the McMahon report centre on giving a status called “leave to remain” to those who have been in the asylum system for more than five years if that does not breach three criteria in relation to criminal activity, threat to national security and public policy considerations. Leave to remain is less than refugee status in that family reunification is not guaranteed automatically, as is the case when refugee status is granted.

Deportation orders have issued against many people in direct provision but they have not been acted upon for a significant period. We do not have diplomatic relations with countries such as Iran, Iraq and Russia and therefore we cannot effect deportation orders in relation to people from those countries. This results in people being left in a horrible limbo with no real prospect of their situation ever being remedied. I am told that on humanitarian grounds many families in direct provision are eventually granted leave to remain but young, single men are not being afforded the same status and the McMahon recommendations would bridge that gap.

The International Protection Act 2015 was signed into law by President Higgins at the end of December 2015 after the Council of State decided not to refer it to the Supreme Court to test its constitutionality. The Act ends the bifurcated system of applying for asylum and subsidiary protection separately and allows for a single application procedure. That brings us into line with international practice and would allow for a speedy, straightforward method of processing applications. It is clear that would significantly cut down on the amount of time new entrants into the system spend in direct provision and would also cut down on the scope for judicial review at the various stages.

The new single application process was supposed to come into effect from July 2016 onwards, but having spoken to legal practitioners in this area there does not seem to be any sign of that happening any time soon. New applications lodged in recent weeks have gone into the

old system. I call on the Minister to commence the Act without further delay and to allocate sufficient resources to allow the new process to work without significant delays in the system.

While the sentiments of the Bill before us today very much find an empathetic home within the Fianna Fáil group we are mindful of the new uncertainty in which we find ourselves following the historic referendum in the UK last week. We are also mindful of the fact that we had a long period between the election of the Dáil and the formation of the Government. Therefore, in the spirit of the new political reality in which we find ourselves, and the new spirit of co-operation, we are willing to give the Government the time and space it seeks and to vote in support of its amendment.

However, I put the Minister of State on notice that I will raise these matters again in the autumn as a Commencement Matter and should significant progress not have been made in terms of the ending of the bifurcated system via the commencement of the International Protection Act 2015 and the full implementation of the recommendations of the McMahon group, our support for the Government's position, should this Bill come before the House again, cannot be guaranteed.

Senator Ray Butler: Ireland is not and has never been closed to immigrants. How could that be the case with our history? Just over 1,500 vulnerable persons from 27 different countries have resettled in 22 different communities throughout the country, as at December 2015. While the Bill before us today is clearly well intentioned and motivated by concerns we all share for those genuine applicants impacted by such lengthy delays in a decision being made on their status, I am afraid it does not go far enough to address all aspects of concern.

Instead of the Bill helping to improve the system, it would be an open door for potential abuse on a massive scale, which could have very costly and negative impacts on a large variety of public and social services, which are still reeling from almost a decade of pain.

The cause of the delays in the system are twofold; one is the multi-layered system, and the other is caused by applicants themselves, who for their own personal benefit delay the process for as long as possible, thus creating major stresses and strains on all systems and services. No one disputes that our multi-layered system needs to be simplified into a single application procedure, just as in every other European Union member state and in the Statement of Government Priorities 2014–2016. The Government has already committed to introducing a protection Bill to establish a single application procedure, together with an independent working group to report on improvements with the protection process.

Let us face it - Ireland cannot and should not be an easy touch for all to exploit because of our generous and giving nature. Our citizens have suffered serious cuts in recent years in social protection services. The Department has also worked diligently to seek out and reduce fraudulent claims. The Bill would have the potential for any and all to jump on board and to make false claims, thus further impacting on services and affecting those who genuinely are in distress and seeking assistance. Do we really need to scrutinise each Department to see the possible further negative, knock-on effects this Bill would create in, for example, housing, health and education? Need I say more?

Senator David Norris: No, you need not.

Senator Ray Butler: Genuine assistance for those who genuinely require it is only right, but for those willing to take advantage of the system that would be put in place if this Bill were

to proceed, without being effectively scrutinised, it is absolutely wrong. It is not only our job to protect those who need it most, it is our moral duty.

Immigration has an impact on every society, including both the host country and the home country. Provided the correct structures and supports are in place, the positive impact on the host country can be greatly enhanced as we can see from the increasing diversity of Ireland's population over the last number of years. The cross-departmental group of 15 Departments and other organisations working together to review and produce an updated overall integration strategy is a positive step in the right direction to find solutions to the challenges facing immigrants and communities alike.

The Government has shown its commitment to tackling this area. It is only right that the required time be allocated to finishing all reports before proceeding. Following the fallout of Britain leaving the EU we are now in uncharted waters, and a quick fix solution to this single area of the overall problem, which the Government is already addressing, would be not only reckless but also disastrous. Cautious, steady, positive progress is what has been taking place, and in the long term I believe that those who are entitled to it will benefit from this due process.

Senator Trevor Ó Clochartaigh: Cuirim fáilte roimh an Aire Stáit agus déanaim comhghairdeas leis as ucht a cheapacháin. Guím gach rath air sa ról nua mar tá a fhios agam go raibh sé an-ghlórach ar na ceisteanna seo san am a chuaigh roimhe.

I congratulate the Minister of State on his appointment. I have been studying this issue for a number of years and I am very interested in it.

Senator David Norris: I should have paid tribute to Senator Ó Clochartaigh. I apologise for not doing so.

Senator Trevor Ó Clochartaigh: I apologise for not being present for the start of the debate, but I was watching it elsewhere.

This is a very serious human rights issue in our country. I wish to pay tribute to Sue Conlon, the outgoing chief executive officer, CEO, of the Irish Refugee Council who has been an outstanding advocate on behalf of asylum seekers over the last number of years.

Senator David Norris: Hear, hear.

Senator Trevor Ó Clochartaigh: Hers will be a hard act to follow. I welcome the Bill as an attempt to highlight and focus discussions on the delay within the asylum procedure and to clear some of the backlog of applications before a proposed new single protection procedure comes into force. It is unacceptable that people who are waiting for a decision on their protection needs for up to four years are left languishing in direct provision during that time. While supportive of the objective and good intention of the Bill, I and a number of non-governmental organisations, NGOs, have stated that we have concerns about its content as it is currently drafted. I will address those concerns.

First, the use of the term “regularisation” in the Title and content of the Bill indicates that there must have been a period of irregularity. People who have outstanding applications for either refugee status or subsidiary protection do not have an irregular status. Instead, they are awaiting a decision on applications made under Irish law, in compliance with EU or international obligations, and have a temporary right or permission to remain pending the outcome

of that decision. In addition, notwithstanding that applications for leave to remain follow a notice from the Minister for Justice and Equality that she is considering deportation, until that application has been determined, refused and followed by a deportation order, it is inaccurate to say that a person is in the country irregularly. Similarly, there is a reference in the explanatory memorandum to 50,000 Irish immigrants in the United States with an irregular status. That term is bandied around by others. It is confusing, as they are not in a comparable situation to persons awaiting decisions in Ireland in the direct provision system. The content of the Bill should be reviewed in this light and an alternative wording, such as “resolution of residency status” could be considered.

Senator David Norris: That is absolutely no problem.

Senator Trevor Ó Clochartaigh: With regard to legal assistance, as the Bill proposes automatic recognition of residency status under section 6, it is vital that applicants receive legal assistance and advice in advance of applying for this residency status. People with outstanding applications for a form of international protection are entitled to a decision on that application. There are defined entitlements that flow from refugee status and subsidiary protection being granted. For example, refugee status is an internationally recognised status under the 1951 Convention relating to the Status of Refugees and a catalogue of rights attaches to this status under our international obligations as a state party to that convention. The primacy of the 1951 convention, including the rights of refugees, should not be undermined and-or circumvented by states providing alternative forms of status with lesser rights.

Notwithstanding that a person will not be required to secure residency under the Bill, if enacted, there is evidence that people who have opted for leave to remain, when offered it under an *ad hoc* scheme operated by the Department of Justice and Equality previously, have not fully understood the implications of doing so and have been left unable to pursue family reunification applications, for example, which has long-term consequences for the person concerned. It is noted that family reunification is not provided for under the alternative status in the proposed Bill.

Similarly, although section 7(2)(b) enables people with this status to enjoy the same rights of travel within, to or from the State as those to which Irish citizens are entitled, the travel document referred to is unclear, while travel documents under the 1951 Convention relating to the Status of Refugees are, for the most part, internationally recognised. This may have long-term implications for the person’s ability to travel outside the State. It is therefore vital that persons are equipped with the knowledge required to make an informed decision as to whether to apply for this status. This should be provided by way of independent, quality legal advice and the provision of clear, accessible information on the rights and entitlements of this status compared with the protection statuses. Section 6 should be amended accordingly.

Senator David Norris: I am open to the Bill being amended.

Senator Trevor Ó Clochartaigh: I am glad to hear it. With regard to the exclusion grounds, the Bill automatically excludes people who should have an opportunity to be considered. These include, but are not limited to, an immediate family member of the applicant who is subject to a deportation order. Such exclusion could potentially lead to the anomalous situation of a family being separated within Ireland or between countries and could potentially breach their right to family life. A provision should be included to enable a review of the applicable groups in order to extend them, without restricting the categories of persons already outlined in the Bill.

The Bill gives powers to the Minister to revoke a residence permit issued in accordance with the Bill, if enacted, and to make a deportation order. A number of NGOs are concerned that the circumstances in which the permit can be revoked and a deportation order issued are too wide under the Bill. There is also no right of appeal against revocation and the issue of a deportation order. For example, revocation followed by a deportation order can occur when there has been falsified or concealed information in an application made under section 6, in an application for asylum, an application for subsidiary protection or an application for leave to remain. This appears to apply regardless of whether that information is material which is decisive to the granting of the residency and without any regard to circumstances in which that may occur, particularly for people who have fled, or fear return to, persecution or serious harm. The terms of procedural rights under a revocation procedure guidance could be taken from the revocation provision under the International Protection Act 2015, which enables the applicant to provide representations in writing in advance of the issuing of a revocation order and enables the Circuit Court to examine an appeal.

They are my points on the Bill before us. However, I also have concerns about the Government's approach in its amendment. I have been very critical of the implementation of the working group report. The working group was hampered in its approach and in what it could examine. I note that Mr. Justice Bryan McMahon recently stated that he has concerns about the implementation of the working group's recommendations and the length of time it is taking to implement them. A number is being thrown about for the number of measures that have been implemented from the working group's report but many of the NGOs in this area and people in the system tell me that the big ticket items have simply been dodged, particularly the right to work and the right to education. That must be addressed. It is pointless to say we will sign up to certain EU directives, but not all of them. That is a concern.

Many of the working group's recommendations that have been implemented are somewhat linked to the International Protection Act, which has not commenced, but some, such as the right to work, have not been implemented. It is unclear whether these will be implemented in the future. The recommendation in the working group report was to ensure access to the labour market for first-time applicants awaiting a first instance decision. I could go on all night about this.

Senator David Norris: It is very interesting.

Senator Trevor Ó Clochartaigh: I would welcome a further debate on Committee Stage on all of these issues. I state once more that I believe direct provision is a national disgrace.

Senator David Norris: Hear, hear.

Senator Trevor Ó Clochartaigh: It is an institutionalised form of abuse and it needs to be scrapped forthwith. The privatised nature of it and the way people's human rights are being degraded is absolutely unacceptable. I call for a specific debate on scrapping direct provision at a later date.

Senator Catherine Noone: I commend Senator David Norris on tabling the Bill, the general intention of which I support, and I congratulate the Minister of State, Deputy David Stanton, on his appointment. The stated purpose of the Bill is to provide for the regularisation of residency status of persons who have applied for refugee status and-or subsidiary protection and-or leave to remain if, four years following the submission of such application, the application

remains undetermined. In light of the outcome of Brexit and in light of the Bill itself, I support the Government's amendment to defer discussion of Second Stage of this Bill for 18 months.

I second the amendment.

Senator David Norris: The Senator can second it. I have no problem with that.

Acting Chairman (Senator Frank Feighan): It does not need to be seconded.

Senator Catherine Noone: As Senator Conway has said, we need to take time to consider the possible implications. It is a bit distracting when the person behind one is laughing when one is speaking.

Senator David Norris: Laughter is terribly good for one. I was laughing silently.

Senator Catherine Noone: The timeframe will ensure changes are not implemented that would impact the continuation of the common travel area. This would ensure that Ireland's negotiation position with the UK on the common travel area is not compromised in upcoming negotiations. Given Ireland's commitment in the European Pact on Immigration and Asylum at the European Council, deferral of this Bill will ensure that our negotiation position with the EU on retaining the common travel area is not weakened in the context of the UK's decision to leave the European Union.

It will allow for the commencement of the International Protection Act. The Act replaces the time-consuming multi-layered sequential applications system with a new single applications procedure, in compliance with international standards. The Act is designed to address the issue of the length of time people spend in the protection system and to deliver determinations of applications within a shorter timeframe. It will provide sufficient time for the full implementation of the recommendations of the working group report to the Government on improvements to the direct provision process, including direct provision and other measures which are the subject of the Bill.

The deferral of the Bill will allow time to consider in detail any unconstitutional discrimination resulting from the different treatment of categories of applicants prescribed by the Bill which would have to be justified by objectively sustainable and not arbitrary reasons in order to be constitutionally compliant.

Despite the merits of the Bill and the clear intention, which is to be commended, it could perhaps have potential negative or unintended consequences. It does not take into account the significant reforms included in the International Protection Act 2015 resulting from the implementation of the recommendations of the working group on the protection process. The Bill essentially amounts to a standing amnesty for those who would seek to make false protection claims in the knowledge that if they can hold out for four years, they will gain residence status. This is a potential pull factor for false protection claims and for irregular migration, not least that it also confers potential benefits in respect of family members. In some cases, these exceed that available to persons who use legal migration channels. An increase in false protection claims will also delay the processing of genuine protection applications.

The Bill actively incentivises the evasion of deportation orders. Fundamentally, the Bill fails to appreciate the distinction between the delays arising from the construct of the protection system itself and those generated by the actions of the foreign nationals, including judicial

reviews.

I commend the amendment.

Senator Alice-Mary Higgins: I thank the Minister of State for coming to the House and Senator Norris for tabling this important Bill. When I returned here from being an emigrant in America in 2004, it was to a context in which racism was rising. We had seen the introduction of the direct provision system as a very negative response to what was in the global sphere a negligible increase in the number of refugees and migrants and we were told that it was a temporary arrangement. Even at the time, it was clearly a dangerous and badly thought through arrangement. We had to produce information leaflets on myths and facts about refugees and asylum seekers as the divisions between communities and asylum seekers and refugees grew as they were warehoused into the direct provision system. Since then the system has remained largely stationary, even to the point where the €19.10, the desultory payment made to those trying to maintain individual dignity, has remained unchanged, even in the last Social Welfare Act and the publication of the McMahon report.

I recognise and welcome the McMahon report, which is important. While I would like to see the dismantling of the direct provision system as I believe it is a dangerous system that builds division within society, I welcome the recommitment from the Minister of State, Deputy Stanton, in terms of implementation of the McMahon report. There are areas on which I believe the McMahon report fell short, particularly around the protection and guarding of rights of women and full due process in regard to that. That is an issue we would have critiqued. Nonetheless, while the McMahon report moves ahead, the kernel of the problem, as identified by colleagues in Fine Gael, is still the long waiting time. There are still 3,500 people within the system. There are families within the system. There are children who have spent their whole school-going lives in a direct provision system, a system which is unsafe. As has been acknowledged by both sides of the House, we may be vulnerable to future claims of redress and recrimination as we have placed people in institutionally unacceptable situations. Nonetheless, the 3,500 cases have been moving forward.

This modest and reasonable Bill simply puts into effect the idea that we would move forward towards a reasonable timeline of four years to process claims. We must bear in mind that this Bill would only take effect for those whose claims have not been processed in due time of four years and that we were told originally that the direct provision system would last for six months. That is a stated goal.

I support the Bill but I recognise the concerns expressed by the Irish Refugee Council and others in regard to the use of the term “regularisation”, the need for legal assistance, the need for a wider recognition of family rights and reunification rights and, of course, the question of revocation. These can all be dealt with on Committee Stage. I recognise that it would be a small and symbolic step we could take, recognising the concern expressed by the UN Committee on the Rights of the Child, the UN Committee on Economic, Social and Cultural Rights and the European Commission against Racism and Intolerance. Surely, we must be aware of the dangers of racism and intolerance.

I recognise those in our society who have reached out to those in the asylum system to create meals together and to bring dignity to the experience.

Senator Martin Conway: Hear, hear.

Senator Alice-Mary Higgins: I also recognise that the depression rate among people with- in the asylum system is 90%. The Irish Human Rights and Equality Commission, in its annual report, names it as an issue. The report includes a quote from somebody living in a centre. The person referred to it as “the dehumanising experience which eats away at my dignity”.

I would like to focus my main remarks on not only encouraging Members to support the Bill moving to Committee Stage, where we can improve, temper and enhance it, but also to strongly oppose the Government’s amendment. It is unusual for a Government amendment to be brought forward on Second Stage and it is something we should note with concern. It would be interesting if it would address the reason the very particular and usual circumstances in which this decision be taken. I note that we have heard of times of uncertainty. We are at times of extreme uncertainty. What we need now is certainty in our asylum system.

Senator David Norris: Hear, hear.

Senator Alice-Mary Higgins: If we are to negotiate with the UK around the common travel area, what we need is a system that is objectively fair and transparent and properly applied, which we can stand over.

5 o’clock

Not only do I reject the amendment, I also reject arguments to the effect that we should suspend fair systems within our asylum, refugee and immigration system in order to facilitate negotiation in respect of a common travel area. Are we to chase the narrative on immigration that we have heard in the UK? Unfortunately, that is what some of the testimony we have heard today seems to suggest. Will we will adopt a weak position and talk about a common travel area without a clear strategy of our own? Will we leave ourselves vulnerable to chasing the narrative around the phrasing which we heard during the citizenship referendum campaign here in 2004, which led to an increase in racist incidents of the sort that are happening again in the UK? We are giving space to the narrative about pressure on our system and services to take root if we fail to move forward and provide an 18-month suspension. Will we then see headlines in the newspapers for 18 months?

Moreover, the legal arguments are inaccurate. The Government suggests, in paragraphs (ii) and (v), that there is some problem with the case-by-case criteria. It is absolutely clear in this Bill that while the period of four years is necessary, it is not sufficient in itself to acquire status. Nonetheless criteria are still applied and the case-by-case criteria still apply. In terms of Article 40.1, which I presume is the constitutional reference made in paragraph (v), equal treatment before the law, the law has a long-established practice of setting timelines. As stated, however, the case-by-case criteria apply. I contend that if we agree to this Government amend- ment, we are not only agreeing to a suspension for 18 months, and pandering to potentially dan- gerous narratives, but we are also accepting flawed legal arguments in paragraphs (ii) and (v).

I welcome the commencement of the International Protection Act 2015, which, I believe, can be done in a timely fashion. If the Bill before us is enacted, I hope the International Pro- tection Act 2015 will be in place. The preamble to the Bill acknowledges its expectation that it would complement rather than supersede the International Protection Act 2015. The imple- mentation of the working group’s report should proceed apace and is in no way inhibited by this. I strongly urge all in the House, including my colleagues in Fianna Fáil, who in their con- sciences are aware that they supported this Bill in the past, to please support it now. It is more

urgent and necessary than ever before and no strong or acceptable legal argument has been put forward for the delay.

Senator Frances Black: I agree with my colleague, Senator Higgins. Ireland is known around the world for its generosity, compassion and humanity. We do not have to look too far to see all the great work done by Irish overseas agencies. The conditions in direct provision where we keep people are shocking. It is a disgrace. It is not right that people are kept in such conditions. Some county councillors, who are also concerned about this issue, have described direct provision as the modern Magdalen laundries. It is imperative that when people come to Ireland we treat them with the respect and dignity they deserve. We need to improve the standards in which they are kept but also reduce the time it takes to process asylum seekers.

I welcome this Immigration (Reform) (Registration of Residency Status) Bill 2016 and acknowledge the good work of Senator Norris and the working group on direct provision, chaired by Mr. Justice Bryan McMahon. We need to ensure that Ireland complies with international human rights standards and continually review our work in this area. We need to ensure that when dealing with the vulnerable in our society and those who seek safety in our country we treat them with compassion, empathy and above all respect.

Senator Aodhán Ó Ríordáin: I welcome the Minister of State. I am genuinely delighted by his appointment. I also welcome the officials from the Department with whom I worked.

One of the reasons I changed my mind about the validity of this Chamber - which Senator Norris will be delighted to hear - relates to the issue of direct provision. When I was Minister of State, it was the collective will of the people in this Chamber that something should be done about the issue. I was greatly impressed by the campaigning zeal of Senators across the Chamber to ensure that something practical could be done. In fairness to the Houses of the Oireachtas, unlike other parliaments in Europe, when legislation such as the International Protection Bill 2015 and other issues relating to direct provision are brought before the Houses for discussion, the amendments and questions put down in this Chamber and in the Dáil are always on the humanitarian side, never on the conservative side. In the case of the legislation to which I refer, an amendment to try to restrict access or play the race card was never tabled. We should take comfort from that without being complacent about it. There is a collective will in the Houses, across all parties, to do the right thing, which is to be commended.

The International Protection Act 2015 envisages that any new applicant for asylum in Ireland would be dealt with in a speedy manner - within six to nine months - through a single procedure mechanism in order to ensure that we do not have people in our asylum system for years on end. Much has been done recently to deal with direct provision. Many have been moved out of the system. There was a logjam and people were not able to get out - even when they had leave to remain in the country - to access housing and other services.

I was genuinely horrified when I read the programme for Government. When I read the draft programme, I was delighted to see a commitment to implement the working group report. Many people think the report does not go far enough. It does not end direct provision. I do not believe we can end direct provision because when we go beyond the one line hashtag of “#end direct provision” and dig deeper into the situation, we have to remind ourselves of what happened 15 years ago when direct provision was initiated because asylum seekers here were effectively homeless and without services. Direct provision was created as a short-term measure but, as happens sometimes in Irish public policy, a short-term measure became a long-term

reality. The system that was envisioned as lasting for six months remained in place for ten and then 12 years. Children are growing up in this system. I visited 13 of these centres - some better than others - across Ireland. I could envisage myself spending time in some, in others I would not spend a night. There is one in Waterford that particularly sticks in my mind and we are overseeing this.

We should have a system that has excellent facilities, with proper oversight, with food preparation that is culturally sensitive, where children can play and people have community links and stay for a maximum of six months. The working group report contained the same vision. The Minister of State's officials signed off on it. The reason I was horrified was that the non-governmental organisations, NGOs, which engaged in that process took a risk to come inside the door to work with officials and sign off on proposals that could be implemented. They were implementable because the officials signed off on them, from a right to work, to food, to education, to health care, etc. One NGO walked away. The rest stayed in the system and with the process and signed off on the report in order to try to have it implemented. The draft programme for Government stated that it would be implemented but in the actual programme, that line was deleted. Somebody said this line about implementing the report - which Department officials had stood over and which NGOs had taken a great risk to be involved in to protect possibly the most vulnerable children in the State - had to be deleted. I would love to know who said that. It was not the Minister of State because this predated his appointment. Somebody in the political system or the Department decided this report could not be implemented in full. I want to know why because everybody took a risk. Why would any decent NGO trying to make a difference by working with the system engage with the Department of Justice and Equality again? Why, if another working group was set up to deal with any issue, would an NGO come inside the tent, take a risk and do the hard work - in some cases for nine months - to then sign off on a report for a Government which produces a programme for Government that initially states it will implement the report but then deletes the line? Somebody went out of his or her way to delete that line.

Senator David Norris: Hear, hear.

Senator Aodhán Ó Ríordáin: I am horrified that somebody did that. If the Government does not want to implement it, it should say why. People took great risks. Some people in the Chamber were not happy with the report and did not feel it went far enough, but it is something about which I feel very strongly.

I walked into the centres, and could smell the desperation and see people who were genuinely broken and were looking to public policy makers to make a difference. A document was then produced, which was greatly maligned in some quarters but had a chance to change lives, and somebody somewhere decided the line had to go.

I am not in any way questioning the bona fides of the Minister of State. The Labour Party is happy to support the Bill. However, the working group report has to be the only game in town. The commitment of the Minister of State to that would be greatly appreciated.

Minister of State at the Department of Justice and Equality (Deputy David Stanton): I thank Senators across the House for the welcome. I recognise the passion, zeal and research that have gone into this debate. It has been a very good debate so far. I am pleased to have the opportunity to address the House and respond on behalf of the Government to the Bill. Unfortunately, due to other commitments the Tánaiste and Minister for Justice and Equality could not

be here today, and she sends her apologies.

I am grateful to the Leader of the House for his amendment, which will ensure that there will be no wide-ranging unintended consequences and allow time for due consideration to be given to the important matters the Bill seeks to address. Senator Clifford-Lee made the point that there was a lacuna between the time of the election and when the Government was formed, and that is noted. I have been four weeks in the job and have visited about eight reception centres so far to meet the people living in them and hear what they have to say. I have also met people in their homes who have been granted refugee status and have left reception centres to see how they are getting on. I want to continue doing that. I intend to do my best to visit all reception centres in the foreseeable future.

At the outset, I want to thank Senator Norris for outlining the objective of the Bill and the rationale for reintroducing it at this time. It seeks to address the position of persons who entered the State's international protection system and who, after four years, are awaiting a final decision on the request to remain in the State. This Bill was previously discussed, as Senators pointed out, in 2014. In line with the commitments given during that debate, I can report significant developments on the matters raised in the Bill. Some of these have been substantially addressed in the intervening years and have significantly altered the context in which the Bill will operate today.

Before I get into the specifics of the Bill, I want to set out for the House the context of the amendment that seeks to allow the necessary time to carefully consider the wider impact of any legal changes and its impact on the evolving scenario between Ireland and the UK arising from the decision of the UK to leave the European Union. In an ever-changing scenario, it is vital that there are no serious unintended consequences arising from the reintroduction of the unchanged Bill at this time.

We intend to carefully examine the provisions as set out by the Leader to ensure that, in accordance with national policy, changes are not implemented that would impact on the continuation of the common travel area, thus ensuring that Ireland's negotiating position with the UK on the common travel area is not compromised in upcoming negotiations following the outcome of its referendum on leaving the European Union. A similar situation arises in regard to any negotiations with the European Union on the future of the common travel area.

In public policy terms, it is of the most profound national importance that we do not create wider differences for the future of the common travel area that could have far-reaching implications. As we know the situation is very new; the decision was only made last week. Everyone is still wrestling with the implications. As someone said, we are dealing with unknown unknowns.

Senator David Norris: It was Donald Rumsfeld, I believe.

Deputy David Stanton: In this regard, Senators should be aware that in agreeing the European impact on immigration and asylum at the European Council in October 2008, member states made specific commitments to use only case-by-case regularisation, rather than generalised regularisation, under national law for humanitarian or economic reasons. The political commitment among member states then and now is clearly against any formal process that would in any way legitimise the status of persons present in the State without first examining the merits of individual cases. To do anything that would weaken our position in the EU in any

upcoming negotiations must be avoided.

As Senators will know, the situation that prompted this Bill is one that the Government is very alive to, as reflected in our responses to date to address the delays in the protection system raised in 2014. There is no doubt that it was taking far too long for applicants to work their way through the protection system in Ireland and for a final determination to be reached on their applications. However, this is a complex area of law and administration and there can be many reasons for the delays that arise as we balance the efficiency of the system with the rights of individual applicants to seek recourse by appeal or through the courts.

Since Deputy Frances Fitzgerald became Minister for Justice and Equality, a number of radical actions have been taken to address the difficulties that have arisen in this area over the years. Therefore it would be helpful to the debate if I first set out what has been achieved since 2014 and the plans for the future. At the time this Bill was first introduced in 2014, approximately 3,700 persons with asylum or subsidiary protection applications had decisions pending. In terms of the number of people who it is intended to bring within the ambit of the Bill, in 2014, 48% of those persons were in the system for four years or more. Following a concerted effort by the Department in the intervening period, I am pleased to confirm to the House that this number has been very substantially reduced by a minimum of two thirds and the process is ongoing to address the remainder.

Under current law, there is a very cumbersome process for investigating such applications. The current system is multi-layered and sequential. It requires that the investigation and decision relating to the refugee application, including any appeal that may be taken in that regard, be completed first. Only then may a person who is refused refugee protection have his or her application for subsidiary protection investigated and decided upon, and appealed thereafter in the event of a negative decision. A person who is refused international protection is then liable to deportation from the State. However, as part of that process, such persons may seek permission to remain in the State under immigration law.

Senators recognised that the system was unwieldy and also the need for a simpler and more streamlined and efficient procedure by passing the International Protection Act last December which allows for a new single application process. This will replace the current system where each stage of an application is decided, and if a negative decision issues it can be appealed in a sequential time-consuming process. Overlaying all of what I have just described is the opportunity for applicants for international protection to seek leave from the High Court to judicially review each stage of the process; that is, every decision made on their application, as they make their way through the process.

While recognising the entitlement of everyone to seek redress from the courts, in very many instances the delay in finalising cases is often due to applicants challenging negative decisions by initiating judicial reviews at various stages of the process simply in order to delay the date of arrival at a final decision in their case and their departure from the State. The initiation of judicial review proceedings on any one decision can add some years to the time it takes to reach a decision in respect of that application and each stage of it. In 2014 it was estimated that approximately 2,000 applications could not be finalised because of such legal challenges. This has now been reduced to 337 current judicial reviews, with only 19 at first instance, against the Department. I am sure Senators will agree this is real and significant progress.

We all agreed in 2014 that there was a need for an efficient and resourced single applica-

tion procedure. The shared acknowledgement for the existing arrangements to be changed was reflected in the introduction of a single application procedure contained in the International Protection Act 2015 which was passed by both Houses last December. The implementation of this radical reform of the complex applications process is already being actively prepared in the Department and I am confident that the Minister for Justice and Equality will be in a position to commence this Act before the end of the year. This is the approach adopted in every other European Union member state.

In addition, the Government established an independent working group to report to it on improvements to the protection process, including direct provision and other supports for asylum seekers. The working group concentrated on the length of time persons spend in the protection applications system, the non-execution of deportation orders and the impacts that court proceedings have on the finalisation of decisions. These matters were discussed in great detail by the expert group, and an effective way forward was found and has been delivered. This did not involve an amnesty as proposed by this Bill.

Before going any further and for the avoidance of doubt, Ireland is not closed to or seeking to put bureaucratic barriers in the way of immigrants or protection applicants. More than 123,000 immigrants have been granted Irish citizenship since 2000 and 117 citizenship ceremonies have been held since 2011. I am sure Senators who have been to those ceremonies have been moved by the events, by the dignity with which people were treated and the delight felt by applicants. If any Senators have not been to one such event, I urge them to attend the next one that comes up. They are a huge improvement on what went before.

Turning to the Bill before us today, while it is well intentioned and motivated by a deep concern, which I share, over the length of time people spend in the protection system, it has been superseded by the radical initiatives undertaken by the Department since our original discussion here in 2014. Therefore, in this new and changed context, we must take time to examine the wider impacts of the Bill as outlined as it could have serious negative consequences for the State.

While agreeing with and acting on the length of time issue which has been raised, as the House was informed in 2014, the core concern is that the Bill essentially amounts to a standing amnesty for those who would seek to make false protection claims in the knowledge that if they can hold out for four years, they will gain residence status. This is a potential magnet for false protection claims and irregular migration, putting further pressure on existing resources, not least in that it also confers potential benefits in respect of family members. Senators should be aware that in some cases outlined in the provisions before us, these exceed those available to persons who use legal migration channels. False protection claims, and any signals that would encourage them, also delay the efficient processing of genuine protection applications.

The Bill also actively incentivises the evasion of deportation orders. Fundamentally, the Bill fails to appreciate the distinction between the delays arising from the construct of the protection system, itself addressed by recent reforms, and those generated by the actions of the foreign national, including for example judicial reviews. A similar situation arises in respect of deportation orders where the individual is obliged to remove themselves from the State.

This Bill would alter that core obligation of the law, encourage delay and break down the system. It would ensure that failing to comply with a deportation order would be rewarded by an automatic grant of permission to remain. Such a system would completely undermine Ire-

land's ability to enforce deportation orders, which would be a further pull factor and incentive for unfounded applications to be made. The State is currently in the courts defending a decision to deport a senior ISIS member who has been identified as the foremost recruiter and facilitator of travel to contact zones for ISIS in this State. He would have benefitted automatically had the Senators' Bill become law in 2014.

Senator David Norris: I do not think so.

Deputy David Stanton: The application of the proposed regularisation framework to persons seeking international protection, as compared with persons whose presence in the State is irregular, is considered to be inappropriate. Persons seeking international protection status are not irregularly present in the State as such persons are legally present until such time as their protection application is finalised, at which point their temporary permission to reside in the State ceases to be valid. The State has a legal obligation under national and EU law to properly and fairly investigate all protection applications made in this jurisdiction. Applications must be examined individually and decisions must be based on the specific merits of each case. It must also be emphasised that broad regularisation programmes are problematic, in particular as they could give rise to unpredictable and potentially very costly impacts across the full range of public and social services.

The Senator's Bill wishes to replace the existing executive discretion for those with assessed and failed protection applications and to allow them to be subject to a fair individual assessment of their humanitarian needs. I do not believe that automaticity is a higher standard than fair humanitarian consideration on a case-by-case basis.

The new single application procedure and the continued examination by an international protection officer, as underpinned by the International Protection Act in a system supported by UNHCR standards, is considered the way forward. It is the effective functioning of that new system that will reassure our UK and EU counterparts in the negotiations ahead and not a standing amnesty as this Bill proposes.

Without going into the detail, the Bill needs to be examined to ensure that it does not give rise to a number of significant questions including: the lack of clarity therein in regard to what happens to extant protection applications in circumstances where the applicant stands to gain the automatic residency provided for in section 6; the automaticity with which residence must be granted without any prior consideration of exclusion grounds of the type set out in section 8 - at a minimum, national security and criminal background checks would have to be considered; and the potential legal difficulty arising from section 5 which would require the revocation of deportation orders lawfully made, thus calling into question the basis on which the order was made in the first place.

Accordingly, and for reasons related to the substantial change in context which I have already set out, the Government has tabled an amendment to reflect the consideration needed before the House passes such a Bill. Our key concerns to be examined are summarised as follows: in light of Ireland's commitments in the European Pact on Immigration and Asylum at the European Council where there is a specific commitment "to use only case-by-case regularisation, rather than generalised regularisation under national law, for humanitarian or economic reasons", to ensure that our negotiation position with the EU on retaining the common travel area is not weakened in the context of the UK's decision to leave the European Union; to allow for the commencement of the International Protection Act which replaces the time-consuming,

multi-layered sequential applications system with a new single applications procedure in compliance with international standards, designed to address the issue of the length of time people spend in the protection system and to deliver determinations of applications within a shorter timeframe; to provide for the completion of the implementation of the recommendations of the working group report to the Government on improvements to the protection process, including direct provision and other supports, which already addresses the position of international protection applicants who are the subject of this Bill; and in order to consider in detail any discrimination resulting from the different treatment of categories of applicants prescribed by the Bill which would have to be justified by objectively sustainable, and not arbitrary, reasons in order to be constitutionally compliant.

Such a careful consideration can only result in better law. I hope that the Senators will acknowledge the significant efforts made by the Government to address long-standing and difficult issues in regard to Ireland's protection system since this Bill was first tabled in 2014. The radical actions taken to address the length of time involved have had a hugely positive impact on those people whose interests are addressed in this Bill. The original context in which this Bill was introduced is no longer the case, as our actions have ensured the length of time landscape has been radically changed.

I have outlined the key policy concerns, particularly in regard to the upcoming negotiations on the common travel area and why it is essential that the House agrees to the amendment to defer deliberation on this Bill at this time. In addition, the deferral allowed time for the commencement of the single protection procedure and to continue the ongoing process of the case-by-case determination of those longest in the system.

The International Protection Act is only now coming into force and we have to give it time. It is a very good Act and will shorten the timescale considerably but I appeal to Senators to give it time. If people spend less time in the system and decisions are made quickly, a lot of the other issues raised by the Senators automatically fall. If people spend less time in the system, the right to work comes much sooner. Some schemes at third level have now been introduced and NUI Galway brought in some of them last week. There is a recognition across the country that there is a need to support people who have been granted status here.

We are not voting against this Bill but putting it in abeyance and Senator Clifford-Lee is right to hold me responsible for making it happen. We are parking it for a while to give the Act a chance to work and to bring about some of the things in this area which my predecessor, Senator Ó Ríordáin, was instrumental in starting and for which I pay tribute to him. I wish to make it clear that during this period, the House can be assured that the Government intends to proceed with its planned course of action on the implementation of the new single applications procedure and to maintain our commitment to implementing the remaining recommendations of the working group on the improvements that can be made to the current protection system. I am committed to doing all I can to make sure those recommendations are implemented. I have been to the centres to see for myself what is going on so I urge Senators to support the amendment, taking into account the major policy implications for the operation of the common travel area and in the best interests of our protection process in a time of great reform and change. It was only last week that the UK vote occurred so we have to be very careful.

The Bill does not actually refer to direct provision. Senator Ó Ríordáin referred to the programme for Government. I am not sure why it was removed from the draft but many reports are not mentioned in the programme for Government. However, as the Senator knows,

the implementation is under way and I am committed to that. There are approximately 4,270 people in direct provision today. I do not know the source for the figure of 3,500 being there for four years which Members have mentioned. The vast majority of the 4,270 have been in direct provision for less than three years. The landscape has changed radically since 2014 when the Bill was first introduced - Senators should acknowledge that - and 80% of the McMahon report has been, or is being, implemented. The Tánaiste is committed to implementing the rest. We are not resting on our laurels on this but working hard to implement it. Some of it quite challenging, as Senators will appreciate.

The McMahon group report did not recommend an amnesty, as the Bill does. Huge numbers of people have been granted status under the expedited process. Work is ongoing and the reform of direct provision is a priority. The other side of this is the issue of integration, which is very important. There is the granting of status side and the integration side, which is crucial. I am reminded of the huge swell of support we had for the Special Olympics because I have been contacted by communities across the country who are anxious to support and help people who have left hell on earth, as it were, in other countries and come here. The communities want to help and we are engaging with them as well. If Senators can assist in that, we would be most grateful. If they are aware of communities that wish to do something practical to assist and support, they can assist their communities in that regard. It would be very helpful.

There was a reference to 2,500 people being in direct provision for four years or more but the latest figure available is that it is approximately 700. That is too many but it is not 2,500. It is a work in progress and there are many challenges. I am up for the challenge the Senators have laid down today. I thank them for their passionate, well-researched and good debate so far and I look forward to hearing more contributions.

Senator David Norris: On a point of order, I did not like to interrupt the Minister's flow, which was impressive, but we have not been provided with a copy of the Minister's speech.

Deputy David Stanton: That was a slip up.

Senator Catherine Ardagh: I will share time with Senator Clifford-Lee, who wishes to raise a few points.

Senator David Norris: She has spoken already.

Senator Catherine Ardagh: She wishes to clarify a few points.

Senator David Norris: Can one speak twice?

Acting Chairman (Senator Joe O'Reilly): No. Senator Ardagh can make the clarifications on the Senator's behalf, and I am sure she will do so eloquently.

Senator Martin Conway: One can use a point of order to do that.

Senator Catherine Noone: Senator Ardagh can make the clarification.

Acting Chairman (Senator Joe O'Reilly): Senator Ardagh can incorporate it in her contribution.

Senator Catherine Ardagh: First, I thank Senator Norris for introducing the Bill. This issue is close to my heart. I am a solicitor and an immigration practitioner. Last year, in Dublin

City Council, I proposed a motion, which received cross-party support, calling on the chief executive to ask the Minister to put an end to long-term direct provision for asylum seekers and to review the consequences for children living in direct provision centres. Furthermore, it called on the Minister to bring an end to the operation of direct provision centres across the country and to grant asylum seekers the right to study and the right to work in line with the rest of the EU.

Senator David Norris: Bravo.

Senator Catherine Ardagh: Direct provision is inhumane and amounts to State-sponsored poverty and exclusion, particularly for children. People are forced to live in substandard accommodation and often have to share it with strangers. The eminent retired judge, Mrs. Justice Catherine McGuinness, said that direct provision centres will be the subject of redress boards in the future unless something is done. It is a serious matter. The Rape Crisis Centre has been involved with this issue and 148 child protection referrals have been made to the HSE arising from direct provision centres. It is an issue we must consider from a child protection and welfare perspective more than anything else.

Other Members have raised the fact that allowances paid to families are quite unbelievable. An adult in direct provision receives €19.60 while a child receives €9.60. It is disgraceful that the amounts have not changed in the past 15 years. In 2014, when direct provision was established, the total budget was €51 million. Only €3.5 million of that sum was given to the individuals. The balance was given to businesses, essentially, to run centres such as Mosney and Hatch Hall.

Senator Martin Conway: Speculators.

Senator David Norris: Exactly.

Senator Catherine Ardagh: Direct provision appears to be run like a business rather than an institution that is caring for people.

Senator Trevor Ó Clochartaigh: Fianna Fáil set it up.

Acting Chairman (Senator Joe O'Reilly): Can we have no interruptions, please? The Senator, without interruption.

Senator David Norris: That will be the day when there are no interruptions in the Seanad.

Acting Chairman (Senator Joe O'Reilly): We will aspire to good practice.

Senator Martin Conway: Senator Ardagh is speaking a great deal of sense.

Senator Catherine Ardagh: Ireland, unlike other EU countries, opted out of the two EU directives which would grant asylum seekers the right to work and study, so people are left idle and without the opportunity to make a contribution to the society in which they live. When their children finish school they are unable to go on to third level education, as we have seen in a number of high profile cases where children have sought protection after completing their leaving certificate. It is so unfair and discriminatory against a child who is unable to choose their parents or where they were born. The entire system is massively unfair.

Fianna Fáil shares many of the concerns about the direct provision policy. The most inter-

esting one, which I believe we could resolve, is the excessively long waiting times for asylum and protection applications to be processed. The system has an interview process under section 13 and an appeals stage in the Refugee Appeals Tribunal. If that does not work out for the protection applicant, they have a second bite at the cherry with the subsidiary protection interview. If that does not work, they can go to the Refugee Appeals Tribunal again to appeal the subsidiary protection interview decision. In the midst of all this, there are opportunities to go to the High Court to seek a judicial review of any decisions made. Figures are being bandied about for the process, such as it being four years. The Minister said there are fewer people in the system for four years. I do not know where people are getting their figures. The Reception and Integration Agency said last year that 46% of residents were in the direct provision system for more than three years. I do not know where the Minister is getting his figures but perhaps he would clarify that and how the figures are validated.

Fianna Fáil is reluctantly supporting the Government's amendment, as my colleague outlined, and we will monitor how the Government is fulfilling its obligations under the McMahon report and the International Protection Act. I commend Senator Norris but, unfortunately, we will not be voting for his Bill. Hopefully, it will be rectified in the not too distant future.

Senator Trevor Ó Clochartaigh: It might be the issue that brings down the Government.

Senator Jerry Buttimer: It is with reluctance that we are not supporting the Bill. The Minister of State has clearly and cogently outlined the reason for that. However, Members who engage with people every week and understand their plight recognise that this is a maze and minefield that must be sorted out. Senator Ardagh referred to direct provision. I commend the former Minister of State, Senator Ó Ríordáin, and the Minister of State, Deputy Stanton, for his work in the justice committee, which he chaired.

Senator Martin Conway: Hear, hear.

Senator Jerry Buttimer: He also visits direct provision centres. They are soulless, heartless places. The one in Cork-----

Senator Trevor Ó Clochartaigh: Close them down.

Senator Jerry Buttimer: We will do that.

Senator Trevor Ó Clochartaigh: Good.

Acting Chairman (Senator Joe O'Reilly): Senator Buttimer, without interruption.

Senator Jerry Buttimer: Some of us do not just shout from the rooftop or the mountain, we actually do things. Perhaps the Senator and some of his colleagues should do the same.

Senator Trevor Ó Clochartaigh: I would gladly close them down.

Senator Jerry Buttimer: If the Senator wants to talk new politics, he should walk the walk with us and not just go back to the old ways of the megaphone and roaring and shouting at us. Walk on a journey with us.

Senator Trevor Ó Clochartaigh: We have been calling for this for the past six years.

Senator David Norris: It is a shame the Government has not done more work on the issue.

Senator Jerry Buttimer: I am not speaking about the Senator specifically but-----

Acting Chairman (Senator Joe O'Reilly): Beidh seans ann níos déanaí ag an Seanadóir.

Senator David Norris: Tá an Ghaeilge go flúirseach ag an gCathaoirleach Gníomhach.

Acting Chairman (Senator Joe O'Reilly): Gabhaim mo mhíle buíochas leis an Seanadóir Norris.

Senator Jerry Buttimer: -----the point I am making is that all of us want to see change. Like Senator Ardagh, I want to see this whole area tidied up and resolution brought to it. Of all the people in the Department, the bona fides of the Minister of State cannot be questioned. I refer Senator Ó Clochartaigh to the Minister of State's work as Chair of the justice committee. Rather than laugh at me, the Senator should look at the work he has done.

Senator Trevor Ó Clochartaigh: He has not said he will scrap direct provision though.

Senator Martin Conway: He has done a lot, in fairness to him.

Acting Chairman (Senator Joe O'Reilly): Senator Ó Clochartaigh should wait his turn.

Senator David Norris: Rules, Chair, please.

Senator Jerry Buttimer: We speak about new politics in this House but it is a pity some of the people who want to see new politics do not accept responsibility and live up to their rancour and calling.

I have a huge issue with the way in which children, in particular, are treated in the system. We talk about child protection. Reference was made to the former Supreme Court judge, Mrs. Justice Catherine McGuinness, and the possible involvement of the redress board in time. That is what we could be facing. There really is a need for an impetus to bring all of this to a conclusion. The McMahon report was an important and a welcome beginning as was the Living in Limbo study on asylum seekers, repatriation, deportation, rights and entitlements.

The debate today and in the future should not descend into name-calling back and forth. We should adopt a united front to work to change the system so that we can treat people with humanity and as individuals.

Senator Paul Gavan: Not now though but in 18 months. Right?

Senator Jerry Buttimer: All of us agree that waiting times need to be addressed. To be fair to Senator Ardagh, sometimes we get a set of figures from the Department, other times they come from elsewhere, but what we need to see are changes following the McMahon report and the system modified. The Government amendment today is one which seeks to defer. It is not opposing it. I challenge those who shout from the corners to read the Minister of State's speech. Look at what he has said. Read the content of his speech.

Senator David Norris: We have not got it.

Senator Jerry Buttimer: Well, the Senators will get it.

I agree with the Minister of State that it is important to allow time. We engage weekly on this matter. I refuse no one in my office and clinic, Senator Ó Clochartaigh. I meet everyone-----

Senator Trevor Ó Clochartaigh: I have been dealing with people in direct provision for six years, Senator Buttimer, and I will not take any lectures from you on direct provision. The Government needs to do something about it rather than waffle.

Senator Jerry Buttimer: -----and I do so-----

Acting Chairman (Senator Joe O'Reilly): Through the Chair, Senators.

Senator Jerry Buttimer: -----not under any guise but because they are human beings who deserve our respect and action.

Senator Trevor Ó Clochartaigh: Absolutely.

Senator Jerry Buttimer: That is my *modus operandi* always and I will not take lectures from anyone.

Senator David Norris: Is Senator Ó Clochartaigh on the rooftop or in the corner? Senator Buttimer has accused him of being both. I do not think he can be in both places.

Senator Jerry Buttimer: If one is to be honest, we understand the difficulty and trauma experienced by many families, which is harrowing and disturbing. It is uncomfortable to meet these people and hear their stories and experience in a modern-day Ireland and world. The Minister of State outlined the legitimate concerns. He is not seeking to do nothing. He is seeking to take a step-by-step approach to bring about a resolution. The Government did not table tonight's amendment lightly. I commend Senator Norris on bringing his Bill before the House and hope there will be regularisation and resolution. However, the Government is seeking to defer this Stage. It is not seeking to oppose it for the sake of opposition. I will not rehearse the arguments made by the Minister of State but he has highlighted unintended consequences of the legislation as presented to the House, if passed, which could present further difficulties. It would not bode well to do that.

I think we all agree on the end result although we might disagree on the journey of the train. I hope Senator Norris, rather than dividing the House, will accept the amendment. The unintended consequences of the Bill, as outlined by the Minister of State, need to be examined. To be fair to him, the Minister of State's bona fides in regard to this area cannot be questioned by any Member of the House. He is an honest and honourable man. This is the first time I have met him since his appointment as Minister of State and I commend him and congratulate him on his appointment.

Senator Martin Conway: Hear, hear.

Senator Jerry Buttimer: Of all the appointments, he, in particular, fits the portfolio he has been given. We have worked on cases together in Cork. There is humanity, dignity and respect in the man who presented this amendment to the House tonight, which is why it is important to listen to him. Like Senator Ardagh and other Senators who have spoken, I too want to see change happen. We all want to see immigration reform to the betterment of all. The amendment tonight is one that we should support rather than dividing the House.

Senator Pádraig Mac Lochlainn: I have a particular interest in this subject. I chaired the Committee on Public Service Oversight and Petitions, which produced a report on the issue. We travelled across the State, visited the direct provision centres and met asylum seekers and representatives of NGOs. I acknowledge the work of the NGOs which work on the front line,

including the Irish Refugee Council, Doras Luimní, NASC, Spirasi, the Jesuit Refugee Service, Crosscare and others.

In particular, I thank the Irish Refugee Council and NASC for their inputs to the Bill. They have a number of documented concerns around the Bill. My colleague, Senator Ó Clochar-
taigh, also worked extremely hard with me and other colleagues in putting together the report.

Senator Martin Conway: Hear, hear.

Senator Pádraig Mac Lochlainn: I acknowledge that he has outlined his concerns. We would have supported the Bill passing this Stage, with the opportunity to amend on Committee Stage. I am concerned about this proposal to delay this Stage. The Minister of State has met asylum seekers and I can attest to his honour and decency.

Senator David Norris: Hear, hear.

Senator Pádraig Mac Lochlainn: I know he is committed to these matters. The difficulty is that his is a very conservative Department-----

Senator David Norris: And party.

Senator Pádraig Mac Lochlainn: -----which is the Department of Justice and Equality. I want to speak about the experiences of the Department of Justice and Equality. Historically, it has been a conservative Department and slow to embrace change. It has the benefit of a report from an all-party committee, which was unanimously approved, as well as the McMahon report, which we had significant concerns about, although it was certainly a step in the right direction. However, we can see that there are still major issues. Eugene Quinn, national director of the Jesuit Refugee Service, has spoken about the single procedure which is now in place but not being resourced. Applicants are still experiencing significant backlogs and delays. Mr. Justice McMahon, who oversaw the report, is very concerned about the slow progress. Then there are the alarming concerns outlined by the former Minister of State, Senator Aodhán Ó Ríordáin.

The Department is always slow to bring in change, which is why we cannot support the proposed amendment. We have seen asylum seekers having to wait again and again. I remember when we were working on this report. I happened in the middle of it all to read that Ireland is the only country in the world today - I said this in the last Dáil too - that has a population smaller today than it was in the early 1800s. That is because we have a profound history of emigration. A famous book from the mid-1980s documented the fact that in the 65 years before it was written, half of the people in the State who survived childhood had emigrated. That trend continues right through to today. Our sons, daughters, brothers and sisters are in Australia, Canada and Britain. We appealed to those in Britain before the recent referendum there. With our history of emigration - the level of which is proportionately greater than that of any other state in the world - one would think we would adopt a compassionate approach not to economic migrants like we were, but to refugees and asylum seekers who come here from the most devastating situations. The Minister of State will agree it is a profound shame on our people and we have to sort it out. We must address it because we cannot continue to have delays. The system - which was supposed to be a short-term, emergency model - has been in place for 16 years. Some 52,000 human beings have come through the system, some of whom were in it for years. There are families that cannot teach their children the culture of food - which is profound to all cultures because they do not have kitchens in which to cook. They are living in a single room in some hotels. What kind of experience is that for a child? We have to do better. We are better

than this.

I spoke to these asylum seekers and met their children. In fairness to the people who run the centres, we got full access and saw it all. We were looking into their faces, seeing what they were going through and listening to their stories. They really hoped that our report would make a difference. The report was submitted a year ago. They hoped that the McMahon working group would make a difference. The problem with the single procedure system, which is welcome, is that it focuses on elements that are not in the favour of refugees. I have a note of concern here from one of the NGOs, which I can pass to the Minister of State. It refers to what is happening with regard to the commencement of the International Protection Act 2015. Enforcement measures have been introduced but the measures that would benefit asylum seekers are not being implemented. The people working on the front line are not seeing progress and that is why a number of NGOs have reservations about aspects of Senator Norris's Bill. We appreciate its intent and the ambition behind it. I am sure the Senator will work with us to deal with amendments on Committee Stage.

Senator David Norris: Absolutely.

Senator Pádraig Mac Lochlainn: The Bill should be allowed to proceed to Committee Stage in order that it might be worked on. We need to send a clear message that the delays have to stop. We have to see action and act with the knowledge of our history of emigration and our footprint across the world. We have to do something that honours that history and represents who our people truly are.

My final point is on the Ombudsman. The report we drafted looked in particular at the role of independent oversight of the system. We called for the public service Ombudsman and the Ombudsman for Children to have oversight. I ask the Minister of State to proceed with that because it is critically important.

Senator David Norris: Hear, hear.

Senator Pádraig Mac Lochlainn: We will support Senator Norris's Bill proceeding to Committee Stage, with the ability to deal with some of the concerns we have at that point. We cannot support any further delays.

Senator David Norris: I thank all colleagues who took part in what has been an excellent and informative debate. I pay tribute to the work of Senators Ó Clochartaigh and Conway. I also thank the Independent group of Senators, which I left with some delight yesterday. I contacted them and asked if they wanted to take this slot as it was in the Independent's group's gift. I told them they could have it back but in light of the pressures of time, they said they would not.

Senator Martin Conway: They are missing Senator Norris already.

Senator David Norris: I do not accept the amendment. It is not clear if the Government will still be here in 18 months. That is a very optimistic forecast. I thought I would have a miscarriage trying not to laugh when Senator Butler said we did not go far enough and talked about people milking the system and fraudulently using the legal system. The Minister of State gave in to that. What in the name of God is the legal system for if people are not to be allowed to use it? It is the right of every person to use it and people are not false claimants until they are so judged. It is like being innocent until proven guilty.

Matters have improved. We all remember the Refugee Appeals Tribunal and the couple of old blisters, one of whom said he had only let two people in out of 500 cases. Another said he had not let any in. A former European Commissioner, a former Member of this House, with some solicitors took them to court. The case was agreed outside the court. What happened was an absolute and utter disgrace. I instance the judgment of Ms Justice Maureen Harding Clark to support that.

I had another spasm of laughter when the Minister of State invoked ISIS. I have heard everything now. Under the Bill, the Minister can revoke the residence permit and deport a person under a whole series of criteria, including if the deportation of the person would, in the view of the Minister, be conducive to the common good. What more does the Minister of State want, tumbrels at the door of the Department of Justice and Equality to fire people out of?

We do not really have a date, except the autumn, for the commencement of the single procedure. There should also be clear provision for legal assistance in all cases including *ad hoc* business. It is very important that people have access to appeal in all cases. The introduction of the Ombudsman is important.

The McMahon report also indicated the need for proper funding and the establishment of a task force. I have been in this House so long I have heard of things going through but without implementation bodies. It is the implementation body that really counts and ensures that things happen. I am not sure those who compiled the McMahon report listened carefully to the voices of refugees. For example, when they were talking about a cap, almost all of them suggested a cap of six months on the process but that is not referred to at all in the McMahon report.

The Government has made various commitments. The last time this was brought up we heard that everything would be resolved in approximately six weeks. Not that much has happened. About half the recommendations have been implemented, including several that are negative from the asylum seekers' point of view. I call for resources. In terms of the report, one of the most important paragraphs is where it says, "In the case of all persons awaiting a decision at the protection process and leave to remain stages who have been in the system for five years or more, the solution proposed is that they should be granted protection status or leave to remain (subject to certain conditions) as soon as possible and within a maximum of six months from the implementation start date". That is amnesty in anybody's language. The Minister said there is no amnesty suggested in the McMahon report but I do not know what that is if it is not amnesty.

Then there is the question of the amounts of money. It is very difficult for people to survive on what is provided. I acknowledge - I do not think anybody else has - that the rate for children has been increased, but only marginally. That presents another difficulty. If we abolished the system immediately and people were still left with €19.10 a week, how would they live? There has to be a transition process for people.

I thank the Minister of State for his graciousness and also his advisers, some of whom I know personally and for whom I have a great professional regard. I thank all Senators who took part, particularly the ones who made me laugh.

Senator Martin Conway: It is good to laugh.

Senator David Norris: It is very good to laugh. I make no apologies for it.

6 o'clock

It is not that often that one gets a laugh in this House and when it comes along we should welcome it. I am not accepting the amendment. I thank my colleagues from Civil Engagement for their excellent, clear support for the Bill and the detailed facts they placed on the record of the House. Thank you, Acting Chairman.

Acting Chairman (Senator Joe O'Reilly): I thank the Senator for that eloquent conclusion.

Amendment put:

The Seanad divided: Tá, 25; Níl, 16.	
Tá	Níl
Burke, Colm.	Black, Frances.
Butler, Ray.	Boyhan, Victor.
Buttimer, Jerry.	Conway-Walsh, Rose.
Byrne, Maria.	Devine, Máire.
Clifford-Lee, Lorraine.	Dolan, John.
Coffey, Paudie.	Gavan, Paul.
Conway, Martin.	Higgins, Alice-Mary.
Daly, Paul.	Humphreys, Kevin.
Feighan, Frank.	Kelleher, Colette.
Gallagher, Robbie.	Mac Lochlainn, Pádraig.
Hopkins, Maura.	Norris, David.
Horkan, Gerry.	Ó Clochartaigh, Trevor.
Leyden, Terry.	Ó Ríordáin, Aodhán.
Lombard, Tim.	O'Sullivan, Grace.
McFadden, Gabrielle.	Ruane, Lynn.
Mulherin, Michelle.	Warfield, Fintan.
Murnane O'Connor, Jennifer.	
Noone, Catherine.	
Ó Domhnaill, Brian.	
O'Donnell, Kieran.	
O'Donnell, Marie-Louise.	
O'Mahony, John.	
O'Reilly, Joe.	
Reilly, James.	
Richmond, Neale.	

Tellers: Tá, Senators Gabrielle McFadden and Catherine Noone; Níl, Senators David Norris and Trevor Ó Clochartaigh.

29 June 2016

Amendment declared carried.

Question, “That the motion, as amended, be agreed to”, put and declared carried.

An Leas-Chathaoirleach: When is it proposed to sit again?

Senator Jerry Buttimer: At 10.30 a.m. tomorrow.

The Seanad adjourned at 6.20 p.m. until 10.30 a.m. on Thursday, 30 June 2016.