



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**SEANAD ÉIREANN**

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

Business of Seanad . . . . .	332
Commencement Matters . . . . .	333
Direct Provision System . . . . .	333
Visit of German Delegation . . . . .	336
Commencement Matters (Resumed) . . . . .	336
Tax Code . . . . .	336
Trade Union Agreements . . . . .	339
Psychological Services . . . . .	342
Order of Business . . . . .	344
Address to Seanad Éireann by Mr. Manus Cooney: Motion . . . . .	358
Establishment of Seanad Public Consultation Committee: Motion . . . . .	358
European Commission's Decision on Unlawful State Aid to Apple: Statements. . . . .	360

## SEANAD ÉIREANN

*Dé Máirt, 4 Deireadh Fómhair 2016*

*Tuesday, 4 October 2016*

Chuaigh an Cathaoirleach i gceannas ar 2.30 p.m.

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*Machnamh agus Paidir.*  
***Reflection and Prayer.***

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### **Business of Seanad**

**An Cathaoirleach:** I have received notice from Senator Paul Gavan that, on the motion for the Commencement of the House today, he proposes to raise the following matter:

The need for the Minister for Justice and Equality to confirm how many of the 19 separate recommendations made by the Joint Committee on Public Service Oversight and Petitions in the 2015 report on the direct provision system have been introduced and, in the case of the recommendations which have not been introduced, the reasons for it.

I have also received notice from Senator Jennifer Murnane O'Connor of the following matter:

The need for the Minister for Finance to ensure the introduction of first-time buyer's tax relief is extended to those who have had to surrender their home on foot of a court order.

I have also received notice from Senator Gerard P. Craughwell of the following matter:

The need for the Minister for Public Expenditure and Reform to outline the reason the agreement between the INMO, PNA and SIPTU nursing unions and the HSE and the Department of Health to restore the recognition of the 36-week internship from 2011 was changed without consultation.

I have also received notice from Senator Tim Lombard of the following matter:

The need for the Minister for Health to review and reduce the current 22-month waiting time for psychology services in the Cork and Kerry community health organisation.

I have also received notice from Senator Robbie Gallagher of the following matter:

The need for the Minister for Jobs, Enterprise and Innovation to liaise with IDA Ireland with a view to securing a suitable tenant for the vacant premises formerly known as the Bose factory in Carrickmacross, County Monaghan.

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

4 October 2016

The need for the Minister for Health to outline the measures the Government is implementing to improve ambulance response times in rural areas, particularly those which have been identified as black spots as regards ambulance response times, in accordance with the National Ambulance Service of Ireland emergency service baseline and capacity review 2015 and the Health Information and Quality Authority's 2014 review of pre-hospital emergency care services to ensure high quality in the assessment, diagnosis, clinical management and transporting of acutely ill patients to appropriate health care facilities.

I have also received notice from Senator Brian Ó Domhnaill of the following matter:

The need for the Minister for Agriculture, Food and the Marine to give approval to increase the herring quota under the Celtic Sea herring management plan for the Dunmore Box in order to compensate for the loss of herring quota in 2015.

I regard the matters raised by the Senators as suitable for discussion. I have selected the matters raised by Senators Paul Gavan, Jennifer Murnane O'Connor, Gerard P. Craughwell and Tim Lombard and they will be taken now. Senators Robbie Gallagher, Maura Hopkins and Brian Ó Domhnaill may give notice on another day of the matters they wish to raise.

## **Commencement Matters**

### **Direct Provision System**

**Senator Paul Gavan:** I welcome the Minister of State, Deputy David Stanton, to the Chamber.

Six months ago a Korean woman in her early thirties came to Ireland with her six-year-old son to seek asylum. On arriving, they were sent to Kinsale Road Accommodation Centre in Cork, where they slept in a cramped single room, washed with strangers in communal showers and ate at set times in the canteen. The mother was told she was prohibited from working. They were also told that they had no right to child maintenance, social welfare or rent allowance payments. Instead of being granted such basic rights, they were granted a weekly allowance of €30 between them, a pittance of a handout. Four weeks ago, after enduring six torturous and isolated months at the centre, gardaí were called to the centre to investigate the suicide of the very same young Korean mother. This is the direct provision system in Ireland in 2016.

In the aftermath of the tragedy, the secretary of the Kinsale Road Accommodation Centre Action Committee, Mr. Mahmud, publicly stated the inhumane treatment of this woman in a direct provision centre had triggered her suicide. His comments are far from controversial. He joins a plethora of organisations and reports that condemn direct provision as an horrendous, dysfunctional system in which the State has caused and continues to cause a great deal of physical and mental damage to asylum seekers.

In 2015 the Joint Committee on Public Service Oversight and Petitions described the direct provision system as not being fit for purpose. HIQA, in the same report, stated it had grave concerns about the mental health of those in such a system. In 2015 the UN Committee on

Economic, Social and Cultural Rights stated it was a severe violation of human rights.

We are leaving people in the centres for years. There are now over 4,500 asylum seekers in direct provision centres, over half of whom have been in the system for five years or longer. Imagine living for five years or more in a direct provision centre without being entitled to look for a job, a house or a third level education. We are sitting back and doing nothing while the people concerned watch years of their lives pass them by. Children are being born in direct provision centres and raised within a system that institutionalises them into accepting such a dysfunctional and inhumane way of life. How can we allow this to happen?

Senator Aodhán Ó Ríordáin, the former Minister of State with responsibility for equality issues, visited a centre in Galway and said the system was inhumane and that he would not stand over it. However, he has now left the Cabinet table and asylum seekers are still in the centre. What exactly will the Minister of State, Deputy David Stanton, do about it? Earlier this year the Government dropped its commitment to implementing the recommendations made in the McMahon report which called for reform of the direct provision system. That decision was a disgrace. When exactly will the report be implemented in full? When will asylum seekers be allowed access to third level education? When will they be allowed access to internships and apprenticeships? When will a standard setting committee and inspectorate be established? When will those in direct provision centres be given the right to work? When can we start to debate the system we would like to see replace the shameful and discredited direct provision system?

**Minister of State at the Department of Justice and Equality (Deputy David Stanton):** I thank the Senator for raising the issue. I welcome the opportunity to update the Seanad on behalf of the Tánaiste and Minister for Justice and Equality on developments in the provision of services for asylum seekers in Ireland. Of the 23 recommendations made in the report of the Joint Committee on Public Service Oversight and Petitions, 13 have been implemented, where feasible, in respect of health and community welfare and a prescription charge waiver; six are in progress or under examination in the areas of catering, family space, an independent inspectorate and ombudsman; three relate to the recast reception conditions directive and have not been implemented; and one, recommendation 8.1 which calls for the replacement of the direct provision system, has not been implemented.

The Senator mentioned the McMahon report on the protection process, including the direct provision system, which was published in 2015 and is the key driver of change. The report of the Public Service Petitions and Oversight Committee raises some of the same issues covered in the McMahon report.

The Tánaiste and I are committed to reforming the direct provision system in line with the programme for Government, with a particular focus on families and children. Significant inroads have been made in dealing with the length of time spent in the direct provision system and the position will be further improved with the implementation of the International Protection Act 2015 and, in particular, the single procedure.

The Tánaiste is introducing a number of pilot projects before the end of 2016 which will see the installation of catering solutions in accommodation centres. They will facilitate families in cooking for themselves. It is intended that they will be rolled out in more centres in 2017. This work will proceed alongside changes to the accommodation profiles to provide more living space for families.

4 October 2016

The Reception and Integration Agency, RIA, through centre managers, is engaging locally to develop “friends of the centre” groups. An equality and diversity training programme will also be rolled out for centre staff.

The Department of Education and Skills has introduced a pilot scheme to allow asylum seekers avail of third level education.

The rate of payment for children in direct provision centres has increased to €15.60 since January 2016. The Department of Social Protection continues to make other support payments, including back to school payments.

Legislative change to extend the remit of the two Ombudsman offices to direct provision accommodation services is being put in place. The RIA and other Departments providing direct provision services have always been subject to the Freedom of Information Acts.

Health services for asylum seekers are mainstreamed and provided on the same basis as for Irish citizens. Asylum seekers in direct provision accommodation qualify for a medical card and do not have to pay the prescription charge. They can access the same GPs, mental health and other health supports as any other medical card user in their locality.

Ireland did not opt in to the 2003 reception conditions directive or its 2013 recast. The main reason for this relates to a right to work for asylum seekers who are awaiting a first instance decision on their application after nine months, which is contrary to national law. The Refugee Act 1996 provides that applicants for international protection shall not seek or enter employment or carry on any business, trade or profession during the period before the final determination of their application. This prohibition is restated in the International Protection Act 2015. The key concern in this regard is that both the asylum process and the wider immigration system would be undermined in giving immigrants who secure entry to the State on foot of claims to asylum the same access to employment as immigrants who follow the lawful route to employment. There is an effective visa and immigration system in place for those who wish to lawfully migrate to the State for employment purposes.

**Senator Paul Gavan:** I am not happy with that response because it is a classic Civil Service scripted response. It does not deal with the questions I asked the Minister of State. It is a very disappointing response, in particular, to the question about the right to work. Ireland is one of only two countries in Europe that does not recognise the reception conditions directive, which reflects very badly on us. The people concerned deserve to have the right to work. The Minister of State did not give a timeframe for when increased payments to adults will be made. Pilot schemes which allow access to third level education are no replacement for actually giving people their rights. What I take from the Minister of State’s answer is that he is happy for the people concerned to continue as second-class citizens in the State. That is no way for a republic to act.

**Deputy David Stanton:** I again thank the Seanad for giving me the opportunity to speak on behalf of the Tánaiste and Minister for Justice and Equality on this subject. It is important in the first instance that those seeking protection in Ireland be provided with supports while they await a decision on their request for protection. Food, shelter, health and education are among the basic supports provided. What we are working towards is the enhancement of supports for such persons. This includes the provision of supports for those in the asylum process, programme refugees arriving from UNHCR refugee camps and those relocated within the European Union

from the Mediterranean hot spots. For those who are granted permission to remain in the State, there are other needs to be met based on transition and integration, employment, health and welfare.

**Senator Paul Gavan:** Will the Minister of State answer my question?

**Deputy David Stanton:** The Minister is looking at all aspects of service provision from pre-arrival through arrival and beyond. Migration is the greatest challenge facing the world today. It is the key issue for the European Union and Ireland as a member of it. There are many challenges to overcome to help those seeking our assistance. We will continue to work to continue to improve and develop our services in line with international best practice.

**Senator Paul Gavan:** When will the Government increase the adult payment?

**Deputy David Stanton:** I have visited most of the direct provision centres and will continue to work to improve the conditions in them into the future.

### **Visit of German Delegation**

**An Cathaoirleach:** Before I call Senator Jennifer Murnane O'Connor, I am sure Members will wish to join me in welcoming a parliamentary delegation from the German State Parliament of Bavaria, led by the Mr. Harald Güller. On my own behalf and that of my colleagues in Seanad Éireann, I extend a very warm welcome and good wishes for their successful visit to Ireland. They are very welcome.

### **Commencement Matters (Resumed)**

#### **Tax Code**

**Senator Jennifer Murnane O'Connor:** I welcome the Minister of State, Deputy Damien English. This issue relates to the need for the Minister for Finance to ensure the introduction of first-time buyer's tax relief is extended to those who have had to surrender their homes on foot of a court order, for example, those who have been divorced or those whose house has been repossessed. Starting over again will be a lot harder as the period between now and the retirement age of 66 years is shorter and the repayments will be much higher. In many cases, people's circumstances have changed and they are now in a position to start over by buying a new home. However, those who have had to surrender a home on foot of a court order find they have to pay a deposit of 20% under the Central Bank rule. I ask the Minister for an extension of the tax relief scheme to include all those who have lost their homes on foot of a court order.

The Minister of State last week addressed the issue of local authority mortgages and I believe this issue needs to be addressed in the budget. The statistics for the number of mortgages issued through local authorities under the home choice loan scheme demonstrate that since 2009 only 21 loans have commenced, which is an average of just three a year in a period of seven years. This is a huge issue that needs to be addressed, given that in the same period some 1,100 standard local authority mortgages have commenced. I ask the Minister of State to examine the provision of mortgages through the local authorities and extend the scheme and increase the cap, as there is an issue in this regard. Overall, some people are not qualifying for mortgages and that issue needs to be addressed.

4 October 2016

**Minister of State at the Department of Education and Skills (Deputy Damien English):** I am representing the Minister for Finance who sends his apologies as he cannot be present.

The second issue raised by the Senator is one that was raised in the House last week and is under constant review. I made it clear to the Senator's colleague that we would take on board suggestions. However, with regard to schemes that have a low drawdown figure, we cannot force people to take part in a particular scheme. They are choosing the other scheme as they judge it has better conditions, which has resulted in the respective figures being 1,200 and 21. The reason is that product suits them better, but I made it clear that if the Senator had ways to make it better, we would take on board all suggestions. However, there was a lack of suggestions in last week's debate. We are open to suggestions and the Minister and I are keeping everything under review because we want to make mortgages available to people who want to buy homes, where appropriate. Local authority mortgages are only available if applicants have been refused credit by two lending institutions. We will take on board all suggestions.

With regard to the issue raised, the macroprudential rules are set by the Central Bank of Ireland which is independent of the Government. The Minister trusts that the Senator and her party have brought their concerns about the classification of the cohort of buyers she referenced to the attention of the Central Bank as part of its review of the macroprudential residential mortgage lending measures.

A key priority for the Government is the development of a fully functioning housing market that responds adequately to the needs of citizens. To this end, Rebuilding Ireland - An Action Plan for Housing and Homelessness was launched on 19 July by the Minister for Housing, Planning, Community and Local Government who has primary responsibility for the delivery of the action plan with cross-departmental support, including from the Departments of Finance, Health and Social Protection. As a complement to the structural actions contained in the action plan, a commitment to introduce a new tax-based help-to-buy incentive was also announced, with the full details of the incentive to be provided on budget day.

The Government is conscious that there is a supply shortage of housing and of the challenges individuals face in meeting the macroprudential rules for residential mortgage lending. It is against this background that the Minister for Finance has asked his officials to design the new incentive. One important consideration that was taken into account was that the incentive could not be designed to circumvent the requirements of the macroprudential rules but to assist home buyers in meeting the deposit aspect of those rules. In that regard, the Senator will be cognisant of the supports that have been provided by successive Governments in recognition of the difficulties faced, in particular, by first-time buyers. These have taken the form of grants and additional mortgage interest relief for such purchasers.

Subject to the approval of the Oireachtas, eligibility for the new incentive will be backdated to take effect from 19 July 2016. That was the date of publication of the action plan and the Government did not wish to cause any interruption in the housing market as a result of potential purchasers deciding to defer purchases, pending the commencement of the incentive. The Minister for Finance will outline the full details of the incentive, including eligibility criteria and implementation method on budget day next week. He is sympathetic to the situation of those who have had to surrender their homes on foot of a court order. However, there are many potential scenarios in which such orders have been or will be made and it would be difficult to treat all of those scenarios in the same manner. Some individuals may have access to a residual

equity amount following such orders. Furthermore, those who have divorced may have had access to grants or increased mortgage interest relief by virtue of previous classification as a first-time buyer. It would again be the case that such individuals may have sold a family home, with the proceeds being split between the parties.

There are many individuals who face the difficult task of saving the increased deposit required by the Central Bank macroprudential rules for non-first-time buyers. However, this rule takes account of existing equity that can be available to such buyers. The Minister has concerns that providing additional access to relief for special cases would lead to additional lobbying across the board. Responding legislatively to difficult cases does not, in general, make good tax law or practice. Furthermore, he is of the view that it would be inequitable to treat one class of non-first-time buyers more beneficially than another class, particularly when such individuals may have already received additional supports from the State when they first bought homes. I hope this brings clarity to the issue for the Senator

**Senator Jennifer Murnane O'Connor:** I welcome the Minister of State's response. He referred to homelessness, but there is a housing crisis and a lack of supply. People who are unable to secure a mortgage will end up renting for the rest of their lives and something needs to be in place for them. To get a local authority mortgage, one has to have been refused by a bank and a building society. This applies to first-time buyers also. I want to make sure everybody can get a mortgage. I am delighted that first-time buyers will get tax relief, but it needs to be extended. If it is not, the housing crisis will worsen because the core issues leading to homelessness will not have been addressed.

**Deputy Damien English:** There are many causes of homelessness, including financial problems, illness and family issues. The help-to-buy scheme we are proposing in the budget will not be the only solution. The action plan for housing sets out 84 actions. The Minister and I are confident that with the implementation of the 84 actions and a spend of €5.5 billion which has been set aside to drive this agenda, we will tackle the crisis in the provision of housing accommodation and homelessness. We can fix this issue if we have the full support of all Departments, the Independents and €5.5 billion of taxpayers' money.

Please bear in mind that the incentives to be identified in the budget next week will target a particular sector. It is quite clear to us that first-time buyers are finding it difficult to purchase a house owing a low supply of houses. What will be implemented in the budget next week has to do with the supply of housing. There is not a supply of houses in that price range; therefore, we must stimulate the first-time buyers' market. One must analyse the solutions in terms of the overall action plan, not just what will be included in the budget next week to address the concerns raised.

### **Trade Union Agreements**

**An Cathaoirleach:** The Minister of State, Deputy English, will respond to the next matter.

**Senator Gerard P. Craughwell:** I welcome the Minister of State and thank him for coming to take this matter. I am somewhat disappointed that no Minister from the Department of Health is present. This issue was raised by my colleague, Senator Máire Devine, on an Order of Business. She raised the matter with the Taoiseach when he was in the House last week.

4 October 2016

The Minister of State will be aware that in December 2015 the Psychiatric Nurses Association of Ireland, PNAI, and SIPTU's nursing unions reached an agreement with the Department of Health and the HSE to restore full recognition of the 36-week internship from 2011 onwards. It appears that the Department unilaterally changed the agreement and only sanctioned recognition for those who graduated from this year onwards. This has created the anomalous situation where nurses and midwives who graduated between 2011 and 2015 will earn less than those who graduated before 2011 and, in some cases, less than those who graduated this year.

Apart from being discriminatory, receiving different pay for the same work is profoundly demoralising and will affect already challenging retention rates. I do not need to remind the Minister of State of the outright failure of the bring our nurses home campaign, of the importance of retaining nurses to ensure the winter beds initiative can be delivered and that the annual overtime agency costs, currently in the region of €22 million, will be reduced. Denying this particular cohort an incremental credit is false economy. I am aware that following their demonstration on 27 September, the unions met the Minister for Health who agreed that there was a pay anomaly and that he would make representations to the Department of Public Expenditure and Reform.

I have three questions for the Minister of State. Why and on whose authority was it decided to change the 2015 agreement in the first place? When and how soon will the anomaly be reversed? Will he guarantee that the anomaly will be reversed before budget 2016?

We are all acutely aware of the precarious nature of industrial relations. We are sitting on a tinderbox. I have called for the reopening of the Lansdowne Road agreement, as I want everybody under the umbrella. I believe having everybody in would suit the Government and the overall recovery policy for the country. The current situation is totally unnecessary and something we must guard against. I would appreciate it if the Minister of State answered my three questions.

**Deputy Damien English:** I thank the Senator for raising the issue and his three questions. I am speaking on behalf of the Minister for Public Expenditure and Reform, Deputy Paschal Donohoe, who was invited to attend but could not make it. I cannot answer for the Minister for Health, but I do not think he was invited. Perhaps there is an issue in that regard. I will set out the scene in respect of the issue raised and answer some of the questions posed.

In response to the last question on whether I can guarantee that this will be changed before budget 2016, I cannot guarantee it because it is budget 2017 that will be announced next week. I cannot guarantee that it will be changed, but I know about the issue and will set out the timeline.

It was asserted that there was no consultation, but that is not the case. There has been consultation between the Department of Health, the Department of Public Expenditure and Reform, the unions and even the Workplace Relations Commission. Plenty of consultation has taken place. It is unfair to say there was no consultation, but I know the point the Senator was trying to make.

*3 o'clock*

The main issue the Senator is raising is that the INMO and other nursing unions, the PNA and SIPTU, have initiated a campaign aimed at restoring incremental credit for the 36-week clinical placement undertaken in the fourth and final year of their degree programme in respect

of former nursing trainees serving in the period 2011 to 2015. The background to this issue is that incremental credit for the 36-week clinical placement undertaken by fourth year student nurses was abolished by the then Government in December 2010 as part of a range of measures aimed at reducing the public service pay bill. Prior to this decision, nurses following graduation would go onto the second point of the salary scale after 16 weeks on taking up appointment with the HSE.

The issue of the incremental credit for the trainee nurses concerned was raised during the negotiations on the Lansdowne Road agreement and, arising from this, a chairman's note to the Lansdowne Road agreement specifically provided for consideration of the matter. The details in this regard were to the effect that incremental credit for the trainees concerned would be examined in the context of nurse and midwifery recruitment and retention. This process of examination involving the relevant management and union interests concluded in January 2016 and subsequently the Department of Health forwarded a business case to the Department of Public Expenditure and Reform proposing the restoration of incremental credit for the student placement - for those who did not qualify for it between 2011 and the end of 2015 and future graduates.

On consideration of the business case, the Department of Public Expenditure and Reform agreed to sanction the restoration of incremental credit for the clinical placement in respect of trainees "currently on placement or who will in the future be assigned a placement". However, the Department of Public Expenditure and Reform's sanction also stated the question of extending sanction to post-2011 nurses not in receipt of such credit may be reviewed on foot of consideration of whether the sanction granted would result in an increase in retention rates of trainee nurses in 2016 and 2017. This requirement to review the impact of the incremental credit in terms of its effect on recruitment and retention rates among the trainee nurses concerned was considered reasonable and prudent, having regard to the original terms of reference provided for in the chairman's note to the Lansdowne Road agreement. In that context, in February 2016 the Minister for Public Expenditure and Reform sanctioned recognition of the 36-week placement as qualifying for incremental credit for students on a placement in 2016 and into the future.

As mentioned, the sanction stated the question of awarding incremental credit for the placement to nurses who graduated between 2011 and 2015 might be reviewed on foot of consideration of whether the sanction granted in respect of 2016 graduates and future graduates resulted in an increase in retention rates for these graduate nurses. Those nurses who undertook the placement in 2016 recently completed their placements and are only now in the process of getting registered. It will, therefore, only become evident in the immediate term the extent to which the restoration of the credit will result in an increase in the retention rate of graduate nurses.

There are many initiatives under way to improve nursing staff levels throughout the country. The HSE is offering permanent posts to the 2016 degree programme graduates and offering full-time permanent contracts to those in temporary posts. The HSE launched an international staff nurse recruitment campaign which focused on attracting nurses back from the United Kingdom to jobs in Ireland last year. There was a particular emphasis on targeting Irish nurses who had left Ireland in the past few years and wanted to return home. They were offered a relocation package of €1,500, nursing registration costs with the NMBI and funded postgraduate education. There has been an increase of 1,163 nurses employed in public health services, bringing us to a total of 35,538 in August 2016, numbers having fallen by 4,000 between 2007

and 2014.

Notwithstanding the terms issued by the Department of Public Expenditure and Reform in the review process on the impact of the sanction for currently serving trainee nurses, officials from the Department of Health and the Department of Public Expenditure and Reform met recently to discuss whether there was scope to accelerate the review process for the restoration of incremental credit to 2011-15 graduates. Furthermore, the Minister for Health has written to the Minister for Public Expenditure and Reform on the matter. The issue is, accordingly, being reviewed by the Department of Public Expenditure and Reform in consultation with the Department of Health, with a view to bringing the matter to a conclusion at the earliest time. However, the Senator will understand why I cannot give him a commitment on the timeframe in that regard. I know that he wanted it before the budget is announced next week. I cannot give him that commitment, but he will probably be happy enough to see that there is ongoing consultation on efforts to accelerate the review process, although it was in the context of retention rates. That gives space and flexibility for the issue to be resolved, but it will probably take a little time.

**Senator Gerard P. Craughwell:** I thank the Minister of State for his forthright answer. It is at the Department of Public Expenditure and Reform that this query was aimed. I am rather shocked by the response that has been drafted for the Minister of State by the Department. One must ask whether officials in the Department of Public Expenditure and Reform understand anything about industrial relations. An agreement was reached between the HSE, the Department of Health and the nursing unions and somebody in the Department of Public Expenditure and Reform decided to see whether it would work for the current graduates and if it did, to apply it retrospectively to the nurses who had stayed in the country. I met a number of nurses in Buswell's Hotel, some of whom had returned as mature students to take their nursing qualifications. By virtue of the fact they had children and were married, they could not emigrate like the remainder of their colleagues, but they will go at the first opportunity. They will do so because somebody in the Department of Public Expenditure and Reform decided to see how the incentive would work with the graduates of 2016 and that if it worked, to perhaps apply it to the poor unfortunates who had stayed in the country. It really is not good enough. A deal is a deal and the incremental credit should immediately be restored to the graduates of 2011 to 2015. If there are only 1,500 of them, it would not cost a fortune. When the Minister of State goes back to the Minister, Deputy Paschal Donohoe, will he ask him to have a look at this issue in the interests of fairness, if nothing else? We must be fair in how we deal with employees.

**An Cathaoirleach:** I remind Senators that supplementary questions are a new invention to allow them back in, but some make statements again. Once the four minutes are up and the Minister responds, that should be the end of it. Does the Minister of State wish to add anything? That is why we cannot have five Commencement matters. The number used to be three and then went to four. That is why others cannot get in. I am not making comments personal to Senator Gerard P. Craughwell.

**Deputy Damien English:** We all know that Senator Gerard P. Craughwell will push the boundaries in all cases which is welcome in most cases, but I am happy enough to respond.

**An Cathaoirleach:** He will push against them.

**Deputy Damien English:** It might make our job harder.

It is quite clear that both Departments involved desire an outcome to resolve this issue. The Senator raised the issue of fairness. We must be fair to everybody involved in the Lansdowne Road agreement in terms of public sector pay. There is flexibility, but it is within the agreement that solutions must be found. A process was identified by which we could track this issue and if it helped to increase the retention rates of nurses, there might be scope. That is the process that was set out and which I understand was agreed through consultation. Progress has been made, with some good changes made in the past year or two. A little more time and more data measuring and reviewing the figures might give us the solution the Senator desires. The Ministers, Deputies Simon Harris and Paschal Donohoe, desire to see more nurses working here on the front line because we need them, but there must be fairness for all involved in the Lansdowne Road agreement. The Senator understands there must be a process to see how this issue can be addressed.

### **Psychological Services**

**An Cathaoirleach:** I welcome the Minister of State and ask Senator Tim Lombard to make his case.

**Senator Tim Lombard:** I welcome the Minister of State. She has been a frequent visitor since her appointment.

I raise the issue of psychological services in west Cork, in particular child and family psychology services. Recently, I was told by the HSE that there was a 22-month delay for a child to receive these services. I was very shocked to learn there was a wait of 22 months in cases where early intervention was required. The case I dealt with involved a very young child and 22 months is almost one third of that child's life. Issues such as dyspraxia need to be dealt with at a very early stage. Issues arise if there is not early intervention. Research has shown that for a child's quality of life, physical and social well-being and economic potential into the future, early intervention is important. There has been a major cut in this service in the past few years, the restoration of which is vital. A scheme has been put in place under which nurses are offered €1,500 to return home. What initiatives are being put in place to improve psychological services in Cork? This is an emotive issue in that we are speaking about children, in particular. Mothers and fathers are concerned about their children not having an appropriate start in life and every delay of one week is a major worry for them. That parents have to wait 22 months for a first response from the HSE is shocking. I hope provision will be made in the budget to ensure parents will not have to wait almost two years to have a child assessed. Even at that point they are only getting a foot on the ladder in that the child will be the subject of an assessment but there will be no delivery of a service. This is a major concern.

I hope the Minister of State will use her powers to ensure this issue is addressed. If it not addressed, it will impact on society. While the development of mental health services is important, this, too, is an important issue. With proper funding, we can address this and other mental health issues and, I hope, provide the service the people of Cork, west Cork in particular, deserve.

**Minister of State at the Department of Health (Deputy Marcella Corcoran Kennedy):** I thank the Senator for raising this issue which I am taking on behalf of the Minister of State, Deputy Helen McEntee, who is directly responsible for this area but unavoidably engaged elsewhere.

The primary care psychology service in the Cork and Kerry Community Health Care Organisation, CHO, area is a community-based service for children aged 18 years or under with social, emotional or behavioural problems. In addition to delivering interventions to service users with a wide range of clinical presentations and across different organisational environments, the service provides advice for other primary care service providers, including GPs. The majority of referrals to the child adolescent and family psychology service are from GPs and primary care and community-based referring agents. An increase in the number of priority referrals in primary care services represents the complexity and severity of concerns being referred for psychological input. Some are re-referrals to the service, in respect of which assessment and intervention have been offered but difficulties have returned or are of significant complexity and impact as to require repeated blocks of intervention. Other priority referrals relate to severity of impact on the day-to-day functioning of the child or young person and may indicate that difficulties pose a risk to his or her development, social, emotional and behavioural functioning.

The total number of patients on the primary care psychology service treatment waiting list in August was 1,124, of whom 523 had been waiting for longer than 52 weeks. The CHO has an approved complement of 12 whole-time equivalent staff. There are eight whole-time equivalents in place and recruitment of the remaining four whole-time equivalents by the HSE's national recruitment service is awaited. A number of actions are being undertaken within the psychology service to try to reduce the waiting list, including providing drop-in clinics which result in people not joining the waiting list; maximisation of the input of training psychologists and facilitating group work and staff training in so far as possible. Notwithstanding such actions, the increased complexity of cases has resulted in the rate of referrals significantly exceeding the rate of discharge, leading to increased waiting lists.

The HSE considers that the current referral rate may not truly reflect psychological need in the community. This raises a concern that the absence of intervention at the earliest possible opportunity is likely to result in children and adolescents requiring long-term more complex intervention. Local management is liaising with the national primary care office on further initiatives to reduce waiting times and numbers, including examining the potential recruitment of additional psychology staff for a period of 12 months to address the waiting list for those waiting longer than 26 weeks. Separately, clinical psychologists in child and adolescent mental health services within the CHO work across eight multidisciplinary teams. Recruitment to CAMHS in the past 12 months with a specific remit for reducing the teams' waiting lists has successfully reduced waiting lists to fewer than 12 months in many sectors.

I can also advise the Senator that the HSE's national service plan 2016 provides dedicated funding of €5 million to address psychology services in primary care through the development of early intervention and counselling for young people. A revised model of care, focusing on facilitating better access, has been developed collaboratively by the primary care and mental health services in the HSE and is being considered by the Department of Health.

**Senator Tim Lombard:** I thank the Minister of State for her very in-depth response. It all comes down to staffing which is probably the key issue in this debate. I welcome the Minister of State's statement on the 12 whole-time equivalents. However, four are still to be appointed. The actual issue is similar to the nursing issue, namely, whether we have the correct quality of workmanship and staff available. When we are trying to recruit staff to the sector, do we have to go abroad? What incentives are in place to bring those living abroad back to work here?

The Minister of State previously stated during another debate that the State was trying to en-

tice nurses home by paying them an extra €1,500. Are we going down that road to try to entice people to fill these roles? It is to be hoped that if staff are recruited, services can be delivered. I again thank the Minister of State for her kind response.

*Sitting suspended at 3.20 p.m. and resumed at 3.30 p.m.*

### **Order of Business**

**Senator Jerry Buttimer:** The Order of Business is No. 1, motion re address to Seanad Éireann by Mr. Manus Cooney on 5 October 2016, to be taken without debate at the conclusion of the Order of Business; No. 2, motion re establishment of Seanad Public Consultation Committee, to be taken without debate at the conclusion of No. 1; and No. 3, statements on the European Commission's decision that Ireland provided unlawful State aid for Apple, to be taken at 6 p.m. and conclude not later than 7.15 p.m., with the contributions of group spokespersons not to exceed six minutes each and those of all other Senators not to exceed four minutes each and the Minister to be called on to reply not later than 7.10 p.m.

**Senator Catherine Ardagh:** Will the Leader call on the Minister for Jobs, Enterprise and Innovation, Deputy Mary Mitchell O'Connor, to attend the House to address us on the industrial relations mess in Ireland? It is an absolute shambles and the position does not seem to be improving. We have a failed Workplace Relations Act, continuous transport strikes, threatened Garda stoppages and still no sign of the promised public service pay commission that was agreed to in the confidence and supply agreement. A recent survey of industrial relations practitioners conducted by the Employment Law Association of Ireland showed that the majority were extremely unhappy with the new Act. One in every two legal and industrial relations practitioners is dissatisfied with the new system. Three in five believe the format of the Workplace Relations Commission, WRC, adjudication system is inconsistent. Two in five are dissatisfied with the quality of the adjudicating officers' rulings. One in two has problems with how the WRC processes applications for adjournments and a few other details. Now that the days of the employment appeals tribunal are over, when hearings were held in public and chaired by a legally trained professional, they are now held in private and treated by employers as a dry run, away from the scrutinising eye of the media. Non-legally trained professionals adjudicate in disputes, from which inconsistent decisions stem. Most employers and employees will appeal the decisions of adjudication officers to the Labour Court and there will be a backlog of cases in the Labour Court in the next couple of months. It was envisaged that the current system would be more cost-effective, but it is not. It does not provide value for money for the public and does not give aggrieved employees redress in any form. They are the ones who will ultimately have to bear the cost of high legal fees when matters are appealed to the Labour Court, either by themselves or their employers. I ask the Leader to call on the Minister to address the House today on the ongoing strikes hitting the country, not just the WRC.

**An Cathaoirleach:** Nobody seems to be offering.

**Senator Rose Conway-Walsh:** I am offering. I am surprised a man from Cork is confused, but we in County Mayo are very confused this week.

**An Cathaoirleach:** Much of the confusion caused by yourselves.

**Senator Rose Conway-Walsh:** We will leave that issue to one side.

I draw the attention of the House to Sinn Féin's alternative budget which was published earlier today. It is a fully costed alternative to the failed policies on tax breaks for those who least need them which have resulted in a lack of investment in key services for those who need them the most. For far too long, any proposal Sinn Féin has brought forward has been dismissed out of hand in an arrogant, nonsensical, illogical and obstructive manner. I am more than happy to engage in any economic debate based on sound, solid actualities, but the schoolyard gobble-dygook I have had to endure from Members of this House from whom I would have expected more only serves to expose and underpin the leprechaun economics with which we have been credited globally. The infantile dismissals of Sinn Féin's economic policies and other policies on key areas, including health, education and rural Ireland, do an injustice to the citizens we are here to serve.

Sinn Féin's priorities are to provide for fair taxation to reduce the cost of living and invest in public services. We have clearly shown that by using the €1 billion in the fiscal space available, combined with measures to introduce tax fairness and bring about savings, we could reduce the cost of living and invest in public services, increase capital investment to build homes, schools, health facilities, undertake flood relief works, repair and maintain roads and develop an all-Ireland economy to achieve long-term growth. We want to invest in the all-island economy to strengthen our response to Brexit, for which we have a strategy. In the document published today we are putting forward concrete and costed proposals to deal with the uncertainty in the period ahead. I commend the document to the Seanad and call on the Minister for Finance to consider our proposals and reconsider his plans to prioritise tax cuts over much needed investment in services that have been neglected for too long. It is a fully costed document that makes full use of EU fiscal rules to allow for massive investment in public services, averaged out over a four-year period so as not to be limited by the fiscal space available. This is the clearest example of an option being open to the Government and it will be interesting to see if it grasps it for the good of the people or if, as in the case of Apple, it will refuse to take it in favour of pursuing its own sectional interests.

**Senator Grace O'Sullivan:** I was heartened yesterday to see a large protest in Dublin city centre in support of the provision of funding to promote cycle safety, organised by the Dublin Cycling Campaign and *cycling.ie*. Over 500 cyclists took time to tell the Minister for Transport, Tourism and Sport, Deputy Shane Ross, that the current allocation of funding to promote activities such as walking and cycling was a meagre 1% of total transport expenditure and totally inadequate. Recent cutbacks in the transport budget of the Dublin City Council have potentially led to existing plans for infrastructural development to be scrapped. This is regressive, to say the least.

I was a keen rural and urban cyclist while living in the Netherlands for ten years. It is clichéd at this stage to want to emulate the Dutch on cycling issues, but there is a good reason for this. The Netherlands has turned cycling not only into a transport solution but also a positive attribute of the cities and regions. A country with more cyclists is more liveable in and attractive, with less air pollution and traffic congestion. It is more attractive for both inhabitants and tourists. A fine example of this is the recently opened Waterford greenway cycling and walking system which was largely started up on a voluntary basis. It is open and very attractive. It has safe infrastructure and is already attracting tourists and allowing the people of the south east to see more of their beautiful countryside along Ireland's Ancient East. A vibrant cycling sector can serve as a source of jobs in sales, rental and repairs much as the implementation of infrastructure can provide direct employment. Tourism is one of our largest industries. We must

always strive to ensure Ireland is welcoming and a safe destination, particularly for heritage enthusiasts who come here to see our outstanding natural beauty.

The issue of cycling safety has been brought into stark relief recently with the death of Donna Fox on the streets of Dublin and the tragic deaths of 11-year-old Tim Ross as he was cycling to school in County Offaly and 13-year-old Daniel Roche, as he was cycling home near Drogheda. I wish to hear from the Minister for Transport, Tourism and Sport, Deputy Shane Ross, whom I do not believe to be much of a sport, on what he is going to do to tackle the urgent issue of funding and restore faith in cycle safety on the roads. I would like to hear his vision for cycling and walking in the lifetime of the Government.

**Senator Ivana Bacik:** I echo Senator Grace O’Sullivan’s words and condolences to the families of those cyclists who were killed so tragically on the roads. I endorse what she said in calling on the Minister, Deputy Shane Ross, to outline plans for cycle safety and increase the level of cycling on the roads. During the term of the previous Seanad, I organised an Oireachtas all-party cycling group for those of us involved in cycling and keen to promote both cycling and greater cycle safety on roads across the country. I hope Senator Grace O’Sullivan, other Members and I can work together to set up a similar group in the lifetime of the current Seanad.

I welcomed the opportunity to speak to the Taoiseach and raise a number of issues with him last week when he came to the House. We have since heard from the UK Prime Minister, Ms Teresa May, on providing greater clarity on the timeline for Brexit. It is welcome that we will have a further debate tomorrow, in which we will be able to discuss Brexit.

I ask the Leader to invite the Minister for Foreign Affairs and Trade to come to the House on a future date specifically to address a different matter I raised with the Taoiseach on Thursday, namely, the situation in Syria, the appalling bombardment of civilians in Aleppo, in particular, and the abandonment of the peace process by Russia and the Syrian Government. We need to hear from the Minister for Foreign Affairs and Trade on the action Ireland proposes to take in ensuring a stronger stance is taken, unilaterally and at EU level, against Russia to try to bring it back to the negotiating table to ensure some respite for the besieged civilians in Aleppo. In particular, the Minister should be calling in the Russian ambassador to explain to him the actions of the Russian Government in breaking the ceasefire and returning to this appalling bombardment.

I renew my call to the Leader for a debate on higher education funding. At a conference in Trinity College Dublin tomorrow morning, with others, Senator Lynn Ruane and I will be speaking about higher education funding models in the wake of the publication of the Cassells report. I ask that have that debate on the floor of the Seanad also.

When will we have a date for Report Stage of the Labour Party Private Members’ Bill on collective bargaining rights for freelance workers? Government time has been promised for it. I hope the amendments from the Government will be ready next week. The Leader might confirm the timeframe for it.

**Senator Neale Richmond:** Sticking with the theme of higher education funding, I welcome the announcement made earlier this week of €10.5 million in funding for Irish universities through four strands of the Erasmus+ funding scheme. Erasmus+ is one of many EU programmes that Irish universities, institutions and community groups are able to benefit from in terms of funding such as Horizon 2020, the other streams of Erasmus+, Blue Star and Eu-roscola. However, this funding is secured in the face of one of the most difficult application

processes I have ever come across in my years of completing forms. It is not only putting off groups from applying in the first place but is also stopping many groups from being successful in pulling down much-needed funding for higher education and community activities. I call on the Leader to invite either the Minister for Education and Skills, Deputy Richard Bruton, or the Minister for Children and Youth Affairs, Deputy Katherine Zappone, within whose briefs it comes, to come to the House to debate the matter. Why are Irish groups not achieving as much as they could from these funding schemes? What efforts can be made to simplify the process? What impact will Brexit have on agreements under Horizon 2020 already in place, which are cross-border or between universities in Ireland and the United Kingdom? What will be the impact in 2019 when the United Kingdom formally exits?

**Senator Robbie Gallagher:** I call on the Leader to ask the Minister for Agriculture, Food and Marine, Deputy Michael Creed, to extend the October deadline for slurry spreading, given the severe weather conditions we have experienced in recent months which have curtailed the spreading activity. The 15 October deadline is fast approaching and owing to the severe down-pours we experienced during our so-called summer, land conditions are particularly difficult. It is important that farmers see every effort being made to secure this extension beyond 15 October. I understand our friends in Northern Ireland have been successful in securing an extension. It is possible to show reasons the slurry spreading did not take place. I urge the Minister to seek a similar extension of the 15 October deadline in order to facilitate the spreading of slurry.

**Senator Michelle Mulherin:** The review of the farm assist scheme which provides assistance for farmers on low incomes was recently completed. It would be opportune to do something in the forthcoming budget. About 8,000 people are affected, most of them along the western seaboard. The changes in the 2012 and 2013 budgets by the then Minister for Social Protection, Deputy Joan Burton, have had a very severe negative effect on farm families, many of whom do not have off-farm income. After the collapse of the construction industry, the effects for those in the west were more severe. As against a national average of one in five working in construction, it was one in four in the west. We know only too well the problem with agricultural commodity prices. These farmers cannot make ends meet and support their families. They will be driven from the land unless the farm assist payment is increased. I support the IFA's call for the income and child disregards to be restored. The plight of the farmers in question and their families needs to be recognised.

**Senator Máire Devine:** I am sure the House will join me in congratulating the Dublin team on their back-to-back win on Saturday.

I raise the issue of the Government placing the health of members of the Defence Forces in jeopardy through the continued use of the anti-malaria drug, Lariam, which is issued to Irish troops who serve abroad. PDFORRA has asked me to raise the issue. It is holding its annual conference in Cork where the matter will be further discussed. It acknowledges that the drug provides protection against malaria but an alternative needs to be sourced and offered in line with UN guidelines. The Government, through its actions, is ignoring the United Nations' advice. Those in the United Nations know what they are talking about at this stage. The side effects of Lariam include anxiety, depression, paranoia and suicidal behaviour. Many of those due to take the drug will not do so and the side effects are the primary reason for not taking it. There are many cases backlogged in other countries and inquiries are taking place into the effects of Lariam on individual soldiers and their families. There have been far too many medical scandals in this country involving drugs. When concerns were highlighted in the past, they were ignored. There are 51 claims related to the use of Lariam. The Department continues to

state there are no plans to withdraw the drug, yet it has been withdrawn and taken off the market for safety purposes. I reiterate that this decision is against the advice of the United Nations and placing members of the Defence Forces at risk. I ask the Department to be fully cognisant of this and to act now and provide a safe alternative.

**Senator Colm Burke:** I raise the issue of commercial rates which will come before local authorities in the next two months. An analysis was undertaken during the summer months to identify the amount of commercial rates being paid in local authorities and the lack of discretion allowed to councillors. For example, Cork County Council collected over €118 million in commercial rates which is local tax, of which some €27 million was collected from the top ten companies. In one of the local authorities in Dublin over €314 million was collected, of which €67 million was collected from the top ten companies. The average amount paid per ratepayer in Cork is €11,647 from a total of 10,200 ratepayers. In Cork city alone 5,500 ratepayers paid an average of €10,899.

One of the points is that discretion must be given to councillors, in particular in areas where there is a need for redevelopment of urban areas in which an incentive is required. Councillors should have discretion in order that rates can be adjusted for specific areas and, at the same time, that adjustment can be absorbed in the overall rate for the rest of the local authority area in order that it would be cost neutral. A number of councillors have raised the issue with me that they do not have any discretion in this regard, yet they are supposed to be in charge of their area. If necessary, we need to bring forward amending legislation if this cannot be done under the existing structures. It is a very important issue, particularly in encouraging new businesses to start in an area from which businesses have moved out or in encouraging development in particular areas. It is a discretion that should be given to individual local authorities.

**Senator Kevin Humphreys:** I support Senator Grace O'Sullivan in her comments and offer my sympathy to the families of those who have lost their lives while cycling. It is one of the only sectors in which investment has gone backwards in recent months in that we have seen funding cut for the design of two major greenways. Ministers were appointed on 6 May and nearly every Minister has since outlined a list of priorities. It is 151 days since Deputy Shane Ross was appointed Minister for Transport, Tourism and Sport but we have not yet seen a list of priorities. We expect the budget to be announced next week, yet we still do not know what his priorities are. Why is it important? We have well over 200,000 people working in the tourism sector, from which over €7 billion in revenue comes into the State's coffers, yet we do not know what the Minister's priorities are. When he was on the Opposition benches, he clearly outlined his disgust and dismay at the boards of the Dublin Airport Authority and the quangos. He mentioned this with great humour at times, when he would take off his glasses and lean back and give out about the boards of Dublin Bus, Bus Éireann and several others, yet since he was appointed Minister, we have never heard him remark about the appointments for which he has responsibility or how he wishes to see investment made. His budget is quite significant at well over €1 billion which has been heading for €2 billion since the last budget. I would like to see him come to the House to outline his priorities. We have heard about every other Department and about him vetoing the appointment of judges, yet we have not heard about him vetoing appointments to boards over which he has control. He has talked about investment in Waterford hospital. He has commissioned an independent costing and review of the western rail corridor. Will that be the next Waterford hospital resulting in another row with another Minister of State going offside? We urgently need the Minister to come to the House to outline his priorities. Every other Minister has put theirs on their websites. We have no benchmark against which to

judge him on the budget and whether he has been successful in securing investment in his area of responsibility. He has been the only Minister who has been quiet about his remit, investment in which is key to the country's recovery.

**Senator Aidan Davitt:** Will the Leader address the Punch and Judy show in which the Ministers for Housing, Planning, Community and Local Government and Social Protection are engaging to promote themselves to replace the Taoiseach? A few months ago the Minister for Social Protection was out of the traps first with promises of improved conditions for councillors, while last week the Minister for Housing, Planning, Community and Local Government floated a kite on councillors' conditions and remuneration. This is not a ball for potential Taoisigh to thrash around while trying to curry favour among councillors who have had enough and are not being fooled by this showmanship. Almost half of them are full-time councillors and their representational payment is 20% lower than that of someone on the minimum wage. It has been agreed by all that this inconsistency must be addressed. Will the Leader call on his colleagues to stop point scoring and address the substantive issue?

**Senator Tim Lombard:** I support the call for a slurry spreading derogation. This issue has been on the agenda and needs to be addressed. The deadline is the night of 14 October. It is a major issue for the agricultural community following an exceptionally wet summer. Covers in some areas are too heavy to access slurry. Farmers are still cutting grain in my part of the world; therefore, slurry cannot be spread on the stubbed ground. This usually happens on pig farms. Something needs to be done for the agricultural community. I hope the Minister for Agriculture, Food and the Marine or the Minister for Housing, Planning, Community and Local Government will examine the issue. The derogation was taken away in Denmark and we have to be conscious of this, but 15 October is not an appropriate deadline for farmers to cease spreading slurry. Enforcing it will create a hazard and I hope something can be done. Addressing it should not be happen on the final day. Farmers are spreading as much as slurry as they can because they have to. If the decision is left to the last minute, the damage will be done and it will be no good for farmers or the environment. The issue needs to be addressed this week, if possible, in order that farmers can have a road map.

**Senator Niall Ó Donnghaile:** Caithfidh mé mo leithscéal a ghabháil leis an gCeannaire ónar luaigh mé an t-ábhar seo an tseachtain seo caite. Nuair a thug sé a fhreagra, bhí orm imeacht ón Seomra. Léigh mé siar ar an méid a bhí ráite aige agus gabhaim buíochas leis as sin.

Last week I referred to the promising agreement reached between the Crumlin Ardoyne Residents Association and the loyal orders in north Belfast on the outstanding contentious parades in the north of the city. Thankfully, following a great deal of hard work, diligence and commitment by a range of people on the ground in the Ardoyne and on Twaddell Avenue, the events last weekend passed off peacefully. The agreement reached meant that immediately after the morning parades we saw the dismantling of what had become known as loyalist Camp Twaddell. There is now a moratorium on evening parades returning along that stretch of road, which has presented, particularly in the past two and half years, major problems for community relations, community safety and the welfare and well-being of young people in local neighbourhoods.

*4 o'clock*

This matter has put huge stress on the policing budget for the city and the North more generally.

Last week, when I took the opportunity to raise the matter, I commended the mediators and those involved in the negotiations who had sought this agreement. Many members and many members of the public will be familiar with Fr. Gary Donegan. For 15 years he has been a priest in the Holy Cross area of Ardoyne. With his colleague, Fr. Aidan Troy, he walked that dangerous and gruesome path with the girls of the Holy Cross School in 2001. Those images stay with us, but Fr. Donegan, unlike those of us who watched the events unfold on television and from afar, stomped those pathways with the young girls and their families. He endured horrific and horrendous verbal, psychological and physical abuse as a result. He has been a steadfast leader and a great shepherd for his people in that community that has been tested with the killings, the legacy of the conflict and with suicide rates that are, unfortunately, exceptionally high. He has ministered to people in very difficult times. Therefore, I was astounded that people chose to attack him on Saturday morning. He has been resolute and steadfast in his leadership, not just on the contentious parades issue. He has been a great friend to many of us and to the process of reconciliation and peace-building in the North. What we saw manifest on the streets on Saturday morning in no way represents the people of Ardoyne. They are a very proud, good and far-sighted community who have lent their support to this positive agreement and will continue to do so. The people who attacked Fr. Donegan used the same tactics used not just against the girls of Holy Cross school but also against him in the past. A clear message must be sent from both Houses of the Oireachtas that Fr. Donegan has our full support. He has our steadfast and resolute support in his new endeavours. Both Houses must send the message that they support the ongoing process of dialogue and resolution in that part of Belfast.

**Senator Keith Swanick:** According to the HSE, on average, at least six people die accidentally from carbon monoxide poisoning each year. Everyone in this House will be aware that last week was Carbon Monoxide Awareness Week. The reason I raise the matter today is that deaths are preventable. The risk of carbon monoxide poisoning is something of which we should be aware 365 days a year, not just for one week. The campaign was a timely reminder to us all of the importance of increased awareness of carbon monoxide. Owing to the fact that it is colourless and odourless, it is a highly dangerous gas. Every year people die unnecessarily from carbon monoxide poisoning, while many more attend emergency departments and GP services with symptoms such as nausea, headaches, breathlessness and vomiting. I ask the Leader to schedule a debate on this important issue, as I know other Senators are concerned about the matter. Senator David Norris was co-sponsor of a Private Members' Bill that was tabled by former Senator Feargal Quinn two years ago, the Building Control (Carbon Monoxide Detection) Bill 2014, on which my party colleague, Senator Brian Ó Domhnaill, spoke at the time. Carbon monoxide awareness is a major issue for families, homeowners and landlords. Responsibility for tackling the issue falls between two Ministers - the Minister for Communications, Climate Action and Environment, Deputy Denis Naughten, and the Minister for Housing, Planning, Community and Local Government, Deputy Simon Coveney.

The State, through the 31 local authorities, is the largest landlord in the country. The local authorities have made provision in their 2016 budgets to receive rental payments of €391 million from local authority tenants. The role played by each local authority is crucial. I want to know whether they are meeting their legal and statutory obligations in ensuring all domestic boilers are serviced annually. On foot of information supplied to me by elected local authority members, I have submitted detailed queries on this matter to the chief executive of each local authority. I have asked them to outline the number of local authority homes in their areas and the corresponding number of boilers that have been serviced in each of the past five years.

Everyone in this House has heard of the hippocratic oath, which I have taken. There is a phrase in it that everyone knows instinctively but which is often overlooked when it comes to public policy. It reads, “prevention is preferable to cure”. Illnesses and deaths from accidental carbon monoxide poisoning are preventable; therefore, I urge the Leader to arrange a debate on this and related matters in the coming weeks during which we can examine proposals that would place a much greater onus on landlords and the State to ensure safety standards are maintained.

**Senator David Norris:** I refer to the plight of the self-employed. For many years I have referred to the situation of self-employed persons who pay tax and PRSI but receive no social welfare benefits if they need them, despite the fact that the people they employ in their businesses receive them. I understand the Government is considering this issue and that there may be some changes. Today on the wireless I heard a man talk about the fact that he had taken out a pension policy 15 or 20 years ago. He paid €500 a month into the scheme. When he retired or his business collapsed or whatever happened, he discovered that the pension scheme into which he had paid was absolutely useless because the value of the pension was being subtracted from the value of the State pension. That meant he received absolutely no benefit. He had literally been throwing his money away. It was of no use to him whatsoever, apart from perhaps the satisfaction of realising he was saving the State a small amount of money. I successfully raised this issue in the House many years ago in the case of a blind person who had gained a place as a PhD student in Trinity College Dublin. The local authorities were subtracting the value of the scholarship from his blind pension payment. I thought this was unconscionable and did get movement on the issue. This injustice perpetrated against the self-employed, in a period when we are looking for as many entrepreneurs as possible, is a substantial discouragement. Why should the man in question not get the benefit of the pension scheme into which he paid for many years? I ask the Leader to suggest to the Government that it address this issue in the forthcoming budget.

**Senator Paul Gavan:** I refer to the protest outside the Bank of Ireland yesterday, in which I was pleased to take part. It arose from its disgraceful and vindictive decision to summarily close the bank account belonging to the Ireland Palestine Solidarity Campaign. It would be bad enough for any bank to make this decision, but Bank of Ireland is not any bank; it is a bank that was bailed out by taxpayers and in which we have a shareholding, yet it is now acting as the agent for the apartheid state of Israel. It is beyond a disgrace. As a Bank of Ireland customer my entire life, I will be changing my bank account and urge others to do the same. However, beyond this, I ask the Minister for Finance who represents taxpayers who do business with the bank to come into the Chamber to explain what he will do about its disgraceful, vindictive and malicious behaviour.

**Senator David Norris:** Well said.

**Senator Terry Leyden:** There is no question but that the greatest challenge facing Ireland is presented by Brexit which has been discussed in the two parliaments and at conferences. The Prime Minister of the United Kingdom has outlined broadly her position, while the Taoiseach outlined to the Cabinet today what action we were taking. However, we need a dedicated Minister for Brexit, someone who would have complete control over all of the negotiations on the exit of the United Kingdom from the European Union. The Government must insist on Ireland having a representative at ministerial or ambassadorial level at the negotiating table, as this is the only country, unfortunately, which has a land border with the United Kingdom. None of the other 26 countries in the European Union has a land border with it. It is a very special case and the Government must lay down to the European Union that we must

have representatives at the negotiating table at the most senior level. Anything else would be unacceptable. The Government has leverage in this regard. We voted in the first instance to reject the Lisbon treaty and probably made the right decision because it contained the Article 50 option to opt out which has allowed this disaster for the European Union to take place. From my experience as representative of the Government from 1989 to 1992 dealing with the Single European Act and the negotiator on behalf of the former Department of Industry and Commerce, Britain worked very hard to get the best possible deal over a very long period since it joined and it succeeded. It is a shame it will throw away all it achieved during that period. The more discussion the better. The Joint Oireachtas Committee European Union Affairs will discuss the matter with the Minister of State, Deputy Dara Murphy, at 5 p.m. The House should have a further opportunity to discuss Brexit in the near future to monitor the developments taking place at a very rapid pace.

**Senator Pádraig Mac Lochlainn:** I echo the comments made by colleagues on the extension of the deadline for slurry spreading. The Oireachtas Joint Committee on Agriculture, Food and the Marine dealt with the matter in recent weeks. It is a major issue for the farming community and this would be a practical way of assisting farmers through the difficult times they face.

The substantive issue I want to raise is na cúntóirí teanga. Will the Leader raise the matter with the Minister of State with responsibility for the Gaeltacht, Deputy Seán Kyne? This is announced around this time every year. In County Donegal Muintearas Teo delivers the programme for 26 weeks across a wide range of schools, mostly in the Gaeltacht. It has approximately €42,000 less this year, but initially it was asked to deal with 13 more schools. It has advised all of the public representatives in the county it cannot do this. When we consider the struggle the language faces, particularly in the Gaeltacht, this issue needs to be addressed. There is a real problem and we are asking for a solution. Will the Leader raise the matter with the Minister of State and ask him to get back to me directly on it?

**Senator Ned O'Sullivan:** It is quite normal in the run-up to budgets for people to posture and take up various positions. Generally around this time there tends to be a concerted attack on the public service - we see it with every budget - but I wonder whether it is more orchestrated this time. I am not quite sure from where it is coming, but we seem to have some outrageous statements being made just as the Minister is establishing a commission to inquire into the issue of public service pay. The question of public service pensions has been given a new dynamic in this debate. I read in today's newspaper that it is now considered that anybody who retires at the age of 60 years on a Civil Service pension is a millionaire because, in theory, it would cost €1 million to purchase the pension he or she will receive. That totally skews reality because everybody knows public servants, be they nurses, teachers, gardaí or whoever else, contribute to their pensions throughout their working lives. They are soft targets for the Exchequer in everything and must pay for everything. They pay their taxes. A public servant can never say he or she cannot or will not pay because someone in the public service will pay and that is a fact. I sympathise greatly with what Senator David Norris said about self-employed persons and their pensions. I know because I was that soldier. I paid into a private pension scheme when I was self-employed and can tell the House that it was a bottomless pit. Whatever entitlements one may have on the social welfare side are being eroded; therefore, to make a long story short, one is shovelling into two bottomless pits. It is widely felt by staff in the public service that the FEMPI legislation measures which have impacted tremendously on their living standards in the past seven or eight years and their pensions should be unwound. Public sector pensions are considered to be a type of hidden crock of gold available to all public sector workers. They

have paid all their working lives for everything and contributed massively to their pensions while trying to raise young families and so on. The Minister for Public Expenditure and Reform, Deputy Paschal Donohoe, is no fool. I am sure he will see through all of this rubbish and ensure the commission will be properly chaired and produce a good report.

**Senator Gerard P. Craughwell:** I apologise to the Leader for the tongue lashing I gave him the other day on the issue of county councillors' pay and the notion that there might have been some sort of deal done in that regard on some Thursday night in a dark smoky room with his fellow Fine Gael Senators. As the Minister set out his views in that regard on Friday last at the Local Authorities' Members Association, LAMA, conference, I think everybody now knows where we are going in that regard.

A few days after the UK Brexit vote, I spoke about the possibility of a hard border being in place. I also issued a press statement on the matter. Quite a number of people scoffed at the suggestion and said there was no possibility of it happening and that a deal would be done between Ireland and the United Kingdom in that regard. This matter will be decided not by Ireland and the United Kingdom but the 26 remaining member countries of the European Union. There are a couple of issues of concern to me. With the agreement of the Leader, I would like the Minister for Defence to come to the House at his convenience to discuss the preparedness of the Defence Forces to man a border should it be required. I am not saying this is what Ireland wants. I also do not believe it is what the United Kingdom wants, but there are other countries involved. This matter may be taken out of our hands in the next number of months. The uncertainty is so great that we must ensure we are prepared for every eventuality.

I also ask the Leader to invite the Minister for Finance to come to the House to discuss the revenue implications of a hard or soft border being imposed. The movement of up to 30,000 people across the Border and the transportation of 1 million gallons of milk back and forth across the Border are issues that will have a massive impact on the Irish and UK economies. We need to address these issues. I compliment the Taoiseach on looking at the matter in an all-Ireland capacity. I ask the Leader to endeavour to have the Ministers for Defence and Finance come to the House to discuss these issues.

**Senator Fintan Warfield:** We have yet to welcome the Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs, Deputy Heather Humphreys, to the House and are now days from from budget 2017. I ask that, following the budget announcement next week, the Minister brief this Chamber on the work of her Department and answer questions in that regard. I raise this issue in the context of previous budgets having ebbed away support from the cultural and arts communities. Modest increases will not serve to repair the cultural landscape. Years of consistent policy damage must be recognised in the forthcoming budget. Only then will we be able to facilitate the creation of a world class industry from the ground up. What is required is an immediate return of support for the Arts Council, investment which directly impacts on employment. Sinn Féin's alternative budget, announced this morning, commits to a €10 million increase in funding for the Arts Council in 2017 and an increase of €500,000 in funding for Culture Ireland which supports Irish artists abroad, the benefits of which can be seen at festivals, including in Milwaukee. Culture Ireland also supports our cultural tourism offering. The film industry has endured disproportionate cuts of 50%. Sinn Féin is committed to increasing funding for the Irish Film Board by more than one third. With sustained investment and resources, Ireland can continue to attract big budget productions and also support the talent in the education system through the small and medium-sized production sector. Aside from all of this, a space must be created for young people not only as an audience but also as artists or

future artists. We need a national youth arts strategy. I reiterate my call for the Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs, Deputy Heather Humphreys, to come to the House to answer questions on the arts and culture.

**Senator Jerry Buttimer:** I thank the 23 Senators who raised issues. To respond to Senator Catherine Ardagh, the Minister for Jobs, Enterprise and Innovation, Deputy Mary Mitchell O'Connor, who came to the House last week will appear before us again next week. We have a voluntary mechanism for resolving industrial relations disputes. The Workplace Relations Commission and the Labour Court have shown themselves to be highly effective in dispute resolution. The issue with the Garda Síochána is different and more precarious than other cases. I hope all Senators will encourage members of An Garda Síochána to engage further as it is important that further talks take place. We all acknowledge the work being done by gardaí who should have their pay restored and conditions of service improved. It is important, however, that they engage in talks. I, therefore, urge the Garda Representative Association to enter talks with the Minister who is available for engagement.

Senator Rose Conway-Walsh referred to the alternative budget proposed by Sinn Féin. I share her view that the tax system should be fair. The middle income group which has been squeezed the most should perhaps benefit most from the budget. From my reading of Sinn Féin's proposals, this group would certainly not benefit much from them.

**Senator Rose Conway-Walsh:** The Leader should read the document.

**Senator Jerry Buttimer:** The Senator used the term "fiscal space". The figures included in Sinn Féin's document are multiples of the amount of money available. I encourage everyone to be responsible.

**Senator Paul Gavan:** The Leader has not read the document.

**Senator Jerry Buttimer:** Senator Grace O'Sullivan raised the important issue of cycle safety. I join her in offering my sympathy to the families of the three cyclists who were killed - Donna Fox, Tim Ross and Daniel Roche. Any life lost on the roads is a tragedy, but it is particularly tragic when a young lad is killed while cycling to school. We have a national cycling policy. In the light of the report from the Committee on Budgetary Oversight which calls for climate change proofing, we must clearly address the issue of cycle safety. I will be happy to have the relevant Minister appear before the House to discuss it.

Senator Ivana Bacik who also raised the issue of cycle safety referred to a Private Members' Bill introduced by the Labour Party. According to the information available to me, the relevant amendments are being finalised in the Office of the Attorney General. They will then go before the Cabinet for approval, after which they will be tabled in the House for further debate on Report Stage. I understand Report Stage is due to be taken by the end of October, but I will revert to the Labour Party Senators on the matter.

Senator Ivana Bacik also referred to developments in Aleppo and Syria. I, too, encourage the Russians to engage. They have an obligation and a duty to do so. I note the decision taken by the Government of the United States to suspend talks with Russia. All of us who are concerned about peace and the protection of life want to see a resolution to the war in Syria. Having listened to the stories of some of the men and women of the Naval Service who returned from the Mediterranean last week, one cannot but view this matter as one of extreme urgency. I will, therefore, ask the Minister for Foreign Affairs and Trade to come to the House.

4 October 2016

Senator Ivana Bacik also called for a debate with the Minister for Education and Skills on higher education. The Minister will be in the House next week for a debate on education. Senator Neale Richmond referred to Erasmus students at third level. He can raise the issue with the Minister during the debate on education.

Senators Robbie Gallagher, Tim Lombard and Pádraig Mac Lochlainn called for a derogation to be introduced in respect of the deadline for slurry spreading which falls in ten days' time. As the Senators noted, it is too late to provide for a derogation on the day before the deadline. If I am not mistaken, a derogation was applied several years ago. I will raise the matter with the Minister for Agriculture, Food and the Marine, Deputy Michael Creed. It is an important issue because we had a large amount of rain during the summer. As Senator Tim Lombard correctly noted, crops are still being harvested on unsuitable ground.

Senator Michelle Mulherin referred to the farm assist scheme. This is also a matter for the Minister for Agriculture, Food and the Marine who is willing to come to the House to discuss it. It is just a matter of getting him to come to the House between EU, diary and other events, but he will come in the next couple of weeks.

Senator Máire Devine raised the important issue of the use of the malaria drug, Lariam. As she knows, any decision on the use of medications by and tetanus injections received by members of the Defence Forces is taken by the medical officers. Everything is done with the health and safety of the men and women who serve with the Defence Forces in mind. The drug mentioned has been prescribed and it is my information that all members of the Defence Forces are screened individually for their suitability and fitness. As yet, there is no plan to remove the drug from the list. I will take up the matter with the Minister for Defence. It is important that, rather than creating hysteria, we acknowledge that the drug is taken for medical reasons and that the decision is not made by a member of the Government, an administrative officer or someone in the Civil Service but by the medical officers in the Defence Forces.

In his contribution on commercial rates Senator Colm Burke raised a very important point about giving more power to local councils and councillors. I will bring the Minister for Housing, Planning, Community and Local Government, Deputy Simon Coveney, into the House to discuss the issue.

Senator Kevin Humphreys discussed the priorities of the Minister for Transport, Tourism and Sport, Deputy Shane Ross. I will be happy for the Minister to come to the House to discuss the matter.

The Senator also referred to cycle ways. I have already discussed the issue.

Senators Aidan Davitt and Gerard P. Craughwell spoke about the conditions of service of members of local authorities. I compliment the Local Authorities Members Association on the very fine conference held in Bantry at the weekend which I am sure many of us attended. It was very positive and there was a great sense that reform and change were needed at local government level. The local authority members who attended the conference were concerned, not about pay and conditions but about how they could better serve their communities. That was the sense I got at it.

I do not know from where Senator Aidan Davitt is coming in his comments on the two Ministers involved in the class K pension issue which was also raised by Senator Colm Burke. Deputy Simon Coveney is the line Minister responsible for the role and functions of local

councillors. Like Senator Gerard P. Craughwell, I very much hope the Minister will meet the cross-party group set up in this House. I thank the Senator for his remarks which were necessary. For the majority of Senators, local councillors are our constituents. I genuinely believe it is important that we work in unison with one voice not just on the terms and conditions of local councillors but also on how we can make local government better.

Senator Niall Ó Donnghaile referred to the attack on Fr. Gary Donegan. It is an appalling travesty that a reverend gentleman who works so hard to bring about peace and reconciliation in the North should be subject to such violence, for whatever reason. I do not want to give it a title, but I believe the attack has been condemned by everyone in the House. We wish Fr. Donegan well and thank him and Fr. Aidan Troy for the work they have done. Those of us who are interested in bringing peace to the island and seeing it united know that it cannot be done by way of such provocation. It is only by working and bringing people together that we can achieve peace on the island. I thank Senator Niall Ó Donnghaile for raising the matter.

Senator Keith Swanick raised the very important issue of carbon monoxide poisoning. Carbon monoxide is a silent killer. It is an issue we need to raise constantly, not just in Carbon Monoxide Awareness Week. The Senator is correct when he speaks about people not realising the importance of having their boiler and gas fire checked or serviced. I will be happy to have the relevant Minister or Ministers because the matter falls between two Departments to come to the House to discuss it.

Senator David Norris mentioned the self-employed. He neglected, however, to commend Senator Ray Butler who had a Private Members' Bill before the House before the summer. I am pleased that the Minister for Social Protection, Deputy Leo Varadkar, is looking at the matter of PRSI contributions by the self-employed. I will come back to Senator David Norris on the issue.

Senator Paul Gavan spoke about Bank of Ireland and the account of the Ireland Palestine Solidarity Campaign. I cannot give an answer to the question of why Bank of Ireland has done what it has. I know that bank accounts in other parts of Europe have also been closed. It is a matter for the bank to give its reasons. Based on what I have read in the newspapers and online, I understand there was some correspondence with the group early in the summer, but it is an issue the bank needs to resolve. There are two sides to the story and I do not have both.

**Senator Paul Gavan:** The State is a shareholder.

**Senator Jerry Buttimer:** The bank has its own decision-making process. I do not know who has made the decision, but he or she needs to communicate the reasoning behind it rather than leaving a vacuum.

Senator Terry Leyden raised the very important issue of Brexit. As he is aware, the Government has discussed the issue and planned for the eventuality which, unfortunately, has happened. During the weekend and in the Dáil today the Taoiseach outlined that it was a priority for the Government and every Department. The Government has developed specific structures to deal with the implications of Brexit. For the information of the House, Enterprise Ireland, IDA Ireland and Bord Bia are working closely with small Irish businesses to help them to manage the many practical implications. A new Cabinet committee chaired by the Taoiseach has been established. It will oversee the overarching Government response to Brexit. The Department of the Taoiseach will co-ordinate the cross-government sectoral approach, with a new

division led by a second Secretary General. There will be an enhanced role for the Department of Foreign Affairs and Trade in dealing with EU matters which will involve a transfer of staff from the Department of the Taoiseach to that Department. More strength will be given to relevant Departments, agencies and overseas missions to ensure they will be on top of the issue. The North-South axis will also not be forgotten.

Senator Gerard P. Craughwell made a very important point about a hard versus a soft border. There is a very interesting article today in the *Irish Examiner* which I am not sure if the Senator has read, but it is a matter on which we need to be very clear. We cannot allow the return of a hard border.

**Senator Gerard P. Craughwell:** Well said.

**Senator Jerry Buttimer:** I will be happy for the Minister of State, Deputy Paul Kehoe, to come to the House to discuss the matter. I think I speak for everyone in the House when I say we do not want to see the return of a hard border as it would be economically unsound, unwise and wrong for us as a country. That is the overwhelming view of Members.

Senator Pádraig Mac Lochlainn referred to the Gaeltacht. If he wants to give me the details later, I will be happy to send them directly to the Minister. Senator Trevor Ó Clochartaigh raised the matter last week and the Minister is willing to come to the House to discuss it. It is only a matter of selecting a date.

Senator Ned O'Sullivan referred to public service pensions and kite flying in the context of the budget. It is important that we have a debate on the role of public servants and the manner in which, in some instances, they are being pilloried and viewed by some in the commentariat. It is important that we have a debate on the way in which we can fund public services. It is clear that some Ministers will engage in kite flying and I wish they would not because sometimes they can scare people or cause panic. On other occasions, however, it gives people like Senator Ned O'Sullivan an opportunity to fly kites. It is an issue that should be debated.

Senator Fintan Warfield referred to the arts. I was aware that the Minister, Deputy Heather Humphreys, had not come before the House. I again take the points made by the Senator. We have a world-class industry. If one travels the world, one will find that the Irish diaspora are empowered by our music, song, dance and creative arts. I recently attended a screening of "The Young Offenders" which was filmed in Cork. It is a fantastic film and a great advertisement for the film industry. It weaves the strands of tourism, culture and the people. The Senator's points were very well made and I will be happy to have the Minister come to the House to discuss the matter. Again, it is a matter of finding a suitable date.

Order of Business agreed to.

### **Address to Seanad Éireann by Mr. Manus Cooney: Motion**

**Senator Jerry Buttimer:** I move:

That Seanad Éireann agrees with the recommendation of the Committee on Procedure and Privileges that, in accordance with Standing Order 57(2) of the Standing Orders relative to Public Business, Mr. Manus Cooney be invited to address Seanad Éireann on 5th October 2016 and that the following arrangements shall apply: the proceedings which shall

not exceed one and a half hours shall consist of a speech by the Cathaoirleach welcoming Mr. Cooney; an address by Mr. Cooney; a contribution not exceeding five minutes by the spokesperson for each group, at the conclusion of which Mr. Cooney will reply to questions which shall not exceed one minute in each case from Senators in accordance with the Schedule to the motion and a concluding contribution by the Leader of the House.

Schedule

Fine Gael Group: 2 questions.

Fianna Fáil Group: 2 questions.

Independent Group: 2 questions.

Sinn Féin Group: 2 questions.

Civil Engagement Group: 2 questions.

Labour Party Group: 2 questions.

Question put and agreed to.

**Establishment of Seanad Public Consultation Committee: Motion**

**Senator Jerry Buttimer:** I move:

That, in accordance with the recommendation of the Committee on Procedure and Privileges pursuant to Standing Order 96(1)(a) –

(1) a select committee which shall be called the Seanad Public Consultation Committee, “the Committee”, shall be appointed to facilitate direct engagement and consultation between members of the public and Seanad Éireann on specific issues related to the legislative powers of the Seanad or an issue of public policy;

(2) the Committee shall consist of 11 members, including the Leas-Chathaoirleach who, *ex officio*, shall be Chairman of the Committee and the quorum of the Committee shall be five;

(3) the Committee –

(a) shall identify for examination specific issues related to the legislative powers of the Seanad or an issue of public policy;

(b) shall, for the purposes of subparagraph (a), have the powers defined in Standing Order 71(1) and (2);

(c) shall, in respect of any issue it identifies for examination in accordance with subparagraph (a), exercise its power under Standing Order 71(2) by public notice which shall specify the issue on which written submissions are invited and the date by which they must be received by the Committee: provided that the

4 October 2016

Committee may also invite written submissions directly from interested persons or bodies;

(d) shall review submissions received by it, determine whether such submissions are admissible in accordance with the criteria set out in paragraph (8) of this Standing Order, reject any submission which it rules to be inadmissible and consider what action, if any, to take in relation to submissions which it judges to be admissible; and

(e) shall, for the purposes of subparagraphs (a) and (d) of this paragraph, meet in private;

(4) the Committee may meet in public in the Seanad Chamber for the purpose of taking oral evidence;

(5) paragraphs (2) to (6), inclusive, of Standing Order 76 shall not apply to the Committee;

(6) in addition to its obligation under Standing Order 76(1) to lay every report made by it before the Seanad, the Committee may refer any report made by it to the relevant joint committee;

(7) written submissions to the Committee shall clearly indicate the name of the person or body making the submission and a postal or e-mail address;

(8) a submission is admissible unless it –

(a) requests the Seanad to do anything other than the Seanad has power to do;

(b) does not comply with Standing Orders or is otherwise not in proper form;

(c) it contains any matter which is *sub judice* within the meaning of Standing Order 47;

(d) comments on, criticises or makes charges against a person outside the House or an official, either by name or in such a way as to make him or her identifiable;

(e) contains language which is offensive or defamatory;

(f) is the same as, or in substantially similar terms to, a submission made by or on behalf of the same person or body during the lifetime of the Committee.

Question put and agreed to.

*Sitting suspended at 4.35 p.m. and resumed at 6 p.m.*

*6 o'clock*

**European Commission's Decision on Unlawful State Aid to Apple: Statements**

**An Cathaoirleach:** I invite the Minister to make his statement.

**Minister for Finance (Deputy Michael Noonan):** I am grateful for the invitation to attend to speak in the Upper House about such an important issue.

At the end of August 2016 the European Commission announced that it had reached a negative decision in the Apple state aid investigation. It is important to clarify that no other companies are subject to this decision by the Commission and there are no other impending state aid cases against Ireland. As Commission Vestager has stated clearly, “This decision does not call into question Ireland’s general tax system or its corporate tax rate.”

The Government profoundly disagrees with the European Commission’s analysis in the Apple investigation and will challenge the decision before the European courts. Our position throughout this process has been that the full amount of tax was paid in Ireland and no state aid was provided. Ireland did not give favourable tax treatment to Apple. Ireland does not do deals with taxpayers. In September Dáil Éireann passed a motion supporting the Government’s decision to appeal the Commission’s decision.

The European Commission first wrote to Ireland in June 2013 asking for information on the practice of tax rulings in Ireland. In particular, it requested information on any rulings granted in favour of Apple. The Commission later formalised the process when it publicly announced a full investigation into the dealings between the State and Apple in June 2014, giving its preliminary view that there was state aid. Ireland co-operated fully with the Commission’s inquiries. Over the course of the three-year investigation, detailed and comprehensive responses were provided for the Commission demonstrating that the appropriate amount of Irish tax was charged, no selective advantage was given and there was no state aid.

In August 2016 the European Commission made public certain details of its decision in a detailed press release. The Commission has yet to publish the final decision, which is a technical and detailed legal document that has been addressed to the State. Both Ireland and Apple are being given an opportunity to identify material within the decision which is subject to commercial confidentiality and which must, therefore, be redacted. Ireland is offering every assistance to the Commission under this process. However, it must be noted that the company also has the opportunity to exercise its rights in the matter. The procedure mirrors that which was used for the cases against the Netherlands, Belgium and Luxembourg, where it took several months for the Commission to make a copy of the decisions publicly available. This approach is also consistent with the process that was followed for the Commission’s opening decision in the Apple case in 2014. In order to be as transparent as possible and to allow for the appropriate public debate on the issue, I asked my Department to make an explanatory memorandum on the case available. This was published on my Department’s website.

In September the Government authorised me to appeal the European Commission’s decision to the European courts. This is necessary to defend the integrity of our tax system, to provide tax certainty for business and to challenge the encroachment of EU state aid rules into the sovereign member state competence of taxation. Given that we are now facing an important court process in which Ireland will articulate a robust challenge to the Commission’s position, I am mindful of the need to avoid cutting across Ireland’s legal case in my contribution. That said, it is important for this debate that I outline, in high-level terms, what I believe are the key

persuasive arguments for taking an appeal.

It is simply untrue that Ireland provided favourable treatment for Apple. The chairman of the Revenue Commissioners has stated emphatically that there was no departure from the applicable Irish tax law by Revenue, that there was no preference shown in applying that law and that the full tax due was paid in accordance with the law. It is very damaging for our reputation to be called into question on this. It affects how Ireland could be treated by other jurisdictions, damages Ireland's credibility in the international tax debate and inhibits Ireland in pressing arguments that serve our national interest.

A further concern is that the European Commission is undermining the fundamental principle of international tax: that tax should be paid where the value is created. Everyone knows that the iPhone and other well known Apple products were developed in the United States, not in Ireland. Pascal Saint-Amans from the OECD made this very point when he visited Dublin last week.

A central aspect of the case is that the companies concerned were not tax resident in Ireland. Under Irish tax law, non-resident companies are chargeable to Irish corporation tax only on the profits attributable to their Irish branches. This means that profits of such companies that are not generated by their Irish branches cannot be charged with Irish tax under Irish tax law. Examples include profits from technology, design and marketing that are generated outside Ireland. The US Treasury has expressed a concern that in such cases the recovery sum could be creditable against a company's US tax bill. If so, the company's US tax liability would be reduced dollar for dollar by these recoveries in the event that the offshore earnings are repatriated or treated as repatriated as part of a possible US tax reform. This would effectively constitute a transfer of revenue to the European Union from the US Government and its taxpayers. The US Treasury has described this outcome as "deeply troubling".

The European Commission has stated the sums to be recovered by Ireland would be reduced if other countries were to require Apple to pay more taxes or if the US authorities were to require Apple to pay larger amounts of money to its US parent company. This points to a clear contradiction at the heart of the Commission's decision. While requiring Ireland to recover the tax sums, the Commission is also acknowledging that the sums may in fact be taxable in other jurisdictions.

Taxation is a core member state competence, which is enshrined in EU tax treaties. This decision encroaches on member state sovereignty in the area of tax, by extending competition rules into the tax area to an unprecedented and unjustified extent. By doing this the European Commission creates uncertainty for business and investment in the European economy, both in its novel interpretation of long-standing rules and their unfair retroactive application.

It is important to emphasise that the bringing of appeal proceedings is not in any way an endorsement of aggressive tax planning arrangements, nor is it a defence of the extremely low effective tax rates that can be achieved under the broken international tax system. The reaction to the European Commission's decision has, at times, painted an outdated and unfair caricature of Ireland's position on tax that is at odds with the evidence and overlooks our proven track record in recent years. The facts show our constructive engagement at the international table, with early implementation of reforms ahead of many of our partner countries.

Despite the decision, Ireland remains committed to international efforts to reform interna-

tional tax rules to ensure the correct tax is paid by multinationals in the correct place. Our view remains that it is important that this be done in the appropriate way, moving forward in tandem with other countries on the basis of a global consensus.

On foot of the European Commission's decision, Ireland is required to recover up to €13 billion of alleged state aid from the company covering a ten-year period. Notwithstanding the right of appeal, Ireland is legally obliged to recover that alleged state aid from Apple in the interim. This may be placed in a ring-fenced escrow account pending the outcome of legal proceedings.

Some of the public debate on the case has focused on an attitude of "take the money and run". The Government disagrees with that position. The European Commission has stated the sums to be recovered by Ireland would be reduced if other countries were to require Apple to pay more taxes or if the US authorities were to require Apple to pay larger amounts of money to its US parent company. This means that the final figure is by no means certain and may be the subject of complex, drawn-out engagement with other countries for many years to come. It should be clear that the Irish position all along has been that we have no right to this money based on Irish tax law. Therefore, the ultimate entitlement of Ireland to this tax revenue in the face of competing claims from other jurisdictions is highly uncertain. Furthermore, the figures remain subject to legal proceedings by Apple. Regardless of any Irish appeal, if Apple was to be successful in its appeal, the full amount would have to be repaid to the company.

The Government is of the view that there was no breach of state aid rules in this case and that the legislative provisions were correctly applied. By appealing the decision, the Government is taking the necessary course of action to vigorously defend the Irish position. Ireland has done nothing wrong. We have a proven track record in international tax reform and a strong commitment to meeting the best international standards. I look forward to listening to Senators' statements on this important issue.

**Senator Gerry Horkan:** I thank the Minister for his contribution and welcome him once again. I welcome the opportunity to speak about the European Commission's decision that Ireland provided unlawful state aid for Apple. Fianna Fáil supports the decision to appeal the decision. Providing a competitive, consistent and certain tax policy is a key feature of Ireland's attractiveness as a leading location for foreign direct investment, to which the Commission's unprecedented and deeply misleading €13 billion decision on the Apple case is a direct challenge. Approximately 700 US multinationals are located in Ireland, with some 187,000 people employed by foreign direct investment firms. All are potentially affected by the decision's implications.

Government hesitation has only worsened the impact. The European Commission's judgment marks a decisive overreach of EU power into national tax matters. Ireland must veto moves towards a common consolidated tax base and fight its corner to defend our national sovereignty and attractiveness for investment. Additionally, we must continue to work to lead the way in progressing international efforts to curb tax avoidance.

Fianna Fáil supports the decision to appeal the case for a number of reasons. First, Ireland has done nothing wrong and is entitled to set a competitive tax regime to attract foreign direct investment. The Revenue Commissioners fully applied Irish law as set out by the Oireachtas. The rights of member states to set their own tax policy has been consistently upheld and affirmed in EU treaties. There was no special treatment for Apple.

Second, the decision is essentially a power grab by the European Commission. It marks a move by the European Union to unilaterally expand its power and use competition law on state aid to interfere with national tax matters. The astounding figure is designed to soften the ground before the controversial common consolidated corporate tax base, CCCTB, measure is relaunched later this year. This forms part of a broader agenda to set a common corporate tax rate across the European Union and is being discussed at this weekend's Economic and Financial Affairs Council meeting in Bratislava.

Third, retrospectively rewriting tax rules undermines tax certainty for all companies. A core feature of our attractive tax package is certainty, which allows companies to plan for the future. The European Commission's decision, effective retrospectively, rewrites our tax rules over a 25-year period and threatens that key pillar.

Fourth, Ireland is not the chief tax collector for companies based here. The European Commission position is inconsistent as it claims Ireland is owed the €13 billion but also that other countries are or could be due the money. Ireland is not the international tax collector for all those companies based here. Our legal responsibility is to implement Irish tax rules. We have already taken the lead in implementing changes to our tax laws to combat aggressive tax planning.

Despite negative internal and international criticism, Ireland has a strong, attractive corporate tax regime and has ensured we have led the way in addressing concerns on tax avoidance by big companies. Fianna Fáil strongly believes this should continue to be our priority while ensuring we uphold our ethical and international obligations. Ireland's 12.5% corporate tax rate is one of the lowest in Europe and is an iconic feature of our overall tax package for businesses. In addition, our research and development tax credit is best in its class. The knowledge box 6.25% rate was the first globally to receive OECD approval.

The global backlash against multinational corporations avoiding tax through aggressive planning has already prompted a significant shift in Irish taxation policy. The Apple ruling refers to an historical taxation issue. We have led the way in developing new methods to ensure companies pay their fair share and are deeply engaged in the OECD base erosion and profit shifting process, BEPS. For example, the controversial "double Irish" was ended in 2014 to ensure shell companies could not avoid tax bills. Stateless issues were addressed to ensure Irish companies could not avoid tax. We have implemented country-by-country reporting and ensured the knowledge box was OECD approved, the first in the world to do so.

Ireland will continue to fully engage with the OECD process and EU initiatives such as the action plan for fair and effective taxation. However, any EU measure effectively designed to standardise corporate tax rates must be fully resisted. This weekend's discussion by Ministers of the Economic and Financial Affairs Council in Bratislava must be used to set down a firm marker that Ireland will not relinquish control of our domestic taxation policy. It must also be used to engage with potential allies in this policy discussion in the European Union, in particular with countries such as the Netherlands and Luxembourg.

There are broader implications. The European Commission's decision also exposes the serious geopolitical challenges Ireland faces in the immediate future. Our successful economic model has drawn on foreign direct investment and our membership with the European Union, as well as deep trading links with our closest partner, the United Kingdom. Tensions between these parties are now increasingly evident. Brexit represents a serious diplomatic challenge

and the prospect of the United Kingdom ramping up competition for foreign direct investment is very real. The European Union has escalated efforts to introduce a common tax rate, for example, the CCCTB proposals are to be relaunched. Meanwhile, the European Union has launched a series of actions against US multinationals that puts pressure on our role as a leading location for foreign direct investment. Any slide towards protectionism or a power grab by the European Union would deal a serious blow to our geopolitical strategy.

The botched response of the Government to the European Commission's findings exacerbated the impact of the decision. Instead of moving swiftly to reassure the foreign direct investment community of our continued commitment, it publicly hesitated and fretted over this illusionary €13 billion. The Government needs to send a strong, clear and unambiguous message that it will vigorously contest the European Commission ruling. Our commitment to a fair 12.5% corporate tax regime must be reaffirmed as the cornerstone of our foreign direct investment policy. Our membership of the European Union remains a core belief of Fianna Fáil, but we must be willing to fight our own corner from within the European tent. Ireland must veto any moves towards the CCCTB and fight its corner to defend our national sovereignty and attractiveness for investment. Additionally, we must continue to work to lead the way in progressing international efforts to curb tax avoidance. I thank the Minister for attending and look forward to his response.

**Senator Rose Conway-Walsh:** I thank the Minister for his presentation. It has been over one month since the European Commission ruled in favour of the Irish people who pay their taxes and demanded that Apple do likewise. Immediately, even before he had seen the decision, the Minister indicated that the State would appeal a decision to return a decade of unpaid tax deemed by the Commission to be due to the Irish people. At the time, my colleagues, Deputies Pearse Doherty and Gerry Adams, urged the Minister not to do this and made very sound arguments in that regard.

I come from an area where small and medium businesses are struggling. After they have paid their tax demands, there is very little money left to expand or make improvements and, in some cases, they do not even have a decent wage themselves. Nothing in the Government's response gives any comfort to the people concerned. What we got from the Minister was a sudden, overwhelming and false conversion to the importance of Irish sovereignty - this from the Government that went against the interests of the people so as not to be embarrassed or have "defaulter" stamped on its forehead in front of European colleagues. People do not believe the Government's line that all this came as a surprise to it. Just like Brexit, this was coming down the tracks for a long time and the Government did what it always does, namely, wait until the last minute. It was behind on many issues. When my colleague, Deputy Pearse Doherty, raised the issue of the double Irish, he was told by the Minister that it was not our problem. When he raised the issue of stateless companies, he was told that he was a rabble rouser who could damage Ireland's reputation. When I asked the Minister at the National Economic Forum back in June if he could quantify the loss to the State of tax avoidance by vulture funds, he chose to ignore the question. Likewise on this issue, the Government is fobbing off Sinn Féin.

This is a Government stuck in the 1990s when it comes to international tax. It is being dragged, kicking and screaming, into the 21st century. Some of the reaction to our alternative budget launched today is very similar - a repetition of the mantra that we, in Sinn Féin, do not get economics. The public has been gifted the clearest example yet of who really does get economics. We, in Sinn Féin, say we should take the €13 billion owed to us for the betterment of the people and to send a clear message that while we welcome multinationals, we have a fair

approach to taxation. This is nothing to do with our 12.5% corporation tax rate which has been put out there as a red herring. The claim is that it is part of tax harmonisation, but it is nothing of the kind.

Fine Gael states we should not take it because it would expose it as complicit in a grubby deal that served the privileged few. Now that we have had time to digest the fact that the Minister is going ahead and appealing the ruling, there are a couple of points I want to raise with him. How much will the appeal cost? Is there a bottomless pit of money from hard-working Irish citizens? Why do we not just let Apple appeal, without the involvement of the Government? Who benefits from the decision to appeal? So far, all we know is that William Fry has been engaged to advise the Government in setting up an escrow account. The country certainly will not benefit, but a tax servicing company will.

Listening to some Members one would believe the idea that state aid and tax ever collide is something unprecedented, unheard of. In fact, the Minister for Finance recently told my colleague, Deputy Pearse Doherty, that Ireland had sought the opinion of the European Commission on 15 separate occasions on our tax policy in the past ten years. The issues ranged from looking at a refund of social security contributions for seafarers to changes to the Irish film tax relief system. In short, it is normal and mundane for the Commission to look at the state aid implications of what the Revenue Commissioners do.

I again ask that the Minister reconsider his decision to appeal and accept the tax money owed to the people. I am asking this on behalf of all the people who struggle to get by, yet manage to pay their taxes. I am asking him because he knows that, globally, up to \$240 billion are lost each year as a result of countries, like ours, facilitating tax avoidance. His positive rhetoric on reforming tax law is belied by the Government's failure to clamp down on tax avoidance on a vast scale. He must put an end to the tax secrecy which has facilitated tax cheating on a major scale and denied the people an economy that serves all of its citizens, not just those in the golden circle.

**Senator Kieran O'Donnell:** I wish to take up the previous speaker on a couple of points. She is peddling false propaganda. The €13 billion is not available to the Irish public. If she were to read the Apple ruling and the 2014 ruling, she would see that they were contradictory. They mentioned the sum of €13 billion, but it was indicated that some of it could belong to the United States. Subsequent to that, the OECD has stated the majority of the money is chargeable to US tax. Putting it to the public that the €13 billion is available is irresponsible; it is an untruth and does not deal with the arguments at hand.

The Senator spoke about taxpayers but Apple employs some 6,000 people in Cork. They pay PAYE and PRSI like anyone else. They are educating their children and paying their mortgages, a point she is completely overlooking.

**Senator Paul Gavan:** The Senator is not dealing with the topic.

**Senator Rose Conway-Walsh:** We should have a chance to respond.

**Senator Kieran O'Donnell:** These points stand on their own merits. The Senator spoke about sovereignty, but as a sovereign nation we have to have control over our tax laws. Apple was in compliance with the tax laws in place at the time in question. The European Commission now states the taxes in question may be due to other countries in Europe and the United States.

I question the timing of the European Commission's announcement, whether it has to do with the US elections or something else. I question the fact that the decision has not been published. As we expect it to be a carbon copy of the June 2014 decision, nothing appears to have changed in the past two years. There will be confidentiality issues, but I ask for it to be published as quickly as possible. This is a small, open economy and we have to be able to attract multinational companies in a global market. We have a 12.5% corporation tax rate that is probably the most transparent corporation tax rate in the world. France and other countries have a multitude of tax deals with particular corporations. The difference between the profits and the taxable profits of a company in Ireland is very little.

**Senator Paul Gavan:** Why is Apple paying less than 2% in tax?

**Senator Kieran O'Donnell:** I am talking about a specific issue. This issue will come down to the question of selectivity and whether Apple was given selective treatment on a particular issue. The answer is "No". It was open to any company to avail of the same tax laws that were in operation at the time.

I worry about the fact that the common consolidated tax base which has been mooted for several years is coming onto the radar again. I worry that it could be used as a Trojan Horse to get at our 12.5% corporation tax rate. It is welcome that the European Commission has stated our 12.5% rate is not under attack, but I would be vigilant on the common consolidated tax base because it is such a complicated and convoluted proposal that, while the 12.5% rate might remain, in practical terms it could be eroded.

I was watching the BBC on Sunday and saw Theresa May speaking at the Conservative Party conference about Brexit. It is not in Britain's interest not to be part of the Single Market and certainly is not in our interests. It is welcome that the Taoiseach has today set up an all-Ireland dialogue on the matter. Northern Ireland and the Republic have far more in common on this issue than they have differences. We should work together on a cross-party basis. I ask all parties to engage because it is in all of our interests to protect our vital trade links, the common travel area and the open border.

I think the European Commission has got this wrong, although I accept there is a need for certainty in the way multinational companies are taxed worldwide. That is happening with the BEPS and, in respect of our own situation, the double Irish is no longer in place. We have the knowledge box, which is very beneficial. As a country, we cannot take responsibility for differences in tax laws worldwide. We can only apply our own tax laws. One could equally make the case that other countries should have changed their own tax laws. I very much support the appeal in the Apple case. Ireland needs certainty in how we tax companies. The rate of 12.5% is sovereign. On the key issue of selectivity, it will be found that Apple was not given a selective agreement and that it was open to any company worldwide to apply for it in Ireland.

**Senator Alice-Mary Higgins:** A number of concerns have been raised and I will not reiterate all of them. I will build on the point of the last speaker. He is correct in saying the arrangement between Ireland and Apple is not simply a matter between Ireland and Apple. That is a key point. The arrangement we hear of is likely not only to have deprived citizens in Ireland of much-needed resources but also citizens across Europe and the world. The €13 billion may not be directed to Ireland, but it is, nonetheless, €13 billion that was not paid in tax and revenue.

Apple's use of a stateless entity, notionally located in Ireland, results in countries not only in

Europe but also the Middle East, India and, to a lesser extent, Africa seeing the profits generated in their regions channelled away from their local tax authorities into Apple Sales International in Ireland. Until the European Commission's ruling is publicly available - we may need to return to this issue at that time - it will not be possible to know how much the various countries in each of these regions have been deprived of. While the bulk of the profit is likely to have been generated in Europe, even a relatively small amount in an African context has the potential to deprive some of the world's poorest countries and most vulnerable people of transformative and life-saving resources. In 2011, for example, the entire health budget of Sierra Leone was just under €25 million, a mere 0.21% of the €13 billion Apple is being asked to repay. This money has a huge, transformative role to play in revenue.

There are serious moral questions attached to this matter for the Government, the aid programme of which is rightly lauded as being among the best in the world and the recently updated foreign policy of which places human rights at its centre. Moreover, Ireland played a key role in negotiating the sustainable development goals, SDGs, universal goals that should be applied in Ireland and all countries. How, then, can we stand over past or future tax policies that could undermine the ability of developing countries to raise the revenue they need to deliver on SDGs or meet their human rights obligations? If we continue on this path and do not accept the problems we have caused through these practices, irrespective of whether the arrangement was peculiar to Apple, we will risk damage, not only to the other countries affected but also to our international reputation. That is why we need to embrace this issue strongly. We need to accept that there are tax justice issues we need to address and place this thinking at the centre of our response to the Apple tax issue.

The Apple case is, of course, not a one-off; it is part of a damaging race to the bottom in which governments are competing across the world in providing multinationals with lower tax bills. This is a recipe for disaster for tax-funded public services across the world. Tax arrangements of both multinationals and governments must be brought into the open. When deals are done behind closed doors, the general public loses out. It is interesting that the Government proposes this very month to sign up to the provisional application of the comprehensive economic trade agreement, CETA, an agreement that will give corporations unprecedented access to and influence over the regulatory process and public policy-making, yet those corporations are still afforded extraordinary secrecy.

Multinationals like Apple must be obliged to publish the country by country tax reports that they are already making to governments in order that they can be subjected to public scrutiny. To date, the Government has resisted calls to be a voice championing the "publish what you pay, country-by-country" tax report. I ask that Ireland now take the lead on that issue. Even if its tax policy is to be based on competing with other states on lower taxes, the very least it can and should do is insist on the highest level of transparency from multinationals operating in the State. Public country by country reporting would be an important step in that direction and restore some faith in Ireland's beleaguered reputation.

The Committee of Public Accounts should also have a role in reviewing the use of previous rulings by multinational companies. These rulings are not currently debated in the Oireachtas, nor are they subject to political oversight outside the office of the Minister for Finance. I ask the Minister to support and facilitate greater oversight and a clear role for the Committee of Public Accounts in regard to these rulings.

The Government has agreed in the response to the Apple ruling that it will host a high-level

tax conference before the end of the year. I ask the Minister to assure us that there will be a strong tax justice element to the conference. I also ask him to ensure the independent review of Irish corporation tax policy which is due to take place will be open to consultation with the public and the Oireachtas. I recognise absolutely that the corporation tax rate of 12.5% will not be part of the review. That is fine, but we would restore faith in a rate of 12.5% if it became an effective tax rate of 12.5% and if we took the lead in ensuring transparency in other areas.

I wish to point to the concerns raised about tax sovereignty. It is important to note that while we are saying the European Commission has got it wrong and that we have a different position, we should note that the Commission also has a different position on the scope of the provisional application of the CETA because it believes this is entirely an EU competency. It believes the European Commission has sole responsibility. Ireland and other member states have a different view. How will we reconcile these views? Why would we sign up to the provisional application of the trade agreement when we have seen what this difference in view or position leads to? Will tax be the only area in which we care about sovereignty or will we be asserting sovereignty in other areas such as public services, workers' rights and environmental provision? In that regard, are we going to wait until the court case in the European Court of Justice before we run ahead and sign on for provisional application?

**Senator Gerald Nash:** As the Minister knows, the Labour Party in the Dáil supported the decision made by the Government to engage in an appeal against the decision of the European Commission. It was inevitable that an appeal would be launched, if only by Apple itself, and it was inconceivable that Ireland, as a sovereign nation with responsibility for its own tax affairs, would sit this one out, given the absolute enormity of the matter in hand and the impact on the State of the decision and our industrial policy and reputation, as stated. I sincerely hope the State's case will be advanced in a better fashion than that evident from the confusion that seemed to characterise the Government's initial response to the Commission's decision.

There are enormous issues at stake in the context of the Apple decision. It is clear to all of us, including the Minister, that all of the facts are still not available and we may not know all of them for some years. Important issues will arise in the context of the appeal hearings and the processes which will provide us all with a better understanding of the rationale for the European Commission's decision. However, as a sovereign Parliament and Government of a member state of the European Union, we need to assert very forcefully some important points. It is the elected Government and Parliament of this republic that get to set our tax policy. Ireland is not, never was and never will be a tax haven, but neither will we be a tax collector or a clearing house for taxes that may be owed to other states across the European Union or anywhere else for that matter.

The tax policies in this republic should be applied to everyone equally and equitably, regardless of who one is or whom one represents. As the share of capital enjoyed by working people and other citizens across the world diminishes and as we see how the top 0.1% live and behave, tax justice is becoming an increasingly important principle. Ireland and the European Union have a major role to play to redress the balance in that regard.

I agree that all corporations must pay their fair share of tax generated and owed in Ireland. I was a member of the Government and worked with the former Minister, Deputy Brendan Howlin, and others to end the so-called double Irish rule. We had to put an end to the murky practice of profit shifting and running profits through brass plate companies. We worked with the OECD to, in a sense, lead the way on those reforms. The European Commission has recog-

nised the fact that the practice it investigated has been closed down.

The Minister will recall that we engaged in an intensive diplomatic effort and a lobbying offensive to explain this to other countries and existing businesses that are located here and to make sure there was clarity about the intentions of the Government on the ending of the so-called double Irish rule and certainty for investors. Those of us who are interested in the creation of good, decent jobs know how important that is. The pipeline for foreign direct investment is continuing apace. We can take it from that that the reassurances that we provided for international investors on Ireland's tax policy have reassured them that investing in Ireland is a safe option.

Some here are calling for the immediate allocation of €13 billion that, as Senator Kieran O'Donnell said, we simply do not have and might never see even a portion of. The OECD has stated most of it belongs to the United States, something of which we need to be mindful. It is not clear, based on the fiscal rules under which we now operate, whether all or a portion of this money, if it became available to us, could be spent by us on housing and transport projects and health infrastructure that the State needs. That alone is another good reason, if one was needed, for the Government to heed Deputy Brendan Howlin's call for a relaxation of the fiscal strait-jacket in order to allow us to spend more of our own resources on the critical infrastructure we as a society and economy need.

In terms of tax policy, I ask that the Minister reconsider the proposal made by my colleague, Deputy Joan Burton, to have a standing commission on taxation. Tax policies and initiatives that may have been established in the past or will be in the future, with very good intentions, may subsequently reveal significant loopholes that well paid tax lawyers and accountants are only too happy and able to navigate around for their blue chip clients. We have a very static system which has very limited ways of responding to anomalies in the tax system outside of the cumbersome processes we apply to the annual Finance Bill. A standing commission, similar to the Company Law Review Group, for example, in how it approaches its work, would be a good model to allow us to identify and close loopholes before they do untold damage to our system, public confidence in it and tax schemes into the future.

**Senator Colm Burke:** I welcome the Minister and thank him for his presentation. I come from the local electoral area where the Apple facility in Cork is based. It is a mixed area, in that a large section comprises local authority housing where at one time unemployment reached well over 50%. It is an extremely important facility in Cork in terms of the contribution it is making to the local economy.

In real terms, about 18,000 jobs in Ireland are a result of Apple and all of the spin-off enterprises associated with it. At an average salary of €40,000, the contribution to the economy per annum is about €720 million. That shows the commitment Apple has made to Ireland. It came to Cork in 1980, stayed, continued to expand and grow its facility and provided jobs for Irish people. Over 5,000 people now work in the facility in Cork and there are plans to expand that figure to over 6,000. It is a significant contributor to the national and local economy because it pays commercial rates and local taxes.

We seem to ignore the contribution companies make at a local level in paying rates. I produced a summary of the rate contributions made by the ten largest companies in Cork. Cork County Council collected €118 million in rates, of which the top ten companies paid €27 million. In Cork city, out of €61 million collected, the top ten companies paid €9 million. One of

the local authorities in Dublin collected €314 million in rates, of which the top ten companies paid €77 million. These companies are making significant contributions, not only to the national economy but also local economies. The rates being collected contribute to providing local services, whether it involves ensuring local authorities can deliver amenities, housing and other things. It is important that we recognise that fact.

In addition to the employment Apple is providing in Ireland, it has also agreed to proceed with a €850 million data centre in Athenry, which is another significant investment. Apple has made a major contribution to the country. There are 18,000 jobs in Ireland as a result of its investment.

Sinn Féin opposed Ireland joining the European Union. At the time, there were 1 million people working in the country. There are now 2 million people working, which is a result of our progressive policies to attract companies like Apple and make sure they receive the necessary support to stay and provide jobs. That is an extremely important point. We must keep in mind the contribution these companies are making and will continue to make. It is important, therefore, that we appeal the decision. Unlike what my colleagues say, I believe that if the Irish Government did not join in the appeal, Apple would have appealed it. The required money would not have been available. Apple will appeal the decision all the way. Ireland has to appeal the decision because we must protect our sovereignty in making decisions on tax policy. I fully support the Minister and the Government in lodging the appeal.

**Senator Paul Gavan:** I will be very brief and not repeat the points my colleagues have made.

I have some questions for the Minister. Was a special deal done between the State and Apple? The chief financial executive of Apple said to US politicians:

Since the early 1990s the government of Ireland has calculated Apple's taxable income in such a way as to produce an effective rate in the low single digits. The rate has varied from year to year, but since 2003 has been 2% or less.

In 2009 and 2010 it paid less than 1% in tax and in 2011 it paid 0.05%. As the Minister has said the answer is "No", why did the chief financial executive say what he said? It is simple question. It seems very odd. Was he having a bad day? Was he on some recreational drugs at that point?

The Minister said, "We have a proven track record in international tax reform and a strong commitment to meeting the best international standards." Is he having a laugh? The world and its wife knows that Ireland has been a haven for tax avoidance for years. The Apple tax deal is evidence of this. The Minister does not have to take my word for it; it is what the chief financial executive of Apple had to say.

**Senator Jerry Buttimer:** I welcome the Minister to the Chamber and thank him for his statement. The contributions of some Members opposite were laughable. Senator Colm Burke made a very good point. This is about the economy, job creation, ensuring we can bring people from abroad to work here and creating full employment. Whatever Senators want to say about the Minister for Finance during his tenure in the Department, the one thing he has been driven by is rescuing the country, getting people back to work and creating the opportunity for all of us, no matter who we are, to have a decent and fair standard of living. The laugh is not on the Government or Apple; rather, it is on those in the hard left who oppose everything.

4 October 2016

I will put the matter in context. Apple has been good for Cork. Apple is good for Ireland. Nearly 6,000 people are employed.

**Senator Paul Gavan:** We know this. It is irrelevant.

**Senator Jerry Buttimer:** There is no sweetheart or special deal. It is about jobs.

**Senator Paul Gavan:** That is not what the Apple executive said. Why did he say it?

**Senator Jerry Buttimer:** I challenge anyone in this Chamber to go to Hollyhill and walk in the footsteps of Apple and look at the number of people who are working. Please allow me to give a couple of statistics. Jobs do not appear out of nowhere. None of us wants to see people not paying tax. We are not like Donald Trump.

**Senator Paul Gavan:** We are getting there.

**Senator Jerry Buttimer:** We are about making sure we create jobs. Let us put the matter in context. Some 140,000 people are directly employed in more than 700 US firms in Ireland, which accounts for 74% of all IDA Ireland-supported employment. US firms contribute €3 billion to the Exchequer in taxes and an additional €13 billion in expenditure in the economy in payroll, goods and services. Considering that US investment in 2015 accounted for 74% of all foreign direct investment in Ireland, it is important that we not only support but also work with the US firms that form a critical part of Ireland's jobs, infrastructure and industries. These figures come from the US Chamber of Commerce, not from the Government or me.

**Senator Paul Gavan:** We all agree on that point. The Senator is not addressing the question.

**Senator Jerry Buttimer:** I will conclude on this point. The point the Senator and some of those who oppose this are missing is that Apple, as Senator Colm Burke rightly said, was going to appeal it in any event. What we must do is ensure we have sovereignty and reassert our primacy in terms of our corporation tax rate by appealing the ruling to the European courts. First, the European Commission has not published the full judgment. Second, it is quite clear that if we do not appeal the ruling, we will be saying we have been involved in illegal activity, which is what the Senator is accusing us of doing. We have not been. We are trying, as we have been doing for a quarter of a century, and for once-----

**Senator Paul Gavan:** It was not me who was saying it. It was the Apple chief executive.

**An Cathaoirleach:** Senator Jerry Buttimer to continue, without interruption.

**Senator Jerry Buttimer:** I appeal to the Sinn Féin Senator for once to abandon his voodoo economics-----

**Senator Rose Conway-Walsh:** What does the Senator mean by leprechaun economics?

**Senator Jerry Buttimer:** -----and join the rest of us in bringing jobs here, creating jobs and having sustainable and meaningful jobs. The Minister is right. We have to appeal. It is about the people and the country and if we were to do otherwise, we would be negating our responsibility.

**Minister for Finance (Deputy Michael Noonan):** It is very interesting to hear this debate and I thank the Senators for having it. The appeal is being prepared by the Office of the Attor-

ney General. She has two months and ten days in which to prepare it and then it will be lodged. The procedure is that there is the European ordinary court, if I might call it that, which will hear the appeal in the first instance and then there is the European Court of Justice which is the court of appeal. Whoever loses will, I presume, appeal it in the ordinary court. The process will go on for four years or so, or perhaps longer.

There are other issues which arise also in the European Court of Human Rights in Strasbourg. If one looks at the European Convention on Human Rights, section 6 or section 7 lays down principles of law under which one cannot be the judge, jury and prosecutor in one's own case. It seems that the Competition Commissioner arrived at a decision in 2014, had a process which was supposed to be semi-judicial and arrived back at the same position again two years later. Under the European Convention of Human Rights, it seems that process is not correct.

One is not allowed to apply civil or criminal law retrospectively under the European Convention of Human Rights, yet in this case, criteria which were only agreed to in 2010 were applied retrospectively. The case being made is that Ireland is owed all of this tax. In the decision, as a number of Senators said, as well as saying Ireland did not collect the required amount of tax from Apple and that there are a lot of arrears which are now the responsibility of the Irish authorities to collect, it goes on to say in the accompanying press statement that some of this may not be Ireland's tax at all, that perhaps it should be that of other European countries. If Apple paid more tax or returned more income to the United States, perhaps it was tax due in the United States. My view of law is fairly simple. One cannot have it both ways. If the Irish authorities are being required to collect arrears, the Commission has decided that the money is appropriate to the Irish Exchequer. I never signed on in the European Union to be the tax collector for Austria or Spain, both of which are now suggesting some of the tax may be theirs for iPhones and iPads that were sold from their jurisdictions. Much of this decision just does not make an awful lot of sense. It is something that has to be appealed to ensure we protect our position and sovereignty.

The wider issues are fairly straightforward also. Under the European treaties, tax matters and especially tax rates are matters for sovereign governments. That is what the European treaties state, that is what we decided in 1972 and that is what is has remained after the various amendments to the treaties that have occurred, yet now the suggestion is the rules for state aid are superior to the treaties. That is like saying statutory rules which we will promulgate here are superior to the Constitution. There has to be primacy in law where the treaties are primary and anything else is subsidiary to it. The European Commission is turning the legal position on its head. By the way, I am not proposing, or suggesting, that at this stage we appeal to the European Court of Human Rights in Strasbourg. However, I am saying there are other flaws in the approach and we reserve our right to pursue them at a future date, if necessary. In the meantime, we are going to appeal this decision in the interests of the people.

At a meeting of ECOFIN that was extensively reported on, the president of ECOFIN said these were historical and legacy issues as far as Ireland was concerned. He name-checked both the Taoiseach and me and said the two of us were at the forefront of OECD tax reform. As far as he was concerned, legacy issues should not be pursued, that we should work forward when we reformed tax law and that Ireland was at the forefront of the reforming movement in the OECD.

When the head of taxation at the OECD in Europe, a French socialist lawyer, Pascal Saint-Amans, visited Dublin the week before last, he made it very clear that, as far as he was concerned, if there was a tax liability, it was to the United States, not Ireland. The reason he formed

4 October 2016

that view is simple. It is true to say Apple paid very little tax and that the figures put forward by Commissioner Vestager are correct. However, Apple paid its full tax liability on its Irish activities. It is probably the biggest corporate taxpayer in Ireland. It did everything necessary in Ireland. What is being charged is that we should have collected tax on Apple's profits in other jurisdictions. In the ruling the Commission makes no distinction between resident and non-resident companies. Under Irish law, the Irish tax authorities have no authority to collect tax from non-resident companies. That is a matter for the jurisdiction in which they are resident. That is one reason I think the European Competition Commissioner is wrong in law.

The position on US tax law is that while Apple paid a very low amount of tax, it has a very large tax liability. However, the way US corporate tax works is that the liability only turns into tax to be paid when the profits are repatriated. Then tax is paid at a rate of 35%. The low percentage of tax Apple paid is correct. However, if one looks at what its tax liability was, it was much larger than that. The liability is to the US Exchequer because it is in the United States that economic activity principally occurs that gives rise to the profits Apple makes.

*7 o'clock*

If Members have an Apple iPhone, they can see very small print engraved on the back of it - I had to get one of my children to read it for me because my eyes were not good enough - stating it was designed in California and manufactured in China. The economic activity, therefore, does not occur in Ireland but in the United States. Under OECD principles, the tax is due to the United States and under US tax law, the tax is due in the United States but not payable until Apple repatriates its profits. That is the reason Pascal Saint-Amans of the OECD said that if the tax arrears were due anywhere, they were due in the United States. The tax is not due in Ireland; why, therefore, should the responsibility for collecting it rest on the Irish tax authorities? I appreciate that the issue is very complex. I thank all Members for their contributions and our Sinn Féin colleagues for making the debate interesting by having a different point of view.

**Senator Rose Conway-Walsh:** No.

**Deputy Michael Noonan:** Conflict often clarifies, as long as it is within parameters.

**Senator Rose Conway-Walsh:** We did not get that far. It is a work in progress.

**Deputy Michael Noonan:** I thank Members for their contributions.

**An Cathaoirleach:** When is it proposed to sit again?

**Senator Jerry Buttimer:** Ar 10.30 maidin amárach.

The Seanad adjourned at 7 p.m. until 10.30 a.m. on Wednesday, 5 October 2016.