



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Dé Céadaoin, 28 Feabhra 2018

Wednesday, 28 February 2018

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

*Machnamh agus Paidir.
Reflection and Prayer.*

Business of Seanad

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

The need for the Minister for Health to provide an update on the provision of services for people with autism in the west.

I have also received notice from Senator Frank Feighan of the following matter:

The need for the Minister for Transport, Tourism and Sport to ensure the necessary funding is secured to upgrade the Dublin-Sligo railway line.

I have also received notice from Senator Aodhán Ó Ríordáin of the following matter:

The need for the Minister for Housing, Planning and Local Government to intervene to repair water pipes in Elm Mount Rise, Beaumont, Dublin 9, which neither Dublin City Council nor Irish Water are willing to take responsibility for.

Of the matters raised by the Senators suitable for discussion, I have selected those of Senators Conway-Walsh and Feighan and they will be taken now. I regret I had to rule out of order the matter submitted by Senator Ó Ríordáin on the ground that the Minister has no official responsibility in the matter.

Commencement Matters

Services for Persons with Disabilities

Senator Rose Conway-Walsh: I thank the Minister for coming to the House on this very

important issue. I want the Minister to understand the real hardship that faces parents of children with autism who have no care options in their local area. I refer specifically to Mayo, Galway and Roscommon. The lack of services and the huge waiting lists for everything, from occupational therapy to physiotherapy to respite, is completely unacceptable. Autism services are constantly put to the bottom of the pile and everything is a battle. Parents just do not know whom to go to for help and the confusion that exists is a large part of the problem. Parents are trying to find out whom to contact but are sent from Billy to Jack and back again.

There needs to be clear information regarding the new amalgamation of services. Who is responsible for what? Parents have no idea whom they are supposed to contact for therapy. There is a lack of resources and we need to know where the money is going. We need to know why many cases are not reached because many children and families who are living with autism do not even get the resources that are available. Parents tell us of being on lists for respite care for between two and three years but now they are told it will be years before they get the respite they need. They are asking why children with ASD in Mayo are prevented from having one-to-one intervention with a clinical psychologist or counselling of any type. Children with ASD are shut out from the community psychologist and from CAMHS, which will not provide it as it says it is for the Western Care Association to do so. Children with ASD who have mental health issues cannot get this type of intervention either, which is causing serious problems because children and adults with autism who are developing mental health challenges are not being dealt with in time.

There are good examples of emergency care but where children and young adults display mild mental health difficulties they need to be caught at an early stage, rather than allowing the problem to escalate. Given the cost of private classes, for example for speech therapy and occupational therapy, and the travel associated with accessing them, does the Minister accept that this is not an option for many families?

To list out services available at high cost and at long distances from these families means nothing to them as they are already really struggling. I know of two girls in Mayo who have autism and are non-verbal. Both attended the mainstream national school and are getting on well, as many of these children do when they are in the right setting and get the right supports. The children saw a speech therapist eight or nine times over a period of two and a half years through the Western Care Association. For the past 18 months, however, the girls' parents have been paying privately for speech therapy. They had no choice but to do this or they would lose what they had gained from the classes they had already attended. This is leaving families in real poverty because they do not have the money for these badly-needed services. They want to see leadership from their politicians, not empathy and not excuses.

The system is complicated. Children come under the Western Care Association when they start school but are then transferred to the HSE. Parents are in absolute desperation. It is not only young children but it goes right through the life cycle. There is a huge difficulty when children reach the age of 18 and are told they are not in somebody's remit. I ask the Minister to understand what services are there and to make people accountable for providing them. I also ask him to make it clear to parents where they can go and to give them the support that is needed. I want to work with the Minister to sort this out for Mayo and the west so that children are not left behind with their families in desperation.

Minister of State at the Department of Health (Deputy Finian McGrath): I thank Senator Conway-Walsh for raising this issue. I also commend the Senator on her work with

and interest in children with disabilities. The Senator is deeply involved in the issue of services for people with disabilities in the Mayo region and I met her recently with some of the families. Many of the concerns the Senator has raised are hugely important to the families. This gives me an opportunity to outline the position on the provision of autism services for people in the west of Ireland.

The HSE have informed me that the autism spectrum disorder, ASD, service in Athenry was established in 2014 with a multidisciplinary clinical team of six. The service provides diagnostic assessment and intervention for children aged six to 18 without an intellectual disability for both counties. At present, there are 71 children on the waiting list for assessment and just under 100 children on the waiting list for intervention. The team also supports an open caseload of just over 350 children. Children accepted to the service stay with the team until they turn 18 years of age. They then go on into adult services.

The team in Athenry currently stands at 3.5 whole-time equivalent posts due to unfilled maternity leave and parental leave. The good news is the service's staffing should increase to 4.9 whole-time equivalent posts next week. A waiting list initiative has been in place since March 2017 to provide some extra resources and to reduce waiting times. This initiative has supported 32 children through speech and language therapy and 54 children through the ASD waiting list initiative.

The HSE is currently engaged in the reconfiguration of existing therapy resources under the national programme on progressing disability services for children and young people. The aim of this programme is to bring about equity of access to disability services and consistency of service delivery, with a clear pathway for children and their families to disability services regardless of where they live, what school the child attends or the nature of the individual child's difficulties. This is an important point.

The ASD service in Athenry will be reconfigured under the progressing disabilities for children and young people programme. The reconfiguration has begun with the transfer of children who are under the age of six to early intervention. This was done in February 2017. Children with autism who have an intellectual disability receive services through the voluntary agencies across the community health organisation area CHO 2. In County Mayo, autism services are provided under the auspices for progressing disability services from birth to 18 years, and children are prioritised based on level of need. This is a multi-agency partnership approach.

I will bring the issues raised today by Senator Conway-Walsh back to the HSE with regard to disability services in Mayo.

Senator Rose Conway-Walsh: I thank the Minister of State for his reply but I believe those words mask what is happening on the ground. I will finish with a quote from Amanda McGuinness, a parent who works with voluntary autism services in Mayo, who wrote:

Essentially the voices and the futures of children are being stolen from those as a direct result of the lack of therapy available. It confounds me that the Government do not see the problem that will befall society in years to come when all of these children are adults and have little or no life skills, are unable to care for themselves and have sent their parents to early graves from the stress and the worry.

We need to listen to those words and we need to make sure that the words the Minister of State speaks in the Seanad today, and the words that are so often spoken over the years, mate-

rialise into proper services and supports for parents of children and young people with autism.

Deputy Finian McGrath: I thank Senator Conway-Walsh for making that point. It is absolutely my duty, as the Minister of State with responsibility for disability issues, to listen to the words of those families. I wish to reassure Members that the Government's ongoing priority is to ensure access and provision of services for people with a disability. In the context of recent debates on the Estimates for the budget, I note that in 2018, funding of €1.772 billion has been provided for health, for personal and social services and for a wide and complex range of services and supports for people with a disability. This is €91.9 million more than was available last year. This year we are providing more than 8,300 residential places through the HSE, as well as emergency supports for 385 people. We also will support 182,000 respite nights and 42,500 day respite sessions to families in need across the State.

I recognise that first-class early intervention services for children with a disability are paramount. I accept the Senator's arguments. The services need to be improved and organised more effectively. This process has now started and is under way nationwide. Health-related therapy supports and interventions for children with a disability are continuing to be developed. I do not do empathy. I do not do excuses. I do, however, accept the Senator's point that we must have accountability and to invest in the services. My vision for disability services is to invest in and reform the services but above all, to put the person and the family at the centre of the service.

An Cathaoirleach: I thank the Minister of State for his comprehensive reply. A good case was made by Senator Conway-Walsh on an important matter.

Rail Network

Senator Frank Feighan: I welcome the Minister of State, Deputy Finian McGrath, to the House. The Minister of State is very familiar with Sligo. I understand he has been in Sligo for nearly the past month. He has visited St. Angela's College and he also was down to launch the national development plan. The Minister of State went down very well while he was there.

This matter concerns the need for the Minister for Transport, Tourism and Sport to ensure the necessary funding is secured to upgrade the Dublin-Sligo railway line to address the ongoing overcrowding and to improve journey times. If one analyses distances and journey times on the various rail lines around the State, it is clear there are issues to be addressed with regard to the Dublin-Sligo railway line. The journey time from Sligo to Dublin, which is a distance of approximately 207 km, is three hours. The journey time from Cork to Dublin, which is a distance of 267 km or 60 km longer, is two and a half hours. The Galway-Dublin route comprises a journey of 209 km and takes two hours and ten minutes. I simply do not understand why it takes longer to get from Sligo to Dublin than it does to get from Cork or Galway to Dublin, given that Cork and Galway are further away from Dublin. Even the train from Castlereagh, Country Roscommon to Dublin takes one and a half hours less to travel a distance of 184 km than does the train from Boyle to Dublin, which is on the Sligo line and is a distance of 170 km. At a recent Oireachtas Joint Committee on Transport, Tourism and Sport, Irish Rail executives admitted they did not know why the Sligo-Dublin journey takes three hours. They agreed that three hours is a long time. This was in response to my question. At the meeting they said that

unless we provide competitive journey times, people will return to using their cars and I could not agree more.

The other big issue is whether rail users are getting value for money. There is regular reporting of overcrowding on the Sligo-Dublin service and the question must be asked as to why rail users, who have spent hard-earned money on tickets, should have to endure these types of conditions. These overcrowding conditions could also have health and safety implications. I am aware that the service volume is increasing all the time and according to Irish Rail figures, there has been a 6% increase in passenger numbers on the route. In response to overcrowding, I welcome that Irish Rail has announced an extra service between Sligo and Dublin this year. I am not sure when the extra service is coming into effect but perhaps the Minister of State will give the House some indication of that.

I was in Sligo last Friday to attend the very successful launch of Project Ireland 2040, the Government's plan for the future of Ireland. The plan commits to maintain the Sligo-Dublin rail route to help ensure high levels of service quality, accessibility and connectivity. The plan also details that Sligo will fulfil the role of a regional centre for the north-west region, which I greatly welcome. We ensured that this was included. It is now, more than ever, that we need to ensure that sufficient funding is in place in order that this vital Sligo-Dublin line has the capacity to meet expected growth.

Deputy Finian McGrath: I thank Senator Feighan for the opportunity to address this issue in the Seanad today. The Senator will be aware the Government recently launched Project Ireland 2040. This plan includes the national development framework and the ten-year national development plan. The role and potential of rail is intrinsically linked to where people live, work and wish to travel and these very issues form the core of Project Ireland 2040. In line with the recommendations of the Department's 2015 strategic investment framework for land transport, a continuing key priority for investment in transport under the national development plan will be to protect the quality and value of the existing extensive rail network. This will ensure quality levels of service, accessibility and connectivity to transport users. Prioritisation of this type of investment is also a key finding of the recent public investment management assessment which was conducted by the International Monetary Fund at the invitation of the Minister for Public Expenditure and Reform.

The national development plan recognises the important role that rail can play in enhancing regional connectivity and commits to looking at improving journey times on the inter-urban rail network to improve connectivity. A contract is under way to introduce 28 rail carriages for the inter-urban rail network. These carriages are expected to re-enter service in 2019. Irish Rail and the National Transport Authority are also assessing the availability of additional fleet. This fleet could be introduced to passenger services on the rail network in the short term prior to the delivery of new diesel electric trains expected in 2022. This programme of new diesel electric trains would enable the enlargement of the rail fleet by approximately some 300 new rail carriages.

On the Dublin-Sligo rail services specifically, I have been informed by Irish Rail that the company plans to expand services during 2018, subject to the approval of the National Transport Authority. It is planned to increase services from seven trains each way daily to eight trains each way daily in response to rising demand. Irish Rail has advised me that while the vast majority of services on the Dublin-Sligo line cater adequately for demand at present, the trends clearly indicate that capacity will come under increasing pressure in the coming years.

Already, Irish Rail has increased the capacity on selected services on Fridays and Sundays on the route. I will also ask Irish Rail to provide directly to Senator Feighan further details on the planned enhanced services.

The national development plan includes five-year multi-annual capital envelopes for the period 2018 to 2022 for all Departments. As part of the annual Estimates process, the multi-annual capital allocations will be reviewed and extended annually on a rolling basis to cover the coming five-year period. This will provide Government with an annual opportunity to review the allocations in light of any implementation issues arising or new priorities that may emerge as the national development plan is implemented. The NDP also commits to a full mid-term review of the national development plan in 2022 to allow Government to take stock of progress in terms of delivery of the planned projects and programmes and to allow Government to review and reaffirm its investment priorities. The review will be carried out to prepare and publish a new updated ten-year plan for public capital investment in 2023 covering the period 2023 to 2032.

I thank Senator Feighan for his interest in the matter. As I have outlined, the funding priority for the inter-urban rail network is ensuring that the existing extensive network is maintained to a high level to ensure quality levels of service, accessibility and connectivity to transport users.

Senator Frank Feighan: I thank the Minister of State for his response. I appreciate the extra rail fleet coming online. We must try to address the times and the length of time it takes to get from the north west to Dublin by rail. The distance from Dublin to Roscommon town is ten miles shorter than the distance from Dublin to Boyle, which is on the Sligo line. It takes 50 minutes less to get to Roscommon town on the Sligo-Westport line than it does to get to Boyle town on the Sligo line, which is approximately a nine-mile shorter distance. We must get to work on the times because if we cannot get the travel time down to two hours or an hour and a half, people will not use rail transport and we are trying to get people to use it. I understand and I thank the Minister of State for his reply.

An Cathaoirleach: The Minister of State is multi-tasking.

Deputy Finian McGrath: I will make three points to wrap up. I accept the Senator's points on the time issue. It is a very important thing for commuters but also for people going about their business. I will bring the Senator's views on the issue back to the Minister, Deputy Ross. I have been informed by Irish Rail that the company plans to expand services during 2018 and I will ask Irish Rail to provide further details to the Senator on the enhanced services so that he has an idea what is going on. The issue of time and efficiency is something we need to push to ensure the Dublin-Sligo rail line is very efficient and beneficial to all the community.

Sitting suspended at 10.55 a.m. and resumed at 11.35 a.m.

Order of Business

An Cathaoirleach: On this snowy morning, I ask the Leader to outline what I hope is a frosty Order of Business.

Senator Jerry Buttimer: I hope it will not be a frosty Order of Business. The Order of Business is No. 1, Protection of Employment (Measures to Counter False Self-Employment)

Bill 2018 – Second Stage, to be taken on the conclusion of the Order of Business and to be adjourned after two hours, if not previously concluded.

An Cathaoirleach: To be concluded after two hours?

Senator Jerry Buttimer: After two hours, if not previously concluded.

An Cathaoirleach: This is in one sense a sad day for the Seanad. In another sense it is a kind of a joyous day for somebody who has decided to seek another life outside of politics. It is Senator Trevor Ó Clochartaigh's final day and I take the liberty of overriding the Order of Business to allow him to speak first, if that is in order. Agreed? Agreed.

Senator Trevor Ó Clochartaigh: Is ócáid iontach brónach ar bhealach amháin ach áthasach ar bhealach eile go bhfuil sé i gceist agam a chur in iúl duit i scríbhinn níos deireanaí go bhfuil mé ag éirí as mo shuíocháin Seanaid. I am going to be resigning my seat later this afternoon. I am hearing the decision is sending reverberations through Parliament already because it is thinking of closing down tomorrow. It might not be able to cope without me but I am sure it will recover.

Ba mhaith liom fáilte a chur roimh aíonnaí speisialta atá liom inniu anseo. Tá siad sa ghailearaí. Meallaigh agus na gasúir agus daoine as Gaillimh so tá Cairbre, Aoibhinn, Fáinte, Rian agus Síofra agus mo chara, Chris Davy, ag obair liom ins an oifig i nGaillimh agus tá roinnt daoine nárbh féidir leo taisteal inniu agus tá siad ag breathnú ar an idirlíon, go háirithe clann Meallaigh a thugann an-chúnamh dúinn sa bhaile agus ba mhaith liom buíochas a ghabháil le gach duine a thug an deis dom a bheith anseo ar an gcéad lá riamh. I want to thank all of those who are watching at home or could not travel and those in the Gallery.

I thank those who gave me the opportunity to be here and elected me in the first place. It has been an absolute honour and privilege to serve in the Seanad for seven years. I am conscious it is unusual that Senators get to resign their seats on their own volition. I am conscious of former Senators, Denis Landy and Jimmy Harte, who did not get that opportunity and I wish them well in everything they are doing.

I had a wonderful seven years and some amazing experiences in the House. I thank the Cathaoirleach and the Members of the Seanad and Dáil whom I have worked with. I also thank Mr. Martin Groves, Ms Bridget Doody, Ms Carol Judge, Ms Niamh O'Grady and foireann Oifig an tSeanaid for being a wonderful resource to me and great friends over the last number of years, as well as the secretariat and staff of all of the committees. People might not recognise the amount of work done behind the scenes to support the committees. They have been fantastic.

I thank the Parliamentary Reporters agus tá mo chara, Séamas, anseo. Bím i gcónaí ag breathnú ar éadain na Parliamentary Reporters. I often take a glance at the Parliamentary Reporters because they are very stoical in their position and tend not to react to what is going on, no matter what the shenanigans might be. However, I have often wondered what is going on inside their heads. I look forward to the memoirs of a number of them. They are still not giving anything away. Is iontach an obair a dhéanann siad.

I also thank an rannóg cumarsáide, the communications department, the sound team and the audiovisual team. We are all in the new era of Youtube, Facebook, etc. Without the work they do in recording us in the Seanad and on the committees, we would not be able to get ourselves

out there. The Library and Research Service has been invaluable. We launched a report yesterday on island schools and it did amazing work in the background and on other projects. I thank the one-stop shop that helps us all and all of the administration staff in these Houses, including the Captain and the Superintendent. I say a special word of thanks to Mr. Colm O'Rourke and all of the ushers. I have made great friends with so many of the ushers over the years agus go háirithe don chuid sin atá ag foghlaim na Gaeilge. The catering and bar staff in these Houses are fantastic. They are exemplary and have been great friends over the years. The cleaning and maintenance people come in very early in the morning. I am the type of person who comes in early in the morning and I would often bump into them in the corridors and have a chat. I thank them. The porters have been very busy in the past number of days on my behalf bringing stuff in and out to the car. I also thank the printing and design team agus dream a thugann an-tacaíocht domsa mar gheall ar chursáí teanga comh maith an t-am ar fad ná rannóg an ais-triúcháin agus táimid buíoch dóibh sin. Na hiriseoirí polaitiúla - the political correspondents, the Dáil studio staff and the local and national media. I hope I have not left anybody else out. I thank them sincerely for all they have done. Tá an-áthas orm gur éirigh liom a bheith mar ghlór phobal Conamara agus na Gaillimhe, do chúrsaí Gaeilge agus Gaeltachta fad agus a bhí mé sa Seanad. One of my parting messages would be not to forget seachtain na Gaeilge ag tosú an tseachtain seo chugainn so I would hope people would follow in the footsteps and try to use as much Irish as they can for seachtain na Gaeilge. You never know when my replacement is to be nominated. Members might think of persuading their party leaders to nominate somebody who might have cúpla focail as well to take up the mantle of the Irish language and speak on behalf of rural affairs, human rights and civil liberties, particularly the issue of direct provision, which was close to my heart and which I will be following.

This country has had an amazing role with regard to our diaspora in international affairs. I would like to think there are conflicts around the world where this Government or Governments to come could take a role to help keep and foster peace. I hope that this could happen even in the situation between Catalonia and Spain.

As elected representatives, we have an incredibly privileged role. It is a great honour but also a great challenge. It is important for me to acknowledge today that when one is an elected representative, one's life really is not one's own. Such people are in the goldfish bowl quite a lot. It is a very challenging life physically and mentally and affects everybody around them - their family, extended family, friends, etc. It is important to note that, which is why I have the height of respect for everybody in the Seanad and Dáil along with councillors because I know the pressures people are under and I think it is important to recognise the great work they do for their people. I have really enjoyed working with everybody here. We have had the odd spat here and there but I hope I have not offended anybody too much and if I have, my apologies.

My good friend, Senator Black, mentioned John O'Donohue last night, which got me thinking. The great John O'Donohue was a poet who lived in Connemara. I came across a quote of his which might be a nice parting word to leave with the House. He wrote:

Part of understanding the notion of Justice is to recognize the disproportions among which we live [...] it takes an awful lot of living with the powerless to really understand what it is like to be powerless, to have your voice, thoughts, ideas and concerns count for very little. We, who have been given much, whose voices can be heard, have a great duty and responsibility to make our voices heard with absolute integrity for those who are powerless.

Guím gach rath ar gach uile duine sa teach seo agus beimid ag caint le chéile arís tá mé

cinnte so go dtí go gcasfar lena chéile arís muid, go n-éirí an t-ádh libh.

Senator Mark Daly: Ar dtús, déarfaidh mé cúpla focal do Trevor Ó'Clochartaigh ar an ócáid seo. Bhí brón orm nuair a chuala mé an nuacht that Trevor was resigning from the Seanad - on his own terms. Not every person gets to leave office on their own terms.

I pay tribute to Trevor for his work on the issue of the diaspora. I have attended many events with him. I know he has worked very hard on the issue of the undocumented in the US, the forgotten Irish in Great Britain and so many other areas, even the ones that are more difficult and challenging but are equally important for those who are returning such as driver licences and insurance. It is work for which one does not get any votes but that is not what he is in here for and it was not what he was doing over the past seven years. He was working very hard on behalf of everybody, most recently on the issue of Catalonia on behalf of humanity rather than the people of Galway West.

The fact that he was looking at issues outside his immediate electoral area and outside this island shows his breadth as a public representative. He is not retiring so it is not like he is leaving office and going off to sun himself on a beach. On the occasion of the closing of Moriarty's Bakery in Kenmare, which had been run by three brothers for 49 years, the brothers put a little handwritten note on the window thanking all their customers and said, "Now we must learn the lesson of how to spend time without spending money". I am afraid this is not the occasion for Senator Ó Clochartaigh at this time but I wish him the best in the future, as does everyone in the Fianna Fáil group.

I welcome the announcement that the Government will pay the fuel allowance. I know the Taoiseach was unable to confirm it yesterday in response to questioning from all sides. The Government needs to put in place a formula so that it does not have to take up so much Dáil time, as was the case yesterday, so that on occasions such as this where a red weather alert is likely, it is automatically included. I know the person responsible for advocacy and communications in Age Action Ireland and all the other agencies dealing with this issue welcomed that announcement but the Government needs to create a formula whereby this would become automatic rather than it turning into a political football. There is no need for that on an occasion such as this.

Speaking of political footballs, in exactly 14 minutes, we will see the release of the documents from the EU regarding Brexit proposals. We should bear in mind that what is proposed with regard to the North and South is the default position if the British Government cannot come up with any better ideas. However, as it has not come up with any better ideas since the vote in 2016, it is unlikely that it will do so now.

It was amazing to hear Gregory Campbell of the DUP bemoaning the fact that the EU has not put in the legislation it is proposing regarding the arrangement between Northern Ireland and Great Britain. That is an internal UK market issue and nothing to do with the EU. If it had included such language, it would be attacked by the Brexiteers for doing so. We must bear in mind that this is based on the agreement that was signed in December. I pay tribute to the Tánaiste and the Government for making sure it was robust and ensured that there would be no divergence between the North and South of Ireland. Hopefully, the language that will appear in exactly 12 minutes will show that, which will mean that there will be no return to the Border

of the past. We must bear in mind that there are 275 Border crossings between the North and South of Ireland along a 499 km Border. During the Troubles, only 20 of those remained open. We do not want a return to that and a return to violence.

My niece and grandchild-----

Senator David Norris: The Senator is older than he looks.

Senator Mark Daly: Actually, she is my godchild. The thing about being my godchild is that she is the one who picks the nursing home so, obviously, she is up here on work experience. She is up here on work experience and is having a grand time. We were at the cinema last night. She will be picking my nursing home so everyone should make sure to treat her right.

An Cathaoirleach: I hope the Senator will not need it for another year or two.

Senator Gerard P. Craughwell: I first met Senator Ó Clochartaigh when I came in here following a by-election in 2014. He is one of Ireland's gentlemen and a man I will miss dearly. I will miss his beautiful Irish, his smiling face and his helpful hand any time I ever needed it. He is a decent man and I wish him well. TG4's gain is our loss and Ireland's loss. I wish him the very best of luck. He was a really decent guy to be around.

I have rarely, if ever, spoken about issues pertaining to the Troubles. It is no secret that I served in the British Army. Sometimes I am accused of being a west Brit or whatever one wants to call it. A report on the radio on Sunday morning concerned the shooting of Aidan McAnespie in Northern Ireland. There have been many different comments about it. I was a soldier for ten years. I carried a weapon for most of those ten years. It is extremely difficult to have an accidental discharge of a weapon. That man was shot. According to some rumours, it was as a result of a ricochet. First, it would want to be a very lucky ricochet and second, the accidental discharge of the weapon is something that must be questioned and answered. An investigation was carried out by former Garda Commissioner Eugene Crowley and that report was handed to the then Minister for Justice in 1988. I listened to that man's family speak on a radio programme on Sunday morning. If nothing else, they are entitled to have sight of that report. I have no idea what that young man was involved in. All I know is that he played football. That is the only thing I heard on that radio programme. The Garda report will tell whatever story there is to be told. If nothing else, the family are entitled to that. I call on the current Minister for Justice and Equality to release that report to the family, even if it means bringing the family into an office in Dublin and allowing them the courtesy to sit down and read the report.

With respect to the Troubles in Northern Ireland, in order for matters to move on there, I have believed all along that there must be some form of a truth commission. There must be a way where people can sit down and hear what happened to their loved ones. Whether charges would follow or not, I do not feel competent to comment on. However, at the very least, both unionists and nationalists are entitled to know why those they loved were killed. There are no accidental killings in this world. What happened was a terrible time in our history. We are coming into a time in our history, which is equally disturbing, namely, the commemoration of the Civil War. It is time for some reconciliation. I ask the Minister as a first step to release that report to the family.

Senator Rose Conway-Walsh: First, I want to acknowledge Senator Ó Clochartaigh's last day in the House. He has been my colleague since I was elected to the Seanad. I welcome Mali and his family who are here today and the people from Galway who have travelled here. I know

there are others on their way who got delayed as a result of the weather conditions.

Trevor has played an important part of our Sinn Féin team in the Seanad across many issues that have been mentioned, including the diaspora, Travellers' rights and many other issues that are not great vote-getters. That displays the type of person he is. We will certainly miss him within the Seanad team but this is a good and joyous day. It reminds us all that there is life outside politics and there are many other jobs that people in this Chamber could do. I congratulate Trevor on his new job. They have made a very wise choice at TG4 and I look forward to working with him in the future. I thank him and wish him the best of luck.

I thank Senator Craughwell for raising the issue of the Crowley report and demanding its release. The McAnespie family has waited long enough, indeed, far too long, and that needs to be done. We need to hear more voices, other than our own inside the republican movement, demanding that. I thank Miriam O'Callaghan for her RTÉ Radio 1 programme last Sunday. It was very important for people to hear it, and even for me as a parent who has two teenage boys who go to football matches all of the time. The thought of what happened to Aidan McAnespie resonates with many parents like me across this island.

Lastly, I wish to raise the issue of fuel poverty. I welcome what the Government has done, albeit late in the day, and I ask the Leader if he would arrange for us to have a proper discussion on fuel poverty in this Chamber and around the hidden problem in Ireland. Many very good reports have been done on this issue during the term of the previous Government and even at the height of the boom, reports on fuel poverty were being drawn up. We need to have a proper discussion on the availability of fuel, house insulation and on the people who fall through the gaps. I have found the local authority will say that this issue is the problem of the Sustainable Energy Authority of Ireland, SEAI. Even with respect to getting heating systems upgraded or house insulation for people, the local authority will say, "No, it does not fall within our remit." The SEAI will say, "No, it does not fall within our remit either." Meanwhile these people are left in vulnerable situations. I ask the Leader to arrange for us to have a full, sensible and wholesome debate on fuel poverty in this House.

Senator Frances Black: I, too, would like to acknowledge the role played by my colleague, Senator Ó Clochartaigh. While he was speaking, I thought back to the first day I arrived in Leinster House for the Seanad elections. I will never forget his warmth and kindness to me. I was very anxious that day, if I remember rightly, and thought I would be out of here in an hour but I was really surprised. His warmth has spread here, through the Seanad, and such warmth always spreads. When one walks into the Chamber, one sees the smile he would always give. My colleagues in the Civil Engagement group and I definitely will miss him very much. I have said that to him already. We have worked with him on many issues, including family reunification and Travellers' issues. He will be sorely missed.

It takes great courage to do something like this. Trevor and I talked about John O'Donohue last night, and, if it is in order, a Chathaoirligh, I would like to read out the second part of a poem written by the poet, John O'Donohue. It sums up what I believe Trevor is and his courage. The poem states:

Then the delight, when your courage kindled,

And out you stepped onto new ground.

Your eyes young again with energy and dream,

28 February 2018

A path of plenitude opening before you.
Though your destination is not yet clear
You can trust the promise of this opening;
Unfurl yourself into the grace of beginning
That is at one with your life's desire.
Awaken your spirit to adventure;
Hold nothing back, learn to find ease in risk;
Soon you will be home in a new rhythm,
For your soul senses the world that awaits you.

That sums up Trevor and I thank him for the great work he has done.

I am not sure if we will have statements on councillors' conditions tonight but if not, I wish to put on record that many councillors have contacted me and the stories they told me concerning their issues are very upsetting. One woman this morning advised she has lost her job on foot of the amount of work that she was doing as a councillor and as a result, this woman, who is a single parent, is really struggling financially. I look forward to our having statements on councillors' conditions and discussing their issues because I am very concerned about what is happening with respect to them.

An Cathaoirleach: We will not have the statements on councillors' conditions today because of the weather conditions but I presume they will be rescheduled. I call Senator Humphreys.

Senator Kevin Humphreys: I pay tribute to the work of my colleague, Senator Ó Clochartaigh. He thanked everybody in the House and I take this opportunity to thank him for the service he has done during the past seven years. I came across the Senator
12 o'clock for the first time when I was a Minister of State and was dealing with a Commencement matter he had raised. He taught me a very good lesson, namely, that if one was up against him, irrespective of whether it concerned a Commencement matter or another matter, one came into this House prepared. I mean that in the nicest possible way.

With his retirement from politics today, there are winners and losers. TG4 is one of the winners. However, the citizens of the State are on the losing side because the Senator always presented his arguments, having researched them well, with good humour but one had to be ready for him when one came into the Chamber. That, to me, is a great compliment. The other winner is the Senator's family. They must have missed him greatly while he was up in Dublin when they had to deal with the pressures at home, and he probably missed them deeply.

His family and friends, many of whom are in the Gallery today, are the winners. They will have him and his good humour back home with them a bit more often. I wish him the very best of luck. Go n-éirí an bóthar leat. I think that is a good attempt from somebody who has no Irish.

The weather is quite bad outside but the councils have been working extremely hard since last night. Dublin buses have been running on the roads. Those bus men had to get out of their

beds early this morning to make sure that the buses were running to enable people to get to work. I compliment them for their diligence and hard work in keeping the city moving today.

Time and again I have raised the issue of short-term lets and the impact they are having on homelessness. A report was published recently about legislation enacted in Berlin which saw just over 4,000 short-term lets put back into use as longer-term residential accommodation for workers and families. The introduction of similar legislation here would have the same effect. I raise this matter because I received an email from correspondents in Cork that referred not just to the loss of such units to the housing stock but also the negative impact that high levels of short-term letting is having on their community. The correspondents referred to the “hollowing out” of a residential housing estate where residents who used to have neighbours now have short-term visitors and holiday makers. That is not in their interests or in the interests of good planning.

I wish Senator Ó Clochartaigh the very best in his new career. I also wish his family the best of luck. They are smiling and are obviously very happy to get him back. I thank them for lending Trevor to the Seanad and to public life over the last seven years.

Senator Paddy Burke: I wish to be associated with the good wishes extended to Senator Ó Clochartaigh. He has beautiful Irish and it is lovely to listen to him speaking the language. He has a great ability to switch between Irish and English and it is absolutely fabulous to listen to him. When I was Cathaoirleach he posed a lot of problems for me because my Irish was very poor. He would table either a Commencement matter or an Adjournment matter almost every day and I would have to have a crash course, along with the former Clerk to the Seanad, Ms Deirdre Lane, with Martin Groves coming in to read out the matter. I decided that I would take Senator Ó Clochartaigh’s matter every morning to get it out of the way but that did not solve my problem because he would table another one for the following day. Eventually I decided I would leave my notes here because it would often be the same matter and I was better able to communicate it. Senator Ó Clochartaigh was a great Senator who raised many important issues on the floor of the House for the betterment of the people of his area and the country. He was an outstanding public representative and I wish him well in his new job as communications manager with TG4. That organisation will benefit greatly from his experience. I wish him and his family well. I also wish him the best of luck in his new job.

Senator Keith Swanick: I congratulate Senator Ó Clochartaigh on his new role and wish him the very best in the future and go n-éirí an t-ádh leat.

Senators will recall that last October I asked that a debate be organised about the issue of loneliness and social isolation in Ireland which are some of the greatest public health risks today. In December I formally requested the Government to establish a loneliness task force to tackle the epidemic of loneliness. I did so in this Chamber and also in formal correspondence with An Taoiseach, Deputy Varadkar, and other Ministers. In the interim and in the absence of any response from the Government, I have now formally established a loneliness task force. This task force wants to increase awareness of the issue and to produce a set of recommendations for Government, State agencies and policy makers across the island of Ireland. The loneliness task force will produce a report on what is needed to tackle the epidemic of loneliness on an all-Ireland basis. I am happy to report that the task force will include a range of people from the community and voluntary sectors, including nursing, sport, business, medicine, youth work and psychiatry as well as from various NGOs. Much of the discussion about loneliness and isolation focuses on the elderly but loneliness is now just as prevalent among the young.

Suggestions or proposals for the loneliness task force can be made via www.lonelinesstaskforce.com. These will be incorporated into the report which will be published in the coming months. The current extreme weather warnings further highlight the issue of loneliness and social isolation. Mar a deireann an seanfhocal, ar scáth a chéile a mhaireas na daoine. Under the shelter of each other, people survive. We are a kind and compassionate society but thousands of people are living lives of quiet desperation and loneliness. I hope the loneliness task force will bring energy and a sense of urgency to this most pressing issue. The discussion around the epidemic of loneliness needs to be turbo-charged. I look forward to bringing the recommendations of the loneliness task force to the House in the coming months.

Senator Victor Boyhan: I welcome Senator Ó Clochartaigh's family to the Gallery. I have always found Senator Ó Clochartaigh to be a great colleague and friend. The first time I met him was at the famous count for the agricultural panel of Seanad Éireann. Senators Conway-Walsh, Ó Clochartaigh and myself filled the first three vacancies on the inside panel, which was unique in itself. Senator Ó Clochartaigh was then elected as a Sinn Féin Senator. In my case, I was coming into a situation about which I clearly did not have a clue. I had a fair idea but did not know how the whole thing worked and I certainly did not expect the vote that I ultimately got. One of the people who was there from very early on, sitting next to me, was Trevor and he explained the very complicated process to me. I learned a hell of a lot with him. I observed him over those few days and in the following weeks and he was always extremely helpful and supportive. There are not too many people in here that will show one the ropes but Trevor was one of them. Any time one asked him a question, he never made one feel stupid and he always explained how the system worked. I know from speaking to him and reading a bit about him that Trevor was involved in the Labour Party in Galway in the past. He has an amazing track record and many independent councillors from Galway speak of his absolute commitment to the disadvantaged, to equality and to justice. He is an advocate and I do not think he will ever stop being one. In fact, I know he will not stop because that is his style and his personality. Indeed, that goes for a lot of Members of this House. I wish him well and thank him for his friendship and his support for Members from all parties and none. That was clearly noticed and was very valuable. I wish him well in his new job and would ask him to take one thought with him. In terms of the work we do in this House, it is so important that the media gives us coverage, whether as Gaeilge or in English. I hope that he will use his experiences in here to get the message out about the importance of a fair and balanced account of what we do in the Houses of the Oireachtas. I wish him well personally. Whatever he does, he will do it well and to the best of his ability. He deserves his time out of here and as Senator Conway-Walsh said, there is another life. I am always amazed by politicians who say that there is another life outside politics but many of them do not seem to want to take that leap and get out. We might all consider that. I am relatively new here and do not intend leaving for a while. I wish Trevor well; he deserves every success in the future.

Senator Paul Coghlan: I would also like to be associated with the warm and well-deserved tributes to our colleague, Senator Ó Clochartaigh. He has been a great force for good in here as well as a wonderful champion of the Irish language and all things Gaelic. I sympathise with Senator Paddy Burke regarding what he said. I was in the Cathaoirleach's position a few times when Senator Ó Clochartaigh raised Commencement matters. My Gaelic is not as *flúirseach* as the Senator's but I did my best. We wish the Senator every success. I have no doubt he will be very successful with TG4. Please God we will meet him now and again. We will not lose contact.

I was struck earlier by the remarks of my colleague and friend Senator Mark Daly. I hope he does not see that nursing home any time soon. We would miss him if he were in there. I would promise to visit.

Senator Mark Daly: The Senator would visit. I thank him. I appreciate that.

Senator Paul Coghlan: I would certainly visit.

Senator Mark Daly: I will return the compliment.

Senator Paul Coghlan: The Senator is not that far away. I would travel the 20 miles to visit him.

Senator Terry Leyden: The Senator might get a visit from a few Senators when he is there.

Senator Paul Coghlan: On a more serious matter, I share fully the Senator's view on regulatory alignment between the North and South. Please God we will have similar regulatory alignment between the east and west. We will say more about that anon.

An Cathaoirleach: Is Senator Coghlan saying he is going to contribute to the nursing home for Senator Mark Daly?

Senator Paul Coghlan: I would not see him stuck.

Senator Máire Devine: I will contribute as well.

I want to say slán to Trevor. It will not really be slán as I will be over in the "wesht" at some stage. Coming from a Dublin-centric position and being steeped in Dublin, it is difficult to get out into the bog.

Senator Terry Leyden: There is more than bog in the west, I assure the Senator. She just has to be informed. For God's sake.

Senator Máire Devine: Senator Ó Clochartaigh keeps reminding me, Dubs and those who are caught in the urban centres of the beauty of our language, culture and what is "the bog" to the Dubs. The Senator has a great heart. He is a great human and I will miss him very much. Go raibh míle maith agat for all the help you gave me and for the divilment as well. It was enjoyable. I will see you soon.

I congratulate Dublin Region Homeless Executive on its response last night to the adverse weather conditions and on rough sleepers. I would like to find an alternative to the term "rough sleepers", however. It is not adequate. I refer to those sleeping outside. I was at a meeting in St. Catherine's community centre in Dublin 8 on Monday night. All the volunteers came in and set up from 60 to 80 beds in an area to encourage and welcome those who sleep outside. The response from the public has been incredible. The public have been encouraged by email, app, telephone and text to alert Peter McVerry Trust and Dublin Region Homeless Executive about vulnerable people sleeping outside. Considering the weather conditions that are still to come, including the storm and the freezing and snowy conditions, I appeal to those sleeping outside to avail themselves of any bed being offered for the moment because it gives life-saving warmth in this adverse period.

Senator Kieran O'Donnell: I join my colleagues in wishing Senator Trevor Ó Clochartaigh all the best. He is going back to familiar pastures in TG4. His family will probably return

to some element of normality. A career in politics is very hard on families. People have made reference to being a politician. Whether we admit it or not, we actually enjoy it. We enjoy the buzz of being involved in politics but it is very rough on families. I pay tribute to the Senator's family.

We are in the midst of extreme weather. There are varying levels of severity in different parts of the country but it looks like the storm will hit all areas. The emergency task force, chaired by Mr. John Hogan, is up and running. The most important point is that people be kept safe. The one thing I learned from Storm Ophelia is that people need to stay indoors. Lives were lost on the last occasion, unfortunately. When walking across Dublin this morning, from the Merrion Street end, I noted the roads are in a treacherous state. The main thing is to heed the warning to stay indoors. The services are in place. People should not be afraid to make contact with the emergency services, regardless of circumstances, because that is what they are for. I hope the storm will pass and that people will be safe. The weather is very severe and it will get a lot worse.

Senator Terry Leyden: I wish Senator Trevor Ó Clochartaigh every success and thank him for his tremendous service to Seanad Éireann over the past seven years. He has made a great contribution to public life here. His wonderful Gaelic is really impressive and an inspiration to others.

I happened to be out of the Chamber for ten years, from 1992 to 2002. I have no doubt that the Senator might be back here again after his stint with TG4. People should not write him off.

Senator Frank Feighan: Senator Leyden will still be here.

Senator Terry Leyden: From my experience of this and the other Chamber, I have learned there are very few voluntary resignations. Very few want to leave when they get in here. They certainly do not want to leave because it is a very important institution. It is most fortunate that the present Government did not abolish it or we would be all gone. Senator Ó Clochartaigh would have had a premature departure. He would not be here to leave today. I welcome the Senator's family to the House. That he is leaving the Seanad is a loss to Connemara and the west. Senator Máire Devine should note there are more than bogs in the west. There are nice farms and beautiful landscape. I hope she comes down to become more familiar with the rest of the country outside the Pale.

I wish Senator Ó Clochartaigh well with TG4. He was employed by it before as a producer. Ros na Rún was one of his great productions. TG4 is a great station. It is a tremendous Irish station. It is a real station for Ireland and shows great imagination. I am very pleased that previous Fianna Fáil Governments brought in TG4.

Senator Kevin Humphreys: Was it not Michael D. Higgins?

Senator Terry Leyden: I believe it was called a coalition between the Labour Party and Fianna Fáil, but the Fianna Fáil Taoiseach at the time would have approved it, with a Cabinet majority.

Senator Máire Devine: That is stretching it.

Senator Terry Leyden: Let us be clear about it.

We also got rid of section 31 of the Broadcasting Authority Act. The Senator should be

aware of that also. It was a ridiculous Act.

The bad weather reminds me of 1982, when the late Garret FitzGerald was out in Tenerife. The storm came-----

Senator Jerry Buttimer: That is unbelievable stuff.

Senator Terry Leyden: Sorry, I am just being factual.

Senator Jerry Buttimer: Where was Charlie?

Senator Terry Leyden: Charlie was out-----

Senator Jerry Buttimer: Where was Albert? Where was Bertie?

Senator Terry Leyden: We were preparing-----

(Interruptions).

Senator Terry Leyden: Let me complete my statement. I said nothing derogatory.

Senator Jerry Buttimer: The Senator can never let it go.

Senator Terry Leyden: Excuse me.

Senator Jerry Buttimer: The Senator is unbelievable.

An Cathaoirleach: Please, Leader.

Senator Terry Leyden: Michael O'Leary was up a pole and the country came to a stop.

An Cathaoirleach: The Senator is over time.

Senator Terry Leyden: We had a general election.

Senator Jerry Buttimer: What about Brian Cowen in 2010 and Bertie-----

Senator Terry Leyden: The point I am making-----

Senator Jerry Buttimer: What happened then? The country closed.

Senator Terry Leyden: The Senator should not get excited. It was 36 years ago, before the Senator was in public life. I was a Deputy at the time. I ran-----

Senator Jerry Buttimer: Look what happened to him.

Senator Terry Leyden: We had a general election then. The Senator should just be aware-----

(Interruptions).

An Cathaoirleach: Senator Norris should not interrupt.

Senator Terry Leyden: Beware the Ides of March.

Senator Jerry Buttimer: Where was the Senator in 2010 when the country could not

move?

An Cathaoirleach: The Senator is well over time. He is only prolonging the agony.

Senator Terry Leyden: There is not much on the Order Paper today.

An Cathaoirleach: He is nearly two minutes over time.

Senator Terry Leyden: When will we get a hard copy of Project Ireland 2040, the so-called election manifesto of the Fine Gael Party? Will hard copies be issued? My God, every newspaper in Ireland is being paid to put in advertising.

An Cathaoirleach: I call Senator Norris.

Senator Terry Leyden: As far as I know, Members of this House have not received the manifesto in question.

An Cathaoirleach: Please, Senator Leyden, resume your seat. I call Senator Norris.

Senator Terry Leyden: I am asking the Leader of the House to respond if he has time to do so.

An Cathaoirleach: Senator Leyden took four minutes instead of two. If everybody goes off on these tangents and takes three or four minutes, we have no orders of the House. I ask Senators to be reasonable. Another 11 Senators are offering to speak, so it is not a quiet day.

Senator Terry Leyden: I was interrupted by that man up there.

An Cathaoirleach: Senator Leyden caused the interruption by goading him. I call Senator Norris.

Senator Mark Daly: Senator Leyden drew the foul.

Senator David Norris: I add my words of compliment to Senator Ó Clochartaigh. I like to regard him as a friend. He represents the best side of Sinn Féin through his interest in human rights, justice and equality, matters about which he spoke with great knowledge and passion. I am not at all surprised that he chose a quote John O'Donohue on justice and equality. I have always found the Senator gentlemanly and courteous in all his dealings. I wish him well. Níl mo chuid Gaeilge flúirseach ar fad, but I speak it occasionally in the House out of deference to people such as Senator Ó Clochartaigh who use this House to speak the most beautiful Irish. One could listen to him for ever. His Irish is also understandable. He articulates it and one knows where he is going and what the meaning is.

I wish him well with TG4, which is an excellent station. The TG4 documentaries are the best that are broadcast in this country; they are absolutely superb. Many of the programmes that have discussions and so on also have subtitles to help viewers who do not know a word here and there. He is continuing one element, at least, of his work with TG4.

Speaking as a trade unionist, I ask the Cathaoirleach to use his good offices to ensure that Members who cannot come to the House because of the weather - Leinster House being closed and everything else - should get credit in terms of fobbing in. If we are disbarred from the place, it is not our fault if we cannot come here and fob in. There should be some flexibility here. We should get credit for it. Many workers get paid during the snow. The whole fobbing-

in thing is a complete and utter nonsense in any event. None of the Ministers has to do it and the secretaries do not have to do it. It is a complete and utter sham and nonsense. The public is not in the slightest bit impressed by it.

An Cathaoirleach: Anois, Gaeilgeoir eile as Conamara, an Seanadóir Ó Céidigh.

Senator Pádraig Ó Céidigh: Aontaím go hiomlán le Senator Norris, tá an fobbing-in seo craiceáilte. Ní bheadh sé ar siúl i mbunscoil nó meánscoil in aon áit sa tír agus ba cheart dúinn dearmad a dhéanamh air. A Trevor, tá aithne againn ar a chéile le scór go leith bliain anois agus thosaigh muid ag cur aithne ar a chéile nuair a raibh tú ag plé le dráma sa Taibhdhearc, Lynch, in 1980 nó mar sin. Tá an t-ádh linn uilig, tá an t-ádh liom agus tá an t-ádh lena chlann go bhfuil Trevor inár saol. Tá mé lán-dáiríre faoi sin. Is duine de na daoine is mó measa agam air sa domhan seo é. Tá fíormheas agam ort agus tá a fhios agat sin a Trevor. Is duine le Gaeilge é, duine don Ghaeltacht, don tír, don chultúr agus duine dár gcuid féin. Tá cúpla rud eile faoi Trevor. Ní hamháin gur fear ag plé le drámaí é, scríobhneoir ros na rún, aisteoir, ag plé le cúrsaí oideachais ach chas Trevor agus mé féin lena chéile freisin agus muid ag plé le ionad spioradálta a chur le chéile in Átha an Rí.

Déarfadh mé anois cúpla focal i mBéarla agus cuireann sé díomá mór orm a Trevor nach mbeimid le chéile ó thaobh fhorbairt na Gaeilge agus na teanga an oiread agus a bhí le bliain agus píosa anuas sa Teach seo mar tá a fhios agam go bhfuil croí gach uile dhuine anseo sa teanga agus sa chultúr agus teastaíonn cúpla ceannródaí, cinnirí ar nós Trevor leis sin a choinneáil lárnach. Nár lagadh Dia thú. Tá a fhios agam go mbeimid inár gcairde ar feadh an saoil agus feicfidh mé go minic thú i gConamara le cúnamh Dé agus tá mé ag súil go mór leis sin agus mar a dúirt mé, is tusa duine de na daoine is mó measa agam air gur chas mé leo riamh agus le cúnamh Dé go n-éireoidh leat.

I have a whiteboard at home and Senator Ó Clochartaigh reminds me of a statement I have written on it for me, “Success is not what you have, but it’s who you are.” To me, that sums up Senator Ó Clochartaigh. He is fundamental on his principles. He knows where he is at and everybody knows where he is at. He has his beliefs. When we are talking about bad weather and so on, one needs that safe harbour. Senator Ó Clochartaigh is true to his beliefs. I refer to his belief in us as a nation and as a people, in our language and culture, in where we are going and in helping and supporting the underprivileged who are not as privileged as us, a matter for which he has an absolute passion. That comes out time and time again. In my view, he is a true leader. We in Connemara are fortunate to have somebody like him. I really look forward to our continued friendship.

If I may, I will take one minute to go on to something else. This is a request to the Leader. I am really keen that we invite the Minister for Communications, Climate Action and Environment to come to the House to explain RTÉ’s strategy to us. I am quite concerned about our public broadcasting station. It has significant funding issues. I have figures here but I do not have the time to go into them.

The other thing from Senator Ó Clochartaigh’s point of view, it is time we had a comhnasctha between TG4 and Raidió Na Gaeltachta. Both of them should be on a single campus and should be working as lámh a chéile. We should have an even stronger force in respect of the Irish language and culture for all, including Irish people abroad. My son who lives in Chicago links into it as often as he possibly can.

Senator Frank Feighan: I also extend to Senator Ó Clochartaigh every good wish for the future. I met him when he was first elected to the House seven years ago. He brought a huge interest in media and the arts. He came from very much a community background. I was my party's spokesperson on the Irish language and a friend of Senator Ó Clochartaigh's interviewed me and, let us say, she found me out in some ways. I was smiling to myself and thinking, "Good man, Trevor, you understand where it's at." I wish the Senator every success with TG4. On the downside, he will have no excuses when he is asked to do family duties. He can no longer say he is away to deal with political matters or anything like that. I wish him every success. As their team are reigning all-Ireland hurling champions, people in Galway have another six months to enjoy themselves. Needless to say, Roscommon are Nestor Cup champions until 2018 as well.

Today is a very significant day. We have the draft legal text on Brexit, which effectively ensures the North of Ireland is included in the EU customs union unless a solution is found. We find ourselves back in, for want of better words, a very historical, dangerous and interesting place. It reminds me of nearly 100 years ago. We might have had one of the bitterest civil wars between orange and green if the First World War had not broken out. In 1921, Churchill said, "How is it that the great English parties are shaken to their foundations, and even shattered, almost every generation, by contact with Irish affairs?" We must get this right. We need to prepare for the worst. We are in a very dangerous and difficult situation. The British-Irish Parliamentary Assembly will meet in Sligo this weekend. This brings parliamentarians from across the UK and Ireland together. We need to work much harder - not that we are going back to the previous situation. I always said that the Irish regard Brexit as the British politicians accidentally shooting themselves in our foot. I have always felt the Border on the island of Ireland would be the Achilles heel of Brexit. There is only one solution if the British want to have their cake and eat it, which is to have another vote on Brexit and to remain in the EU.

Senator Alice-Mary Higgins: Due to the cancellation of our visit to bring Constance Markievicz's portrait to the House of Commons, I am lucky enough to be here and join in giving míle buíochas. I get very nervous when I speak Irish. I will probably speak it more when Senator Ó Clochartaigh is no longer here because I will be less nervous. I have real gratitude for the contribution Senator Ó Clochartaigh has made. I have been lucky enough to know him for many years - since his early days running for the Údarás in Connemara - and I know the huge commitment he has always had to his place, to Connemara, to Galway and to Ireland. He has always combined the latter with a commitment to issues of justice in the wider world. We have seen this in the way he, for example, has championed the cause of civil society in Catalonia and the importance of the expression of culture and identity for people around the world. Having known him for years, it has been a real privilege to work very closely with him - even more closely in recent months - and to see what he brings in terms of thought and determination. He has a kind of tenacious look when he really follows through on something. One can see it when he says he will follow up on and take a grip of an issue. I have huge respect, admiration and great affection for him. As well as knowing him as a fellow traveller, I also know him as a person. While his departure is a huge loss to the Seanad, it is a great gain for TG4. There has never been a more appropriate time for us to be aware of the importance of the Fourth Estate and the role of the media as an independent, sometimes critical, analytical voice which can not only bring multiple perspectives together but also dive behind the debate and look deeper. The media have a huge, important role which we need to look to, reaffirm and debate. There are concerns, which I will not go into now, regarding some of the debates we have had recently and some of the issues raised by Senator Ó Céidigh in terms of our national broadcasters and how

we can ensure that they are properly supported. Again, I join in the congratulations to Senator Ó Clochartaigh.

To comment on the snow, I absolutely endorse the concerns everyone has raised in the context of ensuring that we protect the homeless. Measures are being taken. I am concerned about those dependent on home care because I think people can suffer when home helps cannot visit during such difficult days. Perhaps it behoves us - after we have dealt with these immediate emergencies - to look again at this issue and double down on the focus on climate change, on which this House, to be fair, has had some good debate and focus. Climate change is related to these climactic events and what is happening in Ireland. Similar and even more devastatingly difficult things are happening to people in many other parts of the world. We need to consider that wider issue as well ensuring the protection of vulnerable people in Ireland in the immediate term.

Senator Paul Gavan: I wish Senator Ó Clochartaigh well. I first met him 11 years ago, I think, when I worked as a SIPTU official in Connemara. That was my first job. I was struck then by his huge commitment to his community and the community enterprise he was managing at the time. Then I met him over the years at various Sinn Féin events and followed and admired his work here in recent years. He has made a huge contribution. I am amazed by the number of people Senator Ó Clochartaigh managed to get around after the last election. I was one of those people. One is like a fish out of water here when one arrives first, and I really appreciated Senator Ó Clochartaigh's generosity in guiding me around the place and providing advice. People were right to mention remembering his commitment to real causes in terms of social justice at home and abroad and the fact that he has known he is leaving for the past number of weeks but has been consistent to the end in his support for the causes he has always supported during his seven years here. His departure will be a huge loss to the Seanad and a huge gain to TG4.

I wish to reflect on another matter. The House will remember when TG4 was first set up. By the way, I think it had a little more to do with Michael D. Higgins than Fianna Fáil, but we will not get into that today.

Senator Gerry Horkan: It was a Fianna Fáil-led Government.

Senator Paul Gavan: There was much carping and nay-saying from certain quarters of the media and talk of how it was a waste of taxpayers' money. Thankfully, we do not hear that nonsense anymore, the reason being that TG4 has been an unqualified success. The station will only go from strength to strength with Senator Ó Clochartaigh's assistance now. I wish Senator Ó Clochartaigh well. He is a comrade, a republican and a socialist. Well done.

Senator Colm Burke: Very briefly, I join colleagues in wishing Senator Ó Clochartaigh well. I think everyone of us is here with the sole ambition to effect change to make people's lives better and deliver better services. Every time Senator Ó Clochartaigh spoke it was about trying to improve a situation and to effect that change. Some of us will leave this House without being able to have the same influence over effecting change. The great thing about the move Senator Ó Clochartaigh is making is that I think he will continue to push forward in his new job the change and the contribution he wishes to make to help to improve people's lives. I thank him for the contribution he has made to the House and the contribution I know he will make into the future. I join colleagues in wishing him and his family every success in his future endeavours. His family will be able to see him a lot more now that he will be at home more often.

Unfortunately, life in politics does not help in that regard. I wish him well and thank him for the contribution he has made.

Senator Gerald Nash: I respectfully disagree, and not for the first time, with some of the remarks Senator Leyden made earlier.

Senator Terry Leyden: Which one specifically?

Senator Gerald Nash: He mentioned that he returned here after, I think, a ten-year hiatus from these Houses. To be frank, I think too much of Senator Ó Clochartaigh to wish that on him, and I mean that in the best-intended way.

Senator Terry Leyden: It is well received all right.

Senator Gerald Nash: Senator Ó Clochartaigh has made a remarkable contribution to this House during his term. I had the opportunity to get to know Senator Ó Clochartaigh first when I was a Member of the previous Dáil and then probably even better when I became a Minister of State. On many occasions when I was here dealing with issues of industrial relations, pay policy and trying to improve the pay and terms and conditions of working people across Ireland, contributions were routinely made by Senator Ó Clochartaigh that were not simply routine in that sense of the word. They were considered, thoughtful, intelligent contributions that served this House well, served Senator Ó Clochartaigh and his party well and served the purpose of improving legislation for working people in this country well. That is the essence of Senator Trevor Ó Clochartaigh. He represents, dare I say it, the best traditions of labour and Sinn Féin, that is, true republican socialist principles, and brings a very committed and determined perspective to the House. I will give an example of Senator Ó Clochartaigh's commitment. As my colleague, Senator Gavan, mentioned earlier, for a number of weeks now Senator Ó Clochartaigh has known that his time in the House was coming to an end, but this did not mean he was any less convinced about the causes he was pursuing. Just two weeks ago Senator Ó Clochartaigh and I met a group working on an initiative that he organised in Galway to improve the pay and terms and conditions of, in some cases, exploited workers in the hospitality sector in the region that he represents. This convinced me that this was not simply a political campaign Senator Ó Clochartaigh was involved in but something he was determined to see through to the end because of his instincts, his beliefs and his good politics - good politics, I have no doubt, learned in his community with his family. I wish him and his family every success in the future and I really hope he will not be a stranger in the future to me or to the good friends he has made in this House. I wish him well.

Senator Gerry Horkan: Like many other speakers, I rise mainly to pay tribute to Senator Ó Clochartaigh. I had a chance last night to talk to him briefly, to celebrate his time here and to discover that when I used to go to the Gaeltacht, I used to stay in a house that is located next door, I think, to his mother-in-law's home. That was how small Ireland was a long time ago, when I was in the Gaeltacht in Carraroe, and I had a great time there. When I chaired the debates on *Údarás na Gaeltachta* and the statements on the Irish language, enough of the Irish came back to me that I managed to convince a few people that I am not too bad an Irish speaker when I put my mind to it. I pay tribute to Senator Ó Clochartaigh. He has always been a man of great integrity and great intellect. He spoke on so many different topics - regardless of the content - very fluently in Irish and in English. He also spoke so well and so knowledgeably. Rarely did I find myself disagreeing with him on most things he said. I do not know whether that says more about me or him. I found his style of speaking and delivery very impressive.

It has already been said TG4's gain is our loss. I wish the Senator and his family well in the future.

Bearing in mind the weather conditions, we should pay tribute to all of those in the local authorities and the emergency services who will have to go out to work and for the great work they have done so far. The worst of the weather is still to come. I thank the Leader for the pragmatic approach he is taking to the Order of Business to allow people to go home earlier in order that they will not have to travel in the worst of the weather. It is the right decision. I do not believe we can ask everybody else to stay at home and then proceed to continue working in the Houses, perhaps putting staff and Members at risk when travelling.

A report was issued this morning by the Minister for Communications, Climate Action and Environment, Deputy Denis Naughten, and his Department on the price monitoring of waste collection. We have not discussed the matter in the House for some time, but I see that quite a lot of companies are still providing a service at a flat rate. I believe that when Dún Laoghaire-Rathdown County Council introduced a pay-by-weight system in 2005, it was the result of an EU directive on the polluter pays principle. The more a person dumps, the more he or she pays and the less he or she dumps, the less he or she pays. It seems, however, that many waste companies are still providing services at a flat rate. This may suit some people who generate lots of waste, but it is completely at variance with what we are supposed to be doing to encourage recycling and people to produce less waste. I, therefore, call on the Leader to schedule a debate with the Minister for Communications, Climate Action and Environment on the issues of waste charging and recycling.

Senator Niall Ó Donnghaile: Go raibh maith agat, a Chathaoirleach, agus ba mhaith liom féin cur leis na focail atá ráite faoi mo chara Trevor Ó Clochartaigh go dtí an pointe seo. Tá mé ag dul chun beannachtaí a fhágáil leis ach níl mé ag dul chun slán a fhágáil leis ag an pointe seo. Mar a dúirt roinnt mhaith de na Seanadóirí beidh agus tá ról thar a bheith tábhachtach aige i saol na Gaeilge, saol na tíre agus is ceart agus is cóir go bhfuil sé ag filleadh ar ais siar go Conamara le bheith ag glacadh suas an ról tábhachtach a bheidh aige le TG4. Is cinéal match-up thar a bheith ceart é an post seo dó. Cosúil le TG4 tá dearcadh náisiúnta agat. Feiceann tú an tír ina hiomlán. Tá meas agus grá aige don tír ina iomlán agus beidh sé ag obair ar son leasa na tíre ina hiomlán. Guím gach rath ort a chara agus tá a fhios agam go mbeimid i dteagmháil as seo amach.

I acknowledge the meeting last night between the Taoiseach and a representative group from civic nationalism in the North that had written to him recently. It is important that the meeting has taken place, not just because of the announcements made today on the legal text of Brexit but also because of the political fallout within the Six Counties. As the saying goes, it is good to talk and the more, the better as it will be mutually beneficial for the Taoiseach and the group that met him which involves eminent people. I have referred to the fact that the legal text of Brexit has been issued today and there is a lot in it which we need to absorb and on which we need to reflect to ensure that as we move forward the Good Friday Agreement will remain Ireland's Northern Star in choppy waters. The Government has certainly been working on the issue. Having regard to the break in business, I ask the Leader to allow for statements on Brexit if the Minister for Foreign Affairs and Trade, Deputy Simon Coveney, or another Minister is available. I am aware that Ministers will soon be heading off to celebrate St. Patrick's Day, which is fair enough, but given the significance and importance of this issue, we need a slot to enable Members to be updated and have an opportunity to ask questions on the broader important issues surrounding the Good Friday Agreement and how it falls within the context of Brexit.

Senator Fintan Warfield: I wish Senator Trevor Ó Clochartaigh well and to be associated with the comments made by Senators across the Chamber. I first met Trevor at the Galway-Mayo Institute of Technology when I studied film and television production in Galway, a UNESCO City of Film. I campaigned with him and the party during the February election at the time. I had been designing leaflets for the party for three years, but the Senator's election leaflet was the first of mine ever to go to print. I still keep a copy of it at home. If I recall correctly, I stayed up all night to get it to print for 9 a.m., which was probably a reflection of how well the campaign was run. I am sorry that the Senator's membership of the party came to an end and wish him every success in TG4. It is a beautiful station that knows its brand and which does extraordinary things on screen. Thankfully, it was a station that had been designed for all of the island, not just the Gaeltacht regions, as mooted at the time.

An Cathaoirleach: Go raibh maith agat a Sheanadóir Ó Clochartaigh. Ar son gach ball den Seanad ba mhaith liom ádh mór a ghuí ort ar an ócáid mhór seo. Is mór an trua dúinn go bhfuil tú ag éirí as do phost mar Sheanadóir. Tá a fhios agam gur chomhghleacaí agus cara iontach thú i rith an tréimhse a chaith tú anseo i dTeach Laighean. Gan trácht ar an léargas agus an cineáltas a léirigh tú agus tú ag labhairt sa díospóireachtaí sa Teach seo. Ag an am céanna, ní mór dúinn a aithint gur athrú an-dearfach duit féin agus do do chlann atá ann agus go bhfuil tú ag tnúth leis an tseans chun do cheangal leis na healaíona agus saol an chraolacháin a leathnú.

On a personal level, I am sad that Senator Trevor Ó Clochartaigh is leaving the Seanad. It is an unusual occurrence that two Senators are leaving within three months of each other. They became friends of mine during the years. Senator Trevor Ó Clochartaigh has been a huge asset to this establishment. His dedication to his work and compassion have been incredible and, at times, passionate. I am aware that he actually grew up in Huddersfield. In my younger days I emigrated and spent some time in London to try to make a few bob to pay my way through college. Therefore, I understand what it is like to move on. Seven of the eleven members of my family emigrated at some stage, four of whom are still abroad. The Senator came back and made a life here with his family. I welcome his family to the Chamber. I am sure they will be delighted to have him back also. After many years, when I decided not to run again for the Dáil for the seventh or eight time, my daughter posted on Facebook that she had her father back again. The Senator's family will reclaim him again and he will be a huge bonus to TG4 which is a successful channel with which I link frequently. I do not have Sky or any of the fancy channels. The Senator might impress on TG4 its importance to people living in rural Ireland in showing Gaelic games - hurling and football - and some rugby games. It also shows club games, which is very important. I hope this coverage can be continued. It galls me when I want to see a hurling or football match and I have to pay to view it. I hope we can put a stop to this because it goes against the grain and hurts deeply that we have to pay a company based in another country to watch our native games. I wish the Senator every success. Some time, when I frequent the Aran Islands or Connemara - I love going to the west - I may impose on him to have a coffee. Mar fhocal scoir, ba mhaith liom buíochas a ghabháil leat as do sheirbhís mar Sheanadóir agus sonas a ghuí ort don toadhcháí.

With those few words I ask the Leader to respond to what has been a rather elongated Order of Business which I allowed in order to pay tribute to a good Gaeilgeoir and a friend to us all.

Senator Jerry Buttimer: Go raibh maith agat, a Chathaoirligh agus ar mo shon féin agus ar son mo pháirtí, Fine Gael, ba mhaith liom mo bhuíochas agus mo thacaíocht a thabhairt don Seanadóir Ó Clochartaigh. Seo lá corraitheach ar son an Seanadóir Ó Clochartaigh. Tá sé ag éirí as a shuíocháin mar Sheanadóir, níl sé marbh, tá sé beo fós agus beidh sé beo do na blianta

fada romhainn. Fear macánta, uasal agus an-chairdiúil atá ann. Fear an-ghnóthach ar son na teanga agus an chultúir, a man who brought great passion and dedication to the promotion of the Irish language and our culture agus beidh stráitéis Ghaeilge an tseachtain seo chugainn ar son sheachtain na Gaeilge. I welcome Mali and the family members and friends from Galway who are in the Visitors' Gallery. Usually when anyone retires from the Chamber it is at election time. It is unusual that two Members have retired in quick succession.

Senator Ó Clochartaigh leaves as a man of integrity, whose passion, dedication and commitment to public service is upheld. He has fought admirably on many different issues, involving human rights and the most vulnerable in our society, and above all for people, north, south, east and west. In this House he was a person of conviction, who could argue and have a difference of opinion but who could park that beyond the white lines of the Chamber to work with, and advocate on behalf of, people. That is the sign of a man of decency and honour, one full of humanity. I wish him well in his new post. I am sorry I missed last night's celebrations. I heard from Members that it was a convivial evening-----

Senator Kevin Humphreys: So am I.

Senator Jerry Buttimer: -----that went on particularly long. Senator Ó Clochartaigh deserves to be acknowledged and to have a celebration, not just on leaving here but in commencing the next chapter of his life. That is equally important because he can advocate for and promulgate our language and culture in TG4, which is a wonderful asset to the nation, not just for its sport, language and cultural broadcasts but in making our language accessible to all citizens. Senator Ó Clochartaigh undersold himself in quoting John O'Donohue. His voice was heard clearly and the most important thing a politician can do is come in here with integrity, compassion and conviction, and be heard.

I wish him well in his new post and I wish his family well. We will miss him. I got to know him better when he moved to an office close to mine. I hope that in these last few hours as a Senator he will not describe himself as a former Senator. He was a person who made change, who helped to bring change about and inspired many members of staff and Members of this House to use the Irish language. He challenged people like me, who took the honours Irish paper in the leaving certificate, to use it more. There were occasions when, unlike Senator Paddy Burke, I had no idea what he was saying. It was wonderful to hear Senator Ó Clochartaigh ag labhairt ár dteanga dúchais because it gives us a sense of importance and what Senator Ó Céidigh described as a sense of place. A country without its people, its sense of place and its language is nothing. It is dead. For as long as Senator Ó Clochartaigh will be written and spoken about as an iarr-Seanadóir he will be associated not just with the Irish language but also the pursuit of human rights. As a republican on this side of the House I shared many of Senator Ó Clochartaigh's views. I hope he will remember fondly his time here. As the Cathaoirleach said, he will be reclaimed by his family but I hope he can escape it from time to time as well and continue his advocacy for, and promulgation of, the Irish language. I wish him well, go n-éirí an bóthar leis.

Senators Mark Daly, Coghlan, Feighan and Ó Domhnaill referred to Brexit. The draft document has been published. This is an important day for our country. I accept what Senator Ó Domhnaill says about the need for an update in the House. I have requested that either the Tánaiste and Minister for Foreign Affairs and Trade or the Minister of State with responsibility for European affairs, Deputy McEntee, come to the House in the coming weeks. That may not be possible next week but we will endeavour to do that as soon as possible. We are of one

mind in this House that we should all work to make the North of our country part of the customs union. As the Taoiseach said this morning, if the British Government does not like option C it should put forward another option. Since the British people made their decision on Brexit the Government has worked to ensure that our island was viewed as one. As Senator Mark Daly rightly said there are so many crossings to the North of the country that it is impossible to even contemplate a return to a hard border.

Senator Niall Ó Donnghaile: Absolutely.

Senator Jerry Buttimer: We have all expressed the view that this must be avoided. I do not wish to be sectarian but the DUP does not speak for all the people in the North of our country. There are others with a different viewpoint, in unionism and nationalism, and they must be heard as well. It is important from the business, economic, cultural and community points of view that our country stand as one on not returning to a hard border. Today's document, which outlines how the North can remain within the customs union and the Single Market, is an important one that we should all read. Equally, Michel Barnier, in his response to the publication, speaks about the backstop of option C being the only guarantee. It is important that the commitments made in December are upheld. We will have that debate in the coming weeks.

Senators Humphreys, Devine, O'Donnell and Horkan raised the issue of the weather. I thank all Members of the House, particularly the leaders, the staff and the Cathaoirleach for their co-operation in allowing us to adjourn early today. That was facilitated by the status red weather alert but also by the Commissioner's inability to travel tomorrow. I
1 o'clock make no apology to the Members and staff of the House. My obligation is to have them travel home safely. That is why we are adjourning. We will reconvene next Tuesday and will have the debates on different issues raised today, such as fuel poverty and the fuel allowance.

I ask the indulgence of the House to end the Order of Business now. It is Senator Ó Clochar-
 taigh's day and rather than giving a long discourse I wish him well. I will respond in due course to the other contributions. I wish Senator Ó Clochartaigh every success in his new chapter. He is a very decent, honourable man.

Order of Business agreed to.

Protection of Employment (Measures to Counter False Self-Employment) Bill 2018: Second Stage

Senator Gerald Nash: I move: "That the Bill be now read a Second Time."

I welcome the Minister of State, Deputy Finian McGrath, to the House. Employment policy is at the heart of public policy. There are, of course, core issues to do with pay, such as how do we get weaker growth in take home pay and how do we best ensure wage growth is consistent with sustainable economic growth and economic competitiveness. However, employment policy is about much more than simply pay. It is about decency, the dignity of work, fairness and harmonious industrial relations. Employment policy is now faced with a direct threat. We can legislate for issues such as sectoral employment, sectoral orders, collective bargaining and minimum wages, but what if employers claim those in their workforce are not their employees? What if they argue they have a workforce of self-employed, independent contractors

only? From the Government's viewpoint, what are we to do when the employers who assert this reduce our tax and PRSI revenues when we must increase welfare spend, and so reduce the resources available to the State for expenditure on essential public services?

Any discussion on employment policy now must take account of the significant changes we have seen to the complexion of the labour force in recent years. We know atypical employment is growing. It is not always easy to establish the status of self-employed individuals. There are genuine undertakings on the one hand and disguised employees on the other. The reality is unscrupulous employers can and do take advantage of this confusion and this is to the detriment of all of us in society. We are told self-employment is a free choice, an opportunity to respond flexibly and profitably to the need for restructuring, to reduce the direct and indirect costs of labour and to apply resources more flexibly. It is true many thousands of self-employed people are skilled professionals or craftspeople who work for multiple customers using their own tools and initiatives and deploy their talents and entrepreneurial abilities to the work they do. However, there is another growing and very insidious reality. Among the self-employed there are also some very low-skilled individuals who work as day labourers for a single employer. They are sometimes called dependent independent contractors. Self-employment can be and is being, as we speak, imposed on the most vulnerable in our society, namely, the low paid and those with little or no social protection. This cohort deserves our attention and legislative intervention.

The State, particularly the welfare state, ends up paying the bill when employers discover so-called independent contracting as a way of escaping their social insurance obligations. Where businesses use a self-employment fig leaf to evade their obligations as employers, we must be vigilant and we must counteract what is, in fact, a downright fraud on the Exchequer. The Competition (Amendment) Act 2017, which originated as a Labour Party initiative developed originally by my colleague, Senator Bacik, means that for the first time in Irish statute law there is a test to establish false self-employment, but it does so only in the relatively narrow confines of trade union membership and the right to join a trade union for the purposes of collective bargaining. What I propose in this legislation is that we build on the Act passed by the Houses last year and apply the false self-employment test across the board in our employment protection law. In other words, these new laws would apply to the general population of workers.

There is, of course, no single test to determine self-employment, but essentially the question revolves around whether a person runs a business on his or her own account. The matters to be taken into account in deciding whether people are truly in business on their own account include whether they do not decide independently their conduct in the market but are entirely dependent on their principal, whether they do not bear any of the financial or commercial risks associated with the principal's activities and whether they merely operate as auxiliaries within the principal's undertaking.

The Revenue Commissioners and the scope section of the Department of Employment Affairs and Social Protection apply these common law rules at present, albeit, it seems, to the satisfaction of few. The scope section makes statutory decisions on the insurability of employment under the social welfare Acts, but the Department told a media outlet last week it has no figures recording the number of cases involving bogus self-employment. I find this quite extraordinary. What we need to be clear about is that the question of whether an individual is engaged under either a contract of service or a contract for services is a question of law, regardless of how the parties choose to describe themselves at any given moment in time. There can be no question of opting into or out of our employment protection laws.

Bogus self-employment in the construction industry, in particular, has increased at an alarming rate in the past decade, with very real consequences, as so many workers discovered to their cost during the economic crash. Workers suffered not just the loss of employment protections but of social insurance cover also. The citizens of the State, who depend on the ability of the State to invest in public services, were deprived of substantial revenue in the form of lost PRSI contributions, taxes forgone and public moneys lost to what we might describe as unscrupulous contractors engaged in de facto fraud.

I would not take too much comfort from the recent ESRI study on this matter. It was based on questions asked in the quarterly national household survey, which involves workers being asked to self-declare whether they were employees or self-employed. This is not an adequate way, as far as I am concerned, of gathering the information we need to fully inform public policy-making in this country. It also seems clear to me from reading its report that the inter-departmental working group, which was established in July 2015 to examine the tax and PRSI implications of bogus self-employment, had riding instructions to adapt the phenomenon of bogus self-employment and the State response to it rather than counteract it.

We have introduced this legislation because a mere tinkering around the edges with this issue will not fix the problem. Our Bill would provide a holistic approach to the determination and classification of employment status and a set of clear rules in law. The Bill defines, in section 2, what an employment relationship is and makes it clear an employment relationship may exist in cases where: the individual is also an employee of other persons; the individual is also, in respect of other work being done by him or her, self-employed; the individual works as an outworker or teleworker; the individual does part-time work, temporary work, seasonal work or vocational work; remuneration of the individual is calculated by reference to the amount of work actually done; and where the hours of work or remuneration of the individual are otherwise uncertain. The exception to this general rule is where someone is genuinely in business on his or her own account and is providing a contracted service to a customer or client.

Section 3 will confirm employment status is a status relationship defined in law and is not purely the subject of a personal agreement. In other words, someone cannot contract out of Irish employment law.

The use of so-called personal services companies to shield bogus self-employment or disguise what is an employment relationship is tackled in section 5.

Section 6 would apply our tax avoidance laws to bogus self-employment so that an employer who decides to deliberately misclassify the status of an employee would be considered to be a tax and PRSI cheat and have the same penalties applied to him or her as is the case for other tax defaulters.

The Bill provides a mechanism for the resolution by the Workplace Relations Commission of disputes as to whether a work contract gives rise to an employment relationship. The Bill proposes at long last to define and regulate the phenomenon this country has been grappling with for almost half a century. I want to make it clear I do not stand here before the Minister of State as a representative of a party or movement of Luddites. As I have said, we all know about the growth of atypical employment but there is no turning back the clock and we must adapt and get used to more flexible ways of working. The point is we should not preside over a situation where flexibility is simply something that is expected from one side and not the other, and where that dynamic is, unfortunately, favouring employers over employees and where there

is little balance to speak of.

This does not mean we must recognise quite spurious claims that some people are not really employees and that they are really independent contractors or self-employed entrepreneurs. The basic inequality of bargaining between employers and workers forces these workers into poor rates of pay combined with low and uncertain hours, little structured training and limited career progression. The Labour Party's priorities and my priorities are all about making sure the benefits of economic growth are fairly shared across society. I hope this is a principle the Minister of State shares also.

We have no interest in jobs at any price or in the spread of casual labour at the lowest wages. We reject the false promises of an economic recovery that is fuelled by a ruthless race to the bottom and I hope other Members of this House would do the same. We also need to counter the common misconception, as common now in the newsroom and the lecture hall as on the construction site, that parties are free to choose whether to provide services, as employees are self-employed, and that they can in some way design their contracts accordingly. It is not the case. We need to reassert that the test of employment status is a matter of law, and is not determined by the label attached to the relationship by the parties.

Needless to say, it is not my purpose or the purpose of the Bill to bring individuals who are genuinely self-employed into the employee framework, and we have made that very clear. Genuine entrepreneurship and self-employment should be supported and encouraged in a dynamic market economy like ours. In its early months, the current Dáil unanimously accepted a motion from the Labour Party on workers' rights. That motion outlined a programme of work to tackle abusive terms and conditions of employment, low pay, insecure hours, forced and bogus self-employment and other issues. Passing this Bill, as we hope to do in this House this afternoon, will give some practical effect and reality to that motion. It will be a practical and urgent step to tackle the phenomenon of bogus self-employment and to bring frankly perverse gig economy-type abuses to an end. It will be, in my opinion, the biggest single improvement to employment law in this country since we joined the then European Economic Community in 1972. I hope that this House sees fit to back this warranted legislation, which is absolutely necessary to protect some of the most vulnerable workers in this society.

Senator Kevin Humphreys: I thank the Minister of State for coming before the House to take this debate. This must be very close to his own heart. I formally second Senator Nash's Bill.

The Minister of State is probably engaged in several conversations every day, every week and every month. He must hear about how young people, and not-so-young people, are suffering out there in the market. They are being forced into so-called self-employment, which is no more self-employment than is useful work like bin collection, lecturing in university or teaching. This bogus self-employment has been like a plague on society. It undermines people's rights to pensions, holidays and sick pay. It denies the State revenue from pay-related social insurance, PRSI, contributions, revenue which helps to ensure State services. Basically, it defrauds workers and the State. Bogus self-employment cheats us all, and that is very clear.

It is a race to the bottom. Only last week, I was talking to parents who were asking what the future held for their sons and daughters. They wondered how they would get a mortgage. Their children are tied into so-called self-employment. They might get 20 or 30 hours a week or they might get none at all because they are not deemed to be employed. However, they are

carrying out a job as real as any in society.

We are not trying to roll back the clock. Enormous sacrifices were made by the citizens of this State during the recession and the period of austerity. Those same citizens are now being exploited. We have a responsibility in this House and in the Dáil to ensure that we build a legislative framework to support and protect workers.

I was struck in 2017 when RTÉ's "Drivetime" covered bogus self-employment. Its producers felt it was a responsibility, because they were covering bogus self-employment, that the first employer to be examined should be RTÉ itself. A statement was issued at the time by RTÉ and the "Drivetime" journalist commented that the broadcaster was no better or worse than other media employers. Semi-State companies come before the Oireachtas to seek the support of taxpayers' money and for a statement like that to be issued is totally unacceptable. Is one saying that the cameraman who works on the plinth is not entitled to security of employment? If we do not move this Bill quickly through both Houses, we are saying as much to that very man and his family. He has no security. He may not have a pension and he may have absolutely no holiday rights. A blind eye was turned to this practice when it was limited to the construction sector but it goes far beyond that. It is now evident in IT. It is used by the very large multinationals that operate not too far from this location in the city, whose names I will not mention. Those young people working five or six days a week cannot get mortgages because they are deemed to be self-employed and do not have a regular income. They cannot move on with their lives, form families or purchase a house, all because they are deemed to be self-employed, though there is no truth to this. Bogus self-employment is as bad as if-and-when contracts, whereby a worker might have 35 hours one week, 20 hours the next week and five hours the week after that. How can one build a family, a society or a community if workers are treated in this manner?

I ask the Minister of State to make it his mission to ensure this legislation travels through both Houses as quickly as possible. I call on him to ensure that the families that make up his electorate in Clontarf and elsewhere have a future. I call on him to ensure they will not be duped into bogus self-employment. The current Taoiseach, when he was Minister for Social Protection, was photographed with a very large sign saying "Welfare cheats cheat us all". Bogus self-employment cheats us much more severely. It is a much worse crucifix on working people, who have very little future because of this plague, which affects many families across the country.

I will keep it brief. I ask the Minister of State to make sure that families in Clontarf and Marino are equally represented at the Cabinet table, to make sure their sons and daughters have a future in this country and to clamp down on the plague of bogus self-employment.

Senator Catherine Noone: I am covering for my colleague, Senator Butler, who is unable to be present because of the snow in his area. Apparently there are eight inches of snow around Athboy in County Meath today. I have not done the level of research that I would do on an issue in my own area, but nonetheless I have had a look at it over the past couple of hours. I commend Senators Nash and Humphreys and the Labour group on raising this issue and on putting this Bill forward. No one could possibly disagree with the sentiment and intention of the Bill. At its heart is an effort to do away with inequality and there are seriously well-intentioned motives behind this Bill. It seeks to define in law the employment relationship and the relevant tests and to apply that employment status to every enactment unless the enactment has a contrary intention. It seeks to define false self-employment and provides that disputes as to whether an employment relationship exists be referred to the director general of the Workplace

Relations Commission. The Bill empowers the Revenue Commissioners to determine that arrangements calculated to misrepresent any work or service as being executed under a contract for services rather than a contract of service is a tax avoidance transaction, and provides that PRSI in this instance should be treated as tax for that purpose.

It will be for the Minister to respond for the Government as such but it is not immediately clear to me that the Bill will provide any additional protection or improve the current legal basis for determining employment status. Perhaps pre-legislative scrutiny would be a good idea where this Bill is concerned, as with any other Bill. The Bill appears to describe much of what is already covered in existing legislation and case law, drawing substantially from current codes of practice. The existing key test to define employment status properly has developed, as Senator Nash is no doubt aware, from a significant body of case law. The question of whether an individual is engaged under either a contract of service or a contract for services is a question of fact and general law. The Government has, in a report, already reported on the use of intermediary-type structures and self-employment arrangements, and the implications of that for social welfare and tax revenues. That was published in January of this year. It sets out a number of proposals, and no doubt the Minister of State will go into those. I do not wish, especially because of the conditions outside, to prolong my contribution but there is no doubt that that will be part of the Minister of State's response.

There is certainly a question as to whether there is a significant problem to be addressed. The existing mechanisms for dealing with false self-employment, including the Workplace Relations Commission, WRC, and scope section, do not encounter significant levels of false self-employment. That may be a result of the topic that we are talking about. It may suggest that the prevalence of false self-employment is overstated or that people are not reporting it. We need to get to the bottom of those facts. The data from the Central Statistics Office, CSO, quarterly national household survey, record 312,000 individuals as self-employed in 2017, or 15% of total employment. This is consistent with the average levels of self-employment within the EU. The evidence does not show an issue. We have no alternative but to use the CSO figures for this type of statistic. It is still a very important area, which I think the Senator quite rightly raises. I will allow the Minister of State to respond to it, but I commend the Senator on the general thrust of the Bill, which I think is very well-intentioned, and it is an important area to look at.

Acting Chairman (Senator John O'Mahony): Senator Horkan has eight minutes.

Senator Gerry Horkan: I do not intend to use all eight minutes. I am covering for Senator Davitt, who is in Mullingar amid a lot of snow.

Senator Catherine Noone: Everyone in Dublin is covering.

Senator Gerry Horkan: Apart from Senator Gavan and Senator Nash himself, I think the rest of us are all based in Dublin. At the same time, I do not want to prolong the debate too much. I will let Senator Nash listen to my contribution. It is important that this has been brought up, and I thank Senator Nash for doing so. It is important for those who are a little worried about the idea of it, such as employer organisations, that the Bill contains measures to counter false self-employment, that it is about bogus self-employment, and that it is not about trying to rule out self-employment, get rid of people or make it more difficult for self-employed people. It is about the position where people are being asked to make themselves self-employed but the power dynamic between the person paying for the service and person providing the service is much more on the side of the person paying. That will always be the case to a cer-

tain extent. He who pays the piper calls the tune to a certain extent. That said, it is about the flexibility about when a person turns up, how he or she turns up, if that person can go missing for three days and come in when it suits him or her to do the job, or if that person is doing a certain number of hours every week. When I was doing my accountancy exams a long time ago, we talked about contracts of service compared with contracts for service. If a person had a contract of service, he or she was an employee, was supposed to turn up for certain hours and was supposed to do whatever was asked to be done in the job specification, contract and so on. A self-employed person would come along and do a task, perhaps very frequently, but it would be on that person's terms more than it would be on the terms of the person paying for it. There is vagueness there and will always be vagueness there.

While this Bill is not in my area of expertise or portfolio, I read the explanatory memorandum, have notes on it and am familiar with the topic. There are people who will have worked on construction sites and who will have been there all the time, as tilers, carpenters or plumbers. They will not have been fellows who turned up, did a particular task and left. They will have been there full-time, all day, every day, for months on end, but they will not have had that protection if they were sick. As people have pointed out, with the average industrial wage being approximately €37,500, there may be approximately a €5,000 difference between what the State gets from self-employed people and others, rising to approximately €8,000 for somebody on €60,000 a year. I do not think the Social Insurance Fund should be called PRSI any more because it is not just related to pay any more but also to dividends, interest, rental income and anything else one might have. It is based on a person's entire income. We will discuss class K PRSI some other day, which is a meaningless status with regard to getting any pay related social insurance. My party supports this Bill because it is about tackling bogus self-employment. It is trying to tackle people who are put in a position where they are on somebody else's terms, to which they must sign up and for which they do not get benefits if they are sick or other things such as holiday pay. Senator Humphreys made a point about RTÉ. The top ten highest paid people who work for RTÉ are nearly all not employees. I do not think they are the people we are worried about with regard to bogus self-employment, but there is probably a lot of employer's PRSI not being paid on those various contracts. While I do not think those are the people we are worried about, who are almost working full-time, if there is discussion about rules for bogus self-employment, they should probably cover such areas.

I went through the explanatory memorandum. Senator Nash spoke for approximately 12 minutes on it and Senator Humphreys for another five or six on top of it. I agree with it, we agree with it, and I think the Minister of State is allowing it to go to Committee Stage. I think we should let it go to Committee Stage. I am sure there are things to be refined in the drafting and so on, like on Committee Stage of all Bills. I think we have probably passed the boat for pre-legislative scrutiny by now since we are in the House with the Bill. Let it go to Committee Stage. I will not delay it. We support the thrust of the Bill.

Senator Gerard P. Craughwell: I assure the Acting Chairman that I will not take eight minutes either. I thank the Minister of State for coming to the House. I would not dream to presume to tell him how to deal with workers in his own constituency. I know he is capable of representing their interests. I thank Senator Nash and the Labour Party for bringing this forward. If I have any criticism of it, it is that it did not come forward ten or 20 years ago because the exploitation of workers has been going on for a long time in this country. I recently had a call from a builder's labourer. That is what he described himself as. After his second week of work, he was approached by his employer and told that he was self-employed. I hope Senator

Nash is trying to ensure that this Bill does away with that. Not only are unfortunate people left in a situation where they are getting an income which includes a PRSI and tax liability, they finish up in a situation where they are in debt to Revenue and to social welfare because they do not naturally hand the money over but take it as income, because that is what they think it is. I have huge sympathy for those people but it is not just those people in construction. This bogus self-employment has been going on for some time in the corporate sector and multinational sector where employment agencies were engaged to recruit employees for certain manufacturing companies, particularly in the IT industry. The employee, or those who thought they were working for these companies, which I will not name, actually had no rights with the company. They were paying their PAYE and PRSI but had no rights with the company that they were allegedly working for.

I will not delay the House on this other than to say that I am delighted that the Labour Party has brought the Bill forward. I sincerely hope, as Senator Nash hopes, that it moves through the Houses quickly and finds its way into law. We should, as part of this, look to ourselves in the public sector.

Senator Kevin Humphreys: Hear, hear.

Senator Gerard P. Craughwell: My colleague, Senator Horkan, referred to class K PRSI. We brought in terms and conditions of employment in this very House which affect people's pensions and we did not take the time to examine what they were doing. We applied crude rules across the board and this has happened in several parts of the public service. With regard to abatement, ordinary individuals who retired from one part of the service and moved into another part of it cannot draw any element of their pension. I am one of them. It is okay if a person is on €65,000 a year but not if he or she is not. We need to look at how we treat employees in the public service as much as how we treat them in the private sector.

I have been in contact with the Minister's office regarding bogus self-employment and the response was amazingly fast. She showed huge commitment to rooting out bogus self-employment and I congratulate her on that. She did not sit about. As soon as she received my letter, she acted on it straight away and I thank her for that. I hope the Bill completes its passage through the House quickly.

Senator Paul Gavan: I welcome the Minister of State to the House. I also welcome the Bill and I commend my colleagues in the Labour Party on addressing this issue. I spent years as a trade union official on construction sites and I witnessed first hand the growth of bogus self-employment and the horrendous impact it has on working people. Bogus self-employment is tax fraud. It is yet another loophole in our tax system, which employers can exploit to avoid paying their fair share of tax. Not only do employers evade tax through bogus self-employment, they also exploit their workers by not providing them with adequate employment protections. Workers do not get holiday pay, sick pay, insurance stamps or private pension entitlements, and their State pension is also affected. The issue has been going on for decades in plain sight and it is now escalating and spreading to different sectors of our economy. Why has the State permitted it to happen for so long? Why has the State been willing to forgo tens of millions of euro each year in uncollected PRSI and PAYE?

Bogus self-employment is corruption at its core. It is the exploitation of workers, their families and the taxpayer. A total of €80 million per year, according to ICTU and TASC calculations, is lost in taxation, which equates to €800 million over the past decade. When the dis-

graceful social welfare cheats campaign introduced by the then Minister for Social Protection, Deputy Varadkar, last year to win over his neoliberal base in Fine Gael is considered, we can see where the Government is willing to tackle corruption and where it is willing to turn a blind eye. Bogus self-employment is the fraud that cheats us all. It cheats the worker, the worker's family and the taxpayer. However, a call free phone line has not been opened for this type of fraud. Worse than turning a blind eye, the previous Government in 2012 made it easier for businesses to engage in bogus self-employment. In 2012, the State made the decision to make two changes: first, to move the RCT system online, and second, to give the employer the responsibility to decide how the worker was classified. This gave the employer the power, at the click of a mouse, purposefully to misclassify a worker, without the active consent of that worker, whereas prior to these changes he or she had proactively to complete paperwork for tax purposes. The State essentially made it easier for employers to rip off the taxpayer. It also left the worker in a difficult position. No active consent was necessary to be classified as self-employed but workers would now have to go out of their way to make an issue of being misclassified and most likely lose their jobs in the process.

The statistical evidence is that in the construction industry, for example, the proportion of those self-employed increased from 25% in 2006 to 38% in 2015 - a figure which peaked at 40% in 2013. Evidence from interviews carried out by TASC shows that the offer of employment is often conditional on accepting a status as self-employed. We therefore have to laugh when we hear someone like Mr. Tom Parlon, director general of the Construction Industry Federation, say that he thinks claims of bogus self-employment are exaggerated. His reasoning for so many workers in the construction industry being classified as self-employed is they are specialist workers. Is he really trying to say that 40% of construction workers are specialist entrepreneurial bricklayers? This nonsense is being spread while unions such as OPATSI, BATU and SIPTU, who represent these workers, are telling us that bogus self-employment destroys people's lives. A report by the CIF highlighted that between 2008 and 2014, more than 1,000 builders committed suicide. We can imagine being a builder when the crash in 2008 happened, having no pension or social welfare entitlements to fall back upon as his or her employer had not been paying his or her insurance stamps. We can only imagine the stress and pressure that would put on someone. This type of employment is spreading to new sectors of the economy such as the services sector, Deliveroo, Uber, English language teachers, IT services and third level education providers. Workers in all these sectors have to accept these conditions.

I welcome the content of this Bill, which has been well drafted. Section 3 takes a practical, holistic view of the relationship between the employer and the worker. This will give those asked to adjudicate on these matters the ability to do so in a real world scenario rather than simply on the wording of the contract. Section 6 gives the Revenue Commissioners the scope to investigate this issue. That is welcome because investigations have not worked as well as they should have to date. The legislation places the Social Insurance Fund under the remit of the Revenue for the purposes of tax. Currently, social fund fraud issues come under the remit of the Department of Employment Affairs and Social Protection and, frankly, this arrangement is just not working. Giving Revenue a role has the potential to be a game changer. The legislation could be tightened and nuanced in some ways, but it is well-thought-out and deserves the support of all parties. I appeal to the Minister and colleagues to work together on this. Let us support the Bill on Second Stage and tighten it up on Committee Stage. We must make sure it moves on to Committee Stage quickly. There is too much at stake for too many people and, indeed, for our economic well-being to leave the legislation to rest before taking Committee Stage. If we are serious about the issue and about caring for working people, then the Bill

should be taken quickly with the support of all parties.

Senator Alice-Mary Higgins: I very much support the Bill. I compliment Senator Nash and the Labour Party on effectively putting forward constructive proposals over recent months. The Competition (Amendment) Act 2017 was recognised by the then Minister, Deputy Mitchell O'Connor, as being positive and she worked with all parties in the House to pass this positive contribution to employment law. A set of measures and Bills have been put forward by the Labour Party, all of which have been carefully drafted. They are thoughtful and, in most cases, they are ready to go, though there is always an openness to amendment on Committee Stage. I also acknowledge Senator Gavan's contribution in this regard because Sinn Féin has put forward proposals and worked with the Labour Party and others on them. There has been a positive dynamic in the House to address employment measures that recognise the contemporary challenges we face in respect of employment, security and the intersection with the social welfare system, which I am more aware of now as a member of the Joint Committee on Employment Affairs and Social Protection. I acknowledge the arrival of the Minister.

The Bill is important because bogus self-employment is not simply something that causes great loss and difficulty for individuals. Individuals who give what they have in their employment, including their energy and time, find themselves deprived of the life chances that go with a life's work. They never find themselves in a position, for example, where they are secure enough to take out a mortgage and they cannot take out private pensions. They are often denied such pensions because of gaps in their employment. The Minister will be familiar with that. While it is a separate discussion, there is a big concern with the total contributions approach that many people who laboured for years will have large gaps in their pension contributions because of periods of self-employment that were forced on them. This has consequences for individuals in terms of their life chances, security, family and ability to progress. People who are constantly on self-employment contracts do not receive acknowledgement of their work or secure progression in their employment as they do not benefit from payscales and increases in pay in recognition of experience. They do not enjoy the normal aspects of a working life that allow people to build a ladder for themselves and their families.

Bogus self-employment also has negative consequences for wider society. As previous speakers noted, this is a form of tax evasion by certain employers, which hollows out the tax base and undermines the employment relations mechanisms. Sectoral employment orders and joint labour committees, which have been among the most effective means of ensuring employees in certain sectors receive decent pay and conditions, do not apply to the self-employed. The mechanisms and standards introduced for entire sectors and which serve employers, employees and the wider public good are hollowed out when large numbers of individuals working in these sectors are removed from them by being pressed into becoming bogus self-employed.

The Bill is clear in this regard. I was struck by the reference in section 2 providing that an employment relationship exists in respect of any "contract whereby the individual agrees with a person personally to execute any work or service". In these circumstances, self-employed persons and individual contractors do not have an army of fellow employees who they are bringing into a contract. On the contrary, this is a person who is stating he or she is personally executing certain work. The original definition of self-employment used by the Revenue Commissioners made clear that what the self-employed person brings is his or her labour. Adding measures that he or she is expected to bring his or her own uniform and equipment has blurred the line. At the heart of the matter is that a person working is bringing his or her labour to an employment. The idea of a contract being agreed with a "person personally" is very good.

I acknowledge that Senator Noone spoke about circumstances in which complaints are made and in that regard, section 8 deals with disputes. However, as previous speakers noted, few self-employed persons will take a case challenging an employer's classification of him or her as self-employed because the financial and administrative strength is balanced in favour of employers. The Bill proposes not only to deal with disputes but also to have the State assume responsibility for objectively ensuring that standards apply by recognising what a state of employment is.

The Minister knows what the consequences of bogus self-employment are for the social protection system, specifically in respect of those who have gaps in their employment record, not only in terms of pension costs but also in terms of sick pay and families relying on family income supplement payments. The State incurs a significant cost both in social protection costs and revenue foregone.

The Bill should proceed quickly to Committee Stage to give Senators an opportunity to amend it. My colleagues in the Dáil who are members of the Select Committee on Employment Affairs and Social Protection will also amend it when it comes before the committee. We are ready to move forward with the Bill and I commend it to the House.

Minister for Employment Affairs and Social Protection (Deputy Regina Doherty): It is always a pleasure to come to the House and I welcome this opportunity to discuss the issue of false and bogus self-employment. I have read carefully the text of the Bill tabled by Senator Nash and others and I genuinely appreciate the intention behind it. False self-employment arises where an employer wrongly treats a worker as an independent contractor to avoid tax and social insurance contributions and other rights which attach to employment.

If I may, I will discuss briefly the main features of the Bill. The Bill aims to define in law the employment relationship and relevant tests of employment and apply this employment status to every enactment unless the enactment has a contrary intention. It also seeks to give a definition of false self-employment. While there are a number of definitions, it seeks to firm up one definition and thereby have potentially only one definition. It also provides that disputes as to whether an employment relationship exists be referred to the director general of the Workplace Relations Commission. It empowers the Revenue Commissioners to determine that arrangements calculated to misrepresent any work or service as being executed under a contract for services, rather than a contract of service, is a tax avoidance transaction and that PRSI in such cases will be treated as tax for that purpose.

The Government will support measures that bring genuine protection for vulnerable workers. It is not clear, however, precisely how this Bill will provide any additional protections for workers or improve the current legal basis for determining employment status. It would be appropriate, therefore, to have further scrutiny of the legislation in an appropriate forum, possibly a committee.

The Bill appears to describe much of what is already covered in existing legislation and case law. It draws substantially on the current code of practice for determining employment and self-employment, without proposing any real additional safeguards or supports for workers. The existing key tests to properly define employment status have developed from a significant body of case law. The question of whether an individual is engaged under a contract of service or a contract for services is a question of fact and general law. Regardless of how the parties may describe themselves, all the possible factors that bear on the relationship between the

parties, including written, oral and implied details, must be examined and given their proper weight and a judgment must be made on their overall effect. The courts have been clear that the reality of the employment relationship in all its aspects has to be considered. In this light, I have some concerns that attempting to enshrine a list of tests in legislation could have the effect of producing a checklist, rather than considering the full working relationship.

While the Bill describes much of what is already covered in existing legislation and case law, it does not appear to include the most significant employment test, which is known as the mutuality of obligations test. Based on current case law, for any contract of employment to exist the employer must be obliged to provide work and pay and the employee must be obliged to accept that work and pay. The courts have pointed to this as being an essential element of an employment contract.

The Government recently published a report under the title, *The Use of Intermediary-type Structures and Self-employment Arrangements: Implications for Social Insurance and Tax Revenues*, which is a bit of a mouthful. The report, which was brought to Cabinet some weeks ago, followed a lengthy public consultation which received submissions from interested parties, including employers, trade unions, professional bodies and, most important, individuals. The report set out a number of proposals, including exploring further legislative options to treat nominally self-employed workers who are dependent on a single employer as PRSI class A contributors, with the employer PRSI contribution paid by the company that uses the employee's services.

Section 5 of the Bill addresses the same issue on employment via intermediaries. The Bill does not seem to recognise that by no means all forms of intermediary employment are false self-employment. The working group that considered this issue purposely avoided the requirement that an individual would have to be deemed to be an employee. It advocated instead that where the characteristics of an employment relationship exist, the end user would be required to operate PAYE - income tax, PRSI and USC deductions - even though the individual may be self-employed. This is a fundamental difference in approach which would allow for the retention of the flexibility available under existing contract arrangements, while providing additional protections to self-employed contractors who are economically dependent on a single employer through a single contract.

The Bill's relationship with existing legislation, including social welfare, employment and competition legislation, will need careful consideration and clarification. It is important to ensure the provisions do not have unintended consequences or impact negatively on some cohorts, such as the genuinely self-employed, although I do not believe that to be the Senator's intention. A range of legislation, including the Employment Equality Act, the Safety, Health and Welfare at Work Act and the Unfair Dismissals Act, contains specific definitions of the term "employee" within the context of that legislation. Further scrutiny will be needed of the full range of legislation that could be affected by the Bill, which should not be passed in isolation.

The Bill makes no reference to the role of the Department of Employment Affairs and Social Protection's scope division which plays the lead role in this area and appears to direct all disputes to the Workplace Relations Commission. I do not think that is a good thing to do and ask Members to reflect on this when we discuss the Bill further on Committee Stage. I do not say this simply out of loyalty to the Department. I am concerned that it could be seen as reducing the rights of a worker to avail of existing remedies. In particular, I am aware that the Workplace Relations Act 2015 provides that complaints must be made within a set period of

the employment rights contravention - normally six months. In contrast, there is no time limit for the making of applications to the Department's scope section. Applications are often made much later, when a worker discovers the true impact of his or her employment and PRSI status, as Senator Alice-Mary Higgins noted.

While we are agreed that there is false, or bogus, self-employment, it is important to ask if there is a significant problem to be addressed. Some think the number of cases is in the hundreds of thousands, but I believe it is significant, even if the number affected is only 15,000 or 25,000. I am not dismissing the number, but I do not think it is as large as some contend. The existing mechanisms for dealing with false self-employment, including the Workplace Relations Commission and the Department's scope section, do not encounter significant levels of it. This may suggest its prevalence of is overstated or that not many people are aware of the scope division, something I hope to remedy this year. Data from the CSO quarterly national household survey record 312,000 individuals as being self-employed in 2017, which accounts for 15% of total employment. The difficulty with the level being overstated in Ireland is that it is consistent with the average level across the European Union. Either the problem is EU-wide or perhaps it is not as big as some people think.

The great majority of insurability decisions are made on foot of a request from the employed person, rather than the employer. The decisions mainly involve company directors and public sector employees and cover partnership cases and family employments. The number of cases involving false self-employment is very small. I am willing to concede that this may be because many people do not know about the scope division in the Department. In 2016 there were 138 decisions to change PRSI class to class A, the common class for employment. They included director and family employment cases, as well as public service employees and workers who were changing from being self-employed to employed. The latter category included only a small number of false self-employment cases. The small number of cases may point, as I said, to a lack of knowledge or what I believe is a real fear of retribution among workers for using State mechanisms.

Senator Paul Gavan: That is exactly what is happening.

Deputy Regina Doherty: These issues are not addressed in the Bill, but responsibility falls on me and my Department to ensure people feel comfortable and will be confident that retribution on the part of an employer towards his or her employee, regardless of whether he or she is self-employed, will not be tolerated. I will engage in a public awareness campaign this year to ensure everyone who is self-employed, correctly or incorrectly designated, knows of the State mechanisms in place, exactly what he or she can or cannot do and the track record such that I hope they will have confidence and security in making an application to the scope division. We had a debate on a similar topic in the Dáil last week and later that afternoon a young person who works in the environs of this Parliament brought evidence of disguised self-employment to me to enable me to help them. I am pleased to do so. Even talking about it highlights the issue and gives people confidence and security to speak up, which is great. That is to be applauded, even if we achieve nothing else, although I hope we will.

The Social Welfare Act is robust in that it allows us to recoup social insurance contributions that should have been made from the time an employment started, whether it was disguised or merely a misguided classification of social insurance. The independence of the scope section ensures people receive a fair hearing and that they are included in the correct classification which is back-dated to the time when they started in the employment. As such, the gaps noted

by Senator Alice-Mary Higgins are limited to that contract of employment.

There are some technical issues with the Bill into which I will not go at this stage, but we will discuss them further. However, some of the terminology used might be strengthened. Some key terms are not defined and are likely to lead to considerable debate and litigation which we should try to avoid. For example, in section 1 the reference to a “contrary intention” in other enactments could be difficult to determine. In section 2 there is an effort to define the genuinely self-employed in the terms of a client or customer relationship. In reality, that is not how people describe their contract with each other. The implications of treating PRSI as if it were tax, as specified in section 6, need to be given very careful consideration by the Minister for Finance and the Revenue Commissioners. On the proposed amendments to section 811B of the Tax Consolidation Act 1997, Revenue has advised that the section is a specific anti-avoidance provision in relation to certain schemes which involve employment benefit trusts and does not apply to “tax avoidance transactions” as defined in section 811 or section 811C. On that basis, it is considered that the proposed inclusion of the application of section 811B to false self-employments would not be appropriate.

The Government will not be opposing the Bill. I welcome the raising of the issue by Senator Gerald Nash. I agree and concur with the premise of what he is trying to achieve and the Department will consider the Bill very carefully. In defence of my tenure and that of my predecessor and two previous Ministers, Mary Hanafin and Eamon Ó Cuiv, we are all very conscious of what we want to achieve. I know that some of the measures in place are not perfect and that

2 o'clock they do not quite do what it says on the tin, but there is a huge range of arrangements in place to deal with complaints of false self-employment. Social welfare inspectors inspect a wide range of businesses in an *ad hoc*, unannounced way, which is how we catch businesses out. Inspections are also undertaken jointly with other agencies, including the Revenue Commissioners and the Workplace Relations Commission. Where evidence of non-compliance is detected, I guarantee that it is not tolerated. Where people have been maligned or put in a position where they are in precarious employment or unfair situations, they are rectified when brought to the Department’s attention. I look forward to working with Members in full scrutiny of the legislation on Committee Stage. I hope that in working together we can enhance it to secure its goals in placing it on the Statute Book.

Senator Gerald Nash: I thank the Minister. We are on the same page in our mutual determination to deal with issues surrounding precarious work, making sure work pays and that people’s dignity in the workplace is not only respected but also properly vindicated. I accept, as does the Labour Party, that we do not have a monopoly of wisdom. Therefore, we will be pleased to work with the Minister and her officials to try to ensure we properly kick the tyres in dealing this legislation and that it will be robust enough to deliver on the intentions expressed in the legislation.

Early in her contribution the Minister referred to her level of understanding of how the legislation might enhance and safeguard the rights of persons in bogus self-employment. The code of practice agreed in the mid-2000s between the employer bodies and the Irish Congress of Trade Unions has been in operation for some time.

It may have served a purpose at that time, given the complexion of the labour market between then and the late 2000s, but colleagues in the Chamber and people who have worked on the front line of industrial relations in recent years will agree that the code of practice is inadequate for allowing us to deal with the increasing severity of the current problem.

I have examined the figures captured by the quarterly national household survey, QNHS. The Minister's Department used them when it started the process of considering this phenomenon in 2015 in the context of potential tax and PRSI losses to the Exchequer. We are referring to 228,000 of the 312,000 people, or some 66%, who have self-declared as self-employed without employees. We need to recognise that not all of them are the next Bill Gates, Steve Jobs or a remarkably talented entrepreneur who will be involved in the productive end of the economy creating hundreds, if not thousands, of jobs. I am convinced by the cases that I deal with in my constituency - the Minister and others might deal with similar cases - that this is a serious problem that needs to be addressed for the same reason that low-hour and if-and-when contracts need to be addressed. We must ensure that there is a floor of decency in the economy, people's rights are vindicated and protected, and the intention of their contracts, or the intention they understand them to have, is properly respected and defended.

I was concerned when I read the report that emanated from the Department in recent weeks on foot of the process started in 2015. It identified one of the key drivers of disguised self-employment, as it is elegantly described in the report, as the differential between PRSI rates. An employee pays 4% with an employer's PRSI of 10.75%. There is an incentive for a bad employer to reduce labour costs. Based on the Minister's responses and the suggestions - the report makes suggestions rather than recommendations - it is not clear what the Department will do about this beyond making some reference to the fact that the gulf between the various classes of PRSI stamp needs to be decreased to reduce the incentive. Instead of tinkering on the edges and raising greater awareness of the operation of the scope section, we need a more determined approach. One way would be to take the tests that have appeared in statute for the first time in the form of the Competition (Amendment) Act and apply them in terms of the determination of self-employment to the general worker population through primary law. That is the cleanest and most efficient way.

I was concerned when I read numbers from the scope section stating that 138 people had been moved to class A stamps last year. Looking at the bald figures, this suggests that bogus self-employment is not an issue, but we know that it is.

Senator Paul Gavan: Absolutely.

Senator Gerald Nash: We know this from our day-to-day work and various commentaries. It is important that people have their employment status determined in an efficacious way. I mean no disrespect to the Department's scope section, but that is not happening in a timely and efficient way. People have contacted me in recent weeks who claim to have worked with the scope section for a number of years to get determinations, appeals and so on. That is not good enough. People need clarity and a renewed focus if we are serious, not only about avoiding the race to the bottom, but about ensuring that our Social Insurance Fund is properly resourced and those who are required to pay into it are not defrauding the State in the way they are currently.

Question put and agreed to.

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

Senator Gerald Nash: Next Tuesday.

Committee Stage ordered for Tuesday, 6 March 2018.

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

Senator Catherine Noone: Next Tuesday at 2.30 p.m., the beast from the east permitting.

The Seanad adjourned at 2.05 p.m. until 2.30 p.m. on Tuesday, 6 March 2018.