



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

Gnó an tSeanaid - Business of Seanad	533
Nithe i dtosach suíonna - Commencement Matters.	533
Speech and Language Therapy Provision	534
Home Loan Scheme	536
Schools Building Projects Status.	538
An tOrd Gnó - Order of Business	540
Public Authorities and Utility Undertakings (Contract Preparation and Award Criteria) Bill 2019: First Stage	556
Land and Conveyancing Law Reform (Amendment) Bill 2019: Order for Second Stage	557
Land and Conveyancing Law Reform (Amendment) Bill 2019: Second Stage	557
Period Poverty: Motion	565
Dealing with the Past in Northern Ireland: Statements.	581
Protection of Employment (Measures to Counter False Self-Employment) Bill 2018: Committee Stage.	598

SEANAD ÉIREANN

Dé Céadaoin, 27 Márta 2019

Wednesday, 27 March 2019

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Machnamh agus Paidir.
Reflection and Prayer.

Gnó an tSeanaid - Business of Seanad

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

The need for the Minister of State at the Department of Health with special responsibility for disability issues to make a statement on the provision of speech therapy to children with Down's syndrome.

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

The need for the Minister for Housing, Planning and Local Government to provide an update on discussions with the Department of Public Expenditure and Reform regarding additional funding for the Rebuilding Ireland home loan scheme.

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

The need for the Minister for Education and Skills to provide an update on the provision of additional accommodation for the Sacred Heart secondary school in Clonakilty, County Cork.

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

The need for the Minister for Transport, Tourism and Sport to provide an update on the provision of a high-speed rail network between Dublin and Belfast.

The matters raised by the Senators are suitable for discussion. I have selected those of Senators Conway, Boyhan and Lombard and they will be taken now. Senator Feighan has withdrawn his Commencement matter, which I had originally scheduled.

Nithe i dtosach suíonna - Commencement Matters

Speech and Language Therapy Provision

An Cathaoirleach: I welcome the Minister of State. Tá fáilte romhat, a Aire-Stáit agus gabh mo leithscéal.

Minister of State at the Department of Health (Deputy Finian McGrath): Go raibh maith agat.

An Cathaoirleach: Anois I call on Senator Martin Conway who has four minutes to outline his case.

Senator Martin Conway: Go raibh míle maith agat, a Chathaoirligh, agus tá fáilte romhat, a Aire-Stáit. I acknowledge that the Minister of State, who has responsibility for disabilities, has come here to take this important Commencement matter.

World Down's Syndrome Day was last Thursday and we all wore odd socks. This Commencement matter arose as a result of an engagement I had with the parent of child who has the condition on World Down's Syndrome Day. We spoke at length about the challenges that children with Down's syndrome come up against. One of the significant challenges is in terms of communication and speech. The Minister of State will be fully aware of the unique set of challenges that children with Down's syndrome in particular encounter when it comes to speaking. Every one of us, as a result of our involvement in the business of politics, appreciates the value of being able to communicate. If one is in a situation where one cannot articulate properly as a result of difficulties with speaking due to having Down's syndrome, then the basic premise of communication is compromised.

Down's syndrome children are beautiful and have a huge amount to offer. We have a responsibility to assist them and provide the necessary supports to enable them to develop their communication skills. It is one thing if one will never be able to communicate but if one can communicate with proper interventions and supports, then that is where the State needs to step in. Last week, I was informed by the parent to whom I refer that the State only provides six sessions of speech therapy a year. The child involved had six sessions of speech therapy in 2015, 2016 and 2017. In 2018, there were still six sessions even though our economy has benefited enormously from a recovery and despite the fact that the Government has prioritised the issue of disability and support structures for people with disabilities. In 2019, the allocation still is six sessions. This parent, through hard work and dedication, is funding speech therapy privately for her child. The child gets two sessions a month. That works out at about 24 or 25 sessions a year. That parent uses the six sessions available from the State to complement these. We need to do more and we need to do better. Perhaps there is a mechanism whereby this can be improved. Perhaps there is a plan. The provision of speech therapy is a critical intervention for children with Down's syndrome because of the unique challenges such children face and because speech therapy has been proven over and over again to be successful and to work. All children with Down's syndrome in our society and our State should be able to reach their potential in terms of communicating. Through hard work, the parent with whom I engaged has the resources to provide speech interventions and therapy privately, but what about the parents who cannot?

Minister of State at the Department of Health (Deputy Finian McGrath): I thank Senator Conway for raising this very important issue. I totally acknowledge his own great work in pushing and campaigning for all children with disabilities and, in this debate, for children

with Down's syndrome in particular. I thank him again for raising this very important issue. I absolutely agree with most of the sentiments he expressed. I accept the point that we need a plan, but we have a plan. I will deal with that in my response.

Timely access to speech and language therapy services is important and I understand that delays in accessing the service are a source of concern for patients, their parents and their families. The Government is committed to improving access to services through investment and improvements in how services are provided to enable children to reach their full potential. In 2019 we are going to spend €1.9 billion on disability services under the HSE service plan. That is an increase of 7.5%. Anybody who comes into this House to say that cuts are being made to services should look at the statistics and information and get his or her facts right.

The overarching principle governing the planning and delivery of health services and supports for adults and children with disabilities is that they should be integrated, as much as possible, with services and supports for the rest of the population. The Government's agenda, and mine, in this regard is clearly set out in the national disability inclusion strategy and the steering group of which I am chair. The strategy is based on a non-condition specific approach to the delivery of public services and the mainstreaming agenda. I take the Senator's point. I did a number of events myself on World Down's Syndrome Day. I spent a lot of time with parents and talking to children on that day.

As Senators will be aware, speech and language therapy is mainly provided through the HSE's primary care service. Overall funding for primary care has increased in the HSE's national service plan for 2019, with more than €50 million in additional funding being made available. An extra €50 million is being put in in 2019. This represents an increase of 6% on primary care for 2018. I make that point very strongly. Of course, we also have to look at individual cases. Each individual that presents to the HSE's speech and language therapy service has an initial assessment to determine the individual's presenting need and requirements for therapy. The therapist, in conjunction with the parents or carer, will then determine the severity of the individual's difficulties and prioritise for therapy accordingly. The level of intervention is in line with clinical policy, age and presenting need according to diagnosis. The waiting period for intervention is dependent on the nature and severity of the disorder following assessment. The HSE aims to ensure that the resources available are used to best effect, in order to provide assessment and ongoing therapy to children and adults in line with their prioritised needs.

Speech and language therapy staffing levels in primary care have increased significantly in recent years with an additional 76 whole-time equivalents appointed between January 2015 and January 2019. Further increases are anticipated in line with funding in 2019. I accept the Senator's point; we need to increase and expand services further, but we have started. The HSE anticipates that almost 280,000 speech and language therapy patients will be treated in primary care in 2019. That is a lot of speech and language services. In addition to this increase in staff numbers, the HSE has established service improvement groups to develop new standardised models of service provision for speech and language therapy and other therapy services to support service delivery. We accept the point the Senator raised in his introduction. We are increasing staff numbers to expand this service. Measures under these models include providing structures, training and support to parents or carers so that they can work to help improve the individual's speech and language. In addition, therapy is delivered in group settings where appropriate.

The HSE and I are committed to working in partnership with other service providers to

achieve maximum benefits for children and adults requiring therapies and aim to ensure that the available resources are used in the most effective manner possible. On the Senator's general point, we have started the work and the reforms, but we have a fair distance to go yet. I accept that argument, but we have started, we have increased spending, and we are expanding the services. We have to make sure that every child with Down's syndrome has access to proper speech and language therapy. That is the objective of my plan under the national disability inclusion strategy.

An Cathaoirleach: I accept this is a very worthy cause. I have a grandchild with Down's syndrome of whom I am very proud. I am also the godfather. I will give Senator Conway 40 seconds to conclude.

Senator Martin Conway: I thank the Minister of State for his response. I agree with him in respect of the increased resources but I would like to see these increased resources orientated specifically towards speech and language therapy for children with Down's syndrome. Perhaps there could be a greater level of increase for that specific group of our citizens for 2020. It is probably too late for 2019 at this stage. Perhaps the Government could direct the HSE to ring-fence the great majority of whatever increase in funding is provided for speech and language therapy for 2020 for children with Down's syndrome. At the end of six sessions over a year there will be an obvious improvement in the child but can the Minister of State imagine what would happen if the number of sessions were to be doubled and if the child was to have an intervention of 12 sessions? I know it is a doubling of resources but perhaps the Government could look at a specific increase in funding for speech and language therapy for 2020 as a once-off intervention for children with Down's syndrome.

Deputy Finian McGrath: I will make three short points. First, I recognise what the Senator has said about delays in accessing speech and language therapy being a source of significant concern for parents. We are trying to act on that. Second, as Senators including Senator Conway may be aware, funding for additional therapy posts for children's disability services was announced in budget 2019. As I speak, these posts are being rolled out. These posts will support the completion of the assessments of need and will increase the number of therapeutic interventions provided. I am confident that the additional resources committed by Government and the HSE's reform programme will lead to significantly improved services for children requiring speech and language therapy. However, I cannot isolate one sector of society, even though I am a parent of a daughter with Down's syndrome and was chairperson and treasurer of the Dublin branch for many years. We have to treat everybody, right across the disability sector. People with speech and language difficulties should be given priority.

Home Loan Scheme

Senator Victor Boyhan: I welcome the Minister of State, Deputy Cannon, to the House. I will be brief. This matter relates to the Rebuilding Ireland home loans scheme, of which the Minister of State will be fully aware. He will also be fully aware of the controversy around it. There is an element of misunderstanding or misinformation out there. It is important, therefore, that clarification is provided on the current status of the Rebuilding Ireland home loan, which is a very effective and important scheme. It is one of the many initiatives we need to address the issue of providing housing, including affordable and social housing. There is a broad spectrum of routes that must be pursued. There is no one-size-fits-all solution but this is a particularly

good scheme that I welcome.

I hope the Minister of State will be able to clarify some issues related to the status of the initiative. An internal document released by the Department of Public Expenditure and Reform to “Morning Ireland” under freedom of information legislation revealed that the scheme had been put on hold because it had run out of funding. That was subsequently denied but I have seen documentation that confirms that is the case, so I do not think that is in dispute. In the Dáil recently, the Minister indicated that he was seeking a second tranche of funding to address these issues, which I welcome. The Taoiseach confirmed in the Dáil that 575 people had availed of the scheme. A further 1,000 applications had been approved but funding had not been drawn down. There may or may not be issues with some of the 1,000 applicants concerned. I have been in touch with a number of local authorities, five of which have confirmed that they have run out of money. That is not to say that the scheme has ended. However, the capacity of local authorities to grant further funding is on hold until there is clarification. That is somewhat different from saying the scheme is closed, which is encouraging.

I ask the Minister of State to set out how the negotiations with the Department of Public Expenditure and Reform are proceeding and how it is intended to bring this scheme back into line. When that information is crystallised and clear, can a new public awareness and information campaign be launched to provide clarity, encourage people and ease their fears? This is an important initiative because it offers some people the only chance they will get of acquiring a home. I know the Taoiseach is conscious of people getting up early in the morning, putting their shoulder to the wheel and doing a day’s work. These are people who want to purchase a home. They want to provide a home for themselves and their families. We should pursue this scheme but it would be helpful to get clarification about its future funding.

Minister of State at the Department of Foreign Affairs and Trade (Deputy Ciarán Cannon): I thank Senator Boyhan for raising this issue and quite rightly seeking to bring additional clarity in an area that might need more clarity. When the Rebuilding Ireland home loan was initially being developed, it was estimated that the drawdown of loans under the scheme would be approximately €200 million over three years. However, thankfully, the scheme has proven to be far more successful than originally anticipated. Officials from the Department of Housing, Planning and Local Government have kept the Minister informed regarding the progress of the Rebuilding Ireland home loan on a regular basis and have been engaging with officials from the Department of Public Expenditure and Reform regarding the scheme since October 2018 when it became clear that the rate at which loans were being approved was higher than was originally anticipated, thus highlighting the success of the scheme. The Minister had made a commitment on launching the scheme that he would seek further funding for it at an early stage, if necessary, given his belief in its potential. By the end of January, €106 million had been drawn down, which accounted for some 53% of the available funding, at which point €66 million would have been more consistent with the expectation of funds being drawn down over a three-year period.

The Minister informed the Dáil on 29 January 2019 that the scheme had proven to be more successful than initially anticipated and would require a further tranche of funds. He further indicated that his Department was in discussions with the Departments of Public Expenditure and Reform and Finance with regard to an extension of the scheme. A meeting with the Minister for Finance and Public Expenditure and Reform was scheduled for 4 February 2019. However, this had to be rescheduled and took place on 5 March 2019. At no time was the first tranche of funding depleted and following the meeting on 5 March 2019, the Minister informed the Joint

Oireachtas Committee on Housing, Planning and Local Government that local authorities could continue to accept applications as discussions had commenced on further funding. As of the end of January 2019, €106 million had been lent supporting 575 individuals and families to buy their first home. The Minister is in discussions with the Minister for Finance and Public Expenditure and Reform regarding further funding for the scheme. The Central Bank is also being consulted. Specific allocations to local authorities for 2019 will be finalised when those discussions have concluded. However, in the meantime, the scheme remains open and all local authorities should continue to receive and process applications up to and including drawdown of funding, as appropriate.

Senator Victor Boyhan: I thank the Minister of State for his helpful reply. I am a member of the Joint Committee on Housing, Planning and Local Government. I am aware that at least five local authorities do not have any money to hand out under the scheme. While it makes sense to put in applications and prepare, we must be fair to people because this might be their only hope of funding the purchase of a home. The sooner we see the specific allocations for the local authorities in 2019, the better. Next week, we are into April, which is the fourth month of 2019, so there is a certain urgency here. I am not suggesting the Minister or Government is not treating this matter with urgency but it would be helpful given the importance of this issue and the fact that it will be raised on the doors by many people in local election campaigns. It would be very helpful if the details of the scheme could be released as soon as possible. I thank the Minister of State for his very helpful information.

Deputy Ciarán Cannon: I thank Senator Boyhan again for raising this issue and shining light on it. Thankfully, it has been a very successful scheme. I have been fortunate to be able to assist a number of constituents in making applications, which have been successful. It is an indication of the ambition of our people to build or acquire their own home. This is a very important tool in the arsenal of opportunities we offer in securing permanent housing for the future. The message I would like to see go out loud and clear from this discussion is that it is not a case of whether local authorities will receive funding. It is a case of when they will receive funding and what the scale of it will be. I would tell anybody contemplating making an application that the scheme remains open, all local authorities have been instructed to continue to receive and process applications and people should not have any doubt as to the Government's commitment to sustaining the scheme in the future.

Schools Building Projects Status

Senator Tim Lombard: I raise the issue of accommodation at Sacred Heart secondary school in Clonakilty, County Cork. I have been involved in this matter for the past few years. This vibrant school has nearly 550 students, a teaching population of just over 40 and a history on the site going back to 1941. It is a unique campus in many ways. It also had a boarding element, which ceased in 2005 and, as a result, one building has been left idle. This building is the reason I have raised this Commencement matter. It is a unique structure in the middle of the campus that is unfortunately lying idle. It dates back many years and it is planned to redevelop it. The building has great potential to meet the educational requirements of Clonakilty, particularly those of Sacred Heart secondary school.

This State has a history of having prefabricated buildings on site. Prefabs have been on this site for more than a decade. Approximately €1 million has been spent on prefabs in Clonakilty

over the past 12 years. This is unfortunate when one considers that this money could have been put to much better use redeveloping the old boarding school building in the heart of the site.

I am trying to get movement on this project, which is part of the ADAPT programme. It will involve having outside consultants run the redevelopment of the boarding school campus. Progress is needed on the project. Clonakilty is a busy and thriving town. Population growth has been immense in the past decade. The county development plan has predicted many more thousands of people will move to this vibrant town. We need an education campus that will meet the town's future population needs.

The need is there and the building is there. The funds to redevelop that unique building should be advanced in order that the Sacred Heart school in Clonakilty can develop and flourish as it needs.

I ask the Minister of State to provide an update on the ADAPT programme, where the school fits into the programme and when a project manager will be appointed. The external project manager who will run the project is a key element in ensuring it is delivered.
11 o'clock This redevelopment has been talked about for generations. In the light of €1 million, unfortunately, having been spent prefabs for the school over the past decade, the need for movement on this project is very evident. We cannot just put money into a dead end such as prefabs. Rather, we must reinvest in this beautiful campus such that the school can flourish as it has since 1941.

Deputy Ciarán Cannon: On behalf of the Minister for Education and Skills, Deputy McHugh, I thank the Senator for raising this matter which I know from previous conversations with him is very close to his heart. It provides me with the opportunity to outline to the Seanad the current position in regard to the major building project for the Sacred Heart Secondary School in Clonakilty.

A building project for the school is included in the Department of Education and Skills six-year construction programme. That is a significant first hurdle to get over. A project brief has been finalised and will provide an extension with refurbishment to cater for 600 pupils in the long-term projected enrolment. As the Senator stated, the project will be delivered via the ADAPT programme, which is an innovative delivery programme first introduced by the Department in 2016. It uses a professional external project manager to co-ordinate and drive the respective design teams on each project. In this regard, a tender competition is in train to establish a project manager framework, which is essentially a list of potential project managers with the skills and capacity to deliver on the project. That framework is expected to be in place shortly. Tenders have been returned by potential project managers and are being evaluated. Once established, the framework will be used to appoint a project manager for the ADAPT programme following a further tender exercise specific to ADAPT. The Department of Education and Skills wrote to the school on 19 March 19 to provide an update on the status of this project.

Senator Tim Lombard: As the Minister of State pointed out, I am familiar with the school, going to it every Monday afternoon for issues relating to my daughter. It is a very vibrant space of which we are very proud. It is important that there be movement on this project. The update by the Minister of State is very helpful. It is about trying to keep momentum behind the project. As soon as the ADAPT project manager is appointed, we will see significant movement. It is very important that we get a project manager in place in the next few weeks or months in order to be able to drive this very important project forward.

Deputy Ciarán Cannon: There is no question regarding the commitment of the Department of Education and Skills to see the project through to conclusion. We are very close to a project manager being appointed. I will undertake to again speak to the Minister, Deputy McHugh, on behalf of the Senator to impress on him the urgency of bringing the project to a conclusion as quickly as possible.

Sitting suspended at 11.05 a.m. and resumed at 11.30 a.m.

An tOrd Gnó - Order of Business

Senator Jerry Buttimer: The Order of Business is No. 1, Land and Conveyancing Law Reform (Amendment) Bill 2019 - Order for Second Stage and Second Stage, to be taken at 12.45 p.m. and to adjourn no later than 2.30 p.m., if not previously concluded, with the contributions of group spokespersons not to exceed eight minutes and all other Senators not to exceed five minutes; No. 80, motion 9, to be taken at 2.30 p.m. and to conclude no later than 4 p.m., with the contributions of group spokespersons not to exceed eight minutes and all other Senators not to exceed five minutes and time can be shared, and the Minister to be given no less than seven minutes and the proposer to be given four minutes to reply to the debate; No. 2, statements on dealing with the past in Northern Ireland, to be taken at 4 p.m. and to conclude no later than 5.30 p.m., with the contributions of group spokespersons not to exceed eight minutes and all other Senators not to exceed five minutes and time can be shared and the Minister to be given no less than eight minutes to reply to the debate; and No. 3, Private Members' business, Protection of Employment (Measures to Counter False Self-Employment) Bill 2018 - Committee Stage, to be taken at 5.30 p.m. and to adjourn no later than 7.30 p.m., if not previously concluded.

Senator Catherine Ardagh: Dolphin Park is the home of the Templeogue Synge Street GAA club. There is a row brewing between Templeogue Synge Street and Kevin's Hurling and Camogie Club.

Senator Jerry Buttimer: I cannot hear the Senator.

An Cathaoirleach: There is a noise in the background. I can hear Senator Ardagh but her words may not carry as there seems to be some noise behind her.

Senator Catherine Ardagh: A row is brewing between two GAA clubs located in the inner city of Dublin - Templeogue Synge Street and Kevin's GAA Club. These are two super clubs and it is unfortunate that they have been pitted against each other due to the development of lands at Dolphin Park. The real issue is that the Kevin's club has genuine concerns that it will not have access to pitches it currently has access to. The club was set up in 1903 or before that because the records go back quite a long time. The club provides services to inner city kids, who are the most disadvantaged kids in the country. The club does not have its own home pitch so must rely on the Templeogue Synge Street GAA Club with which it has a very good relationship.

A row is brewing and I appeal to the president of the GAA to get involved and find a meaningful way to resolve this issue. This is very serious and the local community is very upset but I believe a solution can be found if there is a bit of pragmatism and the powers that be get involved. Ultimately, the Kevin's club seeks a home site. It is probably the biggest parish in the country in terms of the number of young people that does not have its own pitch. Club mem-

bers always have to travel outside of their home grounds and use other people's pitches as their home pitch, which is a real travesty as the Kevin's club is probably one of the only hurling clubs in the inner city. These youths should be encouraged and supported but at the moment, as politicians, we have really neglected them. I would like this issue put on the record of the House.

I wish to draw the attention of Senators to the fact that this is Organ Donor Awareness Week. I appeal to people to talk to their families and friends about organ donation and urge them to have a discussion. I am an organ donor and it is on the record of this House that I would like all my organs used if anything happened to me. If anyone wants to get an organ donor card he or she can contact the Irish Kidney Association. It is vital that we all have a conversation about organ donation.

When will the newly established Legal Service Regulatory Authority issue guidelines on limited liability partnerships, LLPs, for solicitors? Many solicitors have spoken to me about this. They are waiting to find out when the guidelines will be issued so that they can set up LLPs. This has been on the table but solicitors have not yet been given any direction on the matter.

Senator Pádraig Ó Céidigh: I dtosach báire, beidh deireadh seachtaine againn ag foghlaim Gaeilge ar an gCeathrú Rua ar an Aoine, 26 Aibreán go dtí Dé Domhnaigh, 28 Aibreán. Is do Sheanadóirí agus Teachtaí Dála é sin. Seans gurb é seo an chéad uair riamh go raibh a leithéid de chúrsa ar bun. Tá sé eagraithe i gcomhréir le hOllscoil na hÉireann Gaillimh agus Acadamh na Gaeilge ansin. Tá súil agam go mbeidh formhór nó beagnach gachBall in ann teacht. An Irish language weekend programme for all Deputies and Senators will take place from Friday, 26 April, to Sunday, 28 April, in An Cheathrú Rua. It has been organised by the Acadamh na hOllscolaíochta Gaeilge in NUIG. My parliamentary assistant, Cáit Nic Amhlaoibh, and Treasa Uí Lorcáin, course director, have done a huge amount of work on this. I want to see all Senators there. Will they be there?

(Interruptions).

Senator Pádraig Ó Céidigh: Gabhaim buíochas leis an Seanadóir. Tá súil agam go mbeidh na Seanadóirí ann. Deireadh seachtaine an-mhaith a bheas ann. Senators will stay with a bean an tí. Gaeilge an t-am ar fad. We will send them home if they speak English so caithfidh siad Gaeilge a labhairt an t-am ar fad mar tá siad ag dul ag an nGaeltacht.

Senator Lynn Ruane: That is what kept us speaking English all these years - sending us home straightaway.

Senator Pádraig Ó Céidigh: The Senator's name is down so, hopefully, we will see her there le cúnamh Dé.

An Cathaoirleach: Ná bí ag cur isteach orm anois.

Senator Pádraig Ó Céidigh: Fuair chuile Sheanadóir coinne ríomhphoist mar gheall air so tá súil agam go mbeidh siad in ann a bheith ann. Beidh deireadh seachtaine an-mhaith ann le haghaidh foghlaim an Ghaeilge, píosa craic agus mar sin de i nGaeltacht Chonamara.

(Interruptions).

Senator Pádraig Ó Céidigh: Craic de shaghas éigin eile. Chonaic mé tuarascáil ón Economic and Social Research Institute. The ESRI published a report on small and medium size

enterprises, SMEs, in the past couple of days. Short-term loans are decreasing in number, the number of credit rejections on short-term loans is increasing, lending conditions are tighter and interest rates are increasing. Large companies face an interest rate on new loans of 1.92%, which is 60 basis points higher than the European average. Large Irish companies are paying higher interest rates. I am passionate about SMEs and I know everybody here believes in business, particularly small and medium size enterprises. SMEs constitute the croí or heart of Ireland. The ESRI survey shows that Irish firms face an interest rate of 4.29% compared with a European average of 2.24%. This is captured by data by loans of less than €250,000. The interest rate being paid on loans by SMEs in Ireland is almost double the European rate. The euro interbank offered rate, EURIBOR, is negative. This means that the amount of money in loans given from one bank to another is negative. One bank is paying another bank to take the money. That means there is roughly 4% profit for the banks. I remind the House that during the days of the Celtic tiger, banks were making a margin of between 1% and 1.5%, not between 4% and 4.5%. I applaud the Government for its efforts to help SMEs, particularly with the Brexit loans, but we need to review how effective that is. The direction is good. It is positive and great effort is being made. The Strategic Banking Corporation of Ireland published its report yesterday agus is fiú é sin a léamh. An bhféadfadh an Ceannaire teagmháil a dhéanamh leis an Aire faoi tabhairt faoin gceist sin?

Senator Rose Conway-Walsh: We will take up Senator Ó Céidigh's invitation for the event from 26 to 28 April. It is a great initiative and I thank Treasa and Cáit for organising it. It is hugely important that we can all speak our native tongue.

I want to challenge the remarks made by the Taoiseach at the weekend when he dismissed out of hand the idea that the ESB and existing infrastructure could be used to deliver broadband. I want to know if his colleagues in this Chamber share his views in this regard because I believe that not only is he wrong about this, his arrogance and dismissal of the proposal, which is getting increasing support, shows that the Taoiseach was never in touch with rural Ireland in the first place. I know he mentioned Belmullet in his speech but he needs to do more than namecheck places to make us believe he has an understanding of the issues in rural Ireland. Why can we not use ESB poles for fibre broadband? What does the Taoiseach think is already hanging from the poles?

The Taoiseach has also said that broadband simply has to be underground. This is nonsense. Households and businesses in Mayo are incensed by this statement. We cannot see how the Taoiseach can be so dismissive of a workable solution while in the very same interview he openly admitted that the project will cost many multiples of the original €500 million.

A large number of Government Deputies used the broadband issue when asking for votes in the previous general election, claiming that only a Fine Gael-led Government could deliver such a key element of business. Come the next election, there will be a very quick test to see if that promise has been delivered upon. The Government cannot claim credit for any private companies because we must also take affordability into the supply of broadband. People will have a very easy test. When they turn on their computers and try to download a design plan, upload agricultural forms, get a map or do whatever needs to be done on a computer with Government Departments, they can see how fast that happens and how long they must wait. I am asking for the Minister to come to the House with an open mind to listen to all options for delivering this plan. That is the only solution. At the weekend, the Taoiseach effectively told rural Ireland to wait and trust him but we can wait no longer and I do not think many people believe him, never mind trust him, on this issue. Broadband will be judged on whether it is

delivered. Promise after promise for decades is just not good enough any more in rural Ireland. This Government will stand or fall on the issue of broadband, particularly in rural Ireland.

Senator Alice-Mary Higgins: I commend Connect, Fórsa and SIPTU on the very strong vision for local government and public services they set out today in the More Power To You campaign.

My key objective this morning is to move a new Bill. I would like to move an amendment to the Order of Business, that No. 15 be taken before No. 1 today. No. 15 is a Bill I am proposing on the preparation and award of contracts by public authorities and utility undertakings. This Bill will help put quality and joined-up thinking deeper into the procurement process in Ireland. In recent months and years, we have seen a number of controversies that have highlighted the problems with current procurement practices and culture. However, this Bill is not simply about those problems. It is also about the immense positive potential our procurement has. When we spend public money, we have the power to get great public benefit and to ensure that any moneys spent give us not only the best economic return but also social, environmental and other benefits. My Bill will address the current practice of lowest cost bidding. Lowest cost bidding is one option that any procurement official will face. My Bill will include price-quality ratio in the designing of contracts so that their administration on the basis of both price and quality will be the default option, and that while lowest cost will still be an option, it will require sign-off from a senior official and the publication of a rationale.

The national development plan, NDP, through which the Government is spending billions of euro, involves once in a generation, sometimes once in a lifetime, projects. I am setting a target of 50% quality on any NDPs. Exceptions can be made, but those exceptions must be justified. The Bill will empower procurement officials to deliver more for the public from how its money is spent.

The Bill also empowers the Minister to set out guidelines which bring together our commitments on climate change, the rights of persons with a disability and all of the established policies and existing obligations, and encourages procurement officials to think about that bigger picture when they are designing a procurement contract.

I believe this would be a positive and constructive contribution that would make a tangible difference. Public procurement affects the most intimate parts of people's lives here in Ireland as well as shaping the way that we design our future.

I am hopeful that all parties in this House will be supportive of the Bill. I hope to bring it forward to Second Stage on Wednesday next and I will be asking for the Senators' support at that point. I believe this is a chance to not only address the problems but access the potential in public spending.

I thank the Cathaoirleach. I hope that the Leader will be able to accommodate the taking of No. 15.

Senator Aodhán Ó Ríordáin: I will briefly raise two issues. I met a group of parents in north Dublin this morning regarding class places for children with special needs, in particular, autism. This is something that this House could do some work on. It is a topic I raise frequently. The issue partly is that it falls between the Department of Education and Skills and the Department of Health, and children and parents are falling between those two stools. Perhaps the Leader could facilitate a debate with the Minister for Education and Skills to discuss the

availability of places for children and the entire process that parents go through. Once they get a diagnosis at an early age, they are given a list of schools to apply to and it is pot luck as to whether they get a place. In a spirit of co-operation and bipartisanship, we could facilitate that discussion and talk about not only the immediacy of the issue for these particular parents but how the system could be enhanced and improved. There are lengthy waiting lists as well for early intervention for children across north Dublin and I am sure that is replicated throughout the country. While we have made advances in this area, there is much more to do. I would appreciate the opportunity to have that debate.

I would also appreciate the opportunity to have a debate with the Minister for Transport, Tourism and Sport regarding the Football Association of Ireland, FAI, although this important issue is up for discussion at an Oireachtas joint committee meeting in two weeks. The House should have a say on how the public money is being spent by the FAI. I am fast coming to the conclusion that a change will only happen if the Government decides to withhold funding from the association. That would be the nuclear option but when one thinks of how important this game is for many people in Ireland, and when one thinks of disadvantaged communities that love this game, the power of the game and how poorly it is being run, the question marks over the financial arrangements within the FAI, and the fact that the former CEO can be given a new position within the organisation, significant corporate governance issues need to be addressed. I am not sure whether the Oireachtas joint committee can get to the bottom of everything because there are many matters on its plate. If we were to have a discussion in this Chamber with the Minister for Transport, Tourism and Sport, I would suggest that perhaps it is time for the State to do what it can possibly most powerfully do and threaten to withhold funding from the FAI on the basis that it does not justify the funding that it gets. If they were to get their house in order and put a new regime in place to put children and players at the centre of what they do for the betterment of the game in Ireland, they would justify their funding and, in fact, they would justify much more funding in future. I ask for that debate as well.

Senator Michelle Mulherin: I support the protest outside the Dáil which will take place this afternoon by the National Ambulance Service Representative Association, NASRA, the members of which are in dispute with their employer, the HSE. NASRA, which represents more than 600 ambulance personnel, currently falls under the umbrella of the Psychiatric Nurses Association, PNA. This group of workers within the healthcare system want to have their own union and the HSE does not want them to. They have held two strikes in the past couple of months and the issue needs to be dealt with. Ambulance service workers are an integral part of the health system. They not only provide an emergency response service and deal with the most gruesome situations on some occasions, but they also provide an essential service on a daily basis for the health service. Many of these workers are highly-trained paramedics and highly qualified. I urge the HSE to do the right thing and recognise their union. They have unique issues to themselves which set them apart from other interests of workers within the health service. I have spoken with the Minister for Health, Deputy Harris, regarding the issue and I have pressed him to resolve it. I have every confidence that he will take this issue by the scruff of the neck with a view to having it resolved in the short term. I look forward to meeting some of these workers later. It is a worthwhile ask that they are making and they should be supported. It is a reasonable request.

Senator Gerard P. Craughwell: Over the past few days, the former chief executive officer of the FAI stepped aside amid a hail of controversy. I will not name him in deference to the House's rules. He is being kept on in the FAI in another role and it is my belief that he is being

kept on in that role to facilitate him getting a position on UEFA. The FAI must not allow this to happen while a cloud hangs over this man's head. I do not say that the man has done anything wrong but let us know exactly the full story before Ireland is represented at UEFA level by somebody who we may not want in the position.

I have spoken on many occasions in this House about the use of cybertechnology in bullying Trump-like or, to a certain degree, childish behaviour and I was deeply disappointed last weekend to find the Government party using an image of the leader of the Fianna Fáil wagging his finger. It is beneath politics. It is all good for us to have a robust engagement in this House with one another but when one starts using images, it brings us down to the level of schoolchildren. It is the epitome of cyberbullying. It is wrong, in every sense of the word. I am not saying it because it is the Fine Gael Party, which I hold in great esteem. Nobody in politics should ever use images like that to criticise somebody else in politics. One can get up and say all one wants. One does not have to use these images. We do not have to go to the extremes that we complain about members of the public going to when they refer to us. It is beneath us. It is beneath politics. The Taoiseach should come out and apologise, not necessarily to the Fianna Fáil Party but to the country for stooping to the levels that we would not expect of any decent citizen in this country.

Senator Colm Burke: I raise the issue of lending, following what Senator Ó Céidigh said. I was speaking at the economics society in UCC last Monday night where a presentation was made by Mr. Seamus Coffey, who is on the Irish Fiscal Advisory Council, IFAC.

He produced very detailed graphs on the levels of savings and borrowings in Ireland. It is interesting that we now have more savings than borrowings, which is a good. The question arises as to how best to use the savings to benefit those who require money to buy their own homes or apartments. I am not sure we are doing sufficient work in this area, particularly for those on lower incomes who need access to local authority funding.

I had a case recently concerning somebody who applied to Cork City Council in February 2018 for a loan to buy a house in which they had already been living for 17 or 18 years. They are now nearly paying more rent because of their earnings than what they would pay on borrowings. It took until October 2018 before they got a reply about their loan application. That was eight or nine months later. That is not the way to deal with a loan application. I have heard of a number of other cases in which there are considerable delays in the assessment by local authorities of applications by people who are genuinely trying to move on and take the step to look after their own affairs and who are prepared to buy and look after their own property. Our local authorities are not doing enough.

It is about time we had a debate in this House on how we can improve circumstances for those in the middle income group who cannot borrow from the private sector but who should be supported through the local authority system. I ask that we have a debate on this matter to determine whether we can bring about some changes.

Senator Paul Gavan: I raise the issue of Limerick being top of the league in regard to patients on trolleys. This morning, there were 45 patients on trolleys in University Hospital Limerick. That is a relatively good result. Last week, the number was 76. It was last week that management in University Hospital Limerick announced it was closing another ward, containing 17 more beds. It beggars belief when the hospital consistently has the highest number of patients on trolleys in the country, day after day and week after week. What makes it even

worse is that hospital management insists it has been inclusive in talking to staff about these matters. One can see from statements from the INMO and SIPTU that, far from being included, they have been disregarded. At a meeting on 9 January, it was confirmed to union officials that University Hospital Limerick had a deficit of 59 nurses, who would be required to reach the minimum nursing staff complement.

Since 9 January, things have got worse. My colleagues in the hospital have told me that, week after week, more nurses are resigning and voting with their feet because the conditions are absolutely intolerable in the hospital. The optimum capacity of the hospital is 85% but it is currently working at 110%. It is operating at a capacity of 110% although there was a shortfall of 59 nurses in January. The hospital believes the best idea is to close another ward. It is an absolute disgrace.

I have been raising the incompetence and poor management of University Hospital Limerick for well over a year here. I have asked for ministerial intervention and have written to the Minister, and I have received absolutely nothing in reply. My colleague, Deputy Maurice Quinlivan, always tells me how frustrated he is because when he puts parliamentary questions to the Minister, he does not even turn up to answer them. I call again for an urgent debate on this issue and ministerial intervention before matters get even worse in our local hospital in Limerick.

Senator Lynn Ruane: I second the request on the Order of Business made by Senator Alice-Mary Higgins.

I raise the issue of non-disclosure agreements being used by employers and harassers in the workplace. I regard them mainly as an extension of the abuse of power in the first place. It was well over a year ago that I asked for a debate on the abuse of power within the workplace. Having come from the launch of the Houses of the Oireachtas Commission's dignity and respect policy, I believe some of the issues associated with non-disclosure agreements being used and sexual harassment and bullying in the workplace could be discussed as part of a debate on that policy.

I am working on legislation banning the use of non-disclosure agreements. It would be positive to have a debate before it is introduced. The Cathaoirleach, in his contribution, talked about raising awareness to understand how one's behaviour affects others and whether it falls into the categories of bullying and harassment. Having a debate on the policy would be a good place to start. Will the Leader consider scheduling a debate on the policy of the Oireachtas?

Senator Jennifer Murnane O'Connor: Why was almost €3 million spent by the HSE to employ General Medical Services scheme, GMS, GP locums when doctors around the country were offering to take on a list when a colleague moved on? These doctors were prevented from doing so by the HSE. Why are we allowing circumstances in which we keep throwing away much-needed money? There are doctors willing to ensure continuity of care for patients but the HSE prefers to employ locums at a large cost. I read yesterday in *The Medical Independent* that the national average annual cost to the HSE for GMS GP locums is €262,000, and that last year the HSE employed at least 11 GMS GP locums nationally as part of an effort to provide cover for 22 vacant GMS GP panels. According to the article, the HSE stated 176 GMS GPs were awarded contracts under the scheme in 2018 while 101 GMS GPs retired. I would like the Leader to call on the Minister to come to the House to explain why we are not using common sense. I will most likely be told by the HSE that it is struggling to fill vacant GMS panels with a permanent GP following Government cuts but I urge the saving of money where an offer is

made to take on a list. I want the Minister to come to this House.

We have heard reports of people on trolleys again and of wards closing. I have even heard people tell me that they cannot get an extra pillow because there are none in hospitals now. It is now at the stage where one is lucky if one has a pillow. If one asks for another, one is told there are none. We need to have the Minister in here and make the HSE accountable for decisions it is making.

Senator Billy Lawless: I endorse the comments of my colleague, Senator Ardagh, on Organ Donor Awareness Week. I am not sure the House is aware that we have had for the past few years a national organ donor commemorative park, in Galway. It is a beautiful park in Salthill between the two hotels at the end of the promenade. It is really worth a visit. It was initiated by parents whose only child, an organ donor, was killed in an accident. I certainly endorse what was said about organ donation. We should all be donors.

Senator Fintan Warfield: The film “Boy Erased” is yet another unmasking of the cruelty of so-called conversion therapy. It is a vile practice designed to suppress, change or eliminate a person’s sexual orientation, gender identity or gender expression. The practice has been condemned and discredited by the UN Committee Against Torture, European Parliament and Irish Council for Psychotherapy. On 6 March, the Irish Association for Counselling and Psychotherapy released a statement that condemned the practice of so-called conversion therapy. This was in the aftermath of a screening of “Once Gay: Matthew and Friends” in Townsend Street Presbyterian Church in west Belfast. We know well that conversion therapy leads to depression, anxiety, homelessness and suicide. I have been in constant engagement with the Minister of State, Deputy Catherine Byrne, whose Department is working towards amendments to the Sinn Féin legislation. It has been co-signed by all parties and many Independents in this House. I raise it because it is a key commitment under the LGBTI youth strategy. That strategy was launched in June of last year by the Minister for Children and Youth Affairs, Deputy Zapone, in Temple Bar. The strategy will conclude in 2020 so we are halfway through it. Can we schedule statements with the Minister in this House regarding progress on the LGBTI youth strategy 2018-2020?

Senator Robbie Gallagher: The Valuation Office is re-evaluating commercial properties and business premises throughout counties Monaghan and Cavan with a view to revaluing the rates relating to properties used for business purposes, namely, small shops, offices, bars, public houses or whatever. In recent days, I have been contacted by a number of business owners in Clones, County Monaghan, who have received documentation relating to the revaluation of the rates for their properties. Unfortunately, it has come as a great disappointment to and caused concern among them that many of them will face substantial increases in their rates bills, possibly for next year. They are so concerned that they held a meeting in Clones last night to discuss the matter. I understand that staff of the Valuation Office who are currently operating in County Monaghan are available to meet business owners. That is a positive development and the process is ongoing.

Senators know only too well that there are many towns and villages in which small shops, bars and restaurants are closing their doors. The problem is particularly acute in the Border counties. I am concerned that the Valuation Office uses a methodology to calculate rates that is based on the rental income of particular properties. That might be a useful tool and a barometer for a large provincial town but it is not for a small town such as Clones and many like it throughout the country.

We all have concerns about Brexit. Stark reports are coming out on a daily basis about fears over what might become reality for many of us after Brexit, no matter what kind of Brexit we get. No counties will be more affected than those in the Border region. I call for this process of revaluation of commercial properties throughout counties Monaghan and Cavan, and indeed the other Border counties, to be suspended until we know where we are going in the context of Brexit. Many business owners in Border areas have serious concerns over what the future will hold for them and the last thing they need is a rate increase on top of the uncertainty of Brexit. For that reason, I respectfully request that the Valuation Office suspend the process until we know what Brexit is going to look like.

Senator Rónán Mullen: Colleagues will agree that the number of suicides about which we hear, in both our communities and nationally, is frightening. I am conscious that many of us wonder whether to talk about this and how to do so. I am mindful of the many people who are suffering as a result of a family member taking his or her own life. This is a serious problem and we must talk about it and keep it on the agenda. In *Mayo News* lately, the coroner for north Mayo, Dr. Eleanor Fitzgerald, commented that the number of suicides she was dealing with was alarming. She said:

The suicide increases in Mayo, including young people, is alarming. Up to 50 percent of inquests held are because of self-inflicted injuries and suicide ... It is disheartening to see young people give up on life.

The Galway coroner, Dr. Ciaran McLoughlin, reported in *The Connacht Tribune* earlier this month that a recently held inquest dealt with five suicides, including that of a young teenage boy. There are often suicide attempts in the waterways of Galway city and suicides late at night when people who need support and may be under the influence of drugs or alcohol take that final, tragic, utterly mistaken decision. Indeed, every few days there seem to be reports of people entering the waterways in Galway, with a number of tragic and untimely deaths in the past few weeks alone.

There is an initiative in Galway whereby local people are asking Galway City Council to take proactive steps to increase the chances of survival for a person who jumps into the River Corrib in Galway or someone who falls in accidentally. We know that many people who attempt or commit suicide can change their minds. The reality is that if that person has entered a certain part of the river in Galway, even if he or she instantly regrets his or her course of action, his or her chances of getting to safety are low given that the river is so fast-flowing. A petition has been signed by nearly 30,000 people asking Galway City Council to introduce some measures including safety nets along the walkways along the river and ropes across the river that a person being swept along at speed might be able to reach out for. The petition calls for safety ladders at regular intervals and sensors. There are a good number of life rings along the walkway, I am talking about the section of the river from the Salmon Weir Bridge to the Wolfe Tone Bridge in particular. The council is to be commended on the provision of those rings but more must be done. Nets and ropes can be implemented at minimal cost. I urge the council to address this as a matter of priority.

Organisations such as Limerick Suicide Watch deserve huge support and credit. The National Suicide Prevention Office and the Connecting for Life programme, which seeks to reduce suicides by 2020 via seven goals, are good but more focus is needed. Our colleague, Senator Freeman, has led the way in providing support services for persons contemplating suicide through Pieta House and many of us are involved in the Darkness Into Light event in May. I

raise this matter in the knowledge that colleagues will agree that suicide prevention and constant attention to providing more and better support services must be a priority for Government and at local authority level. I worry about the impact of recent cost excesses in other areas of the national budget. I am calling on Galway City Council in particular to take heed of the people who are calling for further safety features along the River Corrib.

Senator Kieran O'Donnell: When the Joint Committee on Climate Change and Energy Security publishes its report, I request that the House engage in an immediate debate on it. Climate change is one of the greatest challenges facing our generation. Schoolchildren were marching last week about this issue and it is as much about current generations as future ones. I attended a public meeting, along with many others, in the South Court Hotel in Limerick regarding an incinerator being built in Mungret by Irish Cement. There was a large turnout. This is something I feel strongly about and I do not think the incinerator should go ahead. I am more interested, in the context of climate change, in the fact that the particular licence application for the incinerator is before the Environmental Protection Agency, EPA. I am really concerned about the reform of the latter. The planning permission for the building of the physical structure is given by the local authority prior to the matter being looked at by the EPA for the granting of the licence. That is putting the cart before the horse. The licence for the operation of any form of incinerator or facility of that nature should effectively be adjudicated upon by the licensing authority for the operation of such a facility, which is the EPA, prior to the grant of planning being given by the local authority for the physical structure. Furthermore, it is my understanding that the local authority, Limerick City and County Council, would be unable to give permission for the physical structure if they have any environmental concerns. There is a contradiction there. A local authority is unable to grant permission for a physical structure if it has any environmental concerns and yet it can give that grant prior to the licence being applied for with the EPA which is involved in the operation and adjudication on the environmental concerns.

I want to see a number of things happen, the first of which is reform of the EPA whereby if a facility is in any way burning alternative fuels, the EPA, as licensing authority, would have to adjudicate on it before the application goes before the local authority, like Limerick City or County Council, for planning permission. Second, the monitoring side of the EPA's remit is important. Various recent reports have stated that air pollution is the source of huge environmental and health concerns. There is a public health issue regarding the Irish Cement site at Mungret. It is important that the EPA have a proper monitoring facility in respect of air pollution. New monitoring sites have been put in place throughout Mungret and they-----

Senator Paul Gavan: On a point of order, it is Fine Gael policy to support incineration.

Senator Jerry Buttimer: Senator Gavan is wrong.

Senator Paul Gavan: This was pointed out to Fine Gael last week as well-----

An Cathaoirleach: With all due respect, that was a sort of shot below the belt rather than a point of order. If Senator O'Donnell has an issue to raise, I will allow him to do so. Senator Gavan should allow him conclude.

Senator Kieran O'Donnell: My bona fides on this issue are genuine, and I will take no lectures on it. I have been involved with the issue from day one. Incinerators, regardless of whether one agrees or disagrees with them, cannot be put into the Mungret and Dooradoyle area, which has a large population in which many houses are located.

Senator Paul Gavan: Then Fine Gael should change its party policy.

Senator Kieran O'Donnell: My bona fides on this are genuine, and anyone who questions them-----

Senator Paul Gavan: Fine Gael should change its party policy then.

Senator Kieran O'Donnell: May I just deal with this issue? I want the House to engage in-----

An Cathaoirleach: The Senator is a minute over time now.

Senator Kieran O'Donnell: -----a debate on a structured report. I also want to see reform of the EPA.

An Cathaoirleach: I thank the Senator.

Senator Kieran O'Donnell: The incinerator in Mungret is a public health issue rather than a political one, and I feel strongly about it. I want everyone to work together for the people of the area comprising Dooradoyle, Raheen and Mungret.

An Cathaoirleach: I thank the Senator.

Senator Kieran O'Donnell: That is my consideration.

Senator Paul Gavan: Fine Gael should change its party policy.

Senator Kieran O'Donnell: It is non-political.

Senator Rónán Mullen: I think the two candidates are trying to incinerate each other's-----

An Cathaoirleach: Please, Senator. I allowed some injury time. Senator Kieran O'Donnell was obviously encouraged to continue by Senator Gavan's intervention.

Senator Jerry Buttimer: I thought Senator Mullen was against extinguishing life.

I thank the 16 Members who made contributions to the Order of Business. Senator Ardagh raised the very important issue of Dolphin Park. I hope there can be facilitation of access for both GAA clubs to the pitches and I echo the Senator's call that Uachtarán Chumann Lúthchleas Gael should perhaps get involved or that some mechanism should be found for a way forward. As the Senator rightly stated, this is about ensuring not only access to playing pitches but also the continuation of the great work that has been done.

Senators Lawless and Ardagh referred to the very important issue of Organ Donor Awareness Week. As an organ donor myself, I am of the view that we should really promote, highlight and promulgate the benefits of organ donation. I look forward to the Minister for Health, Deputy Harris, publishing his Bill, in which we will change our organ donation policy. I thank all involved in Organ Donor Awareness Week and I hope we will see more people donate and become aware of the issue. Again, I commend those involved in the promotion and promulgation of this.

I do not have an answer to Senator Ardagh's question about the Legal Service Regulatory Authority and LLPs, but if she drops me a note, I will be happy to approach the Minister on her behalf.

27 March 2019

Mar gheall ar an turas go dtí an Gaeltacht, is dóigh liom go mbeidh a lán daoine ón Seanad ag dul go dtí an Gaeltacht de thoradh an chuiridh a thug an Seanadóir Ó Céidigh do gach éinne. Déanaim comhghairdeas le foireann Theach Laighean agus an Oireachtais as an turas go dtí an Ceathrú Rua ar 26 nó 27 Aibreán a shocrú. I hope that as many Members as possible will be able to go to the Gaeltacht to engage in the comhrá maidir lenár dteanga dhúchais. It is important we continue to use and express our support for our Irish language. I commend Senator Ó Céidigh and the staff of the Houses of the Oireachtas on putting this trip to the Gaeltacht together. It is not a trip, it is an event to help Members promote and use the Irish language. I pity the bean an tí who will have a number of Members of the Houses of Oireachtas with her ar fud an-----

Senator Rónán Mullen: Beidh turas go dtí an Chistin freisin.

Senator Robbie Gallagher: Senator Buttimer is going then?

Senator Jerry Buttimer: Níl a fhios agam fós. Is dóigh liom go mbeidh a lán comhrá mar gheall ar rudaí eile. Níl a fhios agam fós. B'fhéidir go mbeidh cúpla duine ag dul go dtí áiteanna eile.

Senator Rónán Mullen: Tigh Sé.

Senator Jerry Buttimer: Beidh daoine ag dul go dtí an tsíbin.

Senators Ó Céidigh and Colm Burke raised the issue of the banks tightening lending. As Senator Colm Burke indicated, there now seem to be more deposits than loans. That is a matter of concern. We are double the European average in this regard. I suppose it is a legacy of the past, when the banks gave out too much money. Now there is the threat of Brexit. It is important, as Senator Colm Burke stated, that we hold a group of people in our minds and allow them to access finance, whether for home improvement or home loans. I refer to that squeezed group that cannot get the financial institutions to loan to them and do not otherwise qualify for loans. I agree that we must do something for them and I-----

An Cathaoirleach: The trouble is that there is too much money in the banks and they actually charge now to stop the money going musty, so if-----

Senator Jerry Buttimer: It does not happen to me, I assure the Cathaoirleach. He must be doing very well for himself.

An Cathaoirleach: A friend of mine told me that it is a waste of time having money in the bank at present because one gets nothing for it.

Senator Kieran O'Donnell: Was the money, dare I say it, resting in the Cathaoirleach's account?

Senator Jerry Buttimer: We will not go down that road now.

Senator Conway-Walsh raised the issue of broadband. It is in keeping with the narrative from Sinn Féin that it never wants to tell good news. It really wants to divide and conquer and instil in people this narrative that the world is going to end or that things are not going well.

Senator Michelle Mulherin: It is misery.

Senator Jerry Buttimer: Correct. Let me inform the House that 1.73 million people have

access to broadband, which represents an increase of 2.2%, and 1.43 million, or 87.4% of those, have access to fixed broadband. We are all conscious of the fact that there is a group of people who have poor broadband or no broadband at all. Under the national broadband plan, the Government is committed to delivering broadband, but it is important we understand that there are parts of rural Ireland where the procurement and installation of broadband will raise a significant challenge because of the remoteness of those areas. We cannot deny that. As politicians, we need to stop being populist about everything and instead be real with people.

I would be happy to have Senator Higgins's Bill accepted today. I congratulate her on the matter and look forward to having a debate on it. The Bill, to be fair to the Senator, has much merit. We might not all agree on everything in it, but there is a lot that is positive in the Bill. I hope the Government will support it. I will certainly advocate for it. Again, we have this illusion that the lowest price paid for everything represents the best option when that is not the case. We need to have that conversation as well, and I look forward to a debate in the House in that regard and thank the Senator for raising the matter.

Senator Ó Ríordáin raised the very important issue of school places for special needs children and young children on the autism spectrum. Students are falling between both parts of the education system, and services need to be improved. I would very much welcome a debate on this and will be happy to facilitate it.

Senators Ó Ríordáin and Craughwell referred to the FAI and corporate governance, if I may use that phrase. I note that the Joint Committee on Transport, Tourism and Sport met this morning and I think it is now 10 April that Sports Ireland and, subsequently, the FAI will come before the committee. I would be happy to have the Minister come to the House to have a debate on corporate governance and value for money in sport. I will make one comment to Senator Ó Ríordáin in response to his comment on the withholding of funding. I served on the marketing committee of Croke Park and I was a chairman of my own club and a county board officer. In withholding money, one penalises the grassroots of the FAI, the men and women, the volunteers in particular, and those who work at low-paid-----

Senator Gerard P. Craughwell: I wonder how much of it-----

Senator Jerry Buttimer: I am not familiar with that but what I will say is-----

An Cathaoirleach: The debate cannot take place today.

Senator Jerry Buttimer: It is a bit like boycotting the Eurovision. I am a little worried in this case that one would hinder the work being done in the FAI. However, I think the overarching point being made by Senators Craughwell and Ó Ríordáin is one we all support, that is, that proper answers need to be given to questions that have been asked in the public domain. The committee will have its opportunity to discuss the matter and we can have a debate on sport in this House. I would be happy to do so.

To respond to Senator Mulherin regarding the issue of today's protest by NASRA, the matter needs to be resolved. It is a source of huge concern and irritation to the men and women who work in the National Ambulance Service. It is important to acknowledge that representations are being made to us by the NASRA. I hope that SIPTU and NASRA can work it out with the HSE. A resolution to this is absolutely needed.

Senator Craughwell raised the issue of social media. I am a bit amused by his comments

27 March 2019

about the Fine Gael Twitter account last weekend. The Senator engages in social media a lot. I am smiling.

Senator Gerard P. Craughwell: I do not put up silly little images of people wagging fingers.

Senator Paul Gavan: The Leader just wagged his.

Senator Jerry Buttimer: If that is the case, Senator Craughwell is a good man to wag the finger without positing images.

Senator Gerard P. Craughwell: All we want is for the Taoiseach to apologise to the people of Ireland.

Senator Jerry Buttimer: The Taoiseach has nothing to apologise for.

Senator Rónán Mullen: The Taoiseach did not tweet that himself.

Senator Jerry Buttimer: Anybody who knows Deputy Micheál Martin knows that he is a finger-wagging person. Everything is wrong in his eyes, and he is never wrong about anything. That is a fact of life.

(Interruptions).

Senator Jerry Buttimer: He never accepted any responsibility when he was in government. He walked away from the Department of Health and Children. That is the reality.

Senator Gerard P. Craughwell: I could not possibly comment.

Senator Paul Gavan: Deputy Martin is doing a good job of propping Fine Gael up now, though.

Senator Mark Daly: The Leader might call for Deputy Martin to come in and apologise.

Senator Jerry Buttimer: It is far more important that we do not allow Deputy Martin to become Taoiseach and go back to the days when Fianna Fáil ruined the country. At least under Deputies Leo Varadkar and Enda Kenny-----

(Interruptions).

Senator Jennifer Murnane O'Connor: The Leader should take that back. Deputy Micheál Martin would be a very good leader of this country.

Senator Jerry Buttimer: Deputy Martin's record in government-----

Senator Jennifer Murnane O'Connor: Senator Buttimer should take back what he said. That is uncalled for.

(Interruptions).

Senator Jennifer Murnane O'Connor: That is unacceptable. The Senator should take that back.

(Interruptions).

An Cathaoirleach: If this disintegrates into shouting, I will adjourn for 20 minutes. Do Members want that?

Senator Aodhán Ó Ríordáin: Yes.

Senator Jennifer Murnane O'Connor: Senator Buttimer must take back what he said.

An Cathaoirleach: I call on the Leader to be balanced in his remarks. All he is doing is exciting other people. He has attacked three or four different people.

Senator Robbie Gallagher: The Leader is putting fuel on the fire.

An Cathaoirleach: If there is any more of this, I will adjourn. This is nonsense. I do not want the debate to degenerate into personalities and remarks thrown here and there. Members must be more responsible.

Senator Jerry Buttimer: I am not being personal at all. The point I am making is that under the Fianna Fáil Government of which Deputy Martin was a member, our country was ruined. I am sure Senator Murnane O'Connor feels a bit like Bobby Ewing. She has woken up from a bad dream. It was not a bad dream, though. It was reality.

Senator Jennifer Murnane O'Connor: After eight years, the Leader's party must be accountable. We heard about a figure of €3 million today, with people still on trolleys.

Senator Rónán Mullen: People in the House earn less than people like Bobby Ewing.

An Cathaoirleach: The Leader should move on.

Senator Jerry Buttimer: I will indeed.

An Cathaoirleach: That started with a tweet and has now disintegrated into something else.

Senator Jerry Buttimer: Senators Colm Burke and Ó Céidigh raised loan deposits in the household sector, currency and deposit assets and loan liabilities. This is an important debate. I would be happy to have the Minister come to the House to discuss it. I know that Senator Burke spoke at UCC last Monday night with Mr. Seamus Coffey.

Yet again Senator Gavan failed to mention the good news story when he presented difficulties. There are challenges in the hospital in University Hospital Limerick. We accept that. Many of them are legacy issues going back to when Fianna Fáil closed the emergency departments of the surrounding hospitals in Limerick. Under this Government----

Senator Jennifer Murnane O'Connor: If the Leader cannot take responsibility----

Senator Robbie Gallagher: If the Leader did not have Fianna Fáil to talk about in every single response he gives in this House he would have nothing to say, which, upon reflection, might be a welcome development.

Senator Jerry Buttimer: Now who is being personal? Senator Gavan failed to recognise that a €2 million 60-bed modular build has commenced. Extra beds have been put in place in the hospital. In addition, we have now seen a design for a block of 96 acute beds.

Senator Paul Gavan: The Leader must deal with the ward closure.

Senator Jerry Buttimer: Again, investment in Limerick-----

Senator Paul Gavan: Some 17 beds have been closed.

Senator Jerry Buttimer: -----in patients and in the health service-----

Senator Paul Gavan: The Leader should tell that to the people on trolleys.

Senator Jerry Buttimer: -----is being made by the Government and the HSE. I accept-----

Senator Jennifer Murnane O'Connor: It is sad that the Leader cannot be accountable for his party's mistakes.

Senator Jerry Buttimer: It is an awful pity that the Senator does not listen sometimes.

Senator Jennifer Murnane O'Connor: I am listening to the Leader very closely.

Senator Jerry Buttimer: I accept that there are difficulties and challenges. Many of them are legacy issues caused by the people who ruined the country.

Senator Jennifer Murnane O'Connor: Stop. The Leader cannot blame us.

Senator Lorraine Clifford-Lee: Senator Buttimer's party has been in government for long enough.

Senator Jennifer Murnane O'Connor: Exactly. The Leader must take responsibility.

Senator Jerry Buttimer: Senator Warfield raised the important issue of conversion therapy. We all commend him on his Bill, and we commend the Minister of State, Deputy Catherine Byrne, on working with him and with all of us to ensure that conversion therapy is outlawed in our country. It has no place, it is of no value and, as the Senator said, it leads to difficult health outcomes.

Senator Gallagher mentioned the Valuation Office and the issue of revaluation. He will find commonality with me on this. The office must explain its work. It has been going on since 2001. I checked before I came into the Chamber and found that by last year fewer than two thirds of local authorities had completed their rates evaluation process. The Senator is right. There is an obligation on local authorities and on the Valuation Office to work with small and medium enterprises, shopkeepers and retailers to ensure that added pressure is not put on them. I would be happy for the Minister to come to the House to discuss the matter.

Senator Mullen raised the sensitive and important issue of suicide. He mentioned the efforts being made in Galway and many other parts of the country to work with people and ensure that there is someone to meet or to talk to at key points. In the city of Cork, where I live, street pastors go out to talk and engage at very unusual times of the night, visiting places where people gather and where some have been known to end their lives. It is a very valuable service. I would be happy for the Minister of State, Deputy Jim Daly, to come to the House to discuss this matter. It is something on which the National Office for Suicide Prevention has been working. The HSE has been very proactive in the matter at both local and national level, but it is something we can never take for granted. We must pursue and advance this issue.

Finally, Senator O'Donnell raised the issue of climate action. We will have a debate on this when the committee report is published. I will also have the Minister for Communications,

Climate Action and Environment come to the House to discuss reform of the EPA.

I would be very happy to take Senator Higgins's amendment to the Order of Business.

An Cathaoirleach: Senator Alice-Mary Higgins has proposed an amendment to the Order of Business: "That No. 15 be taken before No. 1". The Leader has indicated that he is prepared to accept this amendment.

Amendment agreed to.

Order of Business, as amended, agreed to.

Public Authorities and Utility Undertakings (Contract Preparation and Award Criteria) Bill 2019: First Stage

Senator Alice-Mary Higgins: I move:

That leave be granted to introduce a Bill entitled an Act to give further effect to Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 and to Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 and for those purposes to provide for contract award criteria in public contracts, to promote the use of social considerations and the best price-quality ratio and to establish a procedure for departing from best price-quality ratio, to ensure that section 3 of the European Convention on Human Rights Act 2003 applies to persons carrying out functions for or on behalf of organs of State, to provide for the issuing of guidelines concerning social considerations, to require annual reporting to each House of the Oireachtas concerning certain matters and to provide for matters connected therewith.

An Cathaoirleach: Is there a seconder?

Senator Jerry Buttimer: I second the proposal.

Question put and agreed to.

An Cathaoirleach: When is it proposed to take Second Stage?

Senator Alice-Mary Higgins: Next Tuesday.

An Cathaoirleach: Is that agreed? Agreed.

Second Stage ordered for Tuesday, 2 April 2019.

Sitting suspended at 12.40 p.m. and resumed at 12.45 p.m.

Land and Conveyancing Law Reform (Amendment) Bill 2019: Order for Second Stage

Bill entitled an Act to amend the Land and Conveyancing Law Reform Act 2013 to provide for the procedure to be followed in certain legal proceedings to which section 2 of that Act applies; and to provide for related matters.

27 March 2019

Senator Martin Conway: I move: “That Second Stage be taken today.”

Question put and agreed to.

Land and Conveyancing Law Reform (Amendment) Bill 2019: Second Stage

Question proposed: “That the Bill be now read a Second Time.”

Minister of State at the Department of Public Expenditure and Reform (Deputy Kevin Boxer Moran): On behalf of the Minister for Justice and Equality, Deputy Flanagan, I am pleased to have the opportunity to introduce the Land and Conveyancing Law Reform (Amendment) Bill 2019. I have worked closely with the Minister to bring this Bill before the Oireachtas and I look forward to our discussion of its provisions here today.

The principal objective of this Bill is to provide further protections for homeowners in mortgage arrears who are facing the prospect of repossession proceedings. It does so by broadening the range of matters that a court must take into account when deciding whether to grant a possession order to a lending institution in respect of a borrower’s principal private residence. For this purpose, the Bill proposes to insert a new section in the Land and Conveyancing Law Reform Act 2013. This Bill, which has its genesis in a Private Members’ Bill I initiated prior to my appointment as Minister of State, will, I believe, prove to be an important addition to the suite of Government measures to protect those who find themselves in mortgage arrears and are facing the prospect of court proceedings for repossession of their homes. I am sure everyone in this House will agree with me that repossession of a borrower’s principal private residence should be a last resort when all other possible remedies have failed.

This Government remains committed to helping borrowers in mortgage arrears to remain in their homes wherever possible. Moving to the main provisions of this Bill, I want to stress that the Government’s objective is to broaden the range of matters that a court must take into account when deciding whether to grant a possession order to a lending institution in respect of a borrower’s principal private residence. The court may also take this broader range of matters into account where, for whatever reason, efforts to secure a personal insolvency arrangement, PIA, have failed or where, despite the borrower’s participation in a scheme designed to enable borrowers with mortgage arrears to remain in their home, the court repossession proceedings have continued.

As required by Articles 127(4) and 282(5) of the Treaty on the Functioning of the European Union, the European Central Bank, ECB, has been consulted on the Bill’s proposals. The ECB published its opinion of 18 February on its website. Section 1 contains a definition of the Act of 2013, which is required for technical reasons, while section 2 makes a number of technical, consequential amendments to section 2 of that Act. Section 3 is the key section of the Bill and inserts a new section 2A, containing nine subsections, into the Act of 2013. Subsection (1) defines the scope of this new section.

The Bill’s provisions will not only apply to those cases in which the court has previously adjourned proceedings under section 2 of the 2013 Act in respect of the borrower’s principal private residence. It will also apply in cases where, prior to or following commencement of the proceedings the borrower has already engaged the services of a personal insolvency practitioner, PIP, to assist in the resolution of his or her mortgage arrears, or the borrower has partici-

pated in good faith in a scheme designed to enable indebted borrowers to remain in their homes.

This means that section 2A will apply in the following: proceedings where the court had already adjourned the proceedings of its own motion under section 2(2)(a) of the 2013 Act but notwithstanding such adjournment there is no resulting PIA; where the court refused to adjourn proceedings in response to a request of one of the parties under section 2(2)(b) of the 2013 Act, or did adjourn them and notwithstanding such adjournment, there is no resulting PIA; and proceedings which have not been adjourned under section 2 of the 2013 Act but the borrower has, prior to the court hearing, participated in good faith in a scheme to assist borrowers in mortgage distress to remain in his or her home or engaged the services of a PIP to assist him or her to resolve his or her mortgage arrears difficulties and despite such engagement, there is no resulting PIA.

Subsection (2) provides that when considering whether to make, or refuse to make, an order for possession in repossession proceedings in respect of a borrower's principal private residence, a court must take account of the matters referred to in subsection (3). The court may also do so when considering whether to grant any other order it considers appropriate in the circumstances of the case, for example, in an adjournment, or further adjournment, of the proceedings. Subsection (3) specifies the matters that the court must take account of in considering whether to make or refuse to make a possession order. The court must take the following into account.

Subparagraph (a) provides that the court must consider whether the making of the possession order would be proportionate in all the circumstances of the case. In providing for this matter, the legislation recognises the essential role of the court in balancing the interests of both the borrower and the lender when considering whether to make or refuse to make an order for possession. Subparagraph (b) provides that the court must always take into account the circumstances of the borrower and any dependents. Subparagraph (c) provides that the court must take into account whether the lending institution has made a statement to the borrower of the terms on which it would be prepared to settle the arrears problem in such a way that the borrower and his or her dependents could remain in their home. Subparagraph (d) makes it clear that the court must consider the details of any proposal put forward by or on behalf of the borrower, whether prior to or following commencement of the proceedings, which would enable him or her, and any dependents, to remain in the home or, alternatively, to secure other accommodation.

The Minister for Justice and Equality has asked me to stress that consideration of proposals which would allow the borrower to remain in his or her home will include examination of any proposal for participation by the borrower in a scheme to assist persons in mortgage distress to remain in his or her principal private residence. Subparagraph (e) provides that the court must take into account the response, if any, of the lender to the borrower's proposal to remain in his or her home. This will place an onus on lenders to engage in a constructive manner with any proposals made by the borrower. Finally, subparagraph (f) relates to the conduct of the parties in any attempt to find a resolution to the borrower's mortgage arrears difficulties. The provision makes it clear that the court must take account of a lending institution's refusal or reluctance to engage in attempts to find a resolution of the mortgage arrears problem, and also of any borrower's refusal to engage in a meaningful and constructive manner with the lending institution in order to find such a resolution.

Subsection (4) specifies certain additional information that the court may take into account when considering whether the making of an order for possession would be proportionate in all the circumstances of the case. These include the overall amount of debt outstanding on the

mortgage concerned, the level of arrears due on foot of the mortgage concerned and the advised market value of the principal private residence at the date on which the legal proceedings commenced. I should add that the Minister has provided a definition of “advised market value”, AMV, in subsection (9). This definition, based on the corresponding definition in section 2 of the Property Services (Regulation) Act 2011, will ensure that the market value of the property is valued in a professional, objective manner. This AMV must be provided by the holder of a current licence issued by the Property Services Regulatory Authority, PSRA, under that Act. Subsection (5) has a technical purpose; it clarifies that the fact that there is no PIA in a case may arise because a proposal for a PIA has not been made, or such a proposal has been made but the procedure has ended without a successful outcome.

Subsection (6) identifies the circumstances in which, under the Insolvency Act 2012, the PIA procedure is considered to have ended. The procedure will be considered to have ended: where a PIP has prepared a proposal for a PIA and the debtor has consented to that proposal and the calling of a creditors’ meeting, but that meeting does not take place before the expiry of the protective certificate as set out in section 106(3) of the 2012 Act; where, under section 108(8)(b), at the taking of a vote at a creditors’ meeting regarding a PIA proposal, the proposal is not approved by a majority of creditors in accordance with section 110 or deemed to be approved, and the PIA procedure has terminated; and where, in a case under section 11A, there is only one creditor and the creditor does not approve the proposal under section 11A(8), or the personal insolvency practitioner fails to give the creditor a written notice of the proposal before the expiry of the protective certificate under section 11A(9).

It will also be considered to have ended where the court upholds an objection to the PIA under section 120 and the process is deemed to come to an end in accordance with section 114(3); where, under section 115A(9), the court refuses to make an order confirming the coming into effect of the proposed PIA following a court review under section 115A; or where the debtor is in arrears with his or her payments for a period of six months of the PIA and it is deemed to have failed under section 123.

Subsection (7) permits the Minister for Justice and Equality to designate a scheme for the purposes of subsection (1)(c)(i) and subsection (3)(d)(i). Any such scheme would have to comply with the following conditions: the objective of the designated scheme must be to provide those borrowers with mortgage arrears difficulties in respect of their homes with assistance that is reasonably likely to enable them to address these difficulties and facilitate, as far as possible, their remaining in their homes; and that it is reasonably likely that such assistance will, in fact, be provided under the scheme. Subsection (8) provides that an advised market value must be set out in a statement provided by the licensee under the Property Services (Regulation) Act 2011. Subsection (9) is a standard provision containing a number of relevant definitions for the purposes of this new section.

Finally, section 4 contains standard provisions relating to the Short Title, collective citation and commencement provisions.

On behalf of the Minister for Justice and Equality, I wish to underline again the importance of this short Bill. When enacted, it will provide important additional protections for borrowers by broadening the range of matters that a court must take into account when deciding whether to grant a possession order to a lender in respect of a borrower’s home. The position of the Government has been and continues to be that repossession of a borrower’s principal private residence must always be a remedy of last resort. I commend the Bill to the House.

Senator Lorraine Clifford-Lee: Fianna Fáil is supporting the Bill. It is happy to support any measures that will, in principle, help distressed mortgage holders. It is welcome that the purpose of the Bill is to broaden the scope of matters that courts must take into account. We believe that loans should not be sold to vulture funds. Such practices are causing great distress to people across the country. Apart from this Bill - with the greatest of respect to the Minister of State, I believe Fine Gael is advancing it to appease him - the Government has practically abandoned distressed mortgage holders across the country. All Members are aware of such situations from people in our constituencies and hearing awful stories of people in great distress.

Fianna Fáil brought forward legislation to regulate vulture funds for the first time in this country which was signed into law in late 2018. However, more progress needs to be made on the insolvency regime side. In the absence of a fair and functioning regime, it is the courts and not the Government which offer some bit of protection to distressed mortgage holders. Fianna Fáil has brought forward a Bill which would remove the veto which banks currently hold and establish a mortgage resolutions office which would provide fair and sustainable solutions to mortgage holders and allow those making a real effort to pay their mortgage to stay in their home. That is the only solution in the absence of proper social housing building across the country. That is the real nub of this issue. People are staying in their homes and trying to work through their mortgage distress because they have no alternative; they do not want to be out on the streets with their children. Fianna Fáil believes the Government needs to make substantial progress in that regard.

Senator Martin Conway: I wish to warmly welcome the Minister of State to the House. He has become a regular visitor here. As far as I am aware, although I am open to correction, he is the only Minister or Minister of State in my eight years in this House to have initiated a Bill prior to entering office and then come to the House to bring it over the line. This is the second time in a matter of weeks that the Minister of State has had that unique distinction. That is a phenomenal achievement because it comes from having a finger on the pulse of the people who need the help of politicians and the Government more than anybody else, those who do the right thing, engage, embrace the system, talk to banks but find themselves in the awful position of not being co-operated with.

I agree with Senator Clifford-Lee in regard to vulture funds. What went on in this country was appalling whereby we allowed banks to sell to vulture funds which had no compunction whatsoever in terms of how they dealt with people. They lacked any kind of decency or humanity. The vast majority of people who end up in such situations want to do the right thing as best they can. The Bill proposes giving them the protection of the State when they try to do the right thing. It certainly does not accommodate those who refuse to engage or are trying to circumvent the system in some way.

It is not a large Bill, but, as I often say, small is beautiful. It will potentially make a phenomenal difference to people's lives in real terms. I am delighted that Fianna Fáil is not opposing the passage of the Bill on Second Stage. I suspect none of our other honourable colleagues will do so either. If there are issues that need to be looked at, that can be done on Committee Stage. However, the genesis of what the Minister of State was trying to achieve in his Private Members' Bill and which the Government is now trying to achieve through this Bill is what we all should want to do as politicians.

Irish people are very proud of their homes. We have one of the highest rates of home ownership in the world per head of population. People invest most of their hard-earned money into

acquiring and maintaining a house which becomes a home. Most people want to hold onto their home at all costs. Financial institutions should not be allowed to unilaterally disregard the genuine efforts of decent, honourable, hardworking people who find themselves in a difficult situation. I welcome the Bill and look forward to its passage through the House in the not-too-distant future, becoming law and being signed by the President. There is not much more to say except that it is excellent legislation and I sincerely hope that it does not fly under the radar of the public and the media. The media are discussing the work being done by the Government in responding to the needs of people. Yes, we have a lot to do, but this legislation is responding to the needs of the most vulnerable in our society, those who could become homeless as a result of a lack of co-operation by financial institutions. I wish the passage of the Bill every success. I will certainly endeavour to ensure that there is no obstacle on the Fine Gael side to its passing through the House in as swift a time as possible.

Senator Niall Ó Donnghaile: Cuirim fáilte roimh an Aire Stáit. Tá mé sásta go bhfuil an deis agam cúpla focal a rá ar an Bhille seo inniu. Like Fianna Fáil, Sinn Féin will not be opposing the passage of the Bill on Second Stage. However, there are several points which I wish to put to the Minister of State and which it is important to put on the record of the House. The Bill provides for matters relating to mortgage repossession proceedings and related court matters. My understanding is that it requires judges to have regard to the overall proportionality of repossession and the family situation of someone who may be facing repossession and the loss of a home.

I will focus on section 3 given that it is the meat and drink of the Bill. Subsection (1) broadens the protections of the borrower, if the borrower has previously engaged the services of a personal insolvency practitioner, PIP, to assist in the resolution of his or her mortgage arrears problem or the borrower has participated in good faith in a scheme designed to enable indebted borrowers to remain in their principal private residences. This is welcome given that good faith is generally a ground on which banks contest. I know anecdotally of cases where the banks have said they have engaged with the borrower. They outlined completely unrealistic deals to ensure payment and then stated that the borrower had failed to engage as he or she could not meet the demands of the institution. It is somewhat disingenuous in the first instance and ignores the principle of good faith.

Subsection (2) provides that when considering whether to make or refuse to make an order for possession in repossession proceedings, a court must take account of the matters referred to in subsection (3), some of which are of particular note, namely, whether the order is proportionate, if the borrower has children, and the conduct of the parties in any attempt to find a resolution to the borrower's mortgage arrears difficulties. These are all welcome measures and it is also welcome that the State seems to be, albeit late in the day, giving weight to cases where minors, in particular, are involved. I am sure all of us hope this will go some way to prevent a further increase in the number of children who are currently homeless in the State, which is 4,000.

We must bear in mind that while this Bill represents progress, the other policies of the Government are still causing misery and adding to the housing arrears crisis. The vulture culture it is fully behind is causing huge stress and concern. What is it about helping the banks solve their problems and to hell with the affected families' problems? The UN is condemning the policy, and rightly so.

I hope the no-consent no-sale Sinn Féin Bill to empower borrowers comes in and makes a

difference, despite the scaremongering. We must also express frustration at the Central Bank decision and Government acquiescence to amend the code of conduct on mortgage arrears. This was a key commitment of the programme for Government that has been broken, and broken brazenly. Where are the special courts that the programme for Government also promised?

I wish to put on record reservations and draw attention to subsection (3)(f), which the explanatory memorandum tells us means that the court may take account of a lender's refusal or reluctance to engage in attempts to find a resolution of the arrears issue and of a borrower's refusal to engage in meaningful engagement with the lender to find such a resolution. There is a danger here that we will be introducing a double edge, where for the first time, as far as I am aware, the behaviour of a borrower can be held against him or her. The problem is that there may be many reasons a borrower will not engage, including pure fear or lack of capacity to face a bank on an equal footing. This subsection needs close scrutiny and possible amendment. Who decides, for example, what "meaningful engagement" is?

Subsection (6) deals with personal insolvency agreements. Subsection (7) deals with the ability of the Minister to establish a scheme to assist the borrower who is at risk of losing his or her home. The objective of such a scheme, as stated in the explanatory memorandum, must be to provide those borrowers with arrears difficulties in respect of their principal private residence with assistance that is reasonably likely to enable them to address these difficulties and facilitate, as far as possible, him or her remaining in his or her principal private residence. Potentially, it is an interesting proposal which may be of benefit to the borrower. I will reserve judgment on this, however, until further details are provided and perhaps the Minister of State could touch on that in his concluding remarks.

More broadly, I wish to echo some of the sentiment expressed by my party previously, in stating that I am appalled at the changes to the legal aid rules brought in at the end of January. These create a further inequality in representation between the banks and vulture funds on one hand, and the person applying for insolvency on the other. Until now, if one was applying for personal insolvency or appealing the refusal of the banks to grant one, then one could avail of the advice of a solicitor and a barrister. As of 31 January, the Government has removed the right to a barrister for the debtor in court, other than in exceptional circumstances. It has also halved the fees for solicitors and personal insolvency practitioners. This will make it much easier for banks and vulture funds to repossess homes. I fear that people will be left completely to the wolves. Bear in mind that they will be taking on banks which will have the very best legal representation available and will be dealing with complex legislation. This is, to all intents and purposes, an attempt to disarm the debtor who may be fighting possession. A very significant proportion of appeals against a refusal by the bank to engage in the insolvency process are successful. If the banks are facing strong legal opposition, they may then agree to engage in the first instance. If, however, the banks are facing much more limited resources, with the bank potentially having senior and junior counsel and the debtor not having any barrister, what then is the incentive for banks to engage? The Government appears to be driven to undermining the protections which the mortgage holders have and to assisting the banks and vulture funds. That is shameful, is *mór mo náire* air.

This Bill is being framed as an attempt to rectify the very serious imbalance that exists, and despite being welcome, does not do enough when contrasted with such decisions as I outlined above. The Government is essentially giving crumbs to the homeowner on the one hand and giving banks and vultures a feast with the other.

I wish to conclude by briefly commenting on the role of the Garda, and the perception of it assisting unregulated bailiffs in making repossessions on behalf of the lender. I understand that this issue is still outstanding, with private security firms remaining unregulated as of today. I know the Minister has committed to looking at the regulation of such firms but nothing has emerged since that announcement. My colleague, Deputy Ó Laoghaire, published the Regulation of Private Security Firms Bill in January, and has placed it on the Order Paper. I ask the Minister to look at this Bill, consider advancing it, or a similar piece of important and crucial legislation, as a matter of urgency.

Senator Colm Burke: I welcome the Minister of State to the House. I also very much welcome this Bill. As someone who is involved in the political and the legal arenas, I am very familiar with the issues that can arise. One of the concerns I have on occasion is the lack of engagement by the lending institutions with the borrowers, in particular where there are a number of properties involved and where one section of the bank may be dealing with business loans while another section is dealing with personal loans. I find the two sides will not meet when one wants to sit down and hammer out a deal. That is one of the most frustrating things I have come across.

I have also come across the very poor situation of receivers being put in charge of properties. I can give the Minister of State an example of a case I am involved in where a receiver from Dublin was put in charge of a property in a country town in County Cork. After two years later, we found that property had gone to rack and ruin because the receiver did not do its job. Should the borrower carry the cost of the devaluation of that property? Properties have gone up in value over the last three to four years, yet this property has gone down substantially in value, by approximately 66% in real terms. There are other borrowings in this case. We have found that the lending institution is impossible to deal with and will not talk to us about the mess it created. It is wrong that people are dealt with in this way. Different legal practices are acting for the different arms of the same bank and we have found that the two or three sides will not meet to deal with the issues that have arisen.

I very much welcome this Bill in respect of certain issues concerning the repossession of family homes. We need to have a more comprehensive mechanism in terms of engagement. One of the most frustrating things for people is the inability to communicate with someone in the lending institution. That is the biggest challenge I have found. I am dealing with three or four of these cases. I am trying to tie someone down in terms of arranging a meeting on a particular day and at a particular time so that we can go through the issues. I find this extremely frustrating.

There is another side to this which I find frustrating. I was in the High Court last Tuesday week. People are using the court system to delay resolution and that is not helpful either. I was not there on a borrowing matter but on another matter and I witnessed what I would consider was not proper co-operation on both sides, which is not helpful either.

It is important that in the case of a family home, particularly where there is a young family, every opportunity is given to try to come to a resolution of the issue. I have indicated figures to the Minister of State and we are fortunate as deposits in Irish banks and financial institutions now exceed the amount of lending. We are therefore now in a better position than we were a number of years ago. Our net household borrowing is approximately €150 billion but deposits are slightly higher than that now in real terms, which is a welcome change.

My understanding is we are now down to approximately 57,000 households in negative equity. That figure will probably continue to improve and one newspaper recently indicated that within the next six to eight months, there will be very few households in negative equity. A person may not be in negative equity but the question remains as to whether there is still the capacity to repay the borrowings that remain; those are separate matters. The question is whether banks will move on properties when they realise there is no longer the risk of negative equity but there could be major consequences for a family with that move. It is something we must deal with. Have we got any figures on the overall numbers of people not engaging with banks? It is still a little unclear as to what is occurring there if for some reason people do not engage with banks. As a result, all we are hearing about is people going to court, so it would be helpful to have some kind of information on that. Most people want to engage and deal with the matters allowing them to stay in a family home.

There is also the matter of cases where parties have separated, meaning just one party might be dealing with the bank while the other party has opted out of the process. This presents a major challenge and nine times out of ten we will find the party who wants to engage and is in the family home is also the party looking after children. It is a challenge we must also deal with and it needs to be taken into account. Trying to get the person who has decided to opt out back in so as to ensure he or she can make a contribution to support the family is important.

I welcome the Bill, which will be helpful in trying to deal with issues presented to families in courts.

Minister of State at the Department of Public Expenditure and Reform (Deputy Kevin Boxer Moran): I thank all Senators for their contributions and I am particularly thankful for the support from Fianna Fáil and Sinn Féin, as well as Senators from the partners in government, Fine Gael. I am no different from anybody else in the House and I travelled the length of Longford and Westmeath trying to get into Dáil Éireann and saw so many people who found themselves in so much difficulty. So many people have found themselves in arrears. This Bill is short but it will make a big difference. It is unfair to say that the Government has not acted. Although the Bill was introduced nearly three years ago, it had to pass through the Houses and that is why we are here today. I welcome the views and points of all Senators. One or two questions were put to me and I will get back to the Senators in writing on those. I really appreciate the support. Although this is a short Bill, it will make a big difference to people.

All day yesterday people were sending emails and texts to my office wondering about the Bill. It is most important for people who want to work with the banks. We are not leaving an open door for those who are not engaging with banks. This deals with people who have found themselves in difficulty and who want help. The Government is here to do that and I thank all the Senators for their support.

Question put and agreed to.

Acting Chairman (Senator Catherine Noone): When is it proposed to take Committee Stage?

Senator Martin Conway: Next Tuesday.

Committee Stage ordered for Tuesday, 2 April 2019.

Sitting suspended at 1.25 p.m. and resumed at 2.30 p.m.

Period Poverty: Motion

Senator Ivana Bacik: I move:

That Seanad Éireann:

notes that:

— the average woman, or anyone who experiences periods, will have 507 periods from age 12 to 51, for roughly 39 years of her life;

— in Ireland, sanitary products can cost from €2 to €6 per pack, with the average pack containing 10 to 15 pads or tampons, and that a 12 pack of pain relief tablets costs between €6 and €10;

— most women and girls will have 13 periods a year, with some using up to 22 tampons and/or towels per cycle leading to an estimated annual cost of €208 for sanitary products and pain relief, costing €8,100 over a lifetime;

— access to affordable sanitary products and menstrual education should be viewed in a human rights context as according to the World Health Organization's constitution '... the highest attainable standard of health as a fundamental right of every human being';

— the United Nations (UN) Human Rights Council Resolution 33/10 on 29 September, 2016 states that lack of menstrual health management and stigma associated with menstruation both have a negative impact on gender equality and women's and girls' enjoyment of human rights, including the right to education and the right to health;

— the UN Committee on Rights of the Child General Comment No. 20 (2016) on implementation of the rights of the child during adolescence has stated that 'All adolescents should have access to free, confidential, adolescent-responsive and non-discriminatory sexual and reproductive health services, information and education...[including on] menstrual hygiene';

— according to a survey of more than 1,100 young girls and women aged between 12 and 19 years by Plan International Ireland nearly 50 per cent of Irish teenage girls find it difficult to afford sanitary products;

— some 109 of the young women who participated in the survey said they were forced to use a 'less suitable sanitary product' because of the high monthly cost involved;

— nearly 60 per cent of, or one in two, young women and girls said school does not inform them adequately about periods;

— six out of ten young women reported feeling shame and embarrassment about their period, 61 per cent miss school on their period and more than 80 per cent said they did not feel comfortable talking about their periods with their father or a teacher; and

— nearly 70 per cent of young women take some form of pain relief during menstruation;

acknowledges that:

— tampons and sanitary towels are not subject to Value Added Tax (VAT) in Ireland which has a zero rate treatment on women's sanitary products, but new period products that may better suit some women, girls and the environment, are still taxed at the highest rate of tax at 23%;

— due to the high cost of these products, women and girls in period poverty are resorting to unsuitable options such as newspaper, toilet paper or unwashed clothing;

— girls and young women who suffer shame and embarrassment surrounding their period are more likely to use unsuitable options rather than approach family members or their teacher;

— in September 2018, Dublin City Council announced it will provide free sanitary products in its buildings such as community centres, swimming pools and libraries;

— the advances being made in other countries such as the success of a six month pilot in Aberdeen to provide free products in all schools funded by the Scottish Government; and

— the work of organisations such as Plan International Ireland and The Homeless Period to alleviate the stress and financial burden placed on women and girls due to period poverty;

and calls on the Government to:

— provide a range of free, adequate, safe and suitable sanitary products and comprehensive, objective menstrual education information distributed through all public buildings, including schools, universities, direct provision centres, refuges, homeless services, Garda stations, hospitals, maternity hospitals, prisons, detention centres and rehabilitation centres so as to tackle period poverty and de-stigmatise and normalise menstruation;

— ensure all menstrual products available in Ireland are safe, through regulation and quality checks;

— ensure young women, girls and people of other genders can learn about their periods and menstrual hygiene in a normalising and safe environment, including online by providing a State-run website with objective information, and ensure girls, boys and people of other genders have access to education about menstruation integrated into the school curriculum;

— ensure improved access to hygienic facilities and sanitary products that are affordable and meet individual needs;

— work with other countries across the European Union to remove VAT on all sanitary products, including healthy and environmentally-friendly sanitary products such as cups and period-proof underwear; and

— prioritise the issue of menstrual equity for girls and children's rights as central to Irish Aid's work overseas in line with the UN's Sustainable Development Goal 5 on

27 March 2019

achieving gender equality and empowering all women and girls, and Goal 6 which calls for universal and equitable access to adequate and equitable sanitation and hygiene for all by 2030.

I welcome the Minister of State, Deputy Catherine Byrne, to the House. I welcome to the Visitors Gallery, Deputy Catherine Martin, the chairperson of our Oireachtas women's caucus. I commend Deputy Martin on all her great work in chairing it, bringing all women Members of both Houses together and initiating the debate on period poverty and the wording of this motion. As colleagues will be aware, this motion was already debated in the Dáil, during international women's week, around 8 March. We thought we would introduce it in the Seanad in the same spirit as a cross-party motion proposed by all Members of the Seanad, both women and men. I am delighted that my colleague, Senator Clifford-Lee, will be seconding the motion but it is an all-party motion supported by everyone here.

In the short time in which the women's caucus has been in place, it has already had a very powerful voice on women's issues and policy issues generally. For example, we held a very successful international conference of women's caucuses in Dublin Castle last September, bringing in women parliamentarians from all across the world, from developing and developed countries alike. It was really interesting for all who took part to share our common experience as women in Parliaments across the world and to share the experience of almost all of us of being in a minority in our Parliaments. I do not need to tell the Minister of State or anyone else how low the rate of female representation still is in the Dáil and Seanad. It is somewhat better in the Seanad, at 30%, but still very poor. The rate in the Dáil, 22%, is still far too low, despite the great achievement of the quota, which raised the proportion of women's representation from the previous high, which was only 16%, to the current high, 22%, or 35 women out of 158. I hope we will be joined in the Gallery very shortly by a group of young women, future women leaders, and some young men who took part in the Department of Justice and Equality's Politics Needs Women competition to mark the centenary of women's suffrage in Ireland last year. Each of the 16 finalist schools created a short video clip on why politics needs women. The videos were incredibly creative and original. The winning school, from Clane in Kildare, brought the two students involved and their teachers to New York in March to take part in the Commission on the Status of Women events there. It was a great prize. The videos in their entirety are really powerful. I was very proud and privileged to chair the panel judging the videos. I commend all those who made the videos. I was glad we were able to host the 16 school finalists just now in the Department of Justice and Equality, and we will soon be hosting them here in Leinster House. I hope they will come in to watch some of this important debate.

This debate is an initiative of the women's caucus. It is a very important one because it marks the first time that menstruation and periods have been debated in the Oireachtas, in the Seanad today and in the Dáil two weeks ago. Considering how few women representatives we have had over the 101 years for which women have had the right to vote and have been elected to the Dáil, it is not surprising that there has been so little reference to menstruation. It is dreadful that something so integral to women's health and so normal for all women and girls has not been debated or talked about openly. I very much hope today that we will have male colleagues in the Seanad speak, as was the case in the Dáil. My colleagues, Deputies Jan O'Sullivan and Sean Sherlock, both spoke in the Dáil debate. It was important that men and women participated.

There is increased awareness of period poverty, in particular. The motion does not just refer to menstruation or periods for its own sake. It is also a matter of speaking about the real issue,

which is not just about women's health but also poverty. The Minister of State will be very aware of this. The increased awareness of period poverty has opened many people's eyes to the issues at play. There have been quite a number of legislative and policy initiatives recently to tackle period poverty, of which this motion is part.

I commend the work of those councillors who have raised this as an issue, in particular my Labour Party colleague, Councillor Rebecca Moynihan, who first brought the issue of period poverty to the fore in Dublin City Council. Last September, councillors in that council supported her motion to provide free sanitary products in Dublin City Council-owned buildings. They will now be available at libraries, sports centres, council offices and community centres. It is a really progressive and practical step. The initiative has been followed by my Labour Party colleague in Dún Laoghaire, Councillor Deirdre Kingston, and in Wexford by Councillor George Lawlor, who have ensured that similar motions were passed in their councils. I commend them on raising awareness of this issue.

We could say the issue of period poverty is having a moment. It is being highlighted, not only in Ireland but also elsewhere. We have seen an initiative online, Pads4Dads, to encourage fathers to speak to their daughters about periods. That is very important in my family. I have two daughters and it is important that they feel comfortable speaking to their father about what is such an important health issue for them.

Just last month, a film about an amazing initiative in India to provide sanitary products to women, "Period. End of Sentence", won the Academy Award for best short documentary at the Oscars. It is a powerful film about the Pad Project, a group of local women in India who have learned how to operate a machine that makes low-cost biodegradable sanitary pads, which they sell to other women at affordable prices, helping to improve feminine hygiene by providing access to basic products but also by supporting and empowering women to tackle and shed the taboo in India surrounding menstruation. This is not a taboo unique to India or any one country. Clearly, this is something that has to be tackled in every country.

An effective publicity campaign accompanied the film. It focuses on the twin issues of stigma and the real financial burden for women and girls. Indeed, at the briefing in the audiovisual room that Deputy Catherine Martin and the Women's Caucus organised two weeks ago, all of us who were present heard powerful and moving testimony about the real impacts of period poverty on women and girls in developing countries many of whom have to miss a great deal of school because they have no access to sanitary products that would enable them to attend. We have seen other initiatives to tackle period poverty. Ms Aditi Gupta, a young entrepreneur in India, seeks to explain menstruation through a comic book she has produced, called *Menstrupedia*, which has already reached 150,000 girls in her country as an educational tool aimed at breaking down the stigma of talking about periods.

Plan International Ireland, which was represented at the briefing in the audiovisual room, has termed the "toxic trio" of period poverty as: first, the stigma and taboo of not being able to speak openly about menstruation; second, insufficient education about periods and menstruation, not only for girls in schools but also boys who also, of course, need to know about female health; and, third, the cost and lack of affordability of sanitary wear - basic hygiene products. We know, as I have said, from the work of Plan International Ireland and other organisations, that there are millions of women and girls across the globe who cannot afford period protection. We need to tackle that, and that is part of the text of the motion. In addition, we need to make an effort to rethink the education we provide about menstruation and to shake off, as I have said,

the stigma and taboo bound up with menstruation.

This new movement, this new political impetus around period poverty, seeks to address not only the financial and practical barriers to accessing adequate sanitary protection but also attitudinal and cultural problems. I refer to attitudes which continue to suggest that women should whisper, speak among themselves about, use euphemisms with which we are all familiar, such as referring to one's "time of the month", hide tampons up their sleeves, etc. There is an ongoing issue in the context of stigma and shame and this must be dealt with in conjunction with tackling the financial barriers.

While it is important we focus on the attitudes and culture, the financial barriers are very real. Last May, the UNFPA, the family planning association of the United Nations, published a comprehensive review of available evidence on menstrual health management in east and southern Africa which powerfully underscored the ways in which period shame and misinformation had undermined the well-being of women and girls, making them vulnerable to gender discrimination, child marriage and early marriage, exclusion, violence, poverty and untreated health problems. As already stated, the link between menstruation and lost time in school is well documented, as are the links between menstruation and lost wages. Women across the globe experience limited access to sanitation facilities in their work places and education facilities. The UNFPA reported highlighted important initiatives taken by countries such as Kenya, where schools distributed sanitary pads to tackle girls' absenteeism. The UNFPA has been supporting these and similar initiatives around the world seeking to ensure that girls need not miss school due to the lack of availability of adequate sanitary pads and sanitary facilities.

I note the impact that lack of access to menstrual health has on the achievement of the UN sustainable development goals, particularly the access to sanitation facilities in goal 6 and, of course, the very important achievement of gender equality listed in goal 5 of the UN sustainable development goals.

We are joined by some of the finalists in the Politics Needs Women competition that I mentioned earlier. I welcome them all from the different schools. As I said, there were 16 schools in the final. Already today, students from 13 of them have visited the Department of Justice and Equality and Leinster House in order to witness the workings of the Dáil and Seanad and, of course, to hear us debate. It is timely that we are debating an issue of women's health such as this motion on period poverty when we are joined by so many powerful young voices who represent, as I have stated, the future of politics in Ireland. I hope that in the future politics will be more equal for women.

I have spoken about the impact of period poverty in developing countries and referred to the work being done by the UNFPA, Plan International and other development agencies. However, period poverty is also an issue in this country. We heard powerful testimony at the briefing to which I refer in the audiovisual room regarding the impact of lack of access to sanitary products for many women and girls here. This affects quality of life. It affects access to education, access to work and, indeed, all sorts of other aspects of active life, such as sport. Councillor Rebecca Moynihan has pointed out that homeless women, those living in direct provision and women on low incomes struggle in the context of accessing sanitary products just as women and girls in developing countries have done for so long. Our motion seeks to tackle this aspect of period poverty here as well as in other countries.

I commend the Homeless Period Ireland organisation, founded by Ms Petra Hanlon and

directed brilliantly by Ms Claire Hunt, which now has 30 drop-off points for people to donate sanitary products to homeless women. Indeed, we had a drop-off point in the Oireachtas to coincide with the debate in the Dáil on period poverty two weeks ago. I very much hope that will not be the last time we have a drop-off point here and that we will make it a regular event to have such drop-off points in order to raise awareness about period poverty in Ireland and in developing countries.

I am running out of time. Mindful that we are joined by such powerful young advocates for women in politics in the Gallery, I take this opportunity to state that no girl or woman should be held back from developing or thriving because of the stigma that surrounds periods. We hope that this motion is just the beginning of people in Ireland taking period poverty seriously and of tackling issues relating to stigma and access to sanitary products. We hope that the Government will take up the challenge we have laid down in this motion and that practical and tangible initiatives be put in place in order to address the very real issue of period poverty for so many women and girls throughout Ireland and, indeed, internationally.

An Leas-Chathaoirleach: Senator Bacik will have four minutes at the end to reply. The Senator has gone approximately four minutes over time but I dared not pull her up on it.

Senator Lorraine Clifford-Lee: I second the motion.

I welcome the Minister of State. I am delighted that we are having this debate. It follows on from the debate in Dáil Éireann, which was very well received both here and by the general public. I, too, commend the Women's Caucus for formulating this motion and putting it forward. I am delighted that we have cross-party support across both Houses. The motion relates to starting the debate and then continuing on with it. The debate on period poverty has inspired many young people right and has started them down the road of political activism, which is to be encouraged. It is part of the overall debate on reproduction that we are having but we still have a long way to go.

I also welcome the students in the Gallery. I commend them on the work they have done. I particularly commend Mr. Senan O'Reardon and Ms Fathia Rasheed from Donabate community college, which is located near where I live. Their school was one of the finalists. Those in the Gallery are doing a great job to promote female participation. I am glad that they are here for this very important debate, a debate we are having because we have record numbers of women in both Houses of the Oireachtas, even though the numbers are quite low. Let us hope it will inspire plenty more people to put themselves forward for election.

As already stated, a generation of young women, and men, have been inspired by the period poverty debate. In particular, I commend Eureka Secondary School in Kells. I visited the school and pupils from there visited Leinster House in return. They have started a project called "Our Conversation about Menstruation", which can be found online. They do a great job at having this discussion and advertising the issue of period poverty.

This is a real issue. When I started talking about this over 12 months ago, people were somewhat confused. They did not realise that it was an issue until the debate started. I suppose women were aware of it but they never spoke about it out of shame and the stigma regarding periods. The inability to provide for one's own basic hygiene is a cause of shame but that should not be the case. It is a failure of society that 50% of Irish girls state that they have missed out on their education because of lack of access to hygiene products. Two thirds of Irish women

have used makeshift protection for periods, which is a high number. The various other items that they have used can lead to serious health implications and infections down the line. That is shameful and should not be happening in Ireland today though, unfortunately, it is.

Homeless women and women living in direct provision are particularly vulnerable and that is added to all the other issues they are facing because of their living situations. This issue is, obviously, particular to women. It should not be there. It will have a devastating impact on those women and it is something we, as a society, need to tackle. I commend Homeless Period Ireland on the fantastic work they are doing but it should not be up to people to volunteer and provide sanitary products that should be provided by the Government.

I hope this conversation will result in real action taking place. Our near neighbours in Scotland rolled out a scheme last September, which cost £5 million. Scotland has a similar population to us and those products are now available in public buildings. The women of Ireland deserve this investment. I hope the Minister of State will promise that it will be delivered in Ireland in the very near future.

Senator Catherine Noone: I also commend the women's caucus for the motion and acknowledge Deputy Catherine Martin who is in the Public Gallery. As others said, it is a conversation that needs to be had.

This is an issue that, when it does not affect one directly, can be quite difficult to relate to. If one can afford to purchase the products one needs, and one lives in that world, it is easy not to think of those who might be in a different situation. No woman should have to choose between basic needs and sanitary products and yet that is the situation in which some women find themselves each month.

Recent studies show that 50% of Irish girls aged between 12 and 19 have experienced issues with the affordability of sanitary products. That is a significant number and, as Senator Clifford-Lee said, our neighbours in Scotland have rolled out a scheme to provide free sanitary products in schools. That alone would do away with much of that statistic I mentioned, which would be welcome. The scheme in Scotland is highly effective and costs approximately £5 million per year to operate, which is a lot of money, but is affordable in the context of what we spend as a country. As others said, women who are vulnerable in direct provision and homelessness are the most in need of measures that could alleviate period poverty.

Some schools in Ireland have also brought in the strategy adopted in Scotland and they should be commended. However, their reach is limited and there is no replacement for Government action, as Senator Clifford-Lee said, which can reach every woman on this island. Missing school, becoming ill or getting infections are all serious issues that are related to this. As previous speakers said, it is about having an open and frank conversation on the issue. Senator Bacik, in particular, has clearly done a lot of research on the level of stigma and taboo that exists in developing countries and went into considerable detail about that. There is still a stigma and embarrassment. With the greatest of respect to the men present, if something is below the belt in this Chamber, it tends to be women who talk about it which, in a way, is understandable but it speaks to a stigma or embarrassment about women's health issues. That needs to be brought to an end. We are all familiar with the euphemisms that Senator Bacik mentioned and those things are not spoken about openly or freely. Perhaps there is a reason for that.

Period poverty is a problem for which we know there is a solution that is not costly. That is

where I come from on this. We must act now on what we know to be the right thing to do and ensure that no woman or girl in Ireland faces this dilemma ever again.

I pay tribute to Ms Claire Hunt of Homeless Period Ireland, as Senator Clifford-Lee did. She has worked tirelessly to address this issue in communities across Ireland. Her drive and determination serve as a welcome inspiration for actions we must consider as legislators. Like other issues that relate to women, we need to push for this. It is an area that begs a few puns but the bottom line is we need this motion to be passed and something to be done, period.

Senator Rose Conway-Walsh: I welcome the young women from Politics Needs Women to the House. It is great to see so many young women and they are all welcome. I hope, before too long, they will be in these seats and the seats in the Dáil. We need more women's voices and this motion is an example of that. It is not just more women that we need across the board but women from different backgrounds with different experiences who bring different issues and priorities to this House. We see it in the group of women here in the House. Each of us brings a unique piece and it is like putting a jigsaw together. It makes things work and it leads to good debate and legislation when we have well-rounded and informed input into the legislation.

I also thank the women's caucus and, in particular, Deputy Catherine Martin, who was here, for the great work she does on the caucus and for bringing forward this important motion which I am happy to support. It is a comprehensive motion, which is well thought-out and clear in its objectives. We have had problems in the past with motions being agreed with by the Government but not delivered on. The Minister of State is welcome to the House and I urge her and the Leader to ensure the motion is acted on and not just shelved once passed.

I will speak to the issue of period poverty among those in direct provision centres. In November, the Minister for Justice and Equality told my colleague, Deputy Adams, in a response to a parliamentary question that the independent living model would be rolled out across direct provision centres. That model is a points-based system on access to toiletries and other products that would be based on family composition and need. The Minister stated that supplies of women's sanitary products would be made available as required for those centres that did not yet have this model and that the cost would be borne by the Department. As far as I know, that has still not happened. There are women who receive only €38.30 a week. They are not in a position to work, so they have to use up a significant chunk of that weekly allowance on sanitary products. That is wrong so I welcome the call in this motion for these products to be provided free in direct provision centres. I urge the Minister to ensure that this is rolled out immediately.

The Minister of State, Deputy Jim Daly, in his reply to this motion in the Dáil referenced the Government's national strategy for women and girls. I could not find a reference to menstruation or periods in that document but it is possible I missed it so perhaps the Minister of State could specify how that strategy fits with this motion in her reply.

It is interesting that the motion is a great example of what happens when women are represented within power structures. While women are in Parliament because they are qualified and have earned the right to be here, we cannot ignore the barriers currently faced by women in accessing and occupying certain roles. There are barriers to women who are carers, or mothers of children with disabilities and for other women who cannot access the power structures they need. Representation is important because sometimes one can only understand things fully through lived experience and this topic is a perfect example. That is why, in the short term, gender quotas are needed to ensure that women like those who are here today, and, therefore,

women's lived experiences, are properly heard within Parliament. We could also speculate if we missed period poverty for this long, what else are we missing when we do not have voices from, say, Traveller backgrounds or migrants represented?

Let us take the positivity and learning from this motion and expand it to other areas. We have much to gain.

This motion also highlights an ideological point that is so important and that is the crux of the different approaches of different parties and the alternative we in the left are trying to offer.

3 o'clock This motion argues that no one chooses to menstruate and those who are struggling financially are facing a cost for looking after their essential health. What we are really saying is that healthcare should be based on need, not ability to pay. If a woman needs to access free sanitary products, she should be able to do so, end of story. It is our vision that this approach is broadened to become the ideology driving all of our healthcare decisions from seeing a psychologist to getting a spinal operation. These things should be based on need, not income.

The important work of tackling period poverty has already begun on the ground. In September last year, Councillor Sandra Duffy passed a motion for Derry City and Strabane District Council to provide free sanitary products. At the same time, Dublin City Council passed a similar motion. My colleague, Lynn Boylan, MEP, has called for sanitary products to be tested and regulated because of safety concerns, in particular with regard to "menstrual cups", which are environmentally friendly and are becoming popular in Ireland. Safety checks on these products are not currently carried out in Ireland. I am hopeful that this work together on the ground and in these Houses and in Europe will result in real and substantive change on the issue of period poverty. I thank the Oireachtas Women's Parliamentary Caucus and the background staff who worked extremely hard to get this motion to this stage today. I look forward to its full implementation.

Senator John Dolan: I am sharing time with Senator Ruane, who has very graciously allowed me to kick off the first four minutes. I welcome the Minister of State and, in particular, Deputy Catherine Martin, who has given great leadership on this issue. I acknowledge that so many others in both Houses are responding positively to that.

I will start in Amsterdam, pass quickly through Bucharest and come back to rest here in Dublin. As a young teenager I read *The Diary of Anne Frank*, which was my first public understanding or reference to periods. She referred to her first period as her sweet secret. Whether it would always have been so for her is another day's work. It is notable that this subject can only be discussed in an open and public way on rare occasions. That was my first one. The rest of it was all boys' talk.

I was at a series of meetings relating to the European Disability Forum in Bucharest last weekend. I met Adriana Tontsch, a colleague who has been a champion for children with spina bifida and hydrocephalus in Romania. I had gone on a study visit with her many years ago where we visited various places and met families. Her work involved providing and funding shunts to drain fluid from babies' brains to save them. She took a call from a woman, which I did not understand. She told me afterwards that this was one of the mothers who said she could not come to the meeting that afternoon. I could not go to it either. It was a meeting with mothers and their children who are now coming into their teen years. The mother apologised for the fact that her daughter, who had just turned 11 - we will call her Nina for the sake of it - could

not attend because she had just had her second period and her mother and her needed to support and mind each other. I said that this was a great coincidence because of what was happening in Ireland at that time. I reminded Adriana that she saved a child's life 11 years ago along with the lives of many others and now they are growing into young men and women who have a range of challenges. This issue will obviously be a challenge as well. Other contributors have referenced that in many ways.

Moving back to Ireland, Alannah Murray, who is a co-founder of Disabled Women of Ireland, made a few points to me. She asked me to highlight the figures showing that disabled people are more at risk of and experience more poverty, which clearly includes period poverty. Disabled people get periods. There are never any machines with sanitary products in disabled toilets. If a person with a disability such as a wheelchair user does manage to get into either a regular male or female toilet, the machines are always up too high and anyway being a wheelchair user or a person with restricted growth brings other issues. She said that Deputies might argue that in mentioning groups such as students, people in lower socioeconomic groups, etc., they were including people with disabilities. Boys, girls, men and women need to go hand in hand on this issue and be public on it. Products need to be available, as others have said, and free, and products need to be available in dispensing machines that are at the right height in disabled toilets.

Senator Lynn Ruane: Those four minutes do not count because Senator Dolan does not get any periods so we will go with eight minutes for me. I was delighted to let Senator Dolan go first. As we can see, there is a lack of men in the room today apart from Senator Warfield so it is important to have men who are willing to come in and have those conversations. Those euphemisms were created to avoid having to talk in front of men. From having conversations with my own friends about this motion, we found ourselves in fits of laughter about some of those euphemisms we have used over the years such as being in your flowers. A new one I heard yesterday is the commies are in the garden. Another example is the reds are playing at home this weekend. I thought that whatever about period poverty, we were definitely very creative in trying to hide the conversation from other people in a room.

I completely support this motion and its intent. I think mostly of homeless women with whom I have worked over the years. Even though many of the services in which I worked tried to provide sanitary products, there were many occasions where women made sanitary products themselves and ended up in hospital with really bad infections. I remember one woman making a sanitary product out of a stocking and being admitted to hospital for a good few days for surgery to save her life because the infection had spread. I remember that as one of the stark moments showing the desperation women face. It could have been because she was too embarrassed to come down and ask one of us for sanitary products and we were women working in the office. Having access to free sanitary products can save lives, never mind avoiding embarrassment. If we even look at the machines that exist in Leinster House, it involves paying €2 for one tampon or pad. That is the same across every single one of those machines in every building and institutions such as educational institutions. People are capitalising on that crisis moment where a woman needs to enter a bathroom to use a machine and she is charged that amount of money. Even as a 34-year-old woman, I can still find myself in a position where I can get a period and be so embarrassed that I would look at the chair I had just got up from and ask my friends whether everything is okay. I could have to tie jackets around my waist and run across town to get sanitary towels. I never really thought about it. It is actually quite traumatising to be like this in a room full of people. We need to talk about this more when we talk about

period poverty. We need to talk about the actual constant trauma that someone feels. It is not only about one individual. Let us imagine a mother has one, two, three, four or five daughters all at an age when they are not earning for themselves. The mother is not only buying sanitary products for herself but for her family of daughters. Prices and statistics have been given on how much sanitary products cost for an individual. The price could actually be doubled, tripled or quadrupled within a household that is already struggling to afford the basic necessities. One quote referred to €8,100 over the course of a person's lifetime. If we multiply that figure for a house full of girls, the figure would obviously be far more than that. We have to factor in pain relief as well. It is not only about the use of sanitary products but everything else that goes with it.

All the statistics have been given. The reasons this is so important have been given. I support the motion and I thank the two men who are here in the room to have the conversation. I would have preferred to see more male participation. Senator Lawlor has just arrived. He will say something inspirational in a moment.

An Cathaoirleach: Am I excluded, Senator?

Senator Lynn Ruane: You have to be here, a Chathaoirligh.

Senator Fintan Warfield: Senator Ruane is rather confident. She does not even know what I am going to say and yet she has thanked me for being here.

Senator Catherine Noone: We know Senator Warfield's form.

Senator Fintan Warfield: I will not be opposing the motion. I commend the motion. It has been drafted by the parliamentary caucus - the women's caucus. It shows great leadership especially in terms of breaking down stigma. It also shows the progress that has been made in terms of the representation in these Houses. It reflects the importance of the recent lengthy national conversations we have had about women's rights. The great disadvantage of having a gender imbalance, or any imbalance, in these institutions is that the lived experience of people – in this case, women – does not get an equal hearing.

Senator Bacik mentioned the statistics. A total of 50.5% of the population in the State are women and yet only 22% of Deputies and 30% of Senators are women. It has been mentioned that there are not many men here. Some 70% of the representatives in the House are men but only three have turned up here today. There is a distinct lack of diversity in these Houses. This is highlighted by the fact that we do not have representation of people of colour, those from the Traveller community, people with disabilities, people seeking asylum or those from working class backgrounds. I could go on. Through the motion we are highlighting that when the House becomes more diverse we can diversify our opinions and make them genuinely representative.

Prior to the Dáil debate on this motion two weeks ago, menstruation was only mentioned in the Dáil 27 times. It was only mentioned four times in the sense of how periods relate to men in terms of bans on contraception and abortion. We have a historical aversion to talking about periods and anything to do with female reproductive biology. This serves only to stigmatise and shame people in society. Practices like churching come to mind, whereby women were cleansed after reproduction. Stigma is also commonplace in terms of having a long way to go.

As stated in the motion, some 60% of respondents to the Plan International survey said they believed that school did not adequately inform them about periods. We consistently hear a

conversation on how people are being failed by relationships and sexuality education. People are probably not being failed in that respect but rather by the complete lack of relationships and sexuality education. I have mentioned this time and again in terms of sexual health in particular, but this is another issue where there is a knock-on effect because of a complete lack of relationships and sexuality education.

Stigma also remains in public policy. The State does not have a tampon tax. VAT is included on mooncups, a newly-emerging method of sanitary wear mentioned by others, including Senator Conway-Walsh. She also mentioned Lynn Boylan, MEP. Many of the mooncups currently being used are imported at a cheap price from Asian markets. These markets do not have safety checks or regulations although the materials used are medical grade silicone. For a product that is inserted into a sensitive and absorbent part of the body, this is particularly concerning and probably a consequence of period poverty in the context of women looking for the cheapest available options.

I wish to commend the work of Homeless Period Ireland and Tropical Popical. Those involved have done really great work in creating awareness of the difficulties involved for those who are homeless. The State must accept that it is not doing enough here. The current situation robs people of dignity and agency. Homeless Period Ireland is acting in the absence of effective action by the Government.

Direct provision has been mentioned. I wish to add my voice to the anxiety that Senators have regarding people in direct provision. I expect the Minister of State will address that as well.

Senator Alice-Mary Higgins: I want to add my support to the motion. It is really a positive sign of how things are changing in Ireland that we are discussing more and more topics which had been kept, as my colleague described, in the space of euphemism and were not discussed. They are now coming into the realm. As mentioned by Senator Clifford-Lee, this is part of an opening up or a discussion of the fullness and reality of lived experience. This is about ensuring that is reflected in our debates and public policy.

Many of the issues have already been highlighted. I wish to join others in commending those in Homeless Period Ireland for their work. In particular I wish to commend Councillor Moynihan because I believe she put this on the agenda in Dublin and led the way in speaking about this issue.

There are some key issues that we need to look to. These include breaking the silence and looking at the affordability and accessibility of sanitary products. It is concerning when we look at Plan International Ireland's research because we can see that young people are particularly vulnerable. We need to think about young people, especially young people who may be on low social protection payments such as the reduced jobseeker's allowance. What does it mean if a person is accessing sanitary products out of that? What about other intersectional groups? Those who are homeless have been mentioned. I hope the Minister of State will be able to address that issue and the question of those in direct provision. That is a crucial issue given that we have had stasis. Today only a paltry amount of personal moneys are available for those in direct provision. The idea that sanitary products have to come out of that amount is a real concern.

My colleague, Senator Ó Donnghaile, mentioned those with a disability. It is one of those

areas. Those with a disability have periods and in many cases are not always in a position of personal access or discretion. How do we ensure they are given the support and resources they need? This is a linked issue that I have discussed often with the Senator. Other related issues include adult incontinence and the supports, resources and materials given to carers in Ireland, many of whom may be caring for young people who are having periods, as well as for older people who need other sanitary and sanitation products.

As was rightly pointed out by Senator Bacik, this is part of the sustainable development goals. Sustainable development goal 5 relates to sanitation and goal 6 relates to gender equality.

Periods represent a large amount of time in every woman's life and indeed in the lives of many of those who may also be transgender. They represent a considerable period of life and we should consider the time and energy that is lost in terms of the working spaces.

I wish to commend in particular the international aspect of the motion. It recognises that this is an international issue. I join in commending the young people who are here as part of the Politics Needs Women competition. They travelled to the Commission on the Status of Women at the United Nations. I also had the opportunity to travel to the Commission on the Status of Women with the European parliamentary forum on sexual and reproductive rights. One of the issues being raised by women's groups around the world is the issue of period poverty.

This is an example of how Ireland should and can continue to embrace the gender budgeting process. An event held jointly by Ireland and Uganda addressed the fact that young women in Uganda lose four or five days of education each month because of the practical issues and hassles associated with having a period as well as the stigma attached to it. Sanitary products and a shift in how budgets within the education system are allocated locally have contributed to greater education for younger women in Kenya. These measures are expected to have a similar effect in Uganda. This is a major international issue. Ireland is not limited to leading the way in dealing with it domestically. It can also lead the way in incorporating this issue into international development and ensuring these products are supported. Given the recent referendum, Ireland has an opportunity to be much more dynamic in promoting sexual and reproductive rights through our international development programmes.

Directives which require value added tax, VAT, to be levied on sanitary products create an obstacle for other countries across the European Union. Ireland does not currently levy VAT on sanitary products, which is positive. I would like this country to take the lead in supporting women across the rest of Europe by ensuring that an out-of-date directive that does not reflect the reality of life is changed and countries across Europe move to a 0% VAT rate.

Senator Anthony Lawlor: I apologise. It was not my intention to be the last person to speak. It certainly should not be a man who concludes the debate on this topic. I know the Minister of State will also comment.

While I agree with the motion and the legislation, as Senator Alice-Mary Higgins has highlighted, this is an opportunity for us to set a standard not just here but internationally, as we have done so many times in the past. We can use Irish Aid to bring forward legislation in countries we support, particularly in Africa, to provide sanitary facilities for women.

This debate is part of a conversation we should be having with regard to free contraceptive care. It is all part and parcel of what we need to discuss and bring forward. I have brought ideas for integrated primary care contraceptive schemes before the Minister of State too many times.

So far, nothing has been done about it. It has been almost three months since the legislation on abortion was passed and we still have not moved on it. I would like to see some movement on that and on sanitary products. We should be a leader on this for the rest of the world, using our influence and our Irish Aid money to assist other countries in bringing this reform forward.

In the 1980s, I worked for several years in a mixed boarding school in the south Pacific. As teachers, we provided free sanitary products because many of the pupils came from outlying islands and did not have the necessary facilities. We paid for the sanitary products used by the women there. Out in the villages the situation was totally different. Products were not even used - women just went away for a couple of days. I felt at the time that we should use our influence. If there is a positive outcome here, we should use that positivity elsewhere in the world. Irish Aid money should be used to assist in that.

Minister of State at the Department of Health (Deputy Catherine Byrne): I thank Deputy Catherine Martin for raising this issue in the Dáil, as well as Senators Bacik, Clifford-Lee, Noone, Walsh, Dolan, Ruane, Warfield, Higgins and Lawlor. This very topical subject has been included in my brief in the past few months. I have had time to reflect on some of the issues raised. I am grateful to the Cathaoirleach and the Seanad for bringing the debate to this Chamber. I congratulate the students who were here previously. They have now left, but I commend them on their forward thinking attitude.

I will refer to a few issues, starting with some of the points that have been raised. I thank the women's caucus for highlighting the period poverty issue, which was also debated in the Dáil last week. It is great to have an opportunity to discuss this. I am sure we would all agree that it deserves more focus and attention in society. Period poverty, the inability to afford female sanitary products, is a serious health and equality issue in many countries worldwide and is something that we as a Government should look at. There can be significant consequences for individual women and girls in missing school, college or work because it is the wrong time of the month and they have issues with paying for products. There are wider effects on society from people missing out on work and education. This affects their ability to reach their full potential. What is more, surveys have shown high levels of shame and embarrassment about periods. This means people feel they cannot talk about their needs, which affects their mental well-being. It is not easy being a teenager at the best of times. Periods are new to young teenage girls and not all of them feel they can talk to a parent, friend or teacher. If they cannot do so, the problem remains unsolved.

As Senator Ruane noted, being unable to change pads or tampons regularly or using the wrong sort of product can increase the risk of infection. There is also an issue with physical activity. We know that teenage girls as a group are not active enough. Anxiety over periods can mean they miss out on more sport, physical education and activities, which is bad for their long-term health and well-being. The cost to a girl or woman of managing periods, arising from the cost of sanitary products and pain relief, has been estimated at more than €200 a year. This cost is faced by women for several decades. Some Senators have previously mentioned this. Period poverty and the anxiety that goes with it are hitting the most vulnerable groups in society, namely, teenage girls, the homeless, women in centres of detention and those who are less well-off. Several other countries have recently been working on plans to address period poverty. These include a recent pledge by the UK to supply products in secondary schools. In recent years, Canada, some US states and India have removed goods and services taxes from sanitary products.

The Minister for Health wrote to the Minister for Finance about VAT rates on sanitary products before budget 2019. In Ireland, tampons and sanitary towels are taxed at 0% VAT. These products were taxed at this rate before an EU VAT harmonisation agreement in the 1990s, at which point Ireland secured an exemption to keep the 0% rate. Unfortunately, newer products are not included in this agreement. This omission must be addressed as soon as possible.

There have been some local initiatives recently to address period poverty. Dublin City Council passed a resolution on period poverty last year and is running a pilot scheme to provide free products in four local recreation centres. Senator Bacik spoke about this. The council intends to expand the scheme if it is successful. I thank the council for its good work in this area.

Period poverty affects inclusion, health and well-being but it is also an equality concern. The cost of products adds to gender inequality and to the inequalities resulting from poverty. However, the Government aims to treat all citizens as equal and to address inequalities. This is a core part of the Healthy Ireland framework. This issue is also relevant to the Government's work to implement our national strategy for women and girls, which is led by our colleagues in the Department of Justice and Equality. Under this important strategy, the Department of Health participates in the implementation committee and is progressing other health policies relating to women's health and well-being. We are also developing a women's health action plan in collaboration with the HSE and the National Women's Council of Ireland.

As a Government, we need to put measures in place to deal with period poverty. I will add on a personal level that both gender and social equality are important. There is no two ways about it - this will require a response across Government as it touches on areas managed by many different Departments. All the main Departments, the HSE and other organisations, such as the National Women's Council of Ireland, are collaborating on the national strategy for women and girls. This is an obvious and useful forum for period poverty measures to be considered. My officials have been in touch with their colleagues in the Department of Justice and Equality, who are in full agreement that period poverty will be discussed within the framework of the national strategy for women and girls. Senator Conway-Walsh brought this up. While it may not be specifically mentioned in the women's and girls' strategy, we have agreed with our officials in the Department of Justice and Equality that period poverty will be on the agenda for the next meeting for the relevant Departments to consider particular actions.

I will reflect on some of the comments that were made during the debate. I grew up in an era when talking about one's sexuality and one's periods was taboo. Even speaking to one's parents was sometimes very difficult. As a young teenager, I crossed many borders talking to young people, particularly in the youth club, about period poverty, their sexuality and other sexual health issues. I believe we have come a long distance since then. Education has changed in this country. The openness to speak out and have a conversation about any sexual health issue is very relevant to young people today. They are not afraid to speak about this. It used to be that it was private, not spoken about and taboo. However, my husband and I know, as our daughters' parents and their children's grandparents, that we all have a huge role to play in talking about children's health, particularly young women's health. Now that men play such a significant role in family life, rearing children for various reasons related to women being at work as well, and that men and women have a more hands-on approach to rearing children, it is imperative that men - and they are doing it - talk to their children at a different age and from a different angle about all their sexual health issues and issues relating to periods and so on. We have come a long way; we have a lot more to finish.

As a Minister of State in the Department of Health, I look forward to contributing to developing actions that tackle period poverty and help women and girls to participate in education, employment, sport and social activities to their full potential. Senator Clifford-Lee asked me to promise something. I will not promise her anything; I will commit to something. This has been ignored and left in the cupboard for long enough now. It is very important that I do anything I can within my remit, and together with the Minister, Deputy Harris, and the Department of Justice and Equality. I will do so. This is not a promise; it is a commitment. There must be action on this, and we as a Government will not oppose the motion.

Senator Ivana Bacik: I thank the Minister of State for that very strong commitment at the end of her contribution. We will hold her to it. I am honoured to have proposed this motion and to respond on behalf of the women's caucus. It is an all-party motion, and I thank all speakers for their contributions to this important, productive and worthwhile debate. I commend again Deputy Catherine Martin, who has led on this from the start as chair of the caucus. I commend all the others who have worked on this issue in Ireland and elsewhere. I refer to Homeless Period Ireland, Tropical Popical, Andrew Horan, who was mentioned, Councillor Rebecca Moynihan, who led at Dublin City Council, and Plan International, which has been leading on this in terms of women in developing countries. A significant volume of work has been done.

The motion and debate are an important step forward, as was the debate in the Dáil, to address both the practical issues of period poverty and the lack of affordability of sanitary products and the cultural issue of the stigma, shame and taboo surrounding speaking about periods. It is a taboo about speaking not just about periods, but also about period pain. Senator Higgins reminded me of the huge issue for so many women of endometriosis, something that so many women must deal with on an ongoing basis, yet, again, it is not spoken about and is very much linked with the issue of periods. We need to talk about this, and today was an important step on the road to making this much more spoken about and to raising awareness of it. We need to raise awareness of a range of issues surrounding periods, including intersectional issues, and we have done that today. The motion also does this by raising issues in respect of homeless women and women in direct provision, who face particular challenges in dealing with periods and period poverty. We also need to see issues of period poverty as part of a package of measures. This was addressed by a number of speakers when they spoke about women's health measures more generally, such as free contraception care and sexual and reproductive health.

I am glad the Minister of State will speak directly with the Minister, Deputy Harris, about this. It is also, of course, an issue of education, and again, her colleague, the Minister for Education and Skills, will also need to examine how schools are dealing with this and incorporating education on periods with both boys and girls. It was important we had the school groups in with us today - those great finalists from the Politics Needs Women competition. I am proud to wear my Vótáil 100 badge because those students engaged in that competition as part of our centenary celebrations of winning women the right to vote 101 years ago. It is part of a multi-faceted response. I know there has been much debate about sports facilities, FAI stadiums and other sporting facilities also needing to provide free sanitary products, as we have seen on the pilot basis by Dublin City Council and other councils.

Within the motion we have made some practical asks of the Government, and I will highlight perhaps two of them which were highlighted in the debate. The first is the need to provide free sanitary products in State-run facilities, not just council facilities, such as educational institutions, detention centres and so on. Let us start in the Houses of the Oireachtas. Someone mentioned the cost of sanitary products in the Houses of the Oireachtas, in Leinster House. We

27 March 2019

can all move forward on this through the women's caucus. That is one very practical measure. Second, we must address the issue of VAT. As the Minister of State said in her comprehensive response, this is something we have addressed to some degree here in Ireland, but we need to try to change things at EU level on the VAT directive. We also need to address the issue of new products to ensure they, too, can be zero-rated for VAT.

Finally, I was struck by comments made by Senator Dolan about the lack of reference to periods in literature, including in fiction, and so many other aspects of our culture, and not just in political discourse. That is very true. We have seen so little reference to something that is a fact of life for half the population during the middle four decades of our lives. In fact, there was reference in a cultural context to the issue in the Seanad last September, when we had an event for Culture Night as part of our Vótáil 100 programme. We had poetry readings, and one of those who spoke, Doireann Ní Ghríofa, who is an Irish-language poet, recited a poem, "While Bleeding", in English. I thought the text of that poem might be a good way to finish, to remind us of our common experience as women and of the need to speak more about that common experience, and to share it with our male colleagues - I am glad there were male colleagues present for the debate and that they participated in it:

I am wrapped in the weight of old red: ...

lipstick blotted on tissue,

bitten lips, a rough kiss,

all the red bled into pads and rags,

the weight of red, the wait for red, that we share.

Question put and agreed to.

Sitting suspended at 3.40 p.m. and resumed at 4 p.m.

Dealing with the Past in Northern Ireland: Statements

Acting Chairman (Senator Gerard P. Craughwell): I welcome the Tánaiste and Minister for Foreign Affairs and Trade, Deputy Simon Coveney, to the House. Before we begin, I welcome Órfhlaith Begley, MP for West Tyrone, and Catherine Kelly, MLA for West Tyrone, who are in the Visitors Gallery. I also welcome the family of Councillor Patsy Kelly who are in the Public Gallery. I call the Tánaiste and Minister for Foreign Affairs and Trade, Deputy Coveney.

Tánaiste and Minister for Foreign Affairs and Trade (Deputy Simon Coveney): I welcome this opportunity for discussion with the House on the critical issue of dealing with the legacy of the past in Northern Ireland. The key principles of the Government's approach to that legacy are based on the commitments enshrined in the Good Friday Agreement. We must address the legacy of the past and we must remember what happened. We also have a duty to the families of those who lost their lives and those injured to provide whatever justice, truth and healing is possible. Human rights and the rule of law must be upheld for everybody and we must learn the lessons of the past as we seek full reconciliation and, hopefully, a much better future.

4 o'clock

In the 21 years since solemn commitments were made to victims and survivors in the Good Friday Agreement, two things have become clear. The first is that translating those principles and promises into a system that can practically deliver what victims and survivors are entitled to expect is immensely complex and politically fraught right across Northern Ireland and, indeed, south of the Border as well. Secondly, failing to get an adequate system in place and, instead, leaving the current unsuitable processes in place in policing, the courts and in politics is simply not sustainable.

Every day that passes without a functioning legacy framework is a day without a prospect of closure for the hundreds of victims' families who are still waiting for an effective investigation. It is a day without adequate supports for those seriously injured or traumatised and it is a day when policing, public discourse and politics in Northern Ireland remains burdened with the wrongs and the wounds of the past. I want to acknowledge and welcome the family of Councillor Patsy Kelly, who are present with us here today. They are one such family who continue to seek the full truth of Councillor Kelly's brutal abduction and murder in 1974. The Kelly family met with my officials earlier today and I had the pleasure of meeting with them informally as well. I have directed that my Department offer any assistance possible in the future.

The Government is acutely conscious also of the many people in the South who lost loved ones or were injured in the events of the Troubles. The Government continues actively to pursue with the British Government the implementation of the all-party Dáil motions which call for an independent, international judicial figure to review all original documents held by the British Government regarding the Dublin and Monaghan bombings, as well as other attacks in the South. The Taoiseach and I have valued the opportunity of meeting with representatives of the Justice for the Forgotten group. The Government will continue to work closely with them as we seek that review for the entire record of what happened in the appalling attacks of the Dublin and Monaghan bombings. On that day, 33 people were killed. It was the largest loss of life on a single day of the Troubles. Hundreds more were seriously injured. They all deserve answers. There is a need for justice, truth and for closure for victims' families and for survivors. We will continue proactively to seek progress with the British Government in accordance with the successive Dáil motions that have been passed.

We must also remember that there are many victims of the Troubles in Britain who also have the right to acknowledgment and to whatever justice, truth and healing is possible in their tragic cases. I am conscious, for instance, of the 21 families in Birmingham who are at present going through the inquest proceedings into the pub bombings in 1974. While the impact of the Troubles is most profound in Northern Ireland, the bereavement and the pain for each family is no less, wherever people live. That is at the core of the Government's approach to dealing with the past. We have now had more than ten years of virtually continuous efforts to agree and implement a legacy framework in Northern Ireland, from the Eames Bradley process onwards.

In December 2014, after 11 weeks of intensive political talks, the Stormont House Agreement was finally reached. It provides for a comprehensive, inclusive approach to dealing with our troubled past. The Stormont House legacy framework includes an historical investigations unit to conduct Article 2-compliant investigations into all outstanding Troubles-related deaths. It also includes an independent commission on information retrieval that will operate on a cross-Border basis and enable families to seek, and privately receive, information about the Troubles-related deaths of their next of kin. This commission will be fully accessible to people in Northern Ireland, in Great Britain and in this jurisdiction, as confirmed in the treaty signed by the two Governments on the independent commission on information retrieval in 2015. There

will be an oral history archive for people throughout the UK and Ireland to share experiences and narratives related to the Troubles. There will also be an implementation and reconciliation group to oversee the legacy process, draw lessons, and contribute to reconciliation, a better understanding of the past and reducing sectarianism.

The two Governments, and the political parties in Northern Ireland, have spent the years since the Stormont House Agreement developing the legacy framework in full. Detailed draft implementing legislation is almost at the point where it can be considered by the legislatures in each jurisdiction. The British Government held a public consultation on the draft UK legislation last summer. There were many thousands of responses, including from many victims and survivors in this jurisdiction. These are now in the final stages of review and a response from the Secretary of State for Northern Ireland will follow.

After many years, we are within touching distance I hope of finally putting a functioning system in place for dealing with the past in Northern Ireland, with important elements also accessible for victims and survivors across both jurisdictions. Nobody is saying this system will be perfect and that it can satisfy everyone but it will be vastly better than a *status quo* that is manifestly not meeting the needs of victims and survivors and is not fit for purpose. We must get the Stormont House framework in place and soon. Both Governments, as well as political parties, must give leadership on this, and we must keep the needs of victims and survivors to the fore and take the necessary steps to get the Stormont House framework established in law in both jurisdictions as soon as possible. The Government will not be found wanting on this.

The drafting of legislative proposals in this jurisdiction to support and implement the Stormont House framework is advancing, led by my colleague, the Minister for Justice and Equality. The Government has already published a general scheme of a Bill to provide for enhanced co-operation with legacy inquests in Northern Ireland, and a draft Bill is currently being finalised. This legislation will be of immediate relevance for the ongoing inquest into the Kingsmill massacre at the Belfast Coroners Court and any other legacy inquests in cases with a cross-Border dimension. Draft legislation is also being advanced to provide for the establishment of the independent commission on information retrieval. I will also continue to engage with the Secretary of State for Northern Ireland and with the political parties to support a move ahead to a legislative phase as soon as possible, taking account of issues raised in the recent consultation while remaining fully consistent with the Stormont House Agreement framework of course.

We cannot have more long processes. Victims and survivors have been waiting for far too long already, and I have met many of them. In this respect it is very welcome that the Department of Justice in Northern Ireland was able to announce last month that the necessary resources will be in place so that the outstanding legacy inquests in Northern Ireland relating to 93 deaths can be heard, consistent with the proposals of the Lord Chief Justice in Northern Ireland in 2016 and following on from the ruling of the High Court in Northern Ireland in the Hughes case. There are a number of other cases and court rulings in Northern Ireland which have highlighted the failings of the current systems, in particular the unsustainable burden that is placed on the Police Service of Northern Ireland to investigate the past when it should be focused on policing for today. This was underlined once again by the concerning announcement last month that the PSNI discovered significant new material for legacy investigations being conducted by the Police Ombudsman, with up to 30 cases affected, and with families now waiting even longer for the conclusion of the ombudsman's reports. My thoughts are with those families, and the many others who are being forced to grapple with the current unsuitable system. They should not have to go through the courts to vindicate their rights or have to wait for the conclusion of

investigations not adequately resourced under the current system. We must press forward so that court rulings and campaigns are no longer needed.

In this context I want to also acknowledge the family of Mr. Pat Finucane, who have had to campaign unceasingly over the past 30 years to seek to establish the full facts behind his brutal murder. The Taoiseach and I have been glad to meet the Finucane family in recent months. The Government's position is that a public inquiry is required in the case of Pat Finucane in accordance with the commitments of the two Governments at Weston Park in 2001. This position has been significantly reinforced by the judgment of the UK Supreme Court last month, which made a declaration in favour of Geraldine Finucane that there has still not been an Article 2-compliant investigation into her husband's murder. The Government will keep engaging with the British Government until there is a satisfactory outcome in the Finucane case and we remain in ongoing contact with the Finucane family, who continue to campaign, like so many other families, with courage, dignity and resilience to seek truth and justice.

The Stormont House Agreement provisions on dealing with the past commence with the affirmation of a set of principles which include upholding the rule of law, compliance with human rights and acknowledging and addressing the suffering of victims and survivors. That means that there can be no hierarchy of victims in the process. Regardless of the circumstances, there is a requirement to investigate a death. We know that the majority of those who lost their lives in the Troubles were killed by paramilitary groups but this process cannot be about numbers. Every case, regardless of the circumstances, is a life cut short and a bereaved family and community left behind. It is not for governments to say that the suffering of one family is of greater or lesser worth than that of another.

The principles of the Stormont House Agreement also mean that there can be no amnesties. It is important to be very clear about that at the present time. All deaths must be properly investigated and prosecuted in compliance with Article 2 of the European Convention on Human Rights, regardless of the perpetrator. In this regard, the decision announced by the Public Prosecution Service of Northern Ireland that a former soldier will be prosecuted for the murder of James Wray and William McKinney and for the attempted murders of Joseph Friel, Michael Quinn, Joe Mahon and Patrick O'Donnell on Bloody Sunday in 1972 was a significant moment. I emphasise that this announcement is part of the operation of due legal process. It is important that nothing is said or done by anyone that could be seen to prejudice that process.

As we know, the Secretary of State for Northern Ireland recently made what she later acknowledged herself were some very wrong, insensitive and hurtful remarks in Westminster. These were a cause of deep concern and did a grave disservice to victims' families, who lost loved ones at the hands of state forces and who continue to seek justice and truth decades after their tragic loss. This includes the families of the 14 innocent people who were killed in Derry on Bloody Sunday in 1972, the Ballymurphy families in 1971 and many others. The Government will continue to support their honourable and dignified campaigns for truth and justice. It is important that the Secretary of State for Northern Ireland has since confirmed again that where there is any evidence of wrongdoing, this should be pursued without fear or favour, whoever the perpetrators might be, and that this is and will remain the basis of the British Government's approach to dealing with legacy issues. I strongly support her in that.

The Irish Government has been clear that we would not support any proposal to introduce amnesties for state or non-state actors. I reiterated that to the Secretary of State for Northern Ireland at our last meeting in London two weeks ago. The Government will also continue to

engage with the British Government and with the political parties to get the Stormont House Agreement legacy institutions in place as quickly as possible. This has to be an imperative for both Governments so that victims and survivors can access whatever truth and justice is possible in their case, and to support the achievement of a reconciled society in Northern Ireland, which is ultimately what this is all about.

I look forward to hearing the views of Senators on these most important issues for this island, North and South.

Senator Ned O’Sullivan: I welcome the Minister to the House and commend him on his speech, which was balanced, reasonable and sensitive. This is a very sensitive area and I will certainly follow the Minister’s line in that respect. We all have our own opinions about what happened in the North and this is not really the place to give vent to those. I welcome our visitors and sympathise with them and all others who have been touched by the violence in Northern Ireland. I hope they will achieve closure at the end of it all. The events in Northern Ireland over a 30-year period have marked the people of the North first and foremost, but also the entire nation and these islands. G. K. Chesterton once said of the Irish that all our wars are merry and all our songs are sad. There was nothing merry about the conflict in Northern Ireland. It must have been one of the most horrific periods of sustained sectarian violence probably anywhere in the world. Wrong was committed on all sides, including by the British authorities and the Stormont authorities, and great wrong was also committed by the paramilitaries on both sides, who thought that they were beyond the law and could act on their own volition to take human life just because they believed in a cause. The violence in Northern Ireland was not inevitable. It was most unfortunate that the work of people such as John Hume, Seamus Mallon and the SDLP and the People’s Democracy, which was a non-violent protest, was not allowed to continue to full fruition before it became a sectarian shoot-out between two sides who showed no signs of humanity for each other, for women or for children. Terrible atrocities were committed on all sides, and as the Minister has said, there is no hierarchy in loss of life. Every life is precious. Every bereavement was special, whether someone was killed by the British Army, by the IRA or by loyalist paramilitaries; death is a death.

I live in County Kerry, which is probably as far away from the North as one can get. I had no first-hand experience other than what I saw on television as a teenager growing up. It came close to my family with the murder of Garda Jerry McCabe in west Limerick. His father and my father were close personal friends. That was a big shock to us. For many people of my generation, it was the time we finally said goodbye and parted ways with any sympathy for that kind of paramilitary activity, whether it came from the national side or the unionist side.

I recommend a book to anybody who wishes to study the genesis of what happened in Northern Ireland, which I re-read recently. It is called *Fatal Path* and it was written by Professor Ronan Fanning. He takes up the “Irish question”, as the British love to call it, from Gladstone’s Home Rule Bill of 1886 right through to the Anglo-Irish Treaty. There is no question or doubt in that book that partition in this country was not created by the British or by us; partition was created specifically at the request and insistence of Ulster unionists. They did not want the other three Ulster counties. They had plenty in the six, which they could handle. They got their way. They tried to oppose home rule for all of us at one stage. When they realised that was not going to happen, they decided to cut down on what they were looking for - “Let them have home rule, but we will have our own rule”. When they got their chance to have their own government, they abused it. There was total discrimination against Catholics at every level, including housing, education and social welfare. The only alternative for Catholics was to

get out, but there were too many Catholics to get out. That is what started it and there was no doubt about that. We are not here to talk about who started or finished it. We are here to deal with the outstanding issues so that we can give closure and a sense of conclusion to everybody, especially those who were bereaved in some way.

Recently the Public Prosecution Service of Northern Ireland decided to prosecute one soldier. As the Tánaiste said, this is *sub judice* and I will not comment on that. It was a major disappointment to many of the other families. We will have to see how the case progresses and what comes out of it. Bloody Sunday was probably the greatest single atrocity of the conflict, especially as it was carried out by the state authority, and clearly with collusion involving the upper levels of the British Army and Government. As the Tánaiste said, we will not comment further on this at this time.

It is interesting to consider the South African experience where decades of apartheid came to an end. There was a great deal of hatred and bitterness there. They set up a truth and reconciliation department. I am not saying they did everything superbly well but it has succeeded to the extent that the South African experience has been used and replicated in many other countries in Africa to try to bring conflict resolution about. If they can do it there, I do not see any reason we cannot do it here.

The fact that there is no Assembly in the North at the moment is a significant hurdle to achieving reconciliation and peace. If the major parties cannot agree to work together for the common good, how can one expect that there will be equity and equality of respect and understanding for the communities? If the politicians have failed, one cannot expect the ordinary communities to take up this role.

Despite what I have said, there has been great work at community level on both sides of the divide. Northern Ireland remains a bizarre, unnatural entity. We still have to have peace walls and there seems to little sign of engagement, particularly at political level. We are politicians and we know that everything in politics is difficult. At some stage one has to deal with people. As Churchill said: "To jaw-jaw is always better than to war-war". I urge that the major parties in the North get serious and get down to restoring the Assembly there. Both the Irish and British Governments have been somewhat remiss as well. It is a good many years since the Stormont House Agreement was reached. It is five years since it was put in place and there has been a great deal of foot-dragging. I am not saying the Minister's Government-----

Acting Chairman (Senator Gerard P. Craughwell): The Senator is well over his time now.

Senator Ned O'Sullivan: -----or the British Government is the cause, but because there is a vacuum in the North, perhaps we have to do a lot more down here.

Senator Frank Feighan: Unlike Senator O'Sullivan, I grew up some 40 miles from the Border in Boyle, County Roscommon. One of the great days of my life was the signing of the Anglo-Irish Agreement in 1985. I had just come back from Australia and Garrett FitzGerald was a hero of mine. The Anglo-Irish Agreement was not perfect. It failed to achieve reconciliation among the two communities and to stop political violence but it was the cornerstone of the Good Friday Agreement, which for more than 20 years has been ensuring peace on this island. My party has consistently worked to achieve a peaceful and prosperous future for the people of this island, North and South. In government, we helped secure the Sunningdale Agreement,

the Anglo-Irish Agreement, the Stormont House Agreement and the Fresh Start Agreement. We will continue to work with the parties in the North and with the British Government, as we seek to ensure that devolution is restored and that Northern Ireland's voice is heard again at this critical time. We are committed to this work, no matter how many setbacks may arise or how long it takes. This is a shared island with a shared future. We want to shape that future together, working together for the benefit of all of our people. Our vision for the island of Ireland embraces all identities, religions and minorities. Fine Gael has always been about building relationships and bringing communities and people together. We must recognise that unionism is integral to Irish culture, heritage and history. Comprehensive progress on legacy issues concerning the Troubles is crucial to meeting the legitimate needs and expectations of victims and survivors and contributing to broader societal reconciliation as an integral part of the peace process. The Government will continue to engage in support of that, consistent with its role and responsibilities as co-guarantor of the Good Friday Agreement. A Programme for A Partnership Government commits to building on the progress made to establish the comprehensive institutional framework for dealing with the past that is provided for under the 2014 Stormont House Agreement, keeping the needs of the victims and survivors at the core of its approach. Victims and survivors have had to wait for far too long for a suitable and effective system in Northern Ireland to deal with the legacies of the Troubles. During the ten years since the commencement of the Eames-Bradley process in June 2007, successive efforts have been made to address legacy issues, particularly to meet the legitimate needs and expectations of victims and survivors. However, this is still sought and urgently needed. We have engaged extensively with the Secretary of State for Northern Ireland and with all the political parties to support a way forward in implementing the comprehensive legacy framework agreed under the Stormont House Agreement. The Secretary of State agreed on the imperative of moving ahead with full implementation of the Stormont House Agreement.

I was very concerned by the announcement by the Police Ombudsman for Northern Ireland on 14 February of receipt of significant new materials from the PSNI. The ombudsman indicated that the discovery of the new materials will delay the publication of the report into events connected to actions of loyalist paramilitaries in the north west between 1988 and 1994. Our thoughts are first and foremost with all the families affected. This is a most difficult and anxious time for each family affected, as they must now wait even longer for the ombudsman's report into their cases. It is important to allow the ombudsman, Mr. Michael Maguire, the necessary space to complete the investigation, taking account of the newly uncovered material. I hope the Government will keep this matter under very close review in the period ahead. The development makes clear that the Stormont House Agreement framework is urgently needed in order to provide a comprehensive process for addressing legacy investigations and issues in Northern Ireland which is focused on the needs of victims and survivors. I ask the Minister and the Government to continue to engage with the British Government and the political parties in Northern Ireland to seek the implementation of the Stormont House Agreement as soon as possible.

The Minister has said that we must address the legacies of the past and remember what happened. We have a duty to the families of those who lost their lives and those who were injured to provide whatever justice, truth and healing is possible. Moreover, human rights and the rule of law must be upheld for everyone. We need to learn the lessons of the past. Reconciliation will build a better future. We have been very concerned, and an all-party Dáil motion has called for an independent international judicial figure to review all original documents held by the British Government on the Dublin and Monaghan bombings and other attacks in the South. The Minister rightly said that we are conscious of the 21 families in Birmingham who are currently

going through inquest proceedings concerning the pub bombings in 1974. It is a huge issue for each family, no matter where they live.

I had the pleasure of meeting with the family of councillor Patsy Kelly. His son, Mr. Patsy Kelly Jnr., gave a very measured and emotive outline of what happened to his father. I hope that we will call on the British Government to make a full disclosure on those awful events. As has been said, there have been several cases and court rulings in Northern Ireland which have highlighted the failings of the current system, in particular the unsustainable burden of investigating the past which has been placed on the PSNI when it should be focused on present-day policing.

The Secretary of State recently made remarks which were insensitive, hurtful and wrong. They were of huge concern. Victims were very upset. I was in Westminster at an event held by CHAMP, which brings politicians from the two islands, North and South, east and west, together to celebrate St. Patrick's Day. The Secretary of State apologised for those remarks. She noted how extremely hurtful they were. I felt that it was a sincere apology. She made a grave error of judgment, but I welcomed that apology. I have been to the inquest into the deaths of those killed at Ballymurphy in Belfast in 1971, attended by their families. I refer also to the 14 people killed in Derry on Bloody Sunday in 1972. We will continue to support those dignified campaigns for truth and justice. The Kelly family has a very dignified campaign, represented here today.

We in the west of Ireland were not directly impacted by the Troubles and the conflict in that awful 30 years of murder and mayhem. We always felt it was not our problem, but indeed it was. It was a problem for the island of Ireland and for the two islands, and we have come an awfully long way in the 21 years since the signing of the Good Friday Agreement. I hope we can deal with the legacies of the past and increase the friendship and understanding across all political strands. We will have an agreed Ireland where we will co-operate and work together, as well as an agreed two islands, with the friendship between our island and the United Kingdom as good as ever. My father worked there for most of his life, like most Irishmen from the west of Ireland. They worked hard and they were part of the Irish diaspora.

Senator Gerard P. Craughwell: I thank the Minister for coming to the House to speak about this most important matter. I welcome the family of councillor Patsy Kelly. Much has been said by the Minister and by those who have already spoken. Many people in the South speak about the North of Ireland. I refer to people who have never visited and have never been across the Border in their lives. The only thing they can tell one about Northern Ireland is that the Giant's Causeway is there, and yet they speak with great authority. I must say that since Deputy Coveney took over as Minister for Foreign Affairs and Trade he has been extremely sensitive in the work he has done in Northern Ireland. He has been forthright and honest in his dealings with the North. It is disappointing that there is no Assembly in the North of Ireland. It is particularly disappointing that the last attempt collapsed, allegedly over the Irish language, when in east Belfast some 600 people from the unionist community are studying the Irish language. It is one of the paradoxes that exists in the North of Ireland, and it is rather sad.

There are unanswered questions on all sides. The Minister put it really well when he said there is no hierarchy when we are talking about death and murder. I fully support the opening up of information on the Dublin and Monaghan bombings and finding out who was behind them. I fully support also finding out exactly what went on at Ballymurphy. In regard to the Bloody Sunday findings, it is rather disappointing that one soldier has been identified out of all those involved on that day. Having served in the military myself, I question the senior people

in charge that day. What decisions were made? What orders were given? Who took decisions? Was there panic on the day? Did somebody lose control? It seems we will never get the answers to those questions, but one soldier will face a court. For many people that is not enough.

I cannot begin to imagine what those who were taken out of their houses or forced into corners felt in the last few minutes of their lives. I refer to those on both sides, because there were atrocities on both sides. I cannot begin to understand the pain of the Kelly family who are here today. Probably at this stage, all they want to know is what happened.

We were fortunate recently to have had two visits to Northern Ireland during which Senator Ó Donnghaile brought us around. We met people who simply want an answer, to know what happened and the truth. They are not necessarily vying for blood or for people to go to jail. They just want to know the truth. There is probably a strong case for some sort of a truth commission, similar to what took place in South Africa, where people can come forward and tell the story as they saw it.

There are great people on both sides in Northern Ireland trying to bring communities together. As we face into what is likely to be an unsettled period in British-Irish relations with Brexit approaching, it is extremely important we support those civic groups which want to move forward and find a solution. There has even been talk on the unionist side about a 32-county republic and where they see that in ten, 15 or 20 years' time. I do not believe any of them would be running for a Border poll now but they accept that in the future that is the likely outcome. Accordingly, we must build relationships. The Government is doing much of that already.

Much was done in the Good Friday Agreement. Then, collectively, we clapped ourselves on the back and said that is it, we have peace in our time and everything is going well. There are academics in Northern Ireland, however, who feel that the right to an Irish passport is not enough and that we have not bestowed full citizenship on those who obtain an Irish passport. They do not have any rights in elections on this side of the Border or have any control over who gets elected to what. On the southern side of the Border we have a significant amount of work to do.

I urge the Tánaiste and Minister for Foreign Affairs and Trade to keep the pressure on the Dublin-Monaghan bombings issue. Nothing would suit more than to have a reputable member of an international judiciary review those files and release whatever information is available. I honestly do not believe, however, that will be allowed to happen in the UK.

The war that was fought in the North of Ireland was a dirty war. Dirty wars have fault on all sides. In my view, there were three sides. There were the nationalists and unionists but there were those employed in official positions on both sides of the Border. We hear much about collusion on one side but there was collusion on both sides. It should not be forgotten that two RUC men were executed on their way home from this side of the Border. It must not be forgotten that there was collusion on both sides of the Border and that it was a dirty war. That is part of the problem in trying to clean up what is left.

People are entitled to answers but we must walk steadily as we seek to get those answers. Our goal should be to bring communities together. The only way to solve the problem of bringing communities together is if we provide answers to those who lost their loved ones. I am not 100% convinced that people want to see court cases, jail and all that for the atrocities carried out. There may be some. However, history shows in South Africa, for example, that people

just want answers and not to vie for the blood of those who committed atrocities. There is a willingness on the part of the Government and every other party to meet the families concerned and to listen to their stories. It is a pity that some of the unionist families do not come down here more often and talk about their pain and hurt. We need to hear all sides and find a solution.

I will support everything the Government does to move matters forward. I look forward to the day we have an Assembly again in Northern Ireland and interparliamentary groups where we can have open and frank discussions with one another. I hope to see all of these come in the near future. I will not criticise anybody for not being in the Assembly. I do not live there and I do not have to deal with the issues which prevent them from going from one side to the other. I pray, however, that they will find a way to sit and talk together. I spoke earlier today to Deputy Adams. The risks men like him, Martin McGuinness and Ian Paisley took, particularly on the nationalist side to meet their unionist brothers on the other side, took fierce courage. We should never ever question it. I ask that we do everything to keep it going.

Senator Niall Ó Donnghaile: I thank the Leader for facilitating our request for these important statements. The importance of the legacy of conflict in Ireland did not come to pass 50 years ago. It goes back much further and runs much deeper. Senator Ned O’Sullivan posed the question earlier of what started it in the North all those decades ago. There is not one simple answer to that. It is complex and multilayered. What we can point to, however, is a legacy of the conflict, as well as the neglect and abuse that went before that led to that inevitability. The legacy of conflict has shaped the political institutions here and the political parties which make them up. Whether it is Croke Park, Ballyseedy, Béal na Bláth, Ballymurphy or Birmingham, the legacy of conflict has shaped both of these islands and shapes all of us. I hope that, 22 years after the Good Friday Agreement, it has also encouraged us to move beyond the legacy of conflict and to assist families and all victims to move on to right and proper reconciliation, truth and peace. The Tánaiste and Minister for Foreign Affairs and Trade used the word “healing” in his contribution. It struck me because it was right and was also a word used by Patsy Kelly Junior during the briefing today in the AV room. Patsy was not born when his father was murdered. I understand this is a trying day for his family who are present in the Gallery.

The right to truth and justice, or legacy as it has become known, is one of the defining issues of the peace and political process at this point. It is defined by a lack of progress in terms of relatives who lost loved ones in the conflict getting the truth and justice to which they are entitled. It is defined by the extensive measures that the British Government, assisted by the unionist parties, in particular the DUP, has taken to block access to the truth and justice. It is defined by the British Government’s deny-and-delay approach to playing its full role in assisting relatives in their search for the truth and justice. It is defined by the negative impact of the British Government’s deny-and-delay approach on one of the most crucial parts of the peace process, namely, a new police service.

The PSNI is facing a crisis of confidence within the nationalist community because of the deny-and-delay tactic. The PSNI is regularly in the courts placing obstacles in the way of relatives accessing intelligence files and other information which would help them. This stance of the PSNI is undermining support for it from the nationalist people. It is also hindering it carrying out its duties unrelated to the conflict. The Chief Constable of the PSNI has said publicly that it is not equipped to deal with legacy. This reality is ignored, however, as the British Government uses the courts to prevent relatives from accessing the information they need. In recent weeks, it has been defined by the outrageous comments of the British Secretary of State, Karen Bradley, to which the Tánaiste and Minister for Foreign Affairs and Trade alluded, when

she praised the British Army and said its members who killed did not commit crimes but were in fact upholding the rule of law and doing their duty in a dignified and appropriate way. Ms Bradley's offensive remarks were followed by the disgraceful and indefensible decision by the Public Prosecution Service, PPS, to prosecute only one para, soldier "F", in respect of two murders and four attempted murders on Bloody Sunday, when the British Army shot dead 14 people. All of this is against the backdrop of Britain's Secretary of State for Defence, Gavin Williamson, saying he would introduce legislation to "protect" former members of the British Crown forces from facing prosecution in Ireland, Iraq and Afghanistan. There is only one word for this and that is "amnesty". I am encouraged to hear the strong remarks from the Tánaiste regarding any such suggestion from the British Government. An amnesty for members of the Crown forces will totally undermine the Stormont House Agreement, which a British Government was involved in and agreed to. While the British Government is stating this and is blocking access to the truth, it agreed, after months of negotiations, which involved the Irish Government and all of the parties in the North, the mechanisms of the Stormont House Agreement. Those carefully worked out mechanisms, while not perfect, were designed to provide the truth and justice that relatives need. Instead of the British Government implementing the Stormont House Agreement, however, it is now telling us, six months after the end of the public consultation on the proposals, that it needs more time to respond to the feedback from that consultation. While this delay and prevarication continues, some relatives are frail and ageing. Many have died not knowing why their loved ones were killed or who was involved in the killing.

The British Government is cynically aware that as time passes more and more relatives are passing. Some suspect the British Government is hoping the issue will pass with them. The opposite, however, is the case and the Tánaiste knows that. The next generation is now joining in the campaigns to help find out the truth and get justice. The British Government is not just being criticised by relatives' organisations but also by those political parties which support them. Recently, the European Committee of Ministers, which supervises the execution of the judgments of the European Court of Human Rights, delivered yet another criticism of the British Government's failure to honour its international obligations on key legacy issues. It specifically criticised the British Government's failure to set up the Stormont House Agreement mechanisms and implement their independence.

It also called on the British Government to respond by 21 June to the British Supreme Court's judgment in the Pat Finucane case. Very recently as well, a judge in Belfast prevented the PSNI from being involved in any further investigation into the death of Jean Smith in 1972. He did so on the basis that the PSNI lacks the independence required to conduct such an investigation. I am referring to a judge of the High Court in Belfast stating that. When we reduce all of this down to the reality of why truth and justice are important, we end up with families like that of the late councillor Patsy Kelly. He was a 33 year old father of five children when on 24 July 1974 he was abducted and murdered. Two weeks after he was abducted, Mr. Kelly's body was found in a lake some miles away. It was weighted down by two 56 lb weights tied with polystyrene rope.

The late councillor Kelly's family believe he was abducted and killed by an Ulster Defence Regiment, UDR, patrol. The Kelly family has been campaigning for the truth about Patsy's death for decades. They have faced many obstacles put in place, initially by the RUC and subsequently by the PSNI, the British Army and the legal system. Today, the family met officials from the Tánaiste's Department and this afternoon they presented Patsy's case in the audiovisual room. It is long past time for the British Government to adopt a wholly different approach

to resolving the legacy issue. It is time for it to implement the Stormont House Agreement and allow the families to access truth and justice. I know and appreciate that the Tánaiste and I are on the same page on this matter. Doing that would allow the families to benefit from the peace process as so many others have done over the last 20 years. They could then feel that same tangible benefit.

I will finish by thanking the Tánaiste for taking the time. He never runs away from these issues, to be fair to him. It would be easy to send someone else but he takes the time to not only meet the families but also to address this issue in the House. While we do not always agree on the nuances of all of this, there has been an upsurge in families seeking to engage the Tánaiste and the Government to assert and affirm their rights to be heard as Irish citizens. We have to move beyond simply bringing the families here. It is a great privilege to do so but I do so reluctantly. That is because I am conscious that it retraumatises the families every time they have to come in, tell their stories and relive those scenarios. That is why it is crucially important that these mechanisms are delivered on. We will talk about it and, hopefully, we will agree in these Houses. I have no doubt that we will. It has now reached the point, however, where the Government has to redouble its efforts because of the crucial juncture we are now at. I know we have a friend in the court in the form of the Tánaiste.

Senator Jerry Buttimer: Cuirim fáilte roimh na cuairteoirí sa Ghailearaí. Gabhaim buíochas leis an Tánaiste as ucht an díospóireacht seo a shocrú. In welcoming the families to the Gallery this afternoon, it is important that we remember and thank them for their work. One of the things that has struck many of us has been the dignity of the families concerning Bloody Sunday and the way in which they have campaigned with absolute integrity. Former British Prime Minister, Tony Blair, spoke on the anniversary of the Good Friday Agreement about how we cannot necessarily forget the past but we can also not let it decide the future. That is why it is important, at the beginning of my contribution, to thank the Tánaiste for the work he has done and is doing. It is imperative we acknowledge that work.

Some of the commentariat make comments about my party's position regarding the North of our country, but the Tánaiste has been very firm, very clear and very focused in building bridges and engaging with people there. In some cases, he has done that in a very quiet manner that nobody is aware of. He has opened up doors and, on occasion, firmly communicated the viewpoint of the Irish Government. I state that as somebody who has canvassed in the North for members of the Social Democratic and Labour Party, SDLP, and the Alliance Party, and as someone who has forged friendships with members of both parties. In my own case, when I was a seminarian in Maynooth, friends of mine were living in the heart of west Belfast and in other parts of the North. There were many regular visits to the North of our country and engagement with the issues there.

Some 20 years later, the Good Friday Agreement is a living agreement. As the former US President, Bill Clinton, said, the Good Friday Agreement is a priceless gift that has inspired the world. There is a duty on all of us, North and South, east and west, and green, white and orange, to live up to that document and to make the most of it. We can all have different viewpoints on the reports that have come out in recent weeks and we can express our disappointment at the decision to prosecute just one soldier, soldier "F", in regard to Bloody Sunday. We can also talk about other issues and other tragedies and travesties of justice. However, it is ultimately about dealing with the legacy issues, giving justice to the families seeking it and recognising the past.

I watched a documentary on Bobby Sands with a number of people recently. There were

three different viewpoints among the people in the room and we all watched the same programme. We were all very strong in our views. In my case, I have always been an incrementalist in what I have tried to do in my political life concerning social change and bringing people with us. That is why it is important we have this debate in the House today. This issue is, ultimately, about truth and reconciliation. As Senator Feighan said, this is about this shared Ireland and this shared vision we all want.

I do not want to be adversarial or disparaging in my remarks, but the Tánaiste was right when he called out the leader of the Sinn Féin Party for marching behind that banner on St Patrick's Day. That is not leadership. That is playing to one side of an argument. I am not being adversarial in stating that and I do not mean to be in my remarks. This is about all of us coming together and working to achieve what many of us and many of the family members in the Gallery want. That is answers. We can only do that by talking and by engagement and not by polarising and being divisive. I refer to both sides in that respect. We can use the excuses of there being no Assembly in the North or the Democratic Unionist Party, DUP, and its engagement with Brexit. If we talk to the ordinary people in many parts of the North of our country, however, they want what we want here in the South. They want to be able to live their lives in peace, have a family, see it grow up, see it reared and have prosperity in whatever shape or form that arrives in.

That is why there must be continuing outreach by all of us to engage. Senator Craughwell is right. There are hurlers on the ditch on social media and in other places who have never been beyond the Border. They have never had an interest in the North other than singing rebel songs after a couple of hours wherever. It is about the exchange of ideas. We had the Lord Mayor of Belfast in the Chamber and she gave a fine contribution. When I was Chairman of the Oireachtas Joint Committee on Health we travelled north and met our counterparts in the Assembly in the North.

Senator Craughwell and Senator Conway-Walsh spoke last week about working with women in healing division. That is the ultimate point. It is about healing division.

The Tánaiste referred to the Government continuing to engage. That is imperative for both Governments so that victims and survivors can access whatever truth and justice is possible in their cases. It is vital to support the achievement of a reconciled society in Northern Ireland. I cannot put it better than that.

Senator Rose Conway-Walsh: I welcome the family of Councillor Patsy Kelly to the Chamber today and I support their campaign for truth and justice. I appreciate the Tánaiste coming to the House today, especially in the context of the ongoing challenges presented by Brexit.

To be able to look to the future we have to deal with the past. We know this because we have listened to the families of the Bloody Sunday massacre, whom we met again earlier this week, and the families of the Ballymurphy massacre. We attended the inquest as well. We have listened to the families of the Loughinisland massacre. They came down to the House as well. We have listened to the family of Stephen Travers, who we saw on a Netflix film that was recently released. We have listened to the family of Patsy Kelly - they are here today - as well as to Pat Finucane's family and many more families.

One thing that struck me after the recent Bloody Sunday findings was how the families were

seeking justice not revenge. The stories, pain, injury and loss from across the political spectrum have to be acknowledged. The views of these families have informed our approach to engaging with the past and building for the future in a victim-centred and respectful manner rooted in equality, dignity and justice.

During the most recent phase of the Stormont negotiations the British Government agreed with Sinn Féin to release the legacy inquest funding requested by the Lord Chief Justice; to commence the consultation on legacy legislation minus reference to the Statue of Limitations; and to establish the Stormont House legacy mechanisms. We know that the way to honour these commitments is the immediate establishment of the British-Irish Intergovernmental Conference. I call on the Tánaiste to play his part in ensuring that is done.

I commend the great civic engagement and the wonderful work being done across communities by so many different groups on this island and in Britain. One such group is the Tim Parry Johnathan Ball Foundation for Peace founded by Colin and Wendy Parry. I had the privilege of meeting Colin Parry several years ago with Martin McGuinness in London. He was one of the most inspirational human beings I have ever had the honour of meeting. He was able to reconcile the pain that he and his family had gone through and yet bring that forward to do such wonderful work with the peace foundation that he subsequently formed.

The Stormont House Agreement, an agreed template for how we can address issues, needs to be implemented. In the meantime, legacy issues remain painful and combative. Republicans continue to be attacked by unionist politicians for remembering our patriot dead. Our party chairman, Declan Kearney, and others have repeatedly said that we have every right to respectfully remember our patriot dead and we respect the rights of others to do the same.

Acts of war can never be romanticised regardless of the wider context in which they occur. Multiple narratives exist about the political conflict in the North, including those of republicans, the British state, unionism, constitutional nationalism and indeed those who purport to suggest that the conflict was nothing to do with them. Sinn Féin accepts this reality and believes our society must move to a point where we can collectively agree to disagree. We must not create a new battleground to fight a war that no longer exists. Sinn Féin is pursuing the establishment of an independent international truth commission. The actions of British state forces and their agents through the 1970s, 1980s, 1990s and 2000s are part of the reason the past is so contested today. British state opposition to opening the millions of files that disclose information on the actions of its forces and agents has turned the legacy into the slow waltz described by the families affected. That magnifies the pain and suffering of the victims of the conflict.

I welcome the statement from the Tánaiste. In particular, I welcome his comment that all deaths must be properly investigated and prosecuted in compliance with Article 2 of the European Convention on Human Rights regardless of the perpetrator. I thank the Tánaiste for the work he has done to date. I am encouraged by much of the work he has done. It is our responsibility - by which I mean all of us collectively, including the Irish Government, the British Government and all of us as legislators - to ensure we have peace and reconciliation and prioritise the structures that are needed to put these in place so that people are not bound by the past.

Senator Mark Daly: I thank the Tánaiste for coming to the House and taking this important debate. I know the case of Patsy Kelly has been raised already. That is only one of the many legacy issues. They are referred to as legacy issues but they are still murders. They are simply uninvestigated murders in many cases. A historical inquiries team was set up to investi-

gate many of these but they really should be murder inquiries. We saw recently the decision by the British Government to only prosecute one of the paratroopers involved in Bloody Sunday. It is amazing that the British justice system could convict the Birmingham Six, the Guildford Four and the Maguire Seven with no evidence when, with 14 dead bodies, the same system was unable to convict paratroopers involved in Bloody Sunday.

Along with my colleagues I was up in Belfast for the Ballymurphy inquest. It is amazing that an inquest would take so long to be carried out after people were murdered. We will no doubt see a similar farcical process of alleged British justice when it comes to prosecutions in that case. Prosecutions for murder in Northern Ireland seem to depend on whether the person involved was wearing a British uniform.

We also see other legacy issues, including a request from the loyalist side for the Taoiseach to support Raymond McCord. The point is that the Government would not be seen to be partisan in respect of who it seeks justice for because there are people who were murdered in the loyalist community too. Raymond McCord wants the Taoiseach and the Tánaiste to seek a full independent public inquiry into the murder of Raymond McCord Jr., who was killed on the instructions of a paid informer of the RUC special branch. This was done under Operation Ballast, which was a major inquiry by Nuala O'Loan, the then Police Ombudsman for Northern Ireland. As we all know, it found widespread collusion between the UVF and UDA and the British security services and RUC special branch. That collusion went all the way to the top. When we are looking for an inquiry into the murder of Pat Finucane, we should also seek public inquiries into events such as the murder of Raymond McCord. It is clear that he was murdered. There was a dead body. Everybody knows who carried out the instructions and the murder, yet nothing is happening. Justice is constantly denied to both communities by a system that seems incapable of addressing the most fundamental right of any family which has lost a loved one, namely, that they would get justice and the truth. However, the truth is being denied, as we see in the case of Patsy Kelly, where evidence uncovered in recent years has been withheld from families to ensure that justice is not done.

We need the Government to ensure that there are inquiries into the cases with which we are all familiar such as the Ballymurphy massacre and the murders of Patsy Kelly, Pat Finucane and others. It should also ensure that other families, such as that of Raymond McCord, get the justice they deserve in regard to these issues. We often discuss legacy issues, but these are murders that have never been investigated properly and for which, as a result, there has been a failure to prosecute. This is due to a systematic process within the British Government whereby it is waiting for people who should be prosecuted or who have evidence and would be able to assist in prosecutions to die, with the effect that justice will be denied to the families who are so entitled to it after all these years.

Senator Paul Gavan: I did not intend to speak on this issue but I wish to say a few words, largely because, thanks to my colleague, Senator Ó Donnghaile, who is beside me, several families of victims have visited the Oireachtas in recent times. It is a privilege to have the family of Patsy Kelly here today. We have met family members affected by the Ballymurphy massacre as well as members of the Finucane family and others. I spoke at the Council of Europe not too long ago on the issue of the heartbreak suffered by families who are waiting and waiting to hear the truth about their loved ones and the fact that, unfortunately, it is clear that there is major obfuscation on the part of the British Government. That is unacceptable on a human basis, apart from anything else.

I wish to acknowledge the contributions of Senators across the Chamber to this debate. The House seems to be, for the most part, at one on this issue. However, the families must continue to wait. I was struck that when I raised the issue at the Council of Europe among my British colleagues, it was met with silence on all sides, which was more than disappointing. Surely, beyond the political challenges there must be a common humanity which we must all embrace. I appeal to the Tánaiste to do everything in his power to ensure that the interminable waiting and suffering does not continue. If he goes about that work, as I am sure he will, he will have the support of all Members of this Chamber.

Tánaiste and Minister for Foreign Affairs and Trade (Deputy Simon Coveney): I thank Senators for the way in which this debate has proceeded. It is appropriate in some ways that members of a family directly involved in this issue are present in the Visitors Gallery. The commentary has been respectful and dignified, which is what we are trying to achieve in this political and cross-community discussion on how we deal with the real challenges of reconciliation which, to be honest, are generational challenges. They will not be met overnight. We need to ensure that the language used in this House and by the Government is balanced and that the examples we use and the victims' families with whom we choose to engage are similarly balanced.

I have had the privilege of meeting families impacted by Bloody Sunday, Ballymurphy and the Dublin and Monaghan bombings, as well as the family of Pat Finucane. Today, I had the privilege of meeting the family of Patsy Kelly. I have also met families affected by the Kingsmill massacre, many of whom do not see me as somebody who wants to help to solve their problem. I have spoken to many unionist families who are deeply concerned by how people who were heavily involved in the Troubles are still commemorated and the language that is used around those commemorations. If we are serious about resolving this issue - and I certainly am - we must bear that in mind. The most important thing in my political career is the impact I hope I can have on Northern Ireland in my current position.

However, we need to try to use different language when we speak to each other because, otherwise, it will remain tribal and identity-based, whereby community members console each other regarding the pain, frustration, anger and sense of injustice that is clearly very strong and genuine within those communities, but that does not reach out across communities. That is very difficult politically. When I speak to unionist or nationalist and republican leaders, I get a deep sense of the obligation they feel to represent the concerns and injustices that apply to many in their communities. When they are set up, the real test of the structures agreed at Stormont House - the historical investigations unit, the independent commission for information retrieval, the oral history archive and the implementation and reconciliation group - will be how communities start talking to each other and how, in time, families can, it is hoped, start relating to each other. That has been evident in some of the work done by victims groups and the ombudsman. However, political parties need to try to also move into that space and think about how the messages they give and reinforce on a weekly and monthly basis are heard by other communities. I do not wish for this to sound like a lecture because it is not meant to be such. The language I use is as important as that used by leaders within communities in political parties.

The Government approach on this issue is as I earlier outlined; it must be equal for everybody. Where possible, we need truth and justice for everybody, regardless of who they are, their background, whether uniforms were worn or in what their families or relations were involved in the past. If we are serious about reconciliation and allowing Northern Ireland to move forward,

first and foremost, people have a right to know what happened. As was mentioned, in some cases it will not be possible to secure convictions. However, even in the absence of formal convictions, possibly due to insufficiently strong evidence to secure a conviction, truth is part of the reconciliation process that we need to achieve.

I am deeply committed to this process and will work with the British Government. I will ensure the Irish Government plays its part in terms of the legislation to which we have committed. I am very conscious of the commitments I made to the Kingsmill families regarding legislation which we committed to passing and which will come through this House, as I am very conscious of the commitments I made to the Ballymurphy families and others in terms of supporting comprehensive inquests and structures that can, over time, provide truth, with the funding mechanisms to ensure that happens. The British Government is committed to that also. I have to say, because it is the truth, that passing legislation on legacy through Westminster is currently complicated and difficult. In some ways, the debate is somewhat one-sided. That poses major dangers and creates genuine concerns, among nationalist communities in particular, because of the lack of a voice to create balance in the debate in Westminster. I am not getting into the issues of taking up seats in Westminster and so on; that is a totally different debate. I accept the perspectives of different people on it. Whatever way one describes it, however, there is not a balanced debate on this issue and, therefore, the Secretary of State faces genuine challenges in ensuring legislation that is fully balanced and fair and takes into account all sides equally. She is committed to achieving that. She knows she made a real mistake but she wants to move on from that and reassure people that she can achieve what is required in a way that is balanced and fair. I have had long conversations with her about that. As I stated before, Ms Karen Bradley is a good person and I can and will work with her.

I reassure all parties in this House that the Government's perspective, which I outlined, is very clear and will be argued very strongly. If the legislation moves in the wrong direction, we will call that out. We have an obligation to do so. We will continue to work with the British Government where we can on other outstanding issues, such as the Dublin and Monaghan bombings, and we will do what we need to do here to try to reassure families who may regard the Irish Government as an entity that has questions to answer in regard to cross-Border co-operation, potential collusion and so on so that we can ensure that we can contribute to the inquests taking place on a cross-Border basis and a cross-jurisdictional basis. This is very difficult to do internationally and there is not much precedent for it but that is what we are doing through the legislation, which would effectively allow a member of An Garda Síochána to give evidence to an inquest taking place in Belfast through a court system in Dublin. We are passing legislation to facilitate that in an effort to be fully transparent and in the spirit of co-operation to try to establish the truth for everybody.

I look forward to working with this House on this issue in future debates. There is a range of other points I could make on Northern Ireland, the need for political leadership on reconciliation, and the re-establishment of devolved institutions. It is very hard for the Good Friday Agreement structures to work without those institutions functioning, without North-South ministerial councils functioning, and without political direction for North-South bodies. All of this is creating stagnation in Northern Ireland at best, and polarisation at worst. We have got to change that together.

As has been said, there will be differences of opinion on certain issues and we will call each other out at different times when we believe stupid things have been said. Ultimately, however, we have got to work together across all parties to try to provide a basis for agreement that can

start to create positive momentum in Northern Ireland again. It has been absent for far too long. Northern Ireland and the rest of the island of Ireland are in far too vulnerable a place in the context of decisions that are being taken for us not to do what I describe.

Once again, I thank the Kelly family for being here today and for helping to create a better understanding of its own case, experiences, frustrations and tragedies. I hope that, by working together in this House and in the Dáil, and by working with the British Government, we can ensure the legacy structures that are so badly needed for so many families can be put into operation quickly so more people will not pass away without obtaining the truth and justice in respect of the past.

Sitting suspended at 5.25 p.m. and resumed at 5.30 p.m.

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

SECTION 1

An Cathaoirleach: It is proposed that section 1 stand part of the Bill. Is that agreed? Agreed. It is proposed that section 2 stand part of the Bill. Is that agreed? Agreed. It is proposed that section 3 stand part of the Bill. Is that agreed?

Minister for Employment Affairs and Social Protection (Deputy Regina Doherty): I apologise-----

An Cathaoirleach: Is this not a Government Bill?

Deputy Regina Doherty: I do not appear to have the right document.

An Cathaoirleach: My apologies. I had presumed it was a Government Bill.

Deputy Regina Doherty: No.

An Cathaoirleach: We will go back to section 1. It is proposed that section 1 stand part of the Bill. Those in favour say “Tá”. Those against say “Níl”. The question is defeated. We can move on to section 2.

Senator Gerald Nash: I am sorry. We want to vótáil on section 1. It is being opposed.

An Cathaoirleach: It is being opposed. Does the Senator want to speak on it?

Senator Gerald Nash: I want to speak on the Bill broadly. As the Minister knows, bogus self-employment is a massive problem for workers. It is also a huge problem for the State and an enormous problem-----

An Cathaoirleach: Just to be careful, I note that I put the question and technically it should not be reopened, but there was confusion, some of which was on my part, so I will allow the Senator to speak briefly.

Question proposed: “That section 1 stand part of the Bill.”

Senator Gerald Nash: I apologise for any distractions. The Minister knows the extent of

the problem. She has spoken on the issue and has acknowledged that bogus self-employment is a problem. We differ on the way in which it should be tackled. I will be appealing to the Minister this evening to allow this Bill, in its entirety, to pass on Committee Stage. I know she has her own proposals. This is an urgent problem not just for workers who are caught up in bogus self-employment, but also for businesses whose business models are critically undermined by the fact that too many businesses, albeit a minority, engage in this practice. Business practices, hiring practices and decency in business are being undermined. We are losing incredible sums of money each year in foregone PRSI and tax revenue because of the misclassification of workers.

The Minister is aware of all of those arguments, although we differ on how the issue should be dealt with. Given that the Minister announced through the media earlier this week that she will be developing her own proposals in respect of bogus self-employment, I will be appealing to her to allow this Bill to pass on Committee Stage today. When she has prepared her proposals I will be happy to work with her. I know that other Opposition Members will also be happy to work with her if this House can engage in a meaningful way with the trade union movement and other interested parties to address this issue. I do not believe this issue can be addressed in the fundamental way in which it needs to be addressed if we do not disincentivise the practice of bogus self-employment by ensuring that, for example, those who are evading or avoiding their PRSI responsibilities to the State and to their own employees are disincentivised to do so and feel the full force of the law. That is why we want to reform this law with regard to the State's attitude to evasion and avoidance of PRSI. That is a matter to which we will return later.

In the same vein, one of the most critical aspects of this legislation is the need to define very clearly in primary law the characteristics of false, bogus or disguised self-employment. That is absolutely critical to the success of any legislative initiative that might be taken. Any mere administrative tinkering at the edges of this issue will not go far enough to deal with the problem. It should be the case that people's employment status is defined very clearly in law, although not by means of an exhaustive list. What I am proposing, which we will discuss later, is not an exhaustive list but a number of key tests with which the Minister and the Government will be familiar. These are the same key tests contained in the Competition (Amendment) Act 2017, which was developed by Senator Bacik, approved by both Houses, and enacted in the middle of 2017. The Minister, the Department, and the Government more broadly will therefore be very familiar with those particular tests.

In the Competition (Amendment) Act 2017 those tests only applied to certain categories of workers who were provided with exemptions from competition law for the purposes of collective bargaining, membership of trade unions and so on. We want those kinds of tests applied to the general population of workers. This should be a matter of law, not somebody's opinion or the understanding of what might be the contractual relationship. Nobody should have the opportunity to opt out of employment law coverage.

We are appealing to the Minister to allow the Bill to pass, although I know she has expressed her opposition to it and she has some concerns about the application of various provisions. In the interests of unity and given that there is a consensus in this House and across the political spectrum that the issue must be fundamentally dealt with one way or the other, I appeal to the Minister and her colleagues in Fine Gael not to block or oppose this Bill. I ask them to let it through so we can work with them to perfect this over a period. There is an urgency about this and the State is losing income hand over fist while workers are losing rights and benefits to which they should be entitled. That is simply not good enough. It is an egregious position.

We worked on a cross-party basis in this Chamber and in the Dáil to develop the Employment (Miscellaneous Provisions) Act 2018, which dealt with zero-hour contracts and low and variable hours work, so there is no reason we cannot work together in that same spirit to perfect this legislation, which should apply to the broad population of workers in this country for all the reasons I outlined.

An Cathaoirleach: Senators should speak briefly to the section.

Senator Paul Gavan: I will be brief. I welcome the Minister and commend my colleagues in the Labour Party, particularly Senator Nash, on the Bill. I know how important the Bill is because, as a trade union official, I saw at first hand the abuse of these workers. They were blatantly told that they would have to take jobs on a self-employed basis or they would not get those jobs. We know from reports from the Department that this is a major problem that is costing hundreds of millions of euro in lost revenues each year. I reiterate my total agreement with Senator Nash's comments as we cannot just tinker around the edges with this because the matter is far too important.

I wish to express my frustration because, to my mind, this is a good Bill that is now on its journey. We have amendments aimed at strengthening the Bill but I would be happy to withdraw them with the right to resubmit because I do not want to in any way jeopardise what is a good Bill. Does the Minister accept that there is a major problem in this area? I can assure her that there is but I hope she already knows it. If that is the case, I am at a complete loss as to why we do not work with what is a very good Bill to move it forward, as it would have to complete a journey in the Seanad before going to the Dáil. There would be ample opportunity if amendments must be made or further discussions are to be had; we should have those discussions and move forward with the process.

The idea of waiting for a Government Bill presents a major problem because we have already waited too long. Workers have already waited too long and are suffering. To be frank, there is a high likelihood we will not have the time in this term to deal with a new Bill from start to finish. Is it any wonder people are cynical about politics when, instead of working with what is a good Bill - Sinn Féin believes we should progress this in order to defend workers - the Government appears to be indicating that it cannot do it because it did not publish the legislation? I hope I am wrong about that. Surely we are a bit more mature than that.

I acknowledge that the Minister has done good work in the past and we all co-operated on last year's miscellaneous provisions Bill. All parties had good input and it was a success. We can and we should do the same here. I am happy to withdraw my amendments with the right to resubmit them so as not to hold up this process in any way. It would be a major disservice to thousands of workers in this country if this Bill were to be defeated this evening. Surely we can do better than that.

An Cathaoirleach: We will come to the sections in respect of which the Senator has tabled amendments but, from what he said, I understand that he is considering either not moving or withdrawing them in order to resubmit them on Report Stage. That is his prerogative.

Senator Paul Gavan: Exactly.

An Cathaoirleach: We will deal with them as we come to them. We are still on section 1.

Senator Ivana Bacik: I welcome the Minister and commend my colleague, Senator Nash,

on bringing forward this initiative and for all his work on the Bill, which has already passed Second Stage in this House. I echo his words and those of Senator Gavan as to how vital this Bill is in addressing the issues of the growing “precariat”, in other words, the increasing number of people in very precarious employment relationships who are being referred to as self-employed in a bogus sense. Of course, this Bill should not be seen on its own and, as Senator Nash stated, there have been other initiatives, including our own Competition (Amendment) Act 2017, which was initiated as a Labour Private Members’ Bill but passed by the Houses with full support in 2017. We worked very closely and constructively with the Government and officials in getting that legislation through. We delayed different Stages in order to secure an agreed set of amendments and, in general, everybody has been very happy with the final Act. It has addressed a real issue for so many vulnerable workers.

Similarly, Labour initiated the gender pay gap Bill in this House. The Government did not oppose the latter in principle, although it did oppose it because it wanted to introduce its own legislation. At the same time, we have been working with the Government on various aspects of the issue and I am surprised that the Minister seems to be opposing each section of the Bill before us. I am not sure if that will be the case but it seems to be a most peculiar tactic even where the Government does not support the passage of a Bill through Committee Stage. It is certainly not the usual practice for the Government to oppose each section, thereby potentially dividing the House in this case eight times with each of the eight sections of the Bill. That does not seem particularly practical.

I commend Senator Gavan on his much more constructive approach. He has amendments that he wishes to bring forward on behalf of Sinn Féin in order to strengthen the Bill. They are constructive and we are happy to debate them but he is proposing to either not move or withdraw them in the interests of being even more constructive and seeking to ensure that the Bill goes through. We are all in general agreement on the principle, although the Minister is proposing her own legislation to deal with the matter, and Senator Gavan does not propose to divide the House in the context of his amendments. It seems a sensible approach to take with this sort of legislation. I believe I speak for Senator Nash in stating that we would be very happy to engage with the Minister in a constructive manner, possibly delaying the holding of Report Stage so we can work with the Minister and her Department on any amendments they see fit to bring forward and address any concerns they have.

As already stated, opposing each section is an unusual practice. We will have no option but to seek support from across the House for each section of the Bill but it seems unnecessary; if the Government is to oppose the Bill, perhaps it could be opposed at the end of the debate rather than at the end of each section and having a vote on them. That is especially pertinent as we are all in agreement with the very important goal of this Bill.

Deputy Regina Doherty: I thank Senator Nash for his continued interest in this area and he committed to addressing this matter long before I became the Minister with responsibility for employment affairs. The Bill was not opposed on Second Stage by the Government because we all want and hope to see this matter being addressed within a short period. There were some fundamental flaws in the Bill that had to be teased out with the relevant joint committee, which has had a number of hearings and one much work with the Irish Congress of Trade Unions and IBEC, as we have also done. The legal issues have not been addressed because the Bill before us is practically exactly the same as it was on Second Stage.

With respect, I have no choice but to outline why we are opposed to the Bill. It is not be-

cause the intention behind it is not absolutely admirable and shared by every person in this House and Dáil Éireann. Deputy O'Dea only launched his own Bill today. He introduced a provision on bogus self-employment as an amendment to the consolidated Act from last year but we had to ask him to remove it. Again, we did not have the opportunity for pre-legislative scrutiny.

We all want the same thing. I am not hung up on whose name is listed at the bottom of the page because there is absolutely no monopoly on wisdom on the part of any government. Legislation is only enriched by the contributions of all Members of both Houses. I believe in that process. The problem is that what we outlined as being at issue a number of months ago is still part of the Bill. It would be unfair to state that sections 1, 2 and 3 are grand without outlining the problems we have with them. I do not mind if we do not have a division at the end of the debate on each section. Fundamentally, when we finish this debate, I will have no choice because we have not amended the Bill to deal with my concerns. Accordingly, I cannot support it in its current guise. It is fine if Senator Gavan wants to withdraw his amendments and bring them back on Report Stage. However, we need to ensure that whatever legislation is enacted does exactly what we need it to do with regard to this growing issue. It is not a new phenomenon.

Sometimes people believe it is because of the gig economy and how work arrangements are changing. However, we always had people declare themselves as self-employed either willingly or being forced to do so in a variety of industries. Ultimately, there is a loss of employment rights and a whopping loss of revenue to the State. This needs to be addressed properly. I can go through each section to explain our concerns with this Bill. However, I cannot support it at this point.

I support the work done by the Labour Party, Sinn Féin, Fianna Fáil, the Independents and the Government in this regard. For once, we all want the same result, namely to eradicate people being maligned into a particular employment status that they should not be in. More importantly, one cannot be willingly self-employed if the work one does is employment and not self-employment. A clear definition and a code of practice need to be put on a statutory basis as to what self-employment and employment mean. If one is employed, one's employer will pay the contributions into the Social Insurance Fund which funds all social welfare pensions and schemes. One cannot be allowed to avoid it because two people willingly enter into a self-employed contract when self-employment does not exist.

I am not trying to be difficult. It is not about my legislation introduced in the Dáil this morning versus the Senator's legislation. I want legislation which has no unintended consequences and is clear in its victimisation and penalties provisions, as well as being clear in its definitions as to self-employed and employed with no ambiguity or wriggle room.

An Cathaoirleach: I have no monopoly on wisdom. However, I take it the Government is not prepared for this legislation in its current form. If it opposes Committee Stage, I cannot see how it can progress to Report Stage.

Question put:

The Committee divided: Tá, 10; Níl, 19.	
Tá	Níl
Bacik, Ivana.	Burke, Colm.
Conway-Walsh, Rose.	Burke, Paddy.

27 March 2019

Gavan, Paul.	Butler, Ray.
Higgins, Alice-Mary.	Buttimer, Jerry.
Mac Lochlainn, Pádraig.	Byrne, Maria.
Nash, Gerald.	Conway, Martin.
Ó Donnghaile, Niall.	Feighan, Frank.
Ó Ríordáin, Aodhán.	Hopkins, Maura.
Ruane, Lynn.	Lawless, Billy.
Warfield, Fintan.	Lawlor, Anthony.
	Lombard, Tim.
	Mulherin, Michelle.
	Noone, Catherine.
	O'Donnell, Kieran.
	O'Mahony, John.
	O'Reilly, Joe.
	Ó Céidigh, Pádraig.
	Reilly, James.
	Richmond, Neale.

Tellers: Tá, Senators Ivana Bacik and Gerald Nash; Níl, Senators Ray Butler and John O'Mahony.

Question declared lost.

SECTION 2

Question proposed: "That section 2 stand part of the Bill."

An Cathaoirleach: Does the Minister wish to speak to section 2?

Deputy Regina Doherty: To reiterate, there are some issues with regard to the other sections but I will not be pressing them to a vote. It is just to put them on the record. There are an enormous number of subsections in section 2 that are very helpful and clarify certain scenarios that would rule out a determination of employment. I have asked the Department to seriously consider, with the Senator's permission, inserting them in the new statutory code of practice. We will liaise with him on that in the coming days.

Subsection (3) of section 2 attempts to define a genuine self-employed relationship in terms of the client or the customer relationship and these are terms that are not defined anywhere. It is clear from the advice we have been given that this could provide conflict and legal challenge. It is on the basis that it would undermine the current legislation, even though that is not strong enough to do what we all want it to do, I cannot support the section.

An Cathaoirleach: It seems to me, and I am not judge and jury here, that in terms of the

way it is working, if this Bill survives, and it probably will for certain reasons, and if the Government and the Minister are ready, there could be a meeting of minds on it by Report Stage. Obviously, there is a general perception on the part of the Government that there are many positive proposals in this Bill but they are not legally ready. I then scheduled the matter. Does Senator Nash want to speak on section 2?

Senator Gerald Nash: I do. Section 2 defines, in our opinion, an employment relationship and seeks to make exceptions for those who are genuinely self-employed, in other words, who are in business of their own account. I understand what the Minister is saying in that additional work may need to be done on that to tighten it up but she understands the intention of the section and all of the language around that.

I am particularly heartened by the fact that she acknowledged in her opening statement that one of the areas we need to get serious about is putting into statute effectively what the code of practice tries to prevent happening. The code of practice itself served a purpose at a time and place. It was agreed by the Irish Congress of Trade Unions, IBEC and other players as well but given the experience in the construction industry in particular, and across other sectors of the economy, the code of practice is insufficient for authorities to make decisions regarding the employment status of an individual. However, the language has considerable merit. We have drawn heavily from the noted Dutch case in terms of the determination of employment status - bogus self-employment and so on - and taking all of that into account I believe we can work together to try to nuance and finesse the Bill to strengthen this section and subsequent sections, which may need some work to ensure they work for everybody. I note what the Minister is saying and what she is trying to achieve. There is some common ground in this regard. We may differ on some elements of it and I am happy to work with her on that in the future.

Senator Alice-Mary Higgins: I will speak briefly to section 2. It is very thoughtfully worded and is very much in line with what we are seeing across Europe where there has been increasing pressure to identify what we define as work and an employment relationship. We know that other countries are addressing that issue too including Belgium and many others. The Minister will be aware that we have had a number of hearings on that issue in the Joint Committee on Employment Affairs and Social Protection where we have been examining what is best practice. I believe the section put forward by Senator Nash reflects that quite successfully. I recognise that this is an evolving area to debate and examine further but the section reflects the current thinking on which we need to be very clear. It not only addresses the contract of services but also some of the loopholes which have been used to avoid describing persons as being an employment relationship, for example, when they may be doing work for another party or working as a teleworker or outworker.

Much thought has gone into this section. I am happy the Minister seems to be open to its ideas but I hope she will also be open to discussing those ideas not simply in terms of the Government's guidelines but also within this Bill. I would love to see this Bill move to Report Stage with amendment, debate and constructive suggestions from all Members across the House from different parties and groups. I urge the Government to not only recognise the positive points being made by Senator Nash but also allow the debate on this Bill, and this proposal, to move forward because it is very constructive.

Question put and agreed to.

SECTION 3

Question, “That section 3 stand part of the Bill”, put and declared carried.

SECTION 4

An Cathaoirleach: Amendment No. 1 is in the name of Senators Gavan, Conway-Walsh, Devine, Mac Lochlainn, Ó Donnghaile and Warfield. Does Senator Gavan wish to move this amendment?

Senator Paul Gavan: I move amendment No. 1:

In page 5, lines 4 to 22, to delete all words from and including “an individual who—” in line 4 down to and including line 22 and substitute the following:

“regard may be had to the following:

(a) the degree of autonomy and control that the person performing the work has over the tasks to be performed and how they are to be performed;

(b) the degree of supervision over the person performing the work and his or her working methods;

(c) the degree to which the person performing the work is integrated with others in a relevant workplace or undertaking;

(d) whether the person performing the work supplies his or her own tools, equipment or other capital items for the performance of the work;

(e) the extent, if any, to which the person performing the work has invested capital or other items related to the work performed;

(f) any previous contract of employment between the parties;

(g) whether the person performing the work is free during the engagement to perform work for, to, any person other than a person alleged to be a party to the bogus contract for services;

(h) the extent, if any, to which the person performing the work does perform work for, to, any person other than a person alleged to be a party to the bogus contract for services;

(i) the economic dependency of the person performing the work on the relation in question;

(j) whether the person performing the work advertises his or her availability for performance of that or other work or the provision of those or other services, to any person other than a person alleged to be a party to the bogus contract for services;

(k) whether the person performing the work has had to tender or take other similar steps to secure participation in the relation in question;

(l) whether the worker employs other persons;

(m) the extent, if any, to which the person performing the work carries a risk of financial loss in relation to that performance or provision, and the nature of that risk;

(n) the extent, if any, to which the person performing the work enjoys the opportunity of profit in relation to that performance or provision, and the nature of that opportunity;

(o) the relative strength of the bargaining positions of the parties to the relation and, if applicable, any persons acting on behalf of the parties;

(p) whether any undue influence or pressure was exerted on, or any unfair tactics were used against, a party to the relation;

(q) the extent to which any contract between the parties to the relation provides for remuneration by reference the completion of a particular task, rather than for the payment of, or in the nature of, wages based on time worked;

(r) the extent to which any contract between the parties to the relation provides total remuneration that is, or is likely to be, less than that of an employee performing similar work or providing similar services;

(s) the extent to which the contract is designed to, or would, apart from this Act, relieve the employer from paying the employee the national minimum hourly rate of pay.”.

An Cathaoirleach: Is the Senator pressing the amendment?

Senator Paul Gavan: I will withdraw the amendment with the right to resubmit it on Report Stage.

Amendment, by leave, withdrawn.

Section 4 agreed to.

SECTION 5

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

An Cathaoirleach: Does Senator Nash wish to speak on section 5?

Senator Gerald Nash: Yes.

An Cathaoirleach: Any Member who wants to speak on any section, and it could have significance down the line, is quite entitled to do so.

Senator Gerald Nash: I took the time in recent days to reflect on comments the Minister made in her reply to me on Second Stage in February 2018 when we were in the eye of the storm. It was the day of the big snow and we were all anxious to leave this place early and get back safely to our homes. The Minister expressed some concerns about the impact on what we describe as intermediary arrangements and expressed the view that all intermediary arrangements do not necessarily involve bogus self-employment practices. I understand what she meant by that and I entirely appreciate it but some egregious intermediary arrangement situations are used by key players in the airline industry, for example, to engage staff. These kinds of arrangements are deeply flawed, unethical, immoral and wrong. Any legislation to which these Houses finally agree needs to address these kinds of issues whereby companies are formed with Byzantine structures to protect the interests and *modus operandi* of large companies in, for example, the airline industry. As Members know, some very high profile media personalities are engaged in these kinds of practices, although I will not name names. Such behaviour is wrong,

as are these corporate structures that are used to avoid PRSI and tax obligations to the State. Often, the people who, deliberately or otherwise, avoid their tax and PRSI obligations through such intermediary arrangements also host programmes on broadcast media, for example, decrying the fact that the State is not spending enough on health services, welfare and housing. To be frank, people involved in those kinds of arrangements have an absolute cheek, given the behaviour of some individuals in that context. Any legislative resolution to this problem needs to capture such intermediary arrangements while accepting that not all of these arrangements are necessarily designed to avoid tax or PRSI or to disguise the employment situation of a director of one of the companies.

Deputy Regina Doherty: I have some minor issues regarding section 5. In regard to intermediary third parties, the Bill refers to functions which “are matters of form only and not of substance”. Those terms are not defined anywhere in legislation and I have been advised by the Attorney General that the wording would lead to considerable debate and possibly a large amount of litigation which, obviously, none of us wishes to encounter in regard to the Bill.

In addition, there may be some misunderstanding of the powers of the Department in how it operates these matters. To be clear, under section 300 (2)(a)(vii) of the Social Welfare Consolidation Act 2005, our deciding officers are empowered to determine who is or was the employer of an employed contractor. The deciding officers of the scope section can use this section of the Act to determine that the end user of a person engaged through an intermediary process is, in fact, the employer. That there is a middle man or woman, for want of a better term, does not change the fact that a person should be determined as a specific PRSI class or not. The deciding officer would be required for PRSI purposes to treat the worker as a direct employee and return the worker’s and employer’s PRSI status to what they ought to be under the current determination. That applies not only to all future payments, but also to payments backdated to when he or she began contracting with the firm.

Senator Gerard P. Craughwell: On that issue, as far as the Minister is concerned, the end user is the person responsible and any intermediary does not matter. One of the areas in which there has been bogus self-employment in the past is the public sector. It strikes me that a Department may be the funding agency, but a subsidiary or other group funded by the Department would have the employees working under its payroll system. The Department could wash its hands of the matter and say that it has nothing to do with it. However, if what the Minister stated is correct, the Department is the ultimate end user and the intermediary has nothing to do with it. If a person is employed in precarious or bogus self-employment, it is not the intermediary group but, rather, the Department that would be ultimately responsible. Is that what the Minister was saying?

Deputy Regina Doherty: To be clear, obviously, no two cases are the same. Many organisations legally use intermediaries and are perfectly entitled to do so and enjoy the benefits that go with that. However, where the deciding officers in the scope section determine that there is an intermediary, that does not preclude us from determining, in the case of a person working through the intermediary to, perhaps, a Department such as that referred to by the Senator or any other organisation, that the end user is the employer. The fact that there is an intermediary body does not automatically mean that the end user receiving the services of the person is not the employer. It also does not automatically mean that the end user is the employer. I am suggesting that the section implies that we do not have powers which we already possess. Our deciding officers can currently decide, notwithstanding an intermediary structure, that the end user receiving the services of a contractor, for want of a better word, or a person who is alleg-

edly self-employed is, in fact, the employer.

Senator Alice-Mary Higgins: As the issue of the intermediary is referred to in this section, I ask the Minister to clarify an issue which, as she will be aware, arose while we were discussing these matters at the Joint Committee on Employment Affairs and Social Protection. Although there is a very strong argument for ensuring that there is responsibility along the supply chain and that end users - which may be organisations - remain responsible even when intermediaries are used, there is also a concern which I raised with the Minister at the committee and on which she may be able to provide clarity, namely, that the Minister is not including the gig economy in the discussion of end users.

There is a concern that there is some ambiguity in, for example, areas such as food delivery services. Is the end user the person using a delivery service company to have food delivered? Where does that sit? There is a need for clarity in that regard. It would not serve workers or the public well if the individuals accessing services through some kind of platform in the gig economy and those providing services are the only ones visible within the process and that the intermediary - which, in such a case, is basically the company making money out of the process - would somehow be excluded from the obligations and duties appropriate to employment. There has been a heavy focus on the construction industry, but this is another area where concerns have been raised with Members and testimonials given.

The Minister stated that deciding officers of the scope section already have the latitude to decide these issues. However, the fact that decisions are being made on these issues points to the reasonableness of the section. I acknowledge that the Minister raised the danger of the section being legally challenged, but there are already challenge mechanisms and decisions being made. To my mind, section 4 simply provides far more clarity regarding the basis on which those decisions might be made. There is a concern regarding cases in which decisions have been made by the scope section but then overturned by an appeals officer at a later stage. The section brings far more clarity to the process than is the case as matters stand.

Some decisions have been overturned because the individual contract may have been addressed but the sectoral issue may not have been dealt with. That is a slightly different issue and I reserve the right to make suggestions on Report Stage regarding how we could expand from individual cases to an identification of sectoral patterns.

I ask the Minister to address my question on end users and intermediaries.

Deputy Regina Doherty: I point out to the Senator that it is section 5 that relates to intermediaries. I hope I did not miss something in section 4 that-----

Senator Alice-Mary Higgins: I was making reference to the broader discussion of the points that were raised in that regard.

Deputy Regina Doherty: That is fine. I wanted to ensure we are talking about the same thing. No two cases are the same. One could have two people working through an intermediary for the same organisation, one of whom may be self-employed and the other an employee. What I am saying is that the power to determine who is the employer already exists in law and within the powers of the deciding officers. We will change the law in order to enhance and extend the powers of the deciding officers, but the power to make such determinations already exists.

To take it a step further and with regard to the industry referred to by the Senator, the end user is not the person to whom a pizza is delivered. The definition of self-employed must be defined in a statutory code of practice. There is absolutely no ambiguity. One is either self-employed or one is not, although, that said, one may be self-employed and employed at the same time. However, the definition must be clear, as must the parameters that denote whether one is self-employed. It does not matter whether one goes through four companies to get one's payment at the end of the month; what matters is the governance and control of one's daily activities and the work one does. That needs to be enshrined in legislation such that there is no difference in interpretation of the rules by various judges, deciding officers or companies.

Senator Ray Butler: I welcome Noel and Sarah Cregan to the Visitors Gallery. Noel is the son of former Senator, Dino Cregan.

An Cathaoirleach: They are very welcome. Not only did I serve with the great Dino Cregan, he served me fish and chips when I was a student.

I call on Senator Craughwell but I do not want us to go around in circles on this matter.

Senator Gerard P. Craughwell: I do not want to go around on circles either. However, this is a critical matter.

In my experience in both the health and education sectors, people have been treated differently because they moved from, for example, one education and training board or one hospital to another. I have always held the view that the employer ultimately was the Department of Education and Skills or the HSE. That has been upheld by some scope section officers but rejected by others. It has been upheld by some appeals officers but rejected by others.

The end user of a nurse's or a teacher's services is the HSE or the Department of Education and Skills because they operate under the guidelines and rules laid down by the Department. Is that what the Minister has said or have I misinterpreted it? One cannot have different rules in different organisations. One institute of technology might apply different rules from another when it comes to self-employment. Who is the end user in those particular cases? Is it the HSE or the Department of Education and Skills? Incidentally, if we look at the pension side of that service, they are all paid by the Paymaster General.

Deputy Regina Doherty: If I gave the Senator that impression, I did not mean to because that it is not the reality.

One can have two people doing the same role but one could be self-employed and the other could be an employee. It is determined on the contract of engagement. For example, take two people teaching Irish. One is in control of his or her working arrangements, time and space, as well as how he or she delivers, while the other is directed to show up from 9 a.m. to 11 a.m. and from 2 p.m. to 4 p.m. They both teach Irish but in a different way. One can work for the same body, delivering the same service but in a different way, namely, be either self-employed or employed.

I am adamant, however, that no agency, company or Government body can be above the law. When we provide a clear definition in statute as to what self-employed versus employed is, then deciding officers will be guided on the basis of that interpretation, not on their understanding. One will always have a route of appeal, the same way we do with our judicial system. If I apply to get a determination and the deciding officer determines I am misclassified and reclassi-

fies me, my employer has the opportunity to appeal that and to provide new information. That decision will either be upheld or overturned. That is the normal practice within any section of the Department. One can appeal an application decision. If one is successful, one gets it. If one is not, then one can go outside the Department.

One can be providing the same service with different sets of circumstances which would denote one being employed versus self-employed to the same end user.

Senator Gerard P. Craughwell: I accept the Minister's point. The final appeal in all cases is an appeal to the courts. Will she accept that for most employees driven to that level, an appeal to the courts is out of their reach? Will she agree that, as a caring State, we should have rules and regulations which are easily interpreted and can be applied across the board? Employees who have been miscategorised find themselves with no option but to go to the courts. However, they cannot because they cannot simply afford to do so. That is one of the reasons I advocate people are members of trade unions. At least then, one's trade union will step in and do something.

There cannot be any ambiguity in this. It must be clear the whole way through to ensure people know exactly where they stand. Incidentally, it is not necessarily that employers are bad people. In some cases, they just do not know. At least that is what they say.

An Cathaoirleach: We could keep going around in circles. I will let Senator Nash in but I do not want to prolong matters unnecessarily.

Senator Gerald Nash: Neither do I.

Senator Craughwell went to the heart of the issue. I have said time and again there should be clear tests in law that should determine somebody's employment status and, with respect, it should not just be someone's opinion. All the circumstances of the arrangement need to be looked at, not merely at what it states in a contract and what somebody is prepared to sign. That is the point.

Too many citizens are denied justice because of the expense of going to the ultimate end and exhausting the processes available. We will return to this later in another section on the role the WRC should have in determining a worker's employment status and how that should be done expeditiously. We cannot avoid this. If there is any common ground here at all, which I think there is, it should be about getting to the point where we have those key tests in law.

That is the direction of travel across the European Union. We know from the proposed transparent and predictable working conditions directive that Europe may very well make the decision for us over the next short period. We will then have to amend our primary legislation to reflect those changes and to accommodate different forms of working.

Platform work is a big challenge for us in this country. I see this Bill and the Competition (Amendment) Act, which we managed to get through the processes in these Houses two years ago, as future-proofing Irish law and dealing with many evolving circumstances in terms of people's employment rights and those who are engaging in contracts through platforms. That is an evolving situation and I am sure it is an area in which everybody in the House is interested.

As the traditional employment model continues to fray at the edges, it is not too much to ask that people working for a living have a clear sense of their status. My mind boggles as to why

27 March 2019

we, as a political system and as a Parliament, have not grappled with this in recent years. It is one of the key issues facing us with which we have not grappled. There has been an unwillingness to date to do that. We need to grapple with this now because we have worked together to deal with areas around precarious work through legislative solutions in recent times. This is probably the most insidious forms of precarious work in which people do not have any rights or entitlements. It is outrageous and we need to deal with it urgently.

Question put and agreed to.

SECTION 6

Question proposed: “That section 6 stand part of the Bill.”

Deputy Regina Doherty: The section states the Revenue Commissioners may form an opinion on a particular transaction which constitutes false self-employment as a taxation transaction for the purposes of sections 811, 811A, 811B, 811C and 811D of the Taxes Consolidation Act 1997. The difficulty is that all those applications relate to transactions which only commenced on or prior to 23 October 2014. While the anti-avoidance rule contained in section 811C of the Taxes Consolidation Act 1997 relates to the transaction which commenced after 23 October 2014, there is no longer a requirement for the Revenue Commissioners to form an opinion that the transaction is a tax avoidance one. The provision has been replaced with a self-assessment basis.

The fact that factors other than taxation arising in determining the contract offered to a worker may make it unlikely that the provision could have application as it would be necessary to establish that the primary purpose of the contract was to avoid tax which would now include from my Department, PRSI. Section 811B is a specific anti-avoidance provision in regard to certain schemes involving employment benefit trusts and does not apply to the tax avoidance transactions as set out in the Bill within sections 811 or 811C. Accordingly, inclusion of section 811B of the Taxes Consolidation Act 1997 in regard to false employment is not appropriate in this section or in the Bill.

Section 6 also provides that contributions to the Social Insurance Fund are to be included in the definition of tax in section 811C of the Taxes Consolidation Act 1997, while the Social Welfare Acts are to be amended and included with the definition of the Acts in section 811C of the Taxes Consolidation Act 1997 with the effect of when this Act is passed. However, Bills dealing with tax matters are money Bills and there are specific rules in that regard, which is probably why such matters are assigned only to the Department of Finance and the rest of us are not allowed near them. The inclusion of PRSI in this section imposes a charge and this can only be done by the Executive. I, therefore, have no choice but to tell the Senator that section 6 is, accordingly, not appropriate.

Senator Gerald Nash: I thank the Minister for her reply. She has been consistent in her position. She said the same thing to me in her reply on Second Stage on 12 February 2018. We are trying to find a way to stamp out this egregious practice. We all know that rogue employers and tax cheats in many ways only understand one language, which is the language of serious penalties, fines and sanctions up to and including imprisonment if they fall foul of tax laws when avoiding or evading tax. These penalties are imposed on people convicted in that context. It beggars belief that we do not have similar enforcement measures for those who are avoiding their PRSI obligations. While the situation in respect of the PRSI Social Insurance

Fund has improved in recent years as employment has grown, we need those resources to fund our benefits system.

The only language people involved in these kinds of practices understand is being hit in the pocket. I understand what the Minister is driving at with respect to the nuances around the tax code, tax Acts and the application of PRSI. I get that, but we are trying to find a way in which serious penalties can be imposed on bad employers who engage in these kinds of practices. I believe the Minister understands that. Given her opposition to this Bill, I would like to hear a little from her about how she intends to penalise employers who engage in these kinds of practices, who break the law, who deceive the Revenue Commissioners and the Department of Employment Affairs and Social Protection, and who do not operate on a level playing pitch. There are good employers out there who are compliant, who pay their tax, and who engage their staff on decent contracts. They do so for all kinds of reasons but primarily it is because they want to run a good business and to be on the right side of the law. Those who are queering the pitch and who are responsible for this are bad businesspeople and should be treated in the same way as tax cheats because, in many ways, that is the only language they understand. I would be very interested to hear how the Minister would enforce a system of penalisation against employers involved in these kinds of practices. What is her vision in that regard?

Senator Alice-Mary Higgins: We know the cost of false or forced self-employment is not only borne by the individual in terms of his or her security, but also by the public. When we have discussed the many things on which the Minister and I would like to spend social protection funds one of the issues that arises is the level of funds and of revenue. The loss of PRSI through false or forced self-employment is immense. The Department's own presentation to the committee really emphasised the huge loss of revenue involved. We know that there is a memorandum of understanding between the Department of Employment Affairs and Social Protection and Revenue. It is avoidance. We have seen cases pulled up in which it is shown that a person should be classified as an employee but has been classified as self-employed. If that same pattern continues, we are in the zone of avoidance. If a company has multiple cases against it and still does not change its overall practices, which comes down to that sectoral issue, it needs to be seen as avoidance and not as misclassification. That is too kind a framing for what it often a very systematic practice.

I understand the Minister has concerns about the inclusion of this section in the Bill, but this is tax avoidance. In that context, I ask the Minister to join in in seeing how it can be tackled. Is there more that can be done in the memoranda of understanding between Departments? Is there more that can be done by way of the finance Bill? Where does the Minister see actions being taken in respect of this issue?

Senator Gerard P. Craughwell: In keeping with what has been said by my two colleagues, bogus self-employment was one of the greatest problems of all during the boom years in this country. When the country hit skid row, the people who suffered the most were those who survived on welfare and who depended on it to bring them forward. I will not focus on any category in particular but will just say that we were all approached by people on welfare who told the most horrendous stories of struggling to survive. These employers are thieves. This is not a matter of employers misdescribing employers; these people are thieves. Let us call them what they are. These are people who are stealing from society by not paying their fair share. While I understand what the Minister is saying about this being a finance issue, I am totally, 100% behind Senator Nash, who has great experience in this area and who is trying to cover this type of thing in the Bill he has brought forward. We need a clear understanding of what

exactly is going to happen to these thieves. That is what they are. They are highway gangmen and robbers who are denying this State the money it needs to pay the welfare which is needed badly by some. Nobody is on welfare because they want to be. These guys have been enjoying life in the south of Spain. I have seen them down there myself. They are enjoying life on the money they stole from this country. We need something to tackle this problem.

Senator Paul Gavan: I will not labour the point. It has already been made very well by my colleagues. I will just say that my experience of working in construction leads me to know that the only people these people fear is the Revenue.

Senator Gerard P. Craughwell: Yes.

Senator Paul Gavan: Other than that, it does not matter. I have expressed this to one of the Minister's colleagues in government. They do not care about Workplace Relations Commission judgments against them. They do not care about Circuit Court judgments. They ignore them. They constantly ignore payments due. Revenue is the only body they actually fear. I am frustrated that well over 12 months have passed since Second Stage of this Bill. Surely the capacity was there to work with Senator Nash, to work through the Minister's concerns, and to keep this Bill alive rather than simply saying that this is not the way to do it and announcing that the Minister has her own Bill. As I said earlier, the Minister's own Bill will most likely not finish its journey before the next general election which means that the workers and trade unions involved are effectively being told to wait and wait again. It is not good enough.

Deputy Regina Doherty: In response to Senator Craughwell, this is not a new problem. Sometimes when we have this conversation we talk about it as something that has only arisen in recent years. CSO statistics tell us that there has been no increase in self-employment in generations. We have been a nation of entrepreneurial people forever. The issue is that, as the economy changes, employers are finding other mechanisms within the confines of today's world to force people into situations in which they do not want to be. As part of my responsibilities I also have to consider the enormous number of people who are not forced into being in such situations but who are still not self-employed. This Bill has to manage both. It is not just about bogus self-employment but about correct classification of PRSI status based on a statutory code of governance regarding the definition of self-employed as opposed to employed.

To reply to Senator Higgins regarding the reason this section is not appropriate to this Bill, I am not being disingenuous to Senator Nash in any way, shape or form. It is not my Department's role, and therefore does not fall under the remit of my legislation, to determine the tax code. I do not have the ability to instruct the Revenue Commissioners. There is no memorandum of understanding between my Department and the Revenue Commissioners in respect of PAYE. It is none of my business, just as PRSI collection and classification is none of their business. So the penalties about which I am talking that exist in practice today is that anybody found to have willingly and knowingly misclassified somebody for the purpose of avoiding tax will be taken to court by us. The problem we have is that the actual determination of that avoidance of tax in a PRSI context is difficult because most employees or bogusly self-employed people are afraid. Without the co-operation of the person who is being forced into it or who actually wants to be in it because it suits him or her, we have no case to make. This is why the law needs to be changed so that anti-victimisation measures are put into this Bill, my Bill or whatever Bill we are talking about. I agree with Senator Nash that extra powers should be given to the WRC to allow it to effectively manage and support people who find themselves in a position of either being victimised or who are afraid of being victimised if they assert their rights. Those are the

anti-victimisation measures I want to bring in and the extra powers I want to give the WRC. Members should be under no illusion. If we find a company that has willfully and knowingly misclassified somebody, we have taken it to court in the past. The difficulty is that we could probably count those cases on one hand because it is so difficult to prove that the company was willfully and knowingly avoiding tax due to the State without the co-operation of the employee.

Senator Ivana Bacik: Listening to the Minister's response to section 6, it is unfortunate that we cannot work together constructively to find a way to deal with the issues the Minister has with this provision and the other provisions in the Bill as we do with previous Bills. I reiterate that we are all in agreement with the general purpose of the Bill and its positive purpose. It is unfortunate that we cannot deal with this more constructively.

I know the Minister pointed out earlier that she did not feel the Bill had been changed to reflect her issues with it. If people have an issue with a Bill, it is up to them to bring forward amendments to section 6 or any other section. It is unfortunate that we have not had input from Fianna Fáil on this. I know others-----

Senator Paul Gavan: It is disgraceful.

Senator Ivana Bacik: I agree with Senator Gavan that it is disgraceful, particularly as we know and as referred to by the Minister, Deputy O'Dea has introduced his own Bill on bogus self-employment in the other House. There is no issue about who takes ownership of this. We all have an interest and a desire to see the issue of bogus self-employment tackled and vulnerable people protected in the workplace. That is what we should all be working towards. It is unfortunate that Fianna Fáil has not seen fit to appear today for this debate.

Senator Gerard P. Craughwell: The one thing I can tell the House is that I contacted the Minister's office about a particular case and it acted swiftly on it so I know she has a genuine concern where there is bogus self-employment and I know that the Department will act as quickly as it can when it is made aware of it. Senator Nash's Bill deserves the opportunity to pass through the system. If this is the only impediment, surely we can bring forward an amendment on Report Stage that will see this Bill go through the House. In the case to which I am referring, the workers were too petrified out of their lives to say a word but a relative of one of them contacted me and told me what was going on. I passed the case on to the Department, which moved swiftly. Workers caught in this position are suddenly told some weeks after they start work "oh by the way, you're self-employed and do remember you're going to have to pay tax and PRSI for yourself." Somebody can be at the bottom scale, for example, a builder's labourer. How can 25 builder's labourers be self-employed? It is just not possible.

We cannot allow a situation where we wait for Deputy O'Dea's Bill, the Department's Bill or another Bill at some other time. We have a perfectly good Bill here and can make the changes the Minister needs. It is open to her to bring forward changes. Let us keep this Bill alive. Let us not kill it at this point. I plead with the Minister not to do this but to think of the people she serves.

Question put and agreed to.

SECTION 7

An Cathaoirleach: Amendments Nos. 2 and 3 are related and may be discussed together.

Senator Paul Gavan: I move amendment No. 2:

In page 6, to delete lines 22 to 28 and substitute the following:

“(b) re-instatement by the employer of the employee in the position which he or she held immediately before the contract for services on the terms and conditions on which he or she was employed immediately before the contract for services, together with a term that the re-instatement shall be deemed to have commenced on the day of the contract for services or such as is reasonable having regard to all the circumstances,

(c) re-engagement by the employer of the employee either in the position which he or she held immediately before his contract for services or in a different position which would be reasonably suitable on such terms and conditions as are reasonable having regard to all the circumstances,

(d) direct the employer to pay all contributions under the Act of 2005, in respect of any period of the bogus contract for services concerned, which would have been required to be paid if the worker had a contract of employment,

(e) direct the employer to pay all payments, taxes, charges and penalties under the Tax Acts in respect of any period of the bogus contract for services concerned, which would have been required to be paid if the worker had a contract of employment,

(f) direct the employer to pay all payments, taxes, charges and penalties under the Tax Acts due by the worker resulting from or arising out of any period of the bogus contract for services concerned including any failure by the worker to pay such taxes, charges or penalties,

(g) (i) if the employee incurred any financial loss attributable to the contract for services, payment to him by the employer of such compensation in respect of the loss as is just and equitable having regard to all the circumstances, or

(ii) if the employee incurred no such financial loss, payment to the employee by the employer of such compensation as is just and equitable having regard to all the circumstances, and the references in the foregoing paragraphs to an employer shall be construed, in a case where the ownership of the business of the employer changes after the contract for services, as references to the person who, by virtue of the change, becomes entitled to such ownership.

(4) Without prejudice to the generality of *subsection (1)* of this section, in determining the amount of compensation payable under that subsection regard shall be had to—

(a) the extent (if any) to which the financial loss referred to in that subsection was attributable to an act, omission or conduct by or on behalf of the employer,

(b) the extent (if any) to which the said financial loss was attributable to an action, omission or conduct by or on behalf of the employee, and

(c) the measures (if any) adopted by the employee or, as the case may be, his failure to adopt measures, to mitigate the loss aforesaid.

(5) In calculating financial loss for the purposes of *subsection (1)*, payments to the em-

ployee—

(a) under the Social Welfare Acts 1981 to 1993, in respect of any period following the contract for services concerned, or

(b) under the Tax Acts arising by reason of the contract for services, shall be disregarded.

(6) In this section—

“financial loss” includes any actual loss and any estimated prospective loss of income attributable to the bogus contract for services and the value of any loss or diminution, attributable to the bogus contract for services, of the rights of the employee under any enactment;

“remuneration” includes allowances in the nature of pay and benefits in lieu of or in addition to pay.

(7) Where a term or condition of the bogus contract for services contravened any provision of or made under the Tax Acts or the Social Welfare Acts 1981 to 1993, the employee shall, notwithstanding the contravention, be entitled to redress under this Act.

(8) The Revenue Commissioners may view the use of a bogus contract of service as a tax avoidance transaction under the Taxes Consolidation Act 1997.”.

These are simple amendments. Amendment No. 2 seeks to amend section 7 in order to introduce a number of additional actions an employer must take in the event of a decision being made that an employee has been misclassified by an employer. Amendment No. 3 seeks to amend section 8 to ensure that where it is shown that an employee has been misclassified by an employer, Revenue will be notified of said employer. As I said earlier, in a spirit of co-operation, I do not intend to move these amendments this evening. I will reserve them with the right to resubmit them. I appeal to the Minister to join with us in co-operation. This is not our Bill. It is a Labour Party Bill but we support it. We know the issue is urgent. Surely we would be doing a much better service for the people who put us in here by progressing this Bill and working it through rather than killing it. We should be better than this.

Senator Gerald Nash: In all my consideration of these matters over the years, I always felt it was appropriate and I know the trade union movement - Connect, SIPTU and many others - are adamant that a route to the WRC is required where a complaint can be made and an adjudication officer can consider it based on the tests we are applying through this legislation and make a determination on somebody's employment status. That is not to the exclusion of the role played by the Scope section regarding insurability, which is a separate but related matter. I would be interested in hearing the Minister's view on that. I know her view on that from her reply to me on Second Stage. Employers and trade unions are familiar with the WRC processes. There is a significant amount of trust and confidence in the industrial relations machinery of the State to manage and get these matters right and trust in its independence and status in terms of managing issues like this so it is entirely appropriate that the WRC would have a function. I hope this Bill gets to Report Stage. It would be my intention to amend this section further in a number of different ways to enhance it and make sure that the WRC can expedite cases because, in reality, we are dealing with workers in real-time situations who need a determination of their employment status very quickly because of their inability to access benefits because they

may be considered to be self-employed, albeit bogusly self-employed, and the fact that as self-employed individuals, as some would have it, they are not entitled to be represented by a trade union. I strongly believe that any legislative solution to this broad problem requires the use of the WRC and its capacity to deal with cases and to have cases referred to it for determination on employment status.

Deputy Regina Doherty: On this occasion, I must disagree with the Senator because there is no difference between determining whether somebody is employed or self-employed and determining their classification from a social insurance perspective. It is not a separate matter. It is exactly the same thing. With respect, the WRC has no experience in classifying and we already have a section. There are 200 social welfare inspectors who are trained and who have been carrying out this business for years. While I agree that they need to get stuff on a statutory footing and definitions defined in law, I do not see why we would need to create a second separate organisation that does exactly the same thing as the organisation we already have. What I am adamant about is that the anti-penalisation measures need to be inspected, adjudicated and ruled upon by the WRC. When I bring those anti-victimisation measures forward in the social welfare Bill in the spring, that is where they will go.

Senator Gerald Nash: In response to the Minister, the WRC has experience in related matters. I am aware of many cases taken by trade unions on behalf of members who were considered to be falsely self-employed. One case involved redundancy payments. Broadly speaking, the WRC adjudication officers are quite experienced and have the nous to deal with issues like this.

It is a matter that I know we do not have common ground on and something that I am happy to reflect on. I am adamant that the WRC needs to have a role in employment status. The vision for the entire Bill is that the WRC would have a function. It is, hopefully, something that we can reflect a little bit more on, on Report Stage, to nuance and finesse this legislation. I hope that we get to that point and that this legislation can attract the support of this House.

I shall repeat what was said by my colleague, Senator Bacik. It is very disappointing that we do not have representatives here from the Fianna Fáil Party. In fact, it is deeply ironic on a day where the Fianna Fáil Front Bench spokesperson for employment affairs and social protection, Deputy O'Dea, published a Bill and took it to First Stage in the Dáil.

It is the height of disrespect, to be frank. His claims that Fianna Fáil has to be genuinely concerned about this issue are fundamentally undermined by the fact that there is nobody here this evening to represent them. I have no difficulty if they take a view that this Bill is not worth supporting or requires additional amendments. That is fine. That is what this Chamber and democratic process is for and it is what it is designed to do. Committee Stage is designed to get under the bonnet of the legislation and interrogate the provisions of a Bill in great detail. We are having a constructive discussion here this evening, which will be helpful to all of us, but it is outrageous that Fianna Fáil is not represented here this evening. I am often loath to make narrow party political points in this Chamber but the absence of representatives causes me a problem, and it should cause everybody here a problem. They are entitled to determine what their own view is but I would prefer if they did so after hearing the full debate here this evening. Whether individuals from the party will be here to vote on the Bill later on, that is entirely a matter for them. It is a matter that I want to put on the public record and it is gravely disappointing.

An Cathaoirleach: Does the Minister wish to comment? A certain proposal has already

been put. Does Senator Gavan want to revisit that?

Senator Paul Gavan: No. I thought that with Committee Stage I would be allowed to come back in again. Is that correct?

An Cathaoirleach: The Senator can come in. He said that he was prepared to withdraw amendments Nos. 2 and 3 and re-enter them on Report Stage.

Senator Paul Gavan: That is still the case.

An Cathaoirleach: I do not want the Senator to have two bites of the cherry. I am trying to be fair.

Senator Paul Gavan: That is okay. We will not fall out.

An Cathaoirleach: Amendment No. 2 has been withdrawn with liberty to re-enter on Report Stage.

Senator Paul Gavan: Yes.

An Cathaoirleach: Is that agreed? Agreed.

Amendment, by leave, withdrawn.

Section 7 agreed to.

NEW SECTION

An Cathaoirleach: Amendment No. 3 has already been discussed with amendment No. 2.

Senator Paul Gavan: I move amendment No. 3:

In page 6, between lines 30 and 31, to insert the following:

“8. Where, in proceedings under this Act, it is shown that a term or condition of a bogus contract for services contravened this Act the adjudication officer or the Labour Court, as may be appropriate, shall notify the Revenue Commissioners or the Minister, as may be appropriate, of the matter.”.

An Cathaoirleach: Do I take it that the Senator wishes to withdraw his amendment with a right to re-enter on Report Stage?

Senator Paul Gavan: Yes.

An Cathaoirleach: Amendment No. 3 has already been discussed so I cannot allow a discussion.

Senator Paul Gavan: That is fine.

An Cathaoirleach: Is that agreed?

Senator Alice-Mary Higgins: People are entitled to speak to the section, if they wish.

An Cathaoirleach: On the section but not on amendment No. 3, which is what we are dealing with.

27 March 2019

Senator Alice-Mary Higgins: So people are entitled to speak to the section now.

An Cathaoirleach: My note states that amendments Nos. 2 and 3 are discussed together by agreement. Once Senator Gavan discussed the two amendments then they are linked and his proposal, I understand, is similar.

Senator Paul Gavan: I said that.

An Cathaoirleach: Amendment No. 3, as I understand it, was moved with liberty to withdraw.

Senator Paul Gavan: Withdrawn with the right to resubmit, please.

An Cathaoirleach: Is that agreed? Agreed.

Amendment, by leave, withdrawn.

SECTION 8

Question proposed: "That section 8 stand part of the Bill."

An Cathaoirleach: If somebody wants to speak on section 8 generally then he or she is quite entitled to, Senator Gavan.

Senator Paul Gavan: Briefly, if I may?

An Cathaoirleach: Yes, of course, on the section. I know it is technical but I am trying to be fair. The Senator can speak on section 8.

Senator Paul Gavan: I accept that, Cathaoirleach. In fairness, the Cathaoirleach is always fair and I want to put that on the record.

An Cathaoirleach: Yes.

Senator Paul Gavan: I want to say, because it will probably be my last opportunity to speak on the legislation this evening, that it is such a disgraceful action to have Deputy O'Dea launch his Bill while his party deigns to not even appear here this evening, and it is a huge let-down for workers and trade unions. After being three years in this place I am absolutely sick of people playing politics with issues that are so important. I, respectfully, disagree with the Minister but respect the fact that she is engaging on it. Again, I would appeal to her to recognise the broad support for Senator Nash's Bill. The fact that Fianna Fáil would not even deem it worthy to come in and discuss or acknowledge the issue is just an absolute disgrace because these same people would turn up tomorrow and tell us how they are passionate about the rights of working people. They are no such thing. They are an absolute disgrace and that needs to be put on the record.

Senator Ivana Bacik: The Title of the Bill, as specified is section 8, says it all - the Protection of Employment (Measures to Counter False Self-Employment). What we are all about is seeking to ensure that those employees who should legally be considered employees are not placed in this bogus self-employed category to their own detriment and, indeed, to the detriment of society and the economy, which the Minister has acknowledged.

I agree with Senator Gavan that the Minister has fairly put her points of disagreement and

issues with the Bill on the record. Obviously she is entitled to do so and Government parties are entitled to oppose the Bill and its provisions. It is unfortunate when the main Opposition party - Fianna Fáil - having put forward its own version of a Bill, which is very similar and seeks to do the same thing, today does not turn up to explain what its position will be on the Bill. I refer to whether they will support it, take on board the points made by the Minister, think the Bill is flawed or are willing to work with us, as we wish they would and as we wish the Minister would, in a spirit of constructive engagement to improve the Bill, progress it and ensure that the vulnerable employers, whom we seek to protect, will be protected. It is unfortunate that the representatives are not here today and I agree with others in saying that.

Again, I commend Senator Nash on his great initiative in doing this work. As the Minister has acknowledged, he has got a strong track record on workers' rights and seeking to improve the position of workers through legislation, and it is in that spirit that we brought forward this Bill.

Deputy Regina Doherty: This is probably not on the section itself, even though the name of the Bill is what it is, but before we wrap up I wish to say the following. I am totally committed to this. As I said to Senators when we were here on that snowy day - with respect, I feel like I have to defend myself somewhat from the toned accusations that have been made against me, and I am being measured when I say that - we agreed we would work together because we all want the same thing. We have worked together, we have worked on the Oireachtas joint committee, we have had hearings and my own Department has participated. I have also had extensive meetings with my social partners because I cannot advance this without them and their advice as well as, obviously, all of yours. That is where I am at right now. I am poised and ready to bring all of this information forward in the spring Bill, which will be introduced in the next couple of weeks.

I feel mean standing here opposing the Bill. I hate feeling mean because I know absolutely instinctively that Senator Nash has such grá and passion for this, and not just in this Bill but for donkeys' years. I genuinely have no choice but to oppose the Bill for all of the reasons that I have outlined today. That does not mean that I do not genuinely value his contribution. As I have said to him, there are parts of this Bill that are not and were not planned to be in my Bill that I will rob, with his permission, to put them in my Bill. I do not want to send out the wrong message here. This is not about me. As I have told Senators, I do not give a hoot about whose name is on the legislation as long as we all pass a new law that does exactly what we all want to do which, first, is to get money so that we can spend it in the proper way to make sure that the people who are the most deprived actually get looked after in this country. Also, we want to make sure we look after the people who are being maligned by large organisations, the people who have bigger pockets and deeper voices than the people who have been put in various disgusting situations; equally there are those other people who are probably much better paid and are choosing to put themselves in a position of self-employment that absolutely is not self-employment. I want to root out the fellas and the girls up here equally as much as I want to root out the malignant behaviour of the people who are, probably, less well-off paid down this end of the spectrum. I, respectfully, tell Senators to not hold it against me when I do press a vote in a few minutes to say that I cannot accept this Bill but it is not anything to do with their intent and integrity on this issue. I very much value all co-operation by Senators in the next couple of weeks to try to get a piece of law passed before the next general election, and I think it is something that would be very worthwhile.

We worked collectively and co-operatively together to get the employment rights Bill

passed after many years. Again, Senator Nash initiated the legislation a number of years ago when he was Minister of State. He has a proven track record and I want to honestly say that I value and appreciate his support and help.

An Cathaoirleach: I call Senator Craughwell and ask him to be brief as I thought the Minister was last to speak.

Senator Gerard P. Craughwell: Very briefly. I again commend Senator Nash on bringing forward this Bill. It is about the protection of employees. There has been a lot of talk about who is and is not here. I will let them face the public themselves and explain why they are or are not here, as the case may be. At this last minute, I ask the Minister to reconsider and not allow this Bill to be killed today. That is my final word on the matter.

Senator Gerald Nash: I thank the Minister for her kind comments and I really appreciate them. They are generous, honest and honourably extended.

Senator Gerard P. Craughwell: They are true.

Senator Gerald Nash: I thank the Senator and I also appreciate his comments. This is a fundamental matter for our society, as people define themselves by the work they do. It is a definition of status in society and their contribution to their families and community. I hope the message coming from everybody in this House is that it is completely unacceptable for people to be put into precarious and insecure positions by bad employers. The Minister is correct that some people put themselves in the line of fire because there is short-term financial gain. We know from the context of the economic crash that many people regret such a course of action. When they lost their positions, they had no redundancy payments or statutory redundancy, nor did they have an entitlement to jobseeker payments and other supports.

We have spoken about our hearts going out to people but my heart goes out to the trade union official who wants to represent these individuals but is prevented from doing so. Such people may be trying to organise a sector and working hard to try to engage, under the auspices of the Labour Court, and establish sectoral employment orders under legislation we introduced in 2015 to level the playing pitch and ensure everybody in the construction industry, for example, electricians or other tradespeople could be given access to the same legal minimum statutory pay rates, sick pay, pension schemes and so on. That has not been enabled for many people. According to the CSO, approximately one quarter of those working in the construction sector are self-employed with no employees. That amounts to thousands of people and they are not all genuine entrepreneurs. We all value the function of genuine entrepreneurs in society and we would not have the strong market economy that we have without those people taking those risks and working day and night to implement a vision. They employ people in good circumstances and on good contracts.

This legislation is as much for the decent businesses as it is for workers. It is about levelling that playing pitch and making sure an employment model is not so critically undermined as to ensure a race to the bottom, with good businesses being damaged. Focusing again on construction, too many businesses use the competitive advantage that this facilitates with impunity to get contracts - public contracts in some cases - when they are on a wholesale basis employing people through bogus self-employment contracts. It is not on and it should be unacceptable. I am aware of at least one individual working in the environs of these Houses who is taking a case currently with the assistance of the Minister's Department. This issue is close to home,

although I will clearly not name any individuals because it would be entirely inappropriate. We are not hermetically sealed from the matter nonetheless and it cuts across every economic sector. I mentioned highly trained pilots in the transport sector earlier and it also affects construction workers, information technology professionals and financial services workers. I met people involved with legal services recently who are engaged with these kinds of arrangements as well. It is Hobson's choice as a person may want a job but will only get it on the basis that he or she is defined and registered as self-employed. So many people, particularly in the construction sector, only figure out that they are in bogus self-employment when they go looking for their rights or entitlements as the main contractor may have decided to use an online system to register those people as self-employed. That happens against their will and, in many cases, when these people are totally aware of the scenario.

I am making an 11th hour appeal to the Minister. Based on her comments, there is some common ground. If she allows the Bill to pass, we can work with her to amend it. We have engaged in similar initiatives in recent years to the benefit of the quality of legislation emanating from the House. This House is particularly well equipped to do it because we are not as adversarial as the Dáil. We tend to take a more considered opinion of legislation, and I reflected on that during the short period when I was a Minister of State. It was often a pleasant experience to come here to listen to numbers of experts and people representing particular panels with considerable expertise, whether that was in administration, labour affairs, industry or commerce and so on. Senators brought some added value to the legislative process and we can do that here if the Minister continues to engage with us and discuss the Bill in more detail on Report Stage. We differ in some approaches to this but, broadly, we are of a similar mind.

There are some issues on which we will continue to have battles in this regard because we need to take a belt and braces approach to the matter. There is no point in just introducing additional administrative measures and tinkering at the edges, and there should be fundamental radical changes to the law in terms of how we define someone's employment status. All too many of the people engaged in these kinds of practices are getting away with them with absolute impunity and they must be hit in the pocket. They must learn that this is unacceptable and that their bottom line will be affected. It is the only language some people understand.

Senator Ray Butler: I have listened to the debate as a person who has passionately represented the self-employed since I came here seven and a half or eight years ago. I was told at a committee meeting at the time that it would not be viable to put a stamp in place for the self-employed to give them benefits. This year, for the first time, a self-employed person will be entitled to a jobseeker's payment, and I hope in the next budget we will be able to look at sick pay. The Minister has been excellent since she took over the portfolio in pushing for benefits for the self-employed.

Senator Nash has a strong track record in the area. Like the Minister, I am sympathetic to his Bill. We want to work with him and all the Members in the House because we saw what went on during the crash after the Celtic tiger when people who had been in bogus self-employment went looking for their entitlements. They were entitled to absolutely nothing and it was only because of the Minister of the day, Deputy Joan Burton, reducing thresholds that we could get some social protection for those people. They would have starved otherwise because of that bogus self-employment. We saw that in the construction game, the courier business and other areas. The courier business, in particular, is well known for this bogus self-employment, as people were given a job on the basis that they would be self-employed. They would have to look after their own books and get their own accountants. Although people may have been paid

well, God forbid if anything went wrong, as they were on their own.

I spoke to the Minister at a social protection committee meeting about one matter. When a person gets a P45 or P60, we should be clearer about the benefits brought by a stamp. If we ask 90% of people what they are entitled to because of a stamp, they would not have a clue. We must educate people about what type of stamp they are paying and how much is coming from their wages as a result. We must also educate them on what entitlements come with this stamp. If people have to look for sick pay or social welfare, they would then know where to go. The information is usually printed on the corner of a P60 or P45 but one would need a magnifying glass to see it. That is if Mystic Meg was not required to find it in the first place. I acknowledge the Minister has overseen an advertising campaign from the Department on the entitlements that come with a stamp but we need to push this more so people will know it exactly. If they have the misfortune to find themselves in bogus self-employment, they will at least know to what they are entitled if something goes wrong. They are currently entitled to nothing and they would be out on their own. That might make them think.

Senator Nash is correct that people may have to take these jobs because there is no alternative. I have no problem in saying the Minister will sort this out. I have total faith in her because she is so passionate about self-employed people. She has done much over the past 12 or 18 months for them. Unfortunately, because of various provisions that are not legally binding we will have to oppose it tonight. However, we are passionate about what we want done for self-employed people, especially bogus self-employed people.

An Cathaoirleach: We have had a long debate on the Short Title of the Bill, which is provided for in section 8.

It has been brought to my attention that a Member was taking photographs in the Chamber. If that is the case, then serious consequences might come to that Member. Photography in the Chamber, either in the Gallery or by Members, is absolutely out of the question. I will deal with that if it arises. If someone sends photographs from the Chamber, there will be serious consequences.

Question put and agreed to.

Title agreed to.

Bill reported without amendment.

An Cathaoirleach: When is it proposed to take Report Stage?

Senator Gerald Nash: Next Tuesday.

An Cathaoirleach: Is that agreed?

Senator Ray Butler: Not agreed.

Question put: "That Report Stage be taken next Tuesday."

The Seanad divided: Tá, 15; Níl, 17.	
Tá	Níl
Bacik, Ivana.	Burke, Colm.

Seanad Éireann

Conway-Walsh, Rose.	Burke, Paddy.
Craughwell, Gerard P.	Butler, Ray.
Daly, Mark.	Buttimer, Jerry.
Daly, Paul.	Byrne, Maria.
Devine, Máire.	Coghlan, Paul.
Gavan, Paul.	Feighan, Frank.
Higgins, Alice-Mary.	Hopkins, Maura.
Mac Lochlainn, Pádraig.	Lawlor, Anthony.
Marshall, Ian.	Lombard, Tim.
Nash, Gerald.	Mulherin, Michelle.
Ó Donnghaile, Niall.	Noone, Catherine.
Ó Ríordáin, Aodhán.	O'Donnell, Kieran.
Ruane, Lynn.	O'Mahony, John.
Warfield, Fintan.	O'Reilly, Joe.
	Reilly, James.
	Richmond, Neale.

Tellers: Tá, Senators Ivana Bacik and Gerald Nash; Níl, Senators Ray Butler and John O'Mahony.

Question declared lost.

An Cathaoirleach: When is it proposed to sit again?

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

The Seanad adjourned at 7.35 p.m. until 10.30 a.m. on Thursday, 28 March 2019.