



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

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SEANAD ÉIREANN

Dé Céadaoin, 27 Samhain 2019

Wednesday, 27 November 2019

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

Machnamh agus Paidir.
Reflection and Prayer.

Gnó an tSeanaid - Business of Seanad

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

The need for the Minister for Health to provide funding to Mayo University Hospital to facilitate the planned extension of the accident and emergency department, a new medical assessment unit and additional bed capacity.

I have also received notice from Senator Pádraig Mac Lochlainn of the following matter:

The need for the Minister for Health to make a statement on Health Service Executive funding in 2020 for Inishowen Children's Autism Related Education, iCARE, Bunrana, County Donegal, and the Bluestack Special Needs Foundation, Donegal town, County Donegal.

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 empower the Residential Tenancies Board to monitor local authority housing stock to ensure similar standards as those applied to the private landlord housing sector.

I have also received notice from Senator Michael McDowell of the following matter:

The need for the Minister for Housing, Planning and Local Government to make a statement on the making of an order under the regional spatial economic strategy on the proposed plan to extend the metro to Rathfarnham and Churchtown.

I have also received notice from Senator Maria Byrne of the following matter:

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The need for the Minister for Transport, Tourism and Sport to outline whether provisions are being made to connect houses on the Cratloe Road to the public sewer on the Ennis Road in County Limerick during the construction of the Coonagh to Knocklisheen distributor road.

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

The need for the Minister for Health to make a statement on the funding available for the upgrading and modernisation of the Cuisle accessible holiday centre, County Roscommon.

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

The need for the Minister for Justice and Equality to make a statement on the proposed community closed-circuit television schemes in County Cork, in particular, the role of the data controller and the timeline for implementation of the scheme.

Of the matters raised by the Senators that are suitable for discussion, I have selected those raised by Senators Mulherin, Mac Lochlainn, Boyhan and McDowell and they will be taken now. I regret that I had to rule out of order the matter raised by Senator Byrne on the grounds that the Minister has no official responsibility in the matter. The other Senators may give notice on another day of the matters they wish to raise.

Nithe i dtosach suíonna - Commencement Matters

Hospital Accommodation Provision

Senator Michelle Mulherin: I thank the Leas-Chathaoirleach for selecting this critical item for debate today and I welcome the Minister of State, Deputy Jim Daly, to the Chamber. I know accident and emergency departments around the country are under pressure, not least the department at Mayo University Hospital. There is a planned extension for the accident and emergency department and a plan to install more medical bed capacity. I would like to see some progress on this and I ask that funding be ring-fenced so that architects can be appointed and the hospital can at least begin to design the extension to start moving this investment along.

Currently, there are staff operating in very pressurised circumstances and patients are on trolleys in corridors. I heard that yesterday there were 30-odd persons on trolleys in Mayo University Hospital and a similar number on trolleys in Galway. Mayo University Hospital's capacity is smaller than that of Galway and the accident and emergency department is much smaller. In excess of 30 people on trolleys in Mayo University Hospital would have a bigger impact there than a similar number would have in Galway.

I know part of rolling out Sláintecare is an increase in capacity and this speaks to that objective. Something needs to be done. When the accident and emergency department was designed, it was meant to handle approximately 20,000 cases per year but it is now receiving approximately 36,000 cases per year. This is evidence of the clear capacity constraints that exist. On the other hand, I acknowledge some of the measures taken by the Government, including

investment in the Castlebar primary care centre. That is a good news story as it provides X-ray facilities outside the hospital setting, and it handles approximately 7,000 cases per year. This is done under the auspices of the hospital consultants and radiology department, and it means people only wait approximately one week for the service. This demonstrates that the Government's move towards investment in community and primary care centres is correct. There is more potential capacity and there are plans in the pipeline to expand services at the primary care centre, including ultrasound facilities. In the meantime, this issue needs urgent attention. A recent survey was done on patient experiences and all the issues pertaining to Mayo University Hospital involve capacity. No matter how efficiently people work, when they do not have space to take in patients, problems arise, as the Minister of State knows.

Minister of State at the Department of Health (Deputy Jim Daly): I thank the Senator for raising this issue and giving me the opportunity to outline to the Seanad the position on capital development projects at Mayo University Hospital. The role of capital investment is to support the delivery of quality healthcare services. This includes the provision of the appropriate infrastructure that supports service delivery, such as the facilities at Mayo University Hospital. Mayo University Hospital provides health services and care to the people of Mayo and the west. It is an integral part of the Saolta hospital group, a model 3 hospital with 331 beds, providing quality patient care delivered safely by skilled and valued staff through the best use of available resources. This Government is committed to developing services and infrastructure at Mayo University Hospital.

A number of capital projects at Mayo University Hospital are progressing and are at various stages of development. This includes electrical upgrade works, fire response improvements and a mortuary upgrade. A proposal has been developed to provide a new multi-storey block extension in the courtyard area of the hospital. This block would facilitate an extension at ground level to increase the size of the accident and emergency department and provide space for the medical assessment unit. It would also provide space at second floor level for a new 12-bed ward. It is also proposed to provide space for a further 12 to 15 beds at second floor level in the existing two-storey building. This is a complicated project addressing a number of separate, if related, issues in different parts of the hospital. The project is being reviewed. It is expected to be progressed in 2020 as two separate projects - one addressing additional capacity and the other focusing on the emergency department and the medical assessment unit. This proposal will be subject to further definition in the coming months with a view to being in a position to make progress with the project, subject to funding availability and overall project prioritisation in 2020. It is important to recognise that all capital development proposals, including capital developments at Mayo University Hospital, must progress through detailed appraisal, planning and design, procurement, construction and commissioning stages before a firm timeline or funding requirement can be established. This Government is committed to developing services at Mayo University Hospital and will invest more than €2 billion in capital funding in the public health services over the three years between 2019 and 2021.

Senator Michelle Mulherin: I thank the Minister of State. We all know that the planning process takes a while but we need to get down to the nuts and bolts of designing this extension. The Minister of State has pointed out the complexities of it but it has been well appraised. We need it; we needed it yesterday. I am mindful of the constraints on capital expenditure that existed in the past. I would like to make a significant point. I have mentioned University Hospital Galway, which serves counties Mayo, Galway and Roscommon. The blockages in Mayo University Hospital are having an impact on University Hospital Galway. Patients, especially

oncology patients, need to be discharged, released or transferred to Mayo University Hospital. If there is no capacity in Mayo, it blocks up the centre of excellence in Galway. It is a circular situation. There is a blockage somewhere. We should have moved past the appraisal stage. We need to get on with it. We need to get the design going to overcome the complexities and to get a hospital that functions better than the hospital we have at the moment.

Deputy Jim Daly: I appreciate the sentiment the Senator expressed and I agree with her. It is accepted that we have a capacity issue at Mayo University Hospital and throughout the country. This was recognised and identified in the bed capacity review that was undertaken by the Department recently. I appreciate the opportunity to try to make progress with this matter for the Senator. I will take back her strong sentiments to try to get this matter prioritised and progressed as quickly as possible. Clearly, it is in the interests of the people the Senator serves that we ensure the capacity of Mayo University Hospital is enhanced.

Special Educational Needs

Senator Pádraig Mac Lochlainn: In February this year, I raised with the Minister of State, Deputy Finian McGrath, the funding of Inishowen Children's Autism Related Education, ICARE, which serves the Inishowen area. The organisation in question works with more than 100 families, some of which have two or three children who are on the autism spectrum. Even though it is based in Buncrana, it serves the north Inishowen area. The Bluestack Special Needs Foundation, which is based in Donegal town, serves families in south Donegal. A large part of County Donegal is covered by both organisations, which have been in existence for almost 20 years. Until a year ago, they were entirely self-funded. This has been a long road for families. Family members who are dealing with the significant stress of being carers for their loved ones have to go out and raise money again and again. The local communities in north and south Donegal are supportive of these organisations. They always give great support to their fundraisers. These families should not have to raise funds. They should not have to live with the uncertainty of how they are going to secure these services each year.

I am knowledgeable about ICARE because it is based in my home town of Buncrana. Families are referred to the services of ICARE by schools, social services and health services. The State asks ICARE to provide the services it should be providing, but it does not offer any funding support. ICARE sought €100,000 this year, but instead it received just €35,000. The Bluestack Special Needs Foundation sought €150,000, but it received just €36,000. It is well known that they are getting just a fraction of what they need. The HSE worked with both organisations to put together these funding proposals. There are no exaggerations in them. The organisations are looking for exactly what they need - no more and no less. They have been given a fraction of what they require for this year. As the year draws to a close, it is crucial that the same mistake is not made in 2020. That is why I am raising this matter now. To be clear, ICARE requires €100,000 and the Bluestack Special Needs Foundation requires €150,000. That is the appeal. I am frustrated because nothing has happened even though the Minister of State, Deputy Finian McGrath, told me earlier this year he would keep a close eye on this issue. Funding was found when the HSE in Donegal reallocated funding from somewhere else. It was robbing Peter to pay Paul. No additional funding was provided by central government. Instead, we got tea and sympathy. I am asking for an end to the tea and sympathy. These organisations, which are delivering services that have been referred to them by the State, should be respected and funded properly in order that they can do the work they are doing with the support of the

people of north and south Donegal.

Deputy Jim Daly: I thank the Senator for raising the issue of funding for ICARE autism support group and the Bluestack Special Needs Foundation. As Senators may be aware, ICARE was founded in 2000 by a small group of dedicated parents of children with autism. It provides a range of activities for children and young adults with autistic spectrum disorder, ASD, in the Inishowen area of County Donegal. The supports provided by ICARE include informal education and supports for the individual with autism and his or her family, school holiday activities, access to a youth club and support meetings, training and development for families. I acknowledge the extraordinary achievements of the Bluestack Special Needs Foundation since it was established in 2006 by a dedicated group of parents and professionals working in the disability sector. The foundation operates a range of educational, practical and emotional support programmes using a family support model. It provides evening and weekend activities, summer camps and a diverse range of activities.

The family-centred approach adopted by ICARE and the Bluestack Special Needs Foundation is an important move away from a system designed to suit the needs of the service provider and towards a system designed to meet the needs of service users and their families. This model ensures families are empowered by being supported and included in the planning of their children's care. The successful manner in which ICARE and the Bluestack Special Needs Foundation have integrated their services into the community goes an enormous way towards challenging historic patterns of exclusion and is very much to be welcomed. I understand that ICARE and the foundation each received funding of €41,000 from the HSE in 2019 towards the costs of their operations. Submissions for funding from ICARE and the foundation of €41,000 and €86,500, respectively, have been made to the HSE in respect of 2020. The HSE will consider its decision on the level of service to be provided in the context of available resources and priorities for the coming year.

Additional funding of €2 million has been secured under the autism plan in budget 2020 to address health-related issues for individuals with autism. This money will be used to implement an awareness-raising programme that can provide a better information resource for children and parents about the supports that are available; to build capacity and competence among key professionals working with autism, including a national training programme for clinicians; and to implement a tiered model of assessment to improve access to and responses by services for those with autism. It will also be used to fund a campaign to assist in creating awareness of the challenges, needs and experiences of people with autism. The Government remains committed to providing services and supports for people with disabilities in a way that empowers them to live independent lives, gives them greater independence in accessing the services they choose and enhances their ability to tailor the supports required to meet their needs and plan their lives.

Senator Pádraig Mac Lochlainn: We have a serious problem here. The person in the HSE or elsewhere in the health service who drafted the Minister of State's response has his or her numbers badly wrong. I appeal to the Minister of State to sort this out. A senior official in the Department of Health needs to speak to the person who drafted the response to ask him or her why it is suggested that ICARE has applied for €41,000, or less than half of what it requires. I spoke to representatives of ICARE and the Bluestack Special Needs Foundation in advance of this debate. ICARE is seeking €100,000, as agreed with the HSE. That is what it requires to fund the dedicated core portion of its service. It does all sorts of ancillary works that would not be funded from this €100,000. The Bluestack Special Needs Foundation requires €150,000. The person who put together the numbers in the Minister of State's response is not serving the

interests of ICARE or the Bluestack Special Needs Foundation. This response is an absolute disgrace. Let us be clear about the amounts involved, which are €100,000 and €150,000. If that is not what was applied for in 2020, then the application needs to be amended urgently. What has been given is a fraction of that and shows the lack of respect for these two organisations. I reiterate that education, social care, community and health services are referring families to iCARE and the Bluestacks Special Needs Foundation for support. Those organisations have only a fraction of the supports available to the statutory organisations. I conclude by asking the Minister of State for an urgent intervention because these figures are completely wrong. I am certain about that. This is a misrepresentation of what these organisations require and this situation needs to be resolved today.

Deputy Jim Daly: I reiterate the acknowledgement of the good work being done. The Bluestacks Special Needs Foundation and iCARE provide excellent services to people with disabilities and their families in County Donegal. The HSE acknowledges that commitment and endeavours to support such community voluntary-based services as much as possible. In that regard, each organisation received €41,000 in 2019 towards the cost of their work. I also reiterate that some 100 new therapy posts have been added this year and there is an overall budget of €2 billion.

Regarding the Senator's contention that the figures are wrong, I have no problem getting clarity from the HSE. I have no reason to doubt that agency, but I have no objection to seeking that clarification.

Senator Pádraig Mac Lochlainn: I would like to clarify that-----

Acting Chairman (Senator Michelle Mulherin): There is no provision for that. The Minister of State has said that he is going to seek the information.

Senator Pádraig Mac Lochlainn: Will I get a response?

Acting Chairman (Senator Michelle Mulherin): The Minister of State has indicated that the Senator will get a response.

Senator Pádraig Mac Lochlainn: That is fine. The Minister of State will respond to me with a clarification of these figures.

Local Authority Housing Standards

Senator Victor Boyhan: I welcome the Minister of State to the House. I am disappointed, however, because I saw the Minister for Housing, Planning and Local Government, Deputy Eoghan Murphy, in the canteen. It is disappointing that the Minister cannot make himself available. Regardless of who someone is or what party or political group one represents, if any, if a Minister is in the building then he or she should endeavour to do his or her very best to attend. I have other opportunities to engage with the Minister on a range of matters because I am a member of the Joint Committee on Housing, Planning and Local Government. I am more than happy, however, to drop the Minister a line to tell him how disappointed I am. It is disrespectful to the House for the Minister to not come in. I know Ministers are busy, but so are we and the Minister of State, Deputy Daly, is very busy. That was clear from the answers he gave to the earlier Commencement matters. That said, I do not doubt his commitment and ability to pass

on this message.

I ask the Minister for Housing, Planning and Local Government to empower the Residential Tenancies Board, RTB, or somebody else, to monitor local authority standards on housing. Local authorities randomly inspect the properties of private sector landlords. Who is keeping an eye on the local authorities, however? People with young children have come to me because they have mildew on the walls of their residence. They have been told to go out and buy a bottle of bleach by the local authorities and those people have that in writing, by the way. They were told they had to ventilate their residences better, use bleach and take the mould off the walls.

People across the country, and probably in the Minister of State's constituency, are living in appalling accommodation which is part of our social housing stock. Who is monitoring that situation? This is an important issue because tenants often fear that continuing to harass the local authority about the poor standards of their accommodation will result in some sort of rancour, to the detriment of a transfer or move to another property. It is not acceptable for local authorities to be acting as judges and juries in their own causes.

An independent inspectorate is needed to ensure that our local authority social housing stock is maintained to high standards. I acknowledge that some authorities are making better progress than others. We still have situations, however, where there is bad ventilation, damp and even pyrite in some of our social housing. We have serious problems, in certain spots, concerning local authority standards. I ask the Minister of State, at his convenience, to ask if the Minister for Housing, Planning and Local Government will consider putting in place whatever mechanism for inspections might be possible to give comfort to tenants in those situations.

There is no point in all of us, from all parties and none, bellyaching about standards and doing nothing about the problem. This is our forum during Commencement matters and that is why I want to bring this topic to the attention of the Minister. The record will show my disappointment that he is not here. Leaving here today, I commit to contacting some local authorities and I undertake to send photographs of the problems to which I have referred. I will zone in on the constituency of the Minister for Housing, Planning and Local Government himself. I will identify a few appalling houses in his electoral area and bring them to his attention within the next week. I thank the Minister of State.

Deputy Jim Daly: I thank Senator Boyhan. I am taking this matter on behalf of the Minister for Housing, Planning and Local Government, Deputy Eoghan Murphy, and the Minister of State at the Department of Housing, Planning and Local Government, Deputy English, neither of whom could be here today. I assure the Senator that both of them do their very best to be present when they can.

Senator Victor Boyhan: He is rarely here.

Senator Michael McDowell: No.

Deputy Jim Daly: They are both unavoidably absent today and they asked me to stand in. I did not question where they are, I just took their bona fides, which I have no reason to doubt. I assure Senator Boyhan that I will pass on his sentiments to the Minister and the Minister of State. Officials from the Department are also monitoring this debate and taking on board the points raised by the Senator. He can rest assured that he is not making his case in vain.

I thank the Senator for raising the matter of monitoring standards in local authority housing

stock. The Housing (Standards for Rented Houses) Regulations, last amended in 2019, specify requirements on a range of matters such as structural repair, sanitary facilities, heating, ventilation, natural light and safety of gas, oil and electrical supply. These minimum standards also include measures covering fire safety, carbon monoxide and window safety. The regulations apply to all rented dwellings, both private rented houses and local authority housing stock, with just a small number of exemptions. All landlords have a legal obligation to ensure their rented properties comply with these regulations. Responsibility for the enforcement of the regulations rests with the relevant local authority. Local authorities are responsible for the management and maintenance of their own housing stock under the Housing Acts, 1966 to 2015, including responsive and planned maintenance and the identification of housing in need of upgrade, regeneration or adaptation.

The Government's Rebuilding Ireland Action Plan on Housing and Homelessness committed all local authorities to adopting a preventative maintenance approach to housing stock management, including consistent standards and the adoption of a common national re-letting performance standard. The City and County Management Association, CCMA, on behalf of local authorities, is driving a shared approach to the planned maintenance of social housing, including stock condition surveys, building on the work that several local authorities have already launched in that regard and there is ongoing dialogue between the CCMA and the Department to advance reform in the area.

In addition to funding provided by the local authorities themselves in respect of their own housing stock - approximately €350 million per annum - the Government provides funding across a number of programmes to support local authority work to maintain and improve social housing stock, for example the energy retrofitting and voids programmes. In all cases, however, it is the local authorities that identify priorities. Local authorities have a multi-stage procedure for dealing with complaints from their tenants regarding housing conditions. The first involves discussing the complaint at the point of service. This is usually the quickest and most efficient way to address matters that have arisen. If someone is unhappy with the outcome of this first stage, a formal complaint can be made under the council's complaints and appeals procedure, details of which can be found on the websites of the local authorities. If a person continues to consider the response from the local authority to be unsatisfactory, the matter may be pursued further through the Office of the Ombudsman.

The Residential Tenancies Board is an independent statutory body established under the Residential Tenancies Acts 2004-2019 to operate a national tenancy registration system, provide information and advice to the public, and to resolve disputes between private landlords and tenants. The inspection of rental properties is not a function of the RTB. Social housing is subject to a separate legislative regime under the Housing Acts and it would not be appropriate for the RTB to have an enforcement role in relation to social housing.

Senator Victor Boyhan: I thank the Minister of State for the response. I take on board the official response concerning the role of the RTB. It is a valid point and I am happy to take it on board. There is, however, a need to regulate and inspect independently of the local authorities. They are failing on a whole range of fronts and we need to monitor them because no actor currently has responsibility in that area. We need to find some way to zone in on those standards. I reiterate that I undertake to contact some of the housing bodies today and I will identify a few houses on the social housing list in the constituency of the Minister for Housing, Planning and Local Government. I will then come back with a further Commencement matter on this topic, because we need to drive home notice of the existence of this problem right into the political

heartland of the Minister.

Deputy Jim Daly: I thank the Senator and I reiterate that I will convey his sentiments and that officials from the Department of Housing, Planning and Local Government are watching this debate. As a fellow practitioner in the political world and to be helpful to Senator Boyhan, it may be of interest to him to consider contacting the Office of the Ombudsman to ascertain the current level of complaints.

Senator Victor Boyhan: That is a long process and complaints have to be dealt with locally first.

Deputy Jim Daly: I am being helpful in that it is something I have found in the past. Contacting the Ombudsman can be very helpful to gain an insight into the level of complaints regarding local authority housing.

Light Rail Projects

Senator Michael McDowell: The Eastern and Midland Regional Assembly, which includes Dublin, has made proposals on the regional spatial and economic strategy for 2019 to 2031, which is a 12-year strategy to consider and make provision for the extension of the MetroLink south to the Rathfarnham, Churchtown and Knocklyon direction on one arm and the UCD and Stillorgan direction on the other. I echo what Senator Boyhan said, that the Minister, Deputy Eoghan Murphy, should be here today. He is in the House. When I left the self-service restaurant to come here he was there so I cannot understand why he cannot be here to deal with this matter personally.

The Minister has advertised his intention to conduct a public consultation on amending the spatial strategy document to delete all reference to any alternative route for the southern end of the metro system. The result of this is that what the Taoiseach, Deputy Varadkar, said about being open to persuasion on this matter is being quietly shelved and a decision is being made to cannibalise the green Luas line and incorporate it eventually into the metro system.

The House knows, because I have mentioned it previously, that the consequence of doing this is the green Luas line would be out of operation for two years while these works are carried out. This is a matter of great importance for the south Dublin region. It is very unfortunate that the Eastern and Midland Regional Assembly, which is a democratic body of local representatives, has made an amendment to make provision for the options the Taoiseach has said are open to the Government to pursue but now it has become apparent that the Department of Transport, Tourism and Sport, led by the Minister, Deputy Ross, has requested the Minister, Deputy Eoghan Murphy, to make an order deleting all references to alternative routes in the spatial strategy. In effect, this means the Minister, Deputy Ross, has asked the Minister, Deputy Eoghan Murphy, to end all possibilities of alternative routes for the southern end of the Metro-Link system. The consequence of this is that the Minister, under section 31A of the relevant planning Act, has the power to make a direction telling the regional assembly to amend its spatial strategy to conform with what is now emerging as the preferred strategy of the Minister, Deputy Ross, which is the green line cannibalisation scheme and the two-year delay implicit eventually in pursuing that scheme.

We are now in a situation whereby the Minister, Deputy Eoghan Murphy, has started a

procedure. He has put advertisements in the newspapers indicating he intends to consider ending any possibility of these alternative routes by making a direction under a statutory power. I acknowledge the presence of the Minister of State while complaining about the absence of the senior Minister. My information is the Minister has a draft order before him. He has had correspondence with the National Transport Authority, the Office of the Planning Regulator and the Department of Transport, Tourism and Sport. The Minister should make a clear statement. Has he yet made the order in question? Does he intend to do so? When is he likely to make this order? Will he publicly state the effect of making this order is that what the Taoiseach has said about the possibility of pursuing alternative routes will be brought to an end?

Deputy Jim Daly: I thank the Senator for raising this matter and allowing me to clarify the position on extensions to planned metro projects within the regional spatial economic strategy for the Eastern and Midland Regional Assembly.

The completion of the construction of MetroLink from Swords to Sandyford was identified among the key transport infrastructure investments in the regional spatial economic strategy. At material amendment stage, the members of the assembly included the additional undergrounding of extensions to UCD and Knocklyon from Charlemont, which effectively adds an additional two metro lines to the project. The regional spatial economic strategy never proposed the extension of the metro to the Rathfarnham and Churchtown areas.

The consideration of the regional spatial economic strategy by the Minister for Housing, Planning and Local Government has been framed in the context of Project Ireland 2040 and the statutory requirement for the Eastern and Midland Regional Assembly regional spatial economic strategy to be consistent with the transport strategy for the greater Dublin area, which provides the statutory framework for the planning and delivery of transport infrastructure for the region and with associated funding included in the national development plan.

Following this consideration, the Minister gave notice on 7 August 2019 to the Eastern and Midland Regional Assembly that he intended to issue a direction under section 31A of the Planning and Development Act 2000 on objectives in the regional spatial economic strategy that identified additional rail, metro and Luas infrastructure, which went beyond the scope of the National Transport Authority's transport strategy for the greater Dublin area for 2016 to 2035, the National Planning Framework 2040 and the National Development Plan 2018-2027.

In reaching this position, the Minister took account of advice from the Department of Transport, Tourism and Sport in July 2019 that the regional spatial economic strategy contains references to projects that are not consistent with the national planning framework, the national development plan and-or the greater Dublin area transport strategy. There was also a strong recommendation, also made in July 2019, from the NTA for the issuance of direction to the Eastern and Midland Regional Assembly to remove, among other items, the reference of the metro extension to Knocklyon and UCD. There was also advice from the Office of the Planning Regulator.

The draft ministerial direction was the subject of public consultation from 20 August 2019 to 2 September 2019, following which the Minister, on the 11 October, appointed an inspector to carry out an independent review. This has now been received. Following consideration of this review, the Minister will decide either to extend the period for consideration or issue the direction as per the draft or with amendments by 9 December 2019.

I understand that a review of the greater Dublin area transport strategy will commence next year and will incorporate a re-examination of travel demand across the greater Dublin area based on the most recent forecasts of population and employment distribution. It would be more appropriate at this point, and through this process, that the requirement for additional rail lines, or for expediting certain elements of the greater Dublin area transport strategy, are identified and considered.

Senator Michael McDowell: I am deeply disappointed with the answer given by the Minister of State. The Government is speaking with a forked tongue on this issue. The Taoiseach says he is open to persuasion on other routes. The proposal to extend the metro to Sandyford was stated to be something that would not be required for the next 20 years but now it appears the Government is quietly going back to its original proposal, which is to cannibalise the green line and exclude all other possibilities. I want to make it very clear that if the metro is extended to incorporate the green Luas line as far as Sandyford it will entail closing the line for two years and replacing one piece of infrastructure that is working, and with extended tram sets will work more efficiently, while ignoring the possibility of giving other suburbs in Dublin, such as UCD, Belfield, St. Vincent's University Hospital, Churchtown, Rathfarnham and Knocklyon any decent public transport system, which is wholly absent. Whereas I recognise the Minister of State has informed the House today that a decision will be made by 9 December, this has been an exercise in kicking the can down the road. The Taoiseach has said he is open to persuasion on these matters but this process is going to culminate on 9 December. It is deceiving the people as to the Government's real intentions.

Acting Chairman (Senator Michelle Mulherin): Tá áthas orm fíor-fháilte a chur roimh scoláirí as Gaelscoil Inse Chór. I welcome all the boys and girls and their múinteoirí. They are being hosted today by Senator Catherine Ardagh. We hope they find their tour and visit very informative. It is great to have them.

Message from Joint Committee

Acting Chairman (Senator Michelle Mulherin): The Joint Committee on Agriculture, Food and the Marine has completed its consideration of the following regulations in draft:

Horse and Greyhound Racing Fund Regulations 2019.

Sitting suspended at 11.10 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, Private Members' business, Industrial Relations (Joint Labour Committees) Bill 2019 - Second Stage, to be taken at 12.45 p.m., with the time allocated to the debate not to exceed two hours; No. 2, Judicial Appointments Commission Bill 2017 - Report and Final Stages, resumed, to be taken on the conclusion of No. 1 and to adjourn after two and a half hours, if not previously concluded; and No. 3, state-

ments on the provision of accommodation and ancillary services to applicants for international protection, to be taken on the conclusion of No. 2 and to conclude after 80 minutes, with the time allocated to all Senators not to exceed six minutes and the Minister to be given not less than six minutes to reply to the debate.

Senator Catherine Ardagh: I was surprised to see farmers out protesting again today but I have much sympathy for them or all those who feel they cannot make a living after putting so much time and effort into a livelihood. We need to have a proper debate in this House on rural Ireland and putting a value on farmers, the sustainability of rural Ireland and farming and how much we value having fresh produce and good beef. Individuals and the supermarket sector as a whole must figure out whether we want decent beef and agricultural produce in future. I have started going to my local butcher because the beef is a little better and although I pay a little more, it is worthwhile. I have considerable sympathy for those farmers.

On the same matter, issues around death threats to certain individuals should be clarified. There is much hurt out there and if the parties are to go ahead with the task force and the mediation of some form of agreement, they must clear the air. There must be trust on both sides. I hope the talks will go ahead in December and the farmers will achieve some sort of satisfactory agreement. It is very much a long-term issue but we must all figure out whether we appreciate fully our access to good produce. I would like a debate in this House on the matter.

I also raise the issue of cycling in the city. Three weeks ago, a young man, Mr. Neeraj Jain, was knocked down, tragically, by a cement truck on the South Circular Road at the junction with St. James's Hospital. We know cycling is becoming more dangerous on the roads in the city. I commend Dublin City Council because as part of the Dublin agreement, councillors agreed to allocate 20% of the roads budget to increasing cycling infrastructure, which is very welcome. I also welcome the new laws coming into effect whereby fines of €120 for overtaking a cyclist in a dangerous fashion will be implemented. It is really important that we have enforcement. We have many great laws but the real problem is with enforcement of those laws. Perhaps the Garda Síochána will assign enough personnel to enforce cycling-related laws in the city.

I commend my colleague, Senator Craughwell, who is not here today but who spent some time recently cycling on the roads to see the issues on the ground.

Senator Victor Boyhan: We have not seen him since.

Senator Catherine Ardagh: I do not know if he spent a week or a day doing it.

Senator Billy Lawless: It was a day.

Senator Catherine Ardagh: I commend him on doing it.

Senator Billy Lawless: He will be doing the Tour de France next.

Senator Jerry Buttimer: He is no Sean Kelly.

Senator Catherine Ardagh: We all endure those problems. Last night I would have liked to have been a cyclist when I was leaving Leinster House. They were able to speed past all the traffic. It is a sensible way to do business but I would be too scared to cycle. I have tried it but until cycling infrastructure improves, many people will be like me and will not be comfortable cycling the roads.

Senator Billy Lawless: With four by-elections taking place this Friday and Christmas just around the corner, there seems little doubt we are on the march to a general election early in the new year. It is my sincere wish, as it has been since I had the honour of being appointed to this Chamber, that I will leave this Seanad knowing that the Irish people have been given a chance to vote on whether their Irish brothers and sisters right across the globe will be able to vote on who our next President should be. I fully supported the Government's decision to postpone the holding of this referendum in the teeth of Brexit negotiations but if, as seems likely, we will have a degree of certainty surrounding Brexit following the completion of the United Kingdom general election, I strongly urge the Government to call a referendum before the St. Patrick's Day festivities.

What an amazing sight it would be for all the Ministers travelling across the world to interact with our diaspora having seen a referendum passed to give them a formal say in who should be the Head of State. I know in my adopted country of the United States the enormous depth of meaning the holding of this referendum would have for our community. St. Patrick's Day is a unique period in our calendar where every Irish person resident in this State recognises and sees just how global and broad-shouldered is our community. Beamed across the globe from Dubai to Durban and Singapore to Seattle, the whole world stops and pays attention to the community of this small island.

We know the economic and diplomatic value of our Taoiseach and Ministers travelling across the world and although there is always criticism of the cost of these missions, we never talk about the value to the State and taxpayer of what it means to our Irish community to be visited by their home Government. That value would be enhanced dramatically if we could deliver a referendum to give that community a say in who our next President should be. I am calling on the Government and all other political parties to support my call for this referendum to take place before St. Patrick's Day in 2020.

Senator Pippa Hackett: I will follow the comments of Senator Ardagh on the farmers' protest. I was out there this morning meeting some farmers, and this follows previous engagements I had with them both at previous protests outside these buildings and at a meat processing plant at Rathdowney in County Laois. On each occasion, a heightened sense of frustration and despair has been highlighted among these farmers. The beef talks that took place after the previous round of meat plant protests have not resulted in a successful outcome for these farmers and they are now back out on the streets. All these farmers and their families want is fair trade and a fair price for their produce. Instead, as Senators are aware, many of them are producing at below cost price and losing money. Smaller farmers will feel this most as they do not have the critical mass to negotiate stronger positions on price. This crisis is affecting beef producers of all types, however.

We expect a lot from our farmers. We expect them to adhere to rules and regulations, engage with policymakers and legislators, reduce emissions, improve biodiversity and achieve other environmental outcomes. However, when they face difficulties such as those we are seeing now, they are left with little or no support, guidance or advice. The agrifood system is broken in this country. From inside the farm gate all the way to the consumer both here and abroad, creating consistent high demand for Irish food while also addressing our environmental commitments should be at the heart of any effective solution for the Irish agriculture sector. The oft repeated narrative or threat that if we do not produce goods, someone else will do so demeans Irish farmers and their produce. If our produce is so easily produced elsewhere, where is the added value in it coming from Ireland? This is a question for Bord Bia but one we should

keep in mind.

The continued pursuit of commodity production in a small country such as Ireland does not serve our farmers or environment well. We must also reflect on the social and economic impacts on our farmers. Land abandonment and farm consolidation are happening. Reports suggest that about 1,000 farms go out of business in the EU each day. This is a staggering number. Retaining small-scale family run businesses is a must, particularly for a small country such as Ireland. With all our eggs in one basket of beef and dairy, we are exposed and vulnerable to climate change and the volatility of global markets. At farm level, our dairy farmers are in receipt of some of the lowest milk prices in Europe and our beef is stagnating at a cost price that is lower than the cost of production. In the meantime, our emissions keep rising and our biodiversity, animal welfare and water and air quality are compromised. Where will it end?

A new land use plan is required both to adapt to and mitigate the effects of climate change and biodiversity loss and to turn the tide of depressed prices for our farmers. Farmers will rely significantly on a reformed Common Agricultural Policy, CAP, to deliver these transitions on their farms. A business as usual approach with a few cherries on top will not suffice. Food production will always remain central to our agricultural land use but we must at the same time consider other income streams for farmers, including farming for carbon storage and water-----

An Leas-Chathaoirleach: I hate to pull Senator Hackett up as she is a new Member but she is in injury time.

Senator Pippa Hackett: My apologies. We also have to farm for biodiversity. The clock is ticking in all senses of the word and our farmers are running out of options and time.

Senator Rose Conway-Walsh: Can I have the same amount of time to speak? I have lots to say.

An Leas-Chathaoirleach: I am afraid Senator Conway-Walsh is not exactly a new or fresh Member.

Senator Jerry Buttimer: I will time her.

An Leas-Chathaoirleach: She has three minutes.

Senator Diarmuid Wilson: That is 30 seconds gone.

Senator Rose Conway-Walsh: I support the comments made by Senator Lawless on the referendum on voting rights in presidential elections. I commend him and others, including Votes for Irish Citizens Abroad, VICA, on all the work and heavy lifting they have done for years on voting rights in presidential elections. We have cross-party agreement so there should be no impediment to holding a referendum, getting this done and sending out a signal that we are sincere to the diaspora and Irish citizens in the North. Let us get on with it.

Senator Gerard P. Craughwell: We should take up the UK Prime Minister Boris Johnson's motto and get this done.

Senator Rose Conway-Walsh: I will not bring him into this. We have to talk about what is happening outside these gates and around Dublin today. We have to talk about our farmers. The Minister for Agriculture, Food and the Marine, Deputy Creed, has been sitting on his hands for too long, unfortunately. The beef sector agreement was signed six weeks ago and the beef

task force has yet to meet. The Minister needs to call on the factories to withdraw all the injunctions. That is the impediment to having the talks. There can be no level playing field while powerful, cartel-like factories have legal injunctions out on farmers. The protests we are seeing are a direct result of farmers' frustration at the lack of progress the Government is making on the beef sector. I spoke to farmers yesterday, last night and today and they do not want to be here. They have farming to do at home and do not want to be surrounding Leinster House or in Dublin with their tractors. They have lots of work to do.

The Minister has to sit down with the farmers. I know he went out to the protest this morning but he has to sit down and talk. He also needs to have respect for farmers. Some of the comments he made yesterday in the Dáil show contempt and disrespect for the farming community. These are my neighbours and friends. They are from all over the country and they are struggling to survive. They are the keepers of rural Ireland who produce the quality food we can be proud of when we travel the world. The Minister has to meet the farmers halfway.

Sinn Féin calls on the Government to support our Mandatory Beef Price Transparency Bill 2019, which would ensure transparency throughout the supply chain and that a fair price to all farmers for their produce. We have to sort this out once and for all or this protest will become an everyday occurrence. I call on the Minister to act. The buck stops with him and he has to get this issue sorted, not only for the farming community. We are conscious that people are trying to get to work, hospitals and so on all over this city. The Minister cannot ignore this issue.

Senator Aodhán Ó Riordáin: I propose an amendment to the Order of Business, that the last hour of the debate on the Judicial Appointments Commission Bill 2017 be substituted with a debate on crime and that the Minister for Justice and Equality be summoned to the House to discuss the issue of crime. I made comments yesterday on a murder that took place at the beginning of this week. That was the fifth such murder in seven months on the north side of Dublin. The situation is clearly out of control. If this had occurred in any other area of the country, the political system would have screeched to a halt and every available Minister would be seated around a table talking about it. That has not happened with regard to Coolock and that needs to change. We are asking for an amendment to the Order of Business to provide that the last hour of the scheduled debate on the Judicial Appointments Commission Bill 2017 be substituted with a one-hour discussion on the issue of crime in Dublin and around the country, in light of the most recent murder at the beginning of this week.

An Leas-Chathaoirleach: As I understand the Senator's proposed amendment, it proposes that the debate on the Judicial Appointments Commission Bill 2017 be confined to one and a half hours and that crime be debated for one hour.

Senator Aodhán Ó Riordáin: That is the proposal.

Senator Michelle Mulherin: I share the concerns raised about the farming protests that are taking place. We are in a terrible situation. Dublin city centre is in disarray with farmers protesting and people unable to go about their daily business and get to work in the city. Farmers feel desperate about prices and the terms and conditions they are being asked to operate under. We know that no problem will be solved on the streets. We all thought a solution or at least a formula for a solution was in place when it was agreed at the beginning of September to establish a beef market task force. Nothing has improved since and farmers are in exactly the same position. Many people will be frustrated by what is happening on the streets. There are even whispers suggesting people do not have much sympathy for farmers. If farmers are

complaining and protesting, they have reason for doing so. This problem has been going on for far too long and we need a solution. Meat Industry Ireland can no longer sit back and take a *laissez-faire* approach. C&D Foods has taken out injunctions against a couple of people involved in the protests. It is incumbent on Meat Industry Ireland to get that matter off the table and get everybody talking.

We need to talk about price transparency, competition law issues and the fact that farmers are receiving a return that is below the cost of production. They are bearing the cost of the difficulties in the sector. I have not heard of any meat plants being in danger of going out of business but there are many farmers who are in such danger.

Senator David Norris: Hear, hear.

Senator Michelle Mulherin: If we do not address these problems, the next generation will not be interested in getting involved in farming. We have a proud agricultural tradition in this country; if we do anything well, it is farming. Farmers are up to meeting the challenges of the market and of climate change, but they are not being given a chance to do so. I welcome the initiative by the Minister, Deputy Creed, in going out to speak to the protestors, but it is time for everybody involved to sit around a table. There are no farming organisations out there today, such is the disarray in which we find ourselves.

Meat Industry Ireland cannot just sit back and let others deal with the issue of the injunctions. It must be proactive on the matter, and it is in its interests to take that approach. Bord Bia and the Government are working hard to win markets for the sector in China and elsewhere. What is going on is not acceptable. We want farmers off the street and back on their farms and we want the beef market task force up and running and doing the job it is supposed to do. It is a tough job but it must be done.

I will finish by giving some figures that illustrate starkly the difficulties for farmers. In June 2018, farmers were getting €4.40 per kilogram of beef from the factories.

An Leas-Chathaoirleach: The Senator is well into injury time.

Senator Michelle Mulherin: Now they are getting €3.30 a kilogram. That is totally unsustainable.

Senator David Norris: Hear, hear.

Senator Michelle Mulherin: We must have action today to resolve the situation. It is time for Meat Industry Ireland to step up to the plate.

An Leas-Chathaoirleach: Senator Mulherin has made her point well.

Senator Terry Leyden: I propose an amendment to the Order of Business that the Minister of State at the Department of Health with responsibility for disability services, Deputy Finian McGrath, come to the House today to discuss the proposed closure on Friday of the Cuisle facility in Donamon in County Roscommon. I propose that this debate be taken at 3 p.m. instead of the resumed debate on the Judicial Appointments Commission Bill 2017. It is a matter of great urgency that the Irish Wheelchair Association, IWA, has decided to close this resort, which provides respite and holiday services for people with disabilities, without any consultation with its members. We need a debate today to allow for a postponement of the decision by the Joint Committee on Health last Thursday and to discuss how additional funding can be secured to

ensure the service is retained. There must be an extraordinary general meeting of the IWA to allow members to have their say. It is not acceptable that the executive members of the IWA should act like a dictatorship by deciding, without any consultation, to close the unit on Friday, 30 November.

My appeal to avert that closure is a reasonable one. The same call was made at a rally in Roscommon last Saturday which was organised by a support group in Oran and attended by 2,000 people. The people of County Roscommon are as one on this matter. The Minister of State must explain to us the position of the HSE and the Government in regard to the closure of this important service for people with disabilities. It is an issue of fundamental importance but it is not getting national coverage because most media, including RTÉ, are very much Dublin-oriented. We have at least had some input from the State broadcaster's regional correspondents. The matter would have had no publicity at all if not for them and the local media, including local radio stations Shannonside and RosFM, the *Roscommon Herald* and the *Roscommon People*. They are giving the issue oxygen and making sure people in the area know what is going on.

An Leas-Chathaoirleach: The Senator's proposal that this debate take place at 3 p.m. could be awkward. Is he asking that the matter be taken before No. 2, the resumed debate on the Judicial Appointments Commission Bill 2017?

Senator Terry Leyden: I am asking that we have this debate in place of the debate on the Bill, which can be deferred. Senator Ó Ríordáin also has a proposal-----

An Leas-Chathaoirleach: To clarify, Senator Leyden is proposing that a debate take place after No. 1, Private Members' business, instead of the scheduled debate on No. 2.

Senator Terry Leyden: Yes. I am making my proposal in conjunction with what Senator Ó Ríordáin is proposing. I do not need two hours.

An Leas-Chathaoirleach: The Senator needs to be clear about what he is proposing.

Senator Terry Leyden: I want the Minister of State to come in as soon as possible to debate this matter.

Senator Jerry Buttimer: I can ask the Minister of State to come to the House later in the day, perhaps at 5 p.m.

An Leas-Chathaoirleach: Is Senator Leyden proposing that the debate on this issue be taken instead of the debate on the Judicial Appointments Commission Bill 2017?

Senator Terry Leyden: Yes.

An Leas-Chathaoirleach: In other words, that it be taken after No. 1 and instead of No. 2?

Senator Terry Leyden: Yes, it is an urgent matter.

An Leas-Chathaoirleach: The Senator should leave any mention of 3 p.m. out of it.

Senator Jerry Buttimer: I am totally confused by the proposal from Senator Leyden.

An Leas-Chathaoirleach: We have clarified it.

Senator Jerry Buttimer: I am not easily confused by the Senator but in this instance-----

Senator David Norris: May I ask-----

Senator Jerry Buttimer: I am asking a question. As Leader of the House, I am totally unclear on what is being proposed.

An Leas-Chathaoirleach: I will clarify it.

Senator David Norris: I would like to ask a question.

An Leas-Chathaoirleach: Senator Norris's turn will come.

Senator David Norris: I have a question about Senator Leyden's proposal because it is not clear. I would not know which way to vote on it.

An Leas-Chathaoirleach: I am trying to clarify it.

Senator David Norris: Is Senator Leyden proposing that the debate he is seeking should replace the scheduled debate on the Judicial Appointments Commission Bill 2017 or that the latter would be rolled on until later in the evening?

An Leas-Chathaoirleach: Senator Leyden's proposal is that the debate he is seeking take place instead of the debate on the Bill.

Senator Terry Leyden: I am proposing that we have it at 3 p.m.

An Leas-Chathaoirleach: No, that is not the proposal

Senator Terry Leyden: I am asking that it take place after the debate on No. 1.

An Leas-Chathaoirleach: After No. 1 and instead of No. 2.

Senator Terry Leyden: That is fair enough.

An Leas-Chathaoirleach: If Senator Leyden's amendment is accepted, the debate on No. 2 will not take place.

Senator David Norris: Surely Senator Leyden's amendment simply knocks back the debate on the Judicial Appointments Commission Bill until later in the afternoon or evening?

An Leas-Chathaoirleach: No, Senator Leyden is proposing that the debate he has requested be taken instead of the debate on the Bill.

Senator David Norris: I thank the Leas-Chathaoirleach for clarifying the situation at last.

Senator Victor Boyhan: I share colleagues' frustration with the deadlock on the beef market task force. Farmers are agitated and disappointed, as are Senators and Deputies. I welcome the decision by the Minister, Deputy Creed, to meet with the protestors, but the situation still requires urgent resolution. The Irish Cattle and Sheep Farmers Association has expressed serious concerns in regard to Bord Bia, the beef prices index and the difficulties in breaking through the deadlock with the meat factories. These serious problems must be addressed. As Senator Mulherin said, we want farmers out of the city and back on the land where they want to be, doing what they do best. It is important to keep cool heads as we work to get the task force up and running as quickly as possible.

There was reference on “Morning Ireland” today to a leaked report indicating that county and city councillors will receive a pay rise of €8,000. The Minister of State at the Department of Housing, Planning and Local Government, Deputy Phelan, confirmed at an Oireachtas committee meeting earlier today that the review of local authority members’ remuneration has not been completed and, as such, the reports of a specific pay increase are not accurate. He indicated that he saw a draft of the report some months ago and that he made a submission on it two months ago. Ms Sarah Moorhead SC was commissioned in June 2018 to conduct the review but has still not completed her work and made a comprehensive report. We are no further on in the matter, although I welcome the indication by the Minister of State that when the report is published, which could possibly be in ten days’ time, he will publish it immediately.

Senator Máire Devine: Proposing amendments seems to be a popular activity today, so I should probably hold off for now. However, I have been holding off on a particular matter since April 2016, namely, the appointment of a consultant sarcoma specialist at St. Vincent’s hospital. Following meetings with patients, the Minister for Health, Deputy Harris, agreed to the creation of this post. One of those meetings was attended by members of the hospital board, who had not been invited. Since then, we have had a lot of heel dragging. The post was offered to somebody who decided, after two and a half years, to decline it, even though it is custom and practice that posts be taken up within three months. In the meantime, there is no specialist available for patients suffering from sarcoma, which is a terminal illness that requires specialist input.

The specialist we had, Dr. Bertuzzi, was sent packing. I do not mind saying that there is nefarious stuff going on in St. Vincent’s Hospital. I am sure they will come down quite heavily on me but self-interest is evident. I would like the Minister to come to the House
12 o’clock to address those concerns. I would like to ask him why this post has been languishing for so long when so many of the sufferers who pleaded for it have passed away. Many other young people are now diagnosed with this condition.

Senator Maria Byrne: I am beginning to sound like a broken record but I wish to raise the issue of University Hospital Limerick. There were 85 people on trolleys on Monday and 75 yesterday. The list is growing. I met with the Minister for Health, Deputy Harris, last week to express my frustration. We need to ensure a safe environment for the staff of the hospital and for people attending it. I recently met somebody who chose to stay at home rather than go to the hospital, even though they were very ill. That is a very sad case. Something has to happen and somebody has to intervene. The Royal College of Surgeons in Ireland is carrying out an independent review. What is the status of that review? There is no sign of the report coming out. I ask the Leader to bring the Minister in to have a debate on overcrowding in hospitals, especially University Hospital Limerick, as soon as possible for the sake of the safety of patients, staff, and those who attend the hospital every day.

Senator Ivana Bacik: I support the amendment proposed by my colleague, Senator Ó Ríordáin, to substitute a debate on crime for one hour of the debate on the Judicial Appointments Commission Bill. I also support Senator Leyden’s amendment, which would substitute a debate on the important issue of Cuisle for the other hour and a half of debate on the Judicial Appointments Commission Bill. Both are hugely important issues and are far more urgent than the ongoing debate on Report Stage of the Bill. My group and I will certainly support both amendments. I thank the Leas-Chathaoirleach for his excellent-----

Senator Jerry Buttimer: This is happening every day.

Senator Ivana Bacik: It is not every day but today we have two urgent issues to be-----

Senator Jerry Buttimer: It has been every day since the Bill came back on Report Stage.

An Leas-Chathaoirleach: The Leader will respond in due course.

Senator David Norris: Could the Leader stop interrupting?

Senator Jerry Buttimer: It is every day.

Senator Ivana Bacik: I thank the Leas-Chathaoirleach for his clarification of the issue. I also support what Senator Ardagh said in respect of cycling. As somebody who cycled in today and yesterday and who cycles regularly or every day, the roads were very clear because of the farmers' protests.

An Leas-Chathaoirleach: The Senator is a brave girl.

Senator Ivana Bacik: We do, however, need to make more provision for cyclists, as I said in my contribution on the Finance Bill 2019 last night. I commend Senator Hackett on her excellent speech in response to the farmers' protest. I understand it is in the process of being resolved, which is welcome because the farmers' group is raising serious issues. Senator Hackett is correct when she speaks about the future of sustainable farming in Ireland. I spoke about an excellent model during the Finance Bill debate last night, that of the Burren Beo Trust and the work being done in the Burren by Mr. Brendan Dunford and his colleagues on sustainable farming. That is the future.

I commend the Dress for Success organisation and the organisers of the great conference being held today. I had the pleasure of attending this morning where An Taoiseach announced that the Citizens' Assembly on Gender Equality will have its inaugural meeting on 25 January 2020 when it will look at issues around the serious and ongoing gender pay gap between women and men and issues in respect of ensuring women's equal participation in the workforce. The conference will be hearing about the importance of childcare, expanded parental and paternity leave, and so on. I welcome that announcement in the spirit of collegiality. I very much welcome the Government's announcement in respect of the citizens' assembly.

Senator Jerry Buttimer: It is a selective collegiality.

Senator Ivana Bacik: This model was, of course, prompted by Labour in government.

An Leas-Chathaoirleach: The Leader will salute the Senator in due course when he comes to respond.

Senator David Norris: I do wish the Leader would keep his mouth shut.

Senator Ivana Bacik: Hear, hear.

Senator David Norris: It is very inappropriate and undignified for the Leader to be constantly heckling people on the Order of Business.

Senator Jerry Buttimer: What hypocrisy.

Senator Ivana Bacik: I thank the Taoiseach for his reference to the Labour group and myself having introduced the Irish Human Rights and Equality Commission (Gender Pay Gap In-

formation) Bill 2017 in this House as a Private Member's Bill. It is very important legislation, which we very much hope will finally see the light of day in 2020. I ask the Leader to use his offices with the Taoiseach to inquire as to the progress on the gender pay gap legislation which we have been promised since I first introduced my Bill in this House. I hope it comes into effect next year to address the serious issue of the ongoing gender pay gap between women and men.

Senator Aodhán Ó Riordáin: Hear, hear.

Senator Robbie Gallagher: I also support Senator Leyden's amendment to the Order of Business. Following on from Senator Bacik's comments, I welcome the fact that there appears to have been a breakthrough of sorts in the farming dispute. What I find particularly frustrating - and I am sure many farmers do as well - is that it seems to take farmers leaving their lands with their tractors to drive up to the gates of Leinster House to get action. This clearly illustrates that more urgent action is required of the Minister to address this issue and to finally achieve a positive resolution.

The main issue I wish to raise relates to mortgage holders. Mortgage interest rates in the Republic of Ireland are among the highest, if not the highest, in the eurozone. To provide a practical example, a couple or single individual with a mortgage of €200,000 pays €250 per month more than their eurozone counterparts. That amounts to €3,000 per annum, which is a serious sum. This is clearly not right and not fair. People are asking why this is so.

The other area of the mortgage market about which the Government needs to be more proactive is that of switching. Many people do not realise they can save thousands of euro by switching their mortgage from one lender to another. More needs to be done to inform people of the savings that can accrue. The process of switching mortgage needs to be simplified so that more people take up the opportunity. More switching would encourage more competition which would, in turn, reduce interest rates. I ask the Minister to invite the Minister for Finance to the House for a debate on the mortgage market in Ireland and on how Irish mortgage holders are currently being fleeced compared to their European counterparts. We need to get the Government to be more proactive and we need a campaign to encourage people to switch their mortgages from one lender to another to save themselves a few euro.

Senator Gerard P. Craughwell: I would be happy if the Leader could explain to me how our citizens are going to benefit from this seat the Government is chasing on the United Nations Security Council. As of September this year, we had spent €650,000, €100,000 of which was spent on a video using Bono to sell the notion of Ireland having a seat on the Security Council. We recently spent another €144,000 sending Ministers to the US to further this cause. This is nothing but a vanity project. It serves no citizen in this country in any way. It does nothing for hard-pressed citizens and it is time it stopped. It is time that we stepped back and started to use the offices of Ministers to do the jobs they are empowered to do.

This morning we were unable to get into Leinster House without using ID cards and at the top of the street we see tractors and farmers taken from their farms. The level of poverty there is unbelievable. Somebody remarked that there could not be that much poverty in light of the size of the tractors but the truth of the matter is that the banks own them. These men and women are in dire straits. The Leader will be aware that there is a market of 80 million people waiting to buy Irish lamb and beef in Iran. The only impediment to opening up that market is our lack of an embassy in Tehran. Why do we not have an embassy there? Iran has its problems. Indeed, the Iranian ambassador to Ireland will admit there are problems in his country but there is a

market there for Irish beef. My colleagues were talking earlier about the price of Irish beef being down to €3.30 a kilo. Good God tonight, are we going to drive our farmers out of business? It is simply not good enough. On the one hand, we are off chasing vanity projects while, on the other, we are not looking after our farmers, who are the heart and soul of this country. I want somebody to explain to the House what good this goddamn vanity project we are chasing will do. How will this project benefit any citizens on this island whether they are homeless, farmers or lying on trolleys? It has helped nobody.

Senator Niall Ó Donnghaile: Ba mhaith liom tréaslú leis an méid a bhí le rá ag an Seanaoí Lawless ní ba luaithe maidir le reifreann ar chearta vótála i dtoghcháin uachtaránachta.

I second the remarks made by Senator Lawless on the referendum for presidential voting rights. To be fair to officials and the relevant Ministers, the heavy lifting has been done. There is a growing consensus among political parties, civic society and diaspora groups and it is now time to put the question to the people. The Convention on the Constitution has agreed it. The Senator made the imaginative proposal that the question should be put before the Government travels all around the world to tell the diaspora how much it values them. Perhaps now is the time that the Government showed them by initiating the referendum.

I call for a debate on cross-Border transport and travel, which is an issue that I have raised on several occasions since I became a Senator. Today, I found out via the Twitter account of our colleague, Senator James Reilly, that the Cabinet has approved a feasibility study on a cross-Border Dublin to Belfast train with a reduced travel time of one hour. Belfast City Council and councils along the eastern corridor have voted in favour of this and, indeed, Belfast City Council has initiated a feasibility plan to consider the issue. A feasibility study is a significant and necessary step forward by the Government, and I welcome the announcement. Rather than make an announcement via the Twitter account of the Senator, who happens to be an election candidate but I shall let people make their own minds up on that aspect, it is important that we get the stakeholders around the table for a discussion. We must get the chambers of commerce, the councils, local authorities, the Departments in the North and South and, indeed, the Members of the Houses of the Oireachtas and other elected representatives who have advocated and lobbied for the initiative. A feasibility plan is vitally important. However, we need to move on and see it inserted into the capital plans. The project must become a major priority for the Government, not least given the current political and economic climate and the threats posed by Brexit. We must all work in collaboration. I hope and certainly Sinn Féin hopes that the rail link will not be confined to just being between Belfast and Dublin but can expand across the island and, therefore, address some of the historical infrastructural neglect.

Senator Diarmuid Wilson: Hear, hear.

Senator David Norris: The situation for farmers is catastrophic, particularly farmers with medium and small-sized farms. There is no question or doubt about that. Everybody else seems to make money out of the sweat from farmers' brows. Prices are chiselled at the meat factory and supermarket yet, for farmers, their costs have risen and incomes have decreased.

I was appalled at the remarks made by the Minister for Agriculture, Food and the Marine when he appeared to draw a parallel between the dignified protests of the farmers and the kidnap, torture and attempted murder of Kevin Lunney. I do not think there is any such parallel possible. It would be no harm if the Minister withdrew his remark and apologised.

Finally, I wish to discuss the business of C&D Foods that was bought by Larry Goodman. The enterprise used to be a petfood factory that was owned by Albert Reynolds. Larry Goodman is a gentleman who is a millionaire many times over. He has milked the taxpayers of this country for decades. It is a bit rich for him to hold up the process and refuse to withdraw injunctions against a couple of-----

An Leas-Chathaoirleach: The Senator knows not to name people.

Senator Niall Ó Donnghaile: It is too late now.

Senator David Norris: The person has been named many times in this House. The proprietor of C&D Foods, who is a well-known gentleman of this parish-----

Senator Michael McDowell: Good man yourself.

Senator Gerard P. Craughwell: That was a very tight one.

Senator David Norris: -----should be put in his place. I shall outline what is at the heart of this matter. What was basically the traditional employment of the overwhelming majority of people in this country - farming - is a losing ticket now. That is extremely sad and very damaging to the social fabric of this country.

Senator Pádraig Ó Céidigh: I dtús báire, at 4 o'clock we have Professor Kate Kenny coming in to the audiovisual room. She is the leading European expert on whistleblowing. A lot of EU regulations will come down the tracks over the next six to 12 months and, therefore, I strongly encourage all Senators to go to the audiovisual room to hear her presentation. There will also be plenty of opportunities to ask questions. She has written a number of books on the topic of whistleblowing so I urge Senators to please avail of the event if they are free.

I do not know how many Senators met the farmers yesterday but I hope everyone did as it was well worth doing so. Senator Conway-Walsh met them last night. The Senator and I spoke to the farmers and they are ordinary, decent people. They do not want to be in Dublin but want to be farming. It takes an awful lot to get ordinary, decent people like them to come here to protest. I fully support the passionate comments that Senator Mulherin made about farmers. I ask her to use whatever influence she has on the Government to get it to move faster on all of the issues.

I shall now talk briefly about rural Ireland. There are between 31 and 32 local enterprise offices, or LEOs, in Ireland. Tá Údarás na Gaeltachta i gceannas ar na LEOs i gceantair Ghaeltachta. Faigheann na comhairlí contae ar fad roinnt airgid le cabhrú leo LEOs a eagrú. Níl sé sin ag Údarás na Gaeltachta. I ask the Leader to use his office and ask the Minister of State, Deputy Breen, to give equal treatment to rural Ireland and Údarás na Gaeltachta in terms of getting the normal amount of funding that all of the other organisations get in terms of LEOs. I need two minutes to mention one final matter.

An Leas-Chathaoirleach: Just one minute. The Senator has got injury time.

Senator Jerry Buttimer: I thought it was one item per Member.

Senator Pádraig Ó Céidigh: The Olympic rowing organisation in Ireland gets about €600,000 to get its Olympians to the Olympics but, in the budget a fortnight ago, the Minister announced that the greyhound industry would receive €16.8 million, which is absolutely crazy.

Will the Leader see what he can do to reduce that funding and give it to the people and athletes? In Ireland, there are about 15% fewer people between the ages of 16 and 19 years of age playing soccer now than three years ago.

Senator Niall Ó Donnghaile: Hear, hear.

Senator Pádraig Ó Céidigh: Let us get our priorities right.

An Leas-Chathaoirleach: I call Senator Warfield. I remind Senators that they have two minutes. There is supposed to be only one item for discussion but I have allowed a little latitude.

Senator Fintan Warfield: I never use up all of my time.

An Leas-Chathaoirleach: The Senator is very good.

Senator Aidan Davitt: I warn that the Senator has a couple of pages in his hand.

Senator Fintan Warfield: I wish to raise issues around certain groups who are currently campaigning against the reform of the relationship and sexuality education curriculum in our schools. The groups are whipping up fear. For a number of weeks they have circulated leaflets across the State. For a number of months they have been holding public meetings and there was a meeting at the Spawell venue in Templeogue last night.

One group is called Let Kids be Kids. It has distributed leaflets, and participated on radio shows such as “The Niall Boylan Show” on Classic Hits 4FM and on fake news outlets such as Gript Media. It has consciously circulated misinformation for months.

Let me give an example of the misinformation. That children under four years of age will be taught about masturbation and a report by the World Health Organization, WHO, was cited but it has no link or reference to the ongoing curriculum review. Some leaflets make spurious claims suggesting that reform of relationship and sexuality education will lead to incidents of statutory rape. On what planet do these people live?

Without doubt, the misinformation is intentional. It is seen as some sort of bastion of defence against liberalism. However, they are content not to consider the consequences of not reforming relationship and sexuality education. They are happy for children to grow up without a formalised curriculum, without getting information about consent, and without a curriculum that helps them to stay safe. They want to exclude lesbian, gay, bisexual and transgender young people from getting education about sexuality and relationships. They are content for generations of Irish society to grow up with shamed and distorted views about sex. According to a newspaper in Donegal, parents were left outraged in the wake of the distribution of what has been described as “propaganda” in local schools. A Sinn Féin activist in Donegal has pointed out that, “There is a fierce irony in attempting to counteract the perceived inclusion of political propaganda in schools by distributing what is undoubtedly political propaganda in schools.” Being gay in school is still not easy. A campaign group that goes by the name of “Hands Off Our Kids” is a disgrace because it harks back to an agenda that frames gay men as predatory. There are Members who will remember that when homosexuality was decriminalised, there were attempts to provide for an age of consent that was much higher than the general age of consent.

Senator David Norris: Absolutely.

Senator Fintan Warfield: In Britain, the age of consent for gay people was 21 while the general age consent was 18. I ask the Leader to invite the Minister, Deputy McHugh, to come to the Seanad to dispel these serious and insidious claims.

Senator Aidan Davitt: I am concerned that we are going to read a lot of the news that we are going to hear in the media before it is Government policy. It seems to be the way of things nowadays. The leak that came out this morning related to councillors' pay and conditions, which is a matter close to the Leas-Chathaoirleach's heart. Many of us here are quite animated about it. A great deal of work has been done in recent years. I understand the Moorhead report will not be released today. Much of its contents seem to be known. All that is missing is the circulation of the report. It has been suggested that the recommendation will be lumped in with another review of pay and conditions. Up to now, this was not part of the agreement with councillors, who have had a long-outstanding entitlement in respect of their pay and conditions. There has been a lengthy review. This process has gone on for years. The effect of the mealy-mouthed statement we are hearing at this stage is that it is great that there will be a pay increase, and we are happy about that, but-----

Senator Gerard P. Craughwell: But not right now.

Senator Aidan Davitt: -----we are going to push it into a commission and see what we get out of it. It is just not good enough to say, "We will turn it in there and see what comes out at the end of it." The Government is speaking out of both sides of its mouth.

Senator Jerry Buttimer: The same as the Senator's party.

Senator Aidan Davitt: I am not in favour of this approach. I am sure the Leas-Chathaoirleach shares my view.

Senator Jerry Buttimer: It has not been published yet.

Senator Michael McDowell: In agreeing with what Senator Lawless has said about the question of votes for citizens, I want to point out that we have an opportunity to do something similar in respect of Seanad reform.

Senator Billy Lawless: Hear, hear.

Senator Michael McDowell: It is amazing that every avenue of reform is rejected. That is it. I would like to respond to Senator Bacik's remarks about gender equality by mentioning that last night we got the good news of a very worthy series of appointments to the Bench.

Senator Ivana Bacik: Hear, hear.

Senator Michael McDowell: The Supreme Court is very different from what it was 15 or 20 years ago. That is all I will say on that matter.

Senator Gabrielle McFadden: Yes.

Senator Michael McDowell: I would like to contribute to the discussion about farmers. Senator Craughwell has mentioned Iran as a possible market for beef and lamb. I am sure it is. This country needs to be honest and truthful when it comes to the People's Republic of China.

Senator Diarmuid Wilson: Hear, hear.

Senator Michael McDowell: We are going on our knees to appease a regime that is engaging in the most dramatic and repulsive deprivation of human rights of the past five, ten or 15 years. One million people are detained in re-education camps that are run in the most vicious and humiliating way. The camps are designed to obliterate the identity, language, religious beliefs and way of life of the detainees.

Senator David Norris: Just like Tibet.

Senator Michael McDowell: I am very grateful to the media for giving publicity to what is going on in China. All of this is being done as part of a policy that is approved by President Xi, whom we feted when he came to this country, and others in Beijing. We are on our knees trying to sell beef to these people. There has not been a whimper of protest from Iveagh House about the Uighur population being the subject of a latter-day psychological holocaust, if I can use that phrase to describe it. Do we stand for anything anymore? I do not want to talk about the carbon footprint of the agricultural trade in beef to China. Is that trade more important than the need to stand up for what we believe in as human beings? I am shocked that the Irish Government is so weak. I am grateful to the BBC “Panorama” programme the other day, which showed us the reality of what this savage regime is all about.

Senator Diarmuid Wilson: I support the comments of my colleague, Senator McDowell, on China. We have called previously for a detailed debate on our relationship with that country. The Asian country with which I am most familiar is Taiwan, which is a democratic republic. It has a population of 24 million and is the most democratic country in the world. Ireland does not recognise Taiwan and does not trade with it in any real way. I suggest that if this Government and previous Governments had treated Taiwan with the respect it deserves, we could be sending much more beef to Taiwan than to mainland China, and without any strings attached. When I visited Taiwan recently with a number of colleagues, we went to a food trade fair at which almost every European country was represented. However, the Republic of Ireland was not. The EU even had a stand. Most European countries have trade offices in Taipei. They trade openly with Taiwan. For some reason, we are afraid to deal with Taiwan. China only deals with us for commodities it needs. Otherwise, we would be in the ha’penny place. It is time for us to wake up and look at markets other than those that are trying to impose themselves on this country.

Senator Gerard P. Craughwell: Well said.

Senator Ian Marshall: Many Senators have spoken about the farmers’ protests that are going on outside Leinster House. Senator McDowell has referred to the need to be “truthful”. The agricultural system, as we know it, is broken. I am not surprised that farmers are on the street because they are running faster and faster just to stand still. Food is cheap. As consumers, we have to acknowledge that we are paying too little for food. I will give the House some figures in support of my contention. People in the UK and Ireland spend approximately 9% of their disposable income on food. The European average is approximately 14%. French people spend almost twice as much of their disposable income on food. We must be under no illusions about the fact that cheap food is part of this problem. It is not solely about pricing. We have all spoken about the three pillars of sustainability. We all know about economic, social and environmental sustainability. Farmers are working tirelessly on a daily basis to ensure they produce food as efficiently as they can. We need to develop systems that will reduce losses. Most of all, we need to help the agriculture industry to develop robust and healthy animals, genetics to reduce waste, precision farming and positive welfare attributes. They need support. It is not all bad. I am frustrated by the continual bad news stories that are coming from the industry as

it comes under immense pressure from animal welfare groups and environmentalists. I will give the House some statistics that were shared with me yesterday. We need to stop beating our farmers up because they are doing a good job.

Senator Gerard P. Craughwell: Hear, hear.

Senator Ian Marshall: In 2007, it took 35% less water, 23% less food, 21% less livestock, 11% less land, 56% less nitrous oxide, 43% less methane and 24% less manure to produce a litre of milk than it did in 1944. Those guys are doing a good job and are getting better and better, but we keep beating up on them. We need some systems thinking. We need the Government, farmers, industry and consumers, in conjunction with research and academic, working together. To make changes and stop these farmers taking to the streets, we will have to address a broken agricultural system.

Senator Jerry Buttimer: I thank the 20 or 21 Members-----

An Leas-Chathaoirleach: It was 21 Members.

Senator Jerry Buttimer: -----of the House for their contributions to the Order of Business. Senators Ardagh, Hackett, Conway-Walsh, Mulherin, Boyhan, Bacik, Gallagher, Craughwell, Norris, Ó Céidigh, McDowell and Marshall all raised the issue of the farming protest. Senator Marshall's final comments are probably the most pertinent of all the contributions made this morning, especially his reference to working together. There is much positivity, as well as many challenges, in the farming sector. Working together, however, we can fix the system.

It is important for Members on the Opposition benches to remember that they do not have a monopoly on empathy, concern or frustration. All of us either live or work in farming communities or have family members who do. We understand, at first-hand, the challenges faced every day by farmers. Let us make a few things clear, however. The Government has no role in the pricing of the beef market. That is not its duty. We all understand the frustration and anger felt by farmers. The Minister went out and met some of the protestors this morning. Senator Ardagh mentioned the issue of death threats. The Minister commented on that matter during parliamentary questions in the Dáil this morning and it is important that that is recognised.

It is also important to recognise that the protests today are not supported by the main farming organisations. Equally, the beef industry should lift the injunctions that are in place. All of us want to see farmers receive a legitimate price for their produce. I am surprised that Senator Ardagh is only going to her local butcher now. We should all be going to our local butchers all of the time, because those are the people we should be supporting. We should shop locally in our own small way in our own small communities. The issue at stake concerns finding a solution, but it works both ways. The Government has intervened. I could read a whole list of Government interventions to support the beef industry, including in the area of beef genomics, beef development efficiency, beef environmental efficiency, exceptional aid to beef farmers, restoration of the areas of natural constraint scheme and the €85 million targeted support scheme. That all exists.

As Senator Marshall correctly stated, however, there is a role for everybody to work in collaboration. That includes Meat Industry Ireland, MII. I do not fly a flag for that organisation at all and that organisation should arrange for the injunctions to be lifted. I am happy to have a debate on the beef industry, and on our Government's role in that sector as well as in farming more generally. There is positivity, but that works both ways. Coming into this House,

however, and naming people does not help. All of us want to find a solution that will allow the beef industry and the farmers to rise because we all understand the frustration and toil required to bring an animal to market. We also understand the segmentation of that market. I am happy to have that debate. When I hear Members speak about markets, I do not fly a flag for China, as Senator Wilson knows. I heard Senator McDowell commenting on China when it was his Government, the Government in which he was the Attorney General, that adopted the Asian strategy under former Taoiseach Bertie Ahern. That was signed off when Fianna Fáil and the Progressive Democrats were in government and Senator McDowell was the Attorney General in that Government. Was he missing in the corner office at the time?

Senator Michael McDowell: I was the Attorney General.

Senator Jerry Buttimer: He was a part of that Government. His party was in government, so please let us not be hypocritical-----

Senator Michael McDowell: I was the Attorney General.

Senator Jerry Buttimer: -----in this House when we are talking about China.

(Interruptions).

Senator Jerry Buttimer: The same Government in which Senator McDowell served as a Minister was part of the EU-China human rights forum.

Senator Michelle Mulherin: It was not-----

Senator Jerry Buttimer: I will come into the House and criticise China, as I am doing now. I agree with Senators Wilson and McDowell that we should be doing more trade with Taiwan. Are we, however, going to take €6 billion from China and then say “Goodbye” to the market? Are we also going to tell the farming community that we are going to say “No thanks” to the new markets opened up last month? Is that what the Senators really want? Let us have a real debate or we might as well fold up our tents and go home. I know we campaign in poetry and govern in prose, but either the Senators want to have a sustainable beef and agriculture sector or they do not. If all they want are headlines in *The Daily Mail* every day, then let us do that and we can all fold up our tents and go home. We would have no agricultural society, no farmers-----

Senator Michael McDowell: I would love to hear Senator Buttimer’s speech relayed to the people in the concentration camps. I would love to hear what they would have to say to the Senator.

Senator Jerry Buttimer: I will repeat what I said.

An Leas-Chathaoirleach: I call the Leader to respond.

Senator Jerry Buttimer: I will repeat what I said and Senator McDowell can edit it to his own delight.

An Leas-Chathaoirleach: I ask the Senators to direct their comments through the Chair, please.

Senator Jerry Buttimer: What I said was that people on this side of the House support a sustainable beef sector. We understand-----

Senator Michael McDowell: I am not saying that he should not-----

Senator Jerry Buttimer: -----the frustration of the farming community and we stand with them. As Senator Marshall stated, it is not by producing soundbites and trying to get attention-grabbing headlines that we will solve this matter. We will solve it with collaboration. That could include the Department, the farming organisations and MII. My position is clear. I stand with the farmers and I understand their frustration and annoyance.

Senator Michael McDowell: So do I.

Senator Jerry Buttimer: That is the point I am making and Senator McDowell will not try to colour my words in any way, shape or form.

An Leas-Chathaoirleach: We are not going to have a debate on this now.

Senator Jerry Buttimer: If Members in this House really want to state to the Department that we are not going to take up the opportunities of new markets in China and €6 billion in trade, then that flies in the face of what Fianna Fáil did in government for 20 years.

Senator Diarmuid Wilson: Senator Buttimer is the person twisting what people have said.

Senator Jerry Buttimer: The point-----

Senator Diarmuid Wilson: He should listen to what I said.

Senator Jerry Buttimer: -----I am making is-----

Senator Diarmuid Wilson: That is not what I said.

An Leas-Chathaoirleach: The Leader without interruption, please. We cannot have a cross debate now.

Senator Jerry Buttimer: The final point I will make, if I can be allowed to finish-----

Senator Diarmuid Wilson: Why are we not selling beef-----

An Leas-Chathaoirleach: Senators should make their points through the Chair.

Senator Diarmuid Wilson: Answer those questions.

Senator Jerry Buttimer: -----is that I agree 100% with Senator Wilson. We should be trading with Taiwan.

Senator Diarmuid Wilson: This is what I call the boomerang effect, where Senator Buttimer agrees with something and then takes it back again-----

An Leas-Chathaoirleach: Through the Chair, please.

Senator Diarmuid Wilson: -----twisting the words.

Senator Jerry Buttimer: I have never recoiled from my support of Ireland doing trading with Taiwan.

An Leas-Chathaoirleach: I ask for order, please.

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Senator Diarmuid Wilson: Senator Buttimer misinterpreted what I said. I have never-----

Senator Jerry Buttimer: I stand with Senator Wilson 100% on that issue, as he knows well. We should be trading with Taiwan and that is the point I am making.

An Leas-Chathaoirleach: Through the Chair, please Senators.

Senator Diarmuid Wilson: That was the point I was making.

An Leas-Chathaoirleach: I ask that the Leader be allowed to respond without interruption.

Senator Jerry Buttimer: We are agreed on that.

Senator Niall Ó Donnghaile: I ask for some order and for my colleagues to reflect on the presence of school students in the Public Gallery. We could set an example for them.

An Leas-Chathaoirleach: I am trying to restore order or have it restored. I ask the Senators to direct their comments through the Chair.

Senator Diarmuid Wilson: I ask my colleague to reflect on the fact that I am entitled-----
(Interruptions).

An Leas-Chathaoirleach: I ask for the Leader to be allowed to respond without interruption.

Senator Jerry Buttimer: I support fully my friend and colleague, Senator Wilson, regarding the developing of relations with Taiwan. I have never been anything other than clear on that matter. Senator Wilson knows that quite well.

Senator Diarmuid Wilson: I was not suggesting that we should stop doing €6 billion in trade with any country.

Senator Jerry Buttimer: Others were and did intimate that.

Senator Diarmuid Wilson: I did not.

Senator Jerry Buttimer: I accept that.

An Leas-Chathaoirleach: I thank the Senators.

Senator Jerry Buttimer: Senators Lawless, Conway-Walsh, Ó Donnghaile and McDowell made reference to presidential voting rights and the referendum. I salute Senator Lawless, in particular, for the work he has been doing. He was in Washington D.C. last week pursuing a different matter. He has been working diligently behind the scenes to ensure we get bipartisan support for our undocumented in the United States. I congratulate him on his work. The decision to postpone the referendum was a good one. As will be appreciated, the setting of the new date for the referendum is beyond my pay grade. I do think that it should be held, however. My only concern, lest videos be put up again, is that we may have too narrow a window to accomplish that. I am afraid the referendum might get lost in the commentary on the general election. I am also not sure there is enough time between now and March, or whenever the election happens. The St. Patrick's Day visits around the world are also a factor to consider. I will support the Senator on that issue, however. The timing is a matter for the Government but it is important that we get this right and I salute the Senator.

Senator Ó Ríordáin proposed an amendment to the Order of Business. I am not against it, but I am not going to accept it today. Given the importance of the matter which he discussed yesterday and today, and on which Senator Ardagh also spoke yesterday, I propose that rather than divide the House today we have statements on crime next Thursday instead. I would be happy to give considerable time for that debate.

Senator Leyden also made a proposal on the Order of Business. To be fair to him, as well as to Senators Hopkins, Mullen and other Members of the House who referred to the issue of Cuisle, that is really a matter for the Irish Wheelchair Association, IWA. Given the sensitivity and importance of the matter raised by Senator Hopkins in the last couple of weeks, in light of the proposal made by Senator Leyden this morning and bearing in mind my reluctance to divide the House on such a sensitive matter, I am proposing in a spirit of co-operation that we should take statements on Cuisle for an hour, to be followed by a 90-minute debate on the Judicial Appointments Commission Bill 2017. I ask Senator Ó Ríordáin to agree that we will take statements on crime next week. Rather than dividing the House, I suggest that my proposal be agreed. In fairness to the Minister for Justice and Equality and his officials, the important matter of crime should not be foisted on the Minister today. I will be happy to provide for such a debate next week. I have spoken to people who are affected by the important and sensitive matter that Senator Leyden has raised, which is having significant repercussions for families and service users.

An Leas-Chathaoirleach: Is the Leader proposing that such a debate should take place for an hour in advance of today's consideration of the Judicial Appointments Commission Bill 2017?

Senator Jerry Buttimer: Correct.

An Leas-Chathaoirleach: We will take the Judicial Appointments Commission Bill 2017 for an hour and a half.

Senator Jerry Buttimer: I propose that after Private Members' business, we will have a one-hour debate on Cuisle to be followed by a 90-minute debate on the Judicial Appointments Commission Bill 2017.

An Leas-Chathaoirleach: I thank the Leader for clarifying the matter.

Senator Jerry Buttimer: If Senator Ó Ríordáin is amenable, he will agree to defer the statements on crime until next week.

An Leas-Chathaoirleach: I thank the Leader and ask him to conclude.

Senator Jerry Buttimer: Senators Boyhan and Davitt referred to the leaked Moorhead report. I suggest that the person who leaked the report to RTÉ today did a disservice to everybody. It should not have been leaked at all. I watched the Minister at the committee. I heard some of the proceedings. I intended to have statements on local government today, but now they will be held next week.

Senator Devine spoke about sarcoma, which is probably the second most important issue to be raised today. She could legitimately call a vote on having the Order of Business amended. As she knows, I have met people who are involved in the campaign. What is happening is unacceptable. There is a need for clarity from the St. Vincent's hospital group. My information, which is subject to clarification, is that an interview process is beginning. It is a pity that what

happened occurred in such an unfortunate manner. I refer in particular to the late refusal or rejection of the position by a particular candidate and to the non-offering of the position to the person who was in the post. I am not familiar with what is going on, but it is unacceptable. I will endeavour to get the Minister to come to the House to debate this important matter. I have a better sense of the situation since I met some of the people involved.

Senator Byrne raised the issue of University Hospital Limerick. Again, it is about ensuring the supply of beds is increased.

Senators Ardagh and Bacik spoke about the importance of cycling. It is important that we understand that cyclists in our cities, especially in our capital city, have rights and should be treated with courtesy and respect. The law should be upheld. We have had a very tragic death recently. We extend our sympathies to the families of the person who died.

Senator Gerard P. Craughwell: I was nearly killed when I took some exercise around the city.

Senator Jerry Buttimer: I will be happy to have the Minister come back to the House in the near future for a debate on sustainable transport and cycling.

I do not have the information that Senator Bacik is seeking on the Irish Human Rights and Equality Commission (Gender Pay Gap Information) Bill 2017. I will endeavour to get it as soon as I can. I commend everyone involved in this morning's Dress for Success event, at which the Taoiseach spoke.

Senator Gallagher raised the important issue of mortgage rates. We will endeavour to have a debate on this important matter.

I know I am going to incur the wrath of Members again - I do not mean to sometimes - as I respond to what Senator Craughwell said about this country's efforts to get a seat on the UN Security Council. We should look beyond the populist narrative of a headline.

Senator Gerard P. Craughwell: I asked the Leader to explain the benefit of having a seat on the Security Council.

An Leas-Chathaoirleach: The Leader to respond without interruption.

Senator Jerry Buttimer: I have my reply, but I am not going to give it to the Senator. To be honest, if he does not know, he does not deserve to know.

Senator Gerard P. Craughwell: The Leader does not know what the benefit is.

An Leas-Chathaoirleach: The Leader without interruption.

Senator Jerry Buttimer: I did not hear what the Senator said.

An Leas-Chathaoirleach: You have all had your say now. The Leader to conclude.

Senator Gerard P. Craughwell: In fairness, on a point of order, I asked a question and I am entitled to an answer rather than an insult. The Leader cannot explain what value this seat would have.

An Leas-Chathaoirleach: That is not a point of order. The Chair is not responsible for the

content of the Leader's response.

Senator Robbie Gallagher: More is the pity.

An Leas-Chathaoirleach: The Leader to conclude.

Senator Jerry Buttimer: All I can say in response to Senator Craughwell's comments is that he should talk to the men and women of the Defence Forces who serve on peacekeeping missions and ask them about the importance of-----

Senator Gerard P. Craughwell: The Government will not have enough of them to cover peace missions.

Senator Jerry Buttimer: Senator Craughwell has been around this world for a long time. He has served and been involved in public service for a long time. He knows the reasons better than I do. If he does not, I will be happy to share them with him on another occasion.

Senator Gerard P. Craughwell: The Leader can share them on the floor of the House now.

Senator Jerry Buttimer: It is important to recognise-----

An Leas-Chathaoirleach: The Leader and Senator Buttimer can discuss this matter outside the Chamber.

Senator Jerry Buttimer: -----in the context of-----

An Leas-Chathaoirleach: Thank you very much, Leader.

Senator Jerry Buttimer: -----human rights, overseas development aid, multilateralism and peacekeeping that as a proud member since 1955, it is important that we have a seat on the UN Security Council.

Senator Gerard P. Craughwell: It is a matter of rubbing shoulders with the big boys.

Senator Jerry Buttimer: While I do not have an answer to what Senator Ó Donnghaile said about a tweet, it is important that we develop a coherent and clear transport strategy between the North and South of Ireland. If that means we have a high-speed one-hour train, it will be great that all sides of the island are connected. I hope we get such a service between Cork and Dublin as well.

Senator Niall Ó Donnghaile: I agree.

Senator Rose Conway-Walsh: What about Mayo?

Senator Jerry Buttimer: Senator Ó Céidigh can have a discussion with the Minister of State, Deputy Breen, when he is here later this afternoon.

Senator Warfield raised an important point about sex education being open to everybody. I agree with him that it should not be seen through a narrow prism. I would be happy for the Minister to come to the House. I subscribe completely to the Senator's view on this issue.

I think that is it. I ask Senators to agree to my proposal that we take an hour for a debate on Cuisle and an hour and a half for the debate on the Judicial Appointments Commission Bill 2017. I ask Senator Ó Ríordáin to agree that we will discuss crime next week.

27 November 2019

An Leas-Chathaoirleach: Senator Ó Ríordáin has proposed an amendment to the Order of Business: “That No. 2 adjourn after one and a half hours, if not previously concluded; that a debate on crime with the Minister for Justice and Equality take place for one hour on the adjournment of No. 2; and that No. 3 be taken on the conclusion of the debate on crime.” Is the amendment being pressed?

Senator Aodhán Ó Ríordáin: I would like to explain why I am not pressing it. I will take the Leader’s goodwill at face value. Nobody wants to play politics with murder.

An Leas-Chathaoirleach: Thank you.

Senator Aodhán Ó Ríordáin: We want a substantial debate and a substantial statement from the Minister about the issue on Thursday week. I do not want to have a pre-written script that could have been read out last month or in the previous months. I want the Minister to come in here and accept the need for a commission and a task force on the north side of Dublin, as was done in the north inner city. If it takes the Minister a week to get his act together and to deliver that, I am happy to delay the debate.

An Leas-Chathaoirleach: I take it that this is what the Leader is promising.

Senator Jerry Buttimer: No, just to clarify-----

Senator Aodhán Ó Ríordáin: I am genuine about this. I am trying to be constructive.

An Leas-Chathaoirleach: We will clarify it.

Senator Aodhán Ó Ríordáin: If a week is needed to be constructive about it, I am happy to wait for a week.

An Leas-Chathaoirleach: I accept the Senator’s intention to withdraw his amendment based on what the Leader has to say.

Senator Jerry Buttimer: I cannot promise what the Minister will or will not say, no more than the Leas-Chathaoirleach can promise what I will say.

An Leas-Chathaoirleach: The Leader is going to provide a debate.

Senator Aodhán Ó Ríordáin: The Leader can use his influence.

An Leas-Chathaoirleach: Will you use your influence?

Senator Jerry Buttimer: I will give the transcript of what Senator Ó Ríordáin has said to the Minister’s office.

An Leas-Chathaoirleach: Thank you. Is Senator Ó Ríordáin happy with that? Will he withdraw his amendment?

Senator Aodhán Ó Ríordáin: There was a debate on crime two weeks ago, but there has been a murder since then. I will withdraw the amendment to the Order of Business in good faith on the basis that we have a real and substantive debate on crime, gangland crime, murder and drugs in this House next week.

An Leas-Chathaoirleach: Thank you.

Senator Aodhán Ó Ríordáin: We want some action taken as a result of that debate because it is life and death stuff.

An Leas-Chathaoirleach: Thank you, Senator.

Senator Aodhán Ó Ríordáin: If it happened in any other part of the State, the ministerial wheels would be screeching.

An Leas-Chathaoirleach: Thank you, Senator. The withdrawal of the amendment is accepted. Senator Leyden has proposed an amendment to the Order of Business: “That No. 2 not be taken; that a debate with the Minister of State with responsibility for disability issues on the imminent closure of the Cuisle accessible holiday centre be taken in its stead; and that No. 3 be taken on the conclusion of that debate.” The Leader has made a proposal in respect of this amendment. Is the Senator accepting the Leader’s proposal?

Senator Terry Leyden: I am.

An Leas-Chathaoirleach: Is the Senator withdrawing his amendment?

Senator Terry Leyden: I thank the Leader of the House for granting my request for a debate on this matter. He is aware of the sensitivities of this issue. I am pleased that the Minister of State with responsibility for disability issues will come to the House to outline the latest position and say whether the closure can be deferred for six months or a year to enable us to sit down and try to solve this problem. That is all.

An Leas-Chathaoirleach: The amendment is withdrawn. The Leader of the House has proposed an amendment to the Order of Business: “That a debate on the imminent closure of the Cuisle accessible holiday centre be taken for one hour after the conclusion of No. 1; and that No. 2 be taken for one and a half hours on the conclusion of that debate.” Is that agreed? Agreed.

Order of Business, as amended, agreed to.

Industrial Relations (Joint Labour Committees) Bill 2019: Second Stage

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

Acting Chairman (Senator Maria Byrne): I welcome the Minister of State at the Department of Communications, Climate Action and Environment, Deputy Breen, to the House and I call on the representative of the Technical Group to open the debate.

Senator Gerald Nash: I welcome colleagues from the Services Industrial Professional and Technical Union, SIPTU, and the Irish Congress of Trade Unions, ICTU, who are here to support this crucial Bill.

Since 1909, we have had in Britain and Ireland a system for statutory minimum pay and conditions for certain employment sectors. They include hotels and restaurants. The purpose is to improve terms of employment in sectors where pay is chronically low and union representation is either non-existent or inadequate. The importance of industry-wide enforcement to

prevent wage undercutting has been an essential feature of the legislation from the start. Since the time of the Trade Boards Acts more than a century ago, Irish law has reflected the twin-track approach to collective bargaining. Thus, on the one hand, there are sectors where trade unions are able to organise effectively and collective bargaining is encouraged as a matter of policy. On the other hand, there is machinery for collective bargaining, through the mechanism of trade boards and subsequently joint labour committees, JLCs, in sectors where organisation is weak or non-existent. However, gaps in the statutory framework arose after the Supreme Court struck down parts of the old framework on constitutional grounds. Senators will recall that there were two constitutional cases, *John Grace Fried Chicken Ltd v. Labour Court* 2011 and *McGowan v. Labour Court* 2013. The Industrial Relations (Amendment) Act 2012 was passed in order to reform the employment regulation order, ERO, system, which had been struck down in the *John Grace Fried Chicken* case. Broadly speaking, the Industrial Relations (Amendment) Act 2015 did much the same for registered employment agreements, REAs, which were struck down in *McGowan*. The 2015 Act provided for a new framework to replace the former sectoral REAs with sectoral employment orders, SEOs, in a constitutionally robust manner. In addition, that Act provided a mechanism by which employment conditions can be assessed where there is no collective bargaining in the workplace. We are happy that the machinery already established in both these Acts would withstand challenge if one were to arise.

The Bill before us is concerned with just one outstanding aspect of the ERO system under the Industrial Relations 1946 Act, as amended in 2012. This is solely related to the fact that the procedure does not work if one side does not turn up to the table. In the case of hotels and restaurants, for example, an effective veto is operated by bosses in those sectors, thereby depriving workers in those and other low-paid sectors of the economy of the legal right to be paid anything other than the statutory hourly minimum wage. We want to see this unwarranted veto removed. I anticipate that the official Government line will warn of the constitutional questions around the provisions of this Bill. Such concerns are, in my view, entirely bogus.

We believe that this is a mechanical rather than a constitutional issue. In other words, we do not believe that there is a constitutional right for a sector of industry to refuse to engage in a JLC. Section 35 of the 1946 Act allowed the Minister to apply for a JLC establishment order where:

(ii) the existing machinery for effective regulation of remuneration and other conditions of employment of such workers is inadequate or is likely to cease or to cease to be adequate, or

(iii) having regard to the existing rates of remuneration or conditions of employment of such workers or any of them, it is expedient that a joint labour committee should be established

The 1946 Act maintained a tradition of prior consultation, before appointing members to a JLC, by providing that, “Before appointing a representative member of a committee the Court shall, so far as is reasonably practicable, consult any organisation of employers or, as the case may be, workers concerned.” However, in the judicial review proceedings brought by the Irish Hotels Federation against the Minister’s decision to reconstitute a JLC for the hotel sector, the Minister’s statement of opposition argued, not on constitutional grounds, but simply on the basis of statutory interpretation, that a JLC could not be established in the absence of employer representatives put forward by an employer representative organisation. This is peculiar.

The State argued that the decision to come together under a JLC framework with a view to making an ERO was a matter for the two sides of industry and was not compulsory. The case ended because of a shared assumption that the non-co-operation of an employer representative body would effectively stymie the appointment of representative members to a JLC. In short, there was an employers' veto. We do not agree with the approach adopted by the State in defending that case. We believe it is ahistorical and wrong. On the logic of that position, it would follow that, in any sector of industry where there is little or no worker organisation but there is an employer representative body, that representative body could prevent the establishment of a JLC by not turning up to the negotiation table even though these are precisely the sectors which the legislation has always targeted for intervention.

If it is indeed the law that a JLC cannot be appointed without the voluntary agreement and participation of bodies representing either side, this represents a dramatic collapse of the machinery that has been working for over a century and which was aimed precisely at sectors where representative bodies were not to be found. However, we would stress that this is not a constitutional issue. It stems from the interpretation placed on the current law by the State in defending the judicial review proceedings and from the fact that the Act has no backstop or default mechanism that comes into play when either side does not turn up.

If the "inadequacy of existing machinery" is the statutory basis for setting up a JLC, then it cannot be right that the refusal of a representative body on one side to either support collective bargaining or to support a JLC can be a bar to its establishment. Such a stance on the part of a representative body should instead be proof positive that the existing machinery is inadequate and that a JLC is needed. For whatever reason, the current situation is that the process for setting up a JLC is stated by the Government to require the co-operation of both sides of industry and so the employer side, if sufficiently organised, can exercise a veto. Our Bill is aimed at clearing away this impasse. The new provisions will apply only where the Labour Court has sought to consult an organisation of employers or of workers, but that organisation has failed or refused to engage to any significant extent or at all in any consultation with the court.

1 o'clock

The factual assessment and the facts on the ground trigger the powers in the Bill.

The power to appoint has always belonged to the court. Up to now, it has engaged in prior consultation without there being a strict statutory obligation to appoint the preferred nominees of the bodies consulted with. We do not propose a very major departure from the current statutory structure.

Under the Bill the court must appoint persons who are, in the opinion of the court, representative of the interests of employers or workers, while not necessarily being representative of employers or workers. By way of comparison, a Citizens' Assembly made up entirely of Government nominees may, if it is properly composed, be considered representative of the population even though none of its members is an elected representative.

The policy issue that guides the Labour Court, when it considers whether this process should be by-passed and that it should formulate an employment regulation order, ERO, is one of simple practicability. If the court is satisfied that it is not reasonably practical for it to appoint a joint labour committee that includes persons who are representative of the interests of employers and persons who are representative of the interests of workers, the court may then, subject to certain conditions, formulate its own proposals for an ERO.

When formulating its proposals, the court must have regard to the legitimate financial and commercial interests of employers in the sector, the desirability of agreeing and maintaining fair and sustainable minimum rates of remuneration appropriate to the sector, the general level of wages in comparable sectors, the national minimum hourly rate of pay under the National Minimum Wage Act 2000 and the appropriateness of fixing a minimum hourly rate of pay above that rate. The section goes on to apply existing law, in this case the 1946 Act, as amended in 2012, to the formulation of proposals for an ERO by the court.

It is fair to say that the Bill, which will no doubt be attacked by Fine Gael and Fianna Fáil as a radical departure from industrial relations practice, is not radical at all. It simply allows for JLCs to operate as the Oireachtas originally intended. It is a backstop to ensure that one side of industry cannot continue to override or subvert the will of the Oireachtas, as reflected in legislation introduced as recently as 2012.

The best way for wages to be set in economic sectors is for trade unions and employers to come together to tailor agreements that work for everyone. Where this is prevented, the Oireachtas should accept the obligation to act on the principle of fairness, decency and respect across the economy and ensure we legislate and encourage decency where employer bodies refuse to engage.

Senator Ivana Bacik: I welcome the Minister of State, Deputy Breen, to the House. I also welcome the representatives from SIPTU, ICTU and the bodies with which we have worked on the Bill who are in the Public Gallery. I welcome the support not only from the trade union movement but also the Union of Students of Ireland and the student movement, in recognition that so many of their members work part time and in the casual workforce in low-paid sectors.

I commend my colleague, Senator Nash, for tabling the Bill and for being the driving force behind it. All of us on both sides of the House are aware of his long commitment and track record on workers' rights, trade union rights, decent wages and collective bargaining. Senator Nash has set out the context for the Bill and the history and original purpose behind the idea of joint labour committees. As he said, this is a well established principle going back more than a century when the language of the sweated industries was used to describe sectors where low pay was rampant and conditions were extremely poor. As he said, the idea of a mechanism to control rates of pay and conditions in such sectors is not only a mechanism conducted in the interests of employees, workers and trade unions but also in the interests of employers. The original motivation and impetus behind models such as the JLC policy was to reduce downward wage competition. As the explanatory memorandum sets out, one of the people associated with this mechanism, Winston Churchill, when introducing the first Trade Boards Bill pointed out that the good employer is undercut by the bad and the bad employer is undercut by the worst. It is a race to the bottom where we do not have a mechanism such as this in sectors where traditionally there is low trade union organisation and, therefore, a difficulty with collective bargaining to negotiate pay rates. This is the context in which the Bill has been introduced.

As Senator Nash said, it is not a radical proposal for reform of our system of bargaining and negotiating on wages and conditions. It is entirely in keeping with the history and tradition of our industrial relations framework. This is a very important point. I must say it is very disappointing to see not only the Government and Fine Gael oppose the Bill but also Fianna Fáil, when it is a Bill that is very much in this tradition.

As Senator Nash said, we know the JLC concept was fundamentally altered by the judicial

review taken by the Irish Hotels Federation. The Government accepted and assumed at the time that non-co-operation of an employer representative body would stymie the appointment of representative members to a JLC, thereby setting up an employer's veto, albeit with no constitutional basis. When one looks at the history and tradition of trade unions and the industrial relations framework, one sees the voluntary model to which the State referred in sharing that assumption was always supplemented by an understanding that a JLC or equivalent mechanism would have to operate in sectors where voluntarism did not work because there was not an organised trade union movement.

The employer's veto as it is called, or this impasse, has stymied the work of JLCs. This has had a serious knock-on effect on the working conditions and pay of so many of our lowest paid workers. I commend Senator Nash, SIPTU and the other unions for the excellent briefing with which they provided us in the audiovisual room in Leinster House last week, when we heard directly from some of the front-line workers who are so affected every day by the absence of a JLC. They are workers in catering, hairdressing, hotels and allied trades. The trade union organisers spoke about the positive impact where a JLC operates, for example in the security industry, where an employment regulation order sets a pay rate of €11.65 per hour compared with the minimum wage being earned by workers who are not in JLC sectors of €9.80 an hour. We see a race to the bottom in sectors where JLCs do not operate and we see this as being very much against the original spirit and intention of our industrial relations framework.

I appeal to colleagues on both sides of the House to support the Bill. It is a sensible and compassionate reform in the interests of the lowest paid and the most vulnerable workers in our society.

Senator John O'Mahony: I am standing in for Senator Reilly and I will be very brief. The system of industrial relations in Ireland has been voluntary in nature. There has been agreement on all sides that the employment terms and conditions of workers are best determined by a process of voluntary collective bargaining between an employer or employers' association and one or more trade unions without the intervention of the State. Under this process, standard matters, such as wages and hours of work, are determined. In addition, some collective agreements lay down procedural rules that govern the conduct of industrial relations between the parties.

Over the years, however, legislation has been enacted in certain areas, such as minimum rates of pay, holidays, working hours, minimum notice, redundancy, dismissals and employment equality, that lays down certain minimum standards that may be improved upon by collective bargaining but cannot be taken away or diminished. EROs, the legally binding instruments resulting from an agreement reached at a JLC, can enhance these statutory minimums. The State's role in industrial relations in Ireland has been largely confined to facilitating the collective bargaining process through establishing by legislation institutions to assist in the resolution of disputes between employers and workers. This approach has served and continues to serve Ireland well. The Private Members' Bill contains proposals that undermine the voluntary nature of industrial relations and consequently we will oppose the Bill.

Senator Aidan Davitt: I welcome the Minister of State. Quite a lot of work has been put in by Senator Nash and his fellow Senators on the Bill. Fianna Fáil has a long track record in supporting workers' rights and balanced industrial relations. The constitutional right of citizens to form associative unions is enshrined in our progressive Constitution, introduced under Eamon de Valera in 1937. We have a long and strong record on worker protection, from introducing the national minimum wage to instituting the labour relations machinery of the State. Furthermore

we secured the enactment of legislation prohibiting the exploitation of zero-hour contracts, as we have discussed recently. We do not support the Bill as it would undermine the voluntarist approach that has served the industrial relations landscape to good effect for a sustained period.

Joint labour committees, JLCs, are bodies established under the Industrial Relations Acts to provide machinery to fix statutory minimum rates of pay and conditions of employment for employees in particular sectors. There are currently eight JLCs, as Senators are aware. It is voluntary for workers or employers to seek the formation of a JLC in their sector. Under the Bill, where one side does not agree to the creation of a JLC in its sector, the Labour Court would be empowered to unilaterally appoint worker or employer representatives to the committee. Where this is impractical, the Bill would empower the Labour Court to formulate an employment regulation order, ERO. Such proposals go against the voluntarist approach to industrial relations and the current balanced industrial relations landscape. The role of the Labour Court is to make recommendations to the Minister on the maintenance, amalgamation or abolition of existing JLCs. It would be a conflict of interest for it to fulfil that role while deciding on the composition of JLCs and initiating EROs.

I will raise certain other points directly with Senator Nash.

Senator Gerard P. Craughwell: I welcome the Minister of State to the House and congratulate Senator Nash on his tireless work on behalf of workers. When the Senator was a Minister of State he was very proactive in bringing forward legislation. His commitment to the workers of this country is beyond question. We are privileged to have people like him who are looking after the less well-off in society.

One of the downsides of our growing economy has been the fall-off in trade union membership. Yesterday, I spoke to a woman who was made unemployed a couple of weeks ago. She told me the contracts she is being offered are four-hour contracts with the possibility of up to 20 hours over a week. The casualisation of labour has become a real concern to those who are or have been involved in the labour movement. I acknowledge the representatives of SIPTU and ICTU who are present, as well as those of IBEC who may be watching these proceedings. There is something for them, and us all, to learn from this situation.

The Bill proposes much-needed reform of the JLC system. It would give new powers to the Labour Court to set binding rates of pay above the national minimum wage. As Senators are aware, workers in sectors such as the hotel and catering industries continue to be severely disadvantaged when employer representative bodies refuse to engage in the long-established JLC process. In a time of full employment and high economic growth, it will come as no surprise to many that almost a quarter of Irish workers are on low pay and that only the contract cleaning and security sectors are covered by an employment regulation order. The loophole in the law which effectively allows employer bodies to veto JLCs in the other low-pay sectors stymies the objectives of the Industrial Relations Act 2012. The great strength of the Bill is that it will force employer bodies to choose whether to engage in the JLC process and work with unions to agree rates of pay and terms of work for their sector or to have a solution imposed on them by the Labour Court and Oireachtas. This would honour the intentions of the 2012 Act and give protection to the most vulnerable workers in our society. It would also offer security to employers in respect of the retention of staff and planning for future growth.

Pay rates should never be a race to the bottom. I fully support the Bill and what Senator Nash is trying to achieve. I and other Senators recently introduced legislation to protect the

tips of the lowest paid workers. My colleague, Senator Bacik, referred to university students. I have been contacted by university representative bodies. These young people who are struggling to make ends meet as they pay their way through college are being paid a pittance and, until recently, their tips were being taken from them by unscrupulous employers. Not all employers are unscrupulous, but there is a significant number of fly-by-night employers. We are trying to ensure that people are paid a proper wage for their labour, are looked after and have recourse to an organisation such as the Labour Court if they are ill-treated.

I implore workers to join a union. The only protection they have is under the flag of their union. A union is there to support workers and to be at their back when things go wrong. We should instil the value of trade unions in children as they go through the secondary education system. Somewhere along the line, we have lost the recognition of that value. My father, God be good to him, was a member of the plumbers' union. He worked for a company for 42 years without missing a day. He got a pension of IR£15 a month. I and others complained on his behalf. For 15 years, we constantly wrote to the pension board and told it the company had done him out of his pension and that he was entitled to more because if he had retired a year later, he would have received a lump sum and a pension of IR£100 a month. In the end, the pension board told us it had miscalculated his pension. "Happy days", we thought. It then clarified that it had miscalculated by 75 pence. He got a pension of IR£15.75. That is what can happen without the trade union movement. The trade union did not have the power in that company to pursue his cause.

We need trade unions. We need young people to join them. There is nothing to be lost from being a member of a trade union. We need decent legislators such as Senator Nash to bring forward legislation that is of national rather than local benefit and which will benefit every young worker. I ask the Government to set aside any reservations it may have, accept the Bill and drive it on. We must drive it on to make life better for workers, particularly the young and the most vulnerable who are slaving long hours on minimal wages to keep body and soul together. That is no way for people to live. I thank Senator Nash. I commend SIPTU on its lobbying. Thank God for it and ICTU. I look forward to the response of the Minister of State.

Acting Chairman (Senator Maria Byrne): Senators Gavan and Warfield are sharing time.

Senator Paul Gavan: I welcome the Minister of State and my comrades from the trade union movement. Sinn Féin fully supports the Bill. I commend my colleague and friend, Senator Nash, on producing it. One of the good things about the Seanad is that Senators on the left tend to work together and have done so from day one. I am particularly proud of that. Perhaps there is a lesson there in terms of electoral politics which we could discuss further for the sake of working people.

Senator Fintan Warfield: Hear, hear.

Senator Paul Gavan: Sometimes there are moments of clarity in politics. Today is such a moment. I do not wish to be disrespectful to my good colleague from Fianna Fáil, Senator Davitt. I expected Fine Gael to oppose the Bill. It has always been for the bosses.

Senator Gabrielle McFadden: That is not true.

Senator Paul Gavan: That is the fact of the matter. Members of the trade union movement are here to support the Bill and some of the most vulnerable workers in the State. As a former trade union official and a proud member of SIPTU, I know that when a trade union tries to or-

ganise people employed in hotels, they get fired.

Senator Fintan Warfield: Hear, hear.

Senator Paul Gavan: When a trade union tries to organise people in restaurants, they get fired. JLCs were set up to protect certain sectors in which trade union density will always be low. My colleague, Senator O'Mahony, stated that the current system has served Ireland well. Whom in Ireland has it served well? Has it benefited hotel workers or people working in retail who must wait to see whether they will get hours of work the following week? I have a question that I invite the Minister of State to answer. How does a hotel worker get a pay rise? It is not something the Minister of State and I have to worry about because we have had our pay rises. Mind you, Sinn Féin Members have not taken them. How does a hotel worker, retail worker or agricultural worker get a pay rise? Does it just not matter to the Minister of State?

I live in Limerick, as does my colleague in the Chair, Senator Byrne. The Minister of State is from Clare. There is one hotel in Limerick that recognises trade unions. Some of the richest hotels in the city, which are showered with taxpayers' money every year to put on all sorts of events that the Minister of State and I have attended, fire workers who join a trade union. I have met workers from these hotels. At the top of their contracts, they are referred to as casual workers despite their having been working for the hotels for three or four years. The Government has done absolutely nothing for those workers.

The current system does not work. We know this because in all the sectors — agriculture, catering, hairdressing, hotel, retail, grocery and allied trades — there is no joint labour committee up and running. The Minister of State has no answer to that. His Government was happy to shower money on the hotels for years and cut VAT for them but they are now making record profits. This will be evident to those who try to get a hotel room in the city tonight. The workers in the hotels will be on the minimum wage, or a wage barely above that. This Bill would see them get some rights and a pathway towards a decent pay rise and better terms and conditions. It would help build a better sector in which pay rises could be dependent on service, for example. Some decent terms and conditions could be established over time. It would improve the quality of the sector itself. The Government is saying “No”. It is for the bosses. The Senators in this Chamber know that. The Government should be better than that. The Government has absolutely nothing to offer the weakest and most vulnerable workers in the State.

I am disappointed in Fianna Fáil. My dad was a Fianna Fáil voter. It was a tradition. There was a time when Fianna Fáil represented working people. This Bill presented an opportunity to Fianna Fáil to come on board with this progressive agenda. It is disappointing that it has said “No”.

Senator Aidan Davitt: It is the mechanism that we have a problem with.

Senator Paul Gavan: The voluntarist sector does not work. If the Minister of State knew people working in retail or hotels, not in management but on the floor, stacking the shelves or changing the beds, he would know the sector is completely wrought with poverty pay and insecurity. There is now an agency operating in Kerry supplying workers to make the hotel beds. Any worker who complains about an incredibly sore back because of the amount of work they are doing just does not get hired the following week. That is what this sector has been brought down to. The Government side has little to say. I will hand over to my colleague.

Senator Fintan Warfield: I commend Senator Nash on introducing this Bill. It is about

democratising workplaces, giving workers a voice and setting livable conditions where there were previously none. The principles have been rehearsed. The joint labour committees have not been established for agriculture workers, catering workers, hairdressers, hotel workers, with the exception of those in Cork, and the retail, grocery and allied trades. There is no doubt that many of these sectors have employers who hire workers under some of the most precarious conditions. Having heard Senator Gavan allude to some of the most vigorous opposition to the tips Bill, which simply allowed workers to retain their tips, we can see why many employers do not want workers to have a seat at the table. With regard to the opposition to that Bill and the utility of the loophole in the joint labour committee legislation, good employers have nothing to fear. Where workers are paid a reasonable wage and have fair conditions, there is no need for joint labour committees.

The reality, however, is that the joint labour committees are necessary. There are instances in which staff are subject to increasingly precarious conditions. The sectors in question employ large numbers of young people, students and migrant workers, many of whom are vulnerable. I thank the deputy president of the Union of Students of Ireland, USI, Ms Michelle Byrne, for passing on a USI survey of working students last year that found that 34% were paid under the minimum wage and that 58% were paid €9.55, the then minimum wage, or €10.55 per hour. Workers also indicated that many of them do not receive contracts and they highlighted questionable practices concerning tipping in their workplaces. Mr. Conor Stitt, with whom I work upstairs, attended the audiovisual room briefing held by Senator Nash. One SIPTU member, Mr. Martin Murga, a chef, said it best:

The pursuit of profit pits worker against worker, good employer against bad employer. Such a process leads to ever declining pay and conditions in a sector. This adversely impacts on workers and customers. JLCs are the best way to ensure that the race to the bottom is ended and this proposed new law will help them function better.

I understand the Government is opposing this Bill. I respectfully ask it to reconsider. I ask Fianna Fáil, in particular, to reconsider. Opposing this Bill sends a terrible message to workers that their voice is not worthy of being heard in any reasonable way and that they must wait. Workers will not wait and they deserve better.

Debate adjourned.

Gnó an tSeanaid - Business of Seanad

Senator Jerry Buttimer: Notwithstanding anything on the order of the House for today, I propose an amendment to the Order of Business, namely, that No. 1a on the Supplementary Order Paper, statements on the imminent closure of the Cuisle Accessible Holiday Resort, be taken at 2.45 p.m. to conclude at 3.45 p.m., with the contributions of group spokespersons not to exceed eight minutes and the Minister be given not less than five minutes to reply to the debate; that No. 2, Judicial Appointments Commission Bill 2017 — Report Stage (resumed) and Final Stage, be taken at 3.45 p.m. and adjourn at 5.15 p.m. if not previously concluded; and that No. 3, statements on the provision of accommodation and ancillary services to applicants for international protection, be taken at 5.15 p.m. and conclude at 6.35 p.m., with the time allocated to all Senators not to exceed six minutes and the Minister to be given not less than six minutes to

reply to the debate.

Acting Chairman (Senator Maria Byrne): Is that agreed? Agreed.

Industrial Relations (Joint Labour Committees) Bill 2019: Second Stage (Resumed)

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

Senator Alice-Mary Higgins: I congratulate Senator Nash on his Bill. It is part of what has been a progressive series of progressive workers’ rights Bills that have come from across the House and on which there has been co-operation across the House. I support it.

Regardless of whatever incomprehensible reason there is for Fianna Fáil opposing this excellent legislation, I urge it, if it is deciding to support the Government on this, not to adopt the language we have been hearing about the new edict and principle of voluntarism that has suddenly been elevated. Let us be clear. There is a role for the State, the Legislature, the industrial relations machinery, which this Bill would enhance, and our courts in determining the decency of work and the progress of our sectors.

Senator Gerard P. Craughwell: Hear, hear.

Senator Alice-Mary Higgins: Let us go back 100 years to the Democratic Programme of the First Dáil. We are celebrating that Dáil’s centenary and we all attended grand events in this regard. The Democratic Programme refers to our industries and to ensuring their development according to the most beneficial, co-operative and industrial lines. It refers to the role of the national Government in promoting a “general and lasting improvement in the conditions under which the working classes live and labour”. It is established at the foundation of the First Dáil. It is understood that one reason we have a state is so we can set standards and floors of decency. It is key.

The minimum wage is not a voluntarist measure. It was introduced to ensure decent standards, as was the case with various wage agreements that were negotiated, various processes that were brought into place, evolving workers’ rights and industrial relations machinery. I include the industrial relations machinery of the Low Pay Commission, which Senator Nash introduced as Minister of State.

This is a proposal that is not at odds with our industrial relations machinery but that is for its enhancement and improvement to ensure it does what it is meant to do, which is redress what would otherwise be a completely unequal balance of power. The power relationship between an employer and one or two members of staff in a small place, or 500 members of staff in another, is not necessarily a natural and normal one. In some cases it is, but in many cases there is an imbalance of power. That is why we set standards of decency and accept what are decent terms and conditions. However, it needs to be addressed sometimes on a sectoral basis such as with the hospitality industry. It is not the case we have been standing back and seeing what might happen. The hospitality industry is one in which the State has intervened plentifully in the past. I have sat here through multiple budgets where we sustained the special VAT measure given to the hospitality industry and hotels because, as we were told by other Ministers from that same seat, this is a key, high-employment industry which must be protected. We gave it

special tax relief as it is considered part of the State and having a common good function. If the hospitality sector matters, if it is one of the great values we highlight when pitching Ireland to the world on the St. Patrick's Day rounds, and if it is a higher density employment sector, we must get it right. Getting it right in hospitality means we get it right for many people. If hospitality matters, then the decency of standards in hospitality, as well as other areas such as agricultural work also matter. We have a duty to ensure we have functioning industrial relations mechanisms which do not leave it to each individual worker on a temporary contract to fight his or her own battle but we can collectively set a basic floor.

What did this mean in contract cleaning? It meant the workers were not charged for their uniforms. They got to know they would have two weeks' holiday in the year, some predictability about their hours and sick pay. These are the real mechanisms. I have launched reports for TASC, the Think-tank for Action on Social Change, on living with uncertainty. Living with uncertainty undermines lives. Every person's life, along with the time for work and their life on this planet, matters. The decency of having terms and conditions, along with basic pay and standards, is important.

We have not seen any improvement. In fact, we have seen disimprovement. At the audiovisual room briefing recently, we heard from people who started as kitchen porters, acquired skills and worked their way up to be pastry chefs. They spoke about the new people coming into the sector who have no guarantees and where it is the luck of the draw if one happens to get a good boss for one year or six months. We should have people deciding that, as they like engaging with people and have skills they want to bring into the area, they will work in hospitality for the next 15 years. They should be allowed to plan their life and plan to have a family. They should be able to know that if they stick with an area for two years, they will move up, or if they do some training, they will get another opportunity. They must be able to look ahead.

That is what this Bill is about. It is a fundamentally basic matter. One cannot have a veto on decency in one of the crucial, high-employment sectors. Good employers should have nothing to fear. When we talk about the State washing its hands of this area, a point with which Fianna Fáil apparently agrees, we are not being neutral but subsidising bad employers. I sit on the Oireachtas committee on employment affairs and social protection and know how many people are on working family payment, formerly family income supplement. These families are on this benefit because their employers no longer feel they have to give them enough hours with enough pay to live. To keep their families fed, we subsidise them through our social welfare system. Meanwhile, good employers who pay their workers decent wages are not getting that supplement. The State is not neutral if it decides to stand back, claiming that because they did not come to the table, it does not believe it needs to address issues in the sector. We are subsidising and supporting bad practice. It is absolutely unacceptable.

I urge Fianna Fáil to consider supporting this Bill as it is important. I sit with Fianna Fáil Members on the social protection committee where we hear the testimony of families and what precarious work does to people's lives. I urge everybody to support this Bill. I hope it passes Second Stage today. I guarantee these good ideas will be coming back if it does not pass as they are necessary. I know it is not entirely within the remit of the Minister of State but I urge him not to turn a blind eye to those real people in every coffee shop, restaurant or hotel, or those workers who picked the lettuces or the mushrooms in the punnets, to be allowed to plan their lives. We must update our industrial relations machinery to ensure it is actually functioning.

Senator David Norris: I find invoking the principle of volunteerism to support opposition

to this Bill a perfectly sickening piece of hypocrisy. I just do not understand it.

There has been legislation for over 100 years to protect the vulnerable. This is part of that great liberal tradition in this country. An Act was introduced in the British Parliament in 1909, the Trade Boards Act, which was intended very clearly to reduce the whole idea of downward wage progression. Even somebody as conservative as Winston Churchill proposed and supported it. At the time he said, “the good employer is undercut by the bad, and the bad employer is undercut by the worst”. That is the classic race to the bottom.

We followed this with our own legislation in 1946, the Industrial Relations Act, which was quite good. It is worth reading into the record because the language used was significant. It was also language from which the Government resiled very curiously and handed a veto to the employers. The 1946 Act stated, “Before appointing a representative member of a committee the Court shall, so far as is reasonably practicable, consult any organisation of employers or, as the case may be, workers concerned.” That is interesting because the term “so far as is reasonably practicable” is not prescriptive or an extreme position. It means that one goes as far as one can and then, when one cannot, one goes on with the process. It is not restrictive in the way in which the Government accepted in its response to a particular court case. The 1946 Act also used the term “consult” which is a fairly neutral word. One takes the opinion but one does not have to act on it. One just seeks the opinion or the attitude of the employers.

The Irish Hotels Federation got a judicial review of the Act. That is when it all began to really change in a negative way. The legal counsel, on behalf of the Government, put forward the case that a joint labour committee could not be established or operated in the absence of employer representatives put forward by the employer representative organisations. That was a disastrous withdrawal from the stronger position previously. In fact, what it did was nothing else than handing the employers a veto which they previously did not have. That was a substantial change in the situation. It followed that any in sector of industry, whether there is little or no worker organisation and representation but there is an employer representative body, that latter representative body can prevent the establishment of a JLC by not turning up to the negotiation table, even though these are the sectors which the legislation always targeted for intervention. It is an astonishing situation.

I agree with Senator Nash when he quoted the excellent explanatory memorandum to the Bill which states “this represents a dramatic collapse of machinery that has been working for over a century and which was aimed precisely at sectors where representative bodies were not to be found”. It also states, “if the ‘inadequacy of the existing machinery for effective regulation’ of pay and conditions of employment is the ground for setting up a JLC, then it cannot be right that the refusal of a representative body on one side to either support collective bargaining or to support a JLC can be a bar to its establishment”. This veto is completely and utterly wrong. The fact employers might do this, have done this and do this is the clearest indication possible that this legislation is necessary.

This Bill is quite rightly intended to remove this veto. We must get rid of this anti-worker veto today in the Seanad.

Minister of State at the Department of Business, Enterprise and Innovation (Deputy Pat Breen): I thank all nine Members who spoke on the Bill today - Senators Nash, Bacik, O’Mahony, Davitt, Craughwell, Gavan, Warfield, Higgins and Norris. I noted their contributions and their concerns. I particularly thank Senator Nash for the work he has done on this Bill,

and also his co-sponsor, Senator Bacik.

I welcome the opportunity to speak on this Private Members' Bill. Having listened to the opening speeches, I know the sponsors worked hard in bringing this proposed Bill before the House. A great deal of work has been done in the preparation of this Private Members' Bill and as Minister of State at the Department of Business, Enterprise and Innovation with responsibility for employment affairs, I commend the Senators accordingly.

I also appreciate and understand the reasoning behind this Bill, in that it seeks to remedy what the Senators perceive to be a fault in the industrial relations mechanism. I note that the stated purpose of this Bill is give statutory powers of appointment to the Labour Court in the process for setting up a joint labour committee.

Joint labour committees are bodies established under the Industrial Relations Acts to provide machinery for fixing statutory minimum rates of pay and conditions of employment for employees across various sectors. They may be set up by the Labour Court on the application of the Minister for Business, Enterprise and Innovation, a trade union or any organisation claiming to be representative of such workers or such employers.

The joint labour committees' wage-setting mechanisms provide a framework within which employers and employee representatives, through the joint labour committee system, can come together voluntarily and negotiate terms and conditions of workers in their respective sectors. Once agreed, and once the Minister of the day has approved and accepted the approach taken by the Labour Court in approving the recommendation, the terms and conditions are given effect by way of ministerial order, known as an employment regulation order, ERO, for the sector. Currently, EROs are in place for the contract cleaning and security industries.

The word "voluntary" has been mentioned by many Senators here today. It is precisely the voluntary nature of parties coming together to agree terms and make commitments which underpins, validates and gives strength to the resulting employment regulation orders.

It should be noted that a revised framework for wage setting under the joint labour committee framework was introduced through the Industrial Relations (Amendment) Act 2012. The Industrial Relations (Amendment) Act 2015 provided a new statutory framework for establishing minimum rates of remuneration, pension and sick pay, in the form of sector employment orders. That Industrial Relations Act also ensured that where an employer does not engage in collective bargaining, an effective framework exists that allows a trade union to have the remuneration and terms and conditions of its members assessed against relevant comparators and determined in a binding way by the Labour Court. This has been successfully used by trade unions, and this Government will continue to support the important role that trade unions play in our society.

The 2015 Act was the culmination of a process of in-depth consultation with stakeholders, including employer and worker representatives, and included a review of the experience of the operation of the existing legislative framework as put in place under the Industrial Relations Acts 2001 and 2004.

It is important to note a joint labour committee is composed of equal numbers of representatives of employers and workers in an employment sector. The committee meets under an independent chairman, an industrial relations officer of the Workplace Relations Commission, appointed by the Minister, to discuss and agree proposals for terms and conditions to apply to

specified grades or categories of workers in the sector concerned.

Where parties fail to reach agreement or do not engage in process, the Act allows the chairperson to refer the matter to the Labour Court. The Labour Court will then make a recommendation on the matter.

Our laws do not try to impose a solution on parties to a trade dispute but rather are designed to help support the parties in resolving their differences. The State has, by and large, confined its role to underpinning voluntarism through the provision of a framework and institutions through which good industrial relations can prosper. Unfortunately, this Bill fails to properly appreciate the tried and trusted voluntary nature of industrial relations in Ireland and does not try to achieve a sense of balance or reasonableness. That sense of balance is extremely important for us all.

I must again emphasise that Ireland's system of industrial relations is essentially voluntary in nature and that responsibility for the resolution of industrial disputes between employers and workers rests in the first instance with the employer, the workers and their representatives.

For its part, the State provides the industrial relations dispute settlement mechanisms to support parties in their efforts to resolve their differences. Deputies across the board will agree-----

Senator David Norris: Senators.

Deputy Pat Breen: Sorry, I should say Senators. I thank Senator Norris. It is good the Senator is listening.

Senator David Norris: I am listening carefully.

Deputy Pat Breen: Senators across the board will agree that this voluntarist system has served us well over the years in the resolution of various disputes between workers, worker representatives and employers.

There has been a consensus among the social partners that the terms and conditions of employment of workers are best determined through the process of voluntary bargaining between employers and workers and between employers' associations and trade unions or staff associations. We are fortunate in Ireland in terms of the industrial relations systems we have developed over the years. We should also appreciate that since the introduction of joint labour committees, a comprehensive and evolving suite of employment legislation, including the National Minimum Wage Act, has been introduced for all workers in Ireland. Employment regulation orders, the legally binding instruments resulting from an agreement reached at a joint labour committee, can enhance these statutory minimums.

A stable industrial relations climate is crucial to economic growth in this country. Our industrial relations bodies - the Workplace Relations Commission and the Labour Court - have a strong reputation in resolving even the most intractable disputes. Their work, most of which happens under the radar, is invaluable in supporting jobs and the economy as a whole. Unfortunately, this proposed Bill is flawed and has the potential to greatly disrupt a fully functioning and fit-for-purpose industrial relations mechanism. The Bill, as proposed, does not accord with the voluntarist approach to industrial relations that has existed and been nurtured down the decades. Aside from this ideological criticism, the practical issues which would arise if this Bill were to be enacted are numerous and capable of creating mayhem across all sectors of our

economy.

On the basis of the significant problems with this Bill which I have outlined today, I propose that the Bill be rejected.

Senator Gerald Nash: It beggars belief that Fianna Fáil, a party that continuously tells us it is moving to the left, has decided to oppose this modest legislation to enhance the terms, working conditions and pay of some of the lowest paid workers in society. That is a party that has traditionally apportioned to itself some responsibility for representing the interests of working people in this country. Senator Davitt outlined some of the ways in which it had sought to do that historically. This is the same party, one must remember, that cut the national minimum wage at the first sign of an economic crisis. This is a party that we can not now trust with the interests of working people in this country.

Quite frankly, the dividing lines ahead of the next general election are clear. Why do we not simply move to a point where Fine Gael and Fianna Fáil forget their marginal political differences and merge once and for all and create a real divide in this country and give people real choice in terms of who they support and what kind of Government they want to see formed in this State?

Senator Aidan Davitt: The Senator only attacked Fianna Fáil. He never attacked Fine Gael. It is only a stunt for votes.

Senator Gerald Nash: I spoke to the leader of Fianna Fáil and asked him to support this legislation. He professes that his party is moving towards the centre left. It is a disgrace that his party has refused to support this very modest and far from radical legislation that is in keeping with the industrial relations model in this country and seeks to fix a real problem that affects the lowest paid workers in this State.

I understand entirely the Minister of State's rationale for opposing this legislation. If I hear the phrase "voluntarist model of industrial relations" and talk of how well it has served this country once more, I will not be responsible for my actions. This is a model that is only serving one side of industry in this State. Sometimes the way this House decides to divide beggars belief. I cannot understand the rationale of those Members of this House who claim to represent the interests of people on modest incomes and people who are having difficulty making ends meet. We deal with the fallout of that day in and day out in terms of the housing crisis, access to public services and the cost of education. I understand where the Minister of State is coming from and am familiar with much of the language contained in his script. It is the kind of language I refused to read out in this Chamber when I was a Minister of State because I did not agree with it. Unfortunately, successive Governments have had a long-standing commitment to the voluntarist model. The curtain needs to come down on that model and we need to declare which side we are on.

I remind the Minister of State that in order to get herself out of a political fix regarding English language teachers, the Minister of State at the Department of Education and Skills, Deputy Mitchell O'Connor, accepted a Labour Party amendment to the Qualifications and Quality Assurance (Education and Training) Bill establishing a joint labour committee to support low-paid workers in a very precarious sector of our economy. On the one hand, this Government believes that joint labour committees can and should work but on the other, it is not prepared to fix an outstanding problem to allow these committees to work in the best interests of working people.

This is inconsistent and hypocritical and I will not accept it.

It was interesting that in his response, the Minister of State did not actually point out any constitutional issues surrounding what we are proposing. I said at the outset that this is not a constitutional issue. This is a political and ideological issue. This is merely mechanical. It can be fixed but, politically, this Government, with its allies in Fianna Fáil, has decided it is not prepared to fix it. The Minister of State has declared very clearly, the evidence is there and we now know what side the Government is on. It is about time the people of Ireland understood that.

We spend €430 million per year on the working family payment in this State - money that could be better funnelled into our schools and health system and towards our carers, who are doing remarkable work across this country. Spending €430 million per year on the working family payment is a massive subsidisation of poverty wages and a form of corporate welfare in respect of which this House should collectively hang its head in shame because that is not how we should be spending taxpayers' money. The Minister of State is abrogating his responsibilities to working people by opposing this legislation, which is in the best traditions of industrial relations in this country. We have identified a problem that needs to be fixed. I am not proposing that we merely rush to enable the Labour Court to examine pay and conditions in an industry and present an employment regulation order to the Minister. We are merely using this as a backstop to try to address a dysfunctional element of our industrial relations system that is letting working people and industrial relations in this country down and causing catastrophic situations for people who are dependent on low pay. This needs to be fixed.

Yesterday, the CSO labour force survey was published. It shows that, on average, the workers we are trying to assist by promoting this legislation are on, wait for it, the grand total of €383.75 per week. This is a 39-hour week on the national minimum wage. As this legislation appears set to fall because of the lack of support from Fianna Fáil, ambitions for the lowest-paid workers in this country to make anything above the national minimum wage will be stymied by the actions of Fianna Fáil combined with those of Fine Gael.

Senator David Norris: Can I point out that despite the fact that it is almost December, the alleged heaters in this House are blowing cold air into the Chamber?

Acting Chairman (Senator Maria Byrne): We will get that looked at.

Question put.

The Seanad divided by electronic means.

Senator Gerald Nash: Under Standing Order 62(3)(b) I request that the division be taken again other than by electronic means.

Question again put:

The Seanad divided: Tá, 20; Níl, 22.	
Tá	Níl
Bacik, Ivana.	Burke, Paddy.
Black, Frances.	Buttimer, Jerry.
Boyhan, Victor.	Byrne, Maria.
Conway-Walsh, Rose.	Coffey, Paudie.

Craughwell, Gerard P.	Conway, Martin.
Devine, Máire.	Daly, Mark.
Dolan, John.	Davitt, Aidan.
Gavan, Paul.	Gallagher, Robbie.
Hackett, Pippa.	Lawless, Billy.
Higgins, Alice-Mary.	Lawlor, Anthony.
Humphreys, Kevin.	Leyden, Terry.
Mac Lochlainn, Pádraig.	Lombard, Tim.
McDowell, Michael.	Marshall, Ian.
Mullen, Rónán.	McFadden, Gabrielle.
Nash, Gerald.	Mulherin, Michelle.
Norris, David.	Noone, Catherine.
Ó Donnghaile, Niall.	O'Donnell, Kieran.
Ó Ríordáin, Aodhán.	O'Mahony, John.
Ruane, Lynn.	O'Reilly, Joe.
Warfield, Fintan.	Ó Céidigh, Pádraig.
	Richmond, Neale.
	Wilson, Diarmuid.

Tellers: Tá, Senators Alice-Mary Higgins and Gerald Nash; Níl, Senators Gabrielle McFadden and John O'Mahony.

Question declared lost.

Sitting suspended at 2.17 p.m. and resumed at 2.45 p.m.

Imminent Closure of Cuisle Accessible Holiday Resort: Statements

Acting Chairman (Senator Catherine Noone): I welcome the Minister of State to the House to discuss the imminent closure of the Irish Wheelchair Association's Cuisle accessible holiday resort.

Minister of State at the Department of Health (Deputy Finian McGrath): I am grateful for the opportunity to come to the House today to outline the situation with regard to Cuisle. I reassure Members of the House that there are no cuts to respite services and a lot of misinformation in that regard will be challenged in my contribution today. I welcome this opportunity to restate the Government's commitment to supporting people with disabilities and their families. As Minister of State with responsibility for disabilities, I am personally committed to providing services and supports that meet the needs of people with disabilities and empower them to live independent lives. I am determined to ensure that people with disabilities will have greater independence in accessing the services of their choice and to enhance their ability to tailor the supports required to meet their needs and plan their lives. This is my policy and that of the Government and it is one in which I strongly believe. At the heart of this policy is the principle of access to mainstream services and community living. My priority has always been the health

and well-being of people with disabilities.

I am very aware of the concerns of service users and their families about the decision by the Irish Wheelchair Association to transition its holiday service from Cuisle to designated hotels in the west. I make it clear that this decision was made by the board of the Irish Wheelchair Association last month. It was not my decision and I have absolutely no connection with it, contrary to what has been said in the media by some people. Cuisle Accessible Holiday Resort is a commercial operation run by the Irish Wheelchair Association, IWA, from which, I am informed, the HSE purchases respite breaks that are provided by way of a service arrangement. I met the CEO of the IWA and HSE representatives on Tuesday, 12 November last to obtain the necessary assurances that service users will be fully accommodated in respect of what is fundamentally the IWA's plan for a progressive and innovative way to meet the needs of people with a disability who wish to avail of holiday respite breaks. I challenged the IWA on that particular issue and the way the staff were given one month's notice. That is for the record of the House.

I believe in people-centred services, and the Irish Wheelchair Association stressed to me that the clear choice and preference of people with a disability is increasingly more about having a variety and choice, with access to positive and non-segregated settings where existing commercial hotel provider settings implement universal design initiatives to accommodate people of all levels of abilities. I was informed by the Irish Wheelchair Association that one of the significant drivers of the move towards a new model of care approach, whereby appropriately accessible hotels will be used, was that there has been a significant fall-off in numbers applying for breaks in Cuisle.

In recent years, there have been positive changes in accessibility standards in Ireland that now present a greater range of choice and options for people with disabilities seeking a holiday or respite. Consequently, there has been a shift in best practice approaches. This shift is reflected in current HSE policy under its policy document: *Time to Move on from Congregated Settings: A Strategy for Community Inclusion*. This year alone, in 2019, we are moving 132 people out of congregated settings. That is based on decisions by the disabled people themselves and backed up with funding from the HSE.

In line with this, Irish Wheelchair Association has decided to transition its holiday service in the west to provide accessible hotel holidays into the future, and to move away from its holiday facility at Cuisle, County Roscommon. The IWA did advise me at the meeting a couple of weeks back that Cuisle requires major capital development in respect of fire upgrade works estimated to be in the region of €1.5 million. The IWA has indicated that this level of capital funding is not available within its current resources. This, allied to the fall-off in numbers, convinced it that its new model of care approach was the right one. "Convinced it" is the phrase I emphasise.

Notwithstanding the requirement to ensure regulatory standards are maintained, the HSE has confirmed to the IWA that this level of capital investment is not considered viable in the context of other potential alternative service options and models from which to deliver respite services. The IWA, by partnering with accessible hotels, is planning to provide a wide range of choice to people with disabilities seeking to take a supported respite holiday in the west. This new and innovative service will commence in March 2020 in conjunction with the HSE. There are no cuts to respite services.

The IWA has been operating comparable hotel holiday breaks in Kilkenny since 2018 and

has received positive feedback across the board from its guests. Its guests are people with a disability. In fact, 99% of guests said that they would return. This service was also shortlisted for an Irish Healthcare Centre award in 2019. The IWA hopes that, in the coming years, its accessible hotel holiday service will expand to key destinations throughout the country.

The move to the new holiday service will mean that the Cuisle buildings will not open in 2020. The IWA acknowledges the contribution of staff at Cuisle to the respite service in the west. Where possible, the IWA will offer redeployment opportunities to staff and is engaging with local staff members and their representatives to ensure minimum impact. That is a commitment that the Irish Wheelchair Association has given.

I have been asked to attend this debate this afternoon, and I am very happy to do so, because it is the first time I have been given an opportunity to put the facts on the record of the House. There should be no doubt for anyone listening or watching today about my commitment to people with disabilities and their families. I am immensely proud to be Minister of State with responsibility for disabilities. I have been inspired by the goals and achievements of the people I have met since my appointment, and I am more determined than ever to realise the priorities agreed by the Government and to continue to make the changes that are needed in this country.

It is very important in this debate that we listen to the voices of the people with disabilities and what they are saying. It is essential that we respect their voices, and I, as Minister of State, will reflect their voices in this debate. I will give the House three quotes from guests and given to me by the Irish Wheelchair Association: “staff excellent, food excellent, feel equal going on holidays with everyone else”; “I no longer feel like people with disabilities are put in a box”; and “It is excellent. You give us a great holiday, not just respite.” I say to colleagues not to politicise this and do not try to use it to score political points. Do not go on radio stations misrepresenting the facts. There are no cuts to the respite services in Irish wheelchair services. There is a change of model that the IWA board itself has made. It told me at its meeting two weeks ago that it did it because it had the support of its own members. I hope to be able to answer further questions later on in this debate.

Acting Chairman (Senator Catherine Noone): I thank the Minister of State for his very clear outline of the situation. I call Senator Leyden to speak now.

Senator Terry Leyden: I will share some time with Senator Gallagher later in this debate.

Acting Chairman (Senator Catherine Noone): Is that agreed? Agreed.

Senator Terry Leyden: I proposed on the Order of Business this morning that the Minister of State be invited in today to outline the Government’s policy on the closure of Cuisle on this black Friday, with the loss of 45 staff, with facilities second to none for the thousands of wheelchair-bound and other active people who have facilitated and enjoyed their holidays. The Minister of State is certainly not giving any hope here today and is not even speaking on behalf of the people who use the service. The Irish Wheelchair Association did not consult the members and did not call a special AGM. It decided on its own grounds to close this facility. It announced it in early November and it is closing on Friday with the loss of 45 jobs and a facility that has been open for 22 years on the grounds of the Divine Word Missionaries in Donamon in Roscommon.

We had a special meeting last Thursday of the Oireachtas Committee on Health, which unanimously agreed, with all Oireachtas Members in attendance, to request the Irish Wheel-

chair Association to defer the decision until there was further consultation with the people the association purports to represent. There is a call for an EGM, which may be resisted by the Irish Wheelchair Association, but that is not democracy. Quite frankly, I believe the IWA is misleading the Minister of State, who has responsibility for disabilities and who is providing, through the Department and the HSE under a section 39 grant, up to €40 million a year to the Irish Wheelchair Association. Yet in turn, it announces this decision, which the Minister of State says was without consultation with him or without his approval. I find it outstandingly strange that the Minister of State would just go along with this, wash his hands of it like Pontius Pilate, and say that the Irish Wheelchair Association made the decision.

The IWA made the decision, I want to emphasise again, without consultation with its own membership throughout Ireland. If the association is so courageous now, let it have an EGM to get the views, and if the EGM decides on a certain strategy, that will be a matter for the paid-up members of the Irish Wheelchair Association, not for the executive of that organisation that did not consult. I can read out numerous representations. One of the most impressive was from a lady called Erica Boucher, who gave a speech at a meeting in The Square in Roscommon attended by between 1,500 and 2,000 people. She is very upset, as are her friends and family, that this decision has been made. There has been no consultation.

The Minister of State should consult the people he represents in the disability sector because there has been no consultation.

We are asking for a delay to allow a re-evaluation of the facilities in Cuisle and to provide an opportunity to discuss with other interested parties their continued support for that facility in conjunction with the Irish Wheelchair Association. The Divine World Missionaries are prepared to extend the lease from 2026 for a period that is agreed with all parties concerned. It could be a very long extension. Any investment in the building may be for 20 years at least. The Minister of State visited the facility with my colleague, Deputy Eugene Murphy, some months ago. He praised the building and said it was a beautiful place. Although he was so impressed, he is not standing by Cuisle or the people he represents. He will not consult the membership of the IWA.

The Save Cuisle representatives who organised the rally last Saturday wish to meet the board of the IWA to discuss the issue. I suggest to the Minister of State that they meet as they are an interested party in this regard. I cannot see why they would not be agreeable to meet members of the board or the chief executive and the representatives of Oran, Dunamon, Kilbegnit, Castlecoote, Fuerty and Athleague who are so upset. This facility has been broadened out to host christenings, weddings and after-funeral events. That is all being provided in this special holiday centre. Some 45 special fishing stands have been erected at enormous cost. Up to €2 million has been invested since 1997. Seamus Thompson, the then chief executive of the IWA, initiated that programme which has proved so successful. It is so sad for the people affected by this, particularly the users and workers who provide 24-hour service in Cuisle.

I am delighted that the Minister of State came to the House, but I am not very happy with his speech. He should request the IWA to reconsider its decision and direct it not to close the facility in March 2020. The closure should be delayed for a period to allow for proper democratic consultation with the users of the Irish Wheelchair Association. The IWA should call an EGM and then make an assessment. The chief executive and board are afraid of their members. It is a very poor day when an organisation that purports to represent its members does not consult them in any way, good, bad or indifferent.

Irrespective of what the Minister of State thinks, this fight is not over yet. This will be a general election issue in the Roscommon-Galway constituency. For those who do not support it, I do not recommend that they face the electorate.

Senator Robbie Gallagher: I welcome the Minister of State back to the Chamber this afternoon. I concur with everything Senator Leyden has said and I compliment him on proposing during the Order of Business this morning that the Minister of State attend the House to discuss the issue.

I will not be repetitive. I live in the Cavan-Monaghan constituency. Many people from that part of the world use the Cuisle facility. I have been astonished by the number of phone calls I have received on this issue. They all spoke kindly and lovingly of the facility and the staff who work there. I have never come across such sentiment and emotion attached to a building and the people who work in it in my years in politics.

I know the Minister of State is a fair-minded man. Further to Senator Leyden's contribution, he might convene a meeting of all the stakeholders in order to get a feel for what people are looking for. None of the people I have spoken to wants this facility closed. They feel totally relaxed and at home when they go there. They spoke glowingly of the staff who work there. Not one person is happy with the alternative proposed by the IWA. While going to an alternative location might work well for some people, all of the people I have spoken to in my neck of the woods are bitterly disappointed and will fight tooth and nail to ensure this facility stays open. I ask the Minister of State to use his good offices to convene a meeting of all the stakeholders to try to find a sensible resolution to the issue. Perhaps a stay of execution of six months might be made to allow all the stakeholders concerned the space and time they need to work out an alternative to closing the facility.

Senator Rónán Mullen: I welcome the Minister of State to the House. I am very glad we have the opportunity to discuss this important matter today. I am not among those who has sought to score any political points or misrepresent the facts of this situation in any way, or indeed say anything to detract from the Minister of State's reputation as somebody who is deeply concerned about the services for persons with disability.

Having said that, I am deeply disappointed by what the Minister of State said and I call on him to change his position. I followed the earlier part of the debate on the monitor. I listened very carefully to what he had to say. What I heard were the speaking points of the IWA. It was an *apologia pro vita sua* in terms of his approach to this in that he has not been guaranteeing what has not been questioned, namely, the availability of respite services. However, that is not what this issue is about.

I was involved in questioning the IWA representatives at the Joint Committee on Health last Thursday. I spoke at Saturday's march in Roscommon which was very well attended. Sometimes the word "choice" is misused and it can mask very wrong choices. I was not used to finding myself towards the front of a crowd with banners proclaiming, "Our Life, Our Choice". However, this is what is at stake. We are talking about some of the most vulnerable persons in our society who, along with their families, have a clear desire to continue to use this cherished resource.

The Minister of State has told us today - I have no reason to doubt him - that he had a meeting with representatives of the IWA and heard about its logic and its decision to transition to

holiday services. While we heard all the language of moving away from congregated settings, things being progressive and innovative and references to the IWA having consulted its members, which was what they wanted, nothing in his speech suggested that he interrogated any of those claims.

Deputy Finian McGrath: That is what happened.

Senator Rónán Mullen: Nothing in his speech suggested that he has been listening to the shock and disquiet of so many people, principally the service users and their families. There was nothing in his speech to give any comfort to those people. At Thursday's committee meeting, I called for a stay of execution on this decision.

I am always suspicious when I hear people mounting up the arguments for what they have already decided. We were told first that a capital investment of €1.1 million or more was required. The Minister of State told us that the HSE does not believe this capital investment is a good idea. In the same breath we were being told about moving to hotel facilities and positive and innovative approaches. When I put it to the IWA representatives last Thursday that this was implying there was something less than positive and innovative about Cuisle, they quickly pulled in their horns and were at pains to say they would like people to have whatever they want and for both choices to be available. If that is the case, let us not be talking up hotel facilities, which are a legitimate choice. However, let us not imply that Cuisle is at some disadvantage. It is a service that when one challenges IWA representatives, they dare not criticise.

Late in the day, we were told about possible further investment necessary because of asbestos fears. We are now being told about the decline in numbers. What seems to be happening here is that the service is being run down. The IWA seems to see this as a way of saving €100,000 a year because this is what it is costing it to keep this service going at a time when it is losing money.

We have called for a pause on this and the Minister of State has not addressed that. His speech does not reflect new facts that have become available in recent weeks. One principal new fact is that there is significant disquiet about this decision. Are the people who are upset about this decision wrong, misguided or misinformed? Are they wrong to prefer Cuisle to a hotel setting? Have they a legitimate argument about the choice that they want to make? If we are serious about putting people with disabilities to the forefront then we have to listen to them.

I have the greatest respect for the credentials of the Minister of State. He has them and deserves them but he needs to take action because something has happened under his watch that should not have happened. By that I mean the IWA has taken a decision that is deeply unpopular with its service users. For all of the good work done by the Minister of State this matter will be a blot on his political discussion if he does not say stop at this point and create breathing room that allows us to see what can be done to save Cuisle. Saving Cuisle is the only thing that people are interested in. It is no good the Minister of State coming in here, with the best will in the world, and saying that he will protect respite services. That is not what this debate is about here today. Cuisle needs a chance to survive. I am not an unrealistic person but when one thinks of all of the money the Government has spent on spindoctors, foreign travel and the Lord knows what then spending €1.1 million to put a building in order is a paltry sum of money. Even if the HSE is unwilling to come up with the funding it is within the power of the Government to say something should be done in this particular case. I have no problem with the Government saying we need the community to play ball with us or we need the private sec-

tor involved. If the Government would say it will put up half of this money, as an exceptional grant, to save this facility provided the money also came from the community then the proposal would show a real belief in the community and service users. Anything else would patronise them and say: “You might want it now but you will be happy later when you are in the hotels that you did not want to be in in some cases.” I am not knocking the hotel facility or the general policy of moving away from congregated settings in healthcare.

Cuisle is a well loved place and a much valued facility that is in demand. The Government owes it to the service users, their families, the staff and all of those who volunteer or are paid to be involved in this vital caring service to step up to the plate in the way that the Divine Word Missionaries have done. The congregation has offered to give every single penny that it ever got in rent for the past 22 years or whatever of the lease towards a bailout plan that would get the capital works done. The offer by the congregation shows tremendous goodwill for which it deserves credit.

Today, I expected and hoped that the Minister of State would come in here and say the decision by the IWA was made in good faith but is wrong. I have met the IWA. I listened to what its representatives had to say in good faith and they made a good case. Having regard to what I now know about how the service users feel and having regard to the proceedings of the Oireachtas Joint Committee on Health, where we really exposed that people were trying to stack up a case one minute that there is a capital problem but the next minute that they are moving to better or more positive modern settings. That is spin. We know what the people want and they were out in force last Saturday. It is no shame on anybody to say that this particular decision must be revisited. I am not asking the Minister of State for a cast iron guarantee. I am asking him to say he will use his ministerial clout to ask for a stay of execution on this decision to see what can be done to save Cuisle now that we know there is huge demand for its retention from the most important people at the centre of this story. I ask the Minister of State, with sincere respect for his credentials, to recognise that something has changed here.

Senator Leyden talked about the forthcoming general election. That is true and it is a good time to extract promises. We should not have to wait until then because the retention of Cuisle is important for its own sake.

Deputy Finian McGrath: We should not criticise it at all.

Senator Rónán Mullen: The Government has the power to make an executive decision, use its clout and say to Cuisle to stall the closure and see what can be done to save the venue. I would be really grateful, as would a lot of people, and as a Galway man who comes from a place that is very close to this setting if the Minister would agree we need a second thought on this and will see what decision we can come to then. I think the Minister of State will have a heart for what I am proposing.

Senator Gabrielle McFadden: It is not about votes, Senator.

Acting Chairman (Senator John O’Mahony): I understand Senator Noone wants to share time with Senator McFadden.

Senator Catherine Noone: Yes.

Acting Chairman (Senator John O’Mahony): Is that agreed? Agreed. Senator Noone has four minutes.

Senator Catherine Noone: My colleague, Senator Maura Hopkins, cannot be here so asked me to speak on her behalf. Some of the Senators present are closer to this issue and I have listened to them, and I briefed myself on this issue this morning. I do not think that the Minister would be too happy that the closure is happening based on everything that I have read and spoken to people about this morning.

Cuisle does not offer the hotel setting that the Irish Wheelchair Association seems to want to move towards. Cuisle does offer a gym, a bar, a spa and meeting rooms. It also offers an environment that makes wheelchair users feel normal and allows them to be around people with whom they have a lot in common.

I understand, from speaking to Senator Hopkins, that the staff are putting on a brave face in front of the users of the Cuisle facility. The situation is very sad. I can understand on one level why the Irish Wheelchair Association would talk about moving towards a different type of model of care that it thinks may work better. The association seems to have given two reasons, which are the cost of refurbishing the facility and a move to a different model of care. To me, both reasons are surmountable obstacles. I do not believe there is any real desire on the part of the Irish Wheelchair Association to keep the facility open, from what I understand. I do not think that the Minister of State really wants that either based on the information to hand. As he has said, there is no pulling of funding and there is no need to politicise this matter. I think that we are all singing from the one page and hoping that the Irish Wheelchair Association will listen, as was said by Senator Rónán Mullen. It is nice for me to be able to agree with everything that he has said.

Senator Rónán Mullen: Yes.

Senator Catherine Noone: As the Senator said, we need to listen to the people who use these facilities. These are people who find it more difficult than the rest of us to navigate the world. They get the opportunity to spend a week or however long in an environment that makes them feel better and improves their quality of life. Therefore, we should be talking to the representative of the Irish Wheelchair Association rather than the Minister of State because I can well imagine that he is in a bind on this matter. He may be unable to expressly say so but that is what I think. Pressure must be brought to bear on the Irish Wheelchair Association to do whatever is necessary, and I do not mean a stay of execution. Cuisle is a long-standing facility that could well continue and there is the means and will for that to happen. I hope that the Minister of State will use his good office to ensure that happens.

Senator Gabrielle McFadden: I thank Senator Noone for agreeing to share time. I shall not repeat everything that has been said.

Senator Hopkins and Feighan, among others, have spoken very passionately about the closure over the last number of weeks. Nobody is more in favour of getting rid of congregated settings for people with disabilities than I am. I am of the view that people with disabilities should live in communities and receive equal treatment. The virtue of being treated equally would mean that they would have a choice but they would not have a choice if Cuisle is closed down.

I am concerned that the IWA has known about the situation for over two years but suddenly, on 18 October, decided to close down the facility and made the announcement. I shall respond to the claim by the IWA that it cannot afford €1.1 million and there is a different model of care. When I was a child when I did something wrong I gave an excuse. However, if I gave a second

excuse my father would always say to me that I gave a second excuse as I did not believe the first one. Therefore, the first excuse had no weight in the first place. By virtue of the fact that the IWA gave two excuses it means that neither of its excuses can stand up on its own, which is very weak.

Hotel accommodation does not suit everybody, which I have heard from everybody to whom I have spoken about this matter, and that is what I learned from the calls that I have received from service users and their families. This issue is not just about holidays but very necessary respite where service users are comfortable, which is really important.

I do not like having a go at the Minister of State but I always feel that disability services have been treated like low-hanging fruit. I mean that when money must be taken away, it is taken from disability services. He has said that money is not an issue and I accept his bona fides on that. Really and truly, we need to say to the IWA that the money is available, if that is what is necessary, and ask to please postpone the closure for six or 12 months to consider the issues. We need to have absolute engagement with the IWA, service users and their families because they are the people who are most affected. I urge the Minister of State to consider my suggestion as I believe that is what he would like in his own heart and it is vital for the service.

Senator Máire Devine: I welcome the Minister of State to the House. Nobody here doubts his passion and commitment to his portfolio. This issue was raised by several Senators as soon as they learned of it and Senator Leyden pushed for it to be discussed further today. To term it that we cannot question and ask the Minister of State without him feeling we are questioning his commitment is somewhat misguided. I do not know the story is coming from in respect of the Irish Wheelchair Association, IWA, because it made clear in its statement to me that if the funding for the necessary works had been available, the decision to close would not have been made. The lack of €1.5 million or more to keep the fire certificate and keep the building up to standard is what has led to the closure. The Minister of State emphasised that the lack of funding, allied with the fall-off in numbers, convinced, as he said, the IWA that its new model of care approach is the right one. I am not at all convinced that Cuisle provides an outdated form of respite care or holiday. I refer to the idea that modern holidays must be inclusive. Of course, there should be inclusivity for all and an intergenerational mix of people with various disabilities or other issues. As a society and as communities, we all get along together.

The hotel-centred provision that is being lauded as providing centres of excellence for those seeking respite or a holiday is for the few, not the many. Various institutions were closed from the 1980s onwards because it was deemed that we did not want institutional living. Rather, we wanted people to be independent. We are striving for people with disabilities to be able to live independently and have much to do in that regard, such as through the UN Convention on the Rights of Persons with Disabilities. There is a significant amount of work to do to make up for institutionalisation in the past. Unfortunately, in the closure of those facilities, we forgot to take account of the simple fact that we could not replicate the services they provided in the community. Many people are on waiting lists for specialist treatment, solace or other issues. The institutions to which I refer were closed on the promise of a bright new dawn which would bring wonderful facilities within the community. That ambition was to be applauded but it has not been realised. As the Minister of State is aware, A Vision for Change was published 15 years ago to address issues of mental health but 75% of it is yet to be implemented. To some extent, we are cutting off our nose to spite our face.

Reading between the lines, it seems there are certain issues within the IWA to which I am

not privy. The IWA told me that if funding was available, the centre would not be closing and that if funding is made available, it will reconsider the closure. Perhaps there are nuances to that of which the Minister of State is aware.

It is telling that all the statistics relating to and quotes from the happy people who are using the hotels and respite care only show one side of the coin. A significant protest rally took place last Saturday but nobody interviewed the people who were there to protest the closure of the centre. The quotes that have been selected are biased and one-sided and do not give a true picture of what people want. Senator Leyden knows more than I do about the IWA and is demanding that an extraordinary general meeting be called such that all voices can be heard. That is probably the way to go.

I appeal to the Minister of State not to allow the centre to close on Friday. We should take a breather and see what people want. The voices of one side only are being heard. There are many people who have complex needs and are unable to go to hotels or enjoy the freedom of living in the community. They may have mobility difficulties and require a hoist or medication. The extra loving care that they need is provided by this centre. I hope the Minister of State reconsiders the closure. I understand there are plans to move to a different system of care, but we should not throw the baby out with the bathwater.

Senator John Dolan: I welcome the Minister of State. I thank Senator Leyden for ensuring that the matter is being discussed at this stage. I will not parse and analyse every turn in the road that has led us here. Last Thursday at a special meeting of the Joint Committee on Health, we had an opportunity to turn a corner and move away from the hurt, concerns and heat that naturally come into the issues such as this. A plethora of explanations were provided to the committee by the IWA, both in written form prior to the three and a half hour meeting and in the oral evidence its representatives gave. This afternoon, the Minister of State has been given a flavour of the engagement that took place at the committee.

Now is the time to see whether we can solve this problem. When it is all over, we can analyse who did what and what should not have been done. Primarily, this is about people with disabilities. Of course, some people will be happy to be in Cuisle or elsewhere. Let us get to the core of the issue. What is unique about Cuisle? There are a couple of things we must consider or acknowledge. I am probably better placed than any other Senator to comment on this matter with some authority. No other facility in the State provides the service available at Cuisle. I do a lot of travelling across Europe with European disability groups in which I am involved and I have never heard of a facility like it elsewhere in Europe. All the better if there is. What is unique about it? It provides a sense of home-from-home comfort that those who use it, particularly those with certain progressive and quite nasty conditions, crave. They are dealing with conditions that creep up on them and may affect how they look, speak and feel, as well as how people look at them. These are critical issues in their day-to-day lives. They can get out of their home and go to a place where they have the joy and comfort of other people with their condition or one like it. They can have a break and enjoy the comfort of knowing that the family members who support them around the clock are also having a break. That is only available at Cuisle. A point that should not be downgraded is that it is located in a part of the country where people deeply appreciate the unique service it provides, as has been noted.

This situation is somewhat similar to that in the 1950s when we could not afford to keep certain railway lines and stations open. Within a decade, we had a very different view. One cannot just turn it off and then come back in a year or two and turn it back on. We are at a critical point.

Many people, including those involved in human resources as I once was, refer to staff skill sets. I wish to talk about the heart and soul of the staff of Cuisle and the closeness of their relationships with those who use it. They note that Terry or Maura or somebody else has returned for another visit. They know the people who use the centre and they know their stories. They are trusted. There is nothing wrong with being professional in the Bord Fáilte sense, but the staff at Cuisle go beyond that. If Cuisle goes, so will they. Make no mistake, the people who use Cuisle cannot hang around and hope it will reopen.

I first heard of the closure when I was contacted by people with disabilities on the weekend it was announced. People with disabilities are not indifferent and are really committed to what they get there, including friendships developed over many years. Organisations like Ataxia Foundation Ireland, Spina Bifida Hydrocephalus Ireland, Huntington's Disease Association of Ireland, the Irish Heart Foundation, CanTeen Ireland and others find Cuisle to be a great place for holidays and respite care as well as for holding business meetings and AGMs. They do not get the same service in hotels, although that is not to slag off any hotel in any part of the country. The chairperson of the Huntington's Disease Association of Ireland, Mr. Thomas Lillis, said that his association's members appreciate the excellent facilities but more importantly, the "culture of kindness, care and understanding" that exists. He said that Cuisle is a place where people with Huntington's disease are not discouraged by being watched or judged, as is often the case in public spaces. People living with Huntington's disease and their families feel relaxed at Cuisle, a service offering friendship, respect and genuine warmth. This compassionate skill set would be a sad loss to those in the disability community who require this service. He went on to say that Huntington's disease is a particularly challenging neurodegenerative condition with physical, cognitive and mental health aspects. It is also genetic and each person with the Huntington's disease gene has a 50% chance of passing the disease onto others. This is one of several conditions that is highly charged in a number of different ways.

I beg the Minister of State to listen carefully to the people who argue that Cuisle has unique aspects to it which could be gone in a number of months. Once gone, it will not be possible to bring them back. I am talking here about the heart and the skill set of the staff and the local community, and that particular element of the service that it provides. It is true that money is tight but what is on the line here cannot be bought. I am holding a meeting with members who attended the Oireachtas committee meeting last week in the hope of starting the second phase of this process, namely, working out how to solve this problem. We need support. As someone who worked for the Irish Wheelchair Association and who walked the site at the time, I am confident that the association will not be found wanting in terms of finding a solution. The association is stuck on the money issue but as Senator Devine said, that is the core issue.

Acting Chairman (Senator John O'Mahony): I invite the Minister of State to respond.

Minister of State at the Department of Health (Deputy Finian McGrath): I thank the Senators who spoke so passionately in today's debate. It is heartening to know that despite some of our differences, Senators share my commitment to progressing our disability services and meeting the needs of people with disabilities and their families. However, when one delves down to the core of the issue, one sees that a lot of the anger expressed today is directed at the wrong place. I did not make any decision to close Cuisle; the board of the Irish Wheelchair Association made that decision. It is an independent, section 39 organisation and as Minister of State, I cannot get involved directly in its internal affairs. However, the members of the Irish Wheelchair Association are perfectly entitled to get directly involved. If they want an EGM to be held, I have no issue with that.

I will now respond to some of the specific issues raised during the course of the debate. Cuisle is a commercial operation from which the HSE purchases respite breaks. These breaks are provided under a service agreement between the Irish Wheelchair Association and the HSE. The HSE purchases respite breaks which are provided by way of a service arrangement. While the State funds the services of up to 6,600 people annually, only 480 people attend Cuisle. The HSE will continue to purchase respite breaks from the Irish Wheelchair Association in the new hotel model of service which is expected to commence in March. The HSE made that decision with the Irish Wheelchair Association. Reference was made to economic issues and the sum of €1.5 million. When I had a meeting with representatives of the Irish Wheelchair Association, they did not ask me for €1.5 million but said this decision was agreed by the association's members and board and I accepted their word. The issue of €1.5 million came up at a meeting of the Oireachtas Joint Committee on Health. There has been a change in position, which might answer Senator Leydon's question. I would like the Senator to ask the Irish Wheelchair Association why it changed its position.

Senator Rónán Mullen: Why-----

Deputy Finian McGrath: Let me finish my point please. I want to deal with this particular issue. The Irish Wheelchair Association does not own the existing facility. It has a lease agreement with the Divine Word Missionaries order which expires in 2026. It would appear that Senator Mullen and others are asking that public money be provided so that major upgrade works can be carried out on the facility at an estimated cost of €1.5 million. This building is owned by an organisation with which the HSE has no direct relationship. The HSE further understands that the sum of €1.5 million is the minimum estimate of the costs associated with the upgrade works. The potential exists for additional costs to arise due to the current condition of the building, including concerns regarding the presence of asbestos. That is an important point-----

Senator Rónán Mullen: On a point of information-----

Deputy Finian McGrath: The Senator had his chance.

Senator Rónán Mullen: Will the Minister of State accept a point of information?

Deputy Finian McGrath: I will allow the Senator to respond when I am finished.

Acting Chairman (Senator John O'Mahony): The Minister of State has the floor.

Deputy Finian McGrath: I want to get my points across-----

Senator Rónán Mullen: The Divine Word Missionaries is open to extending that lease. Furthermore, the HSE often funds capital works in privately-owned facilities.

Acting Chairman (Senator John O'Mahony): Senator, please allow the Minister-----

Deputy Finian McGrath: If the Senator has that information, good luck to him.

Senator Rónán Mullen: One only has to look at hospitals all over the country-----

Deputy Finian McGrath: When I spoke to representatives of the Irish Wheelchair Association, I did not wash my hands of any issue. I put a lot of the points raised in the House today to them. I met Senator Hopkins, who did great work on this issue behind the scenes, as well as

other public representatives from Roscommon. I proposed a pause and raised the issue of the treatment of staff. I am very concerned about staff only getting four weeks notice. I have major issues with that. I assure Senators that we had a robust meeting. There was consultation with public representatives. Everyone seems to have missed the fact that I said in the past week that my door is wide open to the Irish Wheelchair Association, the HSE and all relevant stakeholders, if they want to ask for something which differs from what they asked for last week. Senator Gallagher mentioned stakeholders, to whom I will always listen. I have just come from a series of meetings with families of people with disabilities.

Senator Mullen has raised an important development and I have no problem in accepting his bona fides in that regard. In the interval between the meeting that I had and the meeting of the Oireachtas Joint Committee on Health, the position of the board of the Irish Wheelchair Association changed. I did not change my position and in that context, Senator Mullen should ask questions of the board. I am not going to get directly involved in the internal workings-----

Senator Rónán Mullen: Why not?

Deputy Finian McGrath: Since-----

Senator Rónán Mullen: Why can the Minister of State not express a view on what he has heard?

Acting Chairman (Senator John O'Mahony): Senator Mullen, please.

Senator Rónán Mullen: That is not interference.

Deputy Finian McGrath: I expressed my views on 12 November, as I already said.

Senator Rónán Mullen: We are asking the Minister of State-----

Acting Chairman (Senator John O'Mahony): Senator, allow the Minister of State.

Deputy Finian McGrath: I have expressed my views publicly and am expressing them again today. Senator Noone-----

Senator Rónán Mullen: The Minister of State is saying that whatever they want is fine.

Deputy Finian McGrath: What I am saying is that I cannot tell a section 39 organisation what to do at its AGM.

Senator Rónán Mullen: The Minister of State could urge the association. He could urge it-----

Acting Chairman (Senator John O'Mahony): One moment please. Senator Mullen had his speaking time. The Minister of State has the floor and I cannot allow a to-and-fro discussion to take place now.

Deputy Finian McGrath: I have no problem with the Senator making a point at the end but I am trying to respond to the debate as per Standing Orders. Senators Noone and Hopkins raised the issue of the pressures on staff and referred to their sadness. I understand that. I have been to Cuisle and know the people involved there. There is no anti-humanitarian view at work here. There was pressure on the IWA over the past couple of days. I accept that point. However, it has changed its position. Senator McFadden talked about the congregated settings and

excuses. When I heard that I thought about how the view expressed by the IWA on 12 November had changed over the past couple of days but that is for it to answer, not me. That is what I mean by interfering. I have said that I have talked to the IWA and the HSE. My door is open to talk to the IWA again, if it has changed its view of what it needs. It never asked me for money at the meeting. The IWA is a commercial body and the HSE purchases services from it. The Minister has no role in the matter.

Senator Mullen asked why the Divine Word Missionaries will not invest in its own property if the State has no relationship with that organisation.

Senator Rónán Mullen: They have offered to put every penny they have ever got in rent into a rescue plan.

Deputy Finian McGrath: Senator Devine spoke about hotels and the UN Convention on the Rights of Persons with Disabilities. I mentioned 6,600 people who are getting respite services. I hope the Senators are prepared to listen to the voices of those who want to go to hotels. I hope they are.

Senator Rónán Mullen: Did we not say that?

Deputy Finian McGrath: Those people have a voice too and have to be heard. It is important to listen to the person with a disability on the issue. I mentioned only two or three cases. I know many families and others who like the hotel model. I want to deal with the misinformation given out about this in other quarters. This has been tried in Kilkenny and Galway and other places. The individual checks into the hotel which ensures that everything he or she needs is available, including fully accessible en suite rooms, specialised beds, aids and appliances, hoists, support for medication and management, clinical tasks and IWA personal assistants who are available 24-7. People are saying they like that. I am saying give them the choice and that is in line with the UNCRPD.

Senator Dolan talked about the core issue. I did not like his analogy of railway stations, with which I felt a little uncomfortable.

Senator John Dolan: I acknowledged that.

Deputy Finian McGrath: We are talking about changing a mindset in society towards people with disabilities. We want to give people choices in the modern Ireland.

Senator Rónán Mullen: They are the ones feeling railroaded.

Deputy Finian McGrath: We also want to listen to people who have different views in the whole disability sector. That is an important part of the broader debate.

The IWA has an ethos of delivering services that respond to the needs of its members. I hope in this case that if it is not responding to the needs of its members, the Senators who have an association with it will highlight that.

Senator Terry Leyden: It is not responding.

Deputy Finian McGrath: That is Senator Leyden's point.

Senator Terry Leyden: It is trying to prevent the members from holding an emergency general meeting.

Deputy Finian McGrath: The new service will be located in accessible hotels.

When I became Minister of State with responsibility for people with disabilities, I made three commitments. The first was to reform the disability services and this is part of that reform. The second was to invest in the services and the third, and most important, was to ensure that services were person-centred. I stand over my record.

Senator Rónán Mullen: Is the Minister of State saying that the closure of Cuisle is part of the reform? Is that what he is after telling us?

Deputy Finian McGrath: I am saying choice in respite is part of the reform.

Senator Rónán Mullen: Choice is being denied here.

Deputy Finian McGrath: The Senator should not distort what I said.

Senator Rónán Mullen: That is what the Minister of State said.

Deputy Finian McGrath: Let us deal with the facts. I am working on the 2020 plan. Next year, I will spend over €2 billion on services for people with disabilities.

Senator Terry Leyden: The Minister of State will not give €1.25 million to Cuisle.

Deputy Finian McGrath: The figure has increased by €490 million since 2016. The increased level of funding in 2020 will enable the health service to continue to provide a broad range of services aimed at improving the quality of life for people with disabilities. If there is a change of view in the IWA or elsewhere, my door is always open to talk to people with disabilities, the HSE and the IWA. My bottom line is that I will listen to people with disabilities and what they want, not what the Senators or the HSE want, and that is in line with the UNCRPD.

Acting Chairman (Senator John O'Mahony): The debate is now over.

Senator Terry Leyden: As I tabled the motion today, I am telling the Minister of State to inform the IWA to listen to its members and have an extraordinary general meeting. He should not try to suppress it. Does the Minister of State know that the IWA will not provide buses for people to go to the rally on Saturday or the rally here in Dublin? It is trying to suppress the wishes of its members in regard to Cuisle. It is a dictatorial group. The Minister of State is doing nothing. He is not standing up for its members. He is supposed to be the voice of the voiceless.

Deputy Finian McGrath: The Senator's local councillor is distorting information and going on radio to attack me about it.

Senator Terry Leyden: I do not think that is true.

Deputy Finian McGrath: The Senator is a great man.

Senator Rónán Mullen: The Minister of State is taking a Pontius Pilate approach today.

Deputy Finian McGrath: There is no Pontius Pilate.

Senator Rónán Mullen: He does not mind that it wants to close it.

Deputy Finian McGrath: When the Senator was in bed last week I was out trying to deal

with the issue. I will not take any lectures from Senator Mullen.

Acting Chairman (Senator John O'Mahony): The Senators should refrain. The debate is now over.

Senator Rónán Mullen: The Minister of State has indicated no preference today for what he would like to see happen.

Deputy Finian McGrath: I gave my response.

Senator Rónán Mullen: It is deeply disappointing.

Senator Gabrielle McFadden: That is not fair to the Minister of State. He tried.

Deputy Finian McGrath: That is totally out of order. I certainly will not take lectures from Senator Mullen on it.

Senator Rónán Mullen: The Minister of State does not have to take lectures from anyone but if he would be open to changing his mind, it would be a decent thing.

Acting Chairman (Senator John O'Mahony): The debate is over.

Judicial Appointments Commission Bill 2017: Report Stage (Resumed)

Debate resumed on amendment No. 7.

In page 8, to delete lines 22 to 27 and substitute the following:

“ “lay person” means a person who—

(a) does not hold, and has never held, judicial office,

(b) is not, and never has been, the Attorney General, the Director of Public Prosecutions, the Chief State Solicitor or a law officer,

(c) is not, and in the relevant period specified in *subsection (2)* for the purposes of this paragraph, was not, a practising barrister or a practising solicitor, and

(d) does not hold or occupy, and has never held or occupied, an office or position in a place outside the State equivalent to an office or position referred to in *paragraph (a)* or *(b)* and is not, and in the relevant period specified in *subsection (2)* for the purposes of this paragraph, was not a solicitor or barrister practising in a jurisdiction outside the State in accordance with the law of that jurisdiction;”.

- (Minister for Justice and Equality)

An Leas-Chathaoirleach: Senator McDowell was in possession.

Senator Michael McDowell: When we reported progress last night we were in the process of discussing amendments Nos. 7 to 12, inclusive. I was speaking in particular about amendment No. 7 and I want to reiterate a few points I made, not at great length. Amendment No.

7 is effectively to substitute a new definition of the term “lay person” by adding a paragraph (d) to the existing definition. This paragraph (d) adds to the list of the people who are to be considered lay persons. They are persons who do not hold or occupy, and have never held or occupied, an office or position in a place outside the State equivalent to an office or position referred to in paragraph (a) or (b). These are offices or positions equivalent to the Attorney General, the Director of Public Prosecutions, the Chief State Solicitor or a law officer. As the Leas-Chathaoirleach pointed out to me, the term “law officer” was inserted in the original text of the Bill as meaning “a person employed in the service of the State where a condition for the employment of the person was that he or she was a practising barrister or a practising solicitor”.

The proposed paragraph (d) in amendment No. 7 also states that a lay person “is not, and in the relevant period specified in *subsection (2)* for the purposes of this paragraph, was not a solicitor or barrister practising in a jurisdiction outside the State in accordance with the law of that jurisdiction”. In addition to people who are or have been judges in a foreign jurisdiction of some kind or another, or who are or have been law officers equivalent to the category mentioned in paragraph (b), a further group of people is to be excluded, namely, those who, for the purposes of the relevant period in subsection (2), which is 15 years at the moment, have been a solicitor or barrister practising in a jurisdiction outside the State in accordance with the law of that jurisdiction.

I have pointed out that the phrase “solicitor or barrister practising in a jurisdiction outside the State in accordance with the law of that jurisdiction” is a very unfortunate piece of drafting because effectively it means the law of whatever jurisdiction to which this is supposed to apply has a category of people who equate to solicitors or barristers. As we know, we could possibly say that an advocate in Scotland might or might not be interpreted to be a barrister for the purposes of that clause but when we come to France or Germany, or many of the other member states of the European Union, the distinction between solicitors and barristers is not mirrored in the way purported by this particular section. In fact, what is being said here is that if somebody came to Ireland and remained here for 12 years after having practised in England as a barrister or, let us be charitable to the draftsman, an advocate in France if a purposive interpretation was put on this rather than a literal one, that person would be disqualified from being considered a lay person for the purposes of Irish law.

The value or otherwise of this new paragraph (d) must be judged by what it achieves over the original text the Minister seeks to amend. Effectively it is saying a further category of persons disqualified from being on the commission is being created to exclude people who, within 15 years, had been a practising lawyer in another jurisdiction anywhere in the world. Then we have to ask ourselves why should such a person be deemed unworthy to serve on the Irish judicial appointments commission. At the moment, for instance, the Minister appoints three persons to the Judicial Appointments Advisory Board and none of these exclusions apply. The Minister could, for instance, decide it would be a good idea to have an English judge, a Northern Irish judge, a Scottish judge or whatever, to be a member of the Judicial Appointments Advisory Board just to bring a different perspective and perhaps a common law perspective from a different jurisdiction with a view to improving the spread of ideas on the question of who should or should not be recommended for judicial office to be appointed by the Government by advising the President to do so.

I do not know why it is considered the case that a retired English judge should never in any circumstance serve on the Irish judicial appointments commission. Why would the Minister say that? What logic would there be that no such person could ever serve? He or she would

not be eligible to serve under any of the other provisions of the Bill, as drafted. Somebody who within the past 15 years has experience of a foreign jurisdiction as a practitioner is likewise somebody whom the Minister wants to exclude from ever being appointed to this commission. The only Irish practitioners of law that will be on the commission will be a nominee of the Bar Council and a nominee of the Law Society. The Minister is taking steps to ensure anybody who had any equivalent experience will never be capable of being added on because he or she would have to be a lay person. Such people are permanently prohibited from being appointed.

This being the Minister's own proposal, I do not understand why exactly he wishes to extend this area of disqualification. Does he think that a future Government might try to circumvent - I do not know what - a policy of having a lay majority by having somebody with foreign experience of a legal system or actual experience of practising in a foreign jurisdiction at some stage in the distant past, perhaps 12, 13 or 14 years ago? Does he think this will improve the commission? I have to say I cannot understand why this change is being made. To be honest, it never occurred to me that anybody had in contemplation the making of such an appointment but to prohibit it required a degree of ingenuity and determination that I cannot really follow.

I cannot understand why a retired High Court judge from Northern Ireland should not be capable of sitting on our judicial appointments commission at all in any circumstance whatsoever. That person is, by some mark of Cain, excluded as wholly unsuitable and a person who may never serve on our commission. There is no logic to this.

Senator Rónán Mullen: On a point of order, am I, under Standing Orders, allowed to offer Senator McDowell a point or to ask for clarification of what he is saying in the course of his speech?

Senator Michael McDowell: I have no problem with that.

Senator Rónán Mullen: Is it the position, as Senator McDowell understands it, that this bar on the appointment of a former judge of a foreign jurisdiction applies to a certain period of years?

Senator Michael McDowell: That is one of the great mysteries.

An Leas-Chathaoirleach: Senator Mullen is entitled to his intervention, provided Senator McDowell gives way.

Senator Michael McDowell: I am happy to explain that to the Senator. If he looks at paragraph (d), there are two parts to it and the first part states that a person is a lay person if he or she: "has never held or occupied, an office or position in a place outside the State equivalent to an office or position referred to in *paragraph (a) or (b)*". There is no time limit whatsoever on that. The amendment continues: "and is not, and in the relevant period specified in subsection (2) for the purposes of this paragraph, was not a solicitor or barrister practising in a jurisdiction outside the State in accordance with the law of that jurisdiction". Subsection (2) is the 15-year period.

Senator Rónán Mullen: If I may seek clarification from Senator McDowell, the bar is on somebody who practised as a barrister or solicitor outside of the jurisdiction-----

Senator Michael McDowell: Correct.

Senator Rónán Mullen: -----more than 15 years ago?

Senator Anthony Lawlor: Is this a private conversation?

Senator David Norris: That would be rude.

An Leas-Chathaoirleach: I am advised that Senator Mullen is entitled to an intervention, provided that Senator McDowell gives away.

Senator Anthony Lawlor: Is the Senator speaking through the Chair?

Senator Rónán Mullen: This may end up being voted on. I am only interjecting to the extent that Senator McDowell is willing to facilitate my understanding of this. If I understand correctly, from what Senator McDowell is saying, a person who practised as a barrister or solicitor in a foreign jurisdiction more than 15 years previously and has not done so for 15 years is not deemed tainted, so it is the equivalent of a spent conviction in that regard.

Senator David Norris: It is a long quarantine.

Senator Michael McDowell: That seems to be the intent of the section. One requirement is that a person has never held a judicial or law officer position in a foreign jurisdiction. The second is that a person has never, in the last 15 years, practised as a solicitor or barrister in a foreign jurisdiction.

Senator Rónán Mullen: Does Senator McDowell have a view as to why the 15-year bar applies to one category but not to the other?

An Leas-Chathaoirleach: We cannot have constant questions.

Senator Michael McDowell: I agree with Senator Mullen's point. There is a remarkable discordance, that one could ignore experience as a barrister or a solicitor if it was more than 15 years ago but in the case of a retired or former judge, one cannot ignore any period at any time in the past. It disqualifies the person completely. That was the point that I was trying to make and I hope that I was not unclear in what I am saying. One group of people is permanently and by definition excluded, no matter how long ago they held judicial office or functions similar to that of the Director of Public Prosecutions or Attorney General outside the State. It is easy, with regard to paragraph (b), to be distracted by the fact that the person is not and never has been the Attorney General, the Director of Public Prosecutions, the Chief State Solicitor or a law officer.

The term "law officer" is defined as meaning somebody employed in the service of a state. I presume that we are talking about the service of a foreign state. The definition that was added states: "a condition for the employment of the person was that he or she was a practising barrister or a practising solicitor". Does that apply to advocates in Germany and to various forms of lawyer around Europe or is it solely directed at common law jurisdictions where such categories actually exist? We are left in the dark about that. Even taking the most charitable and constructive view of it, we are left with the dilemma that a person who held judicial or law officer status is permanently and forever excluded from ever serving on the Irish judicial appointments commission, no matter how distant in the past that service was. If a person was, at any stage in his or her life, a barrister or solicitor practising in a jurisdiction outside the State in accordance with the law of that jurisdiction during the qualified period, which is 15 years, that person is subject, as Senator Norris puts it, to a 15-year quarantine.

Senator Rónán Mullen: It seems to suggest an ontological change in judges of a kind normally associated with priesthood.

Senator David Norris: It is called menopause.

Senator Michael McDowell: That is a point that Senator Mullen can make himself. Why was paragraph (d) cooked up? Who sat down and thought that this possible loophole had not been sealed off, that somebody with judicial experience abroad might crawl through a crack onto this commission at some stage, greatly to the detriment of the theory of the Minister, Deputy Ross, that this kind of person is never to be trusted because of his or her experience to behave in other than a cronyish way?

Senator Rónán Mullen: Their names should be put on a register.

Senator Michael McDowell: On the back of all of this, as we come to it at some stage over the next few months, the definition of a lay person is relevant in the sense that such a person could be appointed as a suitable person by the Public Appointments Service process and be agreed to by the two Houses of the Oireachtas. This filtration in paragraph (d) is remarkable, given that the only way lay persons, other than *ex officio* people and practitioners, are going to find their way onto the judicial appointments commission is through a very complex process whereby they have to apply to be appointed. The Public Appointments Service has to vet them, recommend them and short-list them. That recommendation has to come before the Houses of the Oireachtas to be approved. It is not as if some wholly unworthy person or a person with a terrible original sin of knowing anything about the law is going to sneak in by some ministerial-----

Senator David Norris: Misadventure.

Senator Michael McDowell: -----misadventure or nod and wink operation into this commission. A lay person will never appear on this commission unless he or she goes through the evaluation and suitability tests which will be set out for lay persons. That is why I consider this such a gratuitous and pointless amendment. I have not heard any explanation of why it is necessary. What was wrong with the original definition of a lay person? Why was it necessary to say that somebody from outside the jurisdiction with legal appearance might get through the Public Appointments Service and past the Houses of the Oireachtas, which would be a terrible thing? The only explanation can be is that there is a madness at the heart of this legislation, which is that lay persons must be in a majority because anybody who has any experience other than as a total lay person is in some sense inferior at making choices for recommendations.

Senator Rónán Mullen: Compromised and partisan.

Senator Michael McDowell: Deputy Mullen will take-----

Senator Rónán Mullen: That would be another kind of ontological change.

Senator Michael McDowell: Sorry, Senator Mullen. Perhaps Senators Mullen and-----

Senator Rónán Mullen: Norris - the one and only.

Senator Michael McDowell: Senator Norris. I was going to call him Deputy Ross.

Senator David Norris: My God.

Senator Michael McDowell: Perhaps Senators Mullen and Norris will see this as a kind of original sin, the sin being that one ever knew anything about law.

Senator Rónán Mullen: That one ate from the tree of knowledge.

Senator Michael McDowell: That is the original sin from which one needs redemption of 15 years in purgatory. Alternatively, it could be that from the very beginning one is damned because one wore a judge's robe.

Those are my objections to the paragraph proposed in amendment No. 7. The Minister has not told us why it is necessary to close this "loophole", especially in light of the fact that a lay person would have to go through an immense vetting process in which lawyers would have no input whatsoever. A retired judge or a person who has been ten years out of practice abroad who came and asked to be on this commission would therefore not be judged by lawyers as to his or her suitability; he or she would be judged by the Public Appointments Service procedure. There would be a public advertisement and a recruitment process, and the recommendations would be made to the Minister, who would then put them before both Houses of the Oireachtas. That is how people would end up on the commission. Why are we singling out even more candidates as incapable of going through this process? No case has been made for this and it should not be permitted. I do not know where the idea came from. It was never raised, as far as I know, on Committee Stage in this House. I am not querying whether the amendment is potentially out of order on that account but I am making the point that no one ever came up with this wild theory that some foreign lawyer might somehow escape the sieve of the Minister, Deputy Ross, get through the system and end up on the judicial appointments commission.

Amendments Nos. 8 and 9, as the Leas-Chathaoirleach helpfully pointed out, will fall aside if amendment No. 7 is agreed to. Amendment No. 9 proposes, in respect of the original text, to add to paragraph (b) of the definition of a "lay person" the exclusion of members of An Garda Síochána, in other words that a person cannot be or have been an Attorney General, a DPP, a Chief State Solicitor, a law officer or a member of An Garda Síochána. I would have thought the Minister would have accepted that amendment. Are superintendents and other members of An Garda Síochána, having completed their terms as members of the force, when they prosecute to be capable of being regarded as lay persons when they retire whereas solicitors who have defended such people whom inspectors, sergeants and superintendents prosecuted are not capable of being seen as lay persons for 15 years after they retire? That is an interesting point because sergeants, inspectors and superintendents act as prosecutors in court, that is, they prosecute people before judges. That is illogical, and I would have expected the Minister to accept that amendment. I presume it is in order for the Minister to say he would expand his definition of paragraph (b) to include members of An Garda Síochána because they are just as much prosecutors and practitioners in the District Court in many respects as a good deal of solicitors, some of whom never darken the doors of courts at all. Many solicitors never go to court and never have anything to do with the courts system. They are in massive palaces all around this city - God bless them, I have no objection to them - and can specialise in activities which have nothing at all to do with the judicial process. They can sit in offices advising on murders, acquisitions, conveyancing matters, commercial contracts and all sorts of other things and never darken the doors of courts and never see the inside of one. I remember a very eminent senior colleague of mine and I were waiting for a case to go on-----

Minister for Justice and Equality (Deputy Charles Flanagan): Is this relevant?

An Leas-Chathaoirleach: I am not exactly sure but-----

Senator Michael McDowell: I was just going to examine the matter. An eminent colleague of mine asked why we were waiting, why we were delayed. I said it was because the judge on whom we were waiting was charging a jury. This colleague said to me he had never heard of this and asked what was going on. I suggested he put his nose in. He came out a couple of minutes later and said, "That is amazing." It just struck me that one could live one's life completely oblivious to what happens in courts yet be a very eminent practitioner. I am just making the point that it is proposed on the one hand to allow officers of An Garda Síochána who themselves act as prosecutors, without the aid of lawyers, to be regarded as lay persons after they retire and, on the other, to deem unsuitable people who have spent their whole lives, or part of their lives, engaged in conveyancing and to disqualify them from serving on this commission. The disproportionate discrimination between these two things is fairly obvious.

Amendment No. 11 goes hand in hand with amendment No. 7. That is just technical. Amendment No. 12, however, concerns a serious point. Again, the Minister could have accepted amendment No. 12 or his own variation of it. Why is the proposed period of quarantine 15 years? If someone has not been a practising lawyer or solicitor for seven, eight, nine, ten, 11 or 12 years, why can he or she not be considered a lay person, albeit one with perhaps a bit of experience and knowledge of the law but nonetheless capable of being a member of the commission? If one believes in the whole idea of quarantine and that existing practitioners might have some skin in the game, surely three or five years would be quite sufficient to ensure that people were cleansed of the awful taint of having their hands dirtied by the process of litigation, which presumably is why such people are being excluded. Somewhat laughably, a spouse of a judge or barrister is entitled to serve as a lay person - there is no problem with that. Close family members of lawyers are entitled to be on the commission, but the terrible thing is that people who actually do the job themselves are, as I said, in this sense tainted with the mark of Cain, this original sin that must be either a basis for excluding them forever in the case of certain office holders or the basis for requiring them to go through a quarantine period of 15 years on the basis of what the Minister, Deputy Ross, demands as a purgation of their potential disloyalty to the idea of having a role in choosing members of the Bench. I have not seen any justification offered for the period of 15 years. It is an immensely long period of time. I will give an example. If somebody studies law, and there is no problem about studying law, that person can have as many BCL degrees as he or she wants and still be considered a layperson. The big sin is, for a couple of years, trying and perhaps finding that his or her talents lie elsewhere and then going elsewhere. The big sin is that that experience of knowing what the courts were like for a short period of two or three years somehow renders the person unsuitable for a period of 15 years of being regarded as being on the same plane as the spouse of a serving judge, or something like that. I simply do not understand it.

This latest paragraph in the Minister's amendment No. 7 and the insistence on keeping the 15-year quarantine period demonstrates a hostility towards lawyers and towards legal experience having any positive benefit for somebody who is appointed a member of the commission as a lay person after an exhaustive assessment procedure by the Public Appointments Service. It demonstrates a hostility that is almost pathological. Again, I make the point that one could be a doctor of law-----

Senator David Norris: I am.

Senator Michael McDowell: That is because the College of the Holy and Undivided Trin-

ity decided to confirm that bauble on Senator Norris.

Senator David Norris: It is a bauble. He is absolutely right.

Senator Michael McDowell: One could be a doctor of law, not *honoris causa*, and could be considered a layperson for this Bill. However, the person's big sin is that if he or she pokes his or her nose inside a court for a couple of years, that person is tainted forever. It is ridiculous and it should not be permitted to be part of our law.

Senator David Norris: I want to address a matter Senator McDowell referred to in his contribution on amendment No. 9. I would have thought a garda would be considered a law officer because gardaí implement the law and they are certainly part of the legal function.

Senator Michael McDowell: They do not fit the definition.

Senator David Norris: I know, but that is a bit odd and vague. Turning to Government amendment No. 7, I am a little surprised the Minister has not included academics in this. Could he explain to the House why, having excluded judges, barristers, solicitors and all the rest, he lets academics in? The Minister is shaking his head but I do not know quite what that means.

Senator Martin Conway: Senator Norris wants to include gardaí, which is ridiculous.

Senator David Norris: It is ridiculous. The Senator is 100% correct. It is completely ridiculous legislation.

Senator Martin Conway: Senator Norris wants to include gardaí. It is madness.

Senator Michael McDowell: I take it Senator Norris is referring to legal academics.

An Leas-Chathaoirleach: Senator Norris, without interruption.

Senator David Norris: I want to turn to the contentious paragraph (d). What I find interesting is that it reads, "for the purposes of this paragraph, was not a solicitor or barrister practising in a jurisdiction outside the State in accordance with the law of that jurisdiction". There are many different legal systems in operation, some of them quite different from the common law system that is operation in this country. I simply do not understand why administering a totally different system of law should possibly disqualify somebody from acting in this situation. It is absurd. For example, the French system is quite different in terms of the way it is prosecuted and the whole legal framework and background is totally different. Why on earth that should disqualify somebody from administering the law in this jurisdiction is completely beyond me.

Amendment No. 8, in my name, which may or may not fall depending on what happens to amendment No. 7, reads, "In page 8, to delete lines 22 to 27", which concerns the definition of "lay person". The Bill reads:

"lay person" means a person who-

(a) does not hold, and has never held, judicial office,

(b) is not and never has been the Attorney General, the Director of Public Prosecutions, the Chief State Solicitor or a law officer, and

(c) is not, and in the relevant period specified by *subsection (2)* for the purposes of

this paragraph, was not, a practising barrister or a practising solicitor.

I want to get rid of all that content on the definition of “lay person”. I disagree fundamentally with the idea that there should always be a majority of laypersons on the commission.

Amendment No. 10 reads, “In page 8, to delete lines 33 to 37.” This deals with the period of time. In this regard, the Bill reads:

The relevant period for the purposes of *paragraph (c)* of the definition of “lay person” in *subsection (1)* is the period of 15 years immediately preceding the latest date on which a person may apply to participate in the selection process (whereby a recommendation for his or her appointment to the Commission may be made by the Public Appointments Service).

A period of 15 years is astonishingly long. It is an enormous amount of time. If we go 15 years back from this date, it is to 2004. People of my age can hardly remember 2004.

An Leas-Chathaoirleach: The Senator has been in this House twice that length or more.

Senator David Norris: I have.

Senator Michael McDowell: He will have been speaking for a similar length fairly soon.

Senator David Norris: It is an absurd amount of time to put in. I wholeheartedly agree with Senator McDowell’s amendment No. 12, which seems perfectly reasonable and moderate because it replaces “15 years” with “3 years”. I think three years is plenty. I do not see why they should be disinfected at all, but if the Minister is going to do it, three years is a perfectly reasonable amount of time.

To go back to the deletion of lines 33 to 37, the purpose of my amendment is to delete subsection (2) of section 2. That subsection effectively defines the term “relevant period”. The term “relevant period” is used in the definition of “lay person” and provides 15 years as the minimum period that a barrister or solicitor is required to cease to practise to enable him or her to be considered a layperson for eligibility to serve as a lay member of the judicial appointments commission. For the reasons I have given, I completely oppose that.

Senator Victor Boyhan: I wish to speak first on amendment No. 7. This is a Government amendment that further adds to the definition of what a layperson is under the Bill, adding a subsection (d) to ensure that no legal practitioner from outside the jurisdiction might constitute a layperson. It seems the Minister for Transport, Tourism and Sport, Deputy Ross, is truly a believer in the conspiracy theories of the deep state and is so afraid that someone will try to crusade against the Judiciary in this State, which is absurd in itself. All legal practitioners who work overseas are to be banished from having any role or be viewed as a layperson - from the ridiculous to the sublime, one might say. Even the Minister for Justice and Equality must find it hard to defend this Government amendment but we look forward to hearing his response.

We have been well over 100 hours debating these matters in the Seanad, where no Member mentioned the necessity of banishing foreign legal practitioners from having a role on the judicial appointments commission. This is the first amendment the Government has put forward.

Senator David Norris: On a point of order, and not meaning to interrupt, is the Government covered by the same restrictions, given the fact that, to put forward an amendment, it has to be mentioned on Committee Stage?

An Leas-Chathaoirleach: It has to arise out of committee proceedings.

Senator David Norris: Therefore, the Minister is governed by that.

An Leas-Chathaoirleach: He is.

Senator David Norris: If he did not mention it on Committee Stage-----

An Leas-Chathaoirleach: The Minister is within his right because it is deemed to arise out of committee proceedings.

Senator David Norris: Did he mention this?

An Leas-Chathaoirleach: It is deemed to have arisen out of committee proceedings.

Senator David Norris: I am not sure quite sure what the Leas-Chathaoirleach means by “deemed”. Either it arose or it did not. Either he mentioned it or he did not. I am asking a simple question. Did the Minister mention it?

An Leas-Chathaoirleach: He does not have to. It is deemed to have arisen out of committee proceedings. The general point has to have arisen and it did. That is our understanding.

Senator David Norris: That is a complete and utter nonsense.

An Leas-Chathaoirleach: That is what I am ruling.

Senator David Norris: That is a complete and absolute nonsense.

Senator Michael McDowell: I am quite happy with that generous approach to the matter.

An Leas-Chathaoirleach: That is the position.

Senator Victor Boyhan: To be clear, I have checked it. After all the debate, nobody in this Seanad mentioned the necessity of preventing foreign legal practitioners from having a role on the judicial appointments commission. We are open to correction on this; this is the process. This is the first amendment the Government has put forward. The Minister may say what he has to about this in a minute. What is the point in having us debate this legislation at all if our views are just cast aside to be ignored in favour of whatever the Minister for Transport, Tourism and Sport, in this case Deputy Ross, wants? It is ridiculous. The Minister is no longer a Member of this House. He does not interfere in the management of it and I hope he would not interfere with the work of Deputy Charles Flanagan as Minister for Justice and Equality, which work I acknowledge he does well.

I am curious as to whether this amendment, if we as Members of the Seanad had submitted it, would even have been accepted under Standing Orders. Clearly, there is a theme running through all this. This needs to be examined, taking into account our Standing Orders, given that there was zero debate on this question.

Senator David Norris: Could the Leas-Chathaoirleach answer the question?

An Leas-Chathaoirleach: There was extensive discussion on Committee Stage as to who could or who could not-----

Senator Victor Boyhan: There was zero debate on this matter.

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Senator David Norris: It was not mentioned.

An Leas-Chathaoirleach: It was. It was extensively discussed.

Senator Michael McDowell: I am a liberal on this matter.

An Leas-Chathaoirleach: Senator McDowell is happy. Does the Minister wish to add anything?

Deputy Charles Flanagan: No.

Senator Victor Boyhan: I am not finished.

An Leas-Chathaoirleach: I apologise to the Senator. I believed he was finished.

Senator Victor Boyhan: I was allowing the Leas-Chathaoirleach to speak.

What is this all about? We need some explanation. The stenographers do a great job here. There are many hours so there is a lot of reading. By doing a few word searches, it is quite easy to find out what happened or did not happen in this House. Why is the Minister for Transport, Tourism and Sport so afraid of persons who may have had legal experience abroad having a function on the judicial appointments commission? What is everyone afraid of? What is the problem? What are the Minister's difficulties?

In every walk of life, international experience is beneficial. In the medical profession, doctors have been upskilling overseas for decades. Our health system has benefited from this. In business, almost all the entrepreneurs in this country are individuals who have exported goods, services or experiences abroad, including across the world. In education, the Erasmus+ programme is one of the greatest achievements of the European project. It connects students to universities and provides them with an unrivalled opportunity to learn new things and about other cultures. Therefore, what is the motivation behind the little Ireland approach whereby only those who are strictly laypersons who have never gained any legal experience abroad need apply? That is clearly the message. This amendment and its motivation beggar belief. I would appreciate the Minister's response but I recognise commenting is his prerogative.

An Leas-Chathaoirleach: Does the Minister not wish to comment?

Deputy Charles Flanagan: I do.

I find it staggering that Senators are in such a lather over this issue. I am merely putting non-laypersons in this jurisdiction on the same footing as non-laypersons from outside the jurisdiction. It is perfectly normal. I do not see any circumstances in which we should be constrained from appointing a person who practised here as a barrister and who was for a period a layperson, bearing in mind the possibility of appointing a similar person from, say, any other part of the United Kingdom. I do not believe a constraint would be fair. I find it staggering to listen to Senators work themselves up into a frenzy over an issue that is merely a matter of form in the context of treating people outside the jurisdiction in the same manner and by the same means as people from within the jurisdiction. It entails no more and no less. There is no conspiracy, no secret and no cover-up.

Senator David Norris: The Minister only mentioned common law countries; he did not mention the continental countries.

An Leas-Chathaoirleach: The Senator has made his contribution. I cannot allow further discussion.

Amendment put.

The Seanad divided by electronic means.

Senator David Norris: I wonder whether, in order to prevent an outbreak of deep vein thrombosis, we could have a walk-through vote.

Senator Martin Conway: I object.

Amendment again put:

The Seanad divided: Tá, 16; Níl, 7.	
Tá	Níl
Burke, Paddy.	Boyhan, Victor.
Buttimer, Jerry.	Gallagher, Robbie.
Byrne, Maria.	Leyden, Terry.
Coffey, Paudie.	Marshall, Ian.
Conway-Walsh, Rose.	McDowell, Michael.
Conway, Martin.	Mullen, Rónán.
Lawless, Billy.	Norris, David.
Lawlor, Anthony.	
Lombard, Tim.	
McFadden, Gabrielle.	
Noone, Catherine.	
O'Donnell, Kieran.	
O'Mahony, John.	
O'Reilly, Joe.	
Ó Donnghaile, Niall.	
Richmond, Neale.	

Tellers: Tá, Senators Gabrielle McFadden and John O'Mahony; Níl, Senators David Norris and Michael McDowell..

Amendment declared carried.

An Leas-Chathaoirleach: Consequent on the result, amendments Nos. 8 and 9 cannot be moved.

Amendments Nos. 8 and 9 not moved.

Senator David Norris: I move amendment No. 10:

In page 8, to delete lines 33 to 37.

Senator Victor Boyhan: I second the amendment.

Amendment put.

27 November 2019

The Seanad divided by electronic means.

5 o'clock

Senator David Norris: I call a walk-through vote.

Amendment again put:

The Seanad divided: Tá, 9; Níl, 17.	
Tá	Níl
Boyhan, Victor.	Burke, Paddy.
Davitt, Aidan.	Buttimer, Jerry.
Freeman, Joan.	Byrne, Maria.
Gallagher, Robbie.	Coffey, Paudie.
Leyden, Terry.	Conway-Walsh, Rose.
Marshall, Ian.	Conway, Martin.
McDowell, Michael.	Devine, Máire.
Mullen, Rónán.	Gavan, Paul.
Norris, David.	Lawlor, Anthony.
	Lombard, Tim.
	McFadden, Gabrielle.
	Mulherin, Michelle.
	Noone, Catherine.
	O'Donnell, Kieran.
	O'Mahony, John.
	O'Reilly, Joe.
	Richmond, Neale.

Tellers: Tá, Senators David Norris and Victor Boyhan; Níl, Senators Gabrielle McFadden and John O'Mahony.

Amendment declared lost.

Debate adjourned.

Provision of Accommodation and Ancillary Services to Applicants for International Protection: Statements

Minister for Justice and Equality (Deputy Charles Flanagan): I am pleased to have the opportunity to make a statement to the House on the matter of supports for international protection applicants. We had a thoughtful and respectful debate on this issue in the other House on 13 November. I am sure today will be the same. I simply want to reflect on the fact that the in-

ternational humanitarian laws which we are bound by as proud and active members of the United Nations, have their origins in horrendous conflicts - not least the Second World War. That gargantuan conflict began on this Continent and resulted in tens of millions of people being persecuted, displaced, starved and killed. The passage of time and the success of the European Union in bringing peace to this part of the world may have contributed to an occasional complacency or ambivalence towards the plight of those fleeing conflict, but I believe that we need to not only honour our commitments to those seeking asylum but also to honour their origins.

The EU has now developed its own body of law dealing with these issues. Ireland, like other countries, is obliged by EU and international law to examine the claim of any person who comes here and claims international protection, also known as asylum, under clearly defined grounds and circumstances. These grounds relate to a well-founded fear of persecution for reasons of race, nationality, religion, political opinions or membership of a particular social group, or where the person would be at risk of suffering serious harm if returned to his or her home country. Sadly, each of these grounds arose not from theory but from real life situations endured by people in their countries of origin. It is important that we bear this in mind during our discussions on this issue. While we can all appreciate the desire to create a better life for ourselves and our loved ones that, in itself, does not meet the strict qualifying criteria for international protection.

Once a claim is made, a legal process is set in train. While that process is under way, we offer a range of State services to applicants without means, including food, accommodation, health services, utilities and educational provision for children. In general, and in common with most other EU member states, these services are offered in centres which have over the years allowed for the swift provision of services to applicants. In the past many applicants did not avail of the services on offer but that situation has changed in recent times. I want to make clear that there is no obligation to accept the offer and there is no restriction on an applicant's freedom of movement throughout the State while these offers are being made.

I have heard people falsely describe the centres as places where people are unlawfully detained or incarcerated. I have heard these places described as open prisons. I have heard them described as places of custody. I have heard them described as places that are inhumane. As my colleague, the Minister of State, Deputy Stanton, stated in the recent debate in the other House, once people start using that language they are saying that asylum seekers in some way deserve to be locked up, that they are prisoners and they are creating fear. We must be careful about our language because such language is not correct. Such language is false. It is wrong. I would go further and say that language is dangerous.

Some Members of this House will remember the context of the introduction of direct provision 20 years ago this month. The then Government opted to move away from a system of allowances where applicants essentially fended for themselves with financial help from the State, to a centre model where services are directly provided to residents. The reasons for this move included the prevalence of homelessness among applicants and the vulnerability of many, including to human traffickers.

Since the introduction of direct provision, over 65,000 people have been helped by the system. It is no surprise that at the moment of its creation the system was not perfect; indeed, it had many flaws. Over the years many people have blithely called for its abolition or repeated untrue rumours about the nature of the direct provision. I am not aware of anyone who has proposed a workable alternative for service provision but I am open to engaging with anyone who wishes

to do so. I made this offer during the Dáil debate and I repeat it here in the Seanad. What this Government and its predecessor have focussed on is identifying and systematically addressing the flaws in the direct provision system to ensure that we provide the best possible services to applicants in the best possible way.

Direct provision is a guarantee of shelter, food and a place of safety to a person who claims international protection on the basis of a well-founded fear of persecution for reasons of race, nationality, religion, political opinions or membership of a particular social group, or where that person would be at risk of suffering serious harm if he or she were to be returned. Any credible alternative put forward to replace the system must be capable of providing the wrap-around services that applicants need on arrival. They are seeking protection in a strange country where they may not know the language or customs - they certainly would not know the law. Recognising the complexity of their needs, supports and services for international protection applicants are delivered under a whole-of-Government approach.

Last year, our reception system was placed on a statutory footing for the first time when the Government decided to opt in to the EU (recast) reception conditions directive. This directive brings with it a series of standards and rights for applicants, which we are now legally obliged to deliver. I am pleased that in Ireland we can now be confident that our services are on a par with those in other EU countries. In fact, in many instances, our services are much better than the services which obtain in many fellow EU countries. Opting in to the directive built on a concerted effort to tackle many of the shortcomings in direct provision through a working group chaired by Mr. Justice Bryan McMahon. I would like to take this opportunity to thank Mr. Justice McMahon for his dedicated work – along with all those who assisted him on the working group. I want to also acknowledge the leadership shown by the former Minister for Justice and Equality, Mr. Alan Shatter.

Arising from the McMahon report significant improvements have been introduced in recent years, such as the roll-out of independent living where applicants can cook for themselves, and private living spaces for families. Residents also now have access to the services of the Ombudsman and the Ombudsman for Children. Indeed, I was pleased to hear the comments of the Ombudsman, Mr. Peter Tyndall, speaking at the Joint Committee on Justice and Equality on 25 September last. Referring to other centres that had opened recently in places such as Lisdoonvarna and Wicklow, the Ombudsman stated that “it was important to note in the current context that a lot of the supposed outcomes – in terms of opening a centre, in terms of integrating communities – have not transpired”. Mr. Tyndall also stated that people should treat others as they would wish to be treated. That is a simple but powerful message that we should all try to live by.

In line with the EU directive I have referenced, access to the labour market is provided for applicants who are waiting nine months or more on a first instance decision on their protection application. This means that applicants can become economically independent giving them more options regarding their accommodation and living arrangements. To date, I have granted labour market access permission to more than 3,400 eligible applicants, including over 2,500 to residents in accommodation centres, and further applications are being approved on a daily basis.

In addition to the improvements that are being made to living standards and conditions, we are also speeding up the processing of protection applications. I accept that this needs to be quicker and we continue to strive to improve matters. My Department is taking all reasonable

measures to achieve this while acknowledging that the processing of applications is complex and that each application deserves and receives an individual assessment. Earlier this month, the international protection office commenced interviews by video conference with applicants based in Cork. This gives us greater flexibility to meet the needs of international protection applicants nationwide and it is planned to roll out this service in other locations shortly. I sought and achieved an additional €1 million under the Justice and Equality Vote in the budget, which will allow for extra staffing resources to further improve processing times of cases on claims and applications.

The International Protection Act 2015, steered through the Oireachtas by my predecessor, Ms Frances Fitzgerald, MEP, introduced a single application procedure for the first time. This involves all elements of a person's protection claim - refugee status, subsidiary protection status and permission to remain - being considered together rather than sequentially as before. The aim of the single procedure is to help reduce waiting times significantly and to ensure that we are identifying at the earliest stage possible those who need our protection and those who can safely return to their home country. From time to time, cases where applicants have lived in an accommodation centre for many years crop up in the media and these are understood to be the norm. That is far from an accurate picture. Where an applicant is in a centre for many years, there is generally a complex set of reasons. For example, it may involve a case where an applicant has received a negative decision, or a series of negative decisions on his or her application, and is exercising the right to appeal. This can often be through the courts which can take some time. An applicant with a negative decision may be a family member of another person or persons with a live application and we strive not to split up families.

While it is our wish that those granted permission to remain would move on from our centres to allow new applicants access to services provision, there are almost 850 people with status or permission to remain continuing to live in our centres. My Department is assisting these people to access mainstream housing with the support of organisations like DePaul Ireland and the Peter McVerry Trust. We are making some progress in this regard and I acknowledge that partnership between my Department and these agencies.

Continuing to accommodate people who are no longer in the protection process, combined with a 60% increase in applicants this year, is placing considerable strain on our reception system. As a result, a considerable number of people are now being accommodated outside of our centres in commercial hotels and guest houses on an emergency basis. This is not a satisfactory situation and one I want phased out as soon as possible. Accordingly, it is essential that new accommodation centres are opened in order that the full range of services can be delivered in a structured manner to persons seeking our protection.

My Department is running procurement competitions on a regional basis throughout the country to find and secure accommodation. My preference would be to locate any new accommodation centres in larger urban centres but that option is not always open to my Department. Indeed, in the current climate, it is rarely open to us. Rapidly increasing numbers of applicants mean we need to identify and open centres quickly. We tender and a commercially sensitive procurement process is undertaken. The negotiation is with the proposed provider who is generally required to complete mobilisation works in line with our standards.

I am keenly aware of the dissatisfaction expressed by communities who hear through a rumour mill that a centre might be opening in their area. If the contractual arrangements are not finalised, these communities feel frustrated when the Department is unable to publicly com-

ment. I, and in particular my colleague the Minister of State, Deputy Stanton, have spoken to many people in this situation. It was also raised by several Deputies during the Dáil debate and I expect Senators will have similar views. The common concerns expressed relate to service provision, education, health, transport and so on. Where a centre is opening, it is the responsibility of the Government to ensure that provision is made for any additional services required. It is clear we need to communicate clearly and promptly with communities on these issues to provide them with the information and the reassurances they need. We do not spontaneously create hotel rooms or apartments or other accommodation in a location when we propose to open a centre. These accommodation facilities already exist and could be fully occupied by anyone at any time. It should not create an issue that the occupants happen to be international protection applicants, however.

I remind communities that accommodation centres are not new. They are located all over the country and community relations are harmonious in all of these locations. I am familiar with the centres located in my constituency. There was some unfounded controversy last week about the visiting of centres. May I ask Senators, who under the Constitution might not have constituencies but de facto do having regard to our political system, to visit and become a friend of their local centres so as to become acquainted with and acknowledge the work that is happening there. They will find it a worthwhile exercise. The same goes for local authority elected members who are also leaders in communities.

I was disappointed to see demonstrations outside premises due to house asylum seekers recently. I understand those demonstrating may feel they are sending a message to the Government. They need to be conscious that it is not only the Government which is listening. The people to be given shelter on a temporary basis are also listening, along with every person from a minority background in the country. Far right, anti-immigrant activists are also listening and looking for opportunities to incite fear and hatred, as far right groups have done throughout history. I am appealing directly to all of our people, but also to people who have the opportunity to speak up to show support for asylum seekers and refugees and for the local communities being asked to welcome them. I commend the community in Borrisokane, County Tipperary, and its public representatives for their positive approach to the new centre recently opened in their town. Their constructive engagement with my Department has ensured that 16 families will spend this Christmas in their new homes surrounded by a supportive and welcoming community.

As part of our continued commitment to improving the lives of asylum seekers in the State, the Minister of State, Deputy Stanton, and I have recently published new national standards for accommodation centres. We have also established two groups to review the reception system in the context of the State's commitment under the EU directive, as well as to examine how we can continue to improve conditions and communications. We need to improve and get right communications. An interdepartmental group, chaired by the deputy Secretary General of my Department, has been established to ensure all Departments are proactively delivering on their responsibilities. There is a responsibility on the Departments of Health, Housing, Planning and Local Government and Community and Rural Affairs, particularly with centres going into small rural communities. We must respond with a whole-of-Government approach. The group is reviewing the management of applicants for international protection, considering the short to medium-term options which could be implemented in addition to, or in replacement of, the existing system, as well as the implementation by all parties of the State's obligations under the directive.

The new head of the International Organisation for Migration just this week stated that the housing of asylum seekers seeking international protection in Ireland is not a bad system and compares favourably with those of other European countries. The second group is a consultative group chaired by Dr. Catherine Day, the former Secretary General of the European Commission. This group, which is currently being established, will advise on the implementation of the new national standards. It will also identify good practice in other European countries, examine international protection and migration trends and advise on developing positive relationships between local communities and the systems for supporting asylum seekers. A chairperson like Dr. Catherine Day will be independent of me in the manner she goes about her business in this regard. Mr. Justice Bryan McMahon performed a good service in this regard, as indeed has Judge Paddy McMahon. Both men offered advice to the Department from time to time and acted in a wholly positive way. We need to continue to develop relationships of a most positive nature between local communities and the systems in place to support asylum seekers and those seeking international protection.

I look forward to the outcomes of their important work and to hearing the contributions from Senators in today's debate. On my behalf and that of the Department and the Minister of State, Deputy Stanton, in particular, who spends a significant amount of his time dealing, or should I say grappling, with issues because they are complex and difficult, I commit to engagement with Senators and invite them to engage with me in a positive way because we need to ensure that our own national legal obligations are fully complied with. I would go as far as to say that we have a moral obligation, but I accept that this is something on which Senators may have a different opinion. We are not a House of morals. I believe we have a moral obligation and duty to those seeking international protection on our shores. Let us work on this together because we can improve it. We need to get it right but we need to ensure that in the course of improving matters, we do not give oxygen to those in our community and from elsewhere who are stoking up fears from outside communities to allow them to gain root. This would be a tragedy that would compound the tragedy being faced by the vast majority of people seeking international protection in our country.

Senator Billy Lawless: I welcome the Minister to the Chamber. I am really pleased to hear the words he said and to have the opportunity to discuss the issue of direct provision, or as it is correctly phrased on the Seanad schedule, "the provision of accommodation and ancillary services to applicants for international protection". That is what we, as a Government and as a nation, have a responsibility for do - to offer refuge and protection to those in need. Last week, when I raised this issue on the Order of Business, I used the word "humanity" and I think we should all remember this. The majority of the men, women and children coming to Ireland are fleeing situations that are not of their own making, and as a State, we have a responsibility to offer protection.

Our own history is indelibly linked to the refugees of today. Irish people sought sanctuary in the US, were shipped to Australia, and went to England for work with the hope of building a new life for themselves and a brighter future for their families. Former President Mary McAleese recently stated that considering their own history, Irish people have no right to be racist. Ireland has become a multicultural country. It is estimated that nearly 20% of our population comes from other countries. These people are now living, working and contributing to the State.

There has been some disquiet recently from some sections that have used unsavoury tactics to put blame on the so-called stranger for some of the economic and social injustices in the

State at present. Thankfully, the true instincts of Irish people are borne out and we see across the country, from Killarney to Carrick-on-Suir to the middle of Eyre Square and Salthill in my own city of Galway, the welcome given by local residents who offer the gift of education in their local schools and help with integration of refugees into the communities in which they reside. I can say from visiting these centres that there is an unbelievable sense of camaraderie and inclusion there. There has been nothing like the type of rhetoric I have heard over recent months in other areas. I very much welcome it and am very proud that in Galway city at least, people are welcoming these refugees. People do not leave their countries with nothing to come to other countries. They want to stay in their own countries and we must offer them refuge. I heard only this week from my Seanad colleague, Senator Lombard, about wonderful things happening in the community of Kinsale where the people there have come together to welcome a family from Syria and help them become part of the community.

Approximately 6,000 asylum seekers are placed in nearly 40 direct provision centres throughout Ireland while there are probably another 1,400 living in other emergency accommodation. It is incumbent on the Government and it is our responsibility as Irish people to do everything within our power to improve the lives of asylum seekers and refugees. My God, we are the last country in the world to talk about racism and to be racist.

I thank the Minister for his statement today, which was a really strong one. I certainly concur with what he said, particularly his call for all Senators and Deputies to visit the direct provision centres in his area and see the people who are there. They are so grateful to be here, number one, and we have a responsibility to look after them.

Senator Martin Conway: I thank the Minister for his contribution and the Minister of State, Deputy Stanton, for his sterling work in this area, which is very complex, difficult and challenging but important in terms of our international obligations and our obligations to people who are vulnerable and who come here seeking our protection. It has been very difficult. I note that this month marks 20 years since the direct provision system was introduced as a way of dealing with this situation. Back in 2002, 3,500 to 4,000 people came to this country seeking our assistance. These are the type of figures that we are dealing with today, so it is significant, challenging and difficult. It is not easy but it is the right thing to do.

There are 39 direct provision centres in this country providing accommodation to people who need it. I do not hear any groups in the areas surrounding any of those centres saying that there are difficulties or challenges. I certainly do not see any of them protesting, lighting bonfires, setting fires or standing outside the gates of any of those centres. I remember all too vividly the challenges, difficulties, perceptions, worries and concerns that existed in Lisdoonvarna back then. When the centre opened, those concerns evaporated very quickly. I remember very clearly a meeting where the vast majority of people were against the arrival of the centre. I would contend that if there was a proposal to close down the centre today, there would be twice as many people attending a meeting to stop it. If people give it a chance, the system is not as bad as it is portrayed. The Minister's comments regarding what has been said about the system are correct.

Mr Justice Bryan McMahon produced a very detailed report and the vast majority of his recommendations were implemented. Compared with when it first started, direct provision today is completely different. It has now met many of the recommendations made by Mr. Justice McMahon. Yes, there is more work to be done. I understand that the new tenders contain a requirement for independent living where people are able to cook their own food and live a

much more independent existence within the direct provision system. Of course, nobody wants to see people in a direct provision centre, which is why we put legislation through these Houses a couple of years ago to streamline applications to facilitate people getting an early decision. It is correct to say the reason for people being in direct provision centres for a prolonged period is usually because the issues surrounding their particular application are complex and private.

The other major challenge with the numbers is the fact that something like 700 or 800 people who have been given permission to remain cannot get accommodation. I commend the work being done by the Peter McVerry Trust, the Society of St. Vincent de Paul and others to help those people secure accommodation.

Another great challenge, which was debated in this House *ad nauseam* by many people from across the Chamber, is the fact these people were not in a position to work. Certainly, the fact that the Minister has issued approximately 3,500 permissions to work is very welcome. People who are in the system for nine months are allowed to work and facilitated, which is a good thing because their skills are needed.

There have been two or three significant pillars of advancement in the direct provision system, thus making it more tolerable and as good as is available in any of our neighbouring European countries. Indeed, it is much better than most. I can vouch for that as I have visited camps in other countries that are equivalent to our direct provision centres. What we have done in places like Mosney and other centres is comparable with what is available anywhere in Europe, and so it should be.

I share the Minister's deep concern at the infiltration by people who hold far right views and how they have taken advantage of the genuine concerns of communities. The development must be watched, followed very carefully and, hopefully, killed off. I hope that communities will not allow themselves to be taken advantage of by extreme groups because it is not the type of céad míle fáilte that we want to see and are capable of in this country. Unfortunately, when people are manipulated things are said that are not true and are plainly wrong.

The Minister has issued an invitation to people across the House and in local authorities to visit centres. When people visit them they will come away with a much different view and a clearer understanding because they will have talked to human beings. The people in direct provision are like everyone here except they did not have the same opportunities in life enjoyed by us. Who can blame anybody for dreaming about opportunities? Nobody. The best way to kill the right-wing racial tendencies that can prevail when there are vacuums is by creating engagement where people can sit down, have a cup of coffee, listen and talk.

I commend the Minister and Minister of State, Deputy Stanton, present for manning up to our international responsibilities. We are on a journey because as time goes on more and more people will seek our protection. Long term we will probably have to consider having purpose-built, State-run and State-owned direct provision centres that provide various types of accommodation. That is a medium to long-term plan and perhaps at some stage the Minister will come back and update us on the matter.

Nobody has given me a concrete alternative to the current direct provision system. Absolutely, we have a responsibility to make the system as humane as possible, which is happening. I challenge anybody to disagree with me or provide evidence to me that the direct provision centres that are operating today are not totally different from the ones that operated 15 years

ago. The centres and standards are completely different. Nobody, who is in anyway fair-minded, could argue the contrary.

Acting Chairman (Senator Diarmuid Wilson): The Leas-Chathaoirleach has already welcomed the Minister back to the House. I welcome the Minister of State at the Department of Justice and Equality, Deputy Stanton, to the House.

Senator Niall Ó Donnghaile: I welcome the Minister of State to the Seanad.

I listened with interest to the Minister when he addressed the House and I agreed with quite a lot of what he said. His comments were very important in terms of intervention. He expressed his position in a clear and coherent fashion. I took a great degree of political heart from a lot of what he said in terms of facing up and facing down.

Another word for what Senator Conway termed as “racial tendencies” is racism. There is a duty and obligation on us to face down racism and challenge it where it exists in society. We must also call out and face down the groups and organisations, whom I would call fascists and racists, as they are exploiting the misfortune in which many people find themselves.

I acknowledge that the Minister has left the Chamber. Therefore, I do not expect an answer to my query and shall make a point. Senators have come into this Chamber to challenge the very clear, stark failings in the direct provision system. The system is inhumane, puts people in jeopardy, and they face extreme marginalisation and isolation. We are not saying so to amplify the sentiments of some of these characters who are trying to exploit racism but because we have visited the centres, met the inhabitants and heard their stories. I believe there is an obligation on us. For all of the sentiments expressed by the Minister, we have a duty and obligation to articulate here that experience and views. It is also because we do have a vested interest in the experience of these people coming to Ireland, and we want that on the record and addressed. It is not necessarily like what Senator Conway talked about where people want a replacement and he challenged us to outline an alternative to direct provision. If direct provision has to exist then that is fair enough but the current system of direct provision is broken and must be fixed. The Minister of State may shake his head but Senator Conway and others were with me, as members of the Joint Committee on Justice and Equality, when we visited some of centres. I acknowledge and fully accept that some of the centres functioned appropriately and well. However, at some of the centres the inhabitants suffered terribly and disproportionately. Of course the system is broken when there is a stark obvious imbalance between the type and standard of care that is provided between one centre and another, and there is fluctuation and variation across this State.

Another big concern is emergency accommodation, which was clearly expressed at a number of recent hearings by the Joint Committee on Justice and Equality. I accept that the Minister gave us fair warning, which I believe came from a genuine place, but I shall unashamedly say the following. If people are in emergency accommodation and they can face a situation where because a hotel - a private interest - has a previous booking for a wedding, function or whatever and people are put on buses to be relocated and scattered across this State and put into bedsits, bed and breakfast accommodation or hotels without knowing where they are going, when they are coming back and not know if they will be housed with their family then that is an inhumane situation. I do not say that to take a potshot at the Minister, the Minister of State or anyone else but simply to point out a fact of life. It is incumbent on the Minister, the Minister of State and the Department not to act defensively on this matter. If they throw down a challenge to us that

is fair enough, right and legitimate but then, equally, we can throw down a challenge to them as well.

The scariest thing for me was what I was told when I asked the deputy secretary general of the Department of Justice and Equality a question at the committee meeting. I was told that direct provision standards could not be imposed in emergency accommodation situations. I asked the deputy secretary general if the situation could happen again and it was conceded that it could, which indicates to me that the system is broken. I do not take great delight in saying that and it is not a political point scoring exercise against Fine Gael. We are here to talk about direct provision. We asked for the debate a number of weeks ago so let us have a full and open debate now.

The direct provision system is 20 years old and to say its history has been controversial would be an understatement. At all times when we are dealing with the issue of direct provision one must remember that we are dealing with human beings who, in many instances, are very vulnerable and have fled persecution.

They have been uprooted from their country, from their families, from their communities, from a familiar, if difficult, way of life and are in shock about the circumstances of their lives.

6 o'clock They are facing an uncertain future in a strange country and in many cases cannot speak English. If it is very difficult for adults to manage the circumstances they face as asylum seekers, as it is, how much more difficult is it for their children to manage the upheaval in their lives?

Let compassion and concern be the governing considerations as we reflect on the last 20 years and plan for providing assistance for asylum seekers and refugees in future. I remind those people protesting about accommodating asylum seekers that their protests, behaviour and attitude are adding to the stress and difficulties these vulnerable people are already experiencing.

Racism and fascism have no place in Irish society or on the streets of Ireland. As Senator Lawless rightly said, for centuries Irish people have travelled the globe looking for refuge and a temporary home away from Ireland, whether as economic or political migrants. This State has an obligation to welcome, receive and support asylum seekers. The State's response has been inadequate at times and has failed many asylum seekers. However, that does not mean that direct provision is a bad thing in itself. We must acknowledge that the previous model is broken. We require and can deliver a new model which does not repeat the institutionalised mistakes of the past.

Asylum seekers need the direct support of the Government and the various agencies to assist them in their efforts to reside permanently in Ireland. The Government needs to introduce a new system which at its heart has an ethos that does not criminalise, demean or create suspicion about asylum seekers. We need a new system which dramatically reduces the length of time people are in the system while their applications are processed. The system should permit them to work, study, cook their own meals and have own-door accommodation for each family. This is a basic standard of living that is reflective of the values of Irish society and more broadly a system rooted in human rights.

Due to the housing crisis, caused by Government policy, there is a severe shortage of houses. Therefore, some short-term measures, such as the use of former hotels or schools may

be necessary. However, these facilities should be owned and managed by the State and should also be own-door accommodation with access to healthcare, education, training and all the supports which people coming out of traumatic situations need.

The current arrangements with private companies running the direct provision accommodation are open to abuse, where profit may override care and compassion. That system is potentially open to being broken further. We support the use of State-owned land and buildings to house asylum seekers. We support Mr. Justice McMahon's recommendations especially regarding speeding up the application process and own-door accommodation. A better system is urgently required. In that regard I commend the Minister of State, Deputy Stanton, on trying to change a broken system and make it better.

We will continue to work with refugees, people in the community, NGOs and the Minister of State to help implement a credible and viable system which treats asylum seekers with respect. It needs to be a system grounded in a human rights approach, ending in the full integration of those who receive refugee status and remain to live among us.

Senator Alice-Mary Higgins: I first became engaged in issues relating to the direct provision system in 2003 or 2004. I was working with the Comhlámh anti-racism project at the time. It was initially an artists' project against racism which rapidly found it had to refocus on the policies being promoted at that time. One of the resources we produced was entitled, "Myths and Facts about Asylum Seekers." That resource was taken up and used by what then existed, the National Consultative Committee on Racism and Interculturalism, and others. It is something that should be revisited as well as a proper integration strategy.

When looking at that leaflet recently, I found it very depressing that some of these myths and facts are recirculated, refreshed and given a new gloss but are basically on the move again. While I acknowledge the positive aspects in the Minister's speech, much more care must be taken by the Government and public representative, including public representatives in the Government party, to ensure we are not feeding into any myths and facts. When we talk about pressure on housing and the health system, we need to be clear that migrants, and certainly those migrants, who may be coming through the direct provision system, which as we know is a tiny fraction of migrants in Ireland and a tiny fraction of the movement of people across our country, are not the cause and should never be allowed to be linked in any way.

No one is illegal and the right to seek asylum is a right for every person. Unfortunately, the Taoiseach recently talked about illegal migration and legal migration, which is not helpful and is not true. One is allowed to seek asylum coming from wherever. Legal migration takes many courses. If it turns out that a person does not satisfy the criteria, which are very strictly set out, for achieving refugee and protected status, it does not mean the person is illegal or a fraud. It means people have not qualified under one remit and there are other remits, under which they may qualify. If they do not, in that case they will have closed avenues and will not be able to stay.

Ireland has one of the highest refusal rates. These decisions get turned around on appeal sometimes which is a waste of energy for all of us and a cause of great distress for many people.

On the numbers of asylum seekers in Ireland, I was in Kenya two weeks ago. Kenya has 421,000 refugees coming from South Sudan and Somalia. While Kenya has a larger population, its population is only ten times larger than ours and the numbers it is taking are 100 times

larger. For perspective, Ireland in 2018 had 6,000 refugees and Kenya had 421,000. Lebanon, a country under severe economic distress, had almost 1.5 million people. People are displaced across the world because we are at a time of great conflict - a priority for us to address - and at a time of great economic distress when we talk about economic migrants caused by issues such as climate change as well.

We have serious moral responsibility for some of the immigration control deals, including the outrageous situation in Libya. The problem we have seen in Libya shows that financially incentivising the warehousing of people by private companies creates a risk, a danger and a perverse incentive. Unfortunately, our direct provision system, largely done through tenders to private companies, some of which do not publish their taxation affairs and some of which are registered overseas, creates a not ideal and dangerous situation in terms of power dynamic, transparency and the delivery of quality services. I would like to see us moving away from that towards public delivery and public supports.

On the power dynamic issue, I have heard many testimonies from people who have been brave to come forward with their status still unconfirmed to talk about their experiences. They closely mirror what I heard again just this week - survivors of abuse and survivors of institutions who talked about the power dynamic in the day by day.

I offer some practical steps. Getting work permits at nine months is too late. Not enough people are getting them. A six-month work permit does not allow somebody to seek a proper or appropriate job. It is important to extend the work permit system so that it really works.

I understand that independent living only applies in one third of the centres at the moment. Independent living is compromised by the fact that many people are restricted by vouchers that can only be used in a particular shop. That again creates an unhealthy power dynamic. It is important for us to look at that practical measure.

Public transport is vital. Most of these people cannot get driver licences because of other restrictions. Public transport should automatically arrive. Regarding the rural link programme, it should be that when a group of asylum seekers are placed in a particular community it comes with the great public benefit of improved public transport.

It is an outrage that any child is missing out on schooling. That needs to be thought through and prepared in advance. The situation in Carrickmacross is unacceptable.

The court decision that the State can deny child benefit is extremely regrettable. What a difference it might make if the State chose to allow child benefit for children in the system. We know the research on adverse childhood events. We know what it does to children's prospects as they become adults. How many adverse childhood events do children in the direct provision system currently experience? How can we stand over it?

People can be relocated at short notice and without due process. They can go to the Ombudsman after the fact but what that relocation does to those who raise their heads above the parapet is dismantle their faith in starting again and making connections.

I want to acknowledge what Senator Martin Conway said about County Clare. What happened in Clare and in many other parts of the country was that the community engaged and the local people reached out. It was voluntary, under-funded schemes-----

27 November 2019

Senator Martin Conway: There are 139 centres-----

Senator Alice-Mary Higgins: There have been extreme efforts-----

Acting Chairman (Senator Diarmuid Wilson): The Senator's time is up.

Senator Alice-Mary Higgins: This is vitally important.

Acting Chairman (Senator Diarmuid Wilson): We must conclude the debate.

Senator Alice-Mary Higgins: I will conclude on this point. There have been vital efforts from the community. Groups such as the asylum seeker's organisation, Movement of Asylum Seekers in Ireland, MASI and others have pointed out that some of those who claim to be against direct provision are not involved in actively finding ways to connect, support and create integration opportunities. If such people do not reach out and support asylum seekers in our communities then we have to question their motivation. The far right has targeted communities for a reason. Wherever we meet, we must recognise one another's humanity. We need to look very carefully at those who purport to care but who do not follow through with meaningful action like the action we saw in Clare.

Senator Frank Feighan: I am grateful for the opportunity to contribute to this debate. Yesterday while driving home I was listening to a very interesting programme on Newstalk. It was hosted by Mr. Barry Whyte who visited a lot of direct provision centres around the country. I commend him on the balanced approach he took to the issue. Most people in the media want a row. All they want is the worst case scenario. They want to make a row about what is a very delicate and worrying situation. Displaced people from all over the world are seeking international protection in Ireland. As many of the previous speakers said, Irish people have emigrated all over the world and now we find ourselves in a situation where we are offering international protection to others.

I have tried to find solutions to the many questions posed regarding education and the numbers being accommodated in various towns. Issues have arisen in Rooskey, Ballinamore and Ballaghderreen and people have expressed the concern that the main motivation for some is profit. They are concerned that people are offering accommodation for profit but are not providing the best service. I am not saying that this is a knee-jerk reaction. We are trying to live up to our obligations as a State and are relying on others to provide accommodation, some of whom view this as a commodity. They are providing a service that is evaluated by various Departments but the State could do more to provide accommodation itself. I know that it is very difficult for us to meet our obligations but we need to do more work in this area.

Reference was made to Oughterard, Ballinamore and other areas. When the centre was being opened in the hotel in Ballaghderreen some politicians got it wrong. The citizens of Ballaghderreen came out and warmly welcomed the Syrian people who came to their town. It has worked out very well. The citizens of Ballinamore are no different from the citizens of Ballaghderreen. However, they felt that the model was wrong and that those involved were motivated by profit. We must try to come up with a solution that accommodates people seeking international protection while also allaying the fears of local communities. As Senator Higgins rightly pointed out, misinformation can spread quickly but we must try to allay the fears of local communities.

I thank the Minister for Justice and Equality and the Minister of State for listening to the

various groups involved in recent years and for trying to come up with a solution. We must consider alternative methods of delivering accommodation for displaced people from all over the world. As has been discussed, tenders are being submitted by private companies and there is a lack of transparency in the process. We have to work with the people who are proposing to provide accommodation, without whom the State would be in even greater difficulty. That said, we need to examine different aspects of the process. Again, I thank the Minister and Minister of State for sitting down and trying to iron out the difficulties. We must resolve these difficulties to the satisfaction of displaced people who are seeking protection in Ireland. We must do better in the coming weeks, months and years.

Acting Chairman (Senator Diarmuid Wilson): Senator McDowell is our final speaker because we must conclude the debate by 6.30 p.m. The Senator has six minutes.

Senator Michael McDowell: I wish to pay tribute to the Minister for Justice and Equality for the speech he delivered here this evening which was very balanced, reasonable and constructive. It should be given some publicity. This House does not get much publicity in terms of press coverage. One can get publicity by saying the wrong thing but frequently one cannot get publicity by saying the right thing. The balance the Minister brought to his contribution was very important.

We face a situation in which there are people who are very obviously abusing xenophobia, the fear of immigration and of foreigners, for political purposes. One does not have to search the Internet for very long to see its seeds. While I do not want to give excessive publicity to it because it is sad enough in its own way, to see someone going into a halal shop and trying to provoke an incident with a decent shop assistant is disturbing. Do these people ever think about the fact that if they went into a kosher shop and had a similar incident with a Jewish shop assistant, nothing other than complete condemnation would be appropriate?

I agree with almost all of the analysis that I have heard here this evening. The real problem, which the Minister and Minister of State must get to grips with, is the delay problem. I know that the Minister and Minister of State cannot wave a magic wand. When I was Minister for Justice, Equality and Law Reform one of the things that depressed me slightly was that applications for citizenship took so long. The Department used to issue letters to applicants for citizenship saying that there was a three-year delay. The applicants were told not to call or write to the Department but to just accept that there was a three-year wait. I am sure that kind of correspondence is not issued now; I certainly hope it is not. A lot of the problems relating to direct provision including educational, family and social issues, would be hugely reduced if the decision-making process was faster.

The other issue, which is to some extent outside the remit of Ministers and the Government, is the interaction of the Courts Service with the asylum process. Members of the Judiciary are trying to expedite the determination of issues which come before the courts, but the number of cases coming to the courts should be greatly reduced by a more robust decision-making process. We may have to employ many more people in the processing of these asylum or protection applications to get on top of the issue, though that is a gloomy thought.

Before I was appointed Minister in 2002, having been Attorney General since 1999, my predecessor, John O'Donoghue, was struggling to deal with an unprecedented wave of asylum seekers. Up until the 1960s, people only wanted to get out of Ireland, and emigration was a constant theme. Nobody ever mentioned the problem of people coming to our shores. It was

a reversal of realities in many respects. Having realised the extent of our incapacity to deal with the size of the problem due to our inexperience and lack of preparedness, we established the Irish-born child scheme to give residency rights to between 10,000 and 15,000 people with whom we simply could not deal. We gave them a pathway of integration into our society, a pathway to citizenship and a means of getting into employment. People forget about that, but that is what was done at the time.

I often hear the things the Minister has said about direct provision. Senator Ó Donnghaile said the system is broken. The system is not perfect and has faults but something like it will always exist, whether in State-provided buildings or delivered by State employees. The crucial thing is to ensure it is of good quality and that the duration of people's stays is limited.

There was a recent hullabaloo in Bray when it was proposed to deport a child who had been here for six years, about which his classmates and others protested. The old hoary chestnut of the referendum on changing the basis of entitlement to citizenship was resurrected in people's minds as an obstacle to doing justice in that particular case. I presume the Minister did that case justice on an administrative basis, and that the Constitution caused him no problems in that regard. People constantly say that referendum was racist, but it was no such thing. The 2002-07 Government made up of the Progressive Democrats and Fianna Fáil, of which I was a part, signalled on the very first day that we would have to deal with the issue that arose in that referendum. We could see European case law decisions such as those in the *Chen*, *Zambrano*, *Ibrahim* and *Teixeira* cases coming down the tracks. Those decisions would make it impossible for Ireland to have a well-regulated immigration system if it was the only country in the European Union which granted absolute *jus soli* rights to people who gave birth to children not only within this State but also in Northern Ireland. The Minister has said that language on both sides must be moderate, on which I wholly agree with him. I never want to hear the suggestion that that was a racist referendum in this House again, because it was not. It was a sensible referendum which was supported by the major parties and the vast majority of Irish people. There was nothing racist about it.

Senator Martin Conway: It was a very sensible referendum.

Minister of State at the Department of Justice and Equality (Deputy David Stanton): I thank all Senators who have contributed to the debate. As I have said before, this is one of the major issues of our age and today's debate has been very useful. We need further debates and discussions such as this one.

The Minister, Deputy Flanagan, and I welcome all practical and workable ideas and proposals on how to continue to improve the reception system for applicants. I am heartened by the clear support of Senators for asylum seekers and by the absolute rejection by all parties of the rhetoric of a small number of far-right agitators who seek to sow fear and distrust among communities and hijack the issue for their own ends. I ask all community leaders, faith groups, community groups and elected representatives to continue to stand up for asylum seekers and refugees in this country and to show their support for people who are far from home and asking for our help.

We offer a range of State services to those people, who are very often without means. That includes accommodation, food, health services, utilities, educational provision for children and so on. Generally, and in common with most other EU member states, these services are offered in accommodation centres. Some people say our reception system is inhumane, which I

absolutely reject. Ms Lalini Veerassamy, the chief of asylum for the International Organisation for Migration in Ireland, said that our system is good compared with other countries. It is not a bad system, though we all agree it can be improved. I also take issue with the use of the word “inhumane” and other such extreme terms.

Senator Martin Conway: Absolutely.

Deputy David Stanton: The definition of “inhumane” is of a cruel act, a deliberate infliction of pain, suffering, cruelty, abuse or ill treatment. None of us wants to be associated with such terms and we are not doing any of those things. We are always trying to improve the system. We have published the McMahon report and have now issued a set of standards in conjunction with the NGO community to improve as we go along and ensure that centres have own-door accommodation, self-catering accommodation, space for children to play and do their homework, as well as privacy and dignity. That is what we are aiming for. We are under pressure and are struggling at the moment, but we are moving in the right direction. Some 675 people with settled status moved into the community this year with the help of organisations such as DePaul, the Peter McVerry Trust and others. It is a challenge - there is no two ways about that - but one which we are up to meeting, and we will do the best we can for people who come here looking for our protection.

When people use extreme language such as “inhumane”, they are giving ammunition to those far-right agitators who use it to block asylum seekers from accessing appropriate accommodation under the guise of concern. I defend the right of anyone to question the Government or its Minister and hold them to account. That is right and correct. We can point to where the system needs improvement, on which we are all working and agree on, but let us be careful of the language we use.

Senator Niall Ó Donnghaile: The majority of my points were directed at private profiteers, not at the Minister of State. I acknowledge his work.

Acting Chairman (Senator Diarmuid Wilson): Senator Ó Donnghaile-----

Senator Niall Ó Donnghaile: Given what happened to my party colleague over the last few weeks, and the stand we have taken on this, it certainly was not my intention-----

Deputy David Stanton: I never mentioned-----

Acting Chairman (Senator Diarmuid Wilson): I cannot make exceptions for anyone. If the Senator wants to raise a point of order-----

Senator Niall Ó Donnghaile: I resent the implication.

Acting Chairman (Senator Diarmuid Wilson): If the Senator wants to raise a point of order, he is welcome to do so, but he cannot interrupt the Minister of State.

Deputy David Stanton: I cannot understand the calls from some to simply abolish a system that provides a guarantee of shelter, food and a place of safety to any person who arrives spontaneously to seek protection, which is what our current system does. Significant work has been done in recent years to improve the system, including the implementation of the McMahon report, the introduction of the right to work and providing the Ombudsman and Ombudsman for Children with access to the centres to further support residents. National standards were published recently, which will be legally binding and subject to monitoring and inspection

from January 2021.

Neither I nor the Minister, Deputy Flanagan, want to see people in emergency accommodation. Nobody wants that. We are working very hard to move people out of emergency accommodation and into dedicated centres as quickly as possible. Senator Ó Donnghaile said that it is wrong for people to be moved from one centre or hotel to another without notice. That is wrong, and I have instructed that it should not happen. It may have happened once or twice but I do not want it happening anymore.

Senator Niall Ó Donnghaile: Can the Minister of State stop it from happening?

Deputy David Stanton: I have given that instruction. We are prioritising families, especially those with children of school-going age. We want to see the children in school.

On the issue of consultation, we want to consult and engage with communities at the earliest possible opportunity. As was noted by Senator Conway and others, there are 39 centres across the country which are working extremely well and with which there are no issues. If there are issues, we want to know about them to deal with them straight away. I have asked the NGOs and others involved to ensure social media should not be the default method of communication. Instead, people should talk to us and the departmental officials whose numbers they have. We will work to sort out any problems as soon as we can.

This is the issue of our age. So far this year, more than 1,000 people have drowned in the Mediterranean Sea, the equivalent of the number of passengers of three jumbo jets. That is shocking. In 1847, the population of Toronto was 20,000. Within six months, it was 38,000, an increase due to the Irish arriving from the Famine. It is not too far since we ourselves, through our great-great-grandparents, were in that situation. We should never forget that. Irish people tend not to forget that and want to help and support. Where we have centres established, local people get involved through friendship programmes. Recently, I received two complaints from centres about local people sending in too many gifts and clothes. Such was kindness of the Irish people, the centres could not cope with this help and support. We want to see more of this.

Senator Anthony Lawlor: Hear, hear.

Deputy David Stanton: It is good that communities get involved because it assists integration. If people get a positive statement that they can stay in Ireland, that is fantastic. If they learn new skills, they can bring them back if they leave Ireland. We are working towards independent living. It has been a success where it has been implemented. I do not want any child to miss out on schooling. We want to rectify that where it occurs. It is a whole-of-government approach involving the Departments of Education and Skills, Health, and Employment Affairs and Social Protection, as well as relevant agencies.

This debate was very useful and important. Many positive points were made. I thank Senators for articulating the positive as well. We need to know where we can do better. It is useful when Senators make important and essential points on this. I thank Senators for their contributions and hope the debate will continue in a constructive way. We are working as hard as we can to improve the system. Now more than ever must we work together to make progress on this important issue of our age.

Acting Chairman (Senator Diarmuid Wilson): I thank the Minister of State, Deputy Stanton, as well as the Minister for Justice and Equality, Deputy Flanagan.

Seanad Éireann

Senator Martin Conway: I thank the Minister of State, Deputy Stanton, as well as the Minister for Justice and Equality, Deputy Flanagan, for waiting to listen to all Members' contributions. I wish other Ministers would do that a little more often.

Senator Anthony Lawlor: Hear, hear.

Acting Chairman (Senator Diarmuid Wilson): When is it proposed to sit again?

Senator Martin Conway: Ar 10.30 maidin amárach.

The Seanad adjourned at 6.35 p.m. until 10.30 a.m. on Thursday, 28 November 2019.