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SEANAD ÉIREANN

Dé Céadaoin, 11 Nollaig 2019

Wednesday, 11 December 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 Tim Lombard that, on the motion for the Commencement of the House today, he proposes to raise the following matter:

The need for the Minister for Education and Skills to make a statement on plans to review the school transport scheme.

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

The need for the Minister for Employment Affairs and Social Protection to make a statement on the pension entitlements of community employment supervisors.

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

The need for the Minister for Transport, Tourism and Sport to make a statement on the safety measures in place to counteract anti-social behaviour on the Sligo-Dublin railway line.

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

The need for the Minister for Children and Youth Affairs to make a statement on the relocation of family support services from the F2 Fatima centre, Dublin 8.

I have also received notice from Senator Michelle Mulherin of the following matter:

The need for the Minister for Transport, Tourism and Sport to make a statement on the construction of a new bridge at Cloongullane, Swinford, County Mayo, and the planning for an orbital route for Ballina, County Mayo.

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

The need for the Minister for Health to outline if there is additional bed capacity in nearby hospitals that could be used to alleviate the overcrowding at University Hospital Limerick.

The matters raised by the Senators are suitable for discussion and I have selected Senators Lombard, Murnane O'Connor, Feighan and Ruane and they will be taken now. The other Senators may give notice on another day of the matters that they wish to raise.

Nithe i dtosach suíonna - Commencement Matters

School Transport Eligibility

An Leas-Chathaoirleach: The Minister of State, Deputy Cannon, is very welcome.

Senator Tim Lombard: I welcome the Minister of State. I put down this Commencement matter on the school transportation scheme because it is an issue on which I have been very active the last six or eight months. The school transportation scheme is, in many ways, flawed from head to toe. We need a total review of it and of how we are going to deliver school transportation for the children of rural Ireland who avail of the scheme.

Last August there was a change to ensure we could get new bus routes in certain key locations in my part of the world. In my parish, a new 52-seater bus was brought on board to cover those who were left behind. Ballineen and Enniskeane were affected as well.

There are serious issues with the school transportation scheme, and I will list some of them for the Minister of State. The real issue about the school transportation scheme is the nearest-school principle. There are issues regarding nearest-school principle. If one is going to the nearest school, then one is entitled to get school transportation, but if one is going to the second nearest school, one has to wait and see if one is entitled to it. That does not work in rural Ireland. In Ballineen, the nearest school could be within 300 m, or it could be the fourth nearest school, because of the location of places like Ballineen and Enniskeane. That does not work.

There are feeder schools to the secondary schools that do not fall into the category of getting school transportation. How can a feeder school to a secondary school not be eligible for school transportation? People, in particular first-time rounders, who have children in sixth class in primary school do not realise that the date for applying for school transportation is 26 April. Their child is in primary school but they must apply four months before September. People do not realise that is the date, and they are missing it. Not enough work has been done by Bus Éireann to advertise the date.

I refer to the unique situation of a person repeating his or her leaving certificate. He or she must have the foresight to know he or she is going to do a bad leaving certificate and to apply on 26 April. A person could be taking the bus for six years but because he or she did not do a good leaving certificate, he or she has to go through the stress of being taken to school by a parent.

This scheme needs to be reviewed from head to toe. An awful lot of money is being spent on this scheme which is vital scheme for rural Ireland. It is about ensuring people who live in rural Ireland have the opportunity to work and to have their children educated.

I spent six and a half months on the Joint Committee on Climate Action, and one of the issues that came up during debates was that one school bus is the equivalent of two cars regarding carbon output. Rather than parents taking their children to school, a 50-seater bus would reduce the carbon output by something in the region of 96%.

Much needs to be done on this scheme, which is broken from head to toe. It has been added onto over the years, and nobody has taken a real look at it. The time for change to the scheme has come. Bus Éireann needs to be more flexible. Something needs to be done to the feeder school issue and clarity is needed regarding the second school principle. Last year we tweaked the second school principle, so people had the opportunity to get school buses. We have no clarity regarding that for this year. Although it has not been announced yet, I assume 29 April, the last Friday in April, will be the cut-off date for the school transportation scheme. That has to be advertised. People, in particular first-time rounders, need to know what happens but I do not think they do.

We need a head to toe review of the scheme. Hundreds of millions of euro are being spent, but for a very small amount of money and with a small number of tweaks, we could provide the school transportation scheme that rural Ireland, but in particular the parents who are doing their utmost to educate their children, deserves.

I know of a mother who drives from Ballineen to Bandon and then goes to work in Macroom. She does that every day because one of her children cannot get on the school bus. The other child is on the school bus. One won the lotto, but the other did not. In a scenario where there are spaces left over, there is a lottery, so one child might get a space while the other might not. It is totally illogical.

If one set out to make a scheme unworkable, this would be it. The amount of work required to sort this is going to be immense, but the conversation has to start now. I do not want to be in the situation I was in last August when 118 parents contacted my office about school transportation. These were hardworking decent people who wanted the best for their children but who also wanted to go to work. We solved most of the issues but we did not solve them all. I was really sorry for the ones we did not sort. We need to start this conversation now, because if we do not, 200 parents will contact me next August and that is not fair on them.

Minister of State at the Department of Foreign Affairs and Trade (Deputy Ciarán Cannon): On behalf of the Minister of State at the Department of Education and Skills, Deputy Halligan, I thank the Senator for raising this matter.

Before I address the specific issues raised, I shall provide a quick outline of the extent of the school transport service. School transport, as the Minister of State has already outlined, is a very significant operation managed by Bus Éireann on behalf of the Department of Education and Skills. In the 2018-19 school year, over 117,500 children, including over 13,000 children with special educational needs, were transported in over 5,000 vehicles on a daily basis to primary and post-primary schools throughout the country covering over 100 million km at a cost of over €200 million in 2018.

The purpose of the school transport scheme is, having regard to available resources, to support the transport to and from school of children who reside remote from their nearest school. Children are generally eligible for school transport if they satisfy the distance criteria and are attending their nearest school, as determined by the Department or Bus Éireann, having regard

to ethos and language.

All children who are eligible for school transport and completed the application process on time have been accommodated on school transport services for the current 2019-20 school year. Children who are not eligible for school transport may apply for transport on a concessionary basis and are facilitated, where spare seats exist, after eligible children have been accommodated. Where the number of ineligible children exceeds the number of spare seats available, Bus Éireann allocates tickets using an agreed selection process. We use a lottery system, as already outlined by Senator Lombard.

Growth in numbers of children availing of special educational needs transport is a notable development in recent years. The cost of special educational needs transport has grown from €58 million in 2012 to over €106 million in 2018. The school transport provision for children with special educational needs now accounts for over 50% of the total cost of the scheme while catering for some 12% of the overall number of children transported.

Recently the Minister for Education and Skills sanctioned an additional €1 million for the school transport budget to allow for temporary alleviation measures to temporarily increase the capacity for concessionary seats on the post-primary scheme for the current school year. The cost of these measures has been given to those areas where there was a significant concentration of post-primary children who had paid on time for the 2019-20 school year and are attending their second closest school.

In October 2019, the Minister announced a review of the school transport scheme with a view to ensuring that funds are being spent in the most effective way to meet the objectives of the scheme. The terms of reference and scope of the review are being considered by officials in the Department right now. It is expected that a cross-departmental steering group led by the Department of Education and Skills will be established shortly to oversee the review. I fully expect that Members of the Oireachtas and, indeed, members of the public will be allowed to make submissions to that review.

On behalf of the Minister of State, Deputy Halligan, I thank the Senator for raising this matter and for affording me the opportunity to provide an outline of the extent of the school transport scheme and the upcoming review.

An Leas-Chathaoirleach: I thank the Minister of State. A supplementary, Senator.

Senator Tim Lombard: I welcome the response, which is important. Earlier I spoke about the frustration felt by parents. This issue is about good hardworking people doing so much. The amount of work that is required is going to be immense in many ways but it is important that the review happens and that people have an opportunity to make submissions.

An Leas-Chathaoirleach: I thank the Senator. Does the Minister of State wish to comment further?

Deputy Ciarán Cannon: No.

Community Employment Schemes Supervisors

Senator Jennifer Murnane O'Connor: I thank the Minister of State at the Department of

Foreign Affairs and Trade for coming here today. This matter is not part of his remit but I know he will convey my concerns to the Minister for Employment Affairs and Social Protection.

I have been contacted by a number of community employment, CE, supervisors in the past few weeks because they feel that their strike in the spring, and the subsequent promises made, have yielded no results. What is being done to support them in their request to recognise their fine work? I ask the Minister of State to discuss why, after more than ten years, they still do not have a pension. CE schemes are designed to help people in long-term unemployment or who are disadvantaged or find it impossible to secure mainstream work in their local communities. The schemes also provide much-needed services in communities throughout the country.

As we all know, the Department of Employment Affairs and Social Protection is now responsible for these schemes and there is an ongoing review. I ask the Minister of State to update me on the review. These schemes are in various communities across the country and they provide childcare, elderly care and drug rehabilitation services. The supervisors are a vital part of ensuring that these schemes run effectively.

We, in Fianna Fáil, are acutely cognisant of the deep sense of frustration felt by CE supervisors and assistant supervisors in trying to secure an occupational pension. Promises were made but I am afraid that we are in this situation because of the Government's refusal to respect a recommendation that was made by its own industrial relations mechanism. I am disappointed with the Government's decision to walk away from trade union talks on this very issue and ignore rulings in the same regard. Two judgments are being ignored, one historical and one recent. First, there was a 2008 Labour Court recommendation that as the funding agency was a statutory body, the Government was responsible for the CE supervisors' pensions. Second, there is the more recent Workplace Relations Commission's ruling that the supervisor in question was an employee of the State and, in particular, the Department of Employment Affairs and Social Protection and so was entitled to all of the same rights as an employee of the State. This would, in my opinion, indicate a responsibility on the State to provide a pension. This judgment is a matter of public record in that it is available on the WRC's website.

I am aware that a detailed scoping exercise was carried out by the Department of Public Expenditure and Reform in 2017. Earlier this year, the Minister for Public Expenditure and Reform told the Dáil that the pension presented significant issues for the Exchequer with a potential cost to the State of between €188 million and €347 million per annum. The Minister stated, during the Dáil debate, that the position of this Government was that State organisations are not the employer for the particular employees concerned, and that it is not for the State to provide funding for such pension provisions. The employees in question are, or were, employees of private companies notwithstanding the fact that the companies concerned are, or were, in receipt of State funding. This is clearly contrary to the LRC's position and the position outlined in the recent WRC ruling. The State hires these supervisors and for all intents and purposes employs them. We need to see this issue for what it is.

SIPTU and Fórsa have written to the Minister for Public Expenditure and Reform calling on him to urgently convene a meeting of the community sector high level forum to discuss issues of importance within the sector, including funding, pensions and policies. The forum has not met since 2017. Since then the union representatives have expressed a desire to show how the figures referred to by the Minister for Finance in the Dáil debate on the cost of honouring the LRC's pension recommendation are completely inaccurate. It is my view that the State must accept a level of responsibility and engage. It is imperative that a resolution is found without

further delay. These are good people who work very hard for the State and they should be entitled to a pension as a just reward for all they have done.

I ask the Minister of State to ask the Minister for Employment Affairs and Social Protection and the Minister for Public Expenditure and Reform whether they intend to meet the unions and have meetings with the union representatives, the supervisors and assistant supervisors with a view to creating a process to bring this issue to its finality and to make a pension available even on an incremental basis. I want the Ministers to do something. It is important that the Ministers provide the financial resources to address this issue that has lasted for ten years. I ask the Minister of State to convey all of what I have said to the Ministers and come back to me.

Deputy Ciarán Cannon: I am taking this Commencement matter on behalf of my colleague, the Minister for Employment Affairs and Social Protection, Deputy Regina Doherty.

Community employment is the largest employment and training programme administered by the Department of Employment Affairs and Social Protection. The CE programme was initially established under the aegis of FÁS to enhance the employability of long-term unemployed people by providing work experience and training opportunities for them within their communities. Its objectives continue to be to provide valuable work experience, including targeted training interventions for the long-term unemployed, and help to prepare them to gain employment.

The CE programme is delivered throughout the community and voluntary sector by independent community employment sponsoring bodies that receive public funding. Participants and supervisors in CE schemes are employees of those independent community employment sponsoring bodies. The Department provides funding in respect of the participants and supervisors' payroll. The Department is not the employer of CE participants or supervisors and such employees are not public servants.

In July 2008, the Labour Court recommended that an agreed pension scheme should be introduced for CE supervisors and assistant supervisors and that such a scheme should be adequately funded by FÁS, which was then responsible for the community employment scheme programme. FÁS was not a party to the LRC case.

On the subject of Exchequer-funded pension provision for CE supervisors and assistant supervisors, the community employment scheme programme is not operated by public bodies or State organisations. Therefore, the State cannot extend pension entitlements or funding to employees of private bodies in a manner that would set a precedent in respect of other employees in private companies that provide services on behalf of the State. CE supervisors and assistant supervisors constitute just one group within the wider community and voluntary sector, and any provision of State funding for such a scheme in respect of those employees could potentially give rise to claims for similar schemes across the broader sector.

The issue of pension provision for CE supervisors was considered by a high-level community sector group chaired by the Department of Public Expenditure and Reform in 2017. A range of stakeholders, including unions representing CE supervisors, were represented in the group. A detailed scoping exercise was undertaken and included input from the Irish Government Economic and Evaluation Service on the potential cost of providing Exchequer support for a pension scheme across the wider community and voluntary sector. As Senator Murnane O'Connor has outlined, this exercise estimated a potential cost to the State of between €188

million and €347 million per annum depending on the numbers involved. The scoping exercise clearly illustrated that it is not feasible for the Exchequer to provide pension funding in the amount required.

Earlier this year, the Minister for Employment Affairs and Social Protection undertook to engage with unions representing CE supervisors to address issues of concern to their members, and this process is ongoing. All parties to the discussions agreed that the detail of the discussions undertaken by the group should remain confidential until the process had been completed. The Minister is committed to seeking a resolution to this difficult impasse, which I must emphasise has significant and tangible consequences for the Exchequer. She is actively pursuing options to seek a resolution to the impasse.

Senator Jennifer Murnane O'Connor: I welcome the reply. The problem is that there is a lack of information and communication. I ask that supervisors and assistant supervisors are given some information. The timescale is important. I ask the Minister of State to come back to me as soon as possible. Many Senators have received requests for information about this matter. I would appreciate more information. A solution can be found if everyone works together. This matter is of utmost importance. At least I can tell those who have contacted me that the Minister, Deputy Doherty, is trying to find a solution.

Anti-Social Behaviour

Senator Frank Feighan: I thank the Minister of State. Unfortunately, I am very disappointed to have to say that incidents of anti-social behaviour appear to be on the increase on many of our train routes, including the Sligo to Dublin line. Irish Rail management has admitted as much and conceded to *The Irish Times* late last year that, “[B]oth employee reports and customer feedback do confirm that there has been an increase in the number of anti-social behaviour incidents over the past 18 months”. According to figures recently obtained by the *Longford Leader* under a freedom of information request, 86 alleged incidents of anti-social behaviour occurred on the Sligo to Dublin Connolly network over the past two years, an average of two incidents a week on the line. That is unacceptable by any measure. Anyone who, like me, uses that train regularly has witnessed some form of anti-social behaviour.

As we know, anti-social behaviour can take many forms. It can include verbal abuse, intimidation, drunkenness, vandalism, drug use and assaults. Yesterday, I listened to an interview with a Sligo solicitor on Ocean FM who expressed safety concerns for passengers on the Sligo to Dublin route. Having witnessed a number of incidents in recent years, the solicitor noted that the most recent involved an altercation between a teenager and two drunken men on the train which led to gardaí boarding the train. I read a newspaper report yesterday that stated that Irish Rail received several complaints of harassment on the Dublin to Westport line. This is clearly unacceptable.

It is an intolerable situation and it begs the question as to what exactly Irish Rail is doing to combat this thuggish behaviour, whether it is on the Sligo line or any other network. We simply cannot have a situation whereby decent, law-abiding people are paying good money for rail fares only to be terrorised when they get on board. I join in the calls for additional security to deal with the scourge of disruptive passengers.

As the Minister of State knows, many proposals have been floated, including the introduc-

tion of security personnel, as seen on the Luas, and specialised Garda units. There have even been calls for a dedicated transport police unit to be put in place.

I understand that Irish Rail has plans to introduce a text alert system along with the installation of CCTV in all carriages. We have to protect all of our rail passengers from this appalling behaviour. I look forward to the Minister of State outlining what Irish Rail is doing and what other measures it could put in place to deal with this widespread problem.

Deputy Ciarán Cannon: I am taking this matter on behalf of the Minister for Transport, Tourism and Sport, Deputy Ross. I thank Senator Feighan for his question on what is a very serious matter and one that has very much come to the fore in recent times. While the vast majority of public transport passenger journeys occur without incident, the safety and security of public transport passengers and staff, including arrangements to deal with anti-social behaviour, are important matters that, first and foremost, must be managed by every public transport company, in conjunction with An Garda Síochána, where appropriate. Furthermore, while the Minister, Deputy Ross, and I are of course concerned about ensuring that the necessary arrangements are in place to ensure the safety of all passengers and staff across the entire transport network, including the Sligo to Dublin rail line, the allocation of all Garda resources, including the manner in which Garda personnel are deployed, is solely a decision for the Garda Commissioner and his management team.

Following representations from the National Bus and Rail Union on this matter, officials from the Department of Transport, Tourism and Sport wrote to the three CIÉ companies seeking their views on the issue of anti-social behaviour and ensuring the safety of passengers and staff. In their responses, all three companies stressed their strong and close working relationships with An Garda Síochána. Iarnród Éireann confirmed that its annual spend on security rose from €4.1 million in 2017 to €4.5 million in 2018 and is projected to rise again this year to €4.7 million. The company has successively increased security personnel in mobile on-board teams and static security at stations over the past 18 to 24 months. Furthermore, CCTV is available on the vast majority of trains and has successfully been used on numerous occasions in securing prosecutions. CCTV coverage is also in place in stations.

The Minister, Deputy Ross, wrote to the Minister for Justice and Equality, Deputy Flanagan, to seek his views on how the issue of anti-social behaviour on our public transport system could best be addressed. Last month, the Minister, Deputy Ross, received a response from the Minister, Deputy Flanagan, outlining the recommendations of a report that he had received from An Garda Síochána on the issue of anti-social behaviour. The letter advised that An Garda Síochána does not propose to establish a specialist or dedicated unit of the force to police the rail network and further stated that effective local community policing efforts can meet the policing needs of the rail network and its stakeholders.

As part of this, An Garda Síochána's superintendent of community engagement and public safety liaises regularly with the chairman of the Railway Safety Advisory Council and will attend future meetings, as requested, of the RSAC, which includes representatives of the rail companies and trade unions. The superintendent has also undertaken to arrange meetings between local Garda management and public transport providers in respect of any identified locations where significant crime and anti-social behaviour persist. Such meetings will enable discussion of the delivery of an appropriate policing response in collaboration with transport providers.

Gardaí will be assigned responsibility and accountability for the community policing of a

relevant area under the new community policing framework, which is currently being rolled out. A local community garda will be assigned responsibility for liaison with transport services' local site managers in identified hotspots. The superintendent of community engagement and public safety is to arrange delivery of crime prevention advice to local transport service providers, where requested, via the network of national crime prevention officers.

Furthermore, the Minister, Deputy Ross, has been advised that the superintendent will provide advice on community policing engagement, crime prevention, diversity and hate crime to management and staff at the main public transport providers, as was done in a presentation to Transdev, which operates the Luas, in a presentation in January of this year.

The Railway Safety Advisory Council and the Garda have agreed to keep these actions under review and subject to an annual meeting between the council and the superintendent of community engagement and public safety. The partnership approach between *11 o'clock* An Garda Síochána and the rail companies to promote high visibility and strong community engagement on the rail network resulted in Operation Twintrack on 13 September where gardaí were deployed to 12 rail stations nationally, along with high-visibility patrolling of rail stations and Luas routes.

Iarnród Éireann is introducing customer service officers on board all intercity routes. While the primary focus of these roles is customer service, they will ensure that customers can alert personnel on board to any issues and allow for security or Garda resources to be sought as required.

Senator Frank Feighan: Clearly the top priority for Irish Rail should be the protection, health and safety of its passengers. I look forward to Irish Rail continuing to place this at the very top of its agenda. There needs to be zero tolerance for persons carrying out anti-social behaviour on our rail network. I hope Irish Rail will take that into account.

On another note, I raise a less serious issue which it is still very important. I hope Irish Rail is actively addressing the patchy quality of its on-board Wi-Fi service. Paying customers deserve a better service and I will raise the matter in due course at the Joint Committee on Transport, Tourism and Sport, of which I am a member.

Family Support Services

Senator Lynn Ruane: I thank the Minister for coming to the Seanad this morning. I thank her for engaging with me on her availability and I appreciate the effort she made to be here this morning.

The F2 Centre in Fatima, Dublin 8, is a community-based family resource centre doing valuable work for a disadvantaged community in the south-west inner city. There have been a number of issues with the family support services provided to that community by the Rialto Springboard project. The board of management was informed on 18 November that the family support service would be relocated from the Rialto centre to its own offices, which has caused extreme alarm and concern in the local community.

The service was founded in 2001 with strong community involvement in governance of the project, including recruitment. In 2007, staff members from statutory organisations were with-

drawn from community-based management boards, which has had an impact on the integration dimension of the project. The project continued to carry out its responsibilities as a board, including the supervision of the project manager who in turn supervised staff and brought any staff and HR matters to the board of management for support. However, in September 2007 a new manager was appointed by Tusla. The board of management was excluded from the recruitment process, which was a radical departure from previous procedures. The relationship between the new manager appointed with new community involvement and the voluntary board has been problematic to say the least. It can, therefore, be no coincidence that Tusla then decided to terminate the service level agreement effective from the end of this month.

While disappointing, members of the community could manage the change as they were repeatedly assured by Tusla that the family support service would stay in the Fatima centre. For this reason, the announcement that Tusla is relocating the service from the community centre to its own premises as a cost-saving measure was even more of a shock. I struggle to believe that cost savings are the motivation here. The service needs to stay in Fatima. I understand Dublin City Council has communicated regarding keeping the service there and I urge Tusla to engage. Tusla has also claimed the service was too locally focused, which is bizarre as Tusla's own policy supports community-based centres.

There are ongoing staffing issues at the centre. Of four project workers, two have been out sick since February, one handed in their notice and the last has made a complaint. I suggest the HR issues are the real motivation here and it is not fair to the project to claim that cost-saving is the motivation.

A meeting will take place tomorrow between Tusla and community representatives. A strong intervention from the Minister could help keep this service in the community. I urge her to intervene. As those in the community wanted to engage rather than just resist, they have an alternative proposal ready to go for Tusla to allow the service to be kept in the Fatima centre. I urge the Minister to ask Tusla to accept and engage in that process.

The local community is losing a valuable family support service, provided in an integrated support setting. The dedicated staff who have worked for years and in some cases over a decade with the community are left in a very precarious situation.

I urge the Minister to intervene. I have received many letters from parents who avail of that service and benefit from its localised work in an area of significant disadvantage. I remember the family resource centre being developed. From very early on, I was on the canal communities task force which dealt with the regeneration of Fatima. It is a purpose-built building. It is not appropriate to change the structure now when it is doing this work. I would be happy to share with the Minister's office the letters from the families who avail of the service. It is important to listen to their advice in any discussions that might take a service out of a community that has suffered from decades of poverty and inequality.

Minister for Children and Youth Affairs (Deputy Katherine Zappone): I thank the Senator for raising the issue and I welcome the opportunity to respond. She wrote to me last week on this issue and I appreciate her concern. I have also received a number of representations from other public representatives on this matter, including the Minister of State, Deputy Catherine Byrne, Deputies Ó Snodaigh, Bríd Smith and Joan Collins and Councillor Michael Watters. All the representations I have received express grave concern as to what are seen as a potential loss of an important community resource as a result of a decision taken by Tusla. It is

important to note that there has been no final decision.

Since becoming aware of these concerns, my Department has sought clarification from the chief executive of Tusla. I needed clarity on the decision to move the Rialto Springboard project family support service from the current arrangements with the F2 Centre. I want to know what is happening and to seek assurance that there will be no loss of service to the area concerned. I hope that what I can tell the House today will be of some assurance in this regard. Tusla administers and provides funding to a number of family support services, including family resource centres, as well as prevention, partnership and family support and parenting information. Tusla is fully committed to growing the Springboard project for the whole of Dublin 8 in order to better meet the needs of the whole community, including Fatima and Rialto.

The socioeconomic needs of the Dublin 8 area have been fully researched and evidenced in Tusla's Dublin South-Central area directorate. This was done by means of a baseline survey and additional research commissioned by the Dublin south children and young people's services committee to identify the needs of the community. We are well aware of the evidence.

I am informed that meetings have taken place between Tusla's regional service director, Tusla's area manager for Dublin South-Central and the voluntary board of management of the F2 Centre. At these meetings, concerns regarding the current governance structure were outlined. This is particularly in the context of all of the Rialto Springboard project staff being directly employed by Tusla, including the manager. I understand that a further meeting between senior management from Tusla and the manager of the F2 Centre to discuss concerns will take place in the coming days.

Tusla has advised me that the structure of the board of management of the F2 Centre does not meet the requirements necessary for the growth, development and sustainability of the Springboard project for the wider Dublin 8 community. It is concerned the service was not meeting the needs of families who are being referred for family support services by social workers. In the Dublin South-Central area, Tusla has implemented a number of changes within the prevention, partnership and family support structure. This includes the development of a child and family support network, which seeks to develop inter-agency relationships and to use projects such as Rialto Springboard to identify families and children in need of support and intervention. We need to ensure a more timely response to families in need in Dublin 8 and this is how we are trying to do this. That is what has been said to me.

The manager of the Rialto Springboard project has consulted widely with families and children currently in receipt of services from Springboard in respect of the proposed changes. Assurances have been given that work already taking place with those families will continue. By temporarily relocating the Springboard project close to the Rialto area, Tusla believes the service will also be able to make savings in respect of a recent rent review undertaken by the F2 Centre, as the Senator indicated. These savings can and will be invested back into the project to enhance services for the entire Dublin 8 area.

It is essential to note that there is no planned cessation of services for families in the community. Tusla is working to improve and grow the service for the whole area extending beyond the areas of Fatima and Rialto. Tusla is working with other agencies in Dublin 8 to expand the Rialto Springboard project to include existing regeneration projects in the area. This will improve responses to the needs of families in the community, such as children affected by the regeneration of Dolphin House where Rialto Springboard has been more present this year. The

work of other Departments and agencies in a range of State-supported community-based services associated with Rialto and Fatima is also highly relevant to the well-being of children and young people.

As the Senator knows, this work could not succeed without a major effort on the part of the large number of volunteers who give their time in various ways to make their communities better. I acknowledge the important contribution of all volunteers in that community and throughout the country. It is important that all State bodies co-operate to meet the needs of service users and achieve the best possible outcomes. I place a very high value on community-based family support services.

I reiterate that there has been no final decision on this. My office is engaging directly with Tusla at a senior level to ensure that the way forward meets the needs of the community. Our ultimate aim is to provide more services, better and more timely services for families in Dublin 8. I will be kept informed of all developments.

Senator Lynn Ruane: I accept the Minister's indication that this is not a final decision. However, Tusla's analysis is a little unfair. There is much happening in communities across Dublin. If I am honest, this case mirrors some of that and there is local knowledge and autonomy that has existed for ten, 20 or 30 years in the community. There are strong advocates and community workers. People who have dedicated their entire lives to the communities they serve. If we are to think that they should not, in a sense, serve beyond the locality of the F2 building, we must look at whether resources should be put into other family resource centres in different communities. It sounds like Tusla was referring to the fact that this organisation does not meet all the needs in the wider Dublin 8 area. It is a conversation worth having but it should not happen on the back of a community-based initiative being ripped out of the heart of Fatima. There are requirements in communities where we need extra family support, including either agencies or workers.

On the idea of a satellite programme for parents, I know the community and have worked in the canal communities. Travelling beyond Fatima or Dolphin House might not seem like a big task to some people but it is to many parents who have a short amount of time in the day and who may have very chaotic lives. Having the F2 Centre providing a family resource worker and service is crucial to these parents. We need to shift the conversation between now and whenever a decision is made to how we can ensure all communities will have family resource services within their communities. It is not that we need a more centralised service that everybody will have to travel to. That removes the local community knowledge and the essence of what is community development and work. It is about being able to reach out in a community. Satellite programmes do not have individuals who have lived and worked in those communities and who can engage with some of the hardest to reach families in those communities of Dolphin House, Dublin 8 and the surrounding areas. Centralising this with Tusla having a satellite programme would remove a bridge that exists between the communities that are hardest to reach and Tusla as an agency that is trying to provide a service. It is why the workers in Fatima are crucial to keeping that connection between State and community open.

It feels that there is a bit of a fight currently to ensure that some of the State agencies continue to acknowledge the relevance, hard work and value of community projects in particular areas. I do not want that pull that we feel is happening in many of those communities to continue.

Deputy Katherine Zappone: I have listened very carefully to everything the Senator said

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in both of her contributions. I appreciate all the dimensions she identifies, the passion with which she speaks and the knowledge she brings to the subject.

I know our time is short but I have some comments. The Senator indicated that the board of management was excluded from the recruitment process. Everything she said will be noted. I was trying to outline in my initial comments that relocation does not mean that services will not be delivered. I have heard the Senator's comments about serving the whole of Dublin 8 versus a local service, or satellite and centralised services. She has argued that resources must stay in their communities and leave local community knowledge where it is. I will ask Tusla to ensure that it takes this into account and that it be committed to such practice.

From what I have said and what I understand, there have been some governance issues and that is part of what has gone on in the project. Having said that, I know the Senator has said the community has an alternative proposal. This may involve moving beyond ensuring the bridge to better services in the community, about which the Senator spoke very eloquently. I will ask Tusla to engage with the parties to hear those alternative proposals. I am happy to receive the letters mentioned by the Senator and I will pass them to Tusla if it does not have them already.

I have begun the review sought by the Senator. We have engaged with those at the highest level in Tusla. We are waiting to hear about the ongoing process before a final decision is made. Let us see what happens. Tusla is in a new era of leadership and is trying to achieve reform in the right way. That is happening. I have confidence in that but, at the same time, it is important that the Senator and other public representatives raise these matters. I will keep my eye on the matter and stay in touch with the Senator in respect of it.

Sitting suspended at 11.20 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, Social Welfare (No. 2) Bill 2019 - Committee Stage, to be taken at 12.45 p.m. and to adjourn at 3.30 p.m. if not previously concluded; No. 2, Gaming and Lotteries (Amendment) Bill 2019 - Report Stage [amendments from Dáil Éireann] and Final Stage, to be taken at 3.30 p.m. and to conclude at 4 p.m.; No. 3, Judicial Appointments Commission Bill 2017 - Report and Final Stages (resumed), to be taken at 4 p.m. and to conclude at 5.30 p.m. if not previously concluded by the putting of one question from the Chair which shall, in relation to amendments, include only those set down or accepted by the Government; and No. 4, Private Members' business-----

Senator Ivana Bacik: It is a shame to use the guillotine.

An Leas-Chathaoirleach: Allow the Leader to continue, without interruption.

Senator Diarmuid Wilson: The intention is to shock.

Senator Gerard P. Craughwell: Will the Leader repeat the last part?

Senator Jerry Buttimer: No. 4, Private Members' business, Consumer Insurance Contracts Bill 2017 - All Stages, to be taken at the conclusion of No. 3 and, notwithstanding anything in Standing Orders, to conclude after two hours.

I welcome the sixth class pupils from Belgrove primary school in Clontarf. They are very welcome visitors to the House. They have made a very positive impression on many of us this morning.

An Leas-Chathaoirleach: I met them in the corridor earlier.

Senator Catherine Ardagh: I, too, welcome our visitors from Clontarf to the House. I hope there are a few budding politicians among the girls and that they enjoy their day.

Today, I raise a report completed by Dr. Johnny Connolly of the University of Limerick in conjunction with An Garda Síochána from Dublin South-Central. The report confirmed what we knew to be the case anecdotally and have discussed in the House, namely, that children as young as 12 years are being used by gangs in the south inner city to deliver and sell drugs. These children are considered by gangland criminals to be expendable. The problem is having a serious impact on local communities. Dr. Connolly's report finds that up to 700 children are involved in drugs gangs in just one small area. These children have been groomed and view the work as easy money. If anything goes wrong, they are completely expendable.

My colleague in the Lower House, Deputy John Curran, has proposed legislation to amend section 15 of the Misuse of Drugs Act to make it an offence to buy drugs from a minor or to use a child to sell or procure drugs. I ask the Leader to ensure the Bill is fast-tracked when it comes before the Seanad. Drug task forces have not been properly resourced and most of them lack youth workers. They have not been given any additional funding. I know of one particular area where there is just one youth worker for 300,000 children. We must fund drug task forces properly and fast-track Deputy Curran's legislation. We need to look after the children who are being groomed right in front of us, which is unfair.

On a second issue, thefts of defibrillators are on the increase. In counties Wicklow and Louth thefts and destruction of defibrillators have been reported recently. People rely on defibrillators because they save lives. The wanton vandalism and destruction of community defibrillators is upsetting and disgusting. I urge anyone who sees defibrillators being damaged to contact the local Garda.

Senator Michael McDowell: I propose an amendment to the Order of Business, as proposed by the Leader, that the debate on the Judicial Appointments Commission Bill should not conclude today and that the matter should not be decided by a single question, as proposed by the Leader.

An Leas-Chathaoirleach: Is the Senator proposing that the debate adjourn at 5.30 p.m.?

Senator Michael McDowell: Yes, the debate should adjourn, if it has not concluded.

An Leas-Chathaoirleach: Is the proposal seconded?

Senator Ivana Bacik: I second it.

Senator Michael McDowell: On the proposal to use the guillotine in this House, it is notable that it appears to come in the wake of events last night where, unfortunately, due to the absence of Government Senators, certain amendments that the Minister wished to oppose were made and amendments that he wished to make were not made. It is more serious than that. This Bill is not desired to be passed by the great majority of Members of the Oireachtas in both Houses. There is a huge majority and newspapers have done polls among Fine Gael

Members of the Oireachtas and they discovered this Bill is close to being held in contempt by most members of the Fine Gael Party in the Seanad and Dáil. Today that party is proposing the debate should be terminated at this Stage in order that it would be passed back to the Dáil for further consideration there.

I want to make a few points. In recent times the Football Association of Ireland has been the subject of great controversy. What went wrong there is that the whole organisation was captured by one man. It is a great irony the Minister on whose watch this has happened is the man who has captured the entire Government and the Fine Gael Party on this issue and is forcing them to behave in a manner in which they do not wish to behave. It is shameful in many respects. I would say to the Fine Gael Senators that I know what the party Whip is all about. I have been in a party with a Whip. I have relied as a Minister on Whips.

Senator Paddy Burke: The Senator used the guillotine.

Senator Jerry Buttimer: He used the guillotine as well.

Senator Michael McDowell: I have.

Senator Jerry Buttimer: The Senator has.

Senator Michael McDowell: I have.

Senator Jerry Buttimer: So has Senator Bacik.

Senator Michael McDowell: I want to make it clear that, as far as I am concerned, the one thing that unites the people who will vote to guillotine this Bill today is they are the same people who went to the Irish people and asked them to abolish this Chamber. The one thing about all the Members of the Oireachtas of those parties who voted for that legislation is the great majority of them knew it was a terrible mistake to attempt to abolish this Chamber but like sheep they went towards the cliff-----

Senator Jerry Buttimer: The Senator is a good man in the herd himself.

Senator Michael McDowell: -----and only the Irish people stopped them from doing the wrong thing.

Senator Jerry Buttimer: The Senator was a good man at it. That was part of the Progressive Democrats manifesto.

An Leas-Chathaoirleach: Order, please.

Senator Michael McDowell: It is a great irony that the forces in this House who, against their own conscience, voted to abolish this House are now saying today they want to guillotine a Bill which they in conscience do not believe in.

Senator Ivana Bacik: Hear, hear.

An Leas-Chathaoirleach: Before I call the next speaker I welcome the former Senator, Deputy Sean Barrett, and his distinguished guests to the Gallery. They are very welcome.

Senator Rose Conway-Walsh: I want to speak about legislation introduced by my colleagues, Deputies Mary Lou McDonald and Maurice Quinlivan, last week in collaboration with

Offaly Domestic Violence Support Service, Safe Ireland and SIPTU. I refer to the Organisation of Working Time (Domestic Violence Leave) Bill 2019, which is important legislation. It seeks to provide ten days' paid domestic violence leave to women and men leaving abusive relationships. In 2017, the European Institute for Gender Equality estimated that intimate partner violence against women cost EU member states €109 billion each year. That is in terms of mental health services, social services, civil legal costs, criminal justice, employment, housing and human and emotional costs. Such legislation is in place in New Zealand, Canada, the Philippines and other jurisdictions. It is long overdue here, as women experiencing domestic violence have high rates of absenteeism from work. The legislation needs to be underpinned by solid policy on domestic violence and sexual violence so that we can create a safe place and a supportive workplace for employees experiencing or at risk of domestic violence.

The policy, therefore, can contribute more to job security, economic opportunities, independence and greater chances for abused women and men to abandon their abusive relationships by facilitating the paid leave. It will enable the person experiencing the abuse to take time out of work to put in place safeguards to keep themselves and their families safe without having to worry about losing a day's pay, being forced to take annual leave, being penalised, reprimanded or risk losing their position within an organisation. I would ask all parties to support this legislation to get it implemented as soon as possible. Domestic violence impacts on an employee's performance at work resulting in lost hours and less productivity. I would encourage all workplaces, and we should have it in the Oireachtas also, to put in place a policy of disclosure where there is a level of training for people that if a disclosure of domestic violence is made they know to deal with it in a way that encourages more women and men to come forward. Unfortunately, I am coming across more and more men who are experiencing domestic abuse. I have worked in this area for a long time. I welcome the fact that more men are coming forward but sometimes I feel they are ignored in the conversation. Everybody is entitled to feel safe in their own home, which is what we are trying to achieve with this legislation.

Senator Lynn Ruane: First, in terms of what was said, it was unfair to the Minister, Deputy Ross. Whatever about him enforcing Fine Gael in terms of legislation, I do not think he forced John Delaney to do the things he did.

Senator Jerry Buttimer: Hear, hear.

Senator Michael McDowell: I never said he forced them.

Senator Jerry Buttimer: The Senator did.

Senator Lynn Ruane: No, but to make the connection between the two is a little unfair.

Senator Michael McDowell: I never suggested that he did.

Senator Jerry Buttimer: The Senator did.

Senator Michael McDowell: I said he spoke about an organisation being captured by one individual and he has done that to all of the sheep in this House.

An Leas-Chathaoirleach: Order, please.

Senator Rónán Mullen: Either that or he is the bad shepherd whose sheep know him.

(Interruptions).

Senator Lynn Ruane: I am no sheep and I will be voting for the guillotine today. It might be an abuse of the Seanad but the time spent during the past few months dealing with this legislation has been an abuse of the Seanad when we could have been considering other legislation.

Senator Jerry Buttimer: Hear, hear. Well said.

Senator Lynn Ruane: I would like to comment on the Fianna Fáil legislation relating to drugs and some of the conversation that frames it. I am not completely in favour of that legislation. That is not because I am not in favour of protecting children. Sometimes the conversations around the grooming of children in communities regarding drug dealing are extremely short-sighted and misunderstood. We would be better served reinstating resources, the community development sector and the family resource centres in communities. I am not sure why we would introduce this legislation. I am not saying the grooming of children in terms of drugs does not happen in a minuscule number of cases but in the majority of cases that is not what is happening. I was a 12 year old drug dealer and I definitely was not groomed. It was born from poverty and lack of opportunity.

We need to have a real conversation about how we can prevent drug dealing as an option for young men and women in the community and not only a conversation about how we can find ways to prosecute people who end up in that position. I have fears about the relationship that currently exists especially between young men and gardaí in areas that are extremely disadvantaged. We have a history in Ireland where gardaí have withheld methadone from people who are on heroin so that they could extract information from them. Where is the conversation about what happens to young 12, 13 and 14 year olds when they are caught in possession of substances in terms of the relationship with the Garda? It is also more dangerous sometimes for a person to say where the drugs came from in order for the Garda to secure a prosecution if there is to be a legal offence.

We need to have a wider conversation about poverty and investment in communities. In the 1980s and 1990s there was a myth that drug dealers were standing outside schools in our communities roaring us out, offering us free heroin so that we would be hooked. It was exactly that, an absolute myth. There were no drug dealers outside our schools or youth clubs asking us did we want to use drugs. Usually, we sought them out ourselves at that young age or we were just surrounded by them. Although we need legislation to most definitely protect children who are being exploited, it is premature to introduce that without understanding the root causes of why drug dealing exists predominantly in communities that have been completely starved of resources for a long time. I ask that when we resume in the new year we would discuss how we can resource communities to prevent this and how we can give young people other options that do not seem as lucrative or as easy as the sale of drugs, but it is not easy in the end.

Senator Ivana Bacik: I second the amendment proposed by Senator McDowell opposing the attempted use of the guillotine by the Leader. I express my serious disappointment at the Leader's proposal this morning to attempt to guillotine through the Judicial Appointments Commission Bill on Committee Stage. It is unworthy of the Leader. He has not-----

Senator Jerry Buttimer: The Bill is on Report Stage.

Senator Ivana Bacik: Yes, Report Stage. Since 2016, a positive aspect of new politics and of the fact there is no Government majority in the Chamber is that the guillotine has not been used.

Senator Jerry Buttimer: Yes, it has.

Senator Ivana Bacik: I think I am correct that it was attempted once and defeated.

Senator Jerry Buttimer: No, we have used it on other business.

Senator Ivana Bacik: The guillotine is not good practice in the House and I am disappointed that Senator Ruane will support its use. Anyone who is not whipped to support the Leader's proposal should oppose it-----

Senator Jerry Buttimer: The Senator has voted for the guillotine in the past.

(Interruptions).

An Leas-Chathaoirleach: Order.

Senator Jerry Buttimer: It is a fair point.

(Interruptions).

Senator Lynn Ruane: The Heritage Act was guillotined.

Senator Ivana Bacik: I did not interrupt other Senators.

Senator Jerry Buttimer: The Senator did interrupt other Senators.

Senator Ivana Bacik: Yes, I did. I apologise, but it was just during the Leader's contribution.

(Interruptions).

Senator Ivana Bacik: I could not restrain myself at that point. He proposed an outrageous guillotine. There is a weekly leaders' meeting at which we agree to the Order of Business and the schedules for the following week. It is a good practice that the Leader introduced in 2016. The matter before us, however, was never discussed or raised at the meeting last week and was not flagged with us. Senator McDowell is correct that it seems to be a knee-jerk reaction to the Minister's failure last night. He rushed into the Chamber to resume debate on Report Stage of the Judicial Appointments Commission Bill but no officials or Fine Gael Senators were present. His own undue haste led to votes on two amendments going in a way he had not anticipated.

On a serious and sad note, I express my condolences to the family of the late Paul Anthony McDermott.

Senator Catherine Ardagh: Hear, hear.

Senator Jerry Buttimer: Hear, hear.

Senator Ivana Bacik: I had the pleasure of knowing Paul, as I am sure other Senators did. I knew him as a colleague and friend, and as such a respected voice on criminal justice issues. His untimely death at such a young age has come as a shock to all of us, and I express my sympathies to his family, friends and colleagues. I support calls for a debate on criminal justice, in light of Dr. Johnny Connolly's report. It would be a good idea to have a debate on criminal justice and our approach to drugs policy. I ask that we will have it in the new year, when it will be a fitting debate to have. In the debate, many of us will probably reference some of Paul

Anthony McDermott's work, which will be entirely appropriate. He made such a contribution over the years to criminal justice scholarship, not just to practice and litigation.

Our former colleague in the House, Jillian van Turnhout, has asked me to raise with the Leader a point about the Lanzarote Convention, or the International Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. Ireland, unfortunately, is on track to become the last of the 47 Council of Europe member states to ratify this important convention. Three states, including Ireland, have not yet ratified it. Azerbaijan is in the process of depositing its instrument of ratification before Christmas, Armenia is preparing to ratify it in the first quarter of 2020, but I am told there has yet been no sign of Ireland ratifying it. Will the Leader make urgent inquiries of the Government as to why we have not yet ratified it? I will do the same but it should also come from the Leader of the Seanad. It is so important that we be seen to lead on the issue and not lag behind. That we will be the last of the 47 Council of Europe member states to ratify the convention is shameful.

Senator Jennifer Murnane O'Connor: I raise the issue of volunteers because we need to be positive about them. Last weekend, the Community Games national movement held its national awards ceremony in Carlow. The organisation, which prides itself on inclusion and participation, was founded in 1967 and is still going strong today because of the people who make up a vital part of the organisation, namely, the volunteers on the ground. I was delighted to celebrate the national area volunteer and media awards with all the hardworking volunteers, who are the engine behind the Community Games machine. I was struck by the sheer number of them and the range of people involved - young, old and everything in between. A volunteer gives up his or her time for others, in the service of others and with others. They are the definition of selfless, freely giving their valuable time to something larger than themselves. Many of the volunteers I met from Carlow and elsewhere in the country lead busy lives, yet they find time somewhere to give themselves to the Community Games. Whether as coaches, organisers or committee members, they all provide a service without which the community games could not succeed. The children who get to participate in this incredible organisation can do so only if there are volunteers to guide them.

I congratulate, thank and applaud all the volunteers, and everyone who, in his or her day-to-day life, year after year, works tirelessly for no reward, just the joy of being part of a community. We all need to compliment them and say, "Well done." So many other serious issues have been raised today, such as those relating to women in abusive circumstances, violence and drugs, and we must work on them. Nevertheless, when there are great organisations such as the Community Games, with so many volunteers, it is important that we recognise them and give them the credit they are due.

Senator Rónán Mullen: I, too, was aggrieved to hear the news of the passing of Paul Anthony McDermott. While I had not met him often, I could say he was a friend. He was a wonderful lecturer when I attended the King's Inns and lectured us in contract law in the late 1990s. He had a full command of his subject and explained case law so brilliantly. He always saw the humorous side of a case and always brought it to our attention. In subsequent years, I met him and was always astonished at his productivity. As we know, he wrote on many subjects and, as Senator Bacik noted, he had expertise in criminal justice. He also wrote on *res judicata* and contract law. Nevertheless, he carried his knowledge and expertise lightly. He was always so courteous, kind and pleasant, and was a very nice person to be around. I met him in recent weeks with his mother but did not realise that his time on earth would be so short. It was so sad to hear the news and I offer my sympathy, as I am sure all Senators will, to his family and all

those who worked with or admired him.

I propose an amendment to the Order of Business, to take No. 19, the Civil Liability (Schools) Bill 2019, before No. 1. Last year, the Oireachtas Joint Committee on Children and Youth Affairs held hearings on childhood obesity. One issue that emerged, not least in the committee's engagement with teachers' unions, was evidence, albeit anecdotal, that children in some schools are prevented from partaking in physical activity during breaktimes due to restrictions imposed by schools in this regard. We hear stories from time to time of instructions not to run in the corridor or in the schoolyard, but children are supposed to run, although perhaps not in the precincts of Leinster House. In general, it is important that we encourage physical activity and appropriate levels of recreation.

It is not that the courts have made decisions that are perverse where people have brought actions against schools. The courts have upheld common sense where actions of negligence or otherwise have been brought arising out of accidents or falls in school grounds. Nevertheless, there seems to be a fear in certain quarters in schools, and it is important that the ground underfoot be made a bit more solid in order that schools will be comfortable about recreational activity and allowing and encouraging it. Although the courts may not make decisions we regard as perverse, there is nonetheless some concern that because of uncertainty in the law, insurance companies settle cases that might not or should not succeed.

The legislation I have proposed will have two effects. It will provide legal clarity and a guarantee that where an adequate and appropriate system of supervision is in place, schools will not be held liable, although such appropriateness will have to have regard to various circumstances such as the relationships between children, and particular dangers and contexts in schools and so on. Similar to the good samaritan provision in other legislation, it will also provide that where teachers give care or assistance in the context of an accident, they can be assured that unless they were acting in bad faith or with gross negligence, they will be protected from liability. That is the purpose of my Private Members' legislation and I will be grateful if I can introduce it today.

Senator Paul Gavan: I looked at some British news the other day. One of the starkest statistics I have seen is that there are now significantly more food banks in the UK than there are branches of McDonalds. There are 2,000 food banks as opposed to 1,249 branches of McDonalds. This reflects how far backwards British society has gone over the past 30 years. I grew up in London and am proud to be a member of the London-Irish community. My mum and dad worked in factories all of their lives. They were not well paid but we had a national health service, free education and my parents were able to give us a decent future. That, in turn, helped me when I came home because my oldest brother was in a position to help fund my education. I am saying this because I am not going to be here tomorrow and I want to appeal to the Irish across Britain, in particular in London, to use their votes wisely tomorrow.

It so happens that today, in 1982, was the last time a band called The Jam played. I was always a big fan of The Jam, whose last gig was tonight 37 years ago, which is a bit scary. Paul Weller wrote his most famous song, "Going Underground", in response to Thatcher getting into power. I will quote the lyrics because they are directly relevant today.

You choose your leaders and place your trust

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As their lies wash you down and their promises rust

You'll see kidney machines replaced by rockets and guns

And the public wants what the public gets

But I don't get what this society wants

I hope with every bone in my body that the British people have the common sense to reject Johnson-----

Senator Máire Devine: Hear, hear.

Senator Paul Gavan: -----reject Thatcherism, and reject the right-wing economics that have destroyed society over there.

Senator Máire Devine: Well said.

Senator Kevin Humphreys: I echo Senator Gavan's remarks. This is probably the first time those lyrics were quoted in the Seanad.

Senator Paul Gavan: Probably.

Senator Ivana Bacik: Or in any parliament.

Senator Kevin Humphreys: The report published this morning on young people in the south inner city is worrying. Senator Ó Ríordáin recently tabled a Commencement matter on establishing a task force for Coolock. This problem does not only affect Dublin's south inner city. It affects the north inner city, the south-east inner city and areas throughout the city. I can only speak for Dublin as I do not have direct experience of Cork.

I have seen in the inner city that these gangs have taken ownership of territory. They look on it as territory and have made no-go areas. I raised this matter with the Minister only last week when I explained what happens in the flat complexes. Sport utility vehicles, or SUVs, arrive, a drugs delivery is made to 14 and 15 year olds and the sales begin. These people take ownership of territory in the city and intimidate the community they live in. It is dreadful. They try to intimidate the few politicians that go into these areas because they want ownership of the territory and want to drive the Garda out of it. I have seen how they walk around with camera phones held up to the faces of gardaí as they patrol the complexes in an effort to push the gardaí out. Unfortunately, the numbers are wrong. Much of the inner city is not being policed at the level it should be. We do not have the community gardaí we should have. The gaps have not been filled. The biggest mistake ever made was the closure of the Garda Training College in Templemore because it led to huge gaps in the Garda service. We have more gardaí retiring than we have new gardaí coming on stream. This is a real problem.

The Irish Times contacted me this morning and asked about turnout figures at elections. I had a quick look at the turnout figures in the inner city and they are very low. Is the reason the area is being left behind that politicians look at the turnout figures and decide not to work for or represent those communities?

I lived in Neilstown 30-odd years ago. I remember, while out campaigning for an independent candidate, being stopped by a prominent politician who told me that households in Neilstown were only worth a leaflet because people in the area did not vote. Is that not really

an indictment of us and our policies?

An Leas-Chathaoirleach: I thank the Senator.

Senator Kevin Humphreys: I will finish on this. Unfortunately, the response of the Minister for Justice and Equality, Deputy Flanagan, to our request for a task force in Coolock was that he would get back to us.

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

Senator Kevin Humphreys: There is no single solution. As Senator Ruane pointed out, an holistic approach is needed.

An Leas-Chathaoirleach: I thank the Senator.

Senator Kevin Humphreys: Community resources have been drained and have not been replaced even though the recession and austerity are supposedly over. Resources have not been put back into resource centres and there are not enough youth workers.

An Leas-Chathaoirleach: The Senator has now taken some of the Leader's time. He is a minute and a half over time.

Senator Kevin Humphreys: I will finish on this.

An Leas-Chathaoirleach: The Senator has been finishing for a while.

Senator Kevin Humphreys: We had a conversation with the Leader yesterday and he agreed that we cannot lose the coaches and development officers from the Football Association of Ireland who work in communities. Sometimes the only way out for young people living in areas of deprivation that are controlled by the drug gangs is through sport. If they do not have that-----

An Leas-Chathaoirleach: Please, Senator, you are two minutes over time.

Senator Kevin Humphreys: I have raised only one issue.

An Leas-Chathaoirleach: The Senator speaks every day, as he is entitled to do. Leaders have three minutes' speaking time and all other Senators have two minutes. The Senator has spoken for four minutes and 16 seconds.

Senator Kevin Humphreys: The Leas-Chathaoirleach will appreciate that this is an exceptionally important issue.

An Leas-Chathaoirleach: I appreciate everything that every Member says.

Senator Kevin Humphreys: This report reinforces what Senators in this House have said every day.

An Leas-Chathaoirleach: We will have a separate debate on the matter.

Senator Kevin Humphreys: I thank the Leas-Chathaoirleach for the time.

Senator Keith Swanick: Today, the faculty of paediatrics of the Royal College of Physicians called on the Government to abolish the system of direct provision for asylum seekers

because the welfare of children is at stake. The author of the report issued today, Dr. Niamh O'Brien, stated the system is unethical, stigmatising and needs to end. Children in direct provision present with increased mental health issues and over-present to emergency departments with burns. These children are referred more frequently to Tusla than children in other settings.

Currently, there are more than 1,800 children in direct provision. The average waiting time in these centres is 14.3 months. While the waiting time has reduced, 14.3 months is still a lifetime for a child. The report's many recommendations include providing increased allowances for school and clothing expenses. I call on the Minister to consider establishing a specialised ring-fenced fund to enable these children to access psychological support. The mental trauma they are experiencing now will be carried forward into their adult lives. I am not sure if such a ring-fenced fund would be provided by the Department of Health or Department of Justice and Equality. Perhaps we could have a debate on this matter in the new year to protect these children and their mental stability and give them easy access to the child and adolescent mental health services, CAMHS. I have often said in the House that general practitioners should have 24-hour emergency access to allow them to pick up the phone to prevent a vulnerable suicidal teenager or adult from going to an accident and emergency department. While the recommendations of increased allowances for clothing and school expenses are welcome, a specialised ring-fenced fund to provide psychological support for these children would be an excellent idea.

Senator Frank Feighan: I thank Senator Gavan for eloquently putting the case for the Irish in Britain. We in this country do not fully appreciate the extent of the Irish diaspora, especially in major UK cities such as Glasgow, Liverpool, Manchester, London and Birmingham. I know from my British-Irish links that many of these men and women are involved in the Labour Party and Scottish National Party, and some are involved in the Conservative Party. I hope that whatever happens, the Irish caucus in Westminster, as it is known, will be strong. It is something that we have underestimated. There is huge Irish goodwill in Westminster and we have to continue to work with this, regardless of which party is in government. Anecdotally, many members of the Irish diaspora have been Labour Party supporters over the years. Just as many of the Irish diaspora in the United States have moved from the Democrats to the Republicans, some of the Irish diaspora in the UK have moved from the UK Labour Party to the Conservatives. It is a cross-party issue now.

I was disappointed to hear the recent revelations about the finances of the Football Association of Ireland, FAI, which is €55 million in debt. It is disappointing that representatives of the FAI will not attend today's meeting of the Joint Committee on Transport, Tourism and Sport, which will begin at 1.30 p.m. Many questions need to be answered. It is worrying to hear that FAI staff members, who have suffered a lot, have received threatening letters. This must stop. I ask the relevant authorities, including the Garda, to ensure it does not happen again. People are angry with the FAI and with particular people in the FAI. The staff of the FAI have done nothing wrong. Many of them have worked extremely hard.

Senator Kevin Humphreys: Hear, hear.

Senator Frank Feighan: The threats I have mentioned must stop immediately.

Senator Gerard P. Craughwell: I would like to second Senator Mullen's Bill, the Civil Liability (Schools) Bill 2019-----

Senator Jerry Buttimer: The Senator is not seconding the Bill. He is seconding the

amendment.

Senator Gerard P. Craughwell: Sorry. I would like to second Senator Mullen's amendment to the Order of Business, which relates to the Bill in question. I thank the Leader for pointing that out.

Senator Kevin Humphreys: The Leader is very helpful.

Senator Jerry Buttimer: I always try to be helpful.

Senator Gerard P. Craughwell: The Leader circulates precisely what he intends to say in the House to group leaders and Whips before he comes in here for the Order of Business. It is clear that his computer must not have been up to scratch this morning. He may have been trying to ambush us, although I would not expect him to act in an underhand manner.

Last week, I spent three days with the Not Forgotten Association, NFA, in the UK. The NFA is a military association that looks after the needs of military personnel, including a number of Irishmen, who have been injured in one way or another. This truly wonderful organisation looks after a total of 10,000 people. When I attended an NFA function in St. James's Palace, I was saddened to see men walking around on prosthetic legs, having lost their limbs in Afghanistan, Iraq and various other places. We could argue all day long about the rights and wrongs of it, but the truth of the matter is that 400 Irish men and women go to England every year to join the forces there. I thank the Tánaiste and Minister for Foreign Affairs and Trade for acceding to a request to allow an Irish branch of the regimental association of the Royal Irish Regiment to be established. The Irish branch, which had its first meeting last Saturday, will support men and women who return to this country after serving in the British forces. We could argue all day long about the rights and wrongs of it, but it does not matter. I served in the forces and I am proud of the service I gave. The important thing is that those who return to this country have an association to which they can turn if they need welfare. I think it is commendable that the Irish Government has allowed this to happen. I wish the royal Irish association every good fortune as it moves forward and as it looks after those who return. There will be serious issues with post-traumatic stress in years to come. People will need prostheses and various other things. I will leave it at that.

Senator Paddy Burke: I support Senators Ardagh, Ruane and Humphreys, who have called for a debate in this House on the drugs issue. It is no wonder that people are looking to get extra territory because this is a very lucrative business. I recently attended a policing board meeting in Castlebar, County Mayo. Every second speaker at the meeting spoke about the drugs issue, which is affecting people across the length and breadth of County Mayo, which is probably one of the most rural parts of this country.

An Leas-Chathaoirleach: We are even hearing about this problem in County Kerry.

Senator Paddy Burke: There is no doubt that there is a drugs epidemic in this country. If we were to contain it, or even to try to contain it, we would need twice as many gardaí as we have at present. I suggest that when we debate this matter, we should consider the introduction of drug testing in the workplace. We need to tackle this problem from the other end. There are countries where drug testing is done in the workplace. People in the construction sector in Australia are rightly tested for drugs. I recently met an employer who exports to the UK. When his employees were working on a project some time ago, the company from which he had got the contract announced that it needed to carry out drug tests. He was absolutely shocked when

four of his employees failed the test. We need to broaden out the debate by looking at alternative ways of combatting the serious issue of drug abuse and drug pushing, which is prevalent throughout the length and breadth of the country. I have no doubt that if we were to introduce drug testing in the workplace, even on a pilot basis, we would send a clear message to people who go to work after taking drugs in the belief that such activity has no consequences. I read yesterday that a professional soccer player was suspended for six weeks for taking drugs on a night out. As a consequence of failing a drugs test, he was suspended for six weeks and had to suffer the associated humiliation. We need a dose of reality here. I suggest we should look at the introduction of drug testing in the workplace.

Senator Máire Devine: I would like to speak about the Building Community Resilience report on the Dublin South-Central area, where I live. The report covers an area that radiates out from the Liberties. As other Senators have said, this problem affects more than one area in the country. The dogs on the street know this. I am on the street, and I know it. I am a Liberties girl. I was born, reared and educated in the area and I work there. I remember a time when I worked as a Saturday girl in Frawley's of Thomas Street. That was the hub where all working-class people went. Frawley's sold affordable items in every category. It was an Aladdin's cave. It shut down quite a long time ago. When I asked why it was closing, I was told it was closing because there were no more poor people in Dublin. I do not know what that reason was. I am on the ground. I work in that area. I do not ignore the people. I have heard it said that people do not bother to come out to vote because they cannot be arsed. I apologise because that is probably not parliamentary language.

An Leas-Chathaoirleach: It is certainly not.

Senator Máire Devine: The alienation of the young people of the area is replicated elsewhere. We call the people of these areas the people of no property. There is something askew here. It seems that people who have no property and no say, and cannot plan for the future, are being punished. The intergenerational effects of drugs on these areas are phenomenal. Many grandmothers are raising their grandchildren because their children are incapable of doing so due to their addiction issues. Children as young as ten years of age are alienated because they have been groomed and sent out to work for these criminals. We all know who those criminals are. The gardaí know who they are. Young people are being egged on to engage in anti-social behaviour. A guy on his bicycle was attacked along the Grand Canal yesterday or the day before. That happens on a regular basis. The same cohort of young people have been terrorising the neighbourhood since they were eight years of age. They are now 15 years of age. They act as lookouts for criminal drug lords. I would like to have a conversation on these matters in the Seanad. Why do we keep punishing areas like this, instead of enabling and encouraging investment and education in them?

Senator Paul Gavan: Well said.

Senator Marie-Louise O'Donnell: I would like to make two points. I have been following the farmers who have been standing outside the distribution areas of factories, conglomerates and supermarkets in the hope that they will be given a fair deal. They are still not getting a fair deal. Visas for workers with essential skills are being given to people who are going to work in these factories as animal boners, but such visas are still not being given to healthcare assistants. I have mentioned this seven or eight times in the last three or four months. I repeat that I would like the Minister to be brought to the House to set out the progress that is being made in giving skilled worker visas to healthcare workers to assist the ageing population here

in Ireland. We are good at offering such visas to assist highly profitable conglomerates, meat factories and supermarkets. When I think of them, I think of the word “greed”. I am very much behind the farmers because we forget at our peril that this is an agricultural country. We keep calling it something else, but it is an agricultural country. If we spent more time getting rid of plastic and less time talking about farting cows, we would be better off.

Senator Paddy Burke: That is unparliamentary language.

An Leas-Chathaoirleach: Order, please.

Senator Marie-Louise O’Donnell: There is nothing wrong with that. The blowing of wind has a certain verb attached to it.

Senator Ruane made a very good speech on drugs. She knows exactly what she is talking about in respect of young people and drugs.

The greatest abuse of the Seanad is the guillotine. It is far more abusive, in fact, than lengthy arguments or arguments which go on and go nowhere. It is an absolute disgrace that we are going to guillotine the Judicial Appointments Bill. I thought we would not do that in the Seanad.

One of the reasons I thought this was a very good place to be was that we could argue, have a sense of discourse and a research and thought process, listen to each other, be involved in and elevate argument from the Lower House and be convinced by each other in a non-territorial way. That is what I thought we were supposed to be doing in here. I have learned an awful lot from young Senators and elders like me across the House and across territories. I thought that was what this House was supposed to be about. The guillotine flies in the face of that.

The Judicial Appointments Bill comes from an unclear place and an unclear and unclean foundation. Everybody sitting here knows that. They must accept this Bill or else. There was not consensus among the parties that they would have a judicial appointments Bill. It came from one space, namely, a person who said, “I want this Bill or else”. That is not a clear place from which a Bill should begin. That is its first flaw. Everything that has come from that foundation has been flawed. The Government is sitting here pretending it is not. Many Senators across the House do not agree with the Bill and a majority dislike many aspects of it. We have started with a flaw, like the great Macbeth, and we are still there. We are now going to try to guillotine it and make the flaw even greater. We need to stand up to this.

Senator Diarmuid Wilson: I had a number of points to make on the guillotine, but Senator Marie-Louise O’Donnell has made them all very eloquently so I will be brief. If someone wants to use the additional minute and a half allocated to me, they are very welcome to do so.

I cannot believe that the Leader is attempting to guillotine the Judicial Appointments Commission Bill. I know it is not his way of doing business or that of his colleagues. This has been imposed on him and I understand the situation he is in, but it is appalling. My party will oppose it vigorously. In the unlikely event that the Leader’s proposal to guillotine this unnecessary Bill, a Bill which is not urgent, is successful then we will take other avenues to disrupt other legislation in this House.

Senator Máire Devine: Tell us.

Senator Jerry Buttimer: The bully boys are out. The bully boys are back. Long live the Progressive Democrats. The Progressive Democrats are back.

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Senator Kevin Humphreys: Settle down, Senator Wilson.

Senator Jerry Buttimer: Sit down and be quiet.

Senator Máire Devine: Kick them out.

Senator Kevin Humphreys: Will Senator Wilson yield for 30 seconds?

An Leas-Chathaoirleach: Senator Wilson, without interruption. He has possession.

Senator Kevin Humphreys: He has just yielded.

Senator Jerry Buttimer: Sit down.

An Leas-Chathaoirleach: You have already-----

Senator Kevin Humphreys: He said he would yield 30 seconds, as allowed under Standing Orders. Can I point out one thing?

An Leas-Chathaoirleach: The Senator has already spoken for double his time.

Senator Kevin Humphreys: I will point out one thing. The guillotine was used for the Heritage Act, an Act that was so flawed it was never commenced.

Senator Diarmuid Wilson: The cash for ash scandal happened in Northern Ireland. I hope this Bill is not a grants for votes scandal.

An Leas-Chathaoirleach: Thank you Senator. Order now.

Senator Michael McDowell: People coming in from hospital beds-----

An Leas-Chathaoirleach: Sorry, please.

Senator Jerry Buttimer: The Senator is a good man for doing deals himself.

An Leas-Chathaoirleach: Please, Senator.

Senator Jerry Buttimer: He is a good man for-----

An Leas-Chathaoirleach: Order now for Senator Robbie Gallagher.

Senator Michael McDowell: Yes. Deals.

An Leas-Chathaoirleach: No interruptions.

Senator Robbie Gallagher: We hear harrowing and heartbreaking testimonials on a daily basis from patients who are enduring long delays in accident and emergency departments in many parts of the country. I recently read with interest that the Minister for Health, Deputy Simon Harris, is planning to introduce a number of measures with a view to alleviating the current pressures on accident and emergency departments throughout the country. Some would say that is long overdue.

One of the measures being talked about is a proposal to reduce the €100 fee for attending injury units to €75. It is hoped that will encourage more people to use injury units rather than going to accident and emergency departments in different parts of the country. I for one would be

in favour of that. As the Leader knows, there are 11 injury units located the length and breadth of the country, one of which is located in my county, Monaghan. It is an excellent service and the staff there are doing a fantastic job. They can treat many illnesses, from a sprain to a scald or broken bone. They can do X-rays, sutures and many things for which people tend to go to accident and emergency departments.

I am glad to report that the numbers using the facility in Monaghan are on the increase, but I am disappointed to learn that its opening hours are the most restricted of the 11 units in the country. It is something which needs to be examined. I would like the Leader to confirm that the admission fee for these units will be reduced by €25. He might tell us when these measures will be introduced because we all know many of our citizens are suffering needlessly in corridors and on trolleys the length and breadth of the country as they try to seek treatment for their illnesses.

Senator Brian Ó Domhnaill: I want to support what has been said about the drugs issue, in particular the insight given by Senator Ruane about her own experience. Every small town in Ireland is dealing with this issue, as is Dublin. My area is no exception.

It is worth mentioning the late PJ Blake, who died in Letterkenny and was buried this week. He was a town councillor, and all his life he was an advocate for the need to tackle the drugs issue in our small and regional towns. One of his main concerns was the fact that the Garda resources to deal with drugs had been greatly depleted, and that remains the case. Gardaí simply do not have the resources, particularly in rural areas, to deal with this problem. It is now the biggest problem for young people in small rural towns. It is affecting our schools, including one incident in my town in recent weeks which is a cause of concern for all of us. We should have a debate on that issue.

I had a discussion this week with the Minister of State at the Department of Health, Deputy Finian McGrath, who has advised me that the Irish Wheelchair Association made no application to his Department for funding to keep the Cuisle centre open. Councillor Tony Ward, who is a member of the HSE forum in Roscommon, has raised this issue. It is time that the Irish Wheelchair Association was called to account on this issue and I appeal to it to apply to the Department of Health and HSE for the required funding because I have been informed that if an application was to be made the Minister for Health would look favourably on it. It is time for truth and clarity to be brought to bear on this issue.

Senator Gerald Nash: It is timely that we have a debate in the Chamber on the health impacts of drug use and misuse in this country. We have had many debates in recent weeks on the Garda and criminal justice response to drugs in our communities. Any time I have had the opportunity to participate in those debates, I always refer to the need to address these issues from a health and not a criminal justice perspective. My home town in Drogheda is in the grip of a criminal feud to do with the supply of drugs. Very little attention is given to those who are in the grip of problem drug use, and I shall give an example. We are about to open a refurbished HSE drugs facility in Drogheda over the coming weeks. The reality is that there are very few staff to populate that centre and we have no outreach workers in the town of Drogheda, which is the biggest town in the State that is not a city. We do not have the outreach workers. The Red Door project is an excellent community-based service but it has not received an increase in funding in recent years. There was one small increase due to lottery funding some years ago but there has been no increase in its core funding. We are in the grip of a drugs feud, or I could describe it as a drugs war, but the State leaves those who are impacted by this on the long finger

for treatment and for support. It is simply not on. We can create all of these new facilities, or refurbished facilities, that we want or need, but if we do not populate them with expert staff and outreach workers to deal with the issues on the ground, then it is an absolute waste of time and State resources and money.

I must mention the situation that the school secretaries across the State find themselves in this week. Agreement was reached that school secretaries who are in dispute with the Department of Education and Skills and who are members of Fórsa would engage with the Workplace Relations Commission, WRC, on the basis that they could address the long-standing concerns they have around parity with school secretaries who are public servants, those employed with the education and training boards and those employed by the Department of Education and Skills. School secretaries who are employed by school boards of management through schools' annual ancillary grants are receiving as little as €12,500 per annum and must sign on come the Christmas, Easter and summer holidays. This is simply not on. These people do the work of public servants but do not have the same benefits in pension entitlements and so on. They went to the WRC this week and despite the fine words of the Minister for Education and Skills in the Dáil in October, when the school secretaries decided that they would suspend their industrial action on the basis that they would go to the WRC, they have been offered a miserable 1.5% pay increase. It is a miserable offer when one considers that private sector pay increases this year-----

An Leas-Chathaoirleach: The Senator has gone one minute over.

Senator Gerald Nash: -----are expected to be nearly 4% across the board. It is time the Minister, Deputy McHugh, got real and gave school secretaries the respect they deserve, re-engaged with them, and ensured they are placed on a scale with the public servants in the education and training boards, and with those who are paid by the Department.

Senator Gerard P. Craughwell: Hear, hear.

Senator Gerry Horkan: I observed some of the Order of Business when it was outlined and I saw Senator McDowell's response. I came in when Senator Marie-Louise O'Donnell was discussing it, but unlike a lot of days I will actually speak about the Order of Business. I cannot say anything further than what has already been said by Senators McDowell and O'Donnell, and by many others, other than to say we have had a very useful debate on judicial appointments. I have probably been in the Chair for the guts of at least half of the debate on Committee Stage. I have heard and learned a lot of things. I believe there are 78 amendments proposed. This House disposed of quite a number of amendments yesterday, which may have been far quicker than the Government thought we would, for various reasons.

Senator Michael McDowell: It was four.

Senator Gerry Horkan: We got through four in one and a half hours. At this stage we have done 14 of the 78 amendments.

An Leas-Chathaoirleach: Correct.

Senator Gerry Horkan: We have had worthwhile debate. There are amendments that are worth debate, challenge and discussion. It is very unfortunate that the Government and the Leader have been put in a position where the Leader is being forced - effectively - to put this question. It is not something he does very often-----

An Leas-Chathaoirleach: It is not up to the Leader.

Senator Gerry Horkan: I want it on record that I am not okay or comfortable with the guillotine being pushed and I will certainly oppose it.

I do not know if any Member has already raised my next point. A number of people have been attacked while cycling along the Grand Canal-----

Senator Ivana Bacik: Yes.

Senator Gerry Horkan: -----at what are known as “kissing gates”, which are designed to slow cyclists down. They have now become, effectively, chicanes where the cyclist must slow down or stop, or perhaps get off his or her bike. I have not used that stretch of the canal but this is a very serious issue. I am aware of one person who was attacked recently and hit with an iron bar as he was going through the gate. This was raised a number of days ago. I had asked for a debate on cycling previously and we need to make sure that when we design cycling infrastructure we do not design it in such a way that people are vulnerable to being attacked. We talk about Garda resources, but equally we cannot have a garda on every stretch of cycle lane.

Senator Jerry Buttimer: Hear, hear.

Senator Gerry Horkan: It is important that we design them appropriately and iron out these kinds of problems and do not allow these facilities to be used in such a way. I do not like to raise what are usually local authority matters, but it is an important issue and it should be raised.

An Leas-Chathaoirleach: Last, but certainly not least, I invite Senator David Norris.

Senator David Norris: It is very regrettable that the Government is introducing a guillotine. This is the Government that said it would never introduce a guillotine, yet we have people being yanked out of hospital. I believe it would be very difficult for Independent Senators of any kind to defend a vote of this kind against democracy. Should they be persuaded to do so it may come back to haunt them.

On a more positive note I look forward to the election in Britain tomorrow and I look forward to the election of a Corbyn Government.

(Interruptions).

Senator David Norris: The figures are going in the right direction-----

Senator Jerry Buttimer: The Senator is deluded.

An Leas-Chathaoirleach: Senator Norris without any interruption please.

Senator David Norris: Corbyn is a bit of a sleeper and despite the capitalist press of the Murdoch gutter hounds, the people of England have seen the difference between a Jeremy Corbyn who feels passionately about the welfare of the people, and a Boris Johnson who dismisses a photograph of a young man lying on the ground with an oxygen mask to his face because there is no room for him in a hospital. He would not even look at it. He took the phone away from the reporter and put it in his pocket. That is the kind of person he is. There is also no question or doubt that he is a pathological liar. How does one know that Boris Johnson is lying? The minute he opens his mouth he is at it and in it-----

(Interruptions).

Senator David Norris: I am half English but I believe that they are the most politically illiterate race on the continent of Europe. They can redeem themselves, however, and I appeal to the Irish vote in England - if any of them are listening or watching this - to stay true to their roots and vote for Corbyn tomorrow.

Senator Jerry Buttimer: I know it is pantomime season but-----

An Leas-Chathaoirleach: We have had a few performances.

Senator David Norris: Well the Senator is the backside of a horse anyway.

Senator Gerard P. Craughwell: And the Senator is the central character.

An Leas-Chathaoirleach: The Leader without interruption.

Senator Jerry Buttimer: The sooner next Wednesday comes the better. I thank the 20 Members of the House for their contributions-----

An Leas-Chathaoirleach: I believe it was 21.

Senator Jerry Buttimer: I counted 20. I stand by the Leas-Chathaoirleach's 21, if it is 21. I thank the Members of the House for their contributions to the Order of Business. Senators Ardagh, Ruane, Bacik, Humphreys, Burke, Devine, Ó Domhnaill and Nash raised the issue of the report Building Community Resilience published by Dr. Johnny Connolly. It is a very important report. As Members will be aware, Dr. Connolly was a member of the Commission on the Future of Policing in Ireland. Today's report dovetails very much with initiatives being taken by the Government around the Commission on the Future of Policing in Ireland, and on the whole issue around the community policing model. Senator Nash made a very good point that it is not just a criminal justice debate, it is also about health and education. I would be happy to have a debate on that. It is important that we have an honest debate. I have not read all of Dr. Connolly's report but it is important to recognise a number of points, one being that, as Senator Ruane has said, it is about how we look at and view the conversation around the misuse of drugs, those who sell and deal in drugs, and the communities that are ravaged by drugs. Senator Humphreys commented on politicians not engaging or canvassing on it when electioneering. Those politicians do everybody a disservice. I do not share that philosophy. The report by Dr. Connolly has built upon other work done, such as the Greentown study. We will have that debate. To be fair, the Minister of State, Deputy Catherine Byrne, has done a lot of work in the area, and especially given that she is from the same constituency referred to by Senators Ardagh and Devine. I have a very strong view on Senator Paddy Burke's point on the misuse of drugs, especially cocaine. I served on the Cork city and county policing committees. We were told cocaine use is on the rise, not just among a certain section but across every community, particularly young professionals. I certainly subscribe to the view that there should be drug testing in the workplace.

Senator Kevin Humphreys: More than anyone else-----

Senator Jerry Buttimer: Absolutely. We have drug testing in sport and I do not see why we should not have it in the workplace.

An Leas-Chathaoirleach: I ask the Leader not to invite further comment. I believed he

was doing so because he paused. The Senator is the only one who has the floor now.

Senator Jerry Buttimer: That will not last for long, I can assure the Leas-Chathaoirleach.

An Leas-Chathaoirleach: The Leader should speak through the Chair.

Senator Kevin Humphreys: I was only trying to be helpful.

Senator Jerry Buttimer: I appreciate that. Senator Gavan quoted The Jam. The words of Yeats come to mind as I come to the next part of the Order of Business: “And I shall have some peace there, for peace comes dropping slow”. The Judicial Appointments Commission Bill has been mentioned by eight Senators, namely, Senators McDowell, Bacik, Craughwell, Ruane, Marie-Louise O’Donnell, Wilson, Horkan and Norris.

Senator Marie-Louise O’Donnell: And Senator Marie-Louise O’Donnell.

Senator Jerry Buttimer: I did mention the Senator.

Senator Marie-Louise O’Donnell: I did not hear it. It was not loud enough.

Senator Jerry Buttimer: I will begin with Senator Marie-Louise O’Donnell’s contribution. There has been a lot of hot air over the 109 hours of debate on the Judicial Appointments Commission Bill.

Senator Gerard P. Craughwell: There were more than 109.

An Leas-Chathaoirleach: The Leader, without interruption.

Senator David Norris: What else have we got to do? There is no business in this House, other than statements on this, that and the other, and some idiot saying we are holding things up because there is more important business.

An Leas-Chathaoirleach: Please, Senator Norris.

Senator David Norris: Where is it? I would like to see it.

An Leas-Chathaoirleach: Please, Senators.

Senator Marie-Louise O’Donnell: There is no need to call anybody an idiot.

Senator David Norris: It is appropriate.

Senator Gabrielle McFadden: It is not.

Senator David Norris: Of course it is. Absolutely.

Senator Gabrielle McFadden: It is not appropriate to call a colleague an idiot.

Senator David Norris: Yes, it is.

Senator Gabrielle McFadden: If that is the Senator’s colleague’s opinion, it is not appropriate to call them an idiot.

Senator David Norris: Yes, it is.

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Senator Martin Conway: It is totally inappropriate.

Senator David Norris: Yes, it is.

Senator Gabrielle McFadden: I am sorry but I feel very strongly about that.

Senator David Norris: Too bad.

Senator Rónán Mullen: It could be worse.

An Leas-Chathaoirleach: Senator Norris, as father of the House, knows well it is not appropriate to call anybody an idiot.

Senator Rónán Mullen: The view might be idiotic, though.

Senator Jerry Buttimer: The Judicial Appointments Commission Bill has been discussed in this House for 109 hours. Senator Craughwell should note there were 99 hours on Committee Stage.

Senator David Norris: We improved it.

Senator Jerry Buttimer: I understand and accept that Members have to protest over the curtailment of the debate today and be seen to be doing so. The guillotine or the restriction of the debate is a long-standing parliamentary practice that has been used by Senator Bacik when in government, and by Senator McDowell when in government-----

Senator David Norris: Senator Buttimer said he would never use it.

Senator Jerry Buttimer: I never said that. It is important-----

An Leas-Chathaoirleach: The Senators have all had their say. We will hear the Leader now.

Senator Michael McDowell: Is the Bill no longer a dog's dinner-----

Senator Jerry Buttimer: I apologise to Senator Craughwell. There was a complete oversight. I had two meetings this morning and was not in my office, and that is why the email did not go out. I apologise to the Senator for that.

An Leas-Chathaoirleach: I thank the Leader. He has made his point.

Senator Jerry Buttimer: I apologise for that.

Senator Gerard P. Craughwell: I would not subscribe to a conspiracy theory.

Senator Jerry Buttimer: Senator Bacik came in this morning protesting over the leaders' meeting and Members not being informed. It is the proposal of the Leader on any given day. By the same token, many Members, including some from the Senator's party, come in here without ever telling me at the group meetings that they are proposing an amendment to the Order of Business on any day. Senator Bacik has been at the group meetings and never referred to opposing the Order of Business.

Senator Ivana Bacik: If I may-----

An Leas-Chathaoirleach: Please.

Senator Ivana Bacik: Being in government and in opposition are very different, as the Leader well knows.

Senator David Norris: As the Leader will find out after the election.

An Leas-Chathaoirleach: The House is very unruly this morning. The Leader should be allowed to continue without interruption.

Senator Jerry Buttimer: I am quite happy to go before the people any time. It does not bother me in any way.

Senator Ivana Bacik: The difference is in the name. Senator Buttimer is the Leader. We are not-----

Senator Jerry Buttimer: As Senator Boyhan says-----

(Interruptions).

An Leas-Chathaoirleach: We must move along.

Senator Jerry Buttimer: As Senator Boyhan says, it is the prerogative of the House to accept or amend the Order of Business.

An Leas-Chathaoirleach: We will deal with the amendment when the Leader is finished.

Senator Jerry Buttimer: I am amused that Senator McDowell speaks about one person capturing Fine Gael. It is extraordinary how one man can capture his own group. There are none so blind as those who follow.

Senator Gerard P. Craughwell: I will not accept that nonsense from the Senator. He should just go and report to the Minister for Transport, Tourism and Sport, now that he is being hammered here.

An Leas-Chathaoirleach: The Leader has the floor.

Senator Jerry Buttimer: Senator Conway-Walsh-----

An Leas-Chathaoirleach: The Leader should speak through the Chair.

Senator Jerry Buttimer: Senator Conway-Walsh raised the issue of domestic violence. I have not seen the Sinn Féin Bill. There is great merit in the proposal. Senator Clifford-Lee raised the matter yesterday in the House. Senator Conway-Walsh and her colleagues in Sinn Féin have made a proposal on leave for victims of domestic violence.

(Interruptions).

An Leas-Chathaoirleach: Please, the Leader without interruption. We cannot have a separate debate in the Chamber. If the Senators want to have a discussion, they may have it in the anteroom.

Senator Michael McDowell: I believe a meeting of a Fine Gael-Sinn Féin mutual adoration society is taking place.

An Leas-Chathaoirleach: If the Senators are going to stay in the Chamber, they should be in their seats.

Senator Lynn Ruane: I had to check in with my office regarding what Senator Norris said. He was actually referring directly to me by saying some idiot said there is more important business to be doing than the main Bills in the House. I will tell the Senator something now. I am no idiot and I believe he should withdraw the remark. There is much more important business to be doing in the House. There is much more important business to be doing and I am in here every day doing it.

An Leas-Chathaoirleach: I believed Senator Norris was referring to the Leader, to tell the truth. I have already corrected the Senator, stating that the language in question is out of place. I am sure he will apologise to Senator Ruane if the comment was directed at her.

Senator Jerry Buttimer: Senator Norris should withdraw the remark and apologise.

An Leas-Chathaoirleach: Abusive language is out of order. I ask the Leader to move on.

Senator Jerry Buttimer: Senator Conway-Walsh's proposal is one we should all consider. I would be happy to do that. Senator Bacik raised the issue of the Lanzarote Convention. I have not got an answer to the question she raised but I will revert to her on the matter.

Senator Murnane O'Connor mentioned volunteerism. International Volunteer Day was last week. I commend all involved. Both Senators Norris and Mullen paid a lovely tribute to the late Paul Anthony McDermott. We also paid tributes yesterday on the Order of Business. Again, I offer our sympathy to Mr. McDermott's family. Senator Mullen made a fair point on Mr. McDermott's ability to reach the ordinary person on aspects of law. Mr. McDermott will be missed, but by none more than his family.

I am happy to accept Senator Mullen's amendment to the Order of Business. I should have said I will not be accepting Senator McDowell's amendment to the Order of Business.

Senator Michael McDowell: No surprise.

Senator Jerry Buttimer: I knew the Senator would not be surprised.

An Leas-Chathaoirleach: I will be putting the amendment in a minute. The Leader should conclude.

Senator Jerry Buttimer: Senator Gavan raised the issue of food banks in the United Kingdom. Both he and Senator Norris raised the issue in the context of the UK general election tomorrow. Irrespective of who wins, it is important that we on this island work with the new British Government. We may have certain views, which I will not express as Leader, other than to say we wish every candidate success tomorrow.

Senator David Norris: No, we do not.

(Interruptions).

An Leas-Chathaoirleach: Senators, please. The Leader should continue.

Senator Jerry Buttimer: Senator Gavan made a point on the rise of food banks. It is interesting that there were none in the North of our country a decade ago. There are now 30. That

is worth considering in the context of the Senator's conversation.

Senator Swanick raised the issue of direct provision. It is exercising the Government. The McMahon report is being implemented. There is a need to move away from direct provision. I hope it will happen in time but there have been significant changes made. The Minister was here two weeks ago discussing direct provision.

Senator Feighan spoke about the FAI, as did Senator Humphreys, in the context of the development officers. It is important that there be genuine root-and-branch reform of the FAI. Sport Ireland has a role and questions to answer on how it allowed the FAI to carry on its business in the way it did. It is the oversight body.

Senator Gerard P. Craughwell: They probably used the guillotine.

Senator Jerry Buttimer: I was interrupted by a number of people but I am getting there. Senator McDowell has been exercised by the Minister for Transport, Tourism and Sport, Deputy Ross, a lot today. The Minister has done a very good job in showing the inadequacy of the FAI, and the Senator should give him credit for that. What the Minister is actually doing, which is quite right, is diverting money from the FAI and channelling it to the grassroots, where it is needed.

(Interruptions).

An Leas-Chathaoirleach: We cannot have a debate now. The Leader should conclude.

Senator Jerry Buttimer: I commend Senator Craughwell on his work with the NFA. The points he made are ones we should pursue. I will be happy to talk to him afterwards about this. It is important that we acknowledge the NFA, not just in a tokenistic way but in real terms. I would be happy to talk to Senator Craughwell about that.

Senator Marie-Louise O'Donnell raised the issue of visa requirements for healthcare workers. She is 100% correct. There is a skills shortage in the health sector, in particular in the nursing homes sector, that needs to be addressed urgently. They are competing with HSE hospital staff and it is not a level playing field. I have spoken to the Minister for Business, Enterprise and Innovation, Deputy Heather Humphreys, about the need to change the visa requirements. We changed the work visa programme for a number of other areas, in particular in the hospitality sector. We must ensure that we do that.

Senator Gallagher also raised a health issue. The Minister for Health, Deputy Harris, was before the Oireachtas Joint Committee on Health today. He announced the opening of 190 new beds across various hospitals. I am told that the Minister indicated to the committee that the fee the Senator mentioned is being reduced but I do not have confirmation on that yet.

Senator Ó Domhnaill referred to Cuisle. The Minister of State at the Department of Health, Deputy Finian McGrath, has been in the House to discuss the issue. It is disappointing to hear the IWA did not apply for funding but it is important that we ensure it has an opportunity to engage further on the matter.

Senator Nash raised the issue of school secretaries. I hope there is engagement, as there needs to be. All of us who worked in schools understand the importance of the school secretary and their role but they also need to get fair pay.

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Senator Horkan raised the issue of the attacks on the Grand Canal. That is disappointing for cyclists. It is a matter that should be taken up with the relevant Garda authorities. It is important that CCTV monitoring is used in the area.

I will not be accepting Senator McDowell's amendment.

An Leas-Chathaoirleach: We will come to that.

Senator Jerry Buttimer: I will accept Senator Mullen's amendment.

An Leas-Chathaoirleach: An amendment to the Order of Business has been proposed by Senator McDowell, "That No. 3 adjourn at 5.30 p.m., if not previously concluded." Is the amendment being pressed?

Senator Michael McDowell: It is.

Amendment put:

The Seanad divided: Tá, 22; Níl, 25.	
Tá	Níl
Ardagh, Catherine.	Burke, Colm.
Bacik, Ivana.	Burke, Paddy.
Clifford-Lee, Lorraine.	Buttimer, Jerry.
Craughwell, Gerard P.	Byrne, Maria.
Daly, Mark.	Coffey, Paudie.
Daly, Paul.	Conway, Martin.
Freeman, Joan.	Conway-Walsh, Rose.
Gallagher, Robbie.	Devine, Máire.
Hackett, Pippa.	Dolan, John.
Horkan, Gerry.	Feighan, Frank.
Humphreys, Kevin.	Gavan, Paul.
Leyden, Terry.	Lawlor, Anthony.
Marshall, Ian.	Lombard, Tim.
McDowell, Michael.	Mac Lochlainn, Pádraig.
Mullen, Rónán.	McFadden, Gabrielle.
Murnane O'Connor, Jennifer.	Mulherin, Michelle.
Nash, Gerald.	Noone, Catherine.
Norris, David.	Ó Céidigh, Pádraig.
Ó Ríordáin, Aodhán.	Ó Domhnaill, Brian.
O'Donnell, Marie-Louise.	Ó Donnghaile, Niall.
Swanick, Keith.	O'Donnell, Kieran.
Wilson, Diarmuid.	O'Mahony, John.
	Richmond, Neale.
	Ruane, Lynn.
	Warfield, Fintan.

Seanad Éireann

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

Amendment declared lost.

Senator David Norris: Let the record show that the Government had to undo pairings, do deals and dredge the hospitals to get this disgraceful vote through.

An Leas-Chathaoirleach: Order please. There is a further amendment to the Order of Business proposed by Senator Mullen, "That No. 19 be taken before No. 1."
1 o'clock Is that agreed?

Senator Jerry Buttimer: Yes, I am happy to accept Senator Mullen's proposal.

An Leas-Chathaoirleach: Is that agreed? Agreed. Is the Order of Business, as amended, agreed to? It is not.

Question put: "That the Order of Business, as amended, be agreed to."

The Seanad divided: Tá, 25; Níl, 22.	
Tá	Níl
Burke, Colm.	Ardagh, Catherine.
Burke, Paddy.	Bacik, Ivana.
Buttimer, Jerry.	Clifford-Lee, Lorraine.
Byrne, Maria.	Craughwell, Gerard P.
Coffey, Paudie.	Daly, Mark.
Conway, Martin.	Daly, Paul.
Conway-Walsh, Rose.	Freeman, Joan.
Devine, Máire.	Gallagher, Robbie.
Dolan, John.	Hackett, Pippa.
Feighan, Frank.	Horkan, Gerry.
Gavan, Paul.	Humphreys, Kevin.
Lawlor, Anthony.	Leyden, Terry.
Lombard, Tim.	Marshall, Ian.
Mac Lochlainn, Pádraig.	McDowell, Michael.
McFadden, Gabrielle.	Mullen, Rónán.
Mulherin, Michelle.	Murnane O'Connor, Jennifer.
Noone, Catherine.	Nash, Gerald.
Ó Céidigh, Pádraig.	Norris, David.
Ó Domhnaill, Brian.	Ó Ríordáin, Aodhán.
Ó Donnghaile, Niall.	O'Donnell, Marie-Louise.
O'Donnell, Kieran.	Swanick, Keith.
O'Mahony, John.	Wilson, Diarmuid.

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Richmond, Neale.	
Ruane, Lynn.	
Warfield, Fintan.	

Tellers: Tá, Senators Gabrielle McFadden and John O'Mahony; Níl, Senators Diarmuid Wilson and Ivana Bacik.

Question declared carried.

Civil Liability (Schools) Bill 2019: First Stage

Senator Rónán Mullen: I move:

That leave be granted to introduce a Bill entitled an Act to amend the law related to civil liability for schools.

An Leas-Chathaoirleach: Is there a seconder?

Senator Mark Daly: I second the proposal.

Question put and agreed to.

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

Senator Rónán Mullen: Next Tuesday.

An Leas-Chathaoirleach: Is that agreed? Agreed.

Second Stage ordered for Tuesday, 17 December 2019.

Social Welfare (No. 2) Bill 2019: Committee Stage

Acting Chairman (Senator Diarmuid Wilson): I welcome the Minister.

Sections 1 to 3, inclusive, agreed to.

Amendment No. 1 not moved.

Sections 4 to 12, inclusive, agreed to.

Acting Chairman (Senator Diarmuid Wilson): Amendments Nos. 2 and 13 are related and may be discussed together by agreement. Is that agreed?

Senator Máire Devine: No, it is not agreed.

Acting Chairman (Senator Diarmuid Wilson): Amendment No. 2 is in the name of Senator Higgins who is not here so it cannot be moved.

Senator Máire Devine: The Acting Chairman is asking if this is agreed and I am saying it is not.

Acting Chairman (Senator Diarmuid Wilson): That is fine because, as Senator Higgins is not here, the amendment cannot be moved.

Amendment No. 2 not moved.

Sections 13 to 27, inclusive, agreed to.

NEW SECTIONS

Acting Chairman (Senator Diarmuid Wilson): Amendments Nos. 3, 4 and 11 are related and may be discussed together by agreement. Is that agreed? Agreed.

Senator Máire Devine: I thank the Acting Chairman. I was getting dizzy for a little while there.

Acting Chairman (Senator Diarmuid Wilson): I must be as efficient as possible.

Senator Máire Devine: I move amendment No. 3:

In page 17, between lines 18 and 19, to insert the following:

“Report on financial impact of changes to hours Carers can work outside the home

28. The Minister shall prepare and produce a report on the impact of the increase in hours carers in receipt of Carer’s Allowance can work outside the home from 15 hours to 18.5 hours without a corresponding increase in the earnings disregard and that the report shall be presented to the Oireachtas Joint Committee on Employment Affairs and Social Protection within 4 months of the enactment of this Act.”.

Amendment No. 3 relates to change announced in budget 2020 which increases the number of hours that carers may work or study outside the home from 15 to 18.5. This was touched on in the debate on Second Stage last week. The increase is very welcome and was a priority for carers and the organisations that represent them. However, there has been no increase in the earnings disregard. It is not possible to do one without the other. The level of income disregard has remained static. Next year will be its 20th anniversary unless we reverse the decision not to increase it. Towards 2016 included a commitment by Government to expand the income disregard for carer’s allowance so that those on the average industrial wage would qualify. By the end of 2018, average industrial earnings were approximately €762 while the income disregard for carer’s allowance is €332 for a single person and €665 for a couple. Family Carers Ireland has highlighted the impact that increasing the hours carers can work without increasing the earnings disregard will have. The Minister should not ignore those concerns. I hope she will agree to the amendment.

Amendment No. 4 also relates to carers. The number one priority for carers, as outlined in Family Carers Ireland’s budget 2020 submission, is to “Reform the means test for Carer’s Allowance”. Alarm bells should sound when we see that only one in five of carers in Ireland receive carer’s allowance. The eligibility criteria are far too strict and are actively preventing carers from accessing social welfare supports for the caring they do. I expect many carers are

immediately put off from even bothering to apply for carer's allowance when they see the criteria involved and the evidence required. I am reminded of a case where a son wanted to apply for carer's allowance in respect of his 87-year-old widowed mother with whom he lived. He took on the small family farm after the death of his father and did not work aside from looking after his mother and the farm. In order to prove that he spent less than the then maximum of 15 hours on the family farm per week, the carer's allowance section wanted to know how much land he farmed and how many cattle he had in order to work out how much time he spent on the farm. I would love to know how they worked it out. Ultimately, he withdrew his application for carer's allowance. If a person cares for another person keeping them at home, then they are a carer and they should be assisted and supported by your Department. The current means test does not assist or support carers. There are over 200,000 unpaid carers, many of whom will feel they cannot meet the criteria relating to the means test.

Amendment No. 11 in the name of Senator Higgins is similar to the amendment in my name. I would be happy to submit a joint amendment with her on Report Stage if this amendment is not accepted.

Minister for Employment Affairs and Social Protection (Deputy Regina Doherty): I ask the Senator to withdraw both of her amendments for two different reasons. One is because there is already a report so I do not need an amendment to the legislation to provide what we have done already during the deliberations and preparations for budget 2020. I would be very happy to share it with the Senator today or in the next couple of days. It helps explain the reason for the decision to increase the hours from 15 to 18.5 and not follow with what was probably expected, that is an increase in the means test disregard.

On amendment No. 4, we carry out a review, probably of all our schemes, annually. The amendment asks that I "carry out a review of the means test in place for Carer's Allowance in consultation with key stakeholders". Every year, including this year, I have a pre-budget forum where all stakeholders for the relevant schemes come and give us their submissions. The only difference is that I have not gone out and sought it or, rather, they have gone and volunteered it to me. Again, I have a report that I can give the Senator that will show her exactly what the means test is based on, how it is calculated and why we do not pay for care. What my Department actually does is provide an income support. That really jars with some people because, as the Senator said, there are tens of thousands of people who are providing care who do not get paid, or some get the respite care allowance but do not get financial recompense that they would regard as representing full value for the care they provide. My difficulty is that the Department provides income supports. We look after the people who do not have the means to look after themselves. We need to have a national conversation about care and the value of care. I raised this matter at the EU Council meeting yesterday. It is the elephant in the room when we talk about gender equality and about how to get women back to work. Offering all the advantages, programmes and initiatives that the various EU member states employ to try to encourage women back to work is all very well but there is not much point to these if we do not engage in a conversation about the value of care and the value that we place on women staying at home and rearing their children. There is also the question of all the women - although some men also do so - who take time out of their careers to mind people they love and cherish when those individuals are ill and cannot mind themselves. If we have a national conversation about care and the value we place on it, we may have a different policy than simply paying the income support that comes through my Department.

Senator Máire Devine: I will just go over this again. Amendment No. 3 seeks an increase

to the income disregard. Such an increase was not announced in budget 2020. The Minister referred to her report. Does she intend to increase the disregard at the next budget?

Deputy Regina Doherty: No, the amendment asks me to produce a report on the impact of the disregard. I already have that report. If the Senator withdraws her amendment, I will give her the report immediately - either later today or tomorrow.

Senator Máire Devine: I will withdraw the amendment and reserve it for Report Stage.

Amendment, by leave, withdrawn.

Senator Máire Devine: I move amendment No. 4:

In page 17, between lines 18 and 19, to insert the following:

“Review of the means test for Carer’s Allowance

28. The Minister shall carry out a review of the means test in place for Carer’s Allowance in consultation with key stakeholders, including Family Carers Ireland and that the report shall be presented to the Oireachtas Joint Committee on Employment Affairs and Social Protection within 6 months of the enactment of this Act.”.

Amendment, by leave, withdrawn.

Amendments Nos. 5 to 12, inclusive, not moved.

Sections 28 and 29 agreed to.

Amendments 13 to 15, inclusive, not moved.

Title agreed to.

Acting Chairman (Senator Diarmuid Wilson): When is it proposed to take Report Stage?

Senator Anthony Lawlor: Next Tuesday.

Report Stage ordered for Tuesday, 17 December 2019.

Sitting suspended at 1.30 p.m. and resumed at 3.30 p.m.

Teachtaireachtaí ón Dáil - Messages from Dáil

Acting Chairman (Senator Catherine Noone): Dáil Éireann passed the Health Insurance (Amendment) Bill 2019 on 10 December 2019, to which the agreement of Seanad Éireann is desired. Dáil Éireann passed the Credit Union Restructuring Board (Dissolution) Bill 2019 on 10 December 2019, to which the agreement of the Seanad is desired.

**Gaming and Lotteries (Amendment) Bill 2019: [Seanad Bill amended by the Dáil]
Report and Final Stages**

Acting Chairman (Senator Catherine Noone): This is a Seanad Bill that has been amend-

ed by the Dáil. In accordance with Standing Order 148, it is deemed to have passed its First, Second and Third Stages in the Seanad and is placed on the Order Paper for Report Stage. On the question “That the Bill be received for final consideration”, the Minister of State may explain the purpose of the amendments made by the Dáil. This is looked upon as the report of the Dáil amendments to the Seanad. For Senators’ convenience, I have arranged for the printing and circulation of the amendments. The Minister of State will deal separately with the subject matter of each related group of amendments. I have also circulated the proposed grouping in the House and Senators may speak only once on each grouping. I remind Senators that the only matter that may be discussed is the subject matter of each grouping of amendments made by the Dáil.

Question proposed: “That the Bill be received for final consideration.”

Minister of State at the Department of Justice and Equality (Deputy David Stanton): On page 6, line 34, the first amendment in the group deletes “to be carried on” and substitutes “to be carried on, including whether the gaming is for a charitable or philanthropic purpose.”. This new section 9A of the principal Act, as inserted by section 4 of the Bill, provides for a modern but limited approach for gaming under the permit from An Garda Síochána in the relevant district. It allows for gaming for a charitable and philanthropic cause and for profit. It does not differentiate between games or locations as before.

Section 9A sets out the conditions for the application for the gaming permit. The maximum allowed stake is €10 and the maximum prize for any one game is €3,000, conducted in either a single event or multiple events. This would cover, for example, card games, darts, pool tournaments, pub quizzes and so on. The amendment to provide for a section 9A(5)(e) is a straightforward textual addition to require the applicant for a gaming permit to indicate who is the proposed beneficiary of the gaming. Such information would better assist the superintendent to consider the nature and character of the applicant to guard against any potential attempt at fraudulent or criminal usage of gaming permits.

Senator Michael McDowell: Section 4 would insert a new section 9A in the 1956 Act and it is of some significance. It tidies up the circumstances through which a member of An Garda Síochána or superintendent can issue a permit for gaming. I say the following in the presence of the Minister of State and I hope my remarks are passed not merely to the Minister but to the Commissioner of An Garda Síochána. Around this city now there are gaming arcades, the business of all of which is being conducted unlawfully. As I see it, the amendments described by the Minister of State are in respect of the issuance of permits that under subsection 9A(6)(c) may not be used for promoting “gaming by means of a gaming machine.”

If this is the case, this legislation has nothing to do with making lawful that which is manifestly unlawful. Dublin City Council, under the Gaming and Lotteries Act 1956, has not adopted a resolution to permit gaming by machines in this city. Vast sums are being made by the owners of arcades right under our noses. Automated teller machines are established in some of these premises. An Garda Síochána has the power to seize gaming machines being used in breach of the law. Amusement halls of these kinds are flagrantly in breach of criminal law in being operated without licences.

It is shocking that some members of the District Court - the Judiciary - were misled into believing that the existence of a Revenue licence for a machine, which is effectively an excise-raising matter, is somehow authority for the operation of amusement halls in this city. I would

be glad for the Minister of State to confirm to me now that the running of those amusement halls in Dublin, Cork and other places where there is no resolution under the relevant part of the 1956 Act to run such an amusement hall with gaming machines in it is a criminal offence and unlawful, and makes them liable to search and seizure of the machines by members of An Garda Síochána. I want to hear this from a Minister as otherwise I will conclude that money is talking in our city and somehow the operators of these amusement halls in the city of Dublin are so powerful financially that nobody will touch them.

If this section, as amended, is adopted, it will have no entitlement contained in it for the operation of gaming machines in this city. The pre-existing law is unaffected by the amendments outlined to us by the Minister of State as being made by Dáil Éireann or the section to be inserted in the principal Act by this legislation. If it is the case that these huge emporia are operating in broad daylight and exploiting the weakest in our communities in flagrant disregard of the Gaming and Lotteries Act 1956, the Minister of State should indicate when an Garda Síochána is going to bring their operations to an end.

Deputy David Stanton: Obviously, we are making no changes to the role or authority of the local authorities, as the Senator has outlined.

Senator Michael McDowell: If they can be ignored with impunity, it does not make much difference.

Deputy David Stanton: All this Bill is doing is bringing the Act of 1956 up to date, nothing else. It is updating certain parts of it. I would expect that the relevant authorities would take note of that and act accordingly. I am not going to pronounce anything as lawful or unlawful; that is not my role. There are other bodies to do that.

Senator Michael McDowell: Which bodies are they?

Deputy David Stanton: Where it is alleged that unlawful activity is taking place, I would expect the Revenue Commissioners and the Garda to act.

Senator Martin Conway: Well said.

Acting Chairman (Senator Catherine Noone): I call on the Minister of State to discuss the subject matter of the amendments in group 2.

Deputy David Stanton: Group 2 comprises amendments Nos. 2, 6, 7, 10 and 11. Amendment No. 2 states:

In page 7, lines 35 to 37 deleted and the following substituted:

“(e) the conditions referred to in paragraphs (a) and (b) and the name of the intended beneficiary shall be prominently displayed at the normal means of access to the premises proposed to be used;”.

Amendment No. 6 is somewhat similar. The amendments to sections 12 and 14 are also somewhat similar. Amendment No. 10, pertaining to section 14, states:

In page 15, line 19, “Every” deleted and the following substituted:

“(1) Subject to subsection (2), every”.

This is a technical amendment. Amendment No. 11, which is also technical in nature, states:

In page 15, line 30, “issued.” deleted and the following substituted:

“issued.

(2) Where the lottery is conducted in a premises, the information referred to in subsection (1) shall be prominently displayed at the normal means of access to the premises proposed to be used.”.”

Amendment No. 2 relates to the display of information in respect of gaming under a permit from a Garda superintendent, where the maximum stake is €10 and the maximum prize is €3,000 for the game. However, I am taking the opportunity in amendment No. 2 to replace the existing section 4(11)(e). This paragraph required that the holder of the gaming permit could retain not more than 5% of the total proceeds of ticket sales, for expenses. On further consideration of this point, and in the context of the type of gaming involved, if promoted for commercial rather than charitable purposes, I am now of the view that it does not serve a useful purpose. Thus, I propose the deletion of this provision concerning a gaming permit. My amendment proposes to substitute a different section 4(11)(e). This requires the information as to the stakes and prizes and the name of the intended beneficiary to be displayed prominently at the normal means of access to the premises proposed to be used for gaming. This change is intended to facilitate the operators of types of gaming where tickets are not used and, thus, such information could not be printed on them.

Amendments Nos. 6 and 7 are both technical amendments with regard to the public display of information. There is a requirement both in new sections 27B(10)(a), dealing with lottery permits, and 28(10)(b), dealing with lottery licences - inserted into the principal Act by sections 11 and 12 of the Bill - to display the value of each prize and the name of the intended beneficiary on every lottery ticket or coupon. However, it has been brought to my attention that such display may not technically be feasible where the lottery is conducted, for example, by way of bingo. In this case, tickets may be bought in books or, increasingly, played using a mechanical or digital device to mark off the numbers. In this regard, bingo is different from other lotteries, which primarily involve the purchase of a ticket. Thus, amendment No. 6 for section 11 - lottery permits - and amendment No. 7 for section 12 - lottery licences - allow for the prominent public display of the required information at the normal means of access to the place of the event.

Amendment No. 10 concerns section 14 of the Bill, inserting a revised section 33 into the principal Act, concerning information to be displayed on lottery tickets. It is purely a textual amendment to introduce a reference to a new subsection (2) in amendment No. 11.

Amendment No. 11 provides a new subsection (2) in section 33 of the principal Act, allowing for the public display of the necessary information that might otherwise be contained on a ticket but which is difficult to do owing to the circumstances of the lottery.

Senator Michael McDowell: I am grateful for the remarks the Minister of State made in respect of the last set of amendments insofar as they went. I must state again, however, that this group of amendments is to do with the maximum charges pertaining to entry into gaming and the amount that may be won at gaming. I ask the Minister of State to confirm that the gaming permits to which this legislation refers do not include gaming by a gaming machine. He has officials present who can assist on this. I ask them to confirm that the limits do not apply to any

operation of a gaming machine because the permits we are dealing with cannot be issued for gaming by means of such a machine. I ask the Minister of State to confirm that the term “gaming machine” has the meaning provided in the Finance Act 1975 and that anything that looks like a one-armed bandit is a gaming machine and, therefore, the prize limits we are dealing with here are for forms of gaming that do not involve the use of such a machine.

I appreciate that the Minister of State is not here to determine what is lawful or unlawful but he and the Minister for Justice and Equality, Deputy Flanagan, are the two political heads of the Department under whose aegis gaming and lotteries are controlled in Irish law. In both the cities of Cork and Dublin, the laws are being flagrantly broken. If it is the case that the Garda Commissioner no longer enforces the law, it is a matter for the Minister of State and Minister. If it is the case that he has been told by the Attorney General that he cannot enforce the law, I would like to hear that, but the Department of Justice and Equality cannot escape responsibility simply by saying it is unaware whether what is going on in Dublin is lawful. It is the Minister of State’s Department and this is the capital city of the country. Dublin City Council has not adopted a resolution under Part 3 of the 1986 Act. Amusement halls are, therefore, illegal and the use of gaming machines in amusement halls is also illegal. In those circumstances, the Minister of State should go somewhat further and assure me that he will contact the Garda Commissioner and ask him when he proposes to enforce the law. The relationship between the Minister, the Minister of State, as someone with responsibility in this area, and the Garda Commissioner is one that ordains there should be interaction between the Commissioner, who is independent in the implementation of the law, and the Minister and Department.

Where the law is being flagrantly and with massive profit flouted with complete impunity in an open way, right under our noses in Dublin and Cork, the Department must go that little bit further and ask how this has come about, why it is being tolerated and why nothing appears to be done about it. The people who run the gaming arcades and amusement halls are powerful people. They are making a shedload of money out of doing so. If they are allowed to do so while the members of the Government with political responsibility for gaming and lotteries say they do not know whether it is lawful or unlawful, it is, with respect, not sufficient.

Deputy David Stanton: Games in this case are cards, darts and so on, not machines. Part 3 deals with the latter. I am referring to different stakes and prizes for licensed gaming machines. This is the first Bill since 1956 that deals with this, as the Senator previously acknowledged. If we can get this passed, I assure Members that we will move on this.

Acting Chairman (Senator Catherine Noone): Group 3 covers amendments Nos. 3 and 4.

Deputy David Stanton: We had a substantial debate in this House and in the Dáil on the issue of the modernisation of the stake and prize amounts for licensed gaming machines set down in section 14 in Part III of the principal Act of 1956. The modulation of such amounts is the only function of the Minister for Justice and Equality.

I have said previously that there was no particular scientific method for deciding what are appropriate and relevant stake and prize amounts for gaming machines. We must, however, take into consideration the passage of time since 1956, as well as the availability of newer types of gambling. Thus, the Bill, as passed by this House, in section 5, revises section 14 of the principal Act, in two particular aspects – that the maximum stake amount be increased from 3 cent to €10 and the maximum prize amount be increased from 50 cent to €750. Members in the

other House felt these amounts might be further revised. Thus, in amendments Nos. 3 and 4, I propose revised amounts of €5 maximum for a stake and €500 maximum for prizes for licensed gaming machines. While these limits may not please everybody, we must be realistic. There is little point in imposing amounts so small that they would be totally ignored.

The new provisions in section 5 allow for adjustment of the limits by way of regulations made by the Minister and this matter will be kept under scrutiny. This new provision means that if there is a problem with them, they can be revised. I believe that the revised figures are realistic and will be acceptable to Senators.

Senator Michael McDowell: Did the Minister of State refer to machines in his response or did I mishear him?

Deputy David Stanton: This deals with amendments Nos. 3 and 4.

Senator Michael McDowell: Yes, and did the Minister of State refer to machines?

Deputy David Stanton: Yes. Licensed gaming machines.

Senator Michael McDowell: I am sorry but we are getting to the very nub of it now. There seems to be a complete misunderstanding. Under the Act, a gaming permit is not permissible in respect of a machine.

Deputy David Stanton: I am talking about gaming licences.

Senator Michael McDowell: Let us be clear about this. A gaming licence is issued by the Revenue Commissioners. I want the Minister of State to be clear that this is no licence - and I use the term in a neutral sense - or no permission to operate gaming machines in contravention of Part III of the 1956 Act. The Minister of State is providing for new limits on the stakes that can be used for gaming machines, and the amount that can be won on them. Dáil Éireann in its wisdom has reduced that, and I support this decision. We are in a different situation, however, because I am not getting clarity from the Minister of State as to whether any of these machines can be operated in an amusement hall unless the local authority has adopted a resolution under the Gaming and Lotteries Act 1956. I must have some clarity on this. Either what is happening in O'Connell Street and on the quays and on the road out to the airport is permissible on foot of these licences or it is not. The proprietors of these establishments have, to my certain knowledge, gone before unsuspecting District Court judges and waved their licences from the Revenue Commissioners in front of their noses. By doing so, they have completely circumvented the provisions of Part III of the 1956 Act. Is it the understanding of the Department and the Minister of State that Part III of the Act still operates whereby unless the local authority for the area - be it Limerick, Dublin, Cork or wherever - has adopted a resolution under that Part, gaming machines in amusement halls are unlawful in that local authority area? If that is the Minister of State's understanding, it seems to me that the Bill is being presented on the basis that all of those premises are currently operating unlawfully.

Deputy David Stanton: There is no change being made in the 1956 Act with regard to sections 12 and 13 and the motion required to be passed by local authorities. That stands. It is very clear. We are making no change whatsoever in that regard at this time. That may be debated further when we come to deal with setting up a gambling regulator. That is another day's work. The Senator is quite right. The law as it stands says that if there is no council resolution in place, such operations may not be lawful. I cannot comment on or interfere with what hap-

pens in the courts, obviously.

Senator Michael McDowell: The thing is a racket.

Acting Chairman (Senator Catherine Noone): I call the Minister of State to speak on the amendments in group 4.

Deputy David Stanton: Group 4 deals with lotteries held in conjunction with certain events. Amendment No. 5 proposes a minor addition to the wording of a new section 27A(1) (b) of the principal Act, inserted by section 10 of the Bill. That new section concerns lotteries that may take place in the context of a marketing promotion. The maximum prize allowed is €2,500. The amendment makes it clear that there is no charge for taking part other than the purchase of the product, if such is required. A further clarification is to the effect that “no further charge is required for redemption of a prize”. The intention in this regard is to prevent the situation whereby a free ticket or coupon is provided. For example, a scratch card is given away in a newspaper, but registration and finding out what a person may have won will incur a charge. This may happen by way of ringing a prize line for a considerable number of minutes, often at premium rates.

Senator Michael McDowell: I want to be very clear on this. I intend to bring this to the attention of the media in the near future. I intend that the journalist to whose attention I draw to this understands clearly what is happening. It is now proposed to insert a new section 14 in respect of licences granted under Part III of the Act. Is that correct?

Deputy David Stanton: I believe we have moved on to amendment No. 5.

Senator Michael McDowell: I am looking at-----

Acting Chairman (Senator Catherine Noone): We are on group 4, which is amendment No. 5.

Senator Michael McDowell: Yes, section 5.

Deputy David Stanton: It is amendment No. 5.

Senator Michael McDowell: We are dealing with the limits as provided for in section 14 of the 1956 Act, as inserted by section 5 of this legislation.

Deputy David Stanton: We are dealing with just amendment No. 5 at this stage.

Acting Chairman (Senator Catherine Noone): We are dealing with group 4, which is amendment No. 5.

Senator Michael McDowell: I want to be very clear. We have now discussed changing the limits to €10 and to €750 in section 5. We must be absolutely clear in this House, and for the media, because I will later draw their attention to the matter-----

Deputy David Stanton: Please do.

Senator Michael McDowell: -----that nothing in this Bill does away with the requirement that a local authority adopt a motion.

Deputy David Stanton: I made that clear more than once.

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Senator Michael McDowell: Yes, and is the Minister of State going to do anything about it?

Deputy David Stanton: If we can get this Bill passed.

Acting Chairman (Senator Catherine Noone): We need to move on to group 5. I remind Senators that we need to have business concluded within the next two minutes, according to the Order of Business.

Deputy David Stanton: Group 5 covers amendments Nos. 8 and 9. Contrary to certain media coverage, my original proposal in section 12 was entirely motivated by the need to ensure in law, for the first time, that the charitable or philanthropic cause lottery licence holder benefitted significantly from the proceeds. Some doubts had arisen as to whether this was so, particularly where a commercial agent had been engaged to operate the lottery. Lottery licences concern a weekly prize fund from €5,001 to €30,000, or a single annual prize amount of €360,000. I insisted on a minimum of 25% of the proceeds going to the charitable or philanthropic cause. I am pleased that all Deputies and, earlier, Senators agreed with that approach. Previously, the law required no mandated benefit to such causes. It only referred to a maximum of 40% of the proceeds being allowed for expenses. I accepted an amendment on Report Stage in the Dáil to the effect that the lottery can allocate up to 75% of the proceeds to prizes.

Previously, I had proposed that up to 50% of proceeds could be allocated in this way. I have no fundamental issue with this new provision. I had proposed that a maximum of 25% of proceeds could be used to meet the expenses involved in the lottery. Such a provision, which marks a reduction on the previous level of 40%, is still included in the section as it stands.

Senator Michael McDowell: Is this the bingo amendment?

Deputy David Stanton: Yes, if that is what the Senator wants to call it.

Senator Michael McDowell: Fair enough. I am happy with it.

Question put and agreed to.

Question, "That the Bill do now pass", put and agreed to.

Judicial Appointments Commission Bill 2017: Report Stage (Resumed) and Final Stage

Debate resumed on amendment No. 15:

In page 9, line 11, after "shall," to insert "not exceed €300,000 in any calendar year and shall".

-(Senator Michael McDowell)

Acting Chairman (Senator Gerry Horkan): I welcome the Minister, Deputy Flanagan, to the House once again. I remind Senators that the Report Stage debate on this Bill is due to be brought to a conclusion at 5.30 p.m., if not previously concluded, by the putting of one question

from the Chair which shall, in relation to amendments, include only those set down or accepted by the Government. When the debate adjourned yesterday, we were on amendment No. 15.

Senator Michael McDowell: I had hardly started speaking before we had to adjourn yesterday. This amendment, which is in the name of Senator Norris, seeks to limit the amount of expenditure on the new quango that this Bill is seeking to create. The Judicial Appointments Advisory Board costs virtually nothing to operate. The Minister has estimated that the proposed judicial appointments commission will cost approximately €500,000 a year to operate. That might sound like petty cash to some people, but it will come to €5 million over ten years. Senators can multiply as much as they like into the future. We can be reasonably sure that the amount it will cost to run the commission will increase with the rate of inflation. The real question that Senator Norris and I want to underline relates to what will happen if this quango is actually created. I emphasise that we are totally opposed to it. When the Government falls in the near future, its successor will be confronted with the question of whether it would be a good idea to make a commencement order for this Act, to leave it on the shelf or - even better - to repeal it. The extra costs involved in an entirely redundant, useless and counterproductive body corporate being established should be appreciated. The waste of taxpayers' money involved should be noted. I am speaking for myself, and presumably somewhat for Senator Norris, when I say that the sum of money mentioned in this amendment represents a plea for economy. If this amendment is rejected by the Minister because he considers that his estimate of €500,000 is preferable as the likely cost of this quango, so be it, except to say that it is a gross waste of taxpayers' money.

Senator David Norris: The purpose of this amendment is to revise section 4 of the Bill to impose a monetary limitation on the "expenses incurred by the Minister in the administration of this Act". It is routine in legislation of this kind to have an expense provision, the effect of which is to guarantee the supply of funding for the administration of the Bill without imposing any cap or limitation. In these days of fiscal prudence, it seems incongruous to persist with the practice of establishing bodies that can operate without any financial constraints. That is why I am proposing a limit of €300,000 in this case.

Minister for Justice and Equality (Deputy Charles Flanagan): I am happy to abide by the time-honoured and oft-tested wording that is included in section 4 of the Bill, which places a particular emphasis on the fact that expenses are to be sanctioned and monitored, if appropriate, by the Minister for Public Expenditure and Reform.

Acting Chairman (Senator Gerry Horkan): Do the Senators wish to press the amendment?

Senator David Norris: No.

Senator Michael McDowell: While I do not intend to press the amendment, I would like to make it clear that the Minister is keeping the door open to the possibility that this new quango will cost €500,000 a year. That is the figure he gave us when we asked about the likely annual cost of the proposed new commission.

Acting Chairman (Senator Gerry Horkan): Is the amendment being withdrawn?

Senator Michael McDowell: I will press it to a voice vote.

Amendment put and declared lost.

Acting Chairman (Senator Gerry Horkan): As amendment No. 15 has not been agreed, amendment No. 16 may be moved.

Senator Michael McDowell: I move amendment No. 16:

In page 9, line 13, after “Oireachtas” to insert “, provided that they shall not exceed €250,000 in any year”.

Amendment put and declared lost.

Acting Chairman (Senator Gerry Horkan): As amendments Nos. 17 to 20, inclusive, are related, and amendments Nos. 18 to 20, inclusive, are physical alternatives to amendment No. 17, amendments Nos. 17 to 20, inclusive, may be discussed together.

Senator David Norris: I move amendment No. 17:

In page 9, to delete lines 14 to 23.

The purpose of this amendment is to delete section 5, which provides for a review of the operation of this legislation to be carried out after five years.

Senator Michael McDowell: I second the amendment.

Amendment put and declared lost.

Senator Michael McDowell: I move amendment No. 18:

In page 9, line 16, to delete “5 years” and substitute “3 years”.

Senator David Norris: I second the amendment.

Amendment put and declared lost.

Senator Michael McDowell: I move amendment No. 19:

In page 9, line 18, to delete “not later than 12 months after the expiration of the said 5 years” and substitute “not later than 3 years and six months”.

Senator David Norris: I second the amendment.

Acting Chairman (Senator Gerry Horkan): Is Senator McDowell pressing the amendment?

Senator Michael McDowell: Yes.

Amendment put and declared lost.

Amendment No. 20 not moved.

Acting Chairman (Senator Gerry Horkan): Amendments Nos. 21 and 27 to 29, inclusive, are related and amendments No. 27 to 29, inclusive, are logical alternatives to amendment No. 21. Therefore, amendments Nos. 21 and 27 to 29, inclusive, may be discussed together by agreement. Is that agreed? Agreed.

Senator Ivana Bacik: I move amendment No. 21:

In page 9, between lines 26 and 27, to insert the following:

“Obligation to uphold judicial independence

7. (1) The Public Appointments Service and the Commission and their members—

(a) shall, in performing their functions under and in connection with this Act, uphold judicial independence,

(b) shall not, in connection with the performance of those functions, take advice or directions from any person otherwise than in accordance with this Act,

(c) shall not perform any of those functions with a view to influencing the interpretation of the law or the Constitution by the courts.

(2) Without prejudice to the generality of *subsection (1)*—

(a) a person shall not apply for appointment as a lay member of the Commission with a view to influencing the interpretation of the law or the Constitution by the courts,

(b) a person who applies for appointment as a lay member of the Commission—

(i) shall not provide in connection with that application any information relating to the person’s political opinions or religious or philosophical beliefs, and

(ii) shall not be asked, and if asked shall not be required to answer, any question relating to—

(I) the person’s political opinions or religious or philosophical beliefs, or

(II) the merits of any change in the interpretation of the law or the Constitution by the courts,

(c) a person who applies for appointment to a judicial office—

(i) shall not provide in connection with that application any information relating to the person’s political opinions or religious or philosophical beliefs, and

(ii) shall not be asked, and if asked shall not be required to answer, any question relating to—

(I) the person’s political opinions or religious or philosophical beliefs, or

(II) the merits of any change in the interpretation of the law or the Constitution by the courts.”.

Amendment No. 21 is my amendment. It is an important one although at this point it seems a rather pointless debate given what happened this morning. It is an important amendment concerning the insertion of a new section referring to an obligation to uphold judicial independence. It arose out of committee proceedings where we had a debate on this issue. In our rush to depoliticise the judicial appointments process, the Labour Party Senators along with Senator Norris put this amendment forward because we believe it is wrong that we are being asked to put a very significant part of the process into the hands of the same group who end up acting in

other cases, in the Public Appointments Service and so on. We need to look at accountability, to ensure our judicial appointments process is subject to this obligation to uphold independence, and to remember in this legislation the important constitutional status of the Judiciary.

I will not read through the text of the proposed new section but it requires the Public Appointments Service and the commission and its members to adhere to this obligation to uphold judicial independence. It is a very particular overarching set of principles that we are asking would be adhered to by those who would now, under this legislation, be tasked with performing the judicial appointments service.

Acting Chairman (Senator Gerry Horkan): Amendments Nos. 21 and 27 to 29, inclusive, are being taken together by agreement. Does the Senator wish to speak to amendments to amendments Nos. 27 to 29, inclusive, also?

Senator Ivana Bacik: Amendment No. 21 is my only amendment in that grouping.

Senator David Norris: I will speak to amendment No. 21. I expect the Minister to accept this amendment. It would be outrageous if he did not. If he turns his face against this amendment, it means he thinks the Public Appointments Service and the commission and their members should use their influence with regard to the interpretation of the law of the Constitution by the courts. How could the Minister possibly stand over something as outrageous and barbarous as that? This is supposed to secure independence. It is supposed to keep the appointment of the senior members of Judiciary secure from political interference. This is doing that. If the Minister does not accept this amendment, he is saying that members of the Public Appointments Service and the commission and their members are perfectly entitled to attempt to influence the interpretation of the law. I cannot think of anything more contemptible. I second the amendment.

Senator Michael McDowell: I am aware I cannot move the amendments in my name.

Acting Chairman (Senator Gerry Horkan): The Senator cannot move them at this stage, but he can speak to amendments Nos. 21 and 27 to 29, inclusive.

Senator Michael McDowell: In respect of these amendments, it is my view that aspects of this legislation are unconstitutional. One of the particular aspects that I believe is unconstitutional is that this Bill seems to require members of the superior courts who have functions in respect of interpreting the law, and every judge has to do it to some extent, and constitutional interpretation functions as well to be judged and perhaps interviewed by reference to something to do with their suitability to be made judges. If this amendment and the other amendments are all rejected, as Senator Norris and Bacik have said, effectively, it is saying the Minister in charge of this legislation believes it will be legitimate for members of the commission and members of the Public Appointments Service, when looking at people who are volunteering to be made members of the commission and members of the public who are considering applying to be appointed to the commission, via the Public Appointments Service, to pursue agendas relating to the judicial function.

I said to the Minister in respect of one amendment yesterday that I believe this is entirely constructive but if he chooses to reject this amendment and the other amendments that are being discussed together, it underlines the fundamental question this legislation has never addressed. What are these laypeople to ask of candidates who currently sit on the Bench as to why they should or should not be appointed to the Court of Appeal or to the Supreme Court? What ques-

tions can they be asked? I challenge the Fine Gael Members and the Minister to come up with any sensible question that could be put to any of these judges other than a question relating to the performance of their judicial function that could in any way influence the commission in determining who to recommend to the Government.

I do not want to draw this out too long. If these amendments are rejected by the Minister, and I believe they will be, the clear implication is that members of the Judiciary will not be immunised, which Senator Bacik's amendment seeks to do, from interrogation on certain aspects of their judicial function. If the Government believes that members of the Judiciary should not be immunised from interrogation on these matters, I am of the view that the purpose of this process of requiring sitting judges of the superior courts to apply to this commission is unconstitutional.

For various reasons, I believe this is a fundamental flaw in this Bill. That members of the serving Judiciary should in some sense be assessed as to their suitability for - and I would put the following words in inverted commas - promotion to the Court of Appeal and to the Supreme Court by a group of people who are laypeople for the purpose of recommending them, I believe is unconstitutional. It is an interference with their intellectual and judicial independence that this should be permissible. No useful function can be served by asking serving members of the Judiciary to engage in some kind of beauty parade process before a judicial appointments commission to fill vacancies in the superior courts. If, as I pointed out yesterday, every single one of them is entitled to serve when invited on the Court of Appeal and the High Court, then all I can say is this underlines the constitutional frailty of this legislation. I would be happy to invite the President in the fullness of time, whenever we get to that point, to refer this issue to the Supreme Court as to whether it is permissible under the Constitution to require serving judges to submit to a valuation of this kind by a group of people who are permitted under the law to ask them questions of the kind these amendments are seeking to exclude.

Deputy Charles Flanagan: This is ground that has been well covered in both Houses, but in particular in this House during the past year and a half. The amendment, in which the Senator is seeking to make provision to the effect that the Public Appointment Service and the commission uphold judicial independence, provides for certain restrictions on the motivation of persons seeking to be appointed as lay members of the commission and on the information that may be provided by or asked of a person who may wish to be considered for or to apply for judicial office. Going back to 2013, the public consultation process - this is not often recalled by Senators in the context of the current debate - addressed issues relating to eligibility, diversity and the adequacy or otherwise of the existing structures that are in place in respect of judicial appointments. I invite Senators to agree fully that there is an adequate reflection of this right throughout the legislation.

In the context of the critically important area of the Bill that deals with the establishment or development of procedures and requirements in respect of appointments, namely, Part 8, I invite Senators to examine section 55(6). In the context of the preparation of the statement referred to in section 55(1)(b), section 55(6) states that the procedures committee shall have regard to "the independence required of holders of judicial office as respects the exercise by them of their functions as holders of such office". I want again to acknowledge the independence of the Public Appointments Service. I am surprised when Senator Norris speaks about politicisation of the process.

Senator David Norris: Rant, rant. This is as vague as the Minister's answer.

Deputy Charles Flanagan: Senators McDowell and Bacik may think otherwise - I suspect Senator Norris does also - but I am firmly of the view that Senator Norris has not been in a position to provide any evidence to this House about the independence or the questioning of the independence of bodies such as the Public Appointments Service-----

Senator David Norris: How could I when it is not in existence yet?

Deputy Charles Flanagan: -----which, I have no doubt, is the most appropriate body to carry out the function of the selection of the members of the commission. The Public Appointments Service delivers a most excellent and professional service.

I reject the constitutional issues as raised by Senator McDowell. Great care was taken at all times in the course of the preparation and development of this Bill, including consultation with a number of Attorneys General. That has led us to where we are now. I am not minded to accept the Senator's amendment for the reasons that I have just put forward and in the context of the matters we have discussed at length in the House in the course of the past 18 months.

Acting Chairman (Senator Gerry Horkan): Does Senator Bacik wish to respond?

Senator Ivana Bacik: I am disappointed but not surprised by the Minister's response. As with amendments I sought to put forward last night, amendment No. 21 is constructive. It is very similar to amendments Nos. 27 to 29, inclusive, tabled by Senator McDowell. These amendments put forward what should be a non-controversial statement of principle upon which we should all be able to agree. Of course, members of the Public Appointments Service and the judicial appointments commission should uphold judicial independence in performing their functions. They should not, however, perform any of their functions for the purposes of seeking to influence the interpretation of the law or the Constitution by the courts. That is the very danger to which Senator McDowell referred. If a provision like this is not included in the Bill, then the suggestion the Senator made in respect of constitutional frailty will prove to be correct.

The Minister's approach to this is very similar to the way in which this Bill has been handled by the Government all along. Serious and constructive proposals have been put forward by many Opposition Senators on Committee Stage and now on Report Stage. Instead of engaging with us in a constructive way outside the Chamber through meetings - as stated previously, this route was followed with different Ministers in respect of other legislation - the approach taken has been not to brook either any compromise or any amendment.

Deputy Charles Flanagan: I am also open to meeting. Ask Senator Norris. I will meet him anywhere.

Senator Ivana Bacik: As stated on previous occasions, it is unfortunate that there appears to be no compromise possible in respect of this Bill. There would not have been any need for a guillotine - nor would it have been necessary to choose that option - had the Government been a little bit more open to compromise on amendments of this nature that are constructive. The Bill will have to go back to the Dáil in any event. The Minister could be more disposed to accepting amendments such as this, which are sensible and which seek to support or facilitate a constitutional finding in respect of this legislation. Otherwise, it may well be the case that the President will see fit to refer the Bill under Article 26.

Senator McDowell is quite right. If there is a suggestion that persons who apply for appointments as lay members of the commission may do so in order to in some way influence the

interpretation of the law or the Constitution by the courts, or if they, in the course of the appointment process ask people who apply for positions to provide information about political opinions or religious or philosophical beliefs, then that will be very problematic. That is that very danger that amendment No. 21 seeks to guard against. As stated, the latter is a constructive and sensible amendment which would help to uphold what is proposed in the Bill. It is unfortunate that the Minister does not see fit to accept it or to engage with us on a compromise approach that might encompass the issues with which I am seeking to deal in amendment No. 21 and which Senator McDowell seeks to deal with in his later amendments that have been grouped together. Instead, we are being faced with a guillotine in just over an hour.

Senator David Norris: What we need is a revolution where they can fall under the guillotine themselves. Is the Minister's neck getting itchy?

Amendment put:

The Seanad divided: Tá, 17; Níl, 21.	
Tá	Níl
Ardagh, Catherine.	Burke, Colm.
Bacik, Ivana.	Burke, Paddy.
Clifford-Lee, Lorraine.	Buttimer, Jerry.
Craughwell, Gerard P.	Byrne, Maria.
Daly, Mark.	Coffey, Paudie.
Davitt, Aidan.	Conway, Martin.
Freeman, Joan.	Conway-Walsh, Rose.
Hackett, Pippa.	Devine, Máire.
Higgins, Alice-Mary.	Feighan, Frank.
Horkan, Gerry.	Lawlor, Anthony.
Humphreys, Kevin.	Lombard, Tim.
Leyden, Terry.	Mac Lochlainn, Pádraig.
McDowell, Michael.	McFadden, Gabrielle.
Murnane O'Connor, Jennifer.	Mulherin, Michelle.
Nash, Gerald.	Noone, Catherine.
Norris, David.	Ó Domhnaill, Brian.
O'Donnell, Marie-Louise.	Ó Donnghaile, Niall.
	O'Donnell, Kieran.
	O'Mahony, John.
	Richmond, Neale.
	Warfield, Fintan.

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

Amendment declared lost.

Acting Chairman (Senator Gerry Horkan): I welcome Brigeen Fitzmaurice, who is a first cousin of Senator Leyden, and her husband, Gerry. I hope they enjoy their day.

As amendments Nos. 22 and 23 are related, and amendment No. 23 is a physical alternative to amendment No. 22, they may be discussed together.

Senator Michael McDowell: I move amendment No. 22:

In page 9, to delete lines 32 to 34, and in page 10, to delete lines 1 to 8 and substitute the following:

“(2) For the purposes of the section regard shall not be had to the characteristics of persons already appointed to hold judicial office, and the merit of a person shall be assessed wholly independently of those characteristics.

(3) A decision to recommend shall not discriminate against any person on the grounds of gender, race, sexual orientation or social background (including membership of the travelling community).

(4) A decision to recommend may to the extent considered necessary by the Commission have regard to the need that the judiciary should include persons with a proficiency in both of the State’s official languages.”.

This amendment, which is in my name and the names of other Senators, seeks to insert some clarity into the legislation in respect of what appointment on merit means. We want to emphasise that somebody being meritorious, or not being meritorious, does not depend on who has or has not been appointed before him or her. In other words, a person’s merits should not be considered by reference to the characteristics of somebody else. If a person with a background in the Traveller community is seeking to be appointed, his or her merits should not be looked at in the context of somebody from a Traveller background already being on the Bench. This should be dealt with-----

Senator David Norris: It sounds a bit unlikely.

Deputy Charles Flanagan: Nothing is unlikely in this debate.

Senator Michael McDowell: It applies to other things too. It applies to gender.

Deputy Charles Flanagan: It applies to Senator Norris.

Senator Michael McDowell: It applies to all aspects of diversity. Nobody should be excluded from being regarded as meritorious merely by reason of the fact that diversity has already been achieved in respect of his or her particular background. That is all I am saying. I presume the Minister will not accept the amendment.

Senator Ivana Bacik: I support the amendment. The principle of non-discrimination arises in this context. When I withdrew amendments that I had tabled on Committee Stage, I did so specifically in order to be able to propose them again on Report Stage. I refer to amendments Nos. 62, 65, 69 and 71, which are further down the list. Unfortunately, it looks like these important amendments will not be reached because of the guillotine. Like the amendment before the House, my four amendments relate to the principle that there should be gender diversity and

gender balance in the composition of the Judiciary. I am sorry that we will not get to them. I support amendment No. 22.

Senator David Norris: I also support the amendment. It would be completely wrong to discriminate against anybody on the basis of gender, sexual orientation or any of these other things. Amendment No. 23 in my name proposes the deletion of lines 32 to 34 on page 9. That is quite important because it would get rid of the entire provision. I am seeking the deletion of section 7(2), which sets out a number of matters that must be considered when a decision is being made on whether to recommend a person for appointment to the Judiciary. Section 7(2) (a) refers to the need to achieve gender balance, section 7(2)(b) refers to the need to reflect “the diversity within the population as a whole” and section 7(2)(c) refers to the need for judges with “a proficiency in the Irish language”. All of these aspirations are honourable, and nobody could possibly have anything against them, but they should not be factors which determine whether a person is suitable for appointment as a member of the Judiciary. If the Minister accepts my amendment, section 7(1), which provides that “A decision to recommend, under this Act, a person for appointment to judicial office shall be based on merit” only, will remain in the Bill. That is the position I hold. It should only be based on merit. To my mind, merit should be the sole basis on which a candidate is assessed as being suitable for recommendation for appointment. We want the best judge. His or her sexual orientation or membership of the Traveller community should be completely irrelevant.

Deputy Charles Flanagan: I am afraid I cannot hold with the Senators because I do not see any reason to limit the assessment of merit in any way, other than to provide for certain policy objectives. Even though we have had approximately 125 hours of debate over the past year and a half, as we will all recall, I have to say that sufficient consideration may not have been given to section 7, especially by comparison with the consideration given to other sections. Section 7, which is in Part 2, provides for recommendations to be based on merit. The objectives of Senators are adequately met in this section. I am not sure of the extent to which we need to detail the issues further. That is why I do not subscribe to an amendment that seeks to replace section 7(2) of the Bill. If we look at the earlier debate, we will see that section 7(2), as currently drafted, contains three important elements. I refer to the gender balance, diversity and Irish language requirements. I think these areas are adequately covered in the Bill as it stands. The objectives of section 7 should be looked at in the context of a later section that deals with such important particulars as education, professional qualifications, experience and character, which the commission, as of right, will put forward along with the recommendation. I do not believe we should enter into a reclassification now. Senator McDowell has been making a considerable issue of particular strands of information that may come into play depending on the category of person applying, such as a sitting or serving judge. Again, we can see specific reference to the matters that will be taken into consideration and which will form part of any recommendation including competence, probity, character and even temperament. We had a lengthy discussion on the matter of merit on an earlier Stage and I firmly believe that merit stands alone. I also believe that an assessment of merit will take into account sufficiently the matters that must be satisfied under the Bill. For that reason, we should not limit in any way the assessment of merit. Under section 7, as drafted, we have done that to very good effect. Subsection (2) refers to the objectives that membership of the Judiciary should comprise equal numbers of men and women, should “to the extent feasible and practicable” reflect diversity within the population as a whole and should include, “consistent with the written statement most recently provided under *section 55(7)* to the Procedures Committee concerning the needs of the users of the courts”, persons with proficiency in the Irish language. In the context of yesterday’s launch by

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the Government of a new initiative on the Irish language, we need to ensure proficiency as far as the Judiciary is concerned, particularly in certain parts of the country where fluency in the Irish language on the part of judges is essential. That will form part of the merit-based assessment under the section. At the risk of labouring the point, I am not going to accept the amendment.

Senator Michael McDowell: I will not push the matter any further.

Amendment, by leave, withdrawn.

Senator David Norris: I move amendment No. 23:

In page 9, to delete lines 32 to 34, and in page 10, to delete lines 1 to 8.

An Leas-Chathaoirleach: This amendment has already been discussed.

Senator David Norris: Yes, but I have the right to reply as the proposer of the amendment.

An Leas-Chathaoirleach: I am advised that this amendment has already been discussed.

Senator David Norris: Yes but as the proposer of the amendment, under Standing Orders I have the right to reply. I am getting rather tired of these Sir Humphrey-esque interjections on amendments.

An Leas-Chathaoirleach: Senator Norris-----

Senator David Norris: The Minister has actually said on the record-----

An Leas-Chathaoirleach: Senator, the Chair interprets the rules of the House-----

Senator David Norris: -----that he firmly believes that “merit stands alone”-----

An Leas-Chathaoirleach: The amendment has been seconded, Senator.

Senator David Norris: He said that he firmly believes that merit stands alone-----

An Leas-Chathaoirleach: Senator Norris is out of order.

Senator David Norris: I am not out of order.

An Leas-Chathaoirleach: This amendment has already been discussed in the House.

Senator David Norris: I am perfectly in order.

An Leas-Chathaoirleach: No, the Senator is not in order.

Senator David Norris: According to Standing Orders, the proposer of an amendment is entitled to speak a second time.

An Leas-Chathaoirleach: No. Amendments Nos. 22 and 23 were discussed-----

Senator David Norris: I am tired, as I said, of these Sir Humphrey-esque innovations that are introduced-----

An Leas-Chathaoirleach: The Senator must resume his seat. He is out of order.

Senator David Norris: I will conclude by saying that the Minister said the following very

clearly, on the record:-----

An Leas-Chathaoirleach: Senator, please respect the Chair.

Senator David Norris: “I firmly believe that merit stands alone” but-----

An Leas-Chathaoirleach: I am putting the question.

Senator David Norris: -----it does not because of the Minister’s refusal.

Amendment put and declared lost

Government amendment No.24:

In page 10, between lines 8 and 9, to insert the following:

“PART 3

POWER OF GOVERNMENT TO GIVE ADVICE TO PRESIDENT UNAFFECTED

Power of Government to give advice to President unaffected

8. Nothing in this Act shall be construed as limiting the power of the Government with respect to the advice that the Government give to the President regarding the appointment by the President, under Article 35 of the Constitution, of a person to be a judge.”.

An Leas-Chathaoirleach: Amendments Nos. 24, 25, 63 and 66 are related and will be discussed together.

Deputy Charles Flanagan: This amendment is important in the context of certain warnings from Senators over the course of the last 125 hours as to the constitutionality or otherwise of the legislation. Amendment No. 24 underlines the constitutional position in the form of a general saver to provide that the constitutional function of Government in the appointment of judges is firmly upheld. The amendment provides that nothing in this Act shall be construed as “limiting the power of the Government” with respect to the advice that it gives to the President regarding the appointment by the President, under Article 35 of the Constitution, of a person to be a judge. The amendment replaces two specific savers that had been included in the recommendations sections of the Bill.

I favour a more general saver, having listened to Senators. I was accused by Senator Norris of not listening but he has now left the Chamber. Having listened to Senators and having taken into consideration concerns raised by them which were focused on a combination of various provisions of the Bill, some of which were mentioned earlier this afternoon, I believe it is important that a general saver be included in the legislation. This belief is based on a number of factors. There was considerable debate on confidentiality provisions, on the question of canvassing or otherwise and on a no-canvassing rule, which Senators said called into question, at the very least, the genuine execution of the constitutional function to appoint judges and the necessary aspect of choice that was required.

I discussed the matter with the Attorney General. I have said previously that the Attorney General can discuss the recommended names, as appropriate, at Cabinet subject to the confidentiality requirements. In other words, the role of the Attorney General as a member of the commission continues to apply in the context of consideration by the Government of the names

as recommended. I do not see any negative implications for the exercise of the Government's function, nor do I see any adverse consequences for the exercise by the Government of its constitutional power to advise the President on appointments. Indeed, in recent months Senators tabled an amendment relating to the Government's function under Article 35 of the Constitution. I said I would carefully consider the matter ahead of Report Stage and have done so. I table the current amendment in that context. It is tabled in response to arguments made by Senators. Again, I reject an earlier comment from Senator Bacik before she left the Chamber-----

Senator Ivana Bacik: I am here.

Deputy Charles Flanagan: Sorry, she is here. She has merely changed her position-----

Senator Ivana Bacik: I have moved to my voting seat.

Senator Martin Conway: She has a good attendance record, to be fair.

Senator Ivana Bacik: On a point of order-----

Deputy Charles Flanagan: I very much respect the fact that the Senator is here.

Senator Ivana Bacik: I have been here throughout most of what the Government tells us is only 99 hours of debate.

Deputy Charles Flanagan: The Senator moved seat, which she is entitled to do.

Senator Ivana Bacik: This is my voting seat. I moved here because votes were being called. Senator Marie-Louise O'Donnell is in her voting seat. I moved to make way for her. On a point of order-----

Deputy Charles Flanagan: I accept-----

An Leas-Chathaoirleach: Please allow the Minister, without interruption.

Deputy Charles Flanagan: I accept the Senator taking issue with my comment as to whether she is here or not-----

Senator Ivana Bacik: I sat quietly while-----

An Leas-Chathaoirleach: I cannot have references being made to the presence or otherwise of Members. The Minister has withdrawn that remark.

Senator Ivana Bacik: I thank the Leas-Chathaoirleach but the Minister also made reference to Senator Norris having left the Chamber.

Deputy Charles Flanagan: He had left.

Senator Ivana Bacik: I should have objected to that because-----

An Leas-Chathaoirleach: He is back now-----

Senator Ivana Bacik: -----it is bad practice, as the Leas-Chathaoirleach has just said.

An Leas-Chathaoirleach: We cannot have that; I agree.

Deputy Charles Flanagan: Senator Norris is well able to look after himself.

Senator David Norris: Ruination once again.

An Leas-Chathaoirleach: Allow the Minister to speak without interruption please.

Deputy Charles Flanagan: I apologise to Senator Bacik. During her last contribution she was sitting directly in my eyeline. I did not see her moving. I would have been required to turn to my left to do so but I am not really noted for my left turns.

Senator Ivana Bacik: The Minister is always welcome on the left.

Senator David Norris: No more of the Minister's spin.

Deputy Charles Flanagan: I have been accused, as late as this afternoon, of not listening and failing to compromise. This constitutional saver is as a direct result of me giving due and careful consideration to the points raised by Senators in the course of the 125 hours. I believe that this was sought. I expect that all Senators will agree to accept it.

An Leas-Chathaoirleach: I call Senator Bacik.

Senator Ivana Bacik: I think Senator McDowell indicated first.

An Leas-Chathaoirleach: My apologies, Senator McDowell. I was giving the lady a preference on that occasion.

Senator Michael McDowell: I want to underline what we are doing here. This ministerial amendment is largely to the same effect, though slightly grammatically inferior, to the amendment in my name and Senator Craughwell's. It uses the term "Government give" as if Government is a plural, when in fact the Government is a single institution, and it should be "gives". Nonetheless, we will not be petty about that. The purpose of the Minister's amendment is fascinating. On Committee Stage, I repeatedly made the point that it was unconstitutional to attempt to prevent the Government from appointing any eligible person to judicial office under this Bill. That is the constitutional law. Although I proposed a section in more or less the same terms on Committee Stage, and the Minister said he would consider the constitutional points I made, he nonetheless voted it down. Now he is back saying that, having reflected on the matter, presumably with the Attorney General's advice, he has come to the conclusion that it is requisite and needed as an amendment to safeguard the constitutionality of this legislation. That is fine. The Minister said that he expects that everybody will agree with him.

There are two issues to be put firmly on the record. The section that he now proposes must be seen in the context of section 51, which was also inserted and accepted by him on Committee Stage. Section 51 states: "Where the Government decides to advise the President to appoint any serving judge who is a member of any of the Superior Courts to any vacancy arising in those Courts, the Minister shall notify the Commission of that decision and the Commission shall have no further function in relation to that appointment." The Government is, therefore, entitled to appoint anybody serving in the superior courts to that vacancy and to ignore the commission completely. Section 51(2) goes on to state that where the Government proposes to do that, "the notice published in *Iris Oifigiúil* in accordance with section 50 shall state solely that the person appointed was a serving judge of the relevant court at the time of his or her appointment".

If those two provisions are combined, it is clear that the Attorney General's advice and the state of the Bill, as amended by this, means that the Government of the day is perfectly entitled

to appoint any eligible person to be a judge of the superior courts, and the Government's power to do so is in no way affected by this legislation. One then has to ask why we are establishing a quango, which will cost €500,000 a year to run, when the Government will have the power to say, "Thank you very much but on this occasion we are not bothering with the whole process." That is the gravamen of the Minister's amendment and what the Attorney General has advised him to include. Taken with section 51, it means that this entire process is largely redundant and that serving members of the Judiciary in particular, or any other eligible person, can be appointed by the Government of the day simply by doing so and the judicial appointments commission can be totally bypassed. The reason that I tabled an amendment on Committee Stage similar to this was to point out the futility and redundancy of the legislation.

I want to make another point in favour of the Minister. He has, since occupying his position, made very good appointments to the superior courts, including "promotional" appointments of serving judges within those courts. He has done that with the existing JAAB. He has appointed solicitors and barristers to be judges of excellent quality without the need for this ridiculous quango we are establishing, which, over ten years, will cost at least €5 million. At the same time, once the Bill becomes law in the shape that is emerging on foot of the guillotine motion this afternoon, if the Dáil does not amend it significantly when it arrives back there, any Government is free to say that it is making an appointment and is not involving the commission at all. What is this all about?

Senator David Norris: Stepside Garda station.

Senator Michael McDowell: Why were we kept here for so long in making these points and challenging the very foundations of this legislation? The answer is that one man's vanity had to be appeased. He is the man who said he would end cronyism in the appointment of judges. The Minister must now accept, with the two provisions that I have drawn attention to, that the Bill does not have the effect that the Minister, Deputy Ross, has claimed for it of ending political input or decisions by the Government to appoint who it wishes to judicial office. That is what we have achieved after a year and a half or however long it has been in this House. It is a climbdown and a surrender. The Minister said that he does not engage in left turns. He has engaged in a massive U-turn to try to save this Bill from a charge of unconstitutionality. He is running up the white flag and saying that we are wasting €500,000 on this commission and establishing a quango, and that we will have an immensely complicated process for appointing judges. I remind him that one of the consequences of this is that if there is a vacancy in the Supreme Court and somebody goes to it from the Court of Appeal, and then somebody goes to the Court of Appeal from the High Court, the process could take at least six to nine months if done in accordance with this legislation instead of being done in an afternoon, which the Minister and his Government have done very successfully heretofore. I ask the Minister to take a bow. After all of this nonsense of establishing a quango to satisfy the Minister, Deputy Ross, we are back at square one and any Government can appoint any eligible lawyer to judicial office, which is what this section means.

Deputy Charles Flanagan: Because of the Constitution.

Senator Michael McDowell: That is what the Constitution requires. The Minister, Deputy Ross's, insistence that this quango be established and his foot-stamping refusal to appoint judges until it was established and his blackmailing-----

Deputy Charles Flanagan: No, that did not happen.

Senator Michael McDowell: Sorry, I will not use the word “blackmailing”. His coercion of the Government to force the Minister to come in here for a year and a half to defend the indefensible is now exposed for what it is. This is a monumental U-turn. This is an acknowledgement of futility and redundancy. It means that any future Government can appoint whom it wishes without any regard to the judicial appointments commission if it so chooses. It also, in conjunction with section 51, makes it very clear that the Government is given express licence to just inform the commission that it is making appointments within the superior courts and does not require its assistance at all. For what have we been spending our time here? I telescoped the discussion on earlier amendments in order to have time to contribute on this amendment. We now realise the futility, redundancy and political fraudulence of what the Minister, Deputy Ross, told the people he was going to do-----

Deputy Charles Flanagan: The Senator is referring to a person who is not present in the House.

Senator David Norris: It is not the role of the Minister, Deputy Flanagan, to police proceedings in the Seanad.

An Leas-Chathaoirleach: Senator McDowell without interruption.

Senator Michael McDowell: I referred to the “political fraudulence” - which is a legitimate term to use - of suggesting there was cronyism in the appointments made by the Cabinet without this legislation and that the Minister, Deputy Ross, was going to end political involvement in the appointment of judges. The Government, which is referred to in amendment No. 24, is composed of elected politicians acting as a single collective body. Politicians elected to the Government constitute the Executive under the Constitution and have the role of making these constitutional choices. This legislation does not alter that position one jot.

Senator Ivana Bacik: I endorse the remarks of Senator McDowell. The Minister, Deputy Flanagan, referred to amendment No. 24 as a “general saver”. It is more of a general embarrassment. It is a U-turn, a concession and an admission that the points Senators have been making regarding the constitutional frailties of the legislation are valid. I am aware that the Minister is not on the left, as he made clear from his failure to look to his left to see where I am sitting. If he was a fan of science fiction, he might be aware that there is a principle or practice in many such films, particularly Star Wars, of which I am a major fan, of there being a general override button which can automatically override everything else.

Senator Gerard P. Craughwell: Do not press the button.

An Leas-Chathaoirleach: We are not going to press the button.

Senator Ivana Bacik: The Death Star and all of Darth Vader’s plans can be overridden by pressing a general override button. Amendment No. 24 is the general override button, the general saver that undermines and drives a coach and four through all of the principles we spent 99 hours debating on Committee Stage according to Government officials. After all of the time wasting, we have an amendment that, presumably, horrifies the Minister, Deputy Ross, because it undermines the entire elaborate dog’s dinner of a structure which sets up this cumbersome and unwieldy process for judicial appointment.

The amendment is very badly drafted. Its language is jarring. I compared the phrase, “the Government may give to the President” with the language used elsewhere in the Bill, such as

in section 51(1) which states, “the Government decides to advise the President”, section 51(2) which states, “Where the Government has decided” and section 55 which refers to the submission of statements, “to the Commission for its approval”. The drafting of the amendment is significantly flawed. I presume the Minister, Deputy Flanagan, will remedy it in the Dáil. The Bill that came to the Seanad from the Dáil was flawed and internally contradictory and the Bill that will go from us to the Dáil on foot of the guillotine that will fall in 15 minutes is grammatically and constitutionally flawed in spite of the general embarrassment or general saver which the Minister is seeking to introduce.

Senator Gerard P. Craughwell: I note the Minister’s impeccable mathematics. This morning, the Leader tried to tell us that 109 hours have been spent discussing the Bill when, in fact, at least 125 hours have been spent on it and probably more. I have been accused by many Members of the House of being a lackey to my colleague, Senator McDowell. I took my own legal advice on the Bill and on Second Stage I stated that it was constitutionally flawed. I believed it was flawed from day one and at every opportunity I have raised the issue of the Constitution and the right of the Government to nominate or recommend candidates to the President for appointment as judges. The Government has done an excellent job on the 61 appointments it has made in the lifetime of the current Dáil.

I wish to compliment the Minister, Deputy Flanagan. He is a man of honour and a man of his word. It is clear that the tail that is wagging the dog had its own way and, as a man of honour, the Minister decided to stand over the commitment given to the tail. As I warned him on Second Stage and at every opportunity since, this flawed and ridiculous Bill will go down as the Bill of the Minister, Deputy Flanagan, rather than that of the Minister, Deputy Ross. Stepside Garda station will go down as the greatest achievement of the Minister, Deputy Ross, but this will be the Bill of the Minister, Deputy Flanagan. The next Government will have no alternative but to rip the Bill up and throw it away because it is wrong. In fairness to the Minister, Deputy Flanagan, he has listened to my learned friends, Senators McDowell and Bacik, who are far better on constitutional issues than I am, and he has seen the flaw in the Bill and included the “Dougal, do not press the red button” amendment. The red button is there and Dougal will be able to press it and shred the Bill.

In light of the workload of the Minister, Deputy Flanagan, it is terribly sad that he has had to spend 125 hours in the Seanad defending this nonsense for which no member of Fine Gael to whom I have spoken has any interest or support. Fine Gael Senators have openly stated the Bill is nonsense and that they have no time for it, as have many Fine Gael Deputies.

Deputy Charles Flanagan: Anonymous sources.

Senator David Norris: They are not anonymous.

Deputy Charles Flanagan: Anonymous sources.

Senator David Norris: Nonsense.

Senator Gerard P. Craughwell: This will be a textbook case for students of political science for years to come on how a Government can be manipulated by one man. There are probably half a dozen PhDs to be earned from the Bill. The Leader will get his way this evening and discussion of the Bill will be guillotined. I am very sorry that the name of the Minister, Deputy Flanagan, is associated with it. He is much better than that.

Senator David Norris: I congratulate the Minister on amendment No. 24. I am delighted we have reached it. As Senator McDowell stated, we collapsed the argument on earlier amendments in order to ensure it was reached before the guillotine. The whole intention of the Minister, Deputy Ross, was to limit the power of the Government in terms of the advice it gives to the President on the appointment of judges. Amendment No. 24 states, “Nothing in this Act shall be construed as limiting the power of the Government”. To the Minister, Deputy Flanagan, I say “well done” and “congratulations”. I am old enough to remember his wonderful late father and the way he went through County Laois with a placard on the front of his car which stated “Here comes Oliver” and another on the back stating “There goes Oliver”. Well, here comes Charlie and there goes Charlie. He has done a damn good job. He has filleted the Bill of the Minister, Deputy Ross. He has destroyed it. He has left it in shreds. I would love to see the face of the Minister, Deputy Ross, when this banana skin lands under his right foot, or under his right hoof, I should say.

Deputy Charles Flanagan: That is out of order.

Senator Martin Conway: Tony Williams is watching.

Senator David Norris: It is wonderful. The amendment completely undermines the commission and makes it totally redundant. It can be told to bugger off and have its tea.

An Leas-Chathaoirleach: I ask the Senator to mind his language.

Senator David Norris: My language is perfectly good. I constrain myself.

An Leas-Chathaoirleach: Going by the Senator’s performance earlier today, I am not sure that is true.

Senator David Norris: The oven is ready for Boris Johnson. The Minister should get judicial appointments done. Let us have judicial appointments that are judicial appointments. Get judicial appointments done. Let us see the Minister, Deputy Ross, done. The Government has given itself the right to appoint any eligible person.

Senator Martin Conway: There are ten minutes until the guillotine. The Senator should use it wisely.

Senator David Norris: I cannot hear Senator Conway. He should interrupt me more loudly.

Senator Martin Conway: There is ten minutes before the guillotine. It should be used wisely.

An Leas-Chathaoirleach: Senators, please.

Senator David Norris: I will use it very wisely by sitting down and allowing my colleagues to gloat in the discomfiture of the Minister, Deputy Ross, and the wonderful, Houdini-like escape of the Government from this farrago of nonsense. We have done a damn good job in this House. Yes, we held up the Bill for 125 hours or whatever it was. Although some Senators have claimed they were not filibustering, I sure as hell was. I did so with great intelligence.

Senator Michael McDowell: Would the Senator agree that the good ship Ross has sunk before its launch?

Senator Gerard P. Craughwell: It is holed below the waterline.

Senator David Norris: The good ship Ross has sunk without trace. I recall saying in this House on one occasion, about the same Minister, that he has shown great courage but has made an unusual choice, in that most rats jump off sinking ships and he jumped onto one.

An Leas-Chathaoirleach: Does the Minister wish to respond?

Senator Kevin Humphreys: The Minister should try to respond to that.

Deputy Charles Flanagan: I merely wish to acknowledge the support of Senators for this important amendment. We have had something between 99 and 125 hours of debate and I do not think anyone would dispute it if we call it 110 hours of debate.

Senator Gerard P. Craughwell: The Minister said it was 125 hours of debate.

Senator Michael McDowell: It did not seem that long when it was happening.

An Leas-Chathaoirleach: The Minister without interruption, please.

Deputy Charles Flanagan: It is an important amendment and I reiterate something that I said on numerous occasions in the context of this Bill moving through the House. I reject the allegations of cronyism on the part of anybody in the matter of the appointments of members of the Judiciary.

Senator Michael McDowell: The Minister for Tourism, Transport and Sport also said that.

Senator Gerard P. Craughwell: He is the crony Minister.

Deputy Charles Flanagan: I firmly state that whether through the JAAB process, or otherwise, to my knowledge there has not been any undue interference in the process as has been alleged by people outside this House. Senator McDowell has spoken about the importance of preserving the independence of the process to the extent that this new commission might be entirely bypassed. That might well be the case. Under our Constitution, it is absolutely essential that the independence of appointments is fully subscribed to and recognised. We have had a JAAB process for in excess of 20 years and I do not believe, in the context of any appointments of members to the Bar or the profession of solicitor, that there was any case in which the Government disregarded the advice of the JAAB. I acknowledge, as other Senators will also do, including Senator McDowell, a former Minister for Justice and a former occupier of the pivotal office of Attorney General, that the JAAB process was never bypassed.

Senator Michael McDowell: It most certainly was.

Deputy Charles Flanagan: It was not bypassed in respect of sitting judges.

Senator Michael McDowell: It was bypassed in respect of the man who is now the Chief Justice.

Deputy Charles Flanagan: That is different. I was referring to sitting judges. Over the course of my time in office and that of the Government, I do not believe that the process was disregarded in the manner that the Senator has implied.

Senator Michael McDowell: What about the former Attorney General whom the Govern-

ment appointed to the Court of Appeal?

Deputy Charles Flanagan: The constitutional-----

Senator Michael McDowell: JAAB had nothing to do with that appointment.

Deputy Charles Flanagan: That was an office-holding position.

Senator Michael McDowell: It had nothing to do with JAAB.

An Leas-Chathaoirleach: Order, please. We will have the Minister without interruption.

Deputy Charles Flanagan: It is important that, in response to what Senators said, and, indeed, to ensure clarity, that the amendment in the form of the constitutional saver is essential to underscore and clarify, particularly in the context of certain misrepresentations that were made here during the debate, the independence of the Government in respect of its recommendations for nominations to the President. That is what we are doing with this amendment and I am pleased to record the universal support of Senators for that. I thank Senators for agreeing with me.

Senator Michael McDowell: Will the Minister, when he brings the Bill back to the Dáil, change the word “have” to “has” to make it correct?

Deputy Charles Flanagan: I am happy to look at it.

Amendment agreed to.

Amendment No. 25 not moved.

Senator Michael McDowell: I move amendment No. 26:

In page 10, to delete line 18.

Senator David Norris: I second the amendment.

Amendment, by leave, withdrawn.

Senator Michael McDowell: I move amendment No. 27:

In page 10, between lines 18 and 19, to insert the following:

“Independence of the Judicial Function

10. (1) The Public Appointments Service and the Commission and their respective members—

(a) shall, in performing their functions under and in connection with this Act, uphold judicial independence,

(b) shall not, in connection with the performance of those functions, take advice or directions from any person otherwise than in accordance with this Act,

(c) shall not perform any of those functions with a view to influencing the interpretation of the law or the Constitution by the courts.”.

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Senator Gerard P. Craughwell: I second the amendment.

An Leas-Chathaoirleach: Does Senator wish to press the amendment?

Senator Michael McDowell: I do.

Amendment put:

The Seanad divided: Tá, 22; Níl, 24.	
Tá	Níl
Ardagh, Catherine.	Burke, Colm.
Bacik, Ivana.	Burke, Paddy.
Clifford-Lee, Lorraine.	Buttimer, Jerry.
Craughwell, Gerard P.	Byrne, Maria.
Daly, Mark.	Coffey, Paudie.
Daly, Paul.	Conway, Martin.
Davitt, Aidan.	Conway-Walsh, Rose.
Freeman, Joan.	Devine, Máire.
Gallagher, Robbie.	Dolan, John.
Hackett, Pippa.	Feighan, Frank.
Higgins, Alice-Mary.	Gavan, Paul.
Horkan, Gerry.	Lawlor, Anthony.
Humphreys, Kevin.	Lombard, Tim.
Leyden, Terry.	Mac Lochlainn, Pádraig.
Marshall, Ian.	McFadden, Gabrielle.
McDowell, Michael.	Mulherin, Michelle.
Mullen, Rónán.	Noone, Catherine.
Murnane O'Connor, Jennifer.	Ó Céidigh, Pádraig.
Nash, Gerald.	Ó Domhnaill, Brian.
Norris, David.	Ó Donnghaile, Niall.
Ó Ríordáin, Aodhán.	O'Donnell, Kieran.
O'Donnell, Marie-Louise.	O'Mahony, John.
	Richmond, Neale.
	Warfield, Fintan.

Tellers: Tá, Senators Michael McDowell and Gerard P. Craughwell; Níl, Senators Gabrielle McFadden and John O'Mahony.

Amendment declared lost.

An Leas-Chathaoirleach: As it is now passed 5.30 p.m. I am required to put the following question in accordance with the order of the Seanad of this day.

Senator Rónán Mullen: Do not put the question.

An Leas-Chathaoirleach: Order. The question is, “That the Government amendments undisposed of are hereby made to the Bill, Fourth Stage is hereby completed, the Bill, as amended, is hereby received for final consideration and the Bill is hereby passed.”

Question put:

The Seanad divided: Tá, 25; Níl, 23.	
Tá	Níl
Burke, Colm.	Ardagh, Catherine.
Burke, Paddy.	Bacik, Ivana.
Buttimer, Jerry.	Clifford-Lee, Lorraine.
Byrne, Maria.	Craughwell, Gerard P.
Coffey, Paudie.	Daly, Mark.
Conway, Martin.	Daly, Paul.
Conway-Walsh, Rose.	Davitt, Aidan.
Devine, Máire.	Freeman, Joan.
Dolan, John.	Gallagher, Robbie.
Feighan, Frank.	Hackett, Pippa.
Gavan, Paul.	Higgins, Alice-Mary.
Lawlor, Anthony.	Horkan, Gerry.
Lombard, Tim.	Humphreys, Kevin.
Mac Lochlainn, Pádraig.	Leyden, Terry.
McFadden, Gabrielle.	Marshall, Ian.
Mulherin, Michelle.	McDowell, Michael.
Noone, Catherine.	Mullen, Rónán.
Ó Céidigh, Pádraig.	Murnane O'Connor, Jennifer.
Ó Domhnaill, Brian.	Nash, Gerald.
Ó Donnghaile, Niall.	Norris, David.
O'Donnell, Kieran.	Ó Ríordáin, Aodhán.
O'Mahony, John.	O'Donnell, Marie-Louise.
Richmond, Neale.	Wilson, Diarmuid.
Ruane, Lynn.	
Warfield, Fintan.	

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

Question declared carried.

Consumer Insurance Contracts Bill 2017: Second Stage

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

Senator Rose Conway-Walsh: Are we going to speak to the amendments when we get to amendments Nos. 3 to 9, inclusive?

Senator Gerry Horkan: This is Second Stage.

Senator Ivana Bacik: We are doing all Stages.

Acting Chairman (Senator John O'Mahony): We will take Second Stage.

Senator Rose Conway-Walsh: I do not need to give any long speeches on Second Stage of the Bill. It has been well rehearsed. I will speak on amendments Nos. 3 to 9, inclusive, and address some other concerns that have been raised. I do not need time on Second Stage to do that.

Senator Máire Devine: I second the proposal.

Acting Chairman (Senator John O'Mahony): Does Senator Devine wish to speak?

Senator Máire Devine: No.

Senator Kieran O'Donnell: I am willing to defer to Sinn Féin to allow the Bill to go straight to Committee Stage, subject to the agreement of my colleagues.

Senator Gerry Horkan: I am happy to agree that. I will be very brief. Sinn Féin has brought forward a good Bill and the Minister of State and Department have taken it on board. There is general unanimity that this is a positive thing to do. It is fair to say that it is not going to change the world overnight, but it is a small positive step in the right direction.

We face an enormous challenge in respect of insurance. The Minister of State is trying his very best, to be fair to him, but we are not seeing a reduction in the cost of policies, more transparency or what we need to have a proper functioning market. Play centres, crèches, pubs, restaurants and other businesses face difficulties with insurance. We all pay when people make and get away with false claims. Pat McDonagh of Supermac's won eight or nine claims, but I understand the cost to defend them was in excess of €400,000. I believe €36,000 was paid out in claims and seven of the nine claims resulted in no payouts.

We need to tackle the cost of insurance and all of the related legal costs, payouts and so on. The Bill is positive and I welcome it, but there is an awful lot more to be done.

Senator Ivana Bacik: I will also be very brief. As my colleague, Deputy Penrose, said in the Dáil, the Labour Party supports the Bill. Most of the proposed reforms are not controversial and are based on a report from the Law Reform Commission, LRC. Deputy Pearse Doherty is present and, along with Sinn Féin, was the instigator of the Bill. Deputy Penrose raised an issue he was concerned about in the Dáil in respect of section 7, and I will speak to that on Committee Stage.

Acting Chairman (Senator Gerry Horkan): Would the Minister of State like to contribute at this point?

Minister of State at the Department of Finance (Deputy Michael D'Arcy): I would. I

do not want to delay the Bill either, but I do want to discuss a number of aspects. The Bill involves a substantial overhaul of the law governing insurance contracts, as recommended by the LRC. It has been subject to a lot of scrutiny and a lot of work has gone into it. I compliment my Dáil colleague, Deputy Pearse Doherty, on the Bill.

We have to ensure there are no unintended legal consequences. In that regard, the Attorney General obtained a specialist counsel opinion on the Bill. Senator Bacik referred to the views expressed in the Dáil by Deputy Penrose. Following that debate, we re-examined the Bill. We are satisfied that section 7 is fine. We analysed the points raised by Deputy Penrose. We did not simply move on and ignore them.

I would like to highlight the main features of the Bill. They are to ensure that correspondence between insurers and consumers is clear and unambiguous; to place the burden on insurers to ask consumers relevant questions rather than consumers having to disclose information voluntarily at the pre-contractual stage; to require insurers to provide consumers with a completed application form; to reform the age-old condition of consumers having to have an insurable interest in the insurance contract, a matter raised by Deputy Penrose; to expand cooling-off provisions for all forms of insurance; to provide consumers with their previous claim and premium history at renewal; to ensure that when insurers cancel a contract, consumers must be repaid the balance of the premium; to provide clarity that insurers must provide 20 working days' notice before renewal for all insurance contracts in the scope of this Act; to ensure there is a duty on insurers to handle claims promptly and fairly; to allow third parties who are intended to benefit under an insurance contract to make a direct claim against the insurer, such as in case of a body in liquidation; to reform the practice of warranties in insurance whereby insurers are able to reject liability in a policy when there has been a breach in the warranty, despite a breach not being a relevant factor in the occurring risk; and to introduce rules on subrogation whereby insurers step into the shoes of the policyholder to seek recovery from the liable party.

The Bill implements amendments arising from recommendation 8 of the costs of insurance working group report on motor insurance and recommendation 10 of the working group's employer and liability insurance report. It will require insurers to engage properly with policyholders in regard to their claims. This has been a criticism that many of us have had in regard to insurance companies, namely, that they do not engage with their clients appropriately. This includes ensuring that a consumer is provided with the opportunity to submit to the insurer relevant evidence that could inform the insurer's determination in respect of a claim.

In addition, it requires a consumer to be informed when a claim has been settled, the amount it has been settled for, and the reasons for the settlement decision. This has been an aggravating aspect for many people who pay insurance.

On many occasions, they do not even know that a claim has been made, let alone a settlement, until their insurance renewal comes around, at which point they find out that their premium has shot up. This is very important, a major grievance, which many people brought to the cost of insurance working group's attention on multiple occasions. This section will introduce a much greater level of transparency to the claims settlement area.

Section 17 puts limitations on the practice of retention in respect of property damage claims. This practice was brought to my attention not too long ago following Storms Ophelia and Emma, when insurers were applying retention as they saw fit. We are now codifying this

aspect of insurance. I again compliment the co-operation of Members on this legislation. We had proposed a figure of €20,000 to which the rates of 5% and 10% would apply. Deputy Michael McGrath suggested doubling that to €40,000. This is something I am satisfied to get on with. I do not have an issue with the concept of retention, but with the way it is being applied by insurers. This view is also shared by many loss adjustors who act on behalf of policyholders in negotiation with insurance companies. There are a range of different practices and some insurers appear to withhold large amounts and do not always pay out on claims. That is sharp practice. The purpose of this section is to regularise this and ensure the practice of retention is consistently and fairly applied in line with this legislation. It will level the playing field and provide for additional transparency, which no one could have an issue with.

I will also touch on how the legislation will be implemented. Section 27 is important as it allows different sections to come into effect on different dates. In broad terms, I will discuss the commencement of the bulk of this legislation in early 2020 with the Minister for Finance. However, insurers will be required to upgrade their systems to implement some of the provisions. The requirement for insurers to provide the latest five years of claims and premiums on renewal notices will take some time to implement, for instance. I wish to implement the earlier sections of the Bill sooner in the year and intend for all sections to be in place within six months of triggering the legislation.

I thank Senators for their co-operation in agreeing to take all Stages today. I want to get this insurance legislation not just through the Lower House but also the Upper House because it will benefit consumers. What benefits consumers will also benefit businesses, which are currently stretched to an appalling degree due to employers' liability, EL, and personal liability, PL awards and insurance.

Acting Chairman (Senator Gerry Horkan): Does Senator Conway-Walsh wish to reply to the Minister of State?

Senator Rose Conway-Walsh: I thank the Minister of State for his comments. I would be happy to move on to Committee Stage.

Question put and agreed to.

Consumer Insurance Contracts Bill 2017: Committee and Remaining Stages

SECTION 1

Government amendment No. 1:

In page 5, line 23, to delete "or to act" and substitute "or acts".

Amendment agreed to.

Section 1, as amended, agreed to.

Sections 2 and 3 agreed to.

SECTION 4

Government amendment No. 2:

In page 7, line 36, to delete “the direct” and substitute “direct the”.

Amendment agreed to.

Section 4, as amended, agreed to.

Sections 5 and 6 agreed to.

SECTION 7

Question proposed: “That section 7 stand part of the Bill.”

Senator Ivana Bacik: I refer to a matter I raised on Second Stage, and which Deputy Penrose also raised in the Dáil. I noted the Minister of State’s comments. Deputy Penrose told me he spoke to the Minister of State following the debate on the Bill in the Dáil and that the Minister of State said he would seek specialist legal advice on the matter. I am glad to hear he has received that advice. However, I am still not clear on what that advice was and ask the Minister of State to briefly explain it. Deputy Penrose was concerned that there would be inadvertent consequences to this section, as it would remove the long-standing rule that bars parents from taking out insurance on the lives of their underage and dependent children, or from insuring the lives of other children with whom they have no connection. There was a concern that this would be an unforeseen and inadvertent consequence of the section, because while the Bill as a whole is very welcome and is based on a 2004 Law Reform Commission, LRC, report, another reform recommended by the commission, which would have resolved this issue, has not been implemented. I look forward to hearing the legal advice the Minister of State was given, because Deputy Penrose remains concerned about this aspect of the Bill.

Senator Rose Conway-Walsh: The Senator opposes section 7 because of the concerns expressed by Deputy Penrose during Report Stage in the Dáil. The section, which relates to insurable interests, reflects recommendations made by the LRC that discussed in great detail the issues surrounding insurable interests and whether they should be reformed or abolished. As it stands, claims can be rejected by the insurance industry if the claimant is deemed not to have an interest in the subject matter of an otherwise valid contract. This section removes the ability of companies to reject claims solely on that basis. It also caters for those requiring an interest when a claim is made, while limiting this interest in order that it does not extend beyond an expectation of the economic benefits or losses that would arise.

I will address some of the concerns raised by Senator Bacik and Deputy Penrose. The report by the LRC was instructive in this respect. First, there is already an exception to the insurable interests for a person taking out an insurance policy on the life of their spouse, civil partner, cohabitee, or any other family member, on the understanding that they are likely to gain on each other’s lives. The law assumes that in the event of the death of a public or civil servant, the entitlement of a widow, widower, or child does not create incentives for them to claim on the lives of those public or civil servants. Second, the Married Women’s Status Act 1957 provides another exception to insurable interests for children and wives who are intended to benefit from a life insurance policy. Under this legislation, the definition of a “child” includes stepchildren, adopted children and those to whom the insured is considered *in loco parentis*. The law, again, assumes that these provisions do not create some of the perverse incentives that have been previously raised. Third, in every other jurisdiction where the reform or abolishment of insurable interests has been considered, that reform has resulted in an expanded list of persons in whom the insured is considered to have an insurable interest, including children. I refer the Senator

to the reforms proposed by the English and Scottish law commissions, which would expand this list even further to include pension trustees, for example. A claim can be refused under any insurance policy, not only if it involves fraud but also if the claimant has been involved in any wrongdoing, including the crimes to which Deputy Penrose referred. The Bill provides that when a claim is made under a policy, including life insurance policies, the claimant must establish the loss. The provisions of this Bill and related legislation are sufficiently robust to address the concerns that have been expressed. For that reason, Sinn Féin opposes the amendment of this section.

Senator Ivana Bacik: I clarify that I do not seek to amend this section, though we did draft an amendment. We simply oppose the section. It is just not clear. I thank Senator Conway-Walsh and look forward to hearing the Minister of State's response.

Acting Chairman (Senator Gerry Horkan): Senator Conway-Walsh is opposing the Opposition.

Senator Rose Conway-Walsh: I am just opposing what is proposed.

Minister of State at the Department of Finance (Deputy Michael D'Arcy): The level of co-operation is so complete-----

Senator Rose Conway-Walsh: I am helping the Minister of State.

Deputy Michael D'Arcy: -----that Senator Conway-Walsh has read out my note.

Senator Kieran O'Donnell: The question is whether the Minister of State is reading out the Senator's notes or the Senator is reading out his notes.

Senator Rose Conway-Walsh: The Minister of State should thank me.

Acting Chairman (Senator Gerry Horkan): I welcome Deputy Pearse Doherty and his colleagues to the Public Gallery. The Deputy was instrumental in the development of this Bill. I welcome him back to the Seanad.

Deputy Michael D'Arcy: For the record, we looked at it again following Deputy Penrose's observations on Report Stage in the Dáil and we are satisfied that there will not be unintended consequences. We got specialist legal advice and our advisers were also satisfied about the constitutionality of what we are doing.

Senator Ivana Bacik: Briefly in response, I am grateful to Senator Conway-Walsh for reading out what I understand is the substance of the specialist legal opinion received by the Government. This is a Private Member's Bill that is being supported by the Government. I confirm that my party also supports it but we are concerned about this aspect of the Bill. We cannot say any more that this would be an unforeseen consequence now that it has been foreseen by Deputy Penrose and by me. The Government has now taken advice on it and I am glad to hear that it is satisfied that this issue is dealt with adequately. I would have liked to see that advice or the substance of the response in advance of this debate. That would have been better practice. I checked with Deputy Penrose who says that he did not hear back from the Minister of State on this issue. In order to resolve the issue more swiftly, it might have been a good idea to have provided Deputy Penrose with a response. In the circumstances, I will not be pressing the matter but am anxious to put my concerns on the record of the House.

Question put and declared carried.

Sections 8 to 11, inclusive, agreed to.

SECTION 12

Acting Chairman (Senator Gerry Horkan): Amendments Nos. 3 to 9, inclusive, are related and will be discussed together.

Senator Rose Conway-Walsh: I move amendment No.3:

In page 11, line 20, to delete “three years” and substitute “five years on foot of the contract”.

Amendments Nos. 3 to 9, inclusive, significantly improve conditions for consumers and businesses when their policies are due for renewal and will strengthen their hands when they are looking for a better deal or are facing unjustified hikes in their insurance premiums. Our amendments deal with a number of issues which I will not outline in turn. When a consumer receives a renewal quote as his or her policy expires, the insurance company will be under legal obligation to provide details on any premiums paid by that person to it in the preceding five years. In addition, the insurance company will be under legal obligation to provide a list of any claims paid by it to the policyholder or any third party in the preceding five years.

I commend Deputy Pearse Doherty on these reforms and welcome him and Mr. Pól McIlvenny to the House. These reforms require the provision of a five-year history of premiums and claims to be given to policyholders at renewal. Deputy Pearse Doherty tabled these amendments on Committee Stage but the Minister of State was not in a position to accept them. I acknowledge, however, that he and his officials continued to work with Deputy Pearse Doherty and my party so that we could table them again in the Seanad. These reforms will bring transparency and give negotiating power to policyholders. Many policyholders are seeing their premiums rise even though they have not made any claims. The practice of dual pricing by the insurance industry has been raised by Deputy Pearse Doherty in the Oireachtas and with the Central Bank. I am pleased to say that the Central Bank has now begun an investigation into this practice, having received a request and a 130-page complaint from Deputy Pearse Doherty on the impact of dual pricing on loyal customers and on vulnerable groups.

Some will say that the requirement that the insurance companies provide their customers with up to five years of claims history data, including information on third-party claims, is too onerous. However, all of this information is available at the touch of a button on their computer systems. Far from being onerous, the legislation will extend and strengthen transparency for everyone in the insurance industry and everyone with an insurance policy. I draw attention to the fact that, under these amendments, insurance providers, excluding health insurers, will be required to provide a list of all claims that have been paid on foot of the contract in the preceding five years, including third-party claims. This is a crucial reform brought forward by Sinn Féin which will be welcomed by individual customers, businesses and voluntary organisations. These amendments will strengthen the hand of every insurance policyholder in the State.

Senator Kieran O’Donnell: This is a very good Bill. I will speak on the five-year provision in due course but will begin by noting that, overall, the Bill is very practical. If the measures contained therein are implemented by the insurance industry, premiums should fall. The measures that provide an increase in transparency along with the revision of the book of

quantum should result in a reduction in insurance premiums. I commend Sinn Féin and Deputy Pearse Doherty in particular on introducing this legislation. I also acknowledge the work done by the Minister of State in this area. He has been one of the most reforming Ministers of State in the area of insurance. His approach has been collaborative.

On the specifics of the legislation, there is no reason that insurance companies cannot provide information on premiums for the previous five years. That data is readily available. I have no doubt that when insurance companies are assessing risk, they use that very data. They have that data in order to assess risk and determine the level of premiums and they should be able to provide it to their customers as well. This is a very practical measure. I may not always agree with Sinn Féin but on this particular issue, I acknowledge that the party has introduced a very practical Bill. Furthermore, in anticipation of the Minister of State's response, six months should be ample time to allow the insurance industry to implement virtually all of these measures. Pressure should continue to be applied to the industry. If all of the measures contained in this Bill are implemented, we should see a reduction in insurance premiums.

Deputy Michael D'Arcy: I thank Senators for their remarks and acknowledge the widespread support for the change from three to five years. When we sat down with Deputy Pearse Doherty initially we agreed three years but I have no big problem with changing it to five years. If the insurance industry can provide data covering three years, then it can also provide it for five. That said, I must put it on the record that the Central Bank has expressed reservations about the additional years provision and has said that it may lead to extra costs for insurers. Furthermore, it is complex as it will apply to many classes of insurance. It is important that the House is aware that the Central Bank expressed that view to me. I also met representatives of Insurance Ireland on this matter and they also expressed concern about it. I have done my duty *vis-à-vis* both entities in terms of letting the House know their expressed views but I do not agree with their views and am happy to accept the five-year provision.

In terms of the triggering of the legislation, I have said there will be a three month lead-in time for the initial part, namely, the change of onus from the insured person to the insurance companies. The latter will be required to ask simpler questions so that people can understand what they are signing up to. I want that to happen within three months of the legislation being enacted. I am suggesting that the industry be given six months after enactment to put the five-year provision in place. We all accept the exclusion of health as we are clear that would become burdensome and could have a significant potential cost for health insurance. That is not what any of us are about. We are all about trying to improve transparency and the consumer protection side of insurance. On too many occasions, if the conflict is between prudential or consumer, prudential wins. On this occasion, I want to make sure it is the consumer who wins.

Amendment agreed to.

Senator Rose Conway-Walsh: I move amendment No. 4:

In page 11, to delete lines 22 and 23, and substitute the following:

“(b) a list of any claims, including if such have been made, third party claims, that have been paid, on foot of the contract, by the insurer to the consumer (or, as the case may be, to the third party or parties concerned) in the preceding 5 years, except, where the contract concerned is a health insurance contract in within the meaning of section 2(1) of the Health Insurance Act 1994.”.

Amendment agreed to.

Senator Rose Conway-Walsh: I move amendment No. 5:

In page 11, line 24, to delete “policy” and substitute “contract”.

Amendment agreed to.

Senator Rose Conway-Walsh: I move amendment No. 6:

In page 11, line 25, to delete “three years” and substitute “five years”.

Amendment agreed to.

Senator Rose Conway-Walsh: I move amendment No. 7:

In page 11, line 27, to delete “year(s)” and substitute “year or years”.

Amendment agreed to.

Senator Rose Conway-Walsh: I move amendment No. 8:

In page 11, line 30, to delete “year(s)” and substitute “year or years”.

Amendment agreed to.

Senator Rose Conway-Walsh: I move amendment No. 9:

In page 11, to delete line 31 and substitute the following:

“(3) In *subsection (2)* the reference to any mid-term adjustment made to the contract is a reference to any alteration lawfully made to the provisions of the contract, at any time during its currency, that results in a change in the amount of the premium charged or in the application of any fee or other charge.”

Amendment agreed to.

Section 12, as amended, agreed to.

Sections 13 to 27, inclusive, agreed to.

Title agreed to.

Bill reported with amendments and received for final consideration.

Question proposed: “That the Bill do now pass.”

Senator Rose Conway-Walsh: I am truly delighted that the Consumer Insurance Contracts Bill 2017 has passed through Seanad Éireann. Again, I commend my Sinn Féin colleague, Deputy Pearse Doherty, on introducing and persisting with this important legislation. I also acknowledge the valuable contribution of Peter Boland from the Alliance for Insurance Reform and that of all the contributors at the committee that examined the issue. The Bill demonstrates the value of a strong Opposition looking out for citizens who are being fleeced and in need of a break in terms of affordability and the lack of transparency regarding insurance. I thank the Minister of State, Deputy D’Arcy and his office for facilitating the passage of this Bill and for

the work he has done, as well as Fianna Fáil, and I do not often do that.

Acting Chairman (Senator Gerry Horkan): I am technically neutral up here but I will take it anyway.

Senator Rose Conway-Walsh: I am joking, of course. Obviously, it takes a leader to lead this but it also takes co-operation, and it has taken the co-operation of the Minister of State and the other parties who have supported the Bill.

It has been described as the most radical shake-up of consumer legislation in centuries in this State. The Alliance for Insurance Reform has said the legislation is a game changer that will alter the balance of power between insurers and policyholders, such as consumers, small firms and community groups. The truth is people are being crippled by the astronomical cost of insurance. This is a crisis. Businesses are being forced to close, jobs are being lost and people are working just to pay the huge cost of insurance.

Insurers will now have to provide a schedule outlining any premiums paid within the preceding five years. Sinn Féin, with others, is taking on the insurance industry and ending the rip-off. This legislation is part of our journey to stamp out fraud, to protect consumers, to ban dual pricing and to make premiums affordable. We recognise this is a contribution to that journey and we will continue that journey. As was said, I do not see any way that this legislation cannot lead to the reduction of insurance premiums, which is what it is all about. It is about the money in people's pockets and about people being ripped off. We have a responsibility to do everything we possibly can to stop that happening. Again, I commend Deputy Doherty on doing that in this legislation.

Senator Kieran O'Donnell: I commend everyone involved, including Deputy Pearse Doherty of Sinn Féin and the Minister of State, Deputy D'Arcy. A significant number of advances have been made in dealing with insurance in the past year and this Bill is a significant element. The pivotal element for me is the book of quantum. The Minister of State, Deputy D'Arcy, has very much been driving this to have the book of quantum guidelines revised as expeditiously as possible. We want a competitive insurance industry, not an industry that is ripping off customers. The key point is that we want a system that is fair. As it stands, the book of quantum is outdated and needs to be revised. A structure is now in place. I hope that we will see that happen quickly and that we will get to a situation where we have an insurance industry that is working at all times in the best interests of consumers.

Minister of State at the Department of Finance (Deputy Michael D'Arcy): I want to start where the Bill started, with Deputy Pearse Doherty and the LRC report. I thank Deputy Doherty. As I have said on many occasions in many different areas, in particular on the air-waves, the level of support I have received from both Houses in regard to insurance has been complete. Nobody has once been in any way obstructive in regard to legislation we have to get through. We can sometimes go into combat based on political views and opinions, but the support has been complete, and I thank both Houses for that.

This is one piece of legislation on top of the Insurance (Amendment) Act, which gave effect to the Supreme Court decision about Setanta, and on top of the national claims information database that we also got through this time last year, and Senators may remember we had to get it through so we could have the information that flowed from the motor sector in 2018 and backwards from there. We also have the Personal Injuries Assessment Board Bill, the Judicial

Council Bill and this legislation. Some would say it is not fast enough, and it is absolutely not fast enough and I would love it to be faster. However, we are all operating in a confining area. We are confined by operating within the rules set down by the Central Bank of Ireland, which is the regulator, and we do not have authority over that.

The Judiciary has set the book of quantum over the years. The seven judges are in place as selected by the Chief Justice, Frank Clarke, and I wish them well. I want them to operate in a good and speedy manner so we can get the awards down, given they are too high. The reason I want awards to come down, and this is something I believe the Law Society is correct about, is that too many people are victims of the insurance companies. How do I know that? Thousands of cases every year go to the insurance ombudsman, which should not be the case. On too many occasions, the insurance companies were using the benefit of the small print not to pay out, and while they were legally correct, they were morally very wrong. That is not what any of us want on behalf of the consumers. The consumers are the clients of the insurance companies. The consumers who are really impacted upon right now due to the level of awards are businesses throughout the country. That said, our insurance sector must be sustainable, and to be sustainable, it must be profitable. If it is not profitable, companies will leave the sector quickly. The insurance companies blame the lawyers, the lawyers blame the insurance companies, and we, as legislators, are stuck in between trying to protect consumers. Without the support of Members, we could not do what we are doing here this evening, passing important legislation through a House of the Oireachtas in one movement. I am very grateful for that support because I want this legislation in place just as dearly as Deputy Pearse Doherty and everybody else. I again thank the Acting Chairman. I also thank my staff in the Department of Finance. Some of the best staff in the Department work in the insurance section. They are helpful and co-operative. I know that they sometimes get annoyed with me but that is okay too. We have done some good work this evening. We will now take the amendments to the Dáil, where I hope to get them through next week so that this Bill can be signed by the President, enacted and in place as quickly as possible to protect consumers. That is something we all want.

Acting Chairman (Senator Gerry Horkan): I thank the Minister of State. It is interesting that we managed to get all Stages completed in 30 minutes, before the concluding comments. It is probably one of the Bills that has passed most quickly, following straight on from the legislation that took the longest to pass, the Judicial Appointments Commission Bill 2017. We have gone from the longest to the shortest in a breath. I thank the Minister of State. On my own behalf, I also thank Deputy Pearse Doherty and the Sinn Féin Senators for their contribution in bringing forward the legislation. I am in the Chair now so I need to be neutral. I thank all Members and the Minister of State's staff. That concludes business for today. When is it proposed to sit again?

Senator Kieran O'Donnell: Tomorrow at 10.30 a.m.

The Seanad adjourned at 6.30 p.m. until 10.30 a.m. on Thursday, 12 December 2019.