



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**SEANAD ÉIREANN**

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

Gnó an tSeanaid - Business of Seanad . . . . .	123
Nithe i dtosach suíonna - Commencement Matters. . . . .	125
Data Protection Commission . . . . .	125
Wage Subsidy Scheme. . . . .	128
Shared Island Unit . . . . .	132
Special Educational Needs . . . . .	136
Investment Limited Partnerships (Amendment) Bill 2020: Order for Second Stage . . . . .	139
Investment Limited Partnerships (Amendment) Bill 2020: Second Stage. . . . .	139
Gnó an tSeanaid - Business of Seanad . . . . .	153
Forestry (Miscellaneous Provisions) Bill 2020: Order for Second Stage . . . . .	153
Forestry (Miscellaneous Provisions) Bill 2020: Second Stage . . . . .	153
Withdrawal Agreement Between the United Kingdom and the European Union: Motion . . . . .	186

## SEANAD ÉIREANN

*Dé Céadaoin, 23 Meán Fómhair 2020*

*Wednesday, 23 September 2020*

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

---

*Machnamh agus Paidir.  
Reflection and Prayer.*

---

### **Gnó an tSeanaid - Business of Seanad**

**An Cathaoirleach:** It is nice to be back in our own home. I have received notice from Senator Malcolm Byrne that, on the motion for the Commencement of the House today, he proposes to raise the following matter:

The need for the Minister for Justice and Equality to make a statement on the level of staffing expertise in the Office of the Data Protection Commission; and the policies in place to raise public awareness around data privacy and algorithmic decision-making.

I have also received notice from Senator Regina Doherty of the following matter:

The need for the Minister for Finance to review the operation of the temporary wage subsidy scheme at Aer Lingus.

I have also received notice from Senator Niall Ó Donnghaile of the following matter:

The need for the Taoiseach to make a statement on the establishment of the shared island unit and outline its terms of reference.

I have also received notice from Senator Ivana Bacik of the following matter:

The need for the Minister for Health to make a statement on the provision of nursing care plans for children with complex needs to enable their participation in education; and whether nursing care will be provided to a child (details supplied) to attend primary school.

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

The need for the Minister of State with special responsibility for land use and biodiversity at the Department of Agriculture, Food and the Marine to outline proposals for the development of a portal to enhance public participation in forestry decision-making in Ireland; and to make a statement on the appointment of an independent chair to implement the Mackinnon report.

I have also received notice from Senator Martin Conway of the following matter:

The need for the Minister for Health to make a statement on the implementation of the new medical card income limits for those aged 70 years or over.

I have also received notice from Senator Lisa Chambers of the following matter:

The need for the Minister for Children and Youth Affairs to accede positively to the request from the EU to assist migrants from the Moria refugee camp on the island of Lesbos in Greece, following the fire that destroyed a large part of the camp.

I have also received notice from Senator Elisha McCallion of the following matter:

The need for the Minister for Foreign Affairs and Trade to make a statement on the progress on commitments made under Annex B of the New Decade, New Approach deal.

I have also received notice from Senator Erin McGreehan of the following matter:

The need for the Minister for Health to make a statement on the current restrictions on partners attending pre-natal appointments at maternity hospitals.

I have also received notice from Senator John McGahon of the following matter:

The need for the Minister for Transport, Tourism and Sport to make a statement on the introduction of a three-day Tax saver ticket for commuters.

I have also received notice from Senator Mary Fitzpatrick of the following matter:

The need for the Minister for Housing, Planning and Local Government to provide funding for the creation of a national monument museum on Moore Street, Dublin 1, and the regeneration of trading on that street.

I have also received notice from Senator Seán Kyne of the following matter:

The need for the Minister for Health to make a statement on the expansion and resourcing of Westdoc.

I have also received notice from Senator Lorraine Clifford-Lee of the following matter:

The need for the Minister for Health to provide an update on the development of a State-funded contraception scheme.

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

The need for the Minister for Education and Skills to provide an update on the acquisition of a permanent site for Gaelscoil Chionn tSáile, An Ceapach, Cionn tSáile, gContae Chorcaí, roll number 20265B.

I have also received notice from Senator Fiona O'Loughlin of the following matter:

The need for the Minister for Health to consider opening a branch of the mental health organisation, Jigsaw, in Newbridge, County Kildare.

I have also received notice from Senator Timmy Dooley of the following matter:

23 September 2020

The need for the Minister for Transport, Tourism and Sport to outline his plans to support air routes at State airports to ensure economic recovery.

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

The need for the Minister for Health to make a statement on the opening of the HSE-Respond group home facility in Carrickmacross, County Monaghan.

Of the matters raised by the Senators suitable for discussion, I have selected Senators Byrne, Doherty, Ó Donnghaile and Bacik and they will be taken now. I regret that I had to rule out of order the matter raised by Senator Boyhan on the ground that it anticipates the Second Stage debate of the Forestry (Miscellaneous Provisions) Bill 2020, which is scheduled to take place in the Seanad today. I also regret that I had to rule out of order the matter raised by Senator McGahon on the ground that the relevant Minister has no official responsibility in the matter raised. The other Senators may give notice on another day of the matters that they wish to raise.

## **Nithe i dtosach suíonna - Commencement Matters**

### **Data Protection Commission**

**An Cathaoirleach:** I welcome the Minister of State at the Department of Justice and Equality, Deputy James Browne, to answer his constituency colleague's question. I wish to advise that five minutes are allocated, comprising first of four minutes and then one minute after the Minister of State has given his response.

**Senator Malcolm Byrne:** I thank the Cathaoirleach for selecting my matter. Being in this Chamber feels like one's first day in school. Obviously, I am very happy to pose the first matter here to my Wexford colleague, the Minister of State, Deputy Browne. My matter focuses on data and data protection. I am a strong advocate for the effective use of data in terms of how it can inform public policy, but it also has the potential to grow into being a multi-billion euro industry in Ireland.

There are serious concerns however, about the potential misuse of data or the abuse of social media. These range from cyberbullying - a number of Senators here are aware of the so-called "Coco's law" which I hope will pass through the Oireachtas quite soon - to economic damage that can be caused by the misuse of data, such as the problems around surveillance capitalism and, as we have seen with the likes of Cambridge Analytica, a threat to democracy itself. As we are quite fortunate in Ireland to have so many of the social media giants located here and because we have so many data centres located here and we want data centres to continue to locate here, Ireland and our Data Protection Commissioner are right at the heart of all of the decisions that have to be made around these issues.

Last year, the Data Protection Commission, DPC, dealt with 10,000 individual cases. Some of these were quite small, but when it comes to data breaches, it can have a significant impact

on the individuals concerned. In the past year, the number of breaches of data protection regulations trebled. Clearly, there remains a big problem in terms of the number of data breaches.

In addition to all those individual cases, the DPC here is now dealing with considerable global issues that are featuring on national and international news media. We are looking at, for instance, the fallout of the Schrems II judgment. We are also now seeing the face-off with Facebook. Obviously, I do not want the Minister of State to talk about the looming High Court case, but those kinds of cases will arise more frequently. We are looking at issues around micro-targeting by some of these companies and the lack of transparency in that area. There is the question as to whether or not the DPC will now have to regulate TikTok, if TikTok is based here. I have significant problems around TikTok. I do not propose to start to use it in this Chamber, but TikTok uses facial recognition and machine learning and it is owned by a company in which the Chinese Government has a significant share, and we have to ask what is the purpose of the data that will be harvested by that company.

There are responsibilities on the DPC with regard to children's data and the specific category around children's rights and the harvesting of children's data, and around digital literacy which is about making all of us aware as citizens about what is happening in the area of artificial intelligence, AI, algorithmic decision-making and data privacy.

In the context of all that, the DPC has 150 staff. This is not a criticism of the staff but there is a serious shortage, given the scale of what it had to address, of the necessary legal investigators and technologies. It is not only about getting data protection lawyers. There is a need increasingly for administrative lawyers, corporate lawyers and competition lawyers. It is the range of skills that are available to the DPC.

There has to be, and there is, an obligation on the DPC to uphold the effectiveness of the data protection provisions. That means that the DPC has to be properly resourced. It is my view - the EU and the Government may need to start considering this - we need to look at limiting the market dominance in the area of data harvesting by a smaller number of global players. There is a role around digital literacy for all of us but that is also as important for us as legislators, and for others within the public service, because many people do not understand the challenges we face in this area.

I want it noted on the record that we have 150 staff in the DPC's office who are responsible effectively for overseeing the regulation of the data of half a billion European citizens. As I said, data represents a considerable opportunity for Ireland, but if we do not handle this properly and if we do not properly resource the DPC, over the next decade this will represent the biggest risk to Ireland's reputation.

**Minister of State at the Department of Justice and Equality (Deputy James Browne):** The Minister would like me to thank the Senator for raising these important matters. The Government position is reflected in our ongoing commitment in the programme for Government to "recognise the domestic and international importance of data protection in Ireland". Moreover, it is stated: "We will ... ensure that Ireland delivers on its responsibilities under the General Data Protection Regulation (GDPR)."

Under the general data protection regulation and the Data Protection Act 2018, the Data Protection Commission is completely independent in the performance of its tasks and the exercise of its powers. It does not report to the Department of Justice and Equality nor has the

Department any oversight or enforcement powers in regard to the commission. The Department of Justice and Equality and the Government have shown their commitment by providing significant additional resources in terms of funding and staff resources to the DPC in recent years. The Department continues to engage with the DPC on an ongoing basis to service current sanctioned staffing requirements. A request for sanction for two additional director posts has been made to the Department of Public Expenditure and Reform, with the support of the Department, based on the funding that the office of the DPC has available in its 2020 budget allocation.

This funding has been provided from the Exchequer each year in response to those needs identified by the DPC, including by way of meeting its staffing and expertise requirements. The budget of €16.9 million in 2020 is a 61% increase on the actual expenditure by the office of €10.5 million in 2019. While there have been some delays and underspends in completing the necessary public recruitment processes for reasons beyond the commission's control or that of my Department, the necessary funding to achieve this has been allocated.

The Minister is aware of the increased pressure the DPC finds itself under as a result of issues arising from the Covid-19 pandemic. The Minister would like me to convey her appreciation of the commitment of the Data Protection Commissioner and of all of the staff involved to continuing to deliver effective data protection regulation and protection of the data privacy rights of EU citizens during this challenging time. The Minister, Deputy McEntee, has every confidence in their ability to continue to do so, as do I.

The DPC operates an extensive social media strategy that includes disseminating information through social, national and international media. In addition, the DPC frequently updates its website with guidance, blogs and other publications for both organisations and individuals. The DPC also participates widely in events, nationally and internationally, as panellists or keynote speakers, including 180 such events in 2019. In addition to raising awareness at such events, the DPC emphasises the obligations of controllers to be accountable to the public in how they process personal data. The DPC has also undertaken a comprehensive consultation and actions on children's data protection rights with a wide range of adult and child stakeholders.

In regard to data privacy and algorithmic decision making, my Department is currently engaged in the Department of Business, Employment and Innovation-led process of developing a national artificial intelligence, AI, strategy. This work is at a very early stage, and the latest draft from the senior officials group on economic recovery and investment is due to be presented for further discussion. The DPC was consulted on the latest draft of this document, which addresses the areas of data privacy and the area of algorithmic accountability. The areas of "Trustworthy Data Governance for AI", "Ethical and Human Rights Frameworks for AI", and consideration of "high-risk" applications of AI, in line with the February 2020 EU White Paper on AI, figure prominently in this draft strategy document, as they did in the Government's submission to the public consultation on the EU AI White Paper. The public consultation stage concluded over the summer and the results of this are expected to be published in due course. Given the early stage of this work, the Department would be happy to engage with Senator Byrne or any Senator in developing this strategy further.

**Senator Malcolm Byrne:** I thank the Minister of State for his response. I appreciate that the Data Protection Commission is a separate agency. My point is that this is about the potential threat to Ireland's reputation, and part of the issue is around the adequate resourcing of the Data Protection Commission, for which the Government is responsible. This will require a whole-of-

government response around issues of artificial intelligence and algorithmic decision-making so there is a clear, consistent policy across the whole of Government but also a responsibility to ensure that our citizens are digitally literate. While I am not criticising the work the Data Protection Commission has done in this area, I do not think it is enough and it should not just fall within the Data Protection Commission's remit. I am particularly concerned, and would like an assurance, that the Government realises the potential reputational risk to Ireland if we are not able to oversee data regulation effectively, which we have an obligation to do, especially given the number of social media giants that are here. These will be huge issues to face over the coming decade and we need the Data Protection Commission to be properly resourced if we are to address them. How we respond, with regard to both the economic perspective and the protection of our citizens' data rights, needs to be central to Government thinking.

**Deputy James Browne:** I assure the Senator that the Government takes this issue very seriously. As I informed him, the Government has shown its commitment by providing significant additional funding and staff resources to the Data Protection Commission over recent years. This was in recognition of the additional scope of responsibilities of the office. Its budget has increased from €3.6 million in 2015 to €16.9 million in 2020, which represents an almost five-fold increase. This is a very significant increase which will be put to use. That increase in budgetary provision further demonstrates the Government's continuing commitment to meeting the funding requirements of the Irish data protection authority and the importance of a strong regulatory data protection framework to underpin the continuing growth and expansion of Ireland's digital economy. The Data Protection Commission currently has 147 staff but this will increase to 180 by the end of this year, which is another significant increase in the number of staff provided to the Data Protection Commission.

The commission has underspent its budget by approximately €2.7 million as of the end of 2020. The full amount of any underspend to the end of the year will only be determined when the office carries out a full review of its non-pay expenditure for the remaining months of the year. While it is likely the underspend on payroll will exceed €2 million by the end of the year, this is mainly due to delays in recruitment and the full payroll budget will be required in 2021 in order to meet staffing targets, which should be fully met. I again assure Senators that the Government takes this issue extremely seriously.

**An Cathaoirleach:** I thank the Minister of State for his response and for his offer to have the Department engage with Senator Byrne and other Senators on this important issue.

### **Wage Subsidy Scheme**

**Senator Regina Doherty:** I thank the Minister of State for coming to the House to take this debate. I wish him every success in his new role. I know what an honour it is.

I ask that the Minister, the Department for Finance and, more specifically, the Revenue Commissioners conduct a full review into how Aer Lingus operated the wage subsidy scheme from March 2020 up to September 2020, when the replacement employee wage subsidy scheme, EWSS, was introduced. The Minister of State may be aware that I had a small part in the establishment of the wage subsidy scheme in March. It was established to maintain a connection between employees and their employers during what we believed to be temporary difficult times, which we now know will last a lot longer. Staff needed to be temporarily laid off, not working or on reduced hours. In order to apply the wage subsidy scheme, companies needed

23 September 2020

to be able to show a 25% reduction in their overall turnover, which Aer Lingus could certainly have done given that international travel crashed overnight. It is particularly pertinent that an employee receiving the wage subsidy payment whose work was reduced to three days or fewer a week could also apply for the short-time working scheme, one of the other income supports available from the Department of Employment Affairs and Social Protection.

The detail of the operation of the wage subsidy scheme was tailored around the cohorts we knew would lose their work. Up to a maximum of €410 per week could be reclaimed for each qualifying person and a flat rate of €350, which matched the rate of the equally important pandemic unemployment payment, PUP, which was introduced at the same time, could be claimed by the employer for each employee.

Aer Lingus is a blue chip company in this country and, although it is no longer owned by Irish interests, it is an organisation for which we have great respect and grá. Every single Irish person connects and identifies with that shamrock on the end of each of its planes. We expect a certain level of interaction with employees from such a blue chip company and for it to treat its employees a certain way. The representations I have got from those employees over recent weeks regarding how they were dealt with and, particularly, how the wage subsidy scheme was operated are absolutely heartbreaking to read. People tell me their earnings dropped to as little as €317 per fortnight, which beggars belief when the minimum payment was €350 per week. They tell me that it is by far the most stressful and time-consuming battle that they have ever experienced with their employer. I have been told that what is failing to be mentioned is the amount of hurt and damage it is having and the effect it is having on employees. Never before has people's mental health been so heavily affected by the sheer lack of empathy and professionalism of a company towards its employees. A man said that to say it has been difficult is an understatement, and it has been for everybody. Employees should have been entitled to claim the part-time payment from the Department of Employment Affairs and Social Protection since the end of March, as was clearly stated and continues to be so by the Revenue Commissioners. A lady who works in ground operations told me that she has never received the full Covid payment, as the company has been deducting her parental leave from her payment. She asked if Aer Lingus was claiming the full Covid payment for her.

That is why I am asking the Minister of State for a full review to be conducted by the Revenue Commissioners and for the publication of the compliance reports that the Revenue Commissioners would have completed on Aer Lingus over recent months. One of two things has happened. One is that the allocation of the J9 PRSI classification, which was part of the wage subsidy scheme at the beginning, forced Aer Lingus into a position of not being able to sign the documents required for all of those people who were earning only 50% or 30% of their pre-Covid payment wages to be able to access the short-time working scheme. If that is the case, then it was an error in the application of the short-time working scheme in co-operation with the wage subsidy scheme. It is incumbent upon Revenue to reflect on the operations, and maybe not just for Aer Lingus but for many other companies. The other thing that may have happened, which is more sinister but is as is felt, and it is unfortunate that employees would feel this about their own organisation, is that the full balance that was reclaimable by Aer Lingus for and on behalf of the individual employees was claimed but just was not passed on to the employees.

It is as important for Aer Lingus to prove that that is not the case as it is to have a look at the J9 PRSI classification to ensure that the company's employees would be able to access the short-time working scheme. Therefore, I am asking for a full review to be conducted by the Department of Finance and the Revenue Commissioners into the operation of the short-time

working scheme and the wage subsidy scheme on behalf of Aer Lingus from March to September 2020.

**Minister of State at the Department of Finance (Deputy Sean Fleming):** I thank Senator Doherty for raising this very important issue. It is clear from listening to the Senator that she has immense knowledge on this particular issue and first-hand experience of same. I, too, in my constituency clinic have had employees of Aer Lingus bringing precisely the issues that the Senator has raised. The travel industry was very seriously affected by the Covid-19 situation and continues to be so. Aer Lingus has also been very seriously affected, as has all its staff.

The temporary wage subsidy scheme, TWSS, was in place for the 22 weeks between 26 March and 31 August 2020. It was introduced only as an emergency income support for employees of vulnerable firms where turnover had declined by at least 25%, which was the case with Aer Lingus. Under the TWSS, income support was paid via the employer, as Senator Doherty stated, to maintain the link between the employee and the employer insofar as was possible, and the amounts were refunded to the employer by the Revenue Commissioners, who administered the scheme on behalf of the State. I know, generally, once a claim was submitted to Revenue, within 48 hours a refund tended to be paid.

I want to advise the Senator that under section 851(a) of the Taxes Consolidation Act 1997, Revenue is precluded, by reason of its taxpayer confidentiality obligations, from providing any details on individual taxpayers, including the company in question. I will return to that matter specifically, because the Senator has asked for a review to be published on that matter. I will, therefore, be speaking generally on the issues that relate to workers who were paid via the TWSS.

It is my understanding that concerns have been raised that employers may not have passed on to their workers the full value of the subsidy that they claimed. I assure the Senator that, by design, it is not possible for an employer to claim more of the subsidy than was paid to the employees. That is the nature of the actual scheme, and it is because the system that was used to make the payment was built using the employer payroll returns to Revenue from earlier in the year. It is not possible, therefore, that an employer could have withheld the subsidy from their workers. The employer was required to include the amount of the subsidy on the employees' payslips. I will return to the question of whether that issue did arise, but that is the general rule that Revenue will clearly look at. Employers were required to download the information provided by Revenue.

It is important to state that there was no obligation on any employer in the country, under the TWSS, to claim the maximum amount of the subsidy for an individual employee.

It is important that they would all be encouraged to do so but an employer could have a particular reason not to claim the entire allowable amount. That would be a difficult issue for the employees concerned but there is not a legal obligation to claim the maximum subsidy. Under section 28 of the emergency measures legislation, the employer was expected to make the best effort to maintain the employee's net income. We will come to the issue of deductions from net income separately. This could have an impingement in respect of employment rights and entitlements. If an employee has a particular issue, such matters are more appropriate for the Workplace Relations Commission. It is important that where there are issues between an employer and an employee, Revenue is not a substitute for the Workplace Relations Commission. The Revenue Commissioners cannot be expected to adjudicate on those issues. They do a great

job and have a big job to do. The issue of employees' rights is a matter between the employer, the employee and the Workplace Relations Commission. I am advised by Revenue that where a business was clearly not eligible for the scheme or failed to pay the correct level of subsidy, that amount can be fully reclaimed from that employer. While I am not specifically referring to this company, Revenue is carrying out an in-depth review of all companies for a more in-depth examination. If there is abuse of the system there will be very serious consequences for the employer concerned.

**Senator Regina Doherty:** I thank the Minister of State and welcome his assurances that in the way it is designed, the wage subsidy scheme could not allow somebody to claim more than they would pass on to an individual employee. That is really welcome. It would be reassuring for the employees of Aer Lingus to know that whatever was claimed in their name was given to them. However, while I know the Minister of State is saying there is no legal obligation that they would have to claim more, it absolutely beggars belief when free money was available to an organisation that was specifically put in place to help support people through a difficult time, it would not be claimed on the behalf of their employees. The employer took the route of putting them down to 50% of their pre-Covid salary, and then in June down to 30% of it, when the money was being made available by the State to keep these people on a minimum standard of living. They actually would have been better off letting all of those people go who were earning under €39,000, which is the vast majority of the people in Aer Lingus, and allowing them claim the pandemic unemployment payment, PUP. It is no reflection on the Minister of State or the Department but it really calls into question whether we should be thinking about Aer Lingus as a blue-chip employer.

Going back to the wage subsidy scheme, when employers denoted their employees as J9, this was the classification we made up so that they would not be paying USC, PRSI or any of the other social insurance taxes. We specifically said that J9 PRSI claimants were working seven days, which means they will never be able to claim the short-time working scheme from March until September. There would have to be a review or some help from the Revenue Commissioners to allow these people to go back and claim access to a support system that is based on demand. I ask the Minister of State to go back to the Revenue Commissioners and the Minister to see if there is any way we can help these employees. Leaving aside Aer Lingus and whatever it did or did not do for and on behalf of its employees, the State has a responsibility to recognise that people cannot live on €317 a fortnight. It is just not possible. We as legislators would not expect them to do so which is why the PUP was introduced at €350 and now reduced to €300 a week. I ask the Minister of State to bring that request back to the Revenue Commissioners and the Minister.

**Deputy Sean Fleming:** I take on board everything the Senator has said. I hope the Revenue Commissioners and especially the Department of Employment Affairs and Social Protection are listening. I get what the Senator says about how the scheme was designed. My comments are general comments. I am not saying they are specific to Aer Lingus but I am sure the people in Aer Lingus will be listening closely to what I have to say. There may be confusion on the part of some employers. They may have mistakenly assumed that they cannot claim the TWSS and the PUP alongside any other social protection payment. In many cases, employees would have been entitled to the short-term social welfare payment but maybe the employer was not sufficiently *au fait* with the social welfare legislation. I understand that it has led to a lot of confusion for some companies. Some employers have given letters to the Department of Employment Affairs and Social Protection saying they now understand that there would have

been an entitlement under the short-term social welfare payment but not under the PUP. Those claims are in the system and I believe once the claims are in the system they should be effective from the date the TWSS was introduced. All that is in the system and is mainly with the Department of Employment Affairs and Social Protection. That has yet to be teased out and I hope it will deal with it properly.

The scheme was designed to maintain people's net pay. Some employers looked at the net pay, whatever particular payment they were given under TWSS, and may have incorrectly deducted some moneys from the net payment such as trade union dues or payments to a credit union thus reducing the payment received. The employers were not entitled to do so. Some employers have made mistakes and they will have to correct same. It is important that the employees are on top of the situation concerning non-statutory deductions.

The Senator asked for a full review. There might be a reason a particular company in financial difficulty may choose not to pay the maximum payment during the period and I speculate as to the reason. First, if a company maintains pay at a particular level and then must deal with redundancy payments for those employees down the road, perhaps it would use this as a mechanism not to have their average net pay in the run up to a period of anticipated change or redundancy that could happen to reduce the redundancy payment that employer might have to pay down the road. I would call that financial engineering.

**Senator Regina Doherty:** The Minister of State hit the nail on the head.

**Deputy Sean Fleming:** I assume the Senator understands what I mean.

**Senator Regina Doherty:** Yes.

**Deputy Sean Fleming:** I am not talking about Aer Lingus but I hope the people there are listening closely. That could be a situation.

The Senator also mentioned other payments. Some employers might have had their own reasons in terms of staffing. Those issues will, more appropriately, be dealt with by the Workplace Relations Commission and not by Revenue. I stress that the Revenue Commissioners will not be involved in these types of issues but whatever the adjudications are they will implement them financially from the Revenue point of view.

The Senator requested that a Revenue's compliance report into Aer Lingus be published. She knows that we cannot publish details. However, the points raised in this debate need to be examined by Revenue, the Department of Employment Affairs and Social Protection, and the Department of Business, Enterprise and Innovation because this could affect redundancy payments down the road. I ask all Departments to take close note of the points made here today.

**An Cathaoirleach:** I thank the Minister of State for coming here, for his reply and for his suggestions.

### **Shared Island Unit**

**Senator Niall Ó Donnghaile:** Cuirim fáilte roimh an Teachta Chambers. Déanaim comhghairdeas leis an Aire Stáit as a cheapachán. Táim ag dúil go mór le bheith ag obair leis as seo amach, go háirithe i dtaca le cúrsaí Gaeilge agus cúrsaí Gaeltachta de. I welcome the Minister

23 September 2020

of State at the Department of the Taoiseach, Deputy Jack Chambers, and thank him for coming here this morning.

The questions, as laid out in this Commencement matter, are very clear and succinct in terms of what they ask. They reflect a sense of urgency and anticipation most acutely, but not exclusively, felt by Irish citizens and, more broadly, by people in the North given the very live political climate. Members of this institution and, indeed, other institutions are very keen and anxious to see this unit begin its work, to help enable and assist in that work and to see what the shared island unit is about and what it can do to help assist people within this very difficult and fraught political climate.

How will the shared island unit give effect to Article 2 of the Constitution? Article 2 refers to the birthright and entitlement of everyone born on this island to be part of the Irish nation. In welcoming the shared island unit and understanding some of its work remit, as laid out thus far, my party and I have argued for more, of which the Minister of State will be aware. There is a very real need to plan for constitutional change, demographic change and the change in political realities across this island.

It is important that when we talk about a shared island sometimes people understand that in terms of a great historical divide in the North and that is it. However, this State needs to tell people how it plans to share this island, that is, how it will give effect to that Article 2 of the Constitution. For example, will the shared island unit talk about how this institution can give effect to speaking rights for MPs in the North which has been a long-standing promise of Fianna Fáil? That would be a great way to show people that we are also serious in this institution about sharing the island.

Will we engage the media about the more recent phenomenon of amputating the Six Counties off maps and of placing bars on audiences in the North from entering competitions, some of which, ironically enough, are for tickets to the all-Ireland final? Will we look at the full-frontal assault on the Good Friday Agreement and Article 2 of the Constitution that is manifest in cases, such as the Emma De Souza case, where people who seek to simply assert their constitutional and Good Friday Agreement, GFA, right to be accepted as Irish citizens are being taken through the courts.

I want to work with colleagues right across Government and the Seanad and the Dáil, on how we plan for constitutional change in a positive, inclusive, informed and engaged way. In the interim I am keen to hear from the Government what it can do in the here and now, that it does not need to wait a long period of time and it need not exhaust all kinds of fora, assemblies and dialogues. There are merely three or four that I have outlined. There are many more that are within the gift of the Government to resolve. Through the shared island unit beginning its work urgently and actively, I hope we can resolve some of those issues.

**An Cathaoirleach:** I thank the Senator for his question on the shared island unit. I call on the Government Chief Whip.

**Minister of State at the Department of the Taoiseach (Deputy Jack Chambers):** Gabhaim buíochas leis an Chathaoirleach, agus leis an Seanadóir Ó Donnghaile freisin.

I thank the Senator for raising the Government's commitments on a shared island. The Taoiseach has asked me to respond to the points that the Senator has raised.

As the Senator will be aware, the programme for Government sets out the Government's commitment to working with all communities and traditions on this island to build a consensus around a shared future. This work will be underpinned by the Good Friday Agreement and the absolute respect for the principle of consent. The Taoiseach has also stated that there should be a renewed push to use the potential of the Good Friday Agreement to deliver sustained progress for all communities on the island.

A shared island unit has been established in the Department of the Taoiseach in support of these commitments and priorities for the Government, and its work is now under way. The unit is led by an assistant secretary, with two staff already appointed and further assignments in train.

The work programme for the unit is currently being further developed. The terms of reference for the unit's work are to examine the political, social, economic and cultural considerations underpinning a future in which all traditions on the island are mutually respected. Strengthening social, economic and political links North and South, and the promotion of all-island approaches to the strategic challenges facing Ireland and Northern Ireland are also key objectives.

Research and dialogue will be key to the unit's work. It will work collaboratively across Government and with research, civil society, sectoral, business and community organisations on the island.

The Government recognises the indispensable role of the Oireachtas and the Northern Ireland Assembly in representing people's views on relevant issues for the future of the island, North and South. The Government looks forward to engaging in the Dáil and Seanad and through Oireachtas committees as we implement our commitments in respect of a shared island, as set out in the programme for Government. The work of the committee on the Good Friday Agreement will be particularly relevant for the unit to follow, and other Oireachtas committees may also have contributions to make on a shared island, as may elected representatives in Northern Ireland.

In undertaking its work, the shared island unit will engage with political and civil society representatives and all communities on the island on an inclusive basis. In conducting its work, the unit will seek a broad base of contributions from across civil society on the island, including from groups that have been proportionally under-represented in the peace process, including women and new communities on the island. The Government will work to support and contribute to an inclusive, holistic and constructive discourse that can build consensus on a shared future in which all traditions are mutually respected. The Government's approach will at all times be founded on harnessing the full potential of the Good Friday Agreement to sustain progress, mutual understanding and reconciliation for all communities on the island.

**Senator Niall Ó Donnghaile:** On Tuesday, 20 July, in a response to a written question, the Taoiseach stated, "Work on its [the shared island unit's] structure, staffing and work programme is under way and I hope the unit will start this work in the coming weeks." In all of that, we have not been provided with an actual start date. We are all very familiar with the sentiment and the objectives of the Good Friday Agreement and that is why we have an existing committee on the Good Friday Agreement. The Good Friday Agreement, of course, among many other things, did not and does not settle the constitutional question; it actually asks us the constitutional question. When we couple that with our own constitutional obligations in this State to prepare for constitutional change, I do not see any evidence of this in either the very vague and

opaque responses we have received in regard to this mysterious unit or the answer provided to me this morning.

As I said, I support this unit and it is very important that we all support this unit. However, we cannot just continue to support the sentiment of a unit and we need to see the Government come forward with tangible plans. The Good Friday Agreement, which was rightly lauded again this morning and is something we all cherish and hold very dear, is now, live and imminently, under assault. It is being torn up, across many of its stages, in the British Houses of Parliament and in No. 10, Downing Street. Never before has the need for the work as outlined by the Chief Whip been so necessary but there is a huge expectation, and a great deal of concern out there among people, that the Irish Government needs to be doing more.

One way to do that is to actually begin the work of this unit. The Government has the consensus and it has the support. There are very few things the Government can talk about which garner such universal, cross-party support. In thanking the Minister of State for coming to the House, and in reasserting my party's and other parties' support for this unit, it is crucial, particularly given the dynamic we are in at the moment, that we start to hear tangible, practical timelines. We need to get this right, and I appreciate there is much work involved. However, this was a Government commitment, not a Sinn Féin promise. This was in the programme for Government. In July, the Taoiseach told us he expected the work to begin within a few weeks. We will debate a very important Fianna Fáil motion tonight on the internal market Bill and the threat being posed to the Good Friday Agreement, and so much more on this island, as a result of what is happening in Britain. Everyone will accept there needs to be a clear, concise timeline so we can get an understanding of when this unit will begin its work and what its work will actually mean, and then we, as Oireachtas Members, can start the process of assisting and being involved and engaged with that work.

**Deputy Jack Chambers:** I acknowledge and note, on behalf of the Government, the Senator's contribution and views. In my initial statement, I set out that the unit has been established. The Government was formed at the end of June. It was a key priority in the programme for Government and it has been established with an assistant secretary general in the Department of the Taoiseach, and the work is now under way. There is no opacity about the definitive position, about its structure or about the fact its work programme is actually commencing, and that is clear and important for the record.

A co-operative cross-party approach in the Oireachtas on the peace process and the Good Friday Agreement has always been sought and the Government will continue to work in that spirit. The Government respects and affirms everyone's right on the island to make the case for the constitutional future for Northern Ireland they wish to see, whether they are nationalist, unionist or neither. The Government is committed to working with all communities and traditions on the island to build consensus around a shared future underpinned by the Good Friday Agreement. Consistent with that, the Government will work to harness the full potential of the Good Friday Agreement to deliver sustained progress for all communities on the island, implementing our commitments as set out in the programme for Government.

It is also important to note the cross-Border infrastructure projects which are very important in that context, such as the A5, the Narrow Water bridge, the Ulster Canal and the Sligo-Enniskillen greenway, as well as looking at broader strategic approaches to healthcare and other matters that are cross-Border on the island. I have set out that the shared island unit has been established in the Department of the Taoiseach. The Government wants to see this unit harness

the best ideas, evidence and partners to realise the potential of the Good Friday Agreement, which has been transformative for relations and reconciliation between communities on the island. The Government looks forward to continued engagement with the Senator and all in the Oireachtas with regard to its priorities and commitments in respect of a shared island.

### **Special Educational Needs**

**Senator Ivana Bacik:** I welcome the Minister of State, Deputy Rabbitte, to the House and congratulate her on her appointment. I wish her the very best in this important post. I am glad to be speaking in my capacity as Labour Party spokesperson on children, disability, equality and integration and, in that regard, to ask the Minister for Health or the Minister of State to make a statement to the House on the provision of nursing care plans for children with complex needs to enable them to participate in education and to commit to the provision of nursing care for a child whose plan has already been prepared and who is due to attend a particular primary school in Dublin in the coming weeks.

My starting premise, which I know is also that of the Minister of State and her Department, is that children have a right to education. This is one of the most important rights children have as bearers of rights. Whatever the needs of a child, we must always strive to ensure he or she can exercise that right to an education. I am, of course, conscious that children who have complex needs need particular care. I have just come from a briefing with Inclusion Ireland on the needs of children and adults with intellectual disabilities, but my question relates to children with complex physical needs. These children have a right to an education in mainstream schools and require care packages to enable them to participate.

We all acknowledge that this issue cuts across the roles and responsibilities of both the Department of Health and the Department of Education and Skills. I also acknowledge the immense work of the HSE and the HSE co-ordinator for children with complex needs, who has a very important role. I also acknowledge the role played by special needs assistant, SNA, provision through the Department of Education and Skills and nursing care provision through the Department of Health. Enable Ireland has been working very hard on this issue and has run a pilot access and inclusion programme which aims to steer a path and navigate between health and education.

The particular case which has been brought to my attention by a parent and a school principal, and which I have also brought to the attention of the Minister of State's office, illustrates the difficulties experienced when children with complex needs seek to exercise their right to participate in education. When I was contacted by the parent and principal in respect of this particular pupil, about whom the Minister of State has details and of whose case she is very well aware, I was told that the child had a very particular physical condition which required a care package. The child is due to start fifth class in October. The family and school have been through the process of obtaining an SNA and nursing support. This process was at a very advanced stage. The HSE co-ordinator had been working with the family, and I understand the package of supports was in place and lined up. At the very last minute, just weeks ago, the child's family and school were informed that funding was not available for the nursing package. I understand that is what happened.

Since then, the family and the school have been in contact with different officials. The child has written a letter to the Minister of State, Deputy Madigan, whom I have also contacted.

Her office told me that it was a matter for the Department of Health. I contacted the Minister, Deputy Stephen Donnelly, but have not yet received a response. I thank the Minister of State very much for the response I received directly from her, in which she said that she is looking into the issue. I really do thank her for that response, which I acknowledge. This matter clearly has a wider impact for children beyond this particular case. While I am today asking for the Minister of State to commit to provision for this particular child, I want to raise this matter as a broader issue for children more generally.

**Minister of State at the Department of Health (Deputy Anne Rabbitte):** I thank Senator Bacik for raising this issue. Before I begin reading my script, the Deputy is right. There is a wider conversation to be had which goes further than the one case she has brought to my attention. As she will hear throughout my speech, there is a need for really good collaboration between the two Departments to ensure all children have the right of access and are supported.

I thank Senator Bacik for raising this issue. I begin by noting that the Senator's question relates in part to a particular child. It would not be appropriate for me to comment on that individual case and I have referred this to the HSE for more information and an update. I will share that information with the Senator as soon as it comes to hand.

As the Senator will hear, while there is some overlap with the Department of Health on this issue, as well as the fact that it relates to children with disabilities, the main policy issues involved fall under the remit of my colleague, Deputy Madigan, who is the Minister of State with responsibility for special education. Indeed, Deputy Madigan would probably have been the more appropriate Minister to attend this session today, although I will do my best to assist the Senator. I am also happy to pass on any further concerns to the Minister of State, Deputy Madigan, who is more appropriately placed to deal with these issues, for which the Department of Education and Skills is responsible.

In recent years, there have been developments in interventions for young children with complex conditions which have led to greater numbers of children with disabilities participating in school. In the past, these children either did not attend school or were in special centres or special schools managed by voluntary bodies, where nurses and care assistants were on-site as part of the overall staffing complement. Children with higher levels of need now often attend special schools and a small number of children are supported to attend mainstream schools.

High levels of ongoing support are required to enable this participation. At present, there is no national standardised process for the allocation of nursing supports in schools for children with complex needs. Current provision of nursing supports to schools is provided by the HSE or, on behalf of the HSE, through its funded service providers. Some nurses are also employed directly by schools and report to the school board of management. The provision of nursing supports has sometimes been dependent on the ability of an individual community health organisation, CHO, to fund such supports, leading to inequity of access for children in some special schools.

In 2018, the National Council for Special Education, NCSE, published its comprehensive review of the SNA scheme. The report included a finding that SNAs, who are not required to have any clinical training or qualifications, may nevertheless be expected to support students who require complex medical procedures. Following on from the review and its recommendations, the Department of Education and Skills is reviewing how nursing supports can best be provided in the education setting as part of their wider school inclusion model. The school in-

clusion model is designed to test a support model for schools which does not rely only on SNA support but which also provides for a range of additional supports, including therapy supports and services in schools. Currently, the school inclusion model is in a pilot programme in HSE area CHO 7.

A nursing group, a sub-group of the school inclusion model working group, has been established to progress the issue of nursing support for children with complex needs. This is a cross-departmental group which includes representation from my own Department. A paper is currently being developed to identify and prioritise the implementation of nursing supports for those children with the most complex needs. The school inclusion model budget is €4.75 million and the nursing provision will be funded through this programme.

**Senator Ivana Bacik:** I thank the Minister of State for her response. I greatly appreciate her efforts on behalf of the child in the case I have raised with her and I look forward to engaging with her further on that individual case. I stress that the Minister of State, Deputy Madigan, has clearly told me it is not within her brief, and that it is a matter for the Minister of State, Deputy Rabbitte, or the Department of Health, so I will engage with Deputy Rabbitte on that.

The Minister of State's answer raises a much broader concern about the huge gap that exists for children. The one line that stood out for me in the response, and I am sure for the Minister of State, was, "At present, there is no national standardised process for the allocation of nursing supports in schools for children with complex needs." That is a serious gap in our provision for children. I am very concerned that movement between Departments and the crossing over of responsibilities may have left children, such as the child in this individual case, to fall through the gaps. It is particularly sad when it appears funding is available but nobody is quite sure which Department is responsible for allocating it. I understand many disability matters are moving to the new Department of Children, Disability, Equality and Integration, and that movement itself, as I understand it from briefings from that Department, means there will be a delay. I am really concerned that children like the child in this particular case may fall between the gaps as different Departments assume different roles and responsibilities. I appeal to the Minister of State to raise with the Minister of State with responsibility for special education and inclusion, Deputy Madigan, and the Minister for Health, Deputy Donnelly, the need to ensure a co-ordinated joined-up response and in particular to ensure a national standardised process is rolled out for children with complex needs. As the Minister of State said, it cannot be on the basis of the ability of an individual community healthcare organisation to fund such supports or on the fact that a person is in a particular pilot programme area. We all know that is what is happening in practice but it is not good enough for children like the child in this case, who was living in another country where the support was in place. The family were alarmed to discover that there is no standardised package of supports in place here. There really should be for children like this child.

**Deputy Anne Rabbitte:** The current programme for Government document, *Our Shared Future*, recognises the need to improve services for children with disability through better implementation by the working group across Government. I wish to reassure Senator Bacik and anyone who has a child with complex needs that myself and the Minister of State, Deputy Madigan, will be working closely together on this. We recognise that there are gaps. It is our responsibility to close the gaps and ensure that no child falls through the gaps. Deputy Bacik can be assured, on foot of the cases she has raised this morning, that what we have within our Departments, where we see the national standardised approach, is not standardised. We are going to work on that. We are going to sit down and put together a plan. My move and the

23 September 2020

moving of the functions from the Department of Health to the Department with responsibility for children should be welcome news, because we want to ensure that all children get the best access to intervention therapies and fair and equitable access to education at the earliest possible stage on the early intervention side.

**An Cathaoirleach:** My thanks to Senators for putting in matters and to the Ministers for their responses. If Members are unhappy with the responses, they might raise the matter directly with me. We need a sos to allow cleaning of the Chamber.

*Sitting suspended at 11.30 a.m. and resumed at 12.05 p.m.*

### **Investment Limited Partnerships (Amendment) Bill 2020: Order for Second Stage**

Bill entitled an Act to amend and extend the Investment Limited Partnerships Act 1994, the Irish Collective Asset-management Vehicles Act 2015 and the Investment Funds, Companies and Miscellaneous Provisions Act 2005; to amend Schedule 5 to the Social Welfare Consolidation Act 2005; and to provide for related matters.

**Senator Michael D’Arcy:** I move: “That Second Stage be taken now.”

Question put and agreed to.

### **Investment Limited Partnerships (Amendment) Bill 2020: Second Stage**

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

**An Leas-Chathaoirleach:** I welcome the Minister of State, Deputy Fleming, to the House and formally congratulate him on his elevation.

**Minister of State at the Department of Finance (Deputy Sean Fleming):** I congratulate the Leas-Chathaoirleach on his recent appointment. I know he will do an excellent job in the Seanad for whatever great number of years we have ahead of us. I welcome the opportunity to address the Seanad today on the Investment Limited Partnerships (Amendment) Bill 2020. The Bill seeks to update the operation of the Investment Limited Partnerships Act, as outlined in the programme for Government. It is also set out in the Ireland for Finance strategy. Some will find this quite a technical Bill as it concerns the issue of investment limited partnerships, ILPs. I ask the House to bear with me as we go through it, because we have to give the Bill proper scrutiny and it is one that will require careful consideration.

An earlier version of elements of this Bill passed all Stages of Dáil Éireann, but lapsed with the dissolution of the House. It was intended that the Government would make additional amendments to enhance the transparency applied to Ireland’s fund vehicles by extending anti-money laundering beneficial ownership requirements to both ILPs and to common contractual funds, which are two of Ireland’s five corporate entities for the establishment of investment funds.

The Bill now before the Seanad modernises investment limited partnerships and provides

for best practice in the area of transparency and anti-money laundering. The Bill also makes a number of technical amendments to the Irish Collective Asset-management Vehicles Act 2015. It also provides that the Central Bank can verify personal public service number, PPSN, information pertaining to beneficial ownership registers that it operates by proposing an amendment to the Social Welfare Consolidation Act 2005.

As Senators will be aware, the Ireland for Finance strategy was launched last year to develop further the success of international financial services in Ireland. Ireland's success in attracting top-tier global financial services is set against an increasingly dynamic and competitive backdrop. The changes put forward today aim to enhance Ireland's offering and improve our robust and transparent regulatory environment for investment funds.

The Irish funds industry is a key part of the internationally traded financial services sector. In May 2020 there were 7,750 investment funds authorised and regulated by the Central Bank of Ireland. Some 16,000 people are employed directly and a similar number indirectly in the industry throughout the country. The industry generates substantial direct and indirect Exchequer receipts annually. There is an estimated €850 million per annum in direct Exchequer receipts.

Ireland's offering is overseen by a regulatory regime which is responsive to the needs of industry while at the same time ensuring the protection of the interests of investors. The intention of the Bill is to ensure that our corporate structures for investment funds are fit for purpose and maintain our strong global reputation as a jurisdiction to domicile investment funds.

Investment funds are established for the purposes of investing the pooled funds of investors in assets in accordance with investment objectives and investment policies that are agreed with investors. Investors in investment funds expect redemption of their investment in a fund in line with the fund prospectus, which would have been issued at the early stages.

An investment limited partnership is a regulated partnership structure that does not have a separate legal identity. An investment limited partnership is formed under the Investment Limited Partnership Act 1994 and is established once it is approved by the Central Bank of Ireland. It is constituted according to the partnership agreement entered into by one or more general partners, who manage the business of the partnership, and a number of limited partners, who are the investors in the fund. A general partner in an investment limited partnership has unlimited liability for the debts and obligations of the ILP, while a limited partner is not liable beyond the amount of the capital contribution. When compared with our other investment fund vehicles, ILPs have particular advantages for specialised investment schemes such as private equity or venture capital funds, which have a smaller number of professional investors, or more bespoke investment structures with different ways of splitting the gains and losses from the partnership.

In an ILP, the general partner is responsible for managing the business of the ILP and is ultimately liable for the debts and the obligations of that ILP. An ILP is subject to oversight by the Central Bank of Ireland, and will be subject to the rules for these investment funds.

The Investment Limited Partnerships Act has been in place since 1994. It needs to be updated to fit the environment at which it is aimed and to take account of the changes that have been made in Europe via the alternative investment funds managers directive of 2018 which establishes the EU regulatory landscape for non-undertakings for collective investment in transferable securities, UCITS, investment funds.

The Bill makes changes such as allowing an advisory role in the management of the fund for

limited partners without putting their limited liability at risk. The changes will enable Irish industry to compete for some of the global private equity market that has chosen other European or global locations to base such investment funds.

The EU anti-money laundering frameworks have introduced a requirement to introduce beneficial ownership registers for corporate and other legal entities that have separate legal personality such as limited companies or Irish collective asset management vehicles and trusts under the Unit Trusts Act 1990. The investment limited partnership, ILP, and the common contractual fund vehicles do not fall within the scope of EU anti-money laundering directives due to the fact they have no separate legal personality and are not trusts. This Bill, however, provides an opportunity to align transparency requirements that apply to other Irish investment fund vehicles such as Part 24 of the Companies Act 2014, the Irish Collective Asset-management Vehicles Act 2015 and the Unit Trust Act 1990, and to ensure the highest international standards in the area of anti-money laundering are met across Irish fund vehicles. These amendments will enhance Ireland's reputation as a well regulated financial centre.

The Bill corrects technical and typographical errors in the Irish Collective Asset-management Vehicles Act 2015, and aligns it with other company legislation. The Irish collective asset-management vehicle, ICAV, is a legal structure for the holding of investment schemes established in accordance with the Act. The ICAV structure was specifically designed to be distinguishable from a trading company in terms of the instrument of incorporation and provided for an umbrella fund structure with specific accounting for subheads, or sub-funds, as they are technically known in the legislation.

A number of Irish company law provisions are often irrelevant or inappropriate to investment funds and can create unintended consequences where applied in the funds' context. The Bill includes measures to apply beneficial ownership requirements to all of Ireland's investment vehicles, including the common contractual fund vehicles. Part 5 of the Bill amends Schedule 5 of the Social Welfare Consolidation Act 2005 to list the registrars of beneficial ownership of investment limited partnerships, ICAVs, credit unions, unit trusts, and common contractual funds as specified bodies that are authorised to use the personal public service, PPS, number to verify beneficial ownership information provided to them.

I will outline some of the key features of the Bill, which contains five Parts. Part 1 is the standard preliminary and general section. Part 2 relates to ILP, Part 3 relates to ICAVs, Part 4 to common contractual funds and Part 5 amends the Social Welfare Consolidation Act.

Section 1 provides for the Short Title and commencement. Section 2 covers the collective citation and section 3 is a standard form for clarifying the Acts referred to in the Bill. A key improvement is that the Bill ensures that the same transparency, anti-money laundering, and counter-terrorist financing arrangements apply across all Irish fund vehicles in line with best international practice. A number of changes to ILP relate to alignment with EU and domestic funds legislation, for example, changing the term "custodian" to "depository". There are also some typographical corrections, correction of cross-references and the replacement of Companies Act 1963 with Companies Act 2014. I will address the key changes in more detail later.

Section 7 adds board participation in boards and committees related to an investment limited partnership to the white list, a list of activities which, if undertaken by a limited partner, will not be deemed to be taking part in the conduct of the business and so do not result in loss of limited liability for a limited partner. The white list concept is also common to limited partner-

ship regimes in other jurisdictions.

Section 10 adds a new section 8(4B) to the Act of 1994 to allow the use of an alternative foreign name besides the Roman alphabet in the case of foreign investment limited partnerships.

Section 11 amends section 8 of the Act of 1994 by adding a new section 8A to give the Central Bank the power to refuse to authorise an investment limited partnership where the name, or alternative foreign name, of the ILP is deemed undesirable.

Section 13 amends section 11(1) of the Act of 1994. Section 11(1A) sets out the requirements for amending a partnership agreement. Section 11(1B) allows for alterations to the partnership agreement to be implemented under certain conditions. Section 11(1C) outlines what the majority of limited partners comprises.

Section 14 adds two new subsections to section 11 to the Act of 1994.

Section 11(5) creates a statutory transfer of assets and liabilities on the admission or replacement of a general partner and section 11(6) sets out a similar provision on the withdrawal of a general partner.

Section 15 amends section 12(3) and (4) and deletes a restriction on the limited partner bearing the same name or part of a name as the investment limited partnership.

Section 19 inserts a new subsection 19A to the Act of 1994 setting out the meaning of majority of limited partners for different purposes, such as to rights or interests of a majority of the limited partners and to its use of simple majority. Section 20 replaces section 20 of the Act of 1994 and sets out how capital contributions by limited partners and liability of limited partners for partnership debts operate. Section 23 amends section 24(4) of the 1994 Act as it relates to permits to the investment limited partnership to purchase insurance for a general partner or auditor for indemnification against liability where the general partner or auditor is found not to be negligent or in default.

Section 27 also amends section 27 of the Act of 1994 by introducing beneficial ownership to investment limited partnerships and aligns with similar provisions that apply to companies established under the Companies Act or the ICAV Act as set out in SI 110/2019, the European Union (Anti-Money Laundering: Beneficial Ownership Of Corporate Entities) Regulations 2019. Sections 28 and 29 amend section 28 of the 1994 Act to align the beneficial ownership requirements with SI 110/2019.

Section 30 amends section 29 of the Act of 1994 by deleting subsection (3) in order to remove the requirement for the bank to publish notice of revocation of authorisation in *Iris Oifigiúil*. Section 35 clarifies in section 38(4) of the 1994 Act that the limited partner does not have unlimited liability for the debts of the partnership once the partnership is dissolved unless the limited partner purports to carry on the business of the partnership after dissolution. Section 36 amends section 39 of the Act of 1994 to ensure that limited partners who do not take any part in the conduct of the business of the partnership cannot be prosecuted for any offences committed in the management of the partnership.

Section 37 amends the Act of 1994 by adding section 42A after section 42. Section 42A seeks to align the ability of an investment limited partnership to indemnify against liability with those in the ICAV Act 2015 and the Companies Act 2014. This reflects the changes that were

introduced under the alternative investment fund directive and enables the investment limited partnership to purchase liability insurance for any auditor or general partner of the investment limited partnership.

Section 38 amends section 45 of the Act of 1994 to provide for a cost recovery system in the context of the Central Bank's role in maintaining the beneficial ownership registers. Section 39 inserts new sections 46 to 59, inclusive, relating to beneficial ownership registers, including a central register and associated procedures obligations and aligns this with SI 110/2019.

Section 40 inserts a new Part VIII into the Act of 1994 covering the migration of investment limited partnerships into and out of Ireland, as well as their conditions of solvency. It also inserts three chapters. Chapter 1 allows for the migration into Ireland to become an investment limited partnership from another jurisdiction. Chapter 2 provides for the revocation of authorisation following migration out of the country. Chapter 3 covers the declaration of solvency of migrating partnerships.

Section 41 introduces the issue of an umbrella of sub-funds in investment limited partnerships. These sub-funds permit the establishment of a fund with several distinct sub-funds that are traded as individual investment funds but are not liable for the debts of the other sub-funds under the said umbrella. These funds will share general partners but are ring-fenced from each other in the event of insolvency.

Part 3 of the Bill deals with amendments to the ICAV Act. These amendments are technical in nature. I will highlight a number of the more substantive elements. Section 42 amends section 2 of the 2015 Act by adding a new definition of a "category 4 offence" to the definitions with the meaning given by section 60 so that a person guilty of a category 4 offence is liable, on summary conviction, to a class A fine for a fine not exceeding €5,000, which by definition would be a minor issue.

Section 46 ensures a contract entered into outside the *vires* of an ICAV is nevertheless enforceable.

Section 50 clarifies the requirements for affixing or attesting the affixing of the seal. Section 51 will allow the ICAV to issue powers of attorney. Section 52 will amend section 77 of the 2015 Act and bring the Irish Collective Asset-management Vehicles Act into line with the Companies Act 2014 in permitting inter-group loans and transactions. Section 53 will allow for the ICAV to make an application to the court where certain legal proceedings are anticipated. Section 54 will insert new sections, 91A, 91B and 91C, regarding written resolutions, in line with the Companies Act 2014. Section 55 clarifies that where an investment company converts to an ICAV, the priority of pre-existing charges should remain unchanged. Section 57 will require that directors making a declaration of solvency declare they have formed an opinion and that the applicant company is able to pay its debts as they fall due.

Section 61 will provide for a cost recovery system for the Central Bank for maintaining the beneficial owner register. The costs will be fully borne by the organisation, not by the Central Bank or the public. Section 63 will insert a new section, 18A to 18U, to the 2005 Act introducing beneficial ownership to common contractual funds. Section 64 will provide for the following: a registrar of beneficial ownership of investment limited partnerships; a registrar of beneficial ownership of Irish collective asset-management vehicles, credit unions and unit trusts; and a registrar of beneficial ownership of common contractual funds, in the list of what is specified

in Schedule 5 to the Act. This means these bodies will be able to receive and use PPS numbers to verify beneficial ownership information.

I hope this explains the background and underlines the benefits that will arise from the Bill. The Irish funds industry is, as I highlighted earlier, an important part of the international financial services sector based in Ireland. It is a significant employer and a sector that we hope will grow and deepen its links in the economy throughout Ireland. The Bill is a means of promoting investment and Ireland's competitiveness in international financial services, which is more acute in the wake of the economic impact caused by Covid-19. I look forward to hearing Senators' contributions and will be happy to provide any further clarifications they may need. I commend the Bill to the House.

**Senator Michael D'Arcy:** Sometimes we describe a Bill as a very technical piece of legislation or as boring. Unfortunately, this type of thing is boring but we have to get through it, and the devil is very much in the detail in this case. We are talking about the private equity sector in respect of financial services for Ireland. As the Minister of State will be aware, the financial services sector is quite a large employer, of about 16,000 people currently. The sector has been arguing, for about four and a half to five years, that without this legislation it cannot advance the private equity side of investment in Ireland. The reason it cannot do that is the investment limited partnership, ILP, legislation in Ireland, going back to the 1990s, is out of sync with that in other jurisdictions. In essence, if a business is part of such a partnership, and if it invests €2 million in an investment vehicle worth €100 million, it can be liable for losses to the value of the entire sum. As a result, investors do not invest in Ireland because in other jurisdictions, the structure is such that they can be liable only for the sum they invest. That is a very easy decision for investors to make, whereby they decide not to invest here.

This legislation has been on the books for almost five years, which is a criticism of the Department of Finance and the way we get to legislation. It is important to be advanced and pass this legislation so we can be competitive with other jurisdictions. The criticism is a self-criticism too; for three years I was in the seat the Minister of State is in and I did not get the legislation through in that period. I wish him well and certainly hope the Bill can be pushed through before the end of the year because it is important.

To put it in context, the sector has said for quite some time that there are probably 1,500 jobs attached to this. If we can move, therefore, and get the private equity world operating here in Ireland, it will be worth 1,500 jobs. The companies in question are all around the country and not just in Dublin. The perception is that they are all down on the docks along the River Liffey, but that is not the case. There are funds like State Street in Kilkenny and BNY Mellon in Wexford. I am using those as two good examples. The Ireland for Finance strategy that was launched in April 2019 entailed getting 5% of the sector to be based in Ireland. If we can get that base, it will give us the 1,500 jobs. In the context of Brexit and given the potential for Covid to rear its ugly head again, the hope and expectation is that those 1,500 will be higher value jobs with higher levels of pay and will benefit the Irish economy to a considerable degree.

Another important aspect of this debate is the question of how large the sector is. We are discussing trillions of euro worldwide every year, and we badly need to get a bite of that. However, I have consistently highlighted the bigger picture, that of sustainable finance. There are large quantities of funding to be spent, not just in Ireland but worldwide. The figure that people put on it is up to €100 trillion, which in itself suggests to me that no one really knows what is required to deal with everything that is attached to global warming and climate change. What

is clear, however, is that this cannot be done through a single strand of investment. Rather, it must be done with private equity, of which Ireland has practically nil because this legislation has not been passed. It will also be done with borrowing - the standard borrowing that we know and understand and the multilateral borrowing from multilateral banks such as the Asian Infrastructure Investment Bank, AIIB, and so on - and Government funding. We need three legs to the funding stool of sustainable finance because enormous quantities of money will need to be spent to decarbonise the world economy. If Ireland is to become a truly global leader in this regard, which I believe we can in terms of investment, then we need this legislation passed. As the Minister of State said in his 19-page speech, the Bill passed all Stages in the Dáil but fell when the Houses of the Oireachtas fell.

I welcome the Bill. I will not go into its details, but I have a couple of questions and will discuss two points. From my experience, investors are significantly ahead of everyone else. They are the people with private equity funds and who administer the moneys that will be crucial if we are serious about sustainable finance. They are well ahead of everyone else because, if we destroy the world through climate change, there will be no world economy. They are clear that they want there to be a world economy.

I am pleased with the beneficial ownership element. It shows that the Irish authorities - the Department of Finance, the Central Bank and the Houses - are moving on that matter. We are actually moving beyond what is required. European directives are the requirement, but we are doing more. I support that entirely. The “more” in question is that we are trying to deal with anti-money laundering, AML, and counter-terrorism financing, CTF, to ensure that the regulator knows who the owners of the private equity funds are and that their bona fides are above board.

**An Leas-Chathaoirleach:** I am giving the Senator a further minute as a courtesy.

**Senator Michael D’Arcy:** As we saw in a “Panorama” programme this week, where we have these quantities of finance, there is the potential for wrongdoing. We do not want that to happen in this jurisdiction. We want to know who the beneficial owners are. This legislation goes beyond what is required by European law. It is stronger, more open and more transparent than the equivalent systems in any other jurisdiction of which I am aware. I very much support that.

I have a single question. The requirement for PPS numbers in this regard is fine but how is the regulator to deal with investors who are not Irish?

**Senator Pat Casey:** I congratulate the Leas-Chathaoirleach on his appointment last Friday. I was sitting in the office waiting for the vote to be called but, the next minute, I heard people congratulating him. No vote was needed.

**Senator Michael D’Arcy:** I would like to add my voice to those congratulations. I apologise for not doing so earlier.

**Senator Pat Casey:** Six months after my election to the Seanad, this is my first time speaking in the Chamber. It has taken a while. I welcome this Bill, which will amend the Investment Limited Partnerships Act 1994 in several ways with the main aim of making Ireland a more attractive domicile for private equity funds. Enactment of this investment partnership legislation is also a commitment included in the programme for Government. The main objective is also part of Ireland for Finance, the Government’s strategy to develop Ireland’s international financial sector up to 2025. The Bill is an important step in maintaining Ireland’s place as the leading

funds domicile in Europe. Its intention is to ensure that our corporate structures for investment funds remain fit for purpose and that we maintain our strong global reputation as a jurisdiction for domiciled investment funds.

It is appropriate to recognise the great success we have had in the area of international financial services, achieved through ongoing commitment from all successive Governments. As a party, Fianna Fáil is very proud of the role we played in the 1980s in establishing the International Financial Services Centre here in Dublin. Since then, international financial services have developed right throughout the country, which it is important to recognise. There are now more than 44,000 people employed in international financial services across the country. Of the top 15 global aircraft lessors, 14 are now based in Ireland. Ireland is home to 20 of the world's top 25 financial services companies. With more than €4 trillion in fund assets under administration, Ireland is the third largest global investment funds domicile, the largest European domicile for exchange-traded funds, ETFs, and a leading location worldwide for hedge fund administration. Some 17 of the top 20 global banks and 11 of the world's top 15 insurance companies have a presence in Ireland. The Irish cross-border insurance sector, a report points out, writes business in more than 100 countries with more than 25 million customers. By any measure, this is a remarkable record that Ireland has grown over time in international financial services. This success is not something about which we can be complacent because this is a very dynamic industry in which the pace of change is rapid and the nature of the investment is highly mobile.

As the Minister of State and Senator D'Arcy have pointed out, this is technical legislation amending the 1994 Act. We welcome and support the Bill.

**Senator Paul Gavan:** I also congratulate the Leas-Chathaoirleach. I was not around on Friday. I am delighted he is in the position and I believe he is the ideal candidate to take on the role of Leas-Chathaoirleach. He has been a friend and comrade at the Council of Europe and I wish him well. This is his first day and he should know that it is an auspicious day. It is Bruce Springsteen's birthday. It is a fine day to start.

**Senator Michael D'Arcy:** We should invite him to the Chamber.

**Senator Paul Gavan:** We should get him over here. I also welcome the Minister of State. As he alluded to, this is a highly technical Bill which is pitched towards one industry, which has its own needs and interests. I am sure the Minister of State will also agree that those needs and interests are not shared by the vast majority of our constituents, who would benefit much more from a reversal of the cuts to the pandemic unemployment payment, solutions to a coming wave of mortgage arrears or increased capacity in our hospitals than from arcane legislation that will delight private equity asset managers. Unfortunately, the priorities of this Government are clear.

The Irish investment limited partnership product was first established under the 1994 Act. It was thought then that the ILP would become a popular investment vehicle for real estate investments and private equity. The Bill before us is intended to update the existing ILP regime and make Ireland an attractive place for international investors. Amazingly, it made its way into the programme for Government rather than, for example, any commitment on affordable housing.

The ILP is a partnership the primary business of which is investment in financial assets, such as property and shares. It is a collective investment fund consisting of one general partner, who assumes unlimited liability, and limited partners who assume assets and liabilities in proportion

only to the capital they each contribute.

The partnership does not have an independent legal status like a normal company; the profits are owned by the partners, with each able to use tax reliefs available in their own jurisdictions. Unlike the general partner, the limited partner cannot take part in the management of the firm without taking on full liability for the partnership's debts and liabilities.

The ILP is established as an alternative investment fund, AIF, and is regulated by the Central Bank. Given the technicalities of this legislation, the small audience that it seeks to please, and the more pressing matters that face the Seanad, it is strange that the Government has given it such priority.

Ireland remains one of the best destinations of alternative investment funds in Europe. In the past ten years, the number of funds domiciled here has risen by 60%, with their net assets increasing by 350%. The value of investment funds currently domiciled and administered here stands at €4.9 trillion. This is not an industry in need of help at this critical time. We should be talking about industries that have been hammered by Covid-19, not the Irish funds industry which is getting by just fine.

We understand that global private equity asset managers have been keen to establish European structures similar to those held in places such as the Cayman Islands for distributing profits to their European investors. This encouraged the Irish funds industry to lobby both the Central Bank and the Department of Finance to upgrade the legislation around limited partnerships, and to achieve the Government's aim of making Ireland a global hot spot for private equity funds. The result is the Bill before us. We view this legislation as an unnecessary distraction and a waste of time given the crucial issues that we face. However, we will endeavour to give this legislation the scrutiny it deserves, as we did before the Bill lapsed in the Dáil.

The Bill, updated from that published in June last, proposes a number of changes to the current regime. It allows ILPs to be set up as umbrella funds, allowing them to be divided into sub-funds that are treated individually without being liable for the debts of other sub-funds in the umbrella - an arrangement similar to that enjoyed by Irish collective asset-management vehicles, ICAVs. It seeks to expand the white list by allowing limited partners to participate on boards and committees without loss of liability. The Bill also seeks to incorporate practices from other jurisdictions, aligning the ILP structure fully, with alternative investment fund managers directive, AIFMD, and other fund structures such as ICAV.

Additionally, we welcome the fact that new provisions have been added to this legislation which were not included in its previous incarnation in June 2019. My colleague, Deputy Pearse Doherty, spoke with the then Minister of State, Senator D'Arcy, around issues of beneficial ownership, and I welcome the fact that section 27 will ensure these funds are covered by beneficial ownership legislation. Sections 29, 39, 63 and 633 are similar in this regard. Sinn Féin will further scrutinise these provisions of the legislation as it progresses.

We recognise that the Irish funds industry employs a significant number of people. That fact cannot be contested. However, it is becoming clear that the Government's industrial policy has become a one-trick pony, with phantom FDI and private equity funds becoming the central plank of high wage employment in this State, with an industry of tax and legal advisers benefiting, and a domestic low wage economy struggling beneath it. This is not a sustainable model.

Furthermore, we dispute the relevance of this legislation given the other pressing challenges

we face, including the small issue of a global health pandemic. That the Irish funds industry has bumped itself up the list at the Department of Finance is testament to its determination and the priorities of this Government.

This is a highly technical Bill, but that is no reason to let it pass without scrutiny. We look forward to examining its provisions on Committee Stage.

**An Leas-Chathaoirleach:** In Senator Gavan's gracious remarks, he mentioned Bruce Springsteen. It occurs to me to say that, as politicians, we are all born to run. I call Senator Sherlock.

**Senator Marie Sherlock:** I extend my congratulations to the Leas-Chathaoirleach. He is a long-serving Member of the Oireachtas and it is fitting that he now fulfils the role of Leas-Chathaoirleach. I also extend my congratulations to the Minister of State in his new role and thank him for bringing forward this legislation.

I share the concerns articulated by Senator Gavan about the timing of the Bill and the use of valuable Seanad and Dáil time to debate it. I acknowledge that there are sections within it that are long awaited by those working in the financial services sector and that the Bill is a commitment in the programme for Government, but in the same vein we are in the middle of a global pandemic and urgent legislation is required to assist workers and their families and SMEs. It seems bizarre and ill-timed to have this legislation before the House now. Indeed, there is a certain irony that a debate has just concluded in the Lower House about the need for sick pay. There was a great deal of talk in that debate about the need to help SMEs and about why sick pay could not be introduced now to help workers who do not have access to paid sick leave in their workplaces and why they must wait for six months. There is an irony that people who very much need something in the context of the pandemic are being told to wait when this Bill is before us today.

There is significant employment from financial services in this country, and it is a welcome source of employment, but the Bill's provisions arguably seek to intensify our share of employment that is reliant on highly mobile capital. As a vision for employment and our future economy, serious questions must be asked about whether we need to put such emphasis on developing a financial hub and having so much employment based in financial services, given those services' highly mobile nature and the competition that exists internationally for that money. At the end of the day, private equity is about the domiciling of funds in a particular country and benefiting from the regulatory and tax regimes within same.

The Minister of State has had to table a very technical Bill. We recognise the necessity of updating the 1994 Act and modernising the law around investment limited partnerships, ILPs, that the Bill seeks to meet, in particular regarding its AML provisions. The main change between this Bill and its 2019 version is the addition, as promised last year, of sections relating to beneficial ownership, on which Senator D'Arcy and the Minister of State spoke, and the compilation of registers. This is to be welcomed in the interests of transparency and placing all investment vehicles on a level playing field. When looking back through the record of the Bill's debate in the Dáil, I noted that the then Minister of State, Senator D'Arcy, spoke about the register going beyond the legal requirements and the precedents set by other countries. It is welcome that there will be a register. However, we should not pat ourselves on the back for that. We need to strive for standards of transparency above and beyond those of other countries. This is very important in the context of the reputational aspect of Ireland trying to attract

23 September 2020

financial services and any other international capital. While it is a different area of taxation, we are well aware that Ireland has been characterised as a tax haven, rightly or wrongly, by others. Although we might dispute that characterisation, we must remain cognisant that the eyes of the world are often on the Irish financial system and that we need to behave in a way that puts us beyond reproach. Transparency must be a keystone value of the entire regulatory system in this country.

I support and echo Senator D'Arcy's question about PPS numbers and seek clarity on the situation for non-Irish resident investors.

My final point relates to access to the central register of beneficial interest. It is one thing for it to be provided for in law but how it exists in reality is another matter. I ask that the mechanisms to access the register be truly accessible and comprehensible and that it is not restricted, by either price or access, to those with an inside knowledge of the industry. We need to strive to ensure confidence in the nature and activities of these funds. Bearing in mind that these funds do not enjoy widespread public support, particularly with regard to private equity and where that money has been put in other countries, we need to ensure we have confidence in the nature and activities of the funds operating from these shores. The information pertaining to their ownership must be properly accessible and the overall regulatory regime transparent.

**An Leas-Chathaoirleach:** I call Senator Ward, who has five minutes.

**Senator Barry Ward:** Ar dtús báire, déanaim comhghairdeas leis an Leas-Chathaoirleach as ucht a bheith tofa mar Leas-Chathaoirleach an tSeanaid.

I will not take the full five minutes as I will only make a brief contribution on this Bill. It is very important legislation. As we have heard, it has been a long time in the birthing process and in coming before this House. In that regard, it is unfortunate to describe it as unnecessary, a waste of time or ill-timed. The reality is that we do not always get to choose the timing of the legislation that comes before this House. It is, nonetheless, important legislation. It is not reasonable to compare it to the importance of other legislative or policy measures that might come before the House because we can always draw up a list of the hierarchy of what we consider to be most important. This legislation is a long time coming and perhaps most important, it creates, or enhances, a regulatory regime.

I agree with what Senator Sherlock said about the importance of transparency in this area because the financial services aspect of the Irish economy is tremendously important. Of course, some people are critical of that and Senator Sherlock is quite right in identifying the mobility of the funds that might be part of the industry here. That is a significant risk given the economic model that Ireland has followed, though that model has served our economy extremely well for more than a generation now.

The Minister of State and Senators referred to the extent to which the financial services industry contributes to our economy. That is not just about jobs, though it is estimated that more than 30,000 people are employed directly or indirectly by this sector alone. That, of course, does not count. Many others are involved in the provision of services and so on for people who come here. Reference was made to the Government's desire to increase the number of people working in financial services within the economy. I would not necessarily accept that because one of the things international financial services do is draw people into the country. They bring people here who then pay tax, spend money, live here and contribute to our society. That is an

important aspect as well, apart from the nearly €1 billion directly received by the Exchequer and the additional money spent in the sphere through the various other things associated with it.

It is tremendously important to note this legislation is making a positive contribution. It is adding to our reputational status within Europe, adding to the transparency that was mentioned by other Senators and, of course, addressing our obligations under the EU anti-money laundering frameworks, which is very important. It may not be as important as other specific difficulties we have, legislatively and societally, but it is, nonetheless, very important legislation and I am delighted we will bring it through Second Stage.

I want to acknowledge a point made by Senator Casey. This is my first time speaking in the Seanad as an elected Senator, even though I was elected at the beginning of April, so it is bizarre we have waited this long to get to this point. It is important to note this is the first time we have not taken all Stages of a Bill in one day. That is another positive move towards the way this Chamber should be operating. It is welcome that we are taking Second Stage and taking our time to consider all aspects and, in due course, to deal with the Committee Stage amendments.

**Minister of State at the Department of Finance (Deputy Sean Fleming):** I thank Senators for their contributions and we can have a more detailed discussion on Committee Stage and Report Stage. I want to deal with some of the specific issues raised. Some Members raised similar issues but came at them from a different perspective.

Senator D’Arcy referred to the important issue of sustainable finance. This fund will help raise funds for sustainable climate projects. What is it all about? It helps to raise funds, manage funds and invest in funds related to sustainable financial products.

The issue of beneficial ownership has come up quite a bit in the context of the PPS cards. Senator D’Arcy asked about a situation where the person is not Irish and does not have an Irish PPS card, and this may also have been raised by Senators Gavan and Sherlock. The legislation allows a flexible method to be determined by the registrar in respect of an individual, for example, if the individual does not have a PPS number, he or she can verify details such as name and date of birth. If investors from another jurisdiction have no PPS number, it is important they can meet the verification requirements by producing their passport, so we know who they are. It is important we do not have people with PPS numbers all over the globe, so it is specifically provided for in the legislation that a person can produce a passport.

I now turn to the important issue of transparency. I accept it is a very long and detailed Bill. To clarify for those who have raised issues and for people watching, the proposed beneficial ownership amendments will enable the public to ascertain the beneficial ownership information of investors in these limited partnerships and will ensure the highest international transparency standards apply to investment limited partnerships. Simply put, a public register of the beneficial owners will be maintained by the Central Bank and any member of the public can walk in and inspect the register for a minor fee. It is like going into any planning office in the country in that a person can walk in and look at the public file on beneficial ownership. That public register is a phenomenally transparent example of how this can work, and it is important to stress that point. I have never in my life gone to the Central Bank to look at a public register, but I might do it to see how this works when it is up and running. In summary, people will have to produce their passport if they do not have a PPS number and there will be a public register available for public inspection, which is important.

On another point, in Ireland we are constrained by the number of banks. There are only a handful of small banks and many people in business find that, even if they have a good idea, for example, for a green project or in whatever other area, banks might only lend 50% or 60% of the funding and, sometimes, projects cannot get off the ground. At one time, banks used to lend 100% of the funding and that led to its own problems. Now they do not lend 100% of funding. These are non-banking sources of funds that people can invest in small and medium-sized businesses that would not have access to the required capital to get a project off the ground and where the banks are not willing or in a position to provide the funds for that. It is important that these funds are available here.

The sector has already been mentioned. It is well dispersed throughout the country. Obviously, much of it is in Dublin, but it is in Cavan, Cork, Drogheda, Dundalk, Galway, Kilkenny, Letterkenny, Leitrim, Sligo, Tipperary, Waterford, Wicklow and Wexford as well. It is all over the place.

On the over-reliance on this sector, my recollection is that 200,000 people are employed as a result of foreign direct investment in Ireland, of whom 45,000 are involved in the financial services sector. It is an area Ireland has particular expertise in. It is a significant, but not dominant, proportion.

Senator Ward mentioned bringing people into the country. When I met the chief executive of IDA Ireland last week to discuss the financial services sector, I was conscious of the people working from home. I asked how many people in the sector are working from home but are abroad. We have a good level of diversity of employees in the financial services sector - 25% or 26% - who are from other European countries or further afield and are working from home. That country may be 1,000 miles away. These type of businesses bring people into Ireland. They are paying the top rate of tax. It is one of the areas where taxation has held up because those companies, fortunately, are not dependent on the pandemic unemployment payment or the temporary wage subsidy scheme. One of the reasons the income tax receipts have kept up is that employees on high wages have been kept on the books and in employment. When we get the Covid situation to a level that people can work with, the main challenge will be to bring them back to Ireland. We do not want them staying in Spain, Portugal, Bulgaria or wherever they happen to be living at present. We have diversity. It brings people into Ireland. It brings income tax into Ireland. As I stated in my opening remarks, this particular sector provides €850 million in direct receipts to the Government every year.

In relation to the priority, two aspects were raised. I was asked why there is a rush. Another Senator asked why there is a delay. The Bill had almost gone through the previous Oireachtas but collapsed with the Government. It was one of the Bills that was in the system. The couple of months in between provided an opportunity to refine and improve it. We have a better piece of legislation here now. I understand people say there are other priorities. In this House, this entire legislation will take an hour.

The purpose of this legislation is not to help any of these businesses. The purpose of this legislation is to help Ireland to grow as an area where we can attract employment. People will get employment as a result of this new legislation and these new funds being in place. We are helping the Irish economy to recover by getting this legislation through. It is designed to help these businesses. It is designed to grow the industry in Ireland. That is an important issue to highlight as well. Those are the main points I would like to make.

I understand people have asked about the beneficial ownership. When I went into the Department and I was presented with this legislation and told that it was coming through, like the Senators and some other people, I wanted to know about the taxation situation in relation to these new investment limited partnerships. The investment limited partnerships authorised by the Central Bank after 13 February 2013 are treated as tax transparent. That means investment limited partnerships are taxed as if the partner or the investor directly holds the asset rather than the fund, and this is standard practice. Let me explain to the public. They think we are setting up a new corporate structure; we are not. It is only a contract between two persons. It does not have a legal identity. It is two persons, six persons or ten persons coming together to form a partnership. Each of the persons contributing to the partnership is liable for the tax in relation to any profits he or she makes as a result of his or her investment. There is not a partnership organisation, structure or body registered with the companies office or the Revenue Commissioners. It is only a legal contract between the two sides. The investors directly pay the tax wherever they are located in the world. That is important. It is a question I asked. I asked about the beneficial ownership because they do not even have to be from Europe. They could be from the United States or wherever.

That is why we have to get proof of people's identity through their passports before they can invest. The tax treatment will not change.

The Ireland for Finance strategy was developed with the aim of creating employment and securing Ireland's reputation as a reputable and attractive location for the funds industry, which is subject to a robust and transparent regulatory regime. The Central Bank is a very highly regarded regulator internationally, but some people in the industry feel it sets the standards too high. If they do not like Irish regulation, let them go somewhere else. We do not want anything to do with them if they do not want to be subject to our regulations.

I welcome the opportunity we had today to discuss this Bill, which did not take long. This legislation will help to increase investment in the economy, thus creating employment. It will allow the sector in Ireland to compete for funds that have been going to other jurisdictions. I look forward to the co-operation of Senators on Committee and Report Stages.

Question put and agreed to.

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

**Senator Michael D'Arcy:** Next Tuesday, 29 September.

Committee Stage ordered for Tuesday, 29 September 2020.

**An Leas-Chathaoirleach:** Is that agreed? Agreed.

In accordance with the order of the Seanad of 18 September, the House stands suspended until 2.30 p.m.

*Sitting suspended at 1.05 p.m. and resumed at 2.30 p.m.*

23 September 2020

**An Cathaoirleach:** I understand that the Leader wishes to make a proposal.

**Senator Regina Doherty:** Notwithstanding the order of the Seanad on 18 September 2020, references in the order to the Agriculture Appeals (Amendment) Bill 2020, wherever they occur, shall be taken to refer to the Forestry (Miscellaneous Provisions) Bill 2020.

**An Cathaoirleach:** Is that agreed? Agreed.

### **Forestry (Miscellaneous Provisions) Bill 2020: Order for Second Stage**

Bill entitled an Act to provide for matters relating to forestry including, in relation to the Forestry Appeals Committee, reporting on the activities of the Committee, enabling the Committee to sit in divisions to determine appeals, procedures and arrangements for conduct of appeals by the Committee and the payment of fees to the Committee in respect of appeals; and for those purposes to amend the Agriculture Appeals Act 2001; to provide for the publication of information relating to applications for licences for felling, afforestation, forest road works or aerial fertilisation of forests; for those purposes to amend the Forestry Act 2014; and to provide for related matters.

**An Cathaoirleach:** I welcome the Minister of State.

**Minister of State at the Department of Agriculture, Food and the Marine (Senator Pippa Hackett):** I move: "That Second Stage be taken now."

Question put and agreed to.

### **Forestry (Miscellaneous Provisions) Bill 2020: Second Stage**

**Minister of State at the Department of Agriculture, Food and the Marine (Senator Pippa Hackett):** I move: "That the Bill be now read a Second Time."

I welcome the opportunity to introduce the Forestry (Miscellaneous Provisions) Bill. I thank the Dáil's Business Committee for agreeing to waive the requirement for pre-legislative scrutiny of the general scheme of the Bill due to the urgency of the need to introduce this legislation. For the same reason, I have requested that this House consider a motion to enable the President to sign the Bill earlier than would be routine.

Since being appointed Minister of State with responsibility for land use, biodiversity and forestry, I have been extremely excited by the prospect of shaping the opportunity that forestry offers to the environmental, social and economic well-being of our country. The programme for Government is ambitious in the context of the sector and I am determined to work with all stakeholders to realise this ambition. My commitment and that of the Government to the advancement of Irish forestry is unequivocal.

The sector has been experiencing its fair share of challenges in recent times, not least the on-

going difficulties with issuing licences for afforestation, roads and felling. I am acutely aware of these issues and my first and most pressing priority is to ensure that we have an efficient and functioning licensing system. Notwithstanding current difficulties, we must look towards the future of forestry and how best the sector can serve the environmental, social and economic needs of local communities and our society in general, because this has not always been the case. The greatest action to help meet these new aims will be the development of a new national forestry programme. I am committed to the development of an ambitious new programme and to us starting the discussion on same in the autumn. This will require full stakeholder engagement, and I look forward to working with Senators.

We must first overcome the current difficulties and get the licensing system functioning for all. The reasons for the delay in issuing licences are well documented and have required the most fundamental changes to our licensing system in its history. As I am sure Senators are aware, there is a crisis in the forestry sector as the licensing and appeals system has come under significant pressure in the past two years. There are delays in issuing licences which relate to the licensing process itself, which my Department is addressing and I will speak more about that later. There are also long delays in determining appeals against licences issued. It is fair to say that the appeals system and the forestry appeals committee are currently overwhelmed. The delays being experienced are unfair to both stakeholders and citizens. A timely and efficient appeals process is needed and that is why this Bill is being introduced.

The Bill includes a suite of measures which will deliver a much more effective and efficient process which will meet and balance the needs of all. To provide some background, I will say a few words about the licensing system that is in place for afforestation, tree felling, forest road-works and aerial fertilisation. My Department is the sole licensing authority for such licences and determines all forestry licence applications at first instance. All licences must be issued in compliance with EU and national environmental legislation, including the 1992 EU habitats directive. The licensing procedure allows submissions by third parties at application stage and provides for appropriate consultations with any relevant consultation bodies. Applicants and third parties dissatisfied with a licence decision of the Minister may submit an appeal on that decision to the forestry appeals committee within 28 days.

Since the introduction of the Forestry Act 2014 in May 2017, there has been an upward trend in the number of licences being appealed, with 14 appealed in 2017, 105 in 2018, 235 in 2019, and to date this year there have been 402 licences appealed. While the forestry appeals committee has increased the number of decisions issued year on year from 31 in 2018 to 172 so far this year, it is not keeping pace with the appeals received and this is the nub of the problem. A total of 490 cases, including 390 cases appealed in 2020, are awaiting decisions of the forestry appeals committee at the moment.

I have been engaging intensively with all relevant stakeholders on these issues and am acutely aware that the current delays in issuing licences have led to serious difficulties for people involved in the forestry industry. If no action is taken, we could very quickly face the prospect of sawmills running out of timber and of job losses, particularly in rural Ireland. The delays in hearing appeals are affecting the timber being felled and transported to sawmills and are influencing planting rates. To date this year my Department has established just under 1,941 ha of new afforestation, which is down by 35% on this time last year and is way off our national targets.

Before moving on to the specific provisions of the Bill and the public consultation pro-

cess undertaken, I wish to point out that the Bill is not being delivered in isolation. We are also addressing other issues and delays with forestry licensing. It must be acknowledged that decisions on granting licences have been slow and we now have a significant backlog of applications. This arose in response to a substantial change in our appropriate assessment procedures which deal with the impact of projects on sensitive European sites. In the past year we have completely overhauled our assessment process and it is now robust and responsive to the environment in which we operate. While mistakes were made in the past, these are actively being addressed. This has meant that the Department has had to revise procedures, increase resources, develop training and guidance and strengthen its ecological team. While this has taken time, we now have a sustainable system. We are tackling the backlog through a dedicated project plan which operates to key performance indicators. A project manager is in place and a project management board is overseeing and monitoring delivery weekly. This plan is already yielding progress, with the number of felling licences issued in August the highest for the past 13 months in both volume and area.

The action taken in improving the number of licences issued must be matched by a responsive appeals system or a bottleneck will develop at the appeals stage. This is where we are now, which is why this Bill is so important. To ensure full public participation with these proposals, the draft Bill was published and opened to consultation for four weeks. I very much welcome the fact that almost 9,000 submissions were received by the closing date. This shows that this is an issue of intense public interest. While the vast majority of the submissions indicated support for the Bill in general, most did not engage with the details or specifics of the Bill. The submissions received have been examined and categorised by whether the submission came from industry, private individuals, public representatives or others and by whether they were in favour of or opposed to the draft Bill. The submissions were also grouped and analysed based on the Bill head or section addressed. I have provided Senators with a copy of the report - it was circulated earlier - which summarises the main outcomes of the public consultation. This has been published to coincide with the publication of the Bill.

Careful consideration has been given to specific suggestions made and, as a result, the Bill I am presenting to the House has been updated to take account of the feedback received. All submissions will be published on my Department's website in due course in a suitable format that meets GDPR requirements.

The main provisions of the Bill include: increasing the capacity of the forestry appeals committee to determine appeals by enabling it to sit in divisions of itself; enabling the forestry appeals committee to determine appeals without an oral hearing where it is possible to properly dispose of an appeal in that manner; providing the Minister of the day with a regulation-making power to specify, among other things, the procedures to apply in relation to appeals and for related forestry appeals committee matters generally; and the introduction of reasonable fees for appeals.

Updates that have been made to the Bill to take into account suggestions made during the public consultation process include the following. The new Bill will make no change to the right of applicants and all third parties to appeal directly to the forestry appeals committee. All third parties will, therefore, have the right to appeal. This is quite rare in Europe. In Scotland, for example, once a licence is issued, that is it and there is no option to appeal. The right of third parties to appeal is a very important aspect. The quorum required for the forestry appeals committee to sit will be set at two. This will consist of a chairperson or deputy chairperson and at least one ordinary member. This is to increase the efficiency of the committee.

The Bill will provide that licensing decisions may be affirmed, varied or set aside and returned to the Department. This provision will clarify the role of the forestry appeals committee. There will also be a requirement for all information and documentation to accompany an appeal in order for it to be valid. This is to ensure the efficient functioning of the committee. The Bill will also provide clarity as to the circumstances in which the Minister might issue a general policy directive, that is, when prioritising certain classes of appeal having regard to the need to ensure the economic and environmental yield of forest goods and services in the State. All of these amendments are necessary to remove the delays currently being experienced in the system and to reduce decision times in the forestry licensing system overall.

I will now go through the Bill in a little more detail. Section 1 deals with the definitions of the Forestry Act 2014 and the Agriculture Appeals Act 2001, hereafter referred to as the Act of 2001.

Section 3 covers the amendment of section 14A of the Act of 2001. It provides for the appointment of deputy chairpersons to the forestry appeals committee and for the committee to sit in divisions of itself. It also provides for the quorum of the committee to be two persons, for a time limit of 28 days to launch an appeal and for the deletion of the provision that a decision of the forestry appeals committee may be appealed to the High Court on any question of the law.

Section 4 deals with further amendments to the Act of 2001. These include provisions for procedures and arrangements for the conduct of appeals, including oral hearings, and for the types of decisions the forestry appeals committee may make. It allows the Minister to issue general directives as to policy prioritising certain classes of appeal. It also enables the Minister to make regulations having regard to the efficiency of the system of appeals and the publication of documents relating to appeals on the forestry appeals committee website. It also gives the Minister powers to prescribe fees by regulation.

Section 5 amends the Act of 2014 and allows for the publication of application documents on the Department's website. It also deletes certain sections of the Act to allow for the making of regulations to prescribe fees following the procedures outlined in the Act of 2001.

Section 6 outlines the transitional provisions for the coming into operation of the provisions of the Bill. In effect, operational matters related to the composition of the committee come into effect immediately upon enactment of the Bill, as do directives from the Ministers. Fees may be imposed on licences made on or after the Bill coming into operation.

Notwithstanding current difficulties, we must also look forward to the future of forestry and to how best the sector can serve the environmental, social and economic needs of local communities and of our wider society in general. The biggest action to help meet these new aims will unquestionably be the development of a new national forestry programme. I am committed to the development of an ambitious new programme and that we will start that discussion shortly. As I said earlier, this will require full stakeholder engagement and I look forward to working with my colleagues in the Seanad and across the Oireachtas on this issue.

In concluding the introduction of this Bill to the House, I assure Senators that it will bring important efficiencies, proper procedures and operational clarity to all stages of the forestry licence appeals process. It will provide for forestry licence appeals to be conducted in a fair, straightforward and timely fashion. While I know this will not change the situation overnight and there is more work to be done, the proposed Bill - along with our project plans for managing

the licensing backlog - will greatly improve the overall system and result in an increase in the number of licences available for planting and felling as a consequence. This will protect jobs within the forestry sector. In that spirit, I look forward to our debate on the Bill's provisions and on the reform which it can put in place. I commend the Bill to the House.

**An Cathaoirleach:** Before I call on Senator Murphy, I want to outline that there is a proposal before the Committee on Procedure and Privileges for the speaking rota on this legislation, which would allow for the Opposition to come in earlier. That is the rota I will use if the House is agreeable. Is that agreed? Agreed. I call Senator Murphy.

**Senator Eugene Murphy:** Do I have eight minutes?

**An Cathaoirleach:** Yes.

**Senator Eugene Murphy:** If the House agrees, I will give two minutes to Senator McGreehan.

**An Cathaoirleach:** In fact the Senator has ten minutes in total.

**Senator Eugene Murphy:** I will take seven minutes and give three minutes to my colleague, Senator McGreehan.

**An Cathaoirleach:** Is that agreed? Agreed.

**Senator Eugene Murphy:** I welcome the Minister of State to the House. Along with the Minister for Agriculture, Food and the Marine, Deputy McConalogue, she should be complimented on dealing with this matter so quickly and efficiently. Before I say my few words, I appeal to everyone in this House that while we must have an open discussion and listen to everybody's point of view, we must realise why this Bill is coming through and why some people might use the phrase "fast track" to describe its passage. It is being fast-tracked because thousands of jobs in the forestry industry in this country are in jeopardy. Coming from rural Ireland, as the Minister of State, Senator Hackett, has pointed out, I can say that there will be thousands of families left without a wage packet if we do not urgently deal with this matter. That is why I am making a genuine appeal to every Member that once we have a discussion and everybody's point of view is listened to and dealt with, we would move ahead as swiftly as possible with the Bill.

Our party is supporting this Bill, which aims to make the forestry appeals system more efficient and reduce the backlog of appeals with the forestry appeals committee, FAC. It will align the forestry licensing and appeals process with similar planning processes and that is something that has been called for. This action is a commitment under the programme for Government. The Minister of State has given a good overview of the Bill, formerly known as the Agriculture Appeals (Amendment) Bill. The main purpose of this Bill is to amend the Agriculture Appeals Act 2001 to align the forestry licences and appeals process with similar planning processes. The Bill increases the capacity of the forestry appeals committee to determine appeals by enabling it to sit in divisions of itself. It provides for the appointment of deputy chairpersons to the FAC and for the committee to sit in divisions. It also provides for the committee to have a quorum of two, for a time limit of 28 days to lodge an appeal and for the deletion of the provision that such a decision of the FAC may be appealed to the High Court on any question of law. The Bill allows for the recruitment of additional members to the committee in order that deputy chairpersons may be designated and that the committee may sit in division. Those ap-

pointments will be made in line with best practice in terms of remuneration and at the minimum cost to the Exchequer.

This has to be described as important legislation, which aims to get the forestry sector moving again. The sector has warned that tree planting has collapsed and 12,000 forestry related jobs are threatened by the massive backlog in the Government's licensing and appeals system. The legislation is allowing for an increase in the number of persons on the forestry appeals committee and it allows for a sub-division of this committee so that it can review many appeals at the one time. The appeals process will be more efficient and work quicker. It is important that we get the appeals system working quicker. If we did not do something about this, it would take three years to clear the backlog.

The Bill, it is important to point out, does not restrict people from making an appeal on forestry licences. I am glad the Minister kept that in there because that is important as well. However, it introduces a small fee for lodging appeals, which up to now have been free. To be honest, I welcome that. It is only right that it should be there.

The licensing backlog has slowed forestry activity, including tree planting and thinning as well as felling and timber processors. Sawmills, manufacturers of wooden pallets and the construction industry have all expressed concern over a shortage of timber. I think of Masonite near Drumsna in Carrick-on-Shannon with probably 150 workers, Murray's sawmills in Ballygar in Galway with up to 200 workers and Glennon sawmills in Longford. I think of the people who are making pallets in the small business in Ballyleague in County Roscommon and the building business which need this timber urgently. We should also remember that it is a significant export business as well.

The timber industry is at "breaking point" with thousands of jobs at "imminent risk", the boss of State-owned Coillte has warned. Shovel-ready tree felling projects have ground to a halt in the Republic as a result of delays in a Government appeal mechanism for such projects. The delay has led to a substantial timber shortage in the State, with many workers in the sector facing the prospect of reduced hours or redundancy. Specifically, the industry has complained that appeals to the granting of tree felling licences are not being dealt with quickly enough by the Department's forestry appeals committee, FAC. That is a fair comment by the industry. The issue is that under legislation introduced in 2017, appeals to licences must be heard by a committee headed by the chairman of the FAC. It has become apparent, however, that when the legislation was introduced, the volume of appeals that would follow was not anticipated. This year, as the Minister of State has pointed out, 382 appeals have been made. Only one of those has been heard so far this year. In total, there are approximately 500 appeals outstanding, with a roughly two-year backlog now created. That is not acceptable.

We have to take into account what the Coillte chief executive, Imelda Hurley, said. Ms Hurley said that the crisis was creating a massive problem for the industry and that, "there is real risk of serious long-term damage to the entire timber industry".

Before I hand over to Senator McGreehan, I want to compliment the Minister of State on one of the lines in her speech. While I compliment her on all of her speech, it is great that we can look forward to opening up our woodlands. There is one right beside me at home - Slieve Bawn in Roscommon. I have been speaking to the Minister of State about it today. I refer to a big Coillte development there. We had a windfarm developed a number of years ago there and some people were not happy about it. However, between Roscommon County Council and

23 September 2020

Coillte, we have opened up fabulous amenities for the communities, and people from Dublin, Wicklow and wherever are welcome to come there. By doing that together, moving forward we can create a huge positivity for woodlands, Coillte and people who are in the private business as well.

**Senator Erin McGreehan:** I thank the Cathaoirleach for this opportunity to speak on the Bill. I congratulate the Minister of State, Senator Hackett, on bringing this Bill to the House. It must be a great honour to be here as Senator and Minister of State, only the fifth in the history of the State and the first in my lifetime. It is a truly historic day for Senator Hackett, standing as a Seanadóir in this Chamber for the first time also. It is great we feel like we are finally home.

I welcome this Bill. I welcome any Bill that will fix the backlog of applications for forestry. I think we will agree on many issues. The value of forestry is significant economically, socially and environmentally.

The backlog of applications is scandalous and it has had a detrimental effect on the number of tree plantations in this country. This Bill will secure forestry employment into the future. I have had constituents contact me on hundreds of occasions with queries as to where their applications are, the reasons for the delay, what the problem is, etc. They are always waiting for ecologists' reports or other reports, so the deployment of 13 extra ecologists is welcome. I welcome the changes made to the Bill and congratulate the Minister of State on taking into consideration the nearly 9,000 submissions made. It shows the interest and importance of forestry in this country.

Economically, forestry is vital. We have an excellent climate for tree growth and we should embrace that. We also need to encourage the planting of the right trees. I was heartened to hear the Minister of State on the radio at the weekend echoing that opinion. We have to ensure the balance is right. Commercial forestry is crucial and needs to be protected.

If we had planned it correctly we would not need to plant Sitka spruce. There needs to be a proper balance in that regard. Sitka spruce are destructive to the landscape and do not promote our native biodiversity. I may be accused of being a bit radical when it comes to my dislike of the Sitka spruce but I will not apologise for it. The State's relentless subsidised Sitka spruce afforestation programme is causing environmental problems. Irish animals, birds and fish species are being driven to extinction because of their natural habitat being replaced by unnatural conifer forests.

We need more ecological nationalism in this country. We need to protect our native trees and the Department should be doing more to encourage and promote the planting of native Irish trees. These trees originally grew in this land and these plants and trees supported and protected our first settlers. Many native Irish trees are a food source for insects and mammals while many non-native trees do not have similar benefits. It has been suggested that the lowly and common hawthorn can support around 200 different insect species. This link of native flora and fauna is important to highlight and remember.

Has the Department done an extensive scientific environmental study on the effects of Sitka spruce plantations on the Irish countryside, including water quality, irreversible changes to the landscape and pest control side effects? It is internationally recognised that exotic tree species are inherently more vulnerable to pests and diseases than indigenous tree species.

When is it hoped the backlog will be cleared? How many licences will be granted this year

and per annum going forward?

**Senator Victor Boyhan:** I welcome the Minister of State. It is a special day for her for a range of reasons. She is the Minister of State, and as someone said earlier, very few Senators become Ministers. She is also a Green Minister of State. That is very significant and will be a central part of my contribution.

I will begin by thanking a few people. I thank the Library and Research Service team, which has had great difficulty with this Bill. It wrote to us yesterday to say it was not able to present us with a paper because it had not had the time and did not have the Bill. It is a disgrace that part of our Oireachtas sent out a memorandum yesterday stating that it could not do a spotlight on major legislative work. The legislation was also presented very late. That is not acceptable and the Minister of State should not stand over it with her Green and environmental credentials.

I particularly thank the Just Transition Greens. The Library and Research Service sent us only four submissions that it could identify externally, rather than from the Department. There was no facilitation from the Department but through public commentary in newspapers the service was able to ascertain that the Just Transition Greens, An Taisce and others had made submissions and it circulated them. Why has the Department failed in this regard? Every day, I have made contact with the Department and written emails, which I am happy to make available to the Minister of State and the House, requesting the public consultation.

We talk of the magic number 8,888, which is the number of submissions the Department tells us were made. Is it not funny that it should fall on that number? I knew that Green Party councillors, Deputies, Senators and city and county councillors had made submissions. However, the Minister of State did not choose to share them with us and the Department refused to do so. We received an email which stated that if we wanted a specific submission, we could have it. I wrote back immediately and asked the Department to provide an index of the submissions. The Minister of State's secretary said in an email that he had passed it to a higher level within the Department and could do no more.

This is, quite frankly, rushed legislation. The Minister of State opened her statement today by thanking the Dáil Business Committee for agreeing to waive pre-legislative scrutiny. That is a disgrace as well. That should not have happened. Were any members of the Green Party on this committee? Did they agree to deny us pre-legislative scrutiny?

The Minister of State is here to make a presentation on the Bill.

I am delighted that the Minister of State is initiating the Bill in the Seanad, but she has tied our hands behind our backs because people closely and politically associated with her and those in government took a conscious decision not to have pre-legislative scrutiny. One thing I can say about the confidence and supply arrangement between Fianna Fáil and Fine Gael during the previous Administration was that there was agreement that all legislation would undergo pre-legislative scrutiny. That was a good measure and I ask the Minister to State to consider it again. Is this a good start to a track record?

The Minister of State mentioned the appeals process, but hundreds of appeals are not even in the appeals process. Rather, they are stuck in her Department in Agriculture House or Johnstown Castle. That is disappointing. Let us not shoot the person who wishes to appeal. The Green Party has a track record of supporting NGOs undertaking environmental work and lobbying. That is how the Green Party was formed and many of its members are involved. Friends

23 September 2020

of mine in An Taisce in Dún Laoghaire are members of the Green Party. Despite that, the Minister of State has somehow been pushed out by this Administration to introduce a charge. Fine Gael and Fianna Fáil had a confidence and supply arrangement for the past four years. Not once did they decide to impose a charge, but when Senator Hackett became the Green Party's Minister of State, they pushed her out. She must now fight an internal battle with her party. This is a litmus test of how the Green Party will support environmentalists and NGOs, stand behind the Aarhus Convention, support the principle of justice associated with environmental matters, and support the environmental pillars that validly wish to make a submission. Submissions are not all negative. The Minister of State can make a positive submission.

I sought and got support from some Green Party Members in both Houses when I sought, with great difficulty, to abolish the €20 fee for city and county councillors when making submissions. The Minister of State's party strongly opposed any fee associated with the Freedom of Information Act. I commend it on that. I commended her party when it stood firm and stopped any fee for its councillors across the country, those who helped to get her elected to the Seanad. We supported them. I have many emails from them thanking me for my work in that regard. Put this Bill against all of that. I received an invitation to attend a meeting on Saturday. I thank those who are listening - I was pleasantly surprised. That is important to say.

The Irish Timber Growers Association, ITGA, made valid submissions on this process. The Minister of State has argued that she wants to streamline the process with the planning regime. Did she consider exploring the possibility of an environmental or forestry arm of An Bord Pleanála? The Department of Agriculture, Food and the Marine has failed. This is not about people objecting. To the Minister of State's credit, she said that there were historical issues. However, she has been put to the fore to break ground and push out the charge. Why is there not a sub-division of An Bord Pleanála that has the skill set and the independence from her Department to arbitrate on and consider planning issues?

I acknowledge the help and support given by Mr. Tony Lowes from Friends of the Irish Environment to many Senators in respect of this Bill. I have mentioned An Taisce, which I also thank. I do not know how many people read today's article in *The Irish Times* about Mr. Jim McCaffrey, but I recommend it. His land is surrounded and blacked out by 60 ft spruce trees. Communities in Leitrim have been wiped out by forestry and German pension funds coming in and buying up land. I have spoken to farmers who have tried to increase their landholdings only to find they cannot buy any.

We will have a great deal of time to tease out this Bill, and I intend to use every minute of it to get my points across. During my research on the legislation, I was advised to read a book, entitled *Forestry in Ireland: A Concise History*, by Dr. Niall O'Carroll. I was reminded of the great Charles Stewart Parnell of Avondale, Sir Horace Plunkett, a Senator in the 1920s, Mr. Art O'Connor, the Minister in 1919 who introduced the Forestry Act, Mr. Seán MacBride, Mr. Erskine Childers and, indeed, Mr. Charles J. Haughey for his commitment to Irish forestry, particularly through the saga of the court cases concerning the great woods of Shillelagh.

I will send a link to everyone today about the book because it shows its importance. The Minister of State spoke on the radio the other day about planning a trip to the None-So-Hardy nurseries, which over the last three years have had to shred 5 million trees, half of them oak trees. What a shame. I support a thriving forestry sector and a successful pallet manufacturing business. I support related jobs in the forestry sector. I want less reliance on imported timbers because I know the health issues, the beetle, and the disease that comes from imported timbers.

I want to grow our forestry. I want to support silviculture, forestry schools and forestry training. I want a vibrant horticultural forestry nursery stock.

I am in favour of the bulk of what the Minister of State is talking about. I accept that there is a need for significant reform in this area and we need to support that. I want a forestry sector that is kinder to nature and works closer to nature. I want an end to the monoculture of planting particular species that has decimated our waterways, landscape and communities, and impacted in a negative way on our people. I do not think we are that far off and I do not want the Minister of State to take this personally, because I really want to support it.

I wrote to the Minister of State about the Mackinnon report and she replied. I asked for an independent chairman and the Minister of State wrote back to suggest that it would be a matter for the Department. If we are going to roll out the recommendations of the Mackinnon report, let us have an open and transparent chairperson or director driving those recommendations. Let us not fill it from within the Department. The Minister of State suggested it is a matter for the Department. I call on her to give some reassurance that it will be independent. I thank the Minister of State and look forward to participating in every aspect of this legislation.

**An Leas-Chathaoirleach:** I call Senator Lombard. He has ten minutes.

**Senator Tim Lombard:** I do not quite need ten minutes.

**Senator David Norris:** Ten? Is it not eight?

**An Leas-Chathaoirleach:** The ruling is ten.

**Senator David Norris:** The Green Party got eight.

**An Leas-Chathaoirleach:** It has been agreed.

**Senator Tim Lombard:** I thank Senator Norris for his help. I welcome the Minister of State, Senator Hackett, to the House. It is a great day for the society, the Oireachtas and this House to have a Minister of State from this House coming with legislation and addressing this House. I am delighted that the Minister of State is here. It is an important day for democracy.

I welcome this important Bill. It is badly needed and has been required for a long time. The chaos we have seen in the forestry sector in the last two years has been chaotic. This has been building to a boiling point which we are now at. The Minister of State mentioned that there will be a knock-on effect if we do not pass this legislation. I might have to correct her in that regard. The issues have arrived. I spent yesterday afternoon in Grainger Sawmills in Enniskeane. Some 350 people work there and 200 people are contracted there. They will be on a four-day week from 1 October. Families in west Cork will be looking towards Christmas with their main workers working for four days a week. That is a major issue for me and my community. We are a small, rural community in Enniskeane. It is not a major town. To have the biggest industry in that village go to a four-day week will have a knock-on effect across the entire community in west Cork. It affects the hauliers and the people working in the industry itself.

I took the opportunity this morning to call some of the co-ops in west Cork. If one wants a 6 in. by 3 in. piece of timber, which is used for building sheds, it cannot be got. There is no supply of 6 in. by 3 in. timber in west Cork. We will have a scenario where the lads in construction do not have the raw materials to build. Shed construction is stopping because of the lack of timber. In the next few months, we will be importing timber from Scotland, through the port at Passage

West, south of Cork. Five shiploads have been booked in for the next three months to keep this sawmill going. It is amazing to think that Ireland must import raw material from Scotland to keep industries alive. The industry is not a major multinational but it is one of the biggest employers in west Cork. We have reached a crisis. Families need to live and rural Ireland needs to survive. This Bill goes some of the way to address the issues. The Minister of State is right that the Bill will sort this issue in the medium and long term. However, we have a major issue in the short term. The ability for us to get out quickly the almost 1 million sq. m that is tied up in the appeals process is going to be the biggest dilemma faced by the Minister of State. I am confident that Members in both Houses of the Oireachtas will work with her over the next two weeks to ensure we get this legislation through. I will do my utmost to ensure that happens. If supply is continuously stopped, my people in west Cork will not have Christmas because they will not have an income going forward. We can pontificate in this House about what is right or wrong, what the name of the Bill should be and what it should contain, but this legislation affects people's lives and I am fighting for their survival here today.

I support the Bill. I also support the people who work in these factories, the people who work in co-ops but cannot get timber, the people who are working on timber-frame housing projects but cannot get timber, and the people who work in pallet-making factories in Macroom but cannot get timber. All of them need to survive and rural Ireland needs to survive. Our biggest dilemma here is to make sure the 1 million sq. m that is tied up with 500 appeals can be released. If that does not happen, Christmas will be cancelled, which would be a major dilemma for this Government and the Oireachtas.

I fully support the Bill as a practical step forward. It gives people the opportunity to lodge an appeal, which is right, and proposes to streamline the process so no one must wait a minimum of 44 weeks for a response even if it is to lay a roadway, a delay which is beyond all belief.

The proposed fee is an appropriate step forward. Some people believe there should not be a fee to lodge an appeal. For a long time one has had to pay a fee to lodge an appeal with An Bord Pleanála. An amendment has been proposed to allow public representatives to lodge appeals through local authorities free of charge. That relates to public representatives because they might need to lodge multiple appeals. However, it is totally impractical to allow multiple appeals to be lodged without paying a fee. That is an important step in this entire thing.

We must discuss the need for an oral hearing because not every case needs one. It is also important that we do not slow down developments.

We need people to plant and to engage. Some Senators who have left the House have an issue with the stigma of planting forestry. I am a farmer so I know that people in the farming community are hesitant about forestry. This debate has added to their fears and that is why there is a reduced interest in forestry. We need to coax people and work with farmers, communities and society. We also need to plant more species other than Sitka spruce. The core agricultural community has a great fear of forestry and the debate over the last two years has set the industry back a decade. The planting figures have plummeted because confidence in the market has reduced and the farming community is less likely to buy into the industry. We must work on this issue.

I support the legislation. I heard the Minister of State's interview on RTÉ Radio One today and I think two weeks is a positive timeline. We must work to ensure it is enacted in the next two weeks and then work to have the FAC up and running. The FAC must react because it is

not good enough that only one appeal has been processed since July. Society cannot stand over that. The Government cannot stand over that. They need to be proactive in this space. They need to be turning out these appeals in a just manner. There has been one appeal finalised since July, with industries literally folding in west Cork. That is not good enough. We have an awful lot of work to do. This legislation is the start of the process. The other 1 million sq. m needs to be brought back out and then we need to work together to rebuild the confidence of the sector which has been damaged in the last two years.

**Senator Lynn Boylan:** I welcome the opportunity to speak on this important legislation relating to the forestry appeals process. I share the disappointment of my colleague, Senator Boyhan, at the rushed nature of this Bill. The Minister of State opened a public consultation process on a bank holiday weekend over the summer holiday period. The quality of the consultation was obviously going to suffer and lo and behold, it did. Senator Boyhan pointed out that we did not get a digest of the submissions and were not told who had made submissions, but we were told this morning that 81% of the submissions were in favour of the Bill. However, 99% of those who were in favour did not actually address the substance of the Bill. It appears that even the industry lobbyists did not have an opportunity in that timeframe to address the substance of this Bill, or perhaps they helped to write it. We then had a situation where we were informed on Friday that the Bill would come before the Seanad on Wednesday but we did not receive the draft Bill until 5.30 p.m. on Tuesday, with a deadline of 6 p.m. today for amendments. With all due respect to the Minister of State, this is no way to do business in a democratic institution.

Nobody wants to see anyone lose his or her job. Sinn Féin is fully aware of the extremely large backlog of appeals and the impact it is having on the supply of timber in this country. The system is well and truly broken and the Minister of State knows this. She inherited this mess and cannot be blamed for the situation in which we find ourselves. We have heard members of Fianna Fáil and Fine Gael pontificating but they did nothing to address the situation under their confidence and supply arrangement. I know from previous statements the Minister of State made that she is aware of the systemic problems and that the number of appeals is actually the outworking of a system that is broken.

The current forestry system is failing communities, farmers and sawmill workers. I sincerely hope that when it comes to developing the new forestry programme in 2021, we will have a proper root-and-branch reform of the whole system. We need a licensing system that is robust, environmental law and Aarhus Convention compliant, expedient and that will provide certainty for all stakeholders involved. What everybody wants is certainty and a system that will actually work to screen out the bad applications, thus reducing the need for appeals in the first place. Again, that is something we all want. If that is what the Minister of State intends to do in the future programme for forestry, then Sinn Féin will not be found wanting in working constructively with her in developing such a programme. However, we are not discussing a future forestry programme today. We are discussing this Bill and I will now address the elements of the legislation about which I am deeply concerned.

First and foremost, I ask the Minister of State for legal clarification. SI No. 191/2017 of the transposition of the environmental impact assessment directive in relation to forestry states, "The High Court shall be the court of law for the purpose of Article 11 of the EIA Directive". Yet, on notification of the granting of the licence under the Forestry Act 2014, anyone who made an observation is actually directed to the forestry appeals committee. Where is the legal basis for having these two contradictory messages? I ask the Minister of State to clarify that contradiction and to provide assurances that this Bill will not be challenged in the courts on

foot of it.

For the past number of weeks we have heard from the Department that this draft Bill is about bringing the forestry appeals process into line with the planning process. We have heard that argument again today. If that were, in fact, the case, then that would be real progress, but it is not. The forestry appeals process is nothing like the planning process, and for the Department to say that repeatedly is disingenuous. The planning process, while not perfect, has a highly sophisticated and integrated framework. It stems from a national planning framework to regional planning guidelines to county development plans to local area plans. Appeals taken to An Bord Pleanála are generally appeals against decisions made by a local authority. There is a separation of power between the local authority which took the decision and the panel that will adjudicate on the appeal.

With the forestry appeals committee, however, we have a situation whereby we have a Minister, who, by the nature of her role, is responsible for promoting forestry. That is fine. She is also responsible for licensing the forestry, which is okay. Then we have a situation where the Minister is responsible for appointing those who will sit on the appeals committee. With An Bord Pleanála, stakeholders and expert groups get to nominate candidates for the expert panels, while in this Bill, the Minister can appoint directly to the forestry appeals committee. This is not good oversight, in anyone's eyes. Independence, and the perception of independence, are crucial for confidence in legislation.

An Bord Pleanála also has reams of legislation which it must take into account when making a decision on an appeal. The forestry appeals committee is prescribed to make decisions in the draft Bill "as it considers appropriate".

Then we come to the matter of fees. Here, my colleague is absolutely correct. Nothing was done to introduce fees in the past, but now a Green Party Minister is being sent out to do the batting. The Aarhus Convention states that access to justice should not be prohibitively expensive. The Minister already has the powers to introduce fees, but those fees are subject to the scrutiny of the Oireachtas. This draft Bill removes that scrutiny from the Oireachtas and gives the Minister the power to introduce the fees. It does not outline what the fees will be, it just tells us that they will be in compliance with the Aarhus Convention. However, if we are again to take the Department's previous statements that it is to align with the planning process, then we are probably talking about a figure of around €220.

The rub is that forestry licences are not like planning applications. There are afforestation licences, road licences, felling licences and aerial spraying licences, all for the same area. If one happens to be a concerned resident or a community, then there may be multiple appeals to be lodged, which could quickly escalate into thousands of euro for a community or resident, which, and I am sure the Minister will agree, would not be in compliance with the Aarhus Convention.

The 28 days to appeal a decision is again supposed to bring it in line with the planning process. However, very detailed submissions are made with a planning application. The current application process for forestry licensing is not as comprehensive. Therefore, in order for an appellant to gain access to all the documentation he or she requires under the access to the information on the environment, AIE, that alone could take 28 days, and his or her appeal will not be accepted unless he or she includes all of the documentation. What is even more concerning is that this draft Bill allows for the Minister to have the power to reduce the timeframe to

14 days, so one could be on holiday and come back to find that the opportunity to appeal had been missed.

These are the concerns I have with this draft Bill, but I am not here just to obstruct. I, and my party, want to be as constructive as possible because we genuinely want to help. We do not want to see anybody lose their jobs in the saw mills. The Minister told us it is an emergency and we need to fast-track the appeals process. We heard the same in relation to the strategic housing development legislation. Emergency legislation was rushed through and we were told that it would help to address the housing crisis and speed up the delivery of houses because nobody wanted to see people continuing to be homeless. Yet, we have not seen the promised increase in housing supply, but we have been left with very poor legislation.

Therefore, I believe that this emergency legislation, if it is to pass, should be subject to a review, and continued oversight by the Oireachtas. A new forestry programme is promised, and that presents the opportunity to address the systemic flaws and for the Minister of State to erase the legacy of the previous Governments. This is the Minister of State's opportunity to design a fit-for-purpose, streamlined system that everyone can work with.

I will bring forward amendments to address some of the problematic areas in the Bill such as fees, excessive ministerial powers and the length of time in which to appeal. Our amendments will be pragmatic. Sinn Féin asks the Minister of State to give us the commitment, to work with us, to listen to our concerns, and to give consideration to the constructive amendments we bring forward. Every Member in this House wants to see solutions to the current situation. I appeal to the Minister of State to not do what her other colleagues, Ministers in government, have done to date by simply objecting to every amendment brought by this side of the House. I ask the Minister of State to work with us, let us protect the jobs and the environment, and let us get this right once and for all.

**Senator Annie Hoey:** I welcome the Minister of State, Senator Hackett, to the House. It is a great honour to see one of our colleagues elevated to the role of Minister of State and it is great to have her here.

There is no doubt that there is a crisis in forestry licences and there is an impact due to delays. I am cognisant of the delays and the impact these have on individuals. Forestry in Ireland, including the sawmilling industry, is in crisis because the forestry service is simply not able to process licences for applications to plant or fell trees. We are aware of the impact this crisis is having on rural jobs in planting and forestry maintenance, for forestry harvesting contractors, for haulage contractors and for sawmilling. There are no pallets for exporting goods and there is a shortage of timber on shelves in hardware stores, in construction, in DIY and for fencing. We are under no illusion that there is a crisis and it needs to be dealt with.

We know that the problem is caused by the Department of Agriculture, Food and the Marine not being able to process the licence applications to plant or fell. I will outline some timelines for some of the delays currently in the system. One application has been in the system for 713 days, another has been in the system for 520 days, while another has been in the system for 535 days. As of last week more than 30 licensee applications have been in the system for more than 350 days. This is absolute madness.

We recognise the serious need for the Bill, but as outlined on this side of the House, there are some concerns. One of my concerns is the rushed process for the Bill. We have been told

that this is emergency legislation and that it must be done immediately. Members only caught sight of the Bill last night, officially, or, technically, this morning. This is less than 24 hours in which to analyse the Bill and turn around amendments. It was not so long ago since the Leader of the House gave Members her solemn word in the House that this would not happen again. It is very frustrating that we are here again in this situation.

It is also very frustrating that today in the Dáil Chamber the Labour Party has brought forward a Bill on sick leave for all. We have been told by the Minister of State's own Government that that Bill must be kicked to touch for six months. Sick pay is an absolute emergency during a global pandemic. While I do not conflate the two and say one issue is more important than the other, we have now been told that we must rush this Forestry (Miscellaneous Provisions) Bill 2020 through the Seanad because workers' jobs are at risk. I put it to the Minister of State that those very same workers may need to avail of sick pay in the next six months but there does not seem to be the same level of concern on the Government side for that. Forgive me for being exasperated by what is and is not considered an emergency, especially in this House.

I am concerned about Committee and Report Stages happening together. This legislation is being rushed through the House and the Minister of State's goal is to have it through the Dáil by the end of next week. This is a two-week speed run at this Bill. In my short time as a Senator I have watched this Government rush through a judicial reform Bill, cancel at the very last minute an important debate on the needs of those in higher education, and now, with the very first piece of environmental legislation, giving Senators barely 12 hours between the official publication of the Bill and the submission deadline for amendments. It feels perhaps that it has been decided the contributions we in this House make on the issue are not actually worthy of a substantive debate.

I am particularly disappointed at this attitude coming first and foremost from a fellow Senator. I believe that all Senators felt a lot of pride when the Senator was elevated to Government. It was a sign that the work of the House and its Members are valued by Government. To have this rushed through, to deny the Minister of State's fellow Senators the chance to contribute on this legislation, and to give us not even more than 24 hours to read the Bill before we submit amendments seems a pretty poor standard. I hope this is not how the Green Party in government feels about others from different political persuasions and our contribution to environmental legislation.

I want to reflect on the public consultation, and again other Opposition Members have reflected on this. Over the summer, there was a one-month public consultation, which is a short time by the standards of any public consultation. Therefore, I have to commend the fact it got just shy of 9,000 responses, with 8,888 the golden number, I believe. This is a large number, no doubt, and shows deep concern and engagement on this issue. However, as has been referenced, thus far we have only received a report on the consultation process, a report which, by the way, we only received this morning, so we have had less than 24 hours, which is a tiny timeframe, to look at the Bill, analyse the report and come back with amendments.

If I wanted access to any individual submissions, I could contact the Minister of State's office and ask for a submission, but that is like looking for a needle in a haystack because I do not know what I am looking for as I have no idea who made the submissions. While the gesture was appreciated, it was not particularly helpful seeing as, without an index, I could not know who or what had made a submission. I am relatively digitally literate so I researched the submissions based on who had posted submissions online, and other Senators shared submissions

which they got their hands on, but it is not an especially effective way to do business that we creep around and see what we can find out ourselves online based on who shouted the loudest about putting in submissions. It is worrying that the public consultation submissions have not been made available online during this two-week period. I know this is a tight timeframe in which to get things done, and the Minister of State was landed with a very short period in which to do this. However, it does not seem the best way to do business and it is exasperating we do not have access to that and that it is likely we will not have access before this Bill finishes its journey in the two Houses.

It is not all criticism. I welcome the removal of the relevant persons section in the legislation to allow third-party appeals. I know the potential exclusion of third parties to appeal directly to the forestry appeals committee caused an enormous amount of consternation and fuss online. It was seen as exclusionary and against basic democratic principles given people ought to be able to engage in an appeals process in an area that affects them. I welcome the removal of the relevant persons section as it is vital we do not hinder the ability of invested and interested citizens to participate actively in planning decisions relating to the environment.

I also want to reflect on the alignment with the planning process. Senator Lynn Boylan went through this extremely eloquently and I am a bit more muddled on it. The heads of the Bill outlined that this Bill is intended to provide an Act to amend the Agricultural Appeals Act 2001 and to align the forestry licensing and appeals process with a similar planning process. To paraphrase An Taisce's words, the disparity between the planning system and the existing forestry system is like day and night. The planning system in Ireland has a highly integrated framework stemming from a national planning framework, an implementation plan, regional planning guidelines and spatial strategies, and all of these inform our county development plans, zoning policies, objectives, local area plans and, ultimately, even individual applications for development. For example, we are currently trawling through the county development plan in County Meath, and obviously things have gone a bit askew with the Covid process. Nonetheless, there is an enormous amount of legislation, bodies of work and things we have to follow through. The whole system is complemented by comprehensive legislation and there is oversight from an independent appeals body, An Bord Pleanála, whose decisions and remit are meticulously set out in legislation and which, as has been referenced, is an entirely independent body. The public also has easy access to the planning documentation and decisions throughout this process.

This is in stark contrast to the forestry system, where there is one national programme, with no regional or local strategies for afforestation or felling. Information is also incredibly difficult to access for a member of the public. I concur with Senator Boylan's statements around the 28 days and the impact this is going to have on members of the public being able to access information in a timely fashion and how they will be able to do that.

It seems to me the alignment provided by the heads of Bill just aligns with being able to pay fees to make an appeal and the requirement to have made a submission on the application to be able to appeal it. I have a concern that if fees are introduced for forestry appeals committee appeals, as is currently required within the planning process, this could take legitimate appeals out of the hands and financial means of most individuals. The Aarhus Convention has been mentioned here before. According to Article 9.4, administrative and judicial procedures relating to the environment should not be prohibitively expensive. I would like to know exactly how much these fees are going to cost. If someone is appealing against a number of different licences, how are these fees going to stack up and how is that going to impact individuals making appeals? There is a brief reference in the Bill suggesting that fees can be remunerated. I

would go further and suggest that fees should absolutely be remunerated. We will be proposing an amendment to allow for this. At a minimum, fees should be remunerated if there simply has to be a fee system.

We welcome the effort to support jobs and deal with the chaos and backlog that the Minister of State has unfortunately inherited within this system. However, we have an issue with the process. A 24-hour turnaround time on a Bill, while it seems to be the standard way we do things in the Seanad, is not best legislative process. In one House, the Government is saying sick pay for all is not a priority during a global pandemic and it is going to kick that to touch for six months. However, it is going to push this Bill through because it says it wants to be able to support workers. We also need to make sure that those workers have access to sick pay over those six months.

I welcome that the Minister of State has taken on board feedback from the consultation even if none of us has seen the submissions. That engagement is positive but I hope it does not become standard that we do not have access to the submissions. As I said, the Labour Party will be submitting amendments to the Bill, specifically in respect of the remuneration of fees if the appeals are not seen as frivolous or vexatious. We will engage constructively with this Bill and will engage with the Minister of State on any upcoming Bills in respect of forestry. We recognise the deep importance of forestry in Ireland for our biodiversity, carbon, agriculture and all of those issues. We look forward to working with the Minister of State in the future on this.

**Senator Alice-Mary Higgins:** I congratulate the Leas-Chathaoirleach on his new role. Having worked with him at the Council of Europe, I know he will bring great gravitas and thought to it. I welcome the Minister of State to the Seanad, a space where she has been before. However, I have to join with everybody to say it is unfortunate that in the first meeting we have here, the Minister of State is contributing to a practice we have seen of rushing through legislation and indeed short-circuiting due legislative scrutiny. It has been pointed out that the Bill was circulated yesterday. The deadline for amendments was today. A very important issue is that this deadline applies to amendments for both Committee and Report Stage. Again, a key part of any legislative process is that on Committee Stage we bring forward our proposals, the Government answers the questions and concerns raised, and then there is a period in which we reflect and perhaps revise or change, taking on board points the Minister may have made, and put forward revised amendments. Indeed, the Minister may take on board valid points that are made on Committee Stage and reflect them in his or her own Report Stage amendments. That process has not been allowed for. Committee and Report Stages will be taken together. In that context, since she has denied herself the opportunity to go and seek advice and reflect on proposals, if there is something that is positive and seems to have merit I would encourage the Minister of State to accept it. If she needs to reflect on it in the Dáil she may do so. Otherwise she is effectively making our proposing of amendments meaningless. Nonetheless I will propose a number of amendments.

I would also like to join colleagues in highlighting the concerns around the consultation process, its abbreviated nature and the fact that submissions were not made available. There are some interesting statistics and figures. We have had some misleading information, unfortunately, even in the briefing documents that were circulated. One of the briefing documents sent to Oireachtas Members told us that the decision of the forestry appeals committee is final. We know it is not final because of course any appellant has the right of recourse to the High Court and normal judicial process under the Aarhus Convention. It is slightly misleading and discouraging in that regard. I was informed that most of these appeals were not successful, so

let us consider the figures. More than 50% in 2018 and 2019 resulted in a change or withdrawal of the licence. People are doing the work that the State should be doing by having an effective and proper forestry process, which means that individuals do not have to make appeals because they are submitting proper and appropriate applications and are being supported in doing so.

We have been told about the urgency of the Bill and that it is being rushed because of the crisis in the sector, including for employment therein. There will also be a crisis in January when Brexit happens, given that 80% of the sector's market is in the UK. I respectfully suggest that a Band-Aid of eroding regulation and legal processes is not what is needed and that a just transition plan for the forestry sector, one that recognises that it will face serious economic challenges within just a few months, might be more appropriate. If there is a sector that is struggling, it is within the bounds of the Government's remit to direct resources to same and give funding to its workers and those who invest in it to allow them to transition to different models.

Ireland has the second smallest forest cover in the EU at 11%. These facts are agreed on by the entire Oireachtas. They were cited in a Green Party motion tabled in the previous Oireachtas, where they were accepted without amendment by all parties. As such, these are not my opinions, but the agreed facts. Our 11% compares with a European average of 30% and the majority of our forests are monocultures. State forestry policy has predominantly been based on a rotation, clear fell and replant cycle using monocultures. Aspects of the current afforestation model have in some cases had negative impacts on local communities, biodiversity, water quality and landscapes.

The gravity of the global biodiversity crisis, including the loss of species - 68% of species have been lost in a very short period - and important populations of species, the undermining of ecosystems, the vital role of land use in the hydrological cycle, the objectives of water quality under the EU water framework directive, the vulnerability of even-aged monoculture plantations to disease, fire and windthrow, the role that changed land use practices must play in reducing greenhouse gas emissions and sequestering carbon in the long term, the essential role that afforestation, land use and soil carbon management must play in Ireland's national energy and climate plan, the commitments that Ireland has entered into in the context of Natura 2000 and the EU birds and habitats directives and our failure to meet those are all acknowledged facts. These formed part of what the whole Oireachtas agreed had led us to a time when we had to move to the next stage of Irish forestry and address the challenges ahead. This is the position that we all took last year, yet we are seeing a significant push to fast-track business as usual and everything that is in the system currently. This Bill is literally about having as many horses as possible bolt before we consider a door-closing strategy somewhere down the line.

Even if the Minister of State had wanted to address a specific issue, she could have introduced a Bill that gave additional resources to the forestry appeals committee and then allowed for a further division of resources. She could have introduced a Bill that represented decent strategies for dealing with the fundamental underlying facts. If we are really discussing a crisis in wood supply, the Bill could have contained measures on allowing thinning licences to be fast-tracked over clear felling licences. The choice could have been made to narrow the Bill solely to the question of felling instead of including the issue of planting. We know that planting is predominantly that of Sitka and monoculture. With every planting that takes place through a fast-tracked forestry appeals committee decision, that is ten, 15 or 20 years in which that ground, which will have been planted under the old system, will not be able to reflect any future forestry policy. The ground is being given and lost. Despite suggestions to the contrary, a large portion of these appeals have been upheld because the committee has taken these issues

seriously.

Wangari Maathai from Kenya, who won the Nobel Prize for her work on the promotion and protection of forests, stated, “You cannot protect the environment unless you empower people, you inform them and you help them understand that these resources are their own, that they must protect them.” The people who are taking appeals are taking seriously that call to action. They are doing their work in respect of the protection of the environment. That the results have shown licences having been overturned or changed shows they have serious credibility in what they have done.

In the case of a Bill such as this that relates to due legal process and to access to justice under the Aarhus Convention, even if it is the best Bill in the world, which it is not, it is especially important that it show due legislative process. The Minister of State is trying to assure us there will be due regard for the law and access to justice, yet we are skipping pre-legislative scrutiny and the Government is short-circuiting legislative scrutiny within this House. They are real concerns.

I welcome, as others have, the removal of the relevant persons category, which is very important, but there is still no clarity on fees. We need to be assured there will be no fees. There is no clarity because there are still rules and regulations that both the forestry appeals committee and the Minister may put into place, and it is unclear as to whether those rules and regulations will exclude any category of person in the future. The Minister of State might assure us. Will they create obstacles?

I come to my final point, although there are many other important issues that we will have an opportunity to debate. Perhaps the most egregious aspect of the Bill was not in the agricultural appeals Bill or the heads of Bill that were sent for consultation but was instead added to the Bill we received last night. It is a new suggestion that when the Minister makes any policy directives about what appeals are important, he or she, “shall have regard to the need to ensure an economically and environmentally sustainable yield of forest goods and services in the State.” This undermines the fact that environmental services may be more important. It refers to a “yield”, which is extractive language. The Mackinnon report talked about the tension between forestry production and carbon sequestration-----

**An Leas-Chathaoirleach:** I thank the Senator. We are long over time.

**Senator Alice-Mary Higgins:** -----because not all trees do the same thing. I will table nine amendments to that section. I urge the Minister of State to accept one of them or to produce one of her own. I ask her please to consider her own forestry plan.

**Senator Pauline O'Reilly:** I welcome the Leas-Chathaoirleach to his new role and look forward to working with him this term. I also welcome my colleague the Minister of State, Senator Hackett, and thank her for bringing the Bill to the House. It is a really important occasion. As the leader of the Green Party in this House, it is important that I speak to the Bill. Most Senators will know me at this stage and know I have absolutely no problem standing in the Chamber and criticising the Government. I did it last Friday and they all welcomed my contribution, and I would have no problem doing that today too. I would have no problem saying I do not agree with the Bill but, fundamentally, I do. I take the point that we could have included felling only, but we are talking about afforestation, about the second lowest tree cover in Europe and, as Senator Murphy noted, about a 35% reduction in our plantation compared with this time

last year. It is, therefore, not just about felling.

It would be great if we could just walk in here with a national forestry programme and have everyone sign on the dotted line but, as both a Senator and a member of the Green Party, I do not believe that is the way to go. If one really wants to develop a national forestry programme, one needs stakeholder engagement over a longer period. We are here because of a lack of political will across the Houses in respect of forestry and land use. That is why we find ourselves in this position. I just do not buy the argument that we are not in an emergency. Two things have to come together. We need to bring people with us if we are truly going to transform this country. From what I have heard from everybody, it is clear that we do want to transform the country and to have biodiversity. Those who work in industry also have families and children and I believe they also buy into the idea of avoiding the monocultural tree cover we have seen up to this point.

We are not fast-tracking appeals but even if we are to continue with this Bill and speed up the appeals process, does that mean that all of these appeals will suddenly fail? It absolutely does not. It does not make sense to say that, just because appeals are processed more quickly, they will all fail and that nobody's point of view will be taken on board. It does not mean that. It means that the three-year backlog will be reduced. There were 14 appeals in 2017 and 402 so far this year. Something has to give. There has to be some level of practicality.

One of my colleagues here spent nine of his ten minutes talking about something which did not even substantially relate to the Bill. He was criticising the fact that Green Party members had made submissions. I am really delighted they did. I spoke to members and asked them to ensure they put in submissions. Given that there were nearly 9,000 submissions, the argument that this was not proper stakeholder engagement is defunct. As I have said, I am delighted that these people made submissions. I hope these have contributed to the changes to the legislation. I welcome the change made as regards the relevant person.

If we are talking about environmental justice, we have to look at the jobs affected. If we lose those jobs, how are we then going to get a new forestry programme up and running? We all engaged with that stakeholder engagement but where will the people to work in the industry be? They will be gone because we did not act. This is the moment for us to act. There may be fees but fees are charged across the board in respect of planning, as I believe they should be. I also believe, however, that it is the appellants themselves who lose out by sitting in an appeals process for two and a half years. It is to all of our benefit. For jobs, our countryside, our own well-being and those making appeals, we should all get on board with this. The Bill takes on board the very real concerns I have heard from my own constituents and deals with them.

Fundamentally, what we need is a new forestry programme. That is committed to in the programme for Government. I take great issue with some of the patronising comments made here which suggested that Green Party members have been wheeled out to push through legislation. I am sorry but I happen to know the background of those involved and we are fundamentally behind this Bill because it is the right thing to do for the planet and for the environment. That is why we are presenting it.

**Senator Pat Casey:** I welcome the Minister of State. I come from County Wicklow, which has been at the heart of forestry. It has been a huge and integral part of our economy, but more than that, generations of families have earned their living from forestry for decades.

23 September 2020

This legislation cannot come quickly enough. The forestry industry is in crisis. The Minister of State was in Shillelagh last week, in the None-So-Hardy nurseries, and she saw the work they are doing there. It was devastating to see on RTÉ the other night a whole refrigerated unit full of two-year-old oak trees that were going to be destroyed because we are not replanting. The reason we are not replanting is that we are not felling.

Something is equally wrong with the system when we go from 14 appeals to more than 400. Something is not working when that happens, or when we go from 1% or 2% of cases being appealed to 100%. That system is not working either.

I mentioned None-So-Hardy nursery, but we also have a huge sawmill in Woodfab Timber in Aughrim. We have a huge industry in the processing sector in Wicklow. Wicklow takes trees from growth all the way to building homes here in Dublin as well as in Wicklow itself. Wicklow will take a sapling and deliver a roof truss to somebody's house. Everybody here in Dublin probably has a piece of garden furniture that was manufactured in Woodfab in Aughrim. We are talking about bringing that industry to a close before Christmas. This crisis has been ignored and I am only too delighted to see that this is being put on an emergency footing because that is what is needed to save these jobs. We are talking about 12,000 jobs nationally, but forestry is also an integral part of our society in Wicklow.

I welcome the splitting of the commission. We need to start getting through the workload that is presented to us to resolve the appeals process.

Much has been made of the clause relating to relevant persons and there were mixed views on it. One minute I was happy that it was gone and the next I was thinking that maybe we should have left it in. It is an issue in Ireland depending on whether we are talking about licence appeals or planning appeals. Should we deal with the issue of relevant persons or ignore it? If we could confine it to relevant persons who are directly affected by either planning permission or a felling licence, the system might work better than what is happening at the moment, where 100% of our forestry licences are being appealed by certain individuals who control the system. The Minister of State has taken that part out of the Bill. I welcome that in one way, but looking at the list of people who qualified to appeal in the draft Bill, not too many were left out of it. I am not too sure about that issue.

As regards the fees, from what I am hearing I understand they will be along the lines of the planning system, with a charge of €20 for an observation and €200 for an appeal. That is not too onerous for people who are genuinely concerned about forestry, felling licences and reforestation and who have genuine concerns about matters that affect them directly.

I also welcome the ecologists being employed by the Department to try to deal with this matter. Perhaps the Minister of State can confirm that has happened. There were only one or two ecologists trying to deal with all these felling licences and I think that number has been significantly improved in recent months. That too will help the whole process. I am not against anybody appealing a decision or making an observation. People's livelihoods are at risk here. People are abusing the system as it stands at the moment and this directly affects the lives of people in my county. I welcome this legislation.

Wicklow has the second-highest rate of density of forestation in the country, with 17.9% of its landmass, or 36,000 ha, made up of forestry. We have lived with that all our lives. I hear about the monoculture and I can understand why that is a problem, but in Wicklow we have

started to address it and are seeing diversification of planting. The Minister of State would have seen that in None-So-Hardy nursery in Shillelagh in Wicklow. It was devastating to see on the news the other night the number of oak saplings that will be destroyed because we have nowhere to plant them due to this crisis. I welcome this emergency legislation.

**Senator John Cummins:** I welcome the Minister of State to the House again. It is fantastic to have a Minister of State who is also a Seanad colleague in the House presenting the Bill. While some on the opposite side of the House have been criticising the Minister of State for the haste with which she has brought forward the Bill, I commend her and her officials on the speed and haste in bringing forward the Bill.

The Bill is about protecting jobs and securing an industry that gives a contribution of €2.3 billion to the Irish Exchequer with the creation of 12,000 jobs across the State. In my county of Waterford, 470 jobs are reliant on forestry, and in the south east the total is approximately 2,000 jobs.

It is a significant concern for me that we have such a backlog in appeals before the forestry appeals committee. A briefing on the Bill was held last week on Zoom for Oireachtas Members. I compliment the Minister of State on hosting that briefing. It was useful and I am keen to see such briefings continue with other legislation. At the briefing it was stated that approximately 10% of licences were appealed in the past whereas now essentially 100% are being appealed. The figures given by the Minister of State in her speech included the fact that appeals of licences have gone from 14 in 2017 to 402 to date in 2020. That is a 2,771% increase in appeals. This has clearly had the effect of causing a significant backlog in the appeals process. It is up to us as legislators to address that and this is what the Bill is seeking to achieve.

I welcome the provision that the forestry appeals committee can determine an appeal without the need for an oral hearing unless it considers it necessary to conduct one to determine an appeal fairly. I also welcome the provision to allow for the dismissal of a vexatious appeal. The most considerable changes are obviously with regard to reducing the quorum to two members and the ability of the Minister to be able to appoint deputy chairpersons to the forestry appeals committee. I echo the comments of my colleagues in respect of the fee structure. The provision addressing this is also welcome because it aligns the process with other planning processes. That provision should not be amended. I welcome it wholeheartedly.

There is urgency to this matter. I know the Minister of State is treating it seriously and the seriousness cannot be overstated. I have had discussions where concerns have been expressed to me by Smartply in Waterford. Smartply is a significant company with more than 150 employees in the Port of Waterford at Belview. The company creates high-quality product for the national and international market. However, the company is fast running out of raw materials. My colleague, Senator Lombard, mentioned the importation of material from Scotland. This is simply an untenable position for a country like Ireland. The fact that our mills throughout the country are running out of raw materials means this has to be addressed with urgency. I compliment the Minister of State and her officials for bringing this Bill to the House with haste. Forestry is a fantastic indigenous industry and it is up to us as legislators to protect the 12,000 jobs across the country. I will support the Bill and hope that others in both Houses will do likewise.

**Senator David Norris:** I compliment the Leas-Chathaoirleach on his elevation, which is a most appropriate appointment.

23 September 2020

I am astonished that a Green Party Minister of State would introduce legislation of this kind to the House. I recall the Heritage Bill some years ago when I was the only person to object to the introduction of legislation that would threaten many of the most endangered wild bird species. I got no support whatever on the first occasion I raised this and that was very worrying. It is astonishing that this Bill should be rushed through at such breakneck speed. Changes were made last night. It is almost impossible, at least extremely difficult, to table amendments to take account of the changes in the Bill. We did not know what we were dealing with; it was a completely amorphous body and required great scrutiny to get through it.

I objected when charges were introduced in planning. I did not want it and I was strongly supported by the Green Party in objecting to them. What has happened to change this in the meantime? To take Committee and Report Stages together is a real abrogation of the democratic process and I deplore it as I do the lack of pre-legislative scrutiny. Then there is the 6 p.m. deadline for getting amendments in. It is astonishing that we be given 12 hours to submit amendments for this sort of business.

The business of Sitka spruce should be addressed. The Sitka spruce is a foreign tree. The plantations introduce a very dangerous acidic element to water and so on.

I am not anti-forestry. A connection of mine, the late Lord Castletown, was very enthusiastic about planting and he planted his own estates across the Slieve Bloom mountains in the early years of the last century. In my own neck of the woods, in County Laois, the Mountrath sawmills is a very important employer. I am not averse to the sector. It is very interesting that of the submissions which objected to the Bill, 94.5% came from the public. That is something that needs to be taken into account. There is a strong interest among the public on this matter.

The Bill appears to have been introduced as a result of a recent judgment which identifies a failure of the forestry licensing sector of the Department of Agriculture, Food and the Marine to carry out impact assessments that require compliance with the environmental impact assessment, EIA, directive, the habitats directive and the birds directive as part of the licensing regime. The negative impact this failure has had on agricultural health, environmental health, and public health has so far been unquantified due to lack of assessment. We cannot change those negative impacts and historical degradation of a multitude of human, animal, plant and bird habitats. As it stands, the agricultural sector is already under huge pressures due to failures to environmentally assess other impacts in other schemes such as soil degradation from toxic pollutants and microplastic in sewage sludge for example.

Our agri-industry is central to our economy and even aside from environmental and public health concerns raised by the forestry sector our important agri-sectors should be protected from further impacts. To hide from impacts that the forestry industry may have on the environment will only cause the hastening of the collapse of other sectors which are facing multiple threats including reduction in pollinators, invasive species, and climate change. Departments must stop looking at sectoral management of industries and instead have cross-sector management and impact plans so that all sectors increase viability and production.

Ireland is a party to Forest Europe which incorporates the Rio forest principles. It is a pan-European ministerial level voluntary political process for the promotion of sustainable management of European forests. I am quoting from the United Nations Forest Principles, Article 2(c) of which state, "The provision of timely, reliable and accurate information on forests and forest ecosystems is essential for public understanding and informed decision-making and should be

ensured.” The principles recommend in Article 2(d) that, “Governments should promote and provide opportunities for the participation of interested parties ... in the development, implementation ... of national forest policies.”

Public participation increases public awareness of forests and forestry, enhances social acceptance of sustainable forest management and shares costs and benefits in a fair and equitable way. It can contribute to the reduction of forest conflicts and nurture a positive relationship. Participatory forest management has become a widely accepted solution to forestry problems.

Any person interested enough to make a submission should be allowed to fully participate in the process. It is extraordinary that information is being withheld with respect to an index of submissions. The knowledge that people may bring can only help to inform the committee. The backlog will eventually be processed and the system will be better for the new requirements relating to environmental impact assessment, EIA. For the time being the appropriate action would be to employ ecological experts to help process the EIA sections of the licence applications.

The fact remains that to date, the applications lodged were not compatible with the law. If there is a backlog in the criminal courts, we do not restrict who can be a juror in order to speed up the deliberation process, nor do we dictate that only those with financial means can be a juror. This would cause a mistrial. In the same vein, restricting who can appeal a decision means the appeal can never be valid. It is a wholly unreasonable proposition. The public should be seen as a resource to be utilised and not as an obstacle to be overcome.

**An Leas-Chathaoirleach:** I thank the Senator for his co-operation as there are so many Senators offering to contribute.

**Senator Seán Kyne:** Cuirim fáilte roimh an Aire Stáit. It has been noted that the Bill is somewhat rushed but I know it has been discussed over a period. I acknowledge the public consultation that took place in August and I commend the Minister of State on it. It generated a level of interest and as others have said there were just about shy of 9,000 submissions. That demonstrates the interest in this area.

The forestry sector is important in Ireland for a number of reasons. As a country, we must increase forestry as we know the benefit of afforestation in creating carbon sinks for our climate strategy. We welcome that. We must plant more trees and a wider variety of them. I previously argued, as others have, for an increase in the native broadleaf trees and suggested that aside from specific plantations, native species should be incorporated into commercial plantations where the land is suitable for it around the boundaries or in specific areas, such as in riparian zones along lakes or waterways.

I acknowledge one of the great trees that we had, the ash tree, and the Minister of State’s predecessor, the late former Deputy Shane McEntee, broke that news of it being affected by disease a number of years ago. It is depressing to see the visible impact across our countryside on our ash trees arising from dieback.

The forestry sector is significant for rural communities, contributing approximately €3.2 billion to our economy each year, supporting up to 12,000 jobs, such as those in ECC at Corr na Móna in Galway. It is a very large employer in an area of north Connemara, south Mayo and beyond. The industry should provide a good supply of timber, which is so crucial to housing construction, including products like pallets and fencing, as well as other sectors such as furni-

ture manufacturing. The furniture manufacturing sector does not attract much attention but it has great potential, as exemplified by the National Centre for Excellence in Furniture Design and Technology in Galway and Mayo Institute of Technology at Letterfrack. It is a world class facility dependent on a supply of timber and other raw materials and I am sure at some stage the Minister of State will get the chance to come out and visit Letterfrack.

The forestry sector is also important for tourism, including nature-based and adventure-based tourism, as it provides recreation spaces and materials for parks like the Wildlands, a new adventure destination in Moycullen, County Galway, that opened this summer. I hope we will see that business creating more employment.

It is clear how important forestry is to Ireland and, by extension, how important is this legislation. The backlogs in the forestry licensing system need to be addressed urgently, particularly in view of the fact that the logjam is having serious implications for supplies going forward. The Irish customer base is looking abroad for supplies and is replacing Irish-grown timber, which is regrettable. Many companies are advance buying at this time of year, and perhaps purchasing up to two thirds of their supplies for the 2021 season. Some timber mills are even running out of supplies. The situation is urgent, which is why I welcome the bringing forward of this Bill and its passage in this House and the Lower House.

On the one hand, there is the issue of resources. I am pleased with the provisions in the Bill that will enable the recruitment of extra members of the forestry appeals commission, the appointment of deputy chairpersons and facilitate the committee to sit on a subdivided basis. These proposals should enable a speedier licensing process while still upholding the important right to question an appeals decision.

On the other hand, there is the delay as a result of the additional environmental obligations arising out of the Forestry Act 2014. Most applications in the forestry sector now have to undergo second-stage appropriate assessment, a process that involves specific analysis of a site to ensure compliance with environmental laws. This step is important to assess the impact, if any, of a forestry licence on a designated site. While the Department has increased its staffing to include 14 full-time ecologists, it is clear further resources and reforms are needed.

As a former Minister of State with responsibility for inland fisheries, I know the importance of the location and the processes of clear felling in the context of the possible impact on water quality, something that was particularly in evident at Lough Corrib and other lakes over the years. It is right and proper that we have these environmental regulations but, again, there is that balance between having the right of appeal and also ensuring that we have a supply of the raw material necessary. It is a balancing act.

The concept of a relevant person, which is the need for a person to have made a submission in order to submit an appeal, arose out of a desire to align the process with the planning process, and I do not believe it was an attempt to exclude people. However, it is important that the balance be struck. We all know of projects and developments that would improve quality of life around the country for citizens and communities but that have been the target of spurious and irrelevant objections from people with no connections to a particular county, and from people not affected in any way by the problems which the project aims to alleviate. We have had serial objectors to an array of projects. Despite enjoying privilege in this House, I will not name anyone, but many people know particular individuals who will object to everything and anything. If we like, they class themselves as professional objectors, which is a concern.

As others have said, the fees will not deter genuine objectors who can pay a certain amount of money in the knowledge that what they have to say will be taken on board by an appeals committee. However, a fee will deter serial objectors or certainly make them think twice - those who object to everything and anything. As I have said, coming from Galway, where major projects have been delayed and stopped by serial objectors, I am particularly strong on that.

At present, neither the forestry licensing system nor the appeals system are working for anybody. They are not working for the stakeholders, the businesses, the workers, the landowners, the communities involved in the sector or the parties with genuine and sincere concerns regarding applications. In that context, this legislation is important and must be enacted without delay.

As I said, I acknowledge the commitment of the Minister of State in bringing the Bill forward and in terms of the consultation process in August. I believe this is important legislation that has been much talked about. It will give the opportunity to speed up the process while still allowing genuine people to make appeals, but it will also, hopefully, deter spurious objectors in what is a very important sector for rural Ireland.

**Senator Timmy Dooley:** I welcome the opportunity to have a conversation about this Bill. I compliment the Minister of State on her choice of face mask. I think it is very appropriate that it depicts native woodland.

This is important legislation. We all recognise the necessity to clear the backlog of applications for various different licences. I am taken to a large extent by the contact that has been made with me by timber mills, the construction sector and other operations that will require a supply of timber. There is deep concern among them that if we do not address this pipeline rapidly, there will be further pressure on our economic activity. I do not think anybody here needs me to go on any further about the implications for our economy as a result of the Covid pandemic.

While there is a need to ensure the supply of timber, we need to have a robust regime in place. I come from a county that has seen many serial objections to planning and forestry at every possible stage. There are people for whom it is almost a way of life. There is often an appropriate reaction to that but there is often an overreaction too. We have to be careful and balance our approach so that when we are dealing with what we see as serial objectors or nuisance objectors, we do not demonise every objector. There are legitimate and valid objections that need to be made.

As a former spokesman for my party in the other House, I was often, from a climate change perspective, taken by people's reactions when I talked about the necessity for more planting of trees. There were calls from Leitrim and Sligo, and from parts of my own constituency, where communities felt that there was an over-concentration of planting, especially of conifers, and that was having an impact on the soil, rivers and the general visual amenity of the area, with encroachment onto arable land that might be better served without that particular species. I have always had the view that we need a different approach to the growing of trees in this country. We need more native species and we need to see more land set aside for the growth of trees from a carbon capture perspective, without looking at the ultimate commercialisation relating to the production of timber at the end. We need to look at it purely as a resource that is a carbon sink. Hopefully the Minister of State will be able to advance that with her own views and ideas on this area. That is another sector that we can do much more in.

23 September 2020

The purpose of this Bill in the first instance is to ensure that we address the crisis, which I support wholeheartedly. I support trying to reduce and limit the practice of what are often considered vexatious or serial objections, while at the same time ensuring that we do not throw the baby out with the bathwater. There is a legitimate necessity in some cases to object for a number of reasons. People are entitled to a certain visual amenity in an area. There are others who believe in the potential for a community to be maintained and developed and that certain plantations would impact on that. In the minds of some, certain rural areas were almost written off because of the desire of so many to move away from rural areas into the cities.

There is much to be learned from the current pandemic and we may not know what the outcome of that will be for a long time. There seems to be greater recognition that not everybody needs to live on top of each other in densely packed cities to have a meaningful work environment. The advances in technology that we have all embraced in recent weeks and months are a clear recognition that we do not need to sit in cars and public transport for hours each day. People can have the experience of living in more rural settings while at the same time participating actively in urban life, perhaps on a less frequent basis, but they would be able to hold down jobs in major urban centres while principally bringing their family up or living in a more rural setting. I look forward to the passage of this Bill but I do not think that it should signal an end to the process of afforestation and how we might manage it for the benefit not just of the people who own the land, but also the people who live in the area and, importantly, the climate generally.

**Senator Rónán Mullen:** Cuirim fáilte roimh an Aire Stáit agus tá súil agam go n-éireoidh go geal léi ina ról nua.

I welcome the Bill in general terms. It addresses what has grown into a serious problem in recent years. With the very broad right of appeal that exists against the issuing of licences in this area, and felling licences, virtually anybody can challenge a decision. As a result, there is a backlog of appeals that now stands at over two years, which has knock-on effects in many areas. For example, it limits the supply of timber for home building. It also has an impact on people who have planted trees on their land because they cannot reap a financial dividend as a result of delays due to these appeals. One is not talking about big farmers in every case. One could be talking about people with small enough parcels of land who made an investment and must wait to reap the necessary dividend after a period of time. They are being held up.

One thing that the Minister of State did not reference in her speech was how soon we can expect the backlog to be lifted. I am not just talking about the backlog caused by 100% appeals but also, as she acknowledged, the increasing delay in the issuing of licences in the first place. I know steps have been made and ecology people have been appointed, but I know of a case in which a 20-year investment has been held up. In April 2019, an application for a felling licence was made yet they still have not heard anything apart from an initial acknowledgment of the application. How soon is it reasonable for people - big and small players - to expect their cases to be dealt with in that kind of scenario?

I was very struck by what Senator Lombard said when he mentioned that builders cannot acquire 6 in. by 3 in. planks due to the delay in granting felling licences, that there is a disastrous bottleneck in the forestry and timber industry, and that instead of locally produced and supplied timber it will have to be imported from Scotland. I recall that the Minister of State mentioned Scotland in her speech. She said that the right of third parties to appeal is rare across Europe and instanced Scotland, which is pretty ironic. It brings out the tension that exists here between

different legitimate aspirations. On the one hand, there is the aspiration to hold decision-makers, businesspeople and foresters to account and the aspiration to protect the environment and promote environmental diversity. To be honest, these aspirations are in tension with the need to protect and develop our timber industry and the need to protect jobs, livelihoods and people's way of life. In the same way that I sympathise with Senator McGreehan's enthusiasm for native trees, we must acknowledge that there is a reason that farmers and others plant Sitka spruce. A dairy farmer who wants to make money will have Friesian cows or maybe Montbéliarde cows if he has a more exalted taste, and he will not buy or breed Aberdeen Angus or Charolais for milking. That is why growers opt to plant Sitka spruce and the like. I sympathise with the Senator. I agree that we need to promote our native species and establish carbon sinks.

There was something for everyone in the contribution made by Senator Dooley. At the same time we are at a time in our economy and our country when we simply must put Irish economic and social life at the centre and protect people's economic well-being.

This legislation is long overdue. I do not like rushed legislation but where was the previous Government? This problem has existed since 2018. The Minister of State cited to us the growing levels of appeals set against the paltry number of resolved cases year-on-year and getting worse year after year.

Regarding the mass appealing of licences, where was the previous Government? Senator Cummins was the first to mention the notion of vexatious appeals and this legislation rightly provides for the possibility of dismissing such appeals. When 100% of licences are appealed, one must think that there is an element of vexatious activity going on. That is simply a fact. It is not even an opinion at this stage. I say that in full knowledge and respect of the fact that we cannot just let people go off and do whatever they want. There are legitimate interests to be protected and NGOs have an important role in securing those legitimate interests, but in this case the facts speak for themselves. For that and other reasons, it is not at all unreasonable to have a charge for those who are challenging decisions, although I would support the rights of members of local authorities not to be subject to such a charge because they have a particular role in acting in the public interest. As a general rule, however, we should all be ready to pay for our principles sometimes, at least to some extent.

**An Cathaoirleach:** I thank the Senator for that concluding remark. I have four Senators offering and Senator O'Reilly, in his magnanimous nature, has said he will give way to all of his colleagues. I have Senators Mullen, Carrigy, Ahearn and Keogan.

**Senator Rónán Mullen:** The Cathaoirleach has already disposed of Senator Mullen.

**An Cathaoirleach:** There is no disposing of Senator Mullen. All four Senators have five minutes and the Minister of State will come back in at 4.40 p.m. I call Senator Conway.

**Senator Martin Conway:** I will not take the full five minutes in order to accommodate everyone. I welcome the Minister of State into what is her Chamber and the Chamber of the rest of us. It is good for politics that we have one of our own sitting at the Cabinet table. It is long overdue and already the Minister of State is doing a fantastic job.

One of the first Bills to come before us in this new Seanad is an important one. I would agree with a lot of the arguments and articulations that have been expressed here today. The forestry industry has been the poor relation to a large extent over the years, and that is probably the reason we find ourselves in the situation we are in, where the legislation has not been

updated and upgraded in the way it should have been. This is having direct and immediate consequences, not just for people who are trying to plant or benefit from getting the right crop but also for the industry. I was speaking to a builder's providers in Clare over the weekend and it is importing timber from Sweden, which is shocking when we have the raw material here.

There are two phases to this. The first is the legislation that we are dealing with today, which is critical and necessary. It is rushed but sometimes legislation has to be rushed in the national interest and this is one of those occasions. The second phase is the review the Minister of State has spoken about. That review has to be root and branch, if Members will pardon the pun. It has to be comprehensive and detailed and it has to reflect the industry in the modern world. The timber industry and the growing of trees will be part of our being and landscape going forward. It has to be done in an appropriate way, taking into consideration both the worries and aspirations of people. I look forward to that review and I have no doubt that this House will participate fully in same.

**Senator Garret Ahearn:** I welcome the Minister of State to her Chamber. It is apt that our first sitting in the Seanad Chamber has our own Minister of State present. I also welcome this Bill that is being put forward.

It has been mentioned a number of times today that the Bill is being brought forward in a speedy manner and that is a good thing. This industry has gone down 35% in the past year. If anything needs to be done, it needs to be done in a speedy manner and that is hugely welcome. We are talking about an industry that provides 12,000 jobs throughout the country and those jobs are in rural areas like mine in Tipperary. This industry contributes to the economy to the tune of about €2.3 billion per year. All things being equal, that is expected to double by 2035. In 2018, Ireland produced wood products containing the equivalent of 1.9 tonnes of CO<sub>2</sub>. Ireland has one of the world's most technologically advanced timber industries. This industry has the potential to move forward and the potential to be a leading sector in Ireland, and certainly in rural Ireland. We have come to a stage where we are at a crisis. We are at a stage where things cannot move forward because, essentially, people are able to appeal and hold up the process for an extraordinary length of time. I welcome that the Bill has been brought forward to try to deal with that in some cases. We are getting to a situation where it is just not tenable anymore. This is not a medium or long-term crisis. This crisis is here and now.

I have listened to many Senators speak to the Bill and on this side of the House they are all of the same view. Simple things such as having a fee for people to appeal will dramatically change the appeals process. There are one or two people in the whole country who are holding up 100% of the cases going forward. By having a fee, if it goes along the lines of normal appeals processes of €200 going towards An Bord Pleanála, I would consider that a reasonable request. If the case is genuine and the person fully believes in what he or she is appealing, then he or she would be willing to pay the fee. For people who appeal absolutely everything and hold up cases across the State, this will be a deterrent to those we call "continuous appealers". I hugely welcome the measure.

We are in a situation whereby the industry has dropped so much that we will now import timber from Scotland, which is not acceptable. We should not have a situation where this happens. This is all because of a delay from our side, but a delay nonetheless.

It is strange that when one looks at the appeals put in, essentially it is the same people who appeal deforestation and the cutting of trees in countries around the world, these are the same

people who are now delaying the growth of trees and are holding up cases across the State. I believe this fee will be a deterrent to what we call “continuous appealers”. There is a contradiction in that.

We should be promoting the fact that this is good for the environment and is good for the State. It is good for many areas, including my own area in Tipperary. The Bill is also about saving jobs. There are 740 jobs in Tipperary connected to forestry. Sheehan Sawmills in Ballyporeen, just down the road from where I live, is a family-run business since 1979. They have been in business for 41 years. Dunne Sawmills in Drangan, just outside Fethard, has been in business for some 26 years. Such family-run businesses are in the heart of rural Ireland and they want to work and continue. All they need is the support from Government, and a Bill like this coming through as quickly as possible. I welcome the Bill and I thank the Minister of State for bringing it forward. The Bill has my full support.

**Senator Sharon Keogan:** I welcome the Minister of State, Senator Hackett, to the House today. I am delighted to be here in the Seanad Chamber for the first time.

The Bill is, ultimately, about jobs and I will support it. It might not be too welcome to the Green Party but it will certainly get support from the Minister of State’s Fine Gael, Fianna Fáil and Green Party colleagues. That is the price one must pay when in government as a smaller party.

This industry provides 12,000 jobs throughout rural communities, including those in my part of the country. I will not namecheck the various businesses around the country which have been in contact with me with regard to supporting the Bill today. It is all about jobs and how we are going to maintain and sustain these jobs going forward in this crisis.

The current crisis around licensing is crippling the industry. It is important that we deal with this matter here today. Data from the forestry appeals committee show that licences are being appealed at a rate of 40 to 50 per month. Some 1,500 licence applications are with the Department of Agriculture, Food and the Marine. Officials process nearly 100 applications per month, which means it takes close to 15 months to clear the queue, even if no other applications are made and before any appeals are submitted. Some of the owners of Ireland’s sawmills describe being at a crisis point where they are struggling to know how they will retain their employees with their customers. This Bill will give them safety. Anyone in the State can appeal any forestry licence. It costs nothing to appeal and it is relatively straightforward to do so, so I welcome the charge and the change to that in the Bill. A recent analysis by the *Business Post* showed that one particular gentleman, a prominent environmentalist, had been involved in more than half of the appeals made against forestry licences in the past two and a half years. The appeals list from the Department of Agriculture, Food and the Marine names him 351 times out of 624 appeals submitted in that period. This cannot continue. It has to stop. It is stalling progress and stopping our economy moving forward. This is a completely overlooked sector which is contributing to our economy. It is critical that this Bill is passed as quickly as possible and that it is implemented in full.

**Senator Micheál Carrigy:** I welcome the Minister of State and wish her well in her appointment. Some Members have criticised the fact that she and her Department have swiftly brought this legislation before the House. I commend them on bringing the legislation so swiftly. We have a major issue in the forestry industry with jobs at risk and the knock-on effect it has on the building industry. We have vexatious appeals stalling the entire process and put-

ting up to 12,000 jobs at risk. I particularly think of Glennon Brothers Timber from Longford, a family-run business founded in 1913 with more than 250 employees. I think of local lads in my own village, Fox Brothers Carpentry, who employ 20 people erecting timber frame housing. We are pushing and looking for the Government to put forward funding to increase our house building yet the supply of raw materials for house building has nearly come to nil and now we are looking at importing materials. This is about protecting jobs - it is as simple as that. I will be fully supporting the Bill. I ask that all other Members support it both here and in the Dáil.

**Senator Joe O'Reilly:** I join in the warm welcome to the Minister of State. We take pride in her appointment in this House. It re-establishes an old precedent and should be a source of encouragement to some of our younger Senators that they might emulate this in the future. If I am right, the precedent goes back to Senator Dooge. I am not sure who was the last.

I welcome the legislation. There are all sorts of extraneous points we would all like to make but if I read it correctly, the legislation is effectively tidying up the appeals process. It is reforming and making the appeals process efficient and workable. That is from a situation where we have a totally non-existent appeals process in that we need a deputy chair of the appeals committee, we need to have sub-committees functioning, and we need to have a workable quorum on a given day. There is no way that any other body could function in the way it is currently functioning. It needs efficiencies in its operation. It is horrendous that we have the level of appeals that exists. It is not explicit or implicit in the legislation that we would in any way take away from the right to appeal. That is sacrosanct. Those who want to appeal for the right reasons would want an efficient outcome and an efficient system to respond to them. The only people who benefit from the current situation are those who just want to hold up the entire process for all sorts of vexatious purposes, to use the term used earlier. We are at the point of importing timber now. It is unthinkable that this would become the norm and we have to thwart it. I exhort the Minister of State, although I think it is her plan, to make an holistic - for want of a better word - plan for forestry in this country. While we must address the balance between Sitka spruce, on the one hand, and oak trees and other native species, we also have to pay attention to the concentration. I do not think there is a Senator who would suggest taking lumps out of County Leitrim, for example, to plant trees and putting people out of the area. That is not the agenda. There has to be a process and a spatial development plan for forestry.

I have a background in farming, given that my family were farmers. On every farm, particularly in the area of Cavan, Longford and Leitrim, there will be 8 or 10 non-arable acres that could not only be planted, provide a shelter and have a beneficial effect on our environment as a carbon sink, but also add to the economy through timber production and so on. That needs active promotion and support. We have to promote our forestry in a spatial, regional and properly organised way. The jobs are crucial, and the numbers of jobs at issue are colossal.

We all tend to bring these matters to a parochial level but there is no great harm if we understand or relate to them in those terms. I know a Maguire family who are very entrepreneurial and enterprising. The mum sat on Cavan County Council with me and two of the brothers run a business in the felling and transporting of timber. I imagine the family will be known to Senator Carrigy. On the Cavan-Leitrim border, where one might say 20 jobs are the equivalent of 120 jobs in Dublin, their business provides in the region of 20 jobs. That is repeated throughout the country, so we have to address it.

I welcome the legislation and will support it. It is really important that we try to get our forestry industry functioning so we can fell and plant trees, yet we have to have a robust ap-

peals system. The two aspects are not mutually exclusive. I urge the Minister of State to try to develop a cohesive, regionally based, worked out policy for forestry so that it is not concentrated in any one county or any set of parishes but rather is spread in a reasonable fashion. She should consider seriously what I say about incentivising farmers to plant what they are not using. The Government would meet all its forestry targets at once, apart from the developing of commercial forestry. Coillte is doing tremendous work near my home at the Castle Lake area of Bailieborough and the demesne there. It is doing great work with nature walks and so on. I commend all that.

The Bill is good and is a great start. I am very optimistic about what the Minister of State will do in this sphere. She has indicated today that she means business.

**An Cathaoirleach:** Before I call on the Minister of State to conclude, I join the Leas-Chathaoirleach and other colleagues in congratulating her on her appointment. As one of only five Senators to have been appointed a Minister of State or Minister, and as the first female Senator to do so, on our first day back in the Seanad Chamber since the election of the Twenty-sixth Seanad it is appropriate that she, as one of our colleagues, is addressing us. I ask her now to conclude Second Stage.

**Minister of State at the Department of Agriculture, Food and the Marine (Senator Pippa Hackett):** I thank the Cathaoirleach, the Leas-Chathaoirleach and all my fellow Senators for their contributions. I welcome the fact there has been a great deal of engagement from the House on this, which is very useful to me.

I reiterate that the purpose of amending the existing legislation is to improve the functioning of the forestry appeals system so that it will meet the needs of all the stakeholders involved. They range from appellants to foresters, and the whole way through. The proposals in the Bill will provide citizens with a full and open opportunity to make their views on forestry projects known to an independent and adequately resourced forestry appeals committee. I also believe these changes mean that timely decisions on such appeals by the FAC, which these changes aim to facilitate, will be a fair and just response to applicants and interested third parties.

I note the support I have received in the House for the Bill and thank the Senators who have spoken to that. I also appreciate there are concerns about the Bill. I am appreciative of those who have engaged with its details. On balance, in taking account of the public consultation exercise, I believe I have presented a Bill that reflects the majority support expressed but also expresses the main reservations submitted in the consultation.

I remind Senators Ahearn, Keogan and Carrigy that this is about job losses. This is urgent and that is what is driving the urgency of the Bill. In an ideal world we would fix the forestry programme, that would have a knock-on effect and we would have a process where nothing is appealed but unfortunately we are not in an ideal world. I have inherited this problem, which has escalated to the extent that jobs are on the line. I am not willing to gamble with those jobs by delaying the process. While I appreciate the concerns about the haste of the legislation, it is emergency legislation, in essence. It is a gamble I am not willing to take. However, I will listen to and read any amendments.

Senator Mullen raised the important issue of the attraction of spruce to farmers as a crop. If we want to diversify the type of tree we grow, we must address that. The next stage will be to see how we can encourage more diverse plantations, more diverse species and more continuous

cover.

I welcome the acknowledgement of the public consultation. It was valuable and really well subscribed to, despite the timing and its short nature. It is not usual to put legislation to the public at an early stage. I understand the frustration that the submissions are not yet available. It takes time to redact email addresses from 8,000 or 9,000 submissions. The process is ongoing and they will be available as soon as possible. Once the submissions came in, the attention was on their content. Senators were issued, albeit quite late, with a report on the submissions this morning. I hope that has helped somewhat.

I hope I have addressed concerns about the speed of the legislation. People have raised concerns about fees. The payment of a fee is a long-standing requirement for other appeals boards such as An Bord Pleanála and the Aquaculture Licences Appeals Board. The intent is not to make it prohibitive. The fees will help in a small way to offset the cost of conducting the appeal. The appeals to the FAC are costing around €1,000 per appeal, which is quite costly. Taxpayers are paying for that now. The fee would only go towards a small portion of that.

On the nature of the appeals, until we opened the consultation up to July, approximately 30% of Coillte licences were appealed, for example. Between the opening of the consultation and the end of August, 100% of Coillte licences were appealed. That has increased the pressure on the FAC exponentially. With greater pressure on the committee, the legislation is now more badly needed. The implications of the forestry sector do not end, as many Senators highlighted, with the sawmills. There are knock-on effects. There is the plywood. There is the pallet-making. The pallet sector in Ireland is considerable and it has knock-on effects. For example, the personal protection equipment, PPE, that comes into the country or that we move around the country will be on a pallet. That wooden pallet is made. In fairness, if it is imported, it has come from somewhere else. However, we generate a great deal of pallet wood and it is vital across sectors, such as the food and drink sector. Pallets are everywhere. Anywhere there is a warehouse, anything in it is on a wooden pallet. That sector is importing wood now to make pallets. That is such an obvious issue that affects the whole supply chain. The reach of timber product in Ireland is far and wide. It is coming into sharp reality now. I am even wondering where a bit of plywood has come from or what have I got in my shed, is it Irish, etc. It is good to be aware of how important that sector is.

I do not want to dismiss the concerns about this Bill because they are completely valid. In fact, wider points were raised about forestry in general in the country and I would agree wholeheartedly with most of those. We need a different way to do forestry in this country. Senator Higgins referenced the Green Party's close-to-nature forestry motion which received cross-party support in the Dáil last year. In fact, the bulk of that makes up the bulk of the commitments on forestry in the programme for Government. It is ambitious. We got agreement in the programme for Government talks.

This particular piece of legislation was another piece - one part of the commitments made in regard to forestry. It is a programme for Government commitment. It is historic and it is based on legacy, but we are where we are. It would be irresponsible of me to ignore the crisis in the sector but by all means, I want to fix it. If we get this right and we develop a new system of and vision for forestry, we will hopefully get to that stage where we do not have appeals because the model is right and the licensing process is right and meets all the criteria. That is where I want to get to - a system where we do not need a busy appeals committee.

I welcome the engagement, even from those who are disappointed with this Bill, to engage further afterwards in developing a new policy for forestry. Senator Boyhan commented on the nature of Green Party members and councillors making submissions. As a party, we are fine with that. From a party perspective, we encourage that diversity in our party. It helps us come to better decisions. Neither I nor any of my Green Party colleagues have an issue with that. As I said, the priority was to examine those submissions. That, unfortunately, is why the submissions are not all up on a website to look at.

There were questions asked and I have made a note of them. I will get back with specific answers to those questions. I am afraid my notes are all over the shop here. All of this is new.

I thank the House for the engagement. I believe that this Bill will strengthen the forestry sector and the importance of that sector has to be appreciated. However, forestry can do more for our country. We are way behind on the levels. We have only 11% of our land in forestry. It is a pittance compared with most European countries and when one visits European countries, one is not necessarily crowded by trees. There is plenty of space. We have plenty of land to do it on. We should focus on those environmental and community needs.

We have much to learn but we can have these conversations with people and learn from them. That needs to inform us moving forward. I look forward to doing that and to the Senators' engagement on it.

Question put and declared carried.

**An Cathaoirleach:** When is it proposed to take Committee Stage?

**Senator Pippa Hackett:** Next Friday.

Committee Stage ordered for Friday, 25 September 2020.

*Sitting suspended at 5 p.m. and resumed at 5.30 p.m.*

## **Withdrawal Agreement Between the United Kingdom and the European Union: Motion**

**Senator Lisa Chambers:** I move:

That Seanad Éireann:

agrees that:

- the Withdrawal Agreement between the United Kingdom and the European Union entered into force on 1st February, 2020 and has legal effects under international law;

- as of that date, no party to the Agreement can unilaterally change, clarify, amend, interpret or disapply it anymore;

- the Northern Ireland Protocol forms an integral part of the Withdrawal Agreement, even though the relevant substantive provisions are only applicable from 1st January, 2021;

23 September 2020

- the full implementation of the Withdrawal Agreement, and therefore of the Protocol on Ireland and Northern Ireland, is a legal obligation under international law;

- violating the terms of the Withdrawal Agreement would break international law, undermine trust and put at risk the ongoing future relationship negotiations;

notes with concern that:

- comments by the Secretary of State for Northern Ireland on 8th September, 2020, that the United Kingdom Government intends to ‘break international law in a specific and limited way’;

further notes that the Internal Market Bill published by the United Kingdom Government on 9th September, 2020:

- explicitly allows (in section 45) certain provisions of that Bill to have effect even if inconsistent or incompatible with the Withdrawal Agreement, notably the Protocol on Ireland and Northern Ireland (‘The Protocol’) and European Union law made applicable by the Withdrawal Agreement;

- allows the United Kingdom Government (in section 43) to adopt regulations disappling or modifying certain provisions of the Protocol, including by providing that those shall not be interpreted in accordance with European Union law or the case-law of the Court of Justice;

- permits (in section 43) to abolish domestic remedies and enforcement procedures in connection with rights under the Protocol;

- declares (in section 45) any relevant international law as irrelevant for the lawfulness for the sections regarding the Protocol and gives priority to this Bill over inconsistent or incompatible international law obligations;

welcomes:

- the statement by the Speaker of the US House of Representatives that Brexit cannot be allowed to imperil the Good Friday Agreement, including the stability brought by the invisible and frictionless border between the Irish Republic and Northern Ireland and that the United Kingdom must respect the Northern Ireland Protocol as signed with the European Union to ensure the free flow of goods across the border; and

calls for:

- the United Kingdom Government to withdraw from its Internal Market Bill in the shortest time possible and in any case by the end of the month those provisions that breach the Withdrawal Agreement;

- the full implementation of the Withdrawal Agreement, and therefore of the Protocol on Ireland and Northern Ireland; and

- the European Union to take all appropriate measures to ensure the full implementation of the Withdrawal Agreement.

Brexit is firmly back on the agenda after what may have felt like a break these past few months. The pandemic has forced us to focus elsewhere but time still ticked on and yet another Brexit deadline is looming. Yesterday marked 100 days to Brexit, when the transition period will officially come to an end.

We have been here before, approaching the cliff edge and every time we have managed to avoid going over but right now there is nothing to suggest that we can avoid this fast-approaching deadline and we cannot be complacent. I had hoped the UK Government would have done the sensible thing and extended the transition period by another year to give time for more meaningful negotiations on the future relationship between the EU and the UK, but it was intent from the outset to guillotine its own negotiation, presumably in the hope the additional pressure would work in its favour. This tactic does not appear to have worked for it. I would have thought that the crisis that has gripped the world - not just the UK but across the globe - would have allowed it to think again and give more time to all sides for further negotiations. At the end of the day a deal is the best outcome for all involved. We in Ireland want to see a good deal for the UK because a good deal for it is a good deal for Ireland.

The withdrawal agreement which was negotiated, agreed and adopted jointly by the EU and the UK contains the very important Northern Ireland protocol. The purpose of this protocol is to prevent a hard border on our island and importantly to protect the peace process and the Good Friday Agreement. Such was the difficulty in agreeing the protocol on Northern Ireland and the long and protracted negotiations surrounding it, it could not reasonably or credibly be suggested by those on the UK side that they did not fully understand what they were agreeing to, that they were somehow bounced into agreeing to it or that a different interpretation of what was agreed could be applied. What was agreed at the time was very clear given the amount of time we spent discussing it and both sides were very clear at the time that it was signed.

The withdrawal treaty, including the protocol on Northern Ireland, is binding under international law. Any attempt to unilaterally walk away from that is a breach of international law. Nobody could have foreseen the UK Government bringing forward domestic legislation blatantly designed to breach the withdrawal treaty and break international law. This, even by Brexit standards, is an extraordinary development and one which threatens to undermine the relationship between the EU and the UK, and also the relationship more directly between Ireland and the UK. It also threatens peace on this island and the Good Friday Agreement, which none of us here can countenance or stand for. It is difficult to understand what exactly the UK Government hopes to achieve by these actions or what advantage it thinks it might gain. I cannot see any.

The UK Internal Market Bill, which gives British Ministers the power to override parts of the withdrawal agreement and the Northern Ireland protocol is a complete breach of the withdrawal agreement they signed up to. It is a breach of international law and must be withdrawn in its current form. This is what the Fianna Fáil motion calls for today. We are under no illusion and know that we in Seanad Éireann have no way of forcing the hand of the UK Government. We cannot stop it from passing this legislation. I note the Bill has passed the most recent Stage in the House of Commons without a single amendment from the Opposition, despite the best attempts of many MPs to make changes to the Bill. We know that this motion is only about putting it on the record and hoping that it may fall on the ears of somebody who can do something about it.

I find it remarkable that the Secretary of State for Northern Ireland has been quoted as say-

23 September 2020

ing that the Internal Market Bill does “break international law in a very specific and limited way”. It is extraordinary that a British cabinet Minister has said the Government of which he is a member is going to break the law. The UK Government also seems to be attempting to spin that the withdrawal agreement was subject to the condition of a future agreement being reached. This is an absolute fabrication and utterly untrue. As the UK Government knows well, it is designed to operate in all circumstances, including in the absence of an agreement on the future relationship between the EU and the UK.

Following the publication of the UK’s Internal Market Bill on 9 September, the Taoiseach raised Ireland’s grave concern regarding the Bill directly with the UK Prime Minister, Mr. Johnson, on that same day. The following day, on 10 September, Ireland also took part in an extraordinary meeting of the EU-UK joint committee on the implementation of the withdrawal agreement at senior official level as part of the EU delegation. This meeting was also attended by representatives of the Northern Ireland Executive. At this meeting, the EU and Ireland made clear to the UK Government our very serious concerns about the UK’s Internal Market Bill. European Commission Vice-President, Mr. Maroš Šefčovič, stated after the joint committee meeting that if the Bill were to be adopted, it would constitute an “extremely serious violation of the withdrawal agreement and of international law”.

Right across the European Union and beyond, pressure is mounting on the UK Government to pull back from what it is doing. The UK Government is under no illusion as to the seriousness of its proposed actions and the impediment it may present in negotiating a future trading agreement between the UK and the EU.

What is at stake here for Ireland is extremely serious. The prospect that we may not have a free trade agreement with the UK leaves Ireland in a precarious situation. We know from much research that has been done in this area that even with a free trade agreement, we are looking at GDP being 3.2% to 3.9% lower by 2030 than it would have been without Brexit. That is with a deal in place.

The negative impacts will be strongly felt in those sectors with strong export ties to the UK market, particularly, areas such as agri-food, manufacturing and tourism. The impact will be particularly noticeable in regions with a reliance on these sectors. I think, particularly, of my own region in the west of Ireland where agriculture and tourism are major employers and a major part of our local economy. Further to this, given Ireland’s unique macroeconomic and sectoral exposure to the UK, these impacts would be disproportionate relative to the rest of the EU.

The economic shock of a no-deal Brexit on top the severe economic implications of Covid-19 would be devastating. When we started this process and these negotiations we did not foresee the global pandemic that has hit our country and every country in the world. We are already dealing with the economic fallout of that. On top of that, we are facing into the prospect of a no-deal Brexit or even a weak-deal Brexit because that is what is on the table here. It will be absolutely devastating for our country. There is a limit to what we can borrow and how much we can fend off the eventual impacts of both of those massive shocks happening to our economy at the same time.

It is worth acknowledging and noting that it is the same for the UK. It also finds itself in a situation where it is probably less able to countenance a no-deal Brexit than it was a year ago, again, because of the impact the pandemic has had on its economy. Yet, for some reason, it seems intent on pursuing a policy domestically that threatens the real prospect of any deal tak-

ing place between the EU and the UK. I note there is currently no application for an extension to the transition period. I would, however, hope and plead with the UK to consider allowing more time for the negotiations. More time is always a good thing because going off the cliff together is no place for any country to be. There is still time to pull back from the brink of this and get a deal done. We always hope and show positivity that something can happen.

It is sad to see Great Britain, once considered a great superpower internationally with one of the oldest parliamentary democracies in the world to which many nations have looked for leadership and that has always set the standard in terms of the rule of law and how it operated on the international stage, find its reputation dwindle and become so damaged in such a short space of time by such a small number of people. It really is a sad moment. Any hope we held that it would have pulled back from this is fast dwindling.

I have no doubt that tonight in discussing this motion there will be widespread support across the Chamber and we all agree that the UK needs to pull back from this. I note that the Social Democratic and Labour Party, SDLP, leader, Mr. Colum Eastwood, when he commented on the Bill in the House of Commons, acknowledged, obviously, that the Government conceded one change. It was not an Opposition request, but a change from the Government that a parliamentary lock would be in place to stop the UK breaking international law and that it could only happen with the assent of Parliament. Mr. Eastwood started by saying the Bill itself was unfixable and amendments would not fix it. He went on to say:

Only last week this House voted in full knowledge to allow this Government to break international law. It has voted down every single attempt to prevent this Government from breaking international law, so Opposition Members will be very cautious about waiting around for this Government to check back with this Parliament as to whether or not they are going to break international law.

Mr. Eastwood issued that caution right across the Parliament. He was asking how anyone could trust that the lock would be adhered to or respected, given that the UK Government is not currently holding any respect for the withdrawal agreement that it negotiated just a year ago. I also take on board the comments of the Minister, Deputy Coveney, that the parliamentary lock is not sufficient and does not ease the concerns of the Irish Government or the Irish people.

I am warmed and heartened to hear the comments from across the water. Speaker of the House, Nancy Pelosi, clearly stated that if the UK Government does anything to undermine the Good Friday Agreement or breach the withdrawal agreement in such a way as to undermine peace on this island, there will be no agreement from the US Congress to a US-UK trade deal. The same sentiment has been echoed by potential future US President, Joe Biden. It is encouraging to see that the Irish lobby in Washington is strong, that our connections with the US are strong, and that we have friends in the US who are willing to back us publicly and tell the UK strongly that if it breaches international law, threatens peace on this island and looks to undermine the Good Friday Agreement, pressure will be put on it not only by Ireland and the European Union but also by the United States. That is welcome.

A strong message must go from this House that we will not accept any attempt to unilaterally walk away from the withdrawal agreement and the protocol on Northern Ireland. Those negotiations were entered into in good faith. Both sides made concessions and nobody walked away from that negotiation getting everything they wanted. An agreement was reached and signed off on and everybody who signed off on it knew what they were agreeing to at the time.

23 September 2020

I plead with and ask the UK to pull back from the Internal Market Bill and not to pass domestic legislation that would breach international law. It is bad for Ireland but it is also bad for the UK and it would be extremely damaging to an already very damaged reputation.

**An Cathaoirleach:** I thank the Senator. I call on Senators Murphy and McGreehan to second the motion. They have eight minutes to contribute and I believe they want to take four minutes each. Is that agreed? Agreed.

**Senator Erin McGreehan:** I am glad to have an opportunity to speak on the first Private Members' motion of the sitting of the Seanad. Senators will all agree that it is timely. Brexit has unfortunately been a word that has haunted us Border and northern people for years now. We have been tortured by the what-ifs. What if there is a hard border? What will be the consequences and what will happen? After years of talk and discussion, of books written, lawyers paid, Prime Ministers sacked and new Governments put in place, we still have those questions.

One of the many things that is hard to take as an independent country is that, after 100 years away from British rule, we are again at the liberty of decisions made in the House of Commons. As someone who, like many other Members of this House, has lived with the consequences of political decisions made in Westminster, it is hard to take. The debate over a hard border, soft border or no border is not an academic study or strange concept, it is our reality. For too long, the flippant decisions of Westminster have had a negative impact on our day-to-day lives. We believed we had a deal, that Brexit was done, oven-ready. Then this bombshell dropped when the Internal Market Bill was published. It is like a bad drama. We found out that the provisions of the Bill will erode and disregard the protocol on Northern Ireland.

In responding to a question in the House of Commons on 8 September about the rule of law and potential breach of international obligations, Brandon Lewis, the Secretary of State for Northern Ireland, stated that the Bill breaks international law "in a very specific and limited way". This is absolutely shocking in the sense that the UK is admitting to bad faith towards Ireland, although it is not shocking that it has that attitude. It is a clear breach of law and good faith and discredits the UK in the eyes of the world. The UK wrote the Magna Carta, the basis of which is that everyone is subject to the law and is seen as the first step towards parliamentary democracy. To publicly and proudly renege on an international treaty is truly damning.

Thankfully, over the past weeks, we have had real solidarity with our European partners and across the Atlantic in America. Our partners are standing up on our behalf and clearly stating that they support our island and that any acts that put the Good Friday Agreement in jeopardy are not acceptable. This is a relief but, unfortunately, it does not solve anything. This support did not come by accident. It is down to 100 years of diplomacy and building relationships. To put it in context, our Government travelled to France in 1919 in order to have Ireland recognised among the nations of the world after the First World War. This attempt to gain recognition of our independence by way of appeal at the Paris Peace Conference in Versailles is one of the many neglected aspects of our history. We had asked Europe and America to respect us and regard us as an independent people but, owing to the British influence at the time, they ignored us. Therefore, we went it alone and succeeded in achieving partial independence. After 100 years of diplomacy and building good relationships through our exemplary permanent diplomatic staff and leadership, mostly under Fianna Fáil-led Governments, we are now thankfully reaping the rewards of these acts. Europe and America are standing up for us. They did not do so in 1919.

As already stated, however, support does not solve anything. We are walking on a tightrope. What is happening has the potential to bring us back 30 years to relive the horrors of our dark past. We have 99 days until the end of the transition period but, more importantly, we have five weeks until the end of October. This is the real deadline. Mr. Michel Barnier believes a deal is not impossible but not looking good. He notes that a unilateral breach of the withdrawal agreement has damaged trust and that if the British continue with sections of the United Kingdom Internal Market Bill, the European Parliament will not ratify any agreement on future trade deals with the United Kingdom.

If there is no deal, there will be more control and tariffs. All products entering the Single Market must be checked from 1 January onwards and could be coming into Northern Ireland from anywhere in the world. We, as a member state, have a responsibility to enforce EU law and respect the integrity of the Single Market. I ask the UK Government to implement the withdrawal agreement in full and enact the legislation that is within the laws it helped to draft and on the basis of which it won an election. I ask it to take out the illegal parts of the United Kingdom Internal Market Bill so all the proud people on this island can, with the full implementation of the protocol, breathe a sigh of relief.

**Senator Eugene Murphy:** I join Senator McGreehan in seconding the motion. I am delighted to see the Minister present. We all agree he is very strong on this and represents us well. I am very confident in him, the Taoiseach and others. With the respect we have in Europe, we will win this battle.

In a very short space of time, the UK will be outside the EU Single Market and the customs union. Regardless of the outcome of the future relationship negotiations, the provisions of the withdrawal agreement and the protocol on Ireland and Northern Ireland will apply. This protects the peace process and avoids a hard border on the island of Ireland while preserving the integrity of the EU customs union and Single Market and Ireland's place therein. Under the protocol, the Union customs codes and the other provisions necessary to preserve the integrity of the Single Market will continue to apply to and in Northern Ireland. This ensures that Northern Ireland also will have free and open access to the EU Single Market. The United Kingdom Internal Market Bill, which gives British Ministers the power to override parts of the withdrawal agreement and the Northern Ireland protocol that was agreed to avoid having a hard border across the island of Ireland last year, is a complete breach of the withdrawal agreement and international law. It must be withdrawn in its current form. That is what this motion calls for today. We will have a unified approach to this across this Chamber. Everything we are doing here is to help the Government and Ireland. This is an appalling set of circumstances for Ireland to be caught in.

Senators Chambers and McGreehan both spoke about what a breach would do to all of this country, particularly places like the west, where I live, the north west and the area along the Border, where agriculture and tourism are so important. We had made so much progress in recent years.

Mr. Michael Gove stated today that Irish trucks would get through the port in Dover but that there could be a two-day delay. We depend on agribusiness and export so much. What will happen to produce if there is such a delay? It is intolerable. What Britain is proposing must not happen. It simply must not happen.

The Minister and the other members of the Government have my full support. We are in this

battle together and I am confident we will win it.

**An Cathaoirleach:** I believe the Minister wants to contribute now. He has 15 minutes, or however long he wants.

**Minister for Foreign Affairs and Trade (Deputy Simon Coveney):** I would normally only intervene after a number of other speeches were made, but I have legislation in the Dáil as well at about 6.20 p.m., so for that reason I am anxious to try to contribute to both debates if I can. There will be a Minister to replace me for the end of this motion.

I am grateful for the opportunity to address the Seanad and to express the Government's strong support for this motion. The solidarity and support of the Oireachtas in recent years has been an important part of addressing Brexit's challenges. Although we may differ occasionally in matters of approach or emphasis, the priorities Ireland has pursued have been supported across both Houses and all parties.

As Members will be aware from the interventions and engagements by members of the Government in recent weeks, we share the concerns outlined in the motion. The British Government's approach to the recently published Internal Market Bill is deeply concerning.

**An Cathaoirleach:** I ask Members to turn off their mobile phones for the Minister's address.

**Deputy Simon Coveney:** It is okay. Clearly, any unilateral departure from the terms of the withdrawal agreement is not acceptable as such a departure could seriously erode and damage political trust in Northern Ireland, if it has not already. It also seriously damages the trust needed to deliver a successful outcome to the future relationship negotiations. The Commission has clearly stated that violating the terms of the existing withdrawal agreement would put at risk the ability to put a new agreement in place. I was particularly concerned at the UK's suggestions that its unilateral approach is designed to protect the Good Friday Agreement. In fact, the protocol itself was specifically designed by both the UK and the EU together to protect the Good Friday Agreement and the achievements of the peace process since then, including avoiding a hard border on this island.

The negotiation of the protocol was lengthy and detailed and it represents a fair and balanced outcome for all parties, with compromises on all sides. It must be implemented in full and in good faith. Clarity and stability are vital for businesses and people in Northern Ireland right now. This can only be achieved through full implementation of the withdrawal agreement that virtually everybody had accepted until a couple of weeks ago. The Taoiseach put these concerns directly to Prime Minister Johnson on the day that the Bill was published. He also discussed these issues with the chief negotiator, Michel Barnier, and with Commission President von der Leyen. We raised the same points during the extraordinary meeting on the implementation of the withdrawal agreement, which met on Thursday, 10 September. At that meeting, Commission Vice-President Šefčovič urged the British Government to remove the problematic measures from the Bill by the end of this month.

I attended the General Affairs Council in Brussels yesterday where the state of play on Brexit was discussed. I also met bilaterally with both Michel Barnier and Maroš Šefčovič. We agreed that our collective focus should continue to be on achieving a successful conclusion to the future relationship negotiations and on continued engagement through the mechanisms provided for under the withdrawal agreement to resolve outstanding issues. I had a range of other

meetings and contacts relating to these issues while in Brussels, including with Vice-President Šefčovič, whom Members are aware is the Co-Chair of the EU-UK joint committee, which is specifically responsible for the implementation of the withdrawal agreement and the Northern Ireland protocol, not its renegotiation. We remain in close contact with all of our EU colleagues.

As Members of this House will be aware, we have urged the British Government to step back from its deeply concerning approach and to work now both to repair the trust that has been damaged and to implement the withdrawal agreement and protocol successfully and faithfully. A positive resolution to this issue is in everybody's interests.

It is worth reflecting on where we are at this point in the negotiations. The withdrawal agreement, of which the protocol on Ireland and Northern Ireland is an integral part, was agreed by the EU and the UK in October of last year. It was approved by the Heads of all EU governments and received the assent of the European Parliament. It was signed and ratified by the UK Government. Legislation implementing it was passed by the UK Parliament at the beginning of this year.

The withdrawal agreement is a legally binding international agreement between the EU and the UK and it is not even 12 months old. From the beginning, Ireland's approach has been guided by the principle of securing a deal that worked for Northern Ireland and for the island as a whole. The protocol includes provisions that avoid a hard border on the island of Ireland, that recognise the common travel area, protect continued North-South co-operation and protect the integrity of the Single Market and Ireland's place in it. It maintains commitments to ensure no diminution of rights, safeguards and equality of opportunity as set out in the Good Friday Agreement. It maintains the single electricity market and reaffirms the commitment of the EU and the UK to the PEACE PLUS programme. Let me be very clear. The protocol agreed as part of the withdrawal agreement is designed and empowered to operate in all circumstances, including in the absence of an agreement on a future relationship between the EU and the UK. Some people seem to misread that point. As I said earlier, the protocol is specifically designed to protect the Good Friday Agreement and the achievements of the peace process since then. The withdrawal agreement affirms in black and white the constitutional status of Northern Ireland as set out in the Good Friday Agreement. This is set out in the very first article of the protocol. The Internal Market Bill, if it were implemented in its current form, would undermine the certainty and stability that is so vital to protecting the Good Friday Agreement. Injecting uncertainty and confusion at this point of the process is not acceptable.

In looking at the current phase or political discussions, it is also important not to lose sight of the bigger picture. The EU and UK have been working closely together over recent years to try to agree a broad and comprehensive future partnership agreement. Eight formal negotiating rounds have now taken place. Unfortunately, nowhere near sufficient progress has been made. Significant gaps still remain on key issues, in particular on the level playing field, governance to ensure that any future agreement will be enforced and disputes can be resolved in an appropriate way, and of course an agreement on fisheries, which we all know is a very difficult thing to achieve. These fundamental issues must be addressed to secure an overall agreement. As set out in the political declaration agreed in October of last year, the EU-UK future relationship must encompass "robust commitments to prevent distortions of trade and unfair competitive advantages." We want to see this commitment followed through on. The next negotiating round will begin next week, on 28 September. Time is short, but we should not forget that it is in everyone's interests for a deal to be reached. Any deal must respect the EU's long-term, core

economic interests. Michel Barnier and his team have done enormous work representing the interests of all member states, including Ireland. They have our full support as we enter into this next crucial stage. As the motion states, the full implementation of the protocol is a legal obligation for both the EU and the UK. I would stress that this obligation sits separate from the ongoing negotiations and must be honoured regardless of their outcome.

I also want to take this opportunity to update the House on the Government's readiness work for the end of the transition period. Given the limited progress in these negotiations to date, the Government is now taking forward our readiness work on the basis of two possible scenarios. The first is that of a limited free trade agreement, FTA, with a fisheries agreement and on the basis of a level playing field. The second is a hard Brexit, with the EU and UK trading on WTO terms from 1 January. We continue to support the closest possible future relationship between the EU and the UK. However, it is prudent to plan on the basis of these two scenarios to ensure we are ready for the end of the transition period at the end of this year. Regardless of the outcome of the EU-UK negotiations, a number of outcomes are already very clear, the most significant of which is that in less than 15 weeks the UK will be outside the EU Single Market and customs union. This means that any business that moves goods from, to or through Great Britain will be subject to a range of customs formalities, sanitary and phytosanitary, SPS, checks and other regulatory requirements that do not apply to such trade today. Failure to engage with and implement these rules will prevent businesses from trading with Great Britain.

It could lead to significant delays in moving goods to, from or through Great Britain from 1 January next. I urge Members of the House to take every available opportunity to reinforce to stakeholders, particularly in the business community, the urgency of preparing for the end of the transition period.

To this end, I draw the attention of Members to the Government's updated Brexit readiness action plan published on 9 September last and to the associated Government supports, which are significant. The action plan is being accompanied by a major national communications campaign. It includes a nationwide communications campaign and outreach by a number of Ministers to stakeholders in the weeks ahead. Work is also under way on drafting the 2020 Brexit omnibus Bill, and I expect it to be brought before the Houses later in the autumn. Some Members will remember only too well dealing with the last Brexit omnibus Bill which, effectively, was legislating to ensure we could do all we could domestically to protect Ireland from a no-deal Brexit as the situation was then. It is now about protecting Ireland from a no-trade-deal Brexit.

With 99 days to go until the end of the transition period, it is essential that we redouble our Brexit readiness efforts for the substantial and lasting change that will occur on 1 January next, regardless of the outcome of these negotiations. We are at a crucial juncture in this process and time is growing short. It is in Ireland's interest that we maintain a strong and constructive bilateral relationship with the UK. We want to strengthen this relationship, which is one between neighbours, trading partners and co-guarantors of the Good Friday Agreement. Our bilateral trade with Britain is worth over €1 billion per week and our people-to-people relationships are almost unique. Close co-operation into the future is clearly in the interests of our citizens.

Just as the future shape of the relationship between the UK and the EU will be decided in the coming months, we must continue to develop Ireland's bilateral engagement with the UK outside the EU. We need to develop a new framework for British-Irish engagement for the coming years. We must develop structures for regular meetings at Heads of Government, ministerial

and senior official levels. It will be important to enhance the roles of the British-Irish Council and the British-Irish Intergovernmental Conference. Working through these institutions will help to ensure that our interests are protected and advanced. In this regard, the continued effective operation of the common travel area and the safeguarding of reciprocal rights in social protection, education and healthcare will remain a priority on my agenda. Ongoing contact across Government with the UK on our responses to Covid-19 will continue to be essential over the coming months. We are investing in the British-Irish relationship and specifically our presence in the UK. The Government is committed to opening a new consulate in the north of England, a region linked to Ireland by history and our diaspora, and which offers significant commercial opportunities.

I wish to express again the Government's support of this motion and our appreciation for the solidarity shown by this House throughout the Brexit process so far. This unity of purpose has, in no small way, helped us to respond as robustly as we have to the challenges posed by Brexit thus far. For our part, we will continue to inform the House regularly. I am happy to come to the House at any point to answer questions and to be part of ongoing Brexit discussions as matters develop, as they will in the weeks ahead.

**An Cathaoirleach:** Thank you, Minister, for your work on this issue. I call Senator Craughwell.

**Senator Gerard P. Craughwell:** I wish to share time with Senator Norris.

I welcome the Minister to the House. Ireland is lucky to have the Minister continue in his post-----

**Senator David Norris:** Hear, hear.

**Senator Gerard P. Craughwell:** -----as Minister with responsibility for foreign affairs and defence because we need both now. Undoubtedly, the UK Internal Market Bill is the most controversial legislative measure ever put forward by the UK Government. It can be challenged on many legal, constitutional and political fronts. I fully support the measures outlined in the motion from Fianna Fáil, but we must be realistic as time is of the essence here. As a former member of the Joint Committee on the Implementation of the Good Friday Agreement, I can attest to the commitment of both sides of the community in Northern Ireland to the peace process, but also to the fragility of the peace should the Border be reinstated. I have to put on record my deepest regret that Ian Marshall is not a Member of this House at this time because we needed somebody of his calibre here and I hope the Minister finds a role for him in his Department.

Here in the Republic of Ireland, we will be forced to implement a border should this deal go down. The Brits will have no interest in putting a border in place. We will have a Turkey-Greece solution. The Turks do not care how many trucks go across their borders. The Greeks have to protect the Single Market. The same will apply here. While the EU could pursue a number of legal routes to force the UK to comply with the protocol, it may conclude the UK's latest moves pose a threat to the Single Market. If so, the politically sensitive question, one which brings security risks of a border infrastructure on the island of Ireland, will have to be reopened. Once again, Northern Ireland finds itself at the centre of Brexit negotiations and once again it appears it is being used as a political football. I regard what is happening as thuggery. I believe that whoever came up with this idea is playing chicken and it is a very dangerous game. The UK Government's motivation may not be clear but there can be no doubt that breaking

23 September 2020

international law risks serious consequences in Northern Ireland, and if the UK Government wants to protect peace in the region, it should seriously rethink its moves.

I am delighted to see today that my own university, the London School of Economics and Political Science, has warned Boris Johnson that in the event of a no-deal Brexit, they are likely to suffer three times the impact the pandemic will cause in the near future over the long term. I hope Boris Johnson thinks carefully about that.

As a nation, we can use every diplomatic and intergovernmental avenue to limit the effects of the UK decision, and it may be successfully resolved before the year's end. At this point we must immediately start looking at direct routes to Europe. My colleague, Senator Byrne, is present and I am sure he will have something to say about that. We need to develop Rosslare Europort, Waterford and Cork and have direct routes to Europe. The misconception that has existed in this House throughout the previous Government was that the British Government would provide a single carriageway that would allow Irish trucks to drive across Britain unimpeded. Wake up and smell the coffee. We are not dealing with people who are capable of making any such commitment, even if their own population would serve it.

We cannot let a hard border be re-established in this country under any circumstances but if we are forced to do it, let there be no doubt in this House, it is the Irish Government on behalf of the European Union that will have to implement a hard border. The British will have no interest. Why would they care? We will find ourselves in that situation.

This brings me on to the lack of preparedness in this country. Our Naval Service has three of nine ships tied up without enough crew. All of our military are in the southern half of the country and we have closed barracks right across the north. We have no customs post and no trained customs people. We have no Garda Síochána on the Border, and my colleagues from the Border region will speak about that as I know they are more concerned about it than probably anybody else because of the dangers they face. They have lived with smuggling ever since the peace process. When there was no need for guns to be run across the Border, we ran diesel, drugs and anything else one cares to think about. Who will protect our fisheries? Who will look after our seafaring people? When the British navy with all its might will protect their seas, who have we got to protect ours?

I appreciate being given the time and I understand my colleague, Senator Norris, wishes to speak. There is much more I want to say on this but I thank Fianna Fáil for bringing forward this Private Members' motion because it allows us to discuss this in the open and I hope somebody relates to Mr. Cummings, the real Prime Minister of the United Kingdom-----

**Senator David Norris:** Exactly.

**Senator Gerard P. Craughwell:** -----that this is not the way to do things.

**Senator David Norris:** I am very grateful to my colleague, Senator Craughwell, for giving me this opportunity. It would be a good idea if the Government sent a copy of this important debate to the British Government so that it can see the strength of feeling in this country. I feel particularly strongly because my father was English. He was an honourable man. He won the marine VC in the First World War. He got a knighthood in the Second World War for his services. He always said that an Englishman's word is his bond. We also have the French saying, *la perfide Albion*. As a result of this action by the British Government, I am rather inclined to side with the French.

The Secretary of State for Northern Ireland, Mr. Brandon Lewis, said in the House of Commons, “I would say to my hon. Friend that yes, this does break international law”. What an extraordinary thing. What a pity they did not think about this cavalier approach to international agreements in 1914. We could have avoided the First World War if they had done this. We are now confronted with the prospect of the law of the jungle. The lawmakers are becoming themselves the lawbreakers which is a shocking prospect to consider.

Maroš Šefčovič, Vice-President of the European Commission, called for an extraordinary meeting of the EU-UK joint committee and stated that “if the Bill were to be adopted, it would constitute an extremely serious violation of the Withdrawal Agreement and of international law.” What an extraordinary thing to say in Parliament. Five former British Prime Ministers from across the political spectrum have expressed their absolute horror. Yesterday the Northern Ireland Assembly passed a motion objecting to this.

They are trying to place Her Majesty the Queen in an extraordinary position. The UK Prime Minister, Mr. Johnson, tried to get her involved in proroguing Parliament illegally, forcing the Queen to break law. Now he is trying to get her to break international law. I hope to goodness she stands up to him and if the Bill is passed refuses to sign it. It is a most extraordinary thing to have happened.

I express my complete and absolute condemnation of this action by the British Government and call upon it to withdraw its position immediately.

**Senator Joe O'Reilly:** At the outset I welcome my colleague and friend, the Minister of State, Deputy Brophy. I congratulate him on his elevation and wish him well in the Ministry. I know from his radio interviews that he has a very high level of competence, which, no doubt, will reflect itself in this Department also.

One of the great problems in recent months has been that the entire Brexit debate has been overshadowed by the Covid pandemic, which has taken the Brexit issue away from the media. All focus has been on Covid as the source of all ills. Masked within that is the very real Brexit issue. The two together are an absolute horror. It is a real difficulty.

The United Kingdom Internal Market Bill has been well discussed here. It is clearly a breach of international law. It sends a shocking signal to the citizenry of the UK and must undermine faith in democracy and in the rule of law. It is interesting that in places where the UK would expect to find allies, such as in America, it has been condemned outright by American lawmakers, indeed as it had been by British lawmakers. All living former UK Prime Ministers have condemned it, as have the Speaker of the US House of Representatives, Nancy Pelosi, and the putative US President, Mr. Biden. It has not gained acceptance anywhere.

I have no doubt Senator Ó Donnghaile will be very quick to make this point about the peace agreement. Leaving aside anything about trade, money and commerce, the serious thing about the Good Friday Agreement is that we are talking about lives, parity of esteem, and the real lives of people. A hard border in Ireland will be a catalyst for future violence and will set the peace process back enormously. That is a shocking reality. To use the cliché, it is an appalling vista we do not want to contemplate but it would be a dreadful by-product.

I have always had a level of optimism about Brexit on the basis that British self-interest would ultimately prevail, and that whatever clear and open contempt - very sad, though not universal - certain elements of the Tory party might have for the well-being of this island and its

23 September 2020

people, their own self-interest would prevail. Coupled with the pandemic, it threatens the UK economy hugely. The London School of Economics calculates the UK would have to get five times the trade out in the old Commonwealth to compensate for the loss of trade with the mainland of Europe. It is madness from an economic point of view and they have a very challenged economy as it is. I hope that in the remaining 21 days that kind of self-interest will prevail.

We should alert any interest in the UK to that in any way we can. When, as a member of the Council of Europe, we had bilaterals with the UK delegation to get this done on an informal basis, I used to go to great trouble to say to them that their self-interest was at issue as much as ours. It is a point that was not lost on a number of them but, sadly, there are elements there who are ignoring it. If we can yet get a free trade deal and sanity prevails, these issues would be resolved and the stand-off would end. The Internal Market Bill would be an irrelevance at that point. If we could get a no-tariffs trade deal, it would have huge implications.

I addressed the peace element a minute ago and the lives of people, which are of paramount importance, as they are with Covid. Similarly, a hard border has huge implications for the Border region and for agriculture and agriculture-related businesses such as Silver Hill Foods, which have talked about a 40% drop. It would be devastating all across the Border region. It has the capacity even to dislocate businesses like Lakeland Dairies, which is the crucial employer in my own home town. The potential to do devastation is enormous.

In that context I will be saying to our Minister, God forbid that the doomsday scenario would prevail, which is such an insane prospect that eventually some level of sanity will enter and we may at the eleventh hour come back from the brink. If we do not and we have something akin to a hard Brexit or even a partial deal, then we will have to get a serious solidarity package from Europe to keep cohesion in the economies of Europe and keep the Border region and all of this country functioning. I say to the Minister of State there must be preparation to negotiate that and working towards it has to be paramount. Just as we must have Brexit readiness, as the Minister alluded to earlier, we also have to be ready to negotiate and get a solidarity package. It will be necessary that we get such a package to maintain the cohesion of the EU. Otherwise we will become very impoverished, dislocated and have mass unemployment and societal breakdown as a result. We must get such a package should that situation arise.

I was always a believer in the half-full glass rather than the half-empty one. I welcome the motion, which is good and timely, and it is an important debate. I agree with Senator Norris that the Official Report of this debate should be sent to all interested parties in the UK in the hope that it might influence somebody. There is no reason it should not. The debate is good. The motion is excellent and timely and I support it, but I still believe the UK will not allow its economy to be destroyed. Another corollary is the break-up of the union. It would be a shocking irony or paradox that a Tory Prime Minister would supervise that. One has to pray that some level of reason will prevail at the eleventh hour.

**Acting Chairman (Senator Eugene Murphy):** We move now to Sinn Féin. I understand Senator Ó Donnghaile is sharing time with Senator McCallion.

**Senator Niall Ó Donnghaile:** Yes, we will take four minutes each. I thank the Minister of State for representing the Minister here today and I thank the Fianna Fáil Senators for bringing this important motion before us.

We are at a rare moment in the evolving political history of our nation, one which encom-

passes centuries of history, centuries of injustice, centuries of interference in the affairs of our people, centuries of betrayal by British Governments motivated by the most base of instincts, self-interest, which has resulted in a litany of broken promises and broken treaties between the people of this country and the British Government.

Boris Johnson is but the latest occupant of 10 Downing Street to indulge himself in self-serving politics at the expense of the people of Ireland, irrespective of their political allegiance. It matters little to Boris Johnson, and those around him, that his actions are undermining the most important peace treaty that has ever been signed by the representatives of the people of Ireland and the British Government. It matters little to him that peace in our country, which is now a way of life, especially for the people of the North, is threatened by his actions as he systematically, through the Internal Market Bill, strips the withdrawal agreement back to the bone and in doing so endangers the very existence of the Good Friday Agreement. Boris Johnson and his ilk have no sense of the difference the Good Friday Agreement has made to living in the North for me and my generation compared with my parents' and grandparents' generation who lived constantly in fear of the armed forces of the state and their proxies, and the humiliation of being treated as second class citizens in the land of their birth.

Boris Johnson's parade of unchecked power at Westminster has provoked a storm of international criticism, including in the US, the EU and here at home. The response to the motion before the Seanad from Fianna Fáil should reflect the united opposition Boris Johnson is facing in the US, the EU and elsewhere. This Government, the Seanad and the Dáil need to be constantly alert to the deceitful and devious manoeuvres of the British Government when it comes to Irish affairs and act as one in response. As rightly stated earlier this week by Senator Norris, the Assembly in the North passed a similar motion calling for the withdrawal of the Internal Market Bill and adherence to the withdrawal agreement and the Irish protocols.

The British Government has been whittling away at the provisions of the Good Friday Agreement for years while deliberately refusing to fully implement it. The Irish Government must continue to mobilise support in the US and in the EU with vigour and determination. In doing so it will have Sinn Féin's support in the Oireachtas and elsewhere. Nobody can afford to take their eye off the North until the Good Friday Agreement is safe, secure and fully implemented and the Internal Market Bill is binned. We must always remember that there is a way out of all of this. There is a way for the North to get back to the EU. That route is laid out in the Good Friday Agreement, which everyone rightly supports and argues we must defend and protect to the hilt. If that is the case, then we must protect, defend and implement all of the Good Friday Agreement. The agreement did not settle the constitutional question. Rather, it asks us the constitutional question. To pursue this legitimate and democratic pathway off the disastrous Tory Brexit agenda, back into the EU and determining our own future ourselves should never be branded as "divisive". It is the opposite. It is healthy, it is positive and, my God, it has never been more necessary.

**Senator Elisha McCallion:** This Private Members' motion is both timely and absolutely necessary. It is timely because friends of Ireland across the world in America and in Europe are standing behind us, united as one, to try to protect peace in our country. It is necessary because the British Government must feel the pressure of a united front defending the peace process and all of the Good Friday Agreement. It is a united voice in sending a very clear message to the British Government. It is also a very simple message; hands off our Good Friday Agreement. It is time for the British Government to honour its international obligations to all of the people of Ireland, and to Britain, by protecting the peace process and the political changes that have

been brought about by the Good Friday Agreement.

For the past three years, the British Government has pursued a selfish and self-centred approach to its plan to leave the European Union. Ireland, our people and our economies, North and South, are to be the collateral damage of this plan. The British Government must end the uncertainty. It must bin the Internal Market Bill and accept a sensible negotiated departure from the EU as per the withdrawal agreement. Sinn Féin, along with other parties in this Chamber, has fought hard in Europe, in America and across the island to ensure that the withdrawal agreement had at least some protections for Ireland, North and South. Similarly, the Good Friday Agreement was hard-fought for and hard won so any deviation between either of those will have devastating consequences for us all.

This is a time of great hardship for many across the island. People are trying to deal with the so-called new normal and families and workers across the island are having to adjust their lives with huge challenges. The threat of a no-deal scenario or the implementation of the Internal Market Bill is adding phenomenal pressure, unnecessarily so, to Ireland, its people and our businesses. Almost everyone will be affected in this scenario but the people who will be most affected already find themselves at a disadvantage simply because of where they were born. People who live in Border constituencies will, without a doubt, be most impacted in any scenario.

Two weeks ago, the British Government told the world that it intended to break the law. Many were shocked. I was shocked that people were shocked.

**Senator Niall Ó Donnghaile:** Hear, hear.

**Senator Elisha McCallion:** One might ask “Why?”. It is because the British Government has been breaking the law in Ireland for centuries. It should come as no great surprise to anyone in this Chamber that I have very little faith in the British Government acting in good faith for Ireland or its people, North or South. Westminster never has and never will serve in the interests of anyone in Ireland. Conferring powers to the British Secretary of State, which is what is being proposed in the Internal Market Bill, would be a disaster for Ireland and its people. It diverts significantly from the Good Friday Agreement and, in particular, all three strands - 1, 2 and 3. Allowing the British Government to unilaterally remove powers to the devolved institutions in the North is a huge breach of strand 1. There is a very real and strong fear locally that the Bill could potentially undercut local standards and jeopardise the world-class farming and agrifood industry in the North. It also undermines strand 2 and completely undermines North-South co-operation by sidelining North-South co-ordination. The Bill ignores strand 3 of the Good Friday Agreement, which is the obligation of the British Government and the Irish Government to discuss, consult and use their best endeavours to reach agreement and co-operation on matters of mutual respect.

The Good Friday Agreement and the withdrawal agreement are international treaties that not only must be maintained but protected to prevent a hard border across this island, protect our all-island economy and the integrity of the devolved settlement and, ultimately, our peace process.

**Senator Mark Wall:** I welcome the Minister of State to the Chamber. I also thank the Oireachtas Library and Research Service, which has given us an update on and very informative assistance with this motion. I thank the Fianna Fáil Senators for proposing the motion. We

in the Labour Party will support it at what is a very difficult time, but we feel we need to address a number of other important points, which I will outline later.

The simple facts are the outright failure of the British Prime Minister to uphold the withdrawal agreement he signed on behalf of the British people and the disingenuous, utterly dishonest and fundamental breach of faith on the part of the British Government. Boris Johnson wants to tear up this deal and replace it with his Internal Market Bill. There is no doubt in my mind or the minds of many people watching this unfold that the British Prime Minister is simply hoping and positioning for a no-deal Brexit.

We are all heartened by the support of major political figures in the US for the withdrawal agreement. Democratic presidential candidate Joe Biden, who it is to be hoped will be the next US President, warned that the 1998 peace agreement could not become “a casualty of Brexit”. In a recent tweet I read, he quoted a copy of a letter sent to Boris Johnson by Congressman Richie Neal, chairman of the trade deal-approving House Committee on Ways and Means, and three other prominent US members of Congress with a very similar message. We also welcome recent comment from the Democratic Speaker of the House of Representatives, Nancy Pelosi, who repeated that there would be no US-UK trade deal if the Belfast Agreement were compromised, warning London, “Don’t mess with the Good Friday accords.”

However, the political opposition to the position Boris Johnson has adopted is not confined to the US. The President of the European Commission, Ursula von der Leyen, has said the EU will “never backtrack” on the Brexit withdrawal agreement. In a strong intervention during her state of the Union speech, President von der Leyen told the European Parliament:

[This withdrawal] agreement took three years to negotiate and we worked relentlessly on it. Line by line, word by word.

And together we succeeded. The result guarantees our citizens’ rights, financial interests, the integrity of the Single Market - and crucially [and most importantly] the Good Friday Agreement.

The EU and UK jointly agreed it was the best and only way for ensuring peace on the island of Ireland.

And we will never backtrack on that. This agreement has been ratified by this House and the House of Commons.

Thankfully, she concluded:

It cannot be unilaterally changed, disregarded or dis-applied. This is a matter of law, trust and good faith.

We also heard last week that the appointed finance ministers of Northern Ireland, Scotland and Wales have warned of “collective concerns” over the impact of the UK’s Internal Market Bill on funding for the devolved administrations. They said the Bill allows the UK Government to undertake spending in devolved areas, including for replacement EU funding, without any engagement with the devolved nations and this could have an impact on future consequential funding agreements.

The Internal Market Bill, which passed committee stage in the House of Commons yesterday, gives the UK Government the power to change part of the Brexit withdrawal agreement, a

23 September 2020

move, as colleagues have said, that the Secretary of State for Northern Ireland, Brandon Lewis, said would “break international law”, although, as he stated, in a very specific and limited way. At the last count, five former British Prime Ministers have come out in opposition to the Bill and the road Boris Johnson is trying to take the British people down.

We must do more than agree to condemn the British Prime Minister for attempting to break international law. The Government must not leave our State isolated and ill-prepared for a no-deal Brexit or any version of the international agreement the United Kingdom may want to impose. We are just over three months away from the proposed start date of the withdrawal agreement. Time is against us, and the Government and this country must be prepared.

As some colleagues have said, the Government must invest immediately in direct routes to countries such as Spain, France, Belgium and Holland. The possibility of a no-deal Brexit or a limited trade deal agreement would be catastrophic for Irish exporters and importers and all associated businesses.

Within the Ireland Strategic Investment Fund there is a specific connectivity fund which we should be using now to develop immediately direct sea routes from the island of Ireland to continental Europe. While most of the infrastructure has been built in Dublin, Cork and Rosslare Europort, capacity has not been built or kept up to the same manner. We need additional providers and more vessels to develop new routes, and the Government needs to focus all its energy on developing that vital link now. We cannot wait until the UK land bridge is closed or contemplate the possible or the undoubted delays that will come with a no-deal Brexit or a limited trade deal. Such delays will make conducting business almost impossible. The president of the Irish Road Haulage Association, Eugene Drennan, recently outlined that 150,000 Irish lorries used the landbridge every year. Almost 40% of Irish exports and 13% of imports, in terms of value and volume, pass over this key transit route every year. More than 80% of roll-on roll-off lorries using Irish ports every year go through UK ports, with the remainder going on direct routes to continental Europe. The value of the trade crossing the landbridge was €18 billion in exports and €3 billion in imports in 2016, according to a 2018 report compiled by the Irish Maritime Development Office. Given the pandemic and the need to export Irish manufactured goods and get vital imports in, we can only assume that this figure has increased substantially. We call on the Government to use this Ireland Strategic Investment Fund now. Let us develop these routes and keep Ireland’s trade lines open, rather than adopting a wait-and-see attitude when it could be too late.

We must also look at the consequences of a no-deal Brexit on our position on the edge of Europe, and the important role our Defence Forces, particularly the Naval Service, will have to play in protecting that. I also read the article in the *Irish Examiner* to which another Senator referred and which indicated that because of the continuing manpower crisis in the Naval Service, a number of ships were delayed in putting to sea because of a shortage of specialist crew members. The most recent episode in this regard involved the *LÉ Niamh* and occurred two weeks ago. As an island nation, we cannot have a situation whereby our Naval Service is not able to put its vessels to sea and continue the great work it does in protecting our coastlines and our State.

The Minister must address the continued exit of personnel from the Naval Service. Reports in the same newspaper indicated that more crew members are considering their futures. The importance of the job that our Naval Service means that there must be urgent intervention on the part of the Government. The important and additional work that the Naval Service, and

our Defence Forces in general, will be expected to do in the case of a no-deal Brexit or one that involves a limited trade deal must be urgently considered by the Government. It is simply beyond time that the pay and conditions of the members of our Defence Forces are addressed.

The current line from the British Prime Minister that there was a misunderstanding about the contents of the withdrawal agreement, specifically in the context of state aid, and the need for customs declarations on goods coming in to Northern Ireland, is disingenuous to say the least. When he endorsed the deal, it was explicitly understood that in order to preserve the uniqueness of Northern Ireland and the Good Friday Agreement, goods coming into Northern Ireland would need to be the subject of some form of checks because they are effectively coming into the EU Single Market. There can be no doubt that this is a deliberate ploy by Boris Johnson to collapse the ongoing trade talks in the hope that this unprovoked provocation by the Government he leads will cause the EU to simply walk away.

We support the motion. We all know that a no-deal Brexit or a compromised trade deal will have serious economic implications for the UK and, more importantly, for Ireland. It is not enough for us to just condemn this madness. The Government must prepare to deal with the fallout from the madness of the UK Government and deal with it urgently.

**Acting Chairman (Senator Eugene Murphy):** Go raibh maith agat, a Sheanadóir. I call Senator Black, who has eight minutes.

**Senator Frances Black:** I welcome the motion and I am delighted to be back in the Chamber. We should not be partisan on this issue, and I have said consistently that we need to give credit where it is due. We have strong debates and disagreements in this House, but it is important that we always recognise the huge amount of time and energy that has been put into Brexit, by the Minister, the entire Department of Foreign Affairs and our diplomatic staff. I thank them for that.

I would like to speak on the setting aside of some of the provisions of the withdrawal agreement between the UK and the European Union, and its impact on Irish citizens. A key part of the withdrawal agreement, which is now an international treaty, is the Northern Ireland protocol. The latter is designed to prevent a hard border returning to the island of Ireland. The Internal Market Bill proposed by the UK Government would override that part of the agreement in the context of goods. The full implementation of the agreement and the protocol on Ireland and Northern Ireland is guaranteed under international law. Like my colleague, Senator McCallion, I am amazed at the level of surprise being expressed by politicians here to the effect that Britain is preparing to renege on parts of this agreement. The history of our country should have taught us that agreements entered into with Britain can be unilaterally broken if and when it suits the UK.

On 8 December 2017, the then Taoiseach and current Tánaiste, Deputy Varadkar, assured the people of the North that they would never again be left behind:

To the nationalist people in Northern Ireland, I want to assure you that we have protected your interests throughout these negotiations. Your birth right as Irish citizens, and therefore as EU citizens, will be protected. There will be no hard border on our island. You will never again be left behind by an Irish Government.

I am sure the current Taoiseach, Deputy Micheál Martin, as leader of Fianna Fáil, the Republican Party, would echo those sentiments. Now is the time when the rights of Irish citizens

are being threatened, and we must stand up for them. Let us be honest here today. The solution to avoiding a hard border is the reunification of the island. The Irish Government should be playing a leading role in discussions on shaping a vision for what a new Ireland would look like. We have an obligation to plan and prepare for what a shared Ireland would look like and a Citizens' Assembly could be a way to examine this issue.

The statement by the British Secretary of State that the British Government's intention is to break international law is telling the international community that Britain does not feel obliged to honour its commitments in any treaties. The Bill is currently being considered by MPs before it is expected to go to the House of Lords. Politicians from Sinn Féin, the SDLP and Alliance, alongside their counterparts in Cardiff and Edinburgh, have voiced concern about what they regard as the Bill's encroachment on devolved powers. Niall Murphy, who is the secretary of Ireland's Future, has called for the Bill to be withdrawn on the basis that it undermines the Irish protocol, the Good Friday Agreement and the power-sharing institutions. Britain has become a pariah state and feels unaccountable for its actions. The seriousness of this breach of international law was highlighted when Seamus McAleavey, who is the chief executive of Northern Ireland Council for Voluntary Action, the umbrella body of the north's third sector groups, said his organisation was "extremely concerned" about the potential impact of the United Kingdom Internal Market Bill on the "future peace, stability, and economic well-being of people in Northern Ireland". There can be no questioning again of our right to call for a border poll. The people of the North have the right to be protected by international law.

**Senator Niall Ó Donnghaile:** Hear, hear.

**Senator Frances Black:** Those who continue to label this process divisive and dangerous are simply encouraging the spread of fear and anxiety. It must be remembered that the majority of the people on this island voted in favour of the Good Friday Agreement that brought peace to this island. This was an agreement based on international law. The union with Britain since 1998 is maintained as a result of a commitment to international law and majority consent. Britain is prepared to break international law and the consequences of this are that the Good Friday Agreement and peace on this island are fundamentally undermined.

The Good Friday Agreement provides that Irish reunification is a matter for the people of the island of Ireland. The right of self-determination has been given effect in the Irish Constitution and the Northern Ireland Act 1998. Reunification can be achieved through positive votes in concurrent referendums in both jurisdictions on the island. The votes should follow political and civic planning and preparation. Those eligible to vote in these referendums and everyone affected by the outcome must be clear about the constitutional, political, economic, social and cultural consequences in advance.

I am heartened by this motion, which highlights the importance of all states abiding by international law. However, I am confused by the protestations of some of our leading politicians regarding the breaking of international law when it affects Ireland, but who are quite prepared to ignore breaches of international law when it comes to the rights of the Palestinian people.

**Senator Niall Ó Donnghaile:** Hear, hear.

**Senator Frances Black:** This Government has the ability to stand up for international law by passing the Occupied Territories Bill, which imposes sanctions for breaches of these laws. It is time for consistency and all breaches of law must be condemned. I am confident that the Irish

Government and its EU partners will remain strong in their promise that there will be no hard border on the island of Ireland. The support for the Good Friday Agreement from influential people in the US will also help to ensure Britain honours its obligations under international law. I commend the Minister and his staff on their work on what is probably one of the most serious issues facing this country.

**Senator Vincent P. Martin:** I welcome the Minister of State, Deputy Brophy, and acknowledge the contribution of the Minister earlier. I welcome and acknowledge the solidarity in the Chamber. That solidarity should be a source of strength, not just for people in Ireland but for those throughout the world who value and uphold the rule of law. I also welcome the approach of the Government to date. It has resisted going down the road of Brit-bashing and has instead been resolute and forthright in its response to an extraordinary development whereby a celebrated country of western democracy has decided to welch and renege on an international binding agreement.

The concerns of the House have already been well ventilated in this debate. Reference was made to all living Prime Ministers of the United Kingdom who have put on the record their concerns. I think of those who have left this mortal coil, such as Churchill, Attlee, Wilson, Heath, Callaghan and Margaret Thatcher. Many would consider Thatcher to be no friend of Ireland, but I do not believe she would renege on an international agreement and cause the resulting fallout for so many.

With 99 days left, we should ask ourselves what we can do to try to stay positive. We should reassure ourselves that we have excellent negotiators. The Minister briefed us not so long ago. The Green Party received a briefing from the Department of the Taoiseach last week. The Green Party is foursquare behind this solidarity and we speak with some authority as an all-Ireland party and a European grouping. The Green Party leader in Northern Ireland is part of many in an alliance that are appalled by the attitude of the British Government and the lack of respect for an international treaty. We should reassure ourselves that we should stay positive because we have excellent negotiators. As a House, we should urge the EU, including Michel Barnier, to stand firm. We need the EU now more than ever before. We should continue to emphasise what awaits all of us if the infrastructure of a hard border is restored on the island of Ireland. Not so long ago, the then Taoiseach and current Tánaiste, Deputy Varadkar, reminded his European colleagues of fatalities in the context of customs and the mayhem and potential recipe for criminality that could arise as a result of the unwelcome restoration and reinstallation of a hard border. What else can we do? I commend the Fianna Fáil Party on introducing this motion. We need to try to move this debate forward and look at what we can do. As Senator Norris stated, we will send a transcript of these proceedings to our counterparts in Britain. What can we do in this very tight situation? I appeal to the British people, who are decent and who uphold and respect the rule of law, to appeal to their servants, namely, their parliamentarians. They are the masters. The first stage has not gone well, but the House of Lords still has to debate the Internal Market Bill. There is a long way to go. I appeal to parliamentarians in the House of Commons and the House of Lords to desist and think twice before they play with fire. What else can we do? We should urge our very strong lobby in the US to hold firm and they have done that at this time.

Finally, we must remain strong because permanent damage will be done. We must repeatedly warn people about the potential to reverse the hard won peace, that the peace process is an ongoing project and that it would be so wrong to take the peace process for granted. I was born and reared in a Border town so I saw division every day from my early days. There was

disruption at school sports events when school buses travelled north to play a team in the province of Ulster that was only a few miles away. I am acutely aware of the situation, as is Senator O'Reilly from Cavan. Although I am long since happily ensconced in Kildare, I have a very serious concern about how that hard won peace could be jeopardised. If this is game playing then it is so tasteless. Certain people have done permanent damage to their reputations if they are playing poker and this is all part of ratcheting things up. It is disgraceful behaviour by our neighbour, a country that is purportedly respected and celebrated throughout the world for upholding democracy and the rule of law, with the exception in the North of Ireland. America has its problems but its population might correct them if there is a certain outcome in the presidential election in November. There will be far more serious problems for Great Britain if Brexit comes to pass and that does not bear thinking about. Even though it was hard I have outlined some positive steps, attitudes and stances that we can adopt in Ireland.

It is very late so perhaps it is about time that we faced the harsh reality. People do not want to talk about the issue and do not wish to countenance it but we have to accept and recognise a doomsday scenario where we will have, if things pan out in a way that no one wants and it will be no fault of ours, a Border infrastructure. Make no mistake about it, the Republic of Ireland will be pushed into being a rogue state within the EU if one has a seamless unregulated frontier of the EU, and we are the way in. With a Border structure one might play it quiet and hold back for a few months but that is the harsh reality of our celebrated membership of the EU. It is a membership that no greater man than John Hume spoke about as being the key to peace on the island of Ireland, as the key to peace around the world, when he reminded Irish people that life is not orange or green and we live in a country called Europe. His words were liberating and people could see the bigger picture. The EU played a crucial part in the negotiations, as did the US lobby.

In conclusion, I want to acknowledge, on behalf of the Green Party, how pleased we are to be part of this unified approach. I know that the unified approach, in respect of the pandemic  
*7 o'clock* has fragmented in recent weeks, which is unfortunate. No one is playing politics with the issue as it is so serious. I urge people, as I know they will, to stand firm as a country and as a body politic. We will do our best and fight to the very end to make sure that a doomsday scenario does not happen on the island of Ireland.

**Acting Chairman (Senator Eugene Murphy):** Buíochas leis an Seanadóir Martin. Anois tá Malcolm Byrne againn ó Fhianna Fáil agus tá ocht nóiméad aige.

**Senator Malcolm Byrne:** I thank the Acting Chairman for the allocation of time to discuss this very important motion. As Senator O'Reilly said earlier, but for Covid this issue would be the biggest issue for us to debate. It is essential that Brexit remains to the fore and that is why we have brought it forward, as a group, here this evening.

The cross-party support for the motion is welcome.

We should also be heartened by the level of support we have received from our European partners and this has been referred to by a number of speakers. The President of the Commission, Ursula von der Leyen, very specifically mentioned solidarity with Ireland in her state of the union address. We could not have wished for a better friend than Michel Barnier during the negotiations. Guy Verhofstadt has made clear that the European Parliament will not ratify a trade deal that breaches international law and fails to recognise and honour the Good Friday Agreement. People have made reference to the fact that in the United States, Republicans and

Democrats have come behind this and said that if there is an effort to undermine the Good Friday Agreement, which is also seen as partially a success of US support, it will not be supported in the United States. It is appropriate that the Minister of State thanks the officials at the Department of Foreign Affairs, including the Minister, Deputy Coveney. Over the years, the officials have used Ireland's soft power and diplomacy. People criticise the St. Patrick's Day trips but this shows Ireland's soft power in the circumstances.

Mention has been made of the late John Hume and we have also had his vision throughout. He saw the importance of Europe and the United States to Ireland and how we should be able to look at solving the problem in the relationships on these islands in a global context. He was the one who recognised the importance of Ireland's place on the international stage in trying to address many of these problems.

Senators Norris and Joe O'Reilly recommended that we send the transcript from this debate to the House of Commons and interested parties. I also encourage the House to consider that we might send it to the likes of the *Daily Mail* and the *Daily Express* because these are publications that have become so inaccurate in their coverage of Irish and European affairs that they have almost become parodies of themselves. The message needs to go from the House that there is unity on Ireland's membership of the EU and how annoyed we are about the British Government breaking international law. The poor quality of journalism by these rags needs to be placed in contrast with what has been the mostly excellent journalism on the part of Irish journalists covering European affairs. I am thinking of the likes of John Downing, Pat Leahy and the irrepressible Tony Connelly. We are very fortunate that we have balanced and excellent coverage here. The debate in the UK has been poisoned by the poor quality of journalism and the polarisation that is evident in the media.

A number of colleagues, particularly Senator Wall with regard to the Defence Forces, have already raised some of the issues I wanted to speak about. I would like to deal with the fallout from Brexit in some specific and limited ways. I want to make particular reference to the fact that if we are dealing with a hard Brexit and the landbridge is no longer an option and, believe me, if the type of queues of trucks and other haulage vehicles that we are speaking about come about then the landbridge will not be an option, we really have to prioritise getting more direct shipping routes from Ireland to continental Europe. In this regard, the case of the capacity we need to build at Rosslare, our nearest point now to the rest of the European Union, cannot be underestimated. I would like to hear in his response some indications from the Minister of State as to how we will specifically do this with our ports and particularly Rosslare.

As Senator Martin said, we must look at the challenges we face but we must also look at the positive things we can do to deal with this. We have to look at how we can further build relationships on these islands, particularly between young people. I ask the Minister of State to consider re-establishing the Causeway exchange programme, which was a North-South, east-west exchange programme involving young people. Particularly if the UK pulls out of Erasmus, we need to look at ways for student exchange.

I concur with the language strategy need for higher education links. However, in the context of the UK being out of Europe, we now need a bigger debate around Ireland's future relationship, with that being at the heart of Europe. This was very much shown in the vision of Seán Lemass when he talked about Ireland going into the Community, as it was then, and being central to the decision-making processes and helping shape the future of the Continent. It was shown when Jack Lynch and Patrick Hillery signed the accession document to bring us in.

23 September 2020

I am very proud of the fact that my party, the Minister of State's party, and others have always favoured closer co-operation in Europe. We have had a consistent position of supporting all of this island having membership of the European Union. We believe that continues to be very important. In that debate about Europe, we need to talk about putting forward republican values, Irish values, and values around free and fair trade, around human rights and democracy, something which are not being respected by the UK Government but which are, however, core Irish and European principles, and around solidarity and co-operation. In this motion, we must look not only at the immediate impact of what is happening to our trade and to our Border communities, as has been so eloquently expressed by colleagues, but also at the whole of this island and our future relationship in a post-Brexit Europe.

Again, I thank the Minister, Deputy Coveney, which I am sure the Minister of State will relay to him. He has been performing particularly excellently in his handling of this. When he appeared on "The Andrew Marr Show" on BBC, people thought that when he spoke, he spoke for the whole island. We know that solidarity is felt right across the European Union. We need to come out of this House, and indeed these Houses, tonight to show there is cross-party solidarity, that Ireland and Europe stand united, and that we do not accept a breach of international law.

**Senator Emer Currie:** I welcome the Minister of State. It is good to see him here and it is lovely to be in this Chamber for the first time. I thank the Fianna Fáil Party for proposing the motion.

Breaking the law, bending the truth and acting in bad faith are not words that any modern democracy should want to be associated with, and yet here we are debating the actions of the UK Government doing just that. The withdrawal agreement was signed less than a year ago. Implementation of the provisions of the Internal Market Bill will turn lawmakers into lawbreakers. It will damage the UK's reputation and credibility internationally and bring potential legal action in the European Court of Justice, while potential trading partners and signatories of future agreements may view negotiations under a cloud of suspicion.

These, however, are the UK's concerns, not ours, and they are cold comfort to us right now, we who could be staring down the barrel of a no-deal Brexit or a return to a hard border in a matter of months, to Northerners who fear the end of the *status quo* of a living agreement based on compromise, consent and choice, with reconciliation as both its work and its prize, to be replaced by fears of the past, "what ifs", and "it does not bear thinking about", to Border counties and businesses whose livelihoods depend on the prosperity that comes from peace and all-island economic opportunities. Instead, after four years of uncertainty there is more anxiety, there are more questions and, unfortunately, more ignorance of the fragility of reconciliation in Ireland.

I welcomed the joint television address last night with the First Minister, Ms Arlene Foster, and deputy First Minister, Ms Michelle O'Neill, about the alarming spread of coronavirus in the community. Working together against Covid-19 is imperative right now, especially when the two leaders did not share the same platform for three months. Anyone who is a stakeholder of the Good Friday Agreement must put reconciliation first. When identity politics is played, locally or unilaterally, everyone loses. This is well-rehearsed but it is worth saying again until the penny drops. The Good Friday Agreement is the textbook and the framework for building relationships on these islands after decades of division across communities in the North, North-South and east-west. Brexit utterly undermined and undermines these relationships, but we cannot allow it to undermine the principles of the agreement itself.

Mr. Boris Johnson and Mr. Brandon Lewis claim the UK Internal Market Bill protects all the communities of Northern Ireland. Where did this latest intervention come from? The businesses of the North sought clarity from the joint committee and through the Northern Ireland Affairs Committee, not a collision course with the Northern Ireland protocol. All political parties accepted the withdrawal agreement. Even the First Minister accepted it, despite singular voices in her party who did not. There were no protests by communities or civic groups. We can only speculate as to whether it is buyer's remorse, a trade deal negotiation stunt, an escape route into a hard-deal Brexit, or internal Tory politics that is driving this irresponsible agenda, but we can safely say it is a world apart from that of our community, who never wanted Brexit in the first place. It is not for their benefit and it is not for the benefit of the peace process. Instead, the UK Internal Market Bill has reopened old wounds and brought back old words, exhausted rhetoric and polarised reasoning. Once again, it has pulled apart communities - east and west, green and orange - in Westminster and Stormont. It sets us back when we should be looking forward.

The UK Internal Market Bill also seems to threaten the cornerstone of the Good Friday Agreement institutions, that is, power-sharing. Section 46 of the Bill would provide a mechanism for the UK Government to promote economic development and provide infrastructure, such as transport, roads, schools, health services and housing, according to its own agenda and not that of local communities. This is very unsettling.

**Senator Niall Ó Donnghaile:** Hear, hear.

**Senator Emer Currie:** Whether it is under Sunningdale or the Good Friday Agreement, power sharing is an essential part of reconciliation and building a shared future. Communities work together for communities, solving problems, creating opportunities, building the future and showing that democracy works. After three years of unnecessary deadlock and political impasse, it is vital that these powers be protected.

It is hard not to come to the conclusion that the British Government has anything other than poor regard for commitments to the North. It is undermining the Good Friday Agreement, overriding the withdrawal agreement and renegeing on the Stormont House Agreement, but we must continue to work for a trade deal and all communities and continually commit ourselves to reconciliation. As parliamentarians, it is essential that the institutions of the Good Friday Agreement, in building relationships in the North and South and the east and west be prioritised and resumed. As parliamentarians, we should build awareness by building relationships with our UK and Northern counterparts. I urge this House to advocate for the institutions and the crucial interaction I have described.

Our Government stands in stark contrast with that of the United Kingdom in its preparation with the business community. The Brexit Readiness Action Plan, which the Minister, Deputy Coveney, spoke about, helps businesses to prepare to reduce the impact of Brexit. We must continue to plan for every outcome.

Now is not the time to goad unionists or Conservatives about border polls. Only those who seek to harden positions on all sides would take such a stand. An imminent border poll would be a misstep for anyone committed to true and lasting unification and reconciliation on the island. When identity politics is played, locally or unilaterally, everyone loses. Breaking the law, bending the truth and acting in bad faith are not the actions of a democratic government. Instead, peace, stability, friendship, partnership, joint interests, certainty for our communities

and businesses should be reflected in the words and actions of a responsible government committed to its obligations under law and its responsibility to all of its people.

**Senator Martin Conway:** I came in towards the end of Senator Currie's contribution. It was powerful and very much on the money. This is an appropriate and timely motion. Unfortunately, we are going through the worst pandemic in our lifetime or that of our parents. In terms of the public psyche, the problem is that there will be a loss of understanding of Brexit and of the stark reality of it because people are rightly caught up in managing their lives through this pandemic. However, Brexit is looming and it is most regrettable that the British Government is behaving in an aggressive, unparliamentary manner in its handling of this legislation. It goes against everything we stand for as a Parliament and everything most British politicians stand for. Most British politicians across the board are proud, honourable people who are in politics for the right reasons, that is, to serve their communities and make their country and the world a better place.

There is a cohort within the Conservative Party who do not think like that. They are deluded in the belief that the sun never sets on the British empire and in the attitude that they can negotiate trade deals with everybody and anybody and all of these parties will want to negotiate with the British Government. They may be in for a rude awakening because I do not believe they have the same standing throughout the world that they thought they had a few decades ago. They have certainly eroded any goodwill that may have existed towards them in other countries. The last thing that anybody internationally likes to see is the breach of an international agreement. There are what could be described as international understandings, international protocols and international decency and what is going through the House of Commons flies in the face of international decency and the realm of international law, doing the right thing and honouring one's commitments. In this country it is done by a handshake; internationally by signing agreements. Many of them are willingly and openly admitting that they want to do this, which flies in the face of all the type of behaviour that defines us and past generations and, we would like to think, the generations going forward.

We had in this Chamber a very good Brexit committee, chaired by our former colleague, Deputy Richmond. I am unsure if it is the plan of the House to reinstate this committee but I think it would be a good idea because this Chamber has always prided itself on debating such issues in great detail. We can play our part in the discourse on Brexit by reinstating that committee. With the Cathaoirleach's international contacts, particularly in the United States, we could look at bringing experts from abroad to help us, especially after 1 January, when we move into that new phase.

It would be remiss of me not to welcome my good friend, colleague and Minister of State, Deputy Brophy, who is in the Department of Foreign Affairs. I know he is working extremely hard, has a significant intellect and would be very much on top of his brief, particularly in the area of the diaspora. Deputy Brophy thinks globally, has a business background and is the right man to be in the Department with the Minister, Deputy Coveney, dealing with matters on behalf of the people of this country in what is probably the most difficult time in our international history in terms of trade and business.

**An Cathaoirleach:** I thank the Senator and join him in wishing the Minister of State the best of luck in his portfolio. I know he will do an excellent job. I call Senator Chambers to conclude the motion and she has five minutes.

**Senator Lisa Chambers:** I thank all Members who contributed to the debate. I also thank the Minister, Deputy Coveney, and Minister of State, Deputy Brophy, for being here.

It is clear that the message that will go out from this Chamber is that we are united in our approach to Brexit and the outcome that we believe to be in the best interests of all citizens on this island. It is rare in politics to find an issue that unites all parties. This is one of those issues. There has never been any wavering by any party in this State in terms of that united position. That is our strength. Let us be under no illusion: this is a grave threat to our country, economically and socially. It is a measure that will change the interaction and relationship that we have with our nearest neighbour and closest market in the UK. In fact, it has already changed that interaction and relationship and that is regrettable. The UK has taken a different path and we are on our path.

As mentioned earlier, we are at the heart of Europe. We have always been and will continue to be there. Our path is with Europe, to be a strong voice at the centre of Europe, and to be at the table making decisions. From the UK's perspective, what it has given up is immense. It was one of the strongest and largest member states of the EU. It had a seat at the top table and it was listened to and looked to for leadership from many member states, including Ireland. Many will attest to the fact that very often we used the UK diplomatic service and civil service and we interacted with its Ministers and MPs weekly because they had more resources than we did. We worked together on many issues. They supported us in terms of our position on tax and on many other key issues on which we would not always have seen eye to eye with other member states. We will miss that camaraderie and that relationship, but that exposes the need for more resources around how we conduct our business at an EU level. We are going it alone now, we will no longer have the UK support, but it is okay that we are on a different path. For the first time in a very long time we are on a different path from the UK.

As I said, the UK has given up a lot for the romantic notion of a great empire that it is going to build. I listened to MPs trumpet that the UK had secured a trade deal with Japan, but it has only replaced what it already had. There are many more trade deals that the UK had as a member of the European Union that it now needs to renegotiate. The suggestion that the UK is somehow going to get a better deal on its own than it would have got as a member of the EU trading bloc is farcical but the UK is selling this to its people. When I listen to Boris Johnson making the numerous speeches he makes, backed up by - this is quite obvious and blatant - Dominic Cummings and a small number of people, I do wonder if he ever feels bad for the actions that he has taken as leader of his own country. He has taken steps, in the past year in particular, to make his people poor, damage the reputation of his country, and put himself, his Government and his country on the outskirts of Europe. Why any political leader would do that to his or her own people and country is beyond me. I would not sleep at night if I was at the helm having taken the decisions that he has taken.

Thankfully, we do not have that situation here in Ireland. We have good leadership here. We have a good negotiating team. The Minister, Deputy Coveney, has done a good job, the former Taoiseach did a good job and the current Taoiseach is doing an excellent job. We have a good team. The Department of Foreign Affairs, our civil servants, diplomats and our ambassadors, who very often operate behind the scenes, are doing an amazing job. I welcome the opportunity to say that on the record of the House. The solidarity from the US and across the European Union is testament to our civil servants, ambassadors and staff of the Department of Foreign Affairs. It shows how strong our lobby is and how many friends we have made along the way that we have secured that support globally. Very few nations will enjoy the support

that we have.

We are a small country but we always punch above our weight. I am proud that we always punch above our weight on the international stage. I agree with Senator Byrne that we often scoff at the visits of members of our local authorities, the Dáil and Seanad to the US and across the globe on St. Patrick's Day, but those engagements are important. They are about making friends and connections such that members can pick up the phone to somebody on a first name basis and ask for his or her help on a particular issue. That is why we are in the position we are in today. As a country, we are respected, well liked and well connected. That is a positive place to be. This is a monumental challenge. I fear that we are on the cusp of getting a weak Brexit deal. I do not believe that the UK Government will walk away completely but I think it will sign up to an extremely weak deal that will amount, basically, to a no-deal Brexit. The UK Government will sell that to its own people as if it has won and done a good job. That is fine, and the rag newspapers about which Senator Byrne spoke earlier will sell that message for the UK Government and many UK citizens will not be aware of what has been done to their country in their name. I do not think a proper debate took place in the UK about what Brexit actually meant and what the people were voting for but that is done and in the past. We are where we are now.

What really annoys me, as it does everybody in this House, is that the UK Government is taking direct actions that harm our country and people. It has had no regard for the implications that a no-deal or weak Brexit will have on our citizens. That is regrettable because we are close friends and neighbours. I am sure that every Member of this House has family living in England and *vice versa*. I often feel when I go to England, as I have done on many occasions, that I am not too far from home. There is a connection that is unlike that with any other country. I fear that is changing, which is regrettable, because the UK Government has shown no regard for its closest friends and neighbours here in Ireland. We must make no apology for standing up for our people and country.

Brexit has already happened. There is another message for the UK people in that. The UK Government has sold the message that Brexit has already happened and is done. A lot of people in the UK think it has happened, nothing has changed, that everything is fine and has stayed the same. They will see the changes at the end of the transition period in January when the UK is out of the customs union and Single Market, queues are back at Dover and prices of goods and cars go up.

One thing I would like to put on the record is that I hope that if the UK changes its mind some day and would like to rejoin the European Union, the EU will have its arms open and will tell the UK that it can rejoin on the same terms that applied before it left. The best outcome would be to dispense with Brexit and have the UK back as a member of the EU with all of the agreements that were in place and concessions that had been negotiated over many years of membership still applying. That is our strength. We are not there to get one up on the UK. We do not want to oust or better them, we want a good deal and a good relationship. The best relationship of all would be if the UK remained a member of the Union but, unfortunately, it has made its choice.

I thank every Member of the House who contributed on this motion. I am glad that Seanad Éireann has had an opportunity to debate Brexit because it has been on the back-burner to a certain extent but it is a key issue that we will continue to debate. It is welcome that we had the opportunity to do that at the outset of this term.

Question put and agreed to.

The Seanad adjourned at 7.30 p.m. until 10.30 a.m. on Thursday, 24 September 2020.