



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

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DÁIL ÉIREANN

Dé Céadaoin, 11 Nollaig 2013

Wednesday, 11 December 2013

Chuaigh an Ceann Comhairle i gceannas ar 9.30 a.m.

Paidir.

Prayer.

Ceisteanna - Questions

Priority Questions

An Ceann Comhairle: Before we start, I remind Deputies we have six minutes per question. There are two minutes for the Minister to answer initially and one minute for supplementary questions and answers from the person asking the question and the Minister.

Deputy Seán Ó Feargháil: I will do my best to stick to the time.

An Ceann Comhairle: I do not want to interfere during Question Time.

Defence Forces Equipment

1. **Deputy Seán Ó Feargháil** asked the Minister for Defence his views on recent comments by the representative association for commissioned officers that the strength of the Defence Forces has been reduced as far as it can go, that the Government cannot expect badly needed weaponry and equipment to be funded by savings from further personnel reductions, that the recent incident in Syria where 36 Irish troops serving with the United Nations were shot at and their armoured vehicles hit by sustained gun fire and a landmine underlined the need for the best equipment possible; and if he will make a statement on the matter. [53119/13]

Deputy Seán Ó Feargháil: The question reflects concerns expressed recently at the Representative Association of Commissioned Officers, RACO, conference about the issue of equipping the Defence Forces and assurances the organisation is seeking that the Defence Forces will not see its numbers further reduced to ensure it has the equipment necessary. This arises against a background of the recent serious incident in Syria.

Minister for Defence (Deputy Alan Shatter): In recent years the defence budget, in tandem with all other areas of the public service, has had to bear its share of cuts. However, the

Government's agreement in 2012 to my recommendation to stabilise the strength of the Permanent Defence Force at 9,500 personnel, together with the reorganisation and other reforms, has facilitated the retention of key capability. All elements of defence expenditure were examined for the Comprehensive Review of Expenditure in 2011. In response to these resource constraints, the defence organisation has undertaken further significant reorganisation and reform. These changes will ensure that the Defence Forces organisational structures are configured to maximise required capabilities. The acquisition of new equipment for the Defence Forces remains a focus for me as Minister for Defence and is a matter that is kept under constant review. The budgetary situation, in the context of the current difficult economic situation, will continue to dictate the level of funding available for new equipment, training and upgrades. Decisions will be made accordingly on a strictly prioritised basis with a view to maintaining the capability of all roles assigned by Government to the Defence Forces.

Deputies will be also aware from recent media coverage of the incident involving Irish UNDOF personnel. On 28 November 2013, an Irish patrol, with five armoured personnel carriers, was escorting Philippino personnel to their post in the UNDOF area of operations when they came under small arms fire. Irish troops returned fire. While the patrol was withdrawing, one armoured personnel carrier was hit by an explosion which damaged its rear right wheel. The cause of the explosion was later determined to be a landmine. The patrol withdrew to a defensive location and later successfully returned to UNDOF headquarters in Camp Faouar. During the incident, one member of the Irish patrol suffered a minor back injury. He was treated in hospital in Israel for precautionary tests and returned to duty in Camp Faouar the following day.

While our troops are deployed to the Golan Heights at a time of increased instability, personnel of the Irish Force Mobile Reserve are fully trained and equipped with appropriate force protection assets to undertake their important duties on behalf of the United Nations and remain fully committed to this task. I remain satisfied that the level of resources available to the Defence Forces, including, training, equipment and up to date technology, enables the Defence Forces to carry out its roles both at home and overseas. From a report received from the UN authorities on the ground and from the information available, there is no indication there was a deliberate targeting of the UN on that occasion, contrary to some reports.

Deputy Seán Ó Fearghail: I should add that from a report received from the UN authorities on the ground and from the information available, there is no indication there was a deliberate targeting of the UN on that occasion, contrary to some reports. We welcome these final remarks and we welcome the fact that Irish troops were not targeted. I have accepted the Minister's assertions that he has fixed on the figure of 9,500 personnel. I hope I have not been naïvely supporting the Minister in his assertion that he is determined to maintain these numbers. I was concerned that RACO raised the question about the model used in the past, whereby the sale of barracks was used to fund the equipment of the Defence Forces. Colonel Brian O'Keeffe pointed out during the biennial RACO conference that the force could not continue to cannibalise itself in order to ensure equipment was provided. The organisation's president, Captain Ian Harrington said that some officers based close to the old brigade headquarters in Athlone had based their families in places like Galway and Donegal and found themselves transferred, as a result the Minister's reorganisation, to Dublin. They are suffering real practical and logistical difficulties as a result.

Deputy Alan Shatter: Regarding equipment, it was the policy of the previous Government and the current Government, in the context of the current financial difficulties, that substantial portions of the funding raised from the sale of barracks and other properties held by the Defence

Forces were to be utilised in the provision of resources and equipment to the Defence Forces. The Defence Forces' resources and equipment are particularly good and appropriate to meet all of the various operational requirements that arise at home and abroad. Property can be sold to create value but a point will come when that is not the case. It is a matter I will keep under continual review to ensure we have the funding required from all appropriate and relevant sources. It is correct in the current financial climate to use our resources wisely and carefully. Where we can access funding in a manner that does not impose additional expenditure on taxpayers, we should do so. In the past few days, a Defence Forces property was sold and raised €105,000, substantially in excess of the reserve price of €38,000.

Deputy Seán Ó Feargháil: We may well accept those points. I refer to the impact on members of the Defence Forces arising out of the reorganisation and, in particular, the difficulties for people originally based in Athlone. If someone lives west of the Shannon and north of a line from Longford to Galway, he or she spends 50% of time commuting, according to RACO. Additionally, the organisation says no serving officers in the early stages of their careers can consider settling in these areas. Ultimately, that will not be good for the personnel. Does the Minister accept these concerns in terms of his reorganisation package?

RACO meets biennially but the Minister was not at the conference. The Minister for Defence not attending the RACO conference is a bit like the Minister for Education and Skills not attending the teachers' conferences. Is there a reason the Minister did not attend? Was he detained in his role as Minister for Justice and Equality?

Deputy Alan Shatter: The Deputy knows the answer to the question. If any issue arises about which I need to engage with RACO, I am available to engage with the organisation. I have met them on various occasions. On this occasion, the Minister of State, Deputy Kehoe, attended the conference because it coincided, as the Deputy will be aware, with the publication of the Smithwick report and it was necessary for me to deal with matters relating to that. However, I am fully aware of all the issues of concern to RACO. My officials have engaged with its representatives on various occasions and the Chief of Staff and those working him and his predecessor have done everything to ease the impact on members of the Defence Forces of the reorganisation that is taking place. When there is a reorganisation, it causes disruption and it impacts on the driving times of work of some members.

An Ceann Comhairle: I thank the Minister.

Deputy Alan Shatter: A small number of members of the Defence Forces feel life has been made a little more difficult for them by the reorganisation but it has also made life easier for a considerable number of members in the context of where they are now located.

To conclude-----

An Ceann Comhairle: Yes, please. We have to stay within the time limits.

Deputy Alan Shatter: The relevant authorities within the Defence Forces are doing everything they can to facilitate members arising out of the reorganisation.

White Paper on Defence

2. **Deputy Pádraig Mac Lochlainn** asked the Minister for Defence if he will dispel concerns that the proud tradition of positive neutrality of this State will not be undermined as part of the process of developing the White Paper on Defence. [52920/13]

Deputy Pádraig Mac Lochlainn: Recently a Red C poll revealed that eight of ten respondents favoured the retention of neutrality, which is a proud tradition. The Minister will be aware of concerns at the beginning of the receipt of submissions on the White Paper on Defence. I would like him to take the opportunity to allay those concerns and to reaffirm the principle of neutrality on behalf of the Irish people.

Deputy Alan Shatter: This is an issue the Deputy returns to obsessively. The Green Paper on Defence, which was published earlier this year, initiated a broad consultative process, as the Deputy will be aware, that will inform the development of the next White Paper on Defence. One of the questions posed in the Green Paper was: “How can our policy of military neutrality be dovetailed with increasing requirements for collective security co-operation?” Our policy of military neutrality was formed in an era when interstate conflict was the key issue of national security for most states. The State’s policy of remaining outside military alliances has remained in place ever since. Thankfully, the threat of interstate war in Europe is substantially diminished.

However, there are new and emerging threats in the defence and security environment. The reality is that the world has evolved to such an extent that no country alone can respond adequately to the threats in the defence and security environment. The range of threats set out in the assessment in the Green Paper is comprehensive. Inevitably, there will be threats and challenges that have not yet been anticipated. It is reasonable to assume that complex, interrelated and transnational security challenges will increase into the future. It is also reasonable to conclude that security challenges will require enhanced collective and comprehensive approach, and that there will be an increasing emphasis on security co-operation.

I believe that continued support for the United Nations will remain a central point of our foreign policy approach and objectives. This includes the protection of human rights and of our overall security policy, including non-membership of military alliances. Support for the UN will also remain central to our overall security policy.

Our Defence Forces are deployed as part of multinational and multi-agency responses for a broad range of security tasks, many of which contribute to the maintenance of international peace and stability. Our policy responses must realistically reflect current and future security challenges and should be able to accommodate the necessary responses, both national and collective, without prejudice to our policy of military neutrality.

Deputy Pádraig Mac Lochlainn: First, Ireland is in a strong position to play a positive role in global conflicts through its neutrality. We are proud of the role our peacekeeping forces play in blue helmet operations on an ongoing basis. Second, with regard to conflict resolution, the lessons of our own peace process are being utilised across the world, most recently in Colombia. These lessons had a huge impact and people who came through the peace process assisted on an ongoing basis on the path to peace in that country. Third, we have a proud history in the provision of overseas development aid. We are one of the world leaders in that area. That is our role in the world and we do not need to be involved in military alliances to stake our claim and to do our bit for the world. What are the Minister’s thoughts on those three pillars of positive

neutrality? Are they sufficient or do we need more?

Deputy Alan Shatter: I welcome the fact that the Deputy's party, Fianna Fáil and others contributed to the Green Paper process by making a submission. I was interested in Sinn Féin's submission in the context of the issue the Deputy has raised. It states, "The Green Paper on Defence states that military neutrality is a policy which was formed in the context of interstate armed conflict". We are agreed on that. The submission further states the Green Paper "is ill-fitted to respond to threats emanating from non-state actors such as terrorists". I know the Deputy's party is soft on terrorism but I am not sure to what extent he can suggest that military neutrality has a role to play in regard to terrorism. Is he suggesting that if terrorists explode a bomb in London or Madrid, we should proclaim our neutrality from the rooftops as some sort of moral standpoint of a higher echelon than those who say, "This is a bad thing, we are opposed to terrorists and we should join together in preventing innocent people being killed by terrorists"?

An Ceann Comhairle: I thank the Minister.

Deputy Alan Shatter: Sinn Féin in its submission referred to "the need for a human security-based approach", which seems to simply be that if we feed the world, there will be no terrorism.

An Ceann Comhairle: The Minister is way over his time. I have to ask him to co-operate with the Chair. I will let him back in again.

Deputy Pádraig Mac Lochlainn: The Minister is one of the greatest talents I have ever seen at answering a question he has not been asked. He has an incredible talent for going off on a different tangent.

Deputy Alan Shatter: I wanted to assure the Deputy that I had read his submission.

Deputy Pádraig Mac Lochlainn: There are three positive pillars of neutrality of which we are deeply proud in this country. We do not need to open Shannon Airport for aircraft to refuel and restock on their way to operations that are not backed by the international community and we do not need to be involved in military alliances.

With regard to combatting the changed threat of terrorism, there is a range of exchanges of intelligence and co-operation through Europol and so on that everybody supports to tackle the threat. However, if Ireland can genuinely get itself back to a truly neutral position in the context of overseas development aid, conflict resolution and the lessons we have learned in our own country, we can play a much stronger role in combating the threat of terrorism than being involved in military alliances with countries that have fuelled it.

Deputy Alan Shatter: I am somewhat puzzled as to what military alliances the Deputy thinks we are engaged in. We are a party to the European Common Security and Defence Policy. That is of importance to this State, as it is to the rest of Europe. If there are issues relating to cybersecurity or terrorism, we have an interest in this State in ensuring difficulties do not arise and in co-operating with other states regarding how we counteract those issues. We are engaged in Partnership for Peace, PFP, with NATO. NATO is like a four-letter word to some Members. PFP is about a group of like-minded nations coming together to provide peacekeeping supports and humanitarian relief in regions where there are major difficulties. That does not taint or contaminate our military neutrality. It is about engagement, not isolation. It is about doing what we can to assist people across the world in conflict zones where there are difficulties

instead of sticking our heads in the sand and moralising. I go for engagement, not for sticking one's head in the sand, moralising and waving a neutrality flag as if we have a superior moral compass directing us. We should be proud of our engagements internationally and of what our Defence Forces do.

Defence Forces Properties

3. **Deputy Clare Daly** asked the Minister for Defence if he will cease his efforts to remove former members of the Defence Forces and their families from their homes in the Curragh Camp, some of whom have lived there for decades. [52918/13]

Deputy Clare Daly: Men, women and children in families who have given loyal service to the State are facing eviction from their homes. My question asks the Minister to accept that this is not appropriate treatment of citizens who have served the State, to stop this course of action and instead to engage in a progressive and more humane solution.

Deputy Alan Shatter: In February 1997, the then Minister for Defence set out policy on married quarters on the basis that they were largely an anachronism and that they should be discontinued in a managed and orderly way. Since then my Department has discontinued the practice of providing such accommodation. In addition, given the age of the housing stock, it has been found that over time the properties require a significant and disproportionate investment in order to ensure compliance with regulations regarding rental properties. In recent years much of the stock has become unsuitable for habitation and has had to be taken out of use. Consequently, there has been a sharp decline in the number of married quarters in use, with only 25 serving personnel currently occupying married quarters in the Curragh.

Where properties are located outside barracks, they are made available for purchase by tenants. For security reasons, properties located within barracks cannot be sold and are removed from the stock of available housing when they become vacant. Personnel are obliged under Defence Forces regulations to vacate married quarters within a specified period of being discharged from the Permanent Defence Force. The term "overholder" is used to describe former members of the Defence Forces and their families who have refused to leave married quarters within 21 days of leaving the Defence Forces. My Department is, in accordance with normal procedure, seeking vacant possession of overheld married quarters.

The issue of overholders continuing to occupy married quarters is not sustainable. As my Department is no longer in a position to subsidise housing for those who are not entitled to them, the Department has had to take necessary action. Each overholder is being dealt with on an individual basis. My Department does not have a role in the provision of housing accommodation for the general public. The securing of alternative housing is a matter for the individuals concerned in the first instance. If individuals are not in a position to secure housing in their own right it may be the case that they qualify for social housing or that they qualify for some level of housing assistance. Officials of my Department have met Kildare County Council officials regarding overholders so they are aware of the position and will advise overholders of procedures and requirements when making applications for social housing.

Deputy Clare Daly: I am afraid the Minister's reply does not deal with the reality of the issue. The people in question are not anachronisms or overholders but rather men, women and children, some with special needs and other difficulties. These people have attempted to engage

in some instances with other State agencies like Kildare County Council and private lenders to secure mortgages but they have been unable to do so because of a deficiency in economic means or their age.

There are a couple of issues with the Minister's reply. It may be Defence Forces policy for people to leave married quarters after they retire from service but that provision has not been implemented. Families have lived in this accommodation for years and in some cases for decades after the serving member retired but no action has been taken. The Minister has stated his Department is not in the business of housing but the State has been taking rent from people like this since 1922; that means the Department has been in the business of housing. It has a duty of care to the people left in that accommodation. No maintenance has been done, as departmental figures would indicate, so there is no cost to the Department. I ask the Minister again to intervene properly rather than evicting these people.

Deputy Alan Shatter: As is the Deputy's usual presentation, she is creating a drama and exaggerating the extent of any difficulties. There are currently 29 married quarters being occupied by overholders in the Curragh camp, with a further 14 overholders in the Dublin area. The duration of overholding - or individuals retaining possession of properties they should not retain, as opposed to the many former members of the Defence Forces who occupied such properties and complied with regulations when vacating them - ranges from 44 years to ten weeks. That does not suggest the Defence Forces have been taking a tyrannical approach in dealing with overholding individuals.

As I indicated in the reply, regulations are in place which have been complied with by the vast majority of members of the Defence Forces who have been provided with accommodation. Upon leaving the Defence Forces or a short time thereafter, the people in question should vacate the accommodation but a small number of people have failed to do so. In dealing with the issue, the Defence Forces have had regard to the specific individual circumstances; as I noted, an individual has been overholding for 44 years. The matter will continue to be dealt with in a considered and appropriate way but we must ensure that people comply with legal obligations where they can do so.

Deputy Clare Daly: The Minister may think it is dramatic but it is not so for some of the individuals involved. One family has three children, two of whom have serious special needs. That family also has a very ill wife but it has received a letter ordering them to leave the property. Somebody else has lived in a property since 1952 but has been asked to leave. There are other court orders for other cases. I am not being dramatic as this is a shoddy way to treat people who served the State loyally. As I stated to the Minister before, these people have gone to other organisations to seek alternative accommodation but they have been refused. Will the Minister engage with those people and treat them humanely, as this is causing grave difficulty? One person may get a letter or a court order but the person living next door may not; nevertheless, people do not know what day the postman will knock on the door or they will be thrown out. We are talking about isolated elderly people living in derelict dwellings and it is not a suitable way of treating people. The Minister is responsible for the matter and I am asking him to intervene. The information being given to the House is not accurate. Some of these people have sought alternative solutions but have been unsuccessful in their efforts.

Deputy Alan Shatter: As the Deputy should know, the authorities within the defence family have sought to deal with people in an appropriate way in the context of the legal obligations which those individuals have. Is the Deputy suggesting that people who cease being members

of the Defence Forces should not comply with legal obligations and vacate a property? It was known that these properties would not be available when a person ceases to be a member of the Defence Forces.

I assure the Deputy that individuals in difficult circumstances have been and will continue to be dealt with in a humane way but the Defence Forces and the State cannot simply hand over these properties to individuals. The people in question do not own these properties, which lie with the State, and they are obliged to vacate this accommodation unless one ignores the reality of the legal position. That would be entirely inappropriate.

Defence Forces Medicinal Products

4. **Deputy Seán Ó Fearghail** asked the Minister for Defence if, with regard to the Safety, Health and Welfare at Work Act 2005, the Defence Forces sought or conducted a medical risk assessment of lariam; and if he will make a statement on the matter. [53120/13]

Deputy Seán Ó Fearghail: This relates to the issue of lariam, which is an issue that I and other colleagues have raised before and I am sure we will continue to raise it in the period ahead. We are trying to ascertain if medical risk assessments have been carried in respect of those members of the Defence Forces who have had lariam prescribed to them.

Deputy Alan Shatter: The Safety, Health and Welfare at Work Act 2005 does not apply to Defence Forces personnel when they are on active service. Nevertheless, I am informed by the military authorities that risk assessments are carried out for all mission areas. These risk assessments are intended to identify all hazards that might exist in a mission area, including health risks. Suitable control measures are then put in place to minimise identified risks. Where a health risk is identified, the control measures will include preventative medication where appropriate. Where malaria has been identified as a risk, the choice of chemoprophylaxis is dependent on a number of factors, including the type of malaria in the destination, resistance to particular drugs, the profile of the traveller - contra-indications, underlying health conditions, purpose of travel - the duration of travel and adherence issues. The choice of medication is a medical decision made by medical officers in the Defence Forces on the basis of best international practice having regard to the specific circumstances of the mission and the individual member of the Defence Forces.

As the Deputy knows, the Irish Medicines Board is the statutory authority with responsibility for the quality, safety and efficacy of medicines for use in Ireland. The Defence Forces comply with Irish Medicines Board guidelines on the prescription of medicines, including lariam. I am advised that lariam is one of the most effective medications for protection against the type of malaria prevalent in sub-Saharan Africa. It continues to be licensed by the Irish Medicines Board. I am further advised the Defence Forces are fully aware of the range of reported side effects attaching to all anti-malarial medications. Protocols are in place to control the risk of side effects in individuals. Malaria is a serious disease that kills approximately 1 million people per year in sub-Saharan Africa alone. It is a serious threat to any military force operating in the area and lariam must remain in the formulary of medication prescribed by the medical corps for Defence Forces personnel on appropriate overseas missions, particularly those in sub-Saharan Africa, to ensure that our military personnel can have effective protection from the very serious risk posed by this highly dangerous disease.

Deputy Seán Ó Fearghail: On 9 October 2009 and 6 July 2010, the director of administration wrote to express serious concern about this issue of risk assessment.

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Specifically he suggested the Safety, Health and Welfare at Work Act 2005 needs to be adhered to and a medical risk assessment needs to be carried out because of genuine concerns about the use of lariam. A similar concern was expressed on 6 July when he wrote to the Defence Forces Medical Corps. The Minister stated risk assessments have been carried out. Will the risk assessments be published and if so when?

Deputy Alan Shatter: In the context of the issue raised by the Deputy I want to be absolutely clear. The Defence Forces follow best international practice in prescribing lariam. Personnel are screened for illness and medical suitability for service overseas. This automatically rules out from overseas service personnel with certain conditions, for example, depression, anxiety, pregnancy and neurodegenerative disorders which, as has been indicated by the Irish Medicines Board, are more likely to precipitate serious adverse reactions to lariam. The medical screening also involves an assessment of the individual's suitability to be prescribed the selected chemoprophylactic anti-malarial agent in line with Irish Medicines Board guidelines. These guidelines are available to anyone who wishes to obtain them. This typically involves a review of the individual's previous experience, if any, with the medication. The individual's medical history is also screened for these conditions which have been identified as precipitating serious side-effects in association with the medication. Each individual screened for G6PD status, which is an enzyme required to metabolise primaquine, an agent used on return to Ireland to clear the liver of any dormant parasites. In the case of lariam, blood tests are carried out to ensure the liver is healthy, as liver disease is an accepted contraindication to the use of lariam. Personnel are screened before and after deployment.

Deputy Seán Ó Fearghail: The question is very simple. Will the Minister publish the risk assessments? I have a sense of growing concern about this issue. When I initially raised it I wanted to be reassured by the Minister that everything that should be done was done. We have tabled a series of questions which have elicited very little by way of answer. We asked the Minister the medical experts who advised the Minister and the Department of Defence and their qualifications. We were told this information was legally privileged. Any group which comes together to advise a Department can hardly claim privilege in the circumstances. The medical risk assessment is based on the 2005 Act. Is the Minister claiming this is legally privileged and if so, how can he do so?

Deputy Alan Shatter: The only matter the Deputy knows is legally privileged is the report obtained with regard to lariam in the context of litigation pending before the courts taken against the Department of Defence. My recollection is much of the litigation arises from a time when the Deputy's party was in government and the members of the Defence Forces were serving at that time. It was the Deputy's colleague who was Minister for Defence who explained, as I am explaining in the House, the circumstances in which lariam is prescribed, the assessment necessary of individual personnel prior to the prescribing of lariam and the checks required to be undertaken on their return from duty. The issue of the safety of lariam in the State and the appropriateness of its being prescribed is a matter uniquely within the competence of the Irish Medicines Board. As Minister for Defence I will not second-guess the expertise of the Irish Medicines Board. It would be completely inappropriate for me to do so.

Deputy Seán Ó Fearghail: The Minister did not answer the question.

Defence Forces Equipment

5. **Deputy John Halligan** asked the Minister for Defence the number of drones purchased by the Irish Defence Forces over the past decade; the reason for their purchase; the cost of same; the level of usage these drones have seen; if these tracking devices have been made available to An Garda Síochána as an aid to its intelligence gathering agencies; and if he will make a statement on the matter. [52919/13]

Deputy John Halligan: I acknowledge the drones purchased are used to enhance the information gathering capability of the Defence Forces in overseas operations and to protect the Irish troops. I am interested to know whether the Irish Army is in possession of armed drones. The Minister may be aware that in 2008, an Irish Army drone disappeared in Africa following a technical error. Is the Minister aware of any instances of expensive Irish drones going missing since 2008?

Deputy Alan Shatter: The Defence Forces currently operate an unmanned aerial vehicle system, commonly referred to as UAVs or drones. These UAVs, are, in effect, an information gathering asset which have no offensive capability. They do not carry weapons. We do not have any drones which carry weapons in the context of the Defence Forces.

Following a tender competition, an order for two-man portable mini unmanned aerial vehicle systems and associated spare parts and training was originally placed with Aeronautics Defence Systems Limited from Israel, in May 2007. The UAV systems were acquired to enhance the capability of the Defence Forces to carry out surveillance and target acquisition for peace support operations and provide low-cost, low-risk means to increase capabilities and enhance force protection by performing missions which do not demand the use of manned aircraft. The acquired UAVs are at the very low end of the UAV spectrum and there are no weapon issues associated with them. In 2009, a further order for an additional two systems and spare parts and training was placed. The total cost on the UAV project since inception is approximately €3.35 million. The main feature in the additional acquisitions was increased flight endurance and the ability to carry better quality communications equipment.

The UAVs were deployed as part of the EU-led mission to Chad and the Central African Republic in 2008. The UAVs have not been used in overseas missions since April 2010. No further UAV is missing. The UAVs are for the sole use of the Defence Forces and have not been made available to any other agency in the State, including An Garda Síochána. The use of UAVs within the State is governed by the Irish Aviation Authority.

Deputy John Halligan: I understand a number of Israeli companies have won orders for defensive equipment in recent years as a result of tender competitions. Will the Minister confirm how much has gone to Israeli companies in recent years? He is aware Israel has violated more UN resolutions than any other country in the world. What is his view of dealing with such a state?

Deputy Alan Shatter: Israel has been the object of more UN resolutions than any other country in the world despite the difficulties in a broad range of other countries. I do not think it is a matter for today's debate. In the context of the tendering process, Israeli companies are

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entitled to submit tenders under EU rules and regulations, as are other countries and states. It is important we buy the equipment our Defence Forces require at prices appropriate in the context of the tender process. I do not have available at present for the Deputy information as to what equipment has been acquired from Israeli companies as opposed to equipment acquired from a broad range of other companies over the years. I will certainly make inquiries in this context and communicate with the Deputy.

Deputy John Halligan: I refer to the word “object” used by the Minister. Israel has violated more UN resolutions, so the Minister should not state they were the object of them.

The EU’s new independent military body has indicated it plans to operate throughout Europe spy drones, surveillance satellite and aircraft as part of the new intelligence security agency. Concerns have been raised the EU is creating its own version of the US National Security Agency. What are the Minister’s views and the Department’s stance on this? How will it impact on the country, if at all?

Deputy Alan Shatter: The EU operates with the assistance of states. I am not aware of any EU agency which is seeking, as an EU agency on its own, to acquire military equipment of any nature or seeking as an EU agency to acquire, purchase and use large numbers of drones. I am puzzled by the Deputy’s question. I am not clear to what the Deputy is referring.

Other Questions

Defence Forces Equipment

6. **Deputy Bernard J. Durkan** asked the Minister for Defence the degree to which all military personnel in the Army, the Naval Service and Air Corps continue to avail of training and upgrading of equipment in line with other defence forces throughout Europe, with particular reference to the need to be able to interact with other forces in the event of overseas deployment or co-ordinated security or emergency measures; and if he will make a statement on the matter. [52880/13]

Deputy Bernard J. Durkan: This question relates to the need for the Defence Forces to have ready access to the most modern methods of training and upgraded equipment, so as to be in a position to interact effectively with other international forces in the event of deployment.

Deputy Alan Shatter: I am satisfied the level of resources available to the Defence Forces, including training resources and equipment, enables them to carry out their roles, both at home and overseas. The acquisition of new equipment for the Defence Forces remains a focus for me. It is a matter that is kept under constant review at a senior level in my Department and in the Defence Forces through their joint participation in the high level planning and procurement group. This group is charged with identifying equipment requirements and agreeing on a procurement programme to provide the Defence Forces with type and quantities of equipment necessary to carry out their assigned duties.

In the current economic climate, the budgetary situation will continue to dictate the level

of funding available for new equipment, training and equipment upgrades. Decisions will be made, accordingly, on a strictly prioritised basis in accordance with operational priorities with a view to maintaining the capability of all roles assigned by the Government to the Defence Forces.

In my recent visit to the United Nations Interim Force in Lebanon, UNIFIL, I had the opportunity to see at first hand the range of modern equipment available to Irish troops in Lebanon. This included MOWAG armoured personnel carriers and a range of force protection and personal equipment which allows the Defence Forces carry out their various taskings in a safe and secure manner.

On the issue of training, the Defence Forces maintain a robust and comprehensive training system which incorporates a wide variety of modern training methods. Training standards in the Defence Forces are constantly benchmarked against best international practice. Similarly, the Naval Service's training techniques and technologies are up to date in all respects. The provision of two new offshore patrol vessels is well advanced with the first ship due for delivery in early 2014. These modern new vessels, combined with a continuous process of refurbishment and repair on the other vessels in the fleet, will ensure the Naval Service continues to meet the required operational capability.

The Air Corps also keeps abreast of all developments in modern aviation. It will continue to conduct its training in accordance with industry best practices and to the highest standards, referencing European Aviation Safety Agency and Federal Aviation Administration requirements.

I chair the Government's task force on emergency planning, which includes senior officials of several Departments, senior officers of An Garda Síochána and the Defence Forces and officials of other key public authorities which have a lead or support role in Government emergency planning. The task force, which meets on a regular basis, examines current risks and supports co-ordination arrangements for emergency planning across Government. The Defence Forces will continue to play an integral part in the emergency planning process.

I am satisfied the Defence Forces are adequately equipped and trained to meet the many demands and tasks the Government has assigned to them.

Deputy Bernard J. Durkan: I thank the Minister for his comprehensive reply. Is he satisfied that budgetary restrictions, imposed as a result of the economic situation, will not unnecessarily impact negatively on equipment upgrading and access to training required in all branches of the Defence Forces? Will he indicate the degree to which our Defence Forces are equipped, trained and capable of dealing with all kinds of emergencies, whether they be natural disasters or terrorist attacks, either at home or abroad?

Deputy Alan Shatter: Despite the economic difficulties, our Defence Forces are better equipped than they have been at any time in the history of the State. In the context of the tasks we have to perform abroad in UN missions, they have the equipment required for the tasks they are undertaking. Most recently, with the United Nations Disengagement Observer Force, UNDOF, mission, I made demands of the UN with regard to the type of equipment we believed was necessary for our forces to have so as to perform their duties. We had that equipment and the UN agreed our forces could take it with them in their deployment to the Golan Heights. It ensured there were no serious injuries in a recent incident there. If there had been lesser equipment, such as that to which the mission originally was confined, there could have been a

difficulty.

An Ceann Comhairle: Thank you, Minister. I will let you back in.

Deputy Alan Shatter: We keep Defence Forces equipment under review. Circumstances, needs and demands change. In that context, it is of significant importance that we keep under continuing review the adequacy and appropriateness of equipment, as well as its usage to ensure we have the capability to fulfil tasks.

Deputy Bernard J. Durkan: How rapidly can our Defence Forces be deployed in the event of an emergency? To what extent are our Defence Forces regularly upgraded in that context?

Deputy Alan Shatter: There is regular training in these areas. Theoretical situations are created to look at response times. I am satisfied the Defence Forces are dealing with these issues in an appropriate manner. No one can ever predict with certainty that some unexpected and unplanned event will not take place. We should be proud of the professionalism of the Defence Forces, the extent of their training and planning, as well as their consideration given to a broad range of eventualities that can occur. That fits in neatly with some of the issues considered by the task force on emergency planning in respect of which theoretical exercises are frequently conducted on a comprehensive, whole-of-Department basis, involving several Departments along with the Defence Forces and An Garda Síochána. Such an exercise took place within the past four weeks.

Air Corps Equipment

7. **Deputy Patrick O'Donovan** asked the Minister for Defence in view of the recent helicopter crash in Scotland, if he will confirm if all helicopters owned and operated by the Defence Forces are fitted with flight recorders; and if he will make a statement on the matter. [52686/13]

Deputy Patrick O'Donovan: This question relates to a recent tragic police helicopter crash in Glasgow. I extend my sympathies to the people involved. Are the State's helicopters in the Defence Forces and elsewhere fitted with flight recorders to assist in the event of a flight accident?

Deputy Alan Shatter: In the context of the incident to which the Deputy referred, I express my condolences and the condolences of all Members of the House to the relatives of those whose lives were lost during that tragic accident.

The Air Corps operate a fleet of eight helicopters, two light utility EC 135 helicopters used in the main for pilot training and six utility AW 139 helicopters used for general purpose military operational and training. In addition, the Air Corps provides pilots to fly the two EC 135 helicopters operated for an Garda Síochána-related activities. All helicopters in our fleet, including those used by the Garda air support unit, are fitted with flight recorders and this has been the case since they were originally acquired. The provision of such recording equipment in our helicopters is a standard requirement of our Defence Forces.

Deputy Patrick O'Donovan: A report will be issued on the investigation into the recent accident in Glasgow to the Glasgow police force and the UK's Ministry of Defence. Will the Minister liaise with his colleagues in Britain to see if anything can be learned from this incident for Irish operations? Unfortunately, in the recent past there was a tragic incident involving an

Irish helicopter with a loss of life. If changes need to be made from a Defence Forces, Garda or civil aviation point of view, then they could come from this investigation.

Deputy Pat Breen: I want to be associated with the expressions of sympathy. An Irish Helicopters chopper crashed several years ago in my parish, a mile from my house. Unfortunately, there was a loss of life but thankfully it did not crash into buildings and cause further loss of life.

The Eurocopter has a good safety record and is used by many police forces across the world. Are there plans to have more air inspections? Do we have an adequate number of Garda helicopters?

Deputy Alan Shatter: If there are lessons to be learned from the tragedy in Scotland, we will seek to learn them. I have no doubt the Scottish authorities will be publishing a report on the outcome of the crash investigation which we will be able to access. My officials can communicate with the Scottish authorities on any issues that arise and might be relevant to us. There are no plans to acquire any additional helicopter supports for the Garda Síochána.

Defence Forces Recruitment

8. **Deputy Pádraig Mac Lochlainn** asked the Minister for Defence if he will confirm if declaring asthma during childhood now rules out a person from acceptance to the Defence Forces; and if this is the case, to ask that this would be made explicit to applicants from the start. [52777/13]

Deputy Pádraig Mac Lochlainn: This question arises from a recent situation where a man approached one of my colleagues about the long application process one undertakes to be accepted into the Defence Forces, and rightly so, but at the very end of that process there is a medical form to be signed. He signed to confirm that as a child he had asthma and at the point he was ruled out. How does that come about and why does it emerge at the very end of the process?

Deputy Alan Shatter: The day-to-day administration of recruitment to the Defence Forces is the responsibility of the Chief of Staff. I am advised by the military authorities that a declaration of asthma during childhood does not automatically rule out a person from acceptance to the Permanent Defence Force, PDF. An individual assessment of each case is made by the examining medical officer, taking into account the full history and examination. Working in the Defence Forces is a demanding career which places unique physical and psychological demands on individuals, exposing them to a unique range of challenging environments. In these circumstances it is vital that the health profile of personnel be such as to ensure that operational capability and effectiveness are not compromised.

There are a number of physical and medical standards laid down in the Defence Forces regulations and associated administrative instructions. These requirements are based on the professional advice of the medical corps and having regard to the nature of the job, the duties of military service and the training exercises undertaken by members of the Defence Forces. The director of the medical corps has advised that applicants who have chronic medical conditions are at a higher risk of suffering from symptoms related to those conditions due to the exigencies of military service. Entry criteria for enlistment to the PDF are, therefore, based on the selection of personnel who are not likely to require medical support and whose pre-existing medical

status could not reasonably be foreseen to be subject to aggravation by service with the PDF. Each individual's medical condition is examined taking into account a detailed, documented history of the condition and its extent, including remissions, exacerbations and any other associated conditions. In the specific context of a chronic medical condition such as asthma the sufferer is placed at a higher health risk.

Deputy Pádraig Mac Lochlainn: I welcome the confirmation that childhood asthma does not automatically rule an applicant out. Perhaps it might be in order for me to ask that this case be reviewed. I accept the criteria the Minister has laid out. Clearly, having criteria around an underlying medical condition in a profession that involves rigorous physical activity is logical. The second point is the process. This man passed everything else with flying colours but feels he was ruled out when he confirmed that he had had childhood asthma. That will be covered in any review of the case but maybe the process could be reviewed. If one has an underlying condition that rules one out there is no point going through everything else.

Deputy Alan Shatter: Merely stating on the form that one had childhood asthma should not exclude an individual from joining the Defence Forces. The provisions do not say that. There must be an individual medical assessment of how the applicant is at the time of the application, not what occurred simply during childhood. There may be more to the background of this matter than the Deputy or I are aware. Where an applicant to the PDF is found to be medically unfit the medical officer will normally advise as to the reason and I would be very surprised if the applicant was declared unfit because he had had childhood asthma. There must be more to that.

Regarding a review, an applicant who is found to be medically unfit and wishes to appeal is advised as to the appeal mechanism and any representations he or she wishes to make may be considered. If this applicant has not appealed, he should do so. The appeal mechanism consists of an independent medical examination by a medical board of the applicant and his or her clinical history. The medical board is specially convened for that purpose and comprises two medical officers unconnected with the original medical examination. The Deputy may wish to inquire whether this individual filed an appeal, followed that process, if not, why not, and whether he was informed. If an issue arises, the Deputy is very welcome to communicate with me privately about the matter and I will have it looked into.

An Ceann Comhairle: Question No. 9 is in the name of Deputy Mac Lochlainn. He is lucky today; he should buy a lottery ticket.

Deputy Pádraig Mac Lochlainn: Yesterday I was feeling hard done by in terms of questions.

Deputy Alan Shatter: Wednesday is a better day.

Garda Resources

9. **Deputy Pádraig Mac Lochlainn** asked the Minister for Defence the level of support provided to the Garda helicopter air support by the Defence Forces Air Corps for the years 2008-2013, inclusive. [52779/13]

Deputy Pádraig Mac Lochlainn: Recently the justice and defence committee had the op-

portunity to visit Baldonnell and, as when we visited the Naval Service, it was inspirational to see the professionalism of our Air Corps and the patriotism and the pride they have in everything they do. We also visited the Garda air support team. My question is to establish the levels of support we can give them. With their professionalism and dedication the Minister will agree that we need to give them everything they need.

Deputy Alan Shatter: I share the Deputy's perspective of the professionalism of the members of the Air Corps who do a fantastic job and the gardaí who are engaged in the Garda helicopter service. In April 1996 the then Government approved the establishment of a dedicated Garda air support unit, GASU, as recommended in the report of an interdepartmental group on air support for the Garda Síochána. The service commenced from Casement Aerodrome, Baldonnell in September 1997 and is operated by the Garda Síochána and the Air Corps. The GASU provides a 24-hour, all-year immediate response capability for air support to the Garda Síochána. This arrangement is formalised by way of a service level agreement, SLA, between the parties. The latest agreement was signed in April 2011. The GASU fleet comprises three aircraft: a Defender 4000 fixed-wing aircraft and two twin-engine EC 135 helicopters.

The support provided by the Air Corps to the GASU includes provision of hangar facilities and pilots for all three aircraft and the servicing and maintenance of the fixed-wing Defender 4000 aircraft. Since the inception of the service, the GASU aircraft have flown in excess of 30,000 missions within the State. A breakdown of the number of missions and the hours flown for the years 2008 to the end of November 2013 are set out in the table. I am happy to go through it for the Deputy if needs be. He will see that there is continuing usage and engagement with the service in providing air support to the Garda Síochána.

2008 – 5 December 2013 GASU Statistics

| Year | Missions | Flight Hours |
|---------------------|-----------------|---------------------|
| 2008 | 2,185 | 2,117 |
| 2009 | 2,142 | 2,155.23 |
| 2010 | 1,617 | 1,617.69 |
| 2011 | 2,126 | 2,266.62 |
| 2012 | 1,279 | 1,188.15 |
| 2013(to 5 December) | 1,441 | 1,493 |

Deputy Pádraig Mac Lochlainn: What I found really interesting, and which may not be commonly understood by the public, is that one presumes air support is to back up a Garda pursuit but it is used for all sorts of support to the Garda. It is the eyes in the air providing crucial intelligence. I will not get into it but the criminals need to be very worried about the technology it provides to assist gardaí on the ground to capture people who are a threat to the public. They have great enthusiasm for what they do. The only concern is that I got a sense that hours have been cut back over recent years. The cutting edge they can give gardaí on the ground is remarkable and my concern is that the Garda helicopter is in the air for fewer hours than in recent years. Rather than turn it into a political football, since everybody in this House would agree that we need to give them everything we can, I urge the Minister to examine that area to ensure we give them every support we can into the future.

Deputy Alan Shatter: The circumstances in which the Garda helicopter should be de-

ployed to assist gardaí in the myriad duties in which they are engaged is a matter for Garda management. As the Deputy will see from the figures, the flight hours seem to go up and down. In 2009, there were 2,153.23 hours. In 2010, there were 1,617 hours, so it was substantially reduced in 2010 compared with 2009. It goes up again in 2011 to 2,266 hours and goes down again in 2012 to 1,188 hours. I presume the usage is dependent on the issues that arise, the need to deploy them and the work that needs to be undertaken. It is a matter for Garda management to determine when they should be utilised and when it is appropriate for them to provide assistance in the work that is being undertaken.

Defence Forces Properties

10. **Deputy Clare Daly** asked the Minister for Defence if he will undertake a study in relation to redeveloping the garrison community in the Curragh Camp through the re-use and restoration of the numerous buildings, housing, hospital, businesses and many other premises that could be put to beneficial civilian, military and community uses. [52901/13]

18. **Deputy Mick Wallace** asked the Minister for Defence if he has carried out a cost benefit analysis in relation to renovating and re-using all or any of the many different empty properties in the Curragh Camp for military or civilian purposes. [52911/13]

Deputy Clare Daly: It is the policy of the Minister and previous governments to drive the remaining civilians out of the Curragh Camp and to have it as a purely military facility. Will the Minister stop that policy before it is too late? This was once a thriving community and there are many important buildings in the Curragh Camp, including a hospital, a prison, businesses, accommodation and dwellings of unique architecture and history. Will the Minister engage with the local historical society and people there to see what could be done to return the Curragh Camp to what it once was?

Deputy Alan Shatter: I propose to take Questions Nos. 10 and 18 together.

My Department is engaged on an ongoing building programme designed to modernise and enhance the training, operational and accommodation facilities available to members of the Defence Forces. Under the building programme, there has been considerable capital investment at the Curragh Camp in recent years. For example, between 2008 and 2012, my Department spent in excess of €10.7 million on major building projects at the camp.

The defence capital works provision has reduced over the past five years, from €25.6 million in 2008 to €6.24 million in 2013. The reduction in funding of 75.6% has significantly impacted on the number and scale of construction projects which it is now possible to undertake in any given year. Notwithstanding the constraints on the capital budget as outlined, plans are presently being progressed for substantial works at the camp. These are the refurbishment of the ammunition depot and the conversion to natural gas consumption of the major energy consuming facilities in the camp. This is expected to generate significant savings when completed.

The Department and the Defence Forces, similar to all other Departments, must take into account the current financial difficulties and the economic environment in which we are now operating. The budgetary situation and the operational requirements of the Defence Forces are the primary factors in determining the individual projects which can be completed within the Curragh Camp, as can be seen from the work undertaken to date. Where appropriate, existing

buildings within the Curragh Camp are restored. As part of the process for the allocation of funding for individual capital projects an assessment of requirements, which includes a cost benefit analysis, is undertaken.

Deputy Clare Daly: I am afraid the Minister has avoided the central thrust of the question. Clearly, expenditure on improvements and capital projects in the Curragh for military purposes is one thing, with which I do not have a difficulty, but it does not, in any way, take from the very valid points I raised in the question. The heart of this issue is that a very narrow and I suppose neoliberal view has been taken of the Curragh Camp that it is to be stripped down and redeveloped for military purposes only. That is quite short-sighted.

There are numerous buildings in the facility which the Minister is planning to demolish in an act of social vandalism and of annihilating a key part of our State's history. Thousands of people have lived in the Curragh Camp for more than 100 years. There is a hospital and there are businesses and three schools there and life is becoming very difficult for the remaining people who are there. Is this whole phase of our history to be wiped out? I believe it could be developed.

There are many uses to which it could be put. For example, there are 8,000 Kildare County Council's housing waiting list. Many of these properties could be redeveloped at very little cost. We could engage in a public works programmes which would have valid community uses. I am well aware that is a project beyond the Department of Defence but somebody with vision and who cherishes Ireland's history and heritage would engage with that because these buildings are not beyond salvation. The time is running out on them and if they are destroyed on the Minister's watch, it will be a legacy of vandalism.

Deputy Alan Shatter: The Deputy seems to have lost sight of the fact the Curragh Camp is a military one. She seems to want to create another version of a new city or a new town in the Curragh. As I said to Deputy Wallace yesterday in another context, I would be interested in him sharing with me what it is that is good that the Garda does. I would be interested in Deputy Daly sharing with us one day what it is that is good that the Defence Forces do because it seems her only approach to defence matters is to raise a number of issues that are not directly connected to defence and the functions our military perform at home and abroad but are issues in which the Deputy has a personal interest, which she is entitled to have, and are designed always to suggest that the Defence Forces or my Department lack insight into what we are doing.

Our primary role in the Department of Defence is to ensure the Defence Forces receive the training and have available to them the resources to which they are entitled, that our barracks are fit for purpose in the 21st century and that improvements are made which benefit the functions and capabilities of our Defence Forces.

As I said previously, there is an ongoing building programme to modernise and enhance the training and operational facilities available to the members of the Defence Forces. I do not have an open pot of money I can spend on other matters. The funding does not exist. The Deputy may have noticed the State has had certain fiscal difficulties. I know that she and her colleagues believe there is an open pot of money to throw like confetti at a wedding at every project of which they think without ever having to raise any taxes in order to meet that expenditure.

The Curragh Camp, effectively, is an operational military installation and, as such, the priorities on development of facilities to enhance the operational capability of the Defence Forces

where facilities are needed, existing buildings are assessed and if cost effective they are restored to meet the need. I make no apology for developing facilities to enhance the operational capabilities of the Defence Forces because that is what is required and that must be the primary objective.

Deputy Mick Wallace: We fully understand that funding is scarce but that should not prevent the Minister from looking at the best option for the State. We were in the Curragh Camp two weeks ago looking at the properties and many of the old red brick houses - the married quarters - were very well built. Good brick, slate, cast iron fittings and hardwood timber was used in them. However, much of the repair work was poor and cheap materials were used, including cheap PVC and white deal, which is not suited to Irish weather, and they give the properties a bad look. The houses could be renovated in a sensible way and it would be worth it given what they would cost to renovate.

There is a shortage of alternative housing, which is a serious problem. As Deputy Daly said, there are 8,000 on Kildare County Council's housing list. I know the Minister said it should be a military facility only but the community is involved in the place also. There are three schools there which run successfully and people from outside the camp are involved in them. It would be a good investment on the part of the State. I do not know if the Minister has looked at a cost benefit analysis of the alternatives if the State does not look after these houses.

Deputy Alan Shatter: First - I mean this seriously - I bow to the Deputy's expertise in the construction industry and in looking at the houses and at their possibilities but, put simply, I do not have the funding to restore housing accommodation and I have a responsibility, as Minister for Defence, to ensure we do everything necessary to facilitate the operational capacities of the Defence Forces and the best training possible. In the context of the limited capital available to us, it is important we focus this expenditure on facilities related to that. The Department of Defence does not have a role in providing housing or facilities other than those necessary for operational requirements. I will reflect on what the Deputy has said. I am familiar with the houses that have been referenced. For a range of security reasons, we cannot open the Curragh Camp to general housing for individuals who are not connected with the Defence Forces. As the Deputy will presumably understand, that would create its own range of difficulties and problems. I will be happy to reflect on the manner in which the Deputy has raised this issue. Unfortunately, my hands are substantially tied from a financial perspective. The dramatic reduction in the capital available on the defence side was detailed by me earlier. I have to ensure there is a focus on ensuring the training, safety, well-being and operational capacities of members of the Defence Forces.

Deputy Clare Daly: We understand the Minister's priority in that regard. We appreciate that this task is probably bigger than the Department of Defence. This is not about creating a new city - it is about recognising that this was always a garrison community. Civilians with connections to the Army lived in that community and assisted it. The value of this key and unique part of our history should be maintained. The unique architectural properties that are still there could be put to ongoing use rather than being destroyed. It is poor form that the Department is demolishing properties and not keeping a record of the housing stock that is being demolished. While these structures can be saved for many purposes, I recognise the Minister's point that it is not up to the Department of Defence to do so. Would he consider asking his Cabinet colleagues from other Departments that are responsible for housing and related matters to participate in a joint task force on heritage value to save those aspects of the Curragh Camp that are currently under threat? Does he think there would be value in undertaking such a proj-

ect on a cross-departmental basis?

Deputy Mick Wallace: I understand the principle that underpins the Minister's statement that he would prefer to confine this facility to military personnel. If accommodation is not provided for military personnel at the camp, they will have to be housed from the pot of housing that is available outside the camp. Regardless of whether social housing, subsidised private rental or some other form of provision is made, the State will have to meet the cost. I have seen houses that could be made habitable for a much smaller amount of money than that which would have to be spent in such circumstances. At a time when there is a shortage of social housing in this country, it would cost more to build social housing than to put right the more substantial housing stock at this camp.

Deputy Alan Shatter: It is important for me to reiterate that the Department of Defence is not a housing authority. I am quite happy to reflect on the issues raised by the Deputies. I was asked to engage with my Cabinet colleagues. I remind the House that they are facing similar capital expenditure constraints. A cost-benefit analysis of the Deputies' proposal would be very interesting, especially if it revealed whether public housing could be provided more effectively in a better location. I refer to the provision of new accommodation as opposed to the restoration of the accommodation at Curragh Camp. Certainly, the housing at Curragh Camp could not be opened to the general community.

I was also asked whether some discrete form of housing, which would be impossible to provide elsewhere because of the limited amount of it that is there, should be provided for a small number of members of the Defence Forces. I am reminded of the issue on which Deputy Daly attacked me earlier. We can assume for a minute that these properties could be made available for rental to current members of the Defence Forces, just as the properties we were discussing earlier have been. If people who have been in the Defence Forces for some years engage in overholding and fail to vacate those houses, will my successor as Minister for Defence be attacked for showing a lack of humanity? In such circumstances, will the Department of Defence and the Defence Forces get entangled in public housing issues that are more appropriate to local authorities? There is a difficulty in this area.

I absolutely understand that the Deputies have a genuine concern in this regard. I respect that. The question of whether this issue could be dealt with differently is an interesting one. They cannot have it both ways, however. They cannot say the Department of Defence should provide housing, but then attack the Minister for Defence of the day - regardless of who he or she happens to be - on the basis that he or she lacks humanity when people do not vacate that housing as they are legally required to do. It is not reasonable for one to argue that the Department of Defence should create additional housing to be let out if one is going to suggest that the next Minister is evil incarnate for seeking to get those who do not comply with the leasing arrangements to vacate those properties.

Deputy Clare Daly: This is about more than housing.

Deputy Alan Shatter: I suggest that the Deputies might consider a coherent and comprehensive approach to addressing these issues, rather than dealing with them on a fragmented basis and in a manner generated to create newspaper headlines.

Deputy Clare Daly: Maybe the Department could consider such an approach.

Deputy Mick Wallace: We are encouraging joined-up thinking.

Written Answers follow Adjournment.

Topical Issue Matters

An Leas-Cheann Comhairle: I wish to advise the House of the following matters in respect of which notice has been given under Standing Order 27A and the name of the Member in each case: (1) Deputy Patrick Nulty - the restoration of the Christmas bonus for carers, pensioners and those on long-term social welfare payments; (2) Deputy Éamon Ó Cuív - fógra gan choinne an Choimisinéara Teanga go bhfuil sé ag éirí as oifig go luath agus na himpleachtaí a bhaineann leis an gcinneadh sin; (3) Deputy Thomas P. Broughan - the establishment of an independent commission of investigation into the Stardust tragedy; (4) Deputy Michael Lowry - the difficulties facing parents of children with special needs in south Tipperary in securing school transport; (5) Deputy Paudie Coffey - the new rates to be imposed on businesses in Waterford contained in the valuation (No. 2) Bill 2013; (6) Deputy Ciara Conway - the filling of vacancies in the speech and language therapy services at the rehabilitation centre in St. Patrick's Hospital and community care unit in Waterford city; (7) Deputies Helen McEntee and Dominic Hannigan - the preferred site for the development of the new secondary school in Kells, County Meath; (8) Deputy Clare Daly - the building control regulations; (9) Deputy Martin Ferris - the reinstatement of the third teacher and the maintenance of resource teaching hours at Scoil Iognáid Rís, Daingean Uí Chúis, Contae Chiarraí; (10) Deputy Dessie Ellis - the need to establish a national food bank for the Thirty-two Counties; (11) Deputy Brendan Griffin - the difficulties being faced by small schools because of Government staffing policy; (12) Deputy Anthony Lawlor - the need to establish two separate schools on a single campus in Maynooth, County Kildare; (13) Deputy Seán Ó Fearghaíl - the position regarding support for sufferers of narcolepsy; (14) Deputy Colm Keaveney - the need for the Minister for Health to make a statement in relation to allegations over standards of care at Stewarts Care; (15) Deputy Denis Naughten - the need for the Minister for Health to review the decision to close the acute psychiatric unit in Ballinasloe, County Galway, in light of a number of recent tragic incidents within the catchment of the facility; (16) Deputy Mick Wallace - the impact of the new building regulations to be introduced shortly and the concerns of some of the professionals involved in the industry; (17) Deputy Michael McNamara - the destruction of waste chemicals in Shannon; (18) Deputy Gerald Nash - the lack of resources and support nationwide for gifted children of exceptional talent or learning ability, who may sometimes become isolated and experience difficulties in the classroom; (19) Deputies Catherine Murphy and Michael McGrath - the potential exposure of thousands of mortgage holders, former customers of IBRC, to uncertain conditions outside the code of conduct on mortgage arrears owing to the immediate sale of these loans by the special liquidator; and (20) Deputy Michael Moynihan - the need for the Minister for Communications, Energy and Natural Resources to discuss the expansion of rural broadband.

The matters raised by Deputies Catherine Murphy and Michael McGrath; Helen McEntee and Dominic Hannigan; Dessie Ellis; and Éamon Ó Cuív have been selected for discussion.

Local Government Reform Bill 2013: Order for Report Stage

Minister for the Environment, Community and Local Government (Deputy Phil Hogan): I move: “That Report Stage be taken now.”

Question put and agreed to.

Local Government Reform Bill 2013: Report Stage

An Leas-Cheann Comhairle: As amendments Nos. 1, 10 to 12, inclusive, and 15 are related, they may be discussed together.

Deputy Brian Stanley: I move amendment No. 1:

In page 14, line 37, after “district” to insert “council”.

We have been told that many of the amendments we have tabled to this substantial Bill have been ruled out of order due to the potential cost on the Exchequer. I have looked back over the amendments tabled by my party that were disallowed. We feel it is very unfair that they have been ruled out of order. It has certainly restricted our ability to try to amend the legislation in this House. We feel it is unfair on the Opposition that matters are being dealt with in this way. I suppose we cannot do much about it today other than make it clear that we are not happy about it.

More consideration should be given to amendments tabled by Opposition Deputies. The excuse of being a potential charge on the Exchequer can be used to rule every one of our amendments out of order.

Amendment No. 1 seeks to give the new municipal districts the ethos of a local authority with powers devolved at local level. In many cases such a district might cover half or one third of a county - substantial areas up to 40 or 50 miles across.

Amendment No. 10 addresses similar concerns relating to municipal districts. We are trying to ensure the Bill confers on municipal districts the status of a local authority and that they have maximum devolution. I know the Minister has spoken about maximising devolution from the centre and this is an opportunity to do so. We feel it should also be reflected in naming the new districts.

Deputy Barry Cowen: I concur with what Deputy Stanley has said on the adjudication of many of the amendments, which have been ruled out of order for a variety of reasons. Given that many of those same amendments were discussed on Committee Stage, I would have thought they would also have been discussed on Report Stage. I am especially mindful of the contention that many have the potential to be a charge on the State. It is a very open-ended statement which contradicts much of the thrust on which we wish to engage with the Minister on the potential changes that could have a positive effect on local authorities and so forth. I ask for a more thorough explanation as to why it is believed they represent a potential charge on the Exchequer.

My amendments, Nos. 10 to 12, inclusive, seek to use the term “municipal district council” rather than “municipal district”. In all instances where “municipal district” is mentioned it should also contain the word “council”. As the previous speaker has said, it would add weight to the contention that much power will be contained within those district areas with a view to them having autonomy. They should have the power not only for agreeing spend and policy pertaining to that spend, but also have the potential to raise funds within those districts and carry out the duties for that area as they will have been elected to do when the elections take place next year.

I ask the Minister to take on board the thrust of what we are asking for in order to give greater impetus, effect and meaning to those districts by appending the word “council” to them in order to improve their standing and also any legal implication that may exist.

Deputy Catherine Murphy: I also express serious concern about a number of amendments that have been ruled out of order. Many of these were also tabled on Committee Stage and were not accepted on Committee Stage. In some cases there was a commitment to make changes. However, they have been ruled out on Report Stage. I do not understand how they can be allowed on Committee Stage and disallowed at this Stage when the same test is applied for both. It narrows down the range of issues we can debate on this very substantial legislation.

Local government reform is critical in the context of reforming all our political institutions because they are all integrated together. If we do things at national level that should be done at local level, we are criticised for having an excessive level of localism at national level. This is incredibly important legislation. On Committee Stage the Minister accused me of viewing my glass as half-empty when it came to this reform. While the Bill introduces reform, it is not the kind of reform I want to see and we have a difference of opinion on that. I believe my opinion is just as valid as the Minister’s.

I passionately believe the real opportunity is at the district council level. That is where people function and interact with each other. At that level there is a huge level of volunteerism and public representatives can connect with citizens in a very meaningful way, not just at an individual level, but as community groups across the spectrum of issues in which people are involved. They do Trojan voluntary work at community level in terms of running the country. In fact we are let down by our politics and the real opportunity is at district council level.

The addition of word “council” in these amendments is not a minor affair. It gives the authority at the level where it really matters. While it creates a legal entity, I had understood that was where the real power would be positioned. By not positioning it there, we are maintaining the same culture of control from the Custom House to the councils. The Minister will not change the culture, nor will I.

Deputy Phil Hogan: We have gone through all that nonsense previously.

Deputy Catherine Murphy: The culture is dictated by that control mechanism. Essentially we are limiting the prospect of real change and engagement by not taking that on board. That is my honestly held view, having been a member of a town council and a county council for a long number of years.

The Minister said that he would have a look at my amendment No. 15 and I will be interested to hear what he has to say. Some of the things I had expected to change do not appear to have changed following the Committee Stage debate - we will come to some of those later. I

would like to hear what the Minister has to say on the issue of control and how he believes that will not continue to be a dominant feature of local government if we do not give the municipal districts the appropriate power and control.

Amendment No. 15 deals with cases where a local authority may revoke the delegation of a function to a municipal district. I am seeking that may only be done by way of agreement with the municipal district. I do not want these to be beefed-up area committees; I want them to be meaningful if they are to happen. At the very least that should be acceded to.

Deputy John Deasy: The amendments Deputy Dowds and I tabled were ruled out of order, as they would potentially be a charge on the State. We knew that could happen. They deal with the funding of local government and changes to the collection of rates, in particular. We are not too upset about that because the Minister and his officials have to a great extent worked with us to deal with those amendments in their own way and have put their own wording on those issues.

11 o'clock

We greatly appreciate the kind of communication there has been in that regard in the past few months. It has been very constructive. We both feel that way. I hope that the Minister will tell me his view about spreading the payments when it comes to new valuations as set down in our amendment.

There is a two-tier economy in this country. Certain parts of the country are being revalued. It started in Dublin then Limerick and now Waterford. In many cases the increases on the rates bill for some businesses are as large as 200% or 300%. There is a simple idea behind my amendment, to spread the payments over three years, to allow people to manage the increases. We spotted something in the Bill which we thought was important. There is a policy contradiction. Somebody in the Department of the Environment, Community and Local Government had the foresight to examine the harmonisation process that occurs when local authorities are amalgamated and felt that it would be wise not to inflict a sharp shock on businesses but to spread that harmonisation process over 10 years. For a business within a local authority area that is being amalgamated with another local authority the harmonisation process would be spread out so that it would have a minimal effect on the business. A 300% increase in a new valuation for a business is potentially disastrous and catastrophic for the business.

We thank the officials in the Department of Public Expenditure and Reform for their technical help. We propose to spread the payments at least over three years. That has a downside: this is budget neutral and there will be people who are subject to decreases, which must be spread out like the increases. I am less concerned about that than I am about the people who would have to suffer the increase so quickly in one year. That is a real problem. I would appreciate if the Minister could address our amendment, which was ruled out of order on Committee Stage and again here. I know that he is considering it and talking to his officials about it, as well as dealing with the Department of Public Expenditure and Reform.

An Leas-Cheann Comhairle: We are speaking to the amendments in the group, Nos. 1, 10, 11, 12 and 15.

Deputy John Deasy: I understand that. Could the Leas-Cheann Comhairle allow me to finish?

An Leas-Cheann Comhairle: I want to call the Minister now to reply.

Deputy John Deasy: I would like to mention the other two amendments. With regard to the 50% issue and the rebate I understand that the Minister will allow discretion in the local authorities. We appreciate that he has accepted the essence of our amendment. To impose a 50% bill on a vacant premises would be a mistake. A two-tier economy exists. I understand from the Committee Stage debate that the Minister will allow the local authorities have discretion and there will be no statutory enforcement of that 50% outside Dublin, Cork and Limerick.

The last amendment has to do with arrears. I understand that the Minister will table an amendment in the Seanad to deal with the arrears that are tacked onto a new sale or a leasehold. Perhaps the Minister could address how he proposes to deal with that in the Seanad.

An Leas-Cheann Comhairle: I have allowed people to voice their disappointment about the amendments but I cannot allow discussion on them. I call on the Minister to reply.

Minister for the Environment, Community and Local Government (Deputy Phil Hogan): Amendments Nos. 1, 10, 11, 12, and 15 relate to discussions we held on Committee Stage. I assure Deputy Cowen and others I do not decide what amendments are included or not. I hope they appreciate that it is a matter for others to make those decisions.

The amendments we are discussing are similar to those they discussed on Committee Stage. During that debate we considered the word “council” to describe municipal districts, which, as Deputies have rightly said, is more familiar to people and would confer a certain status on a municipal district. I understand why the Deputy raised those points but I am convinced that it would bring confusion rather than clarification to the reform that we propose. For that reason I propose not to use the term “council” despite the corporate status that it would confer on the municipal district entity. I want to make clear that the municipal district system involves substantial reform, not just a replication of the county council area committee system. The defining characteristic of the municipal district is that, unlike the area committee, the elected members for each district will perform functions of the local authority on a devolved basis for the district, thereby increasing subsidiarity and making local government more responsible to local communities. Contrary to what Deputy Catherine Murphy says, 70% of all local representation now is in town councils but they have only 7% of the local government activity. I want to see those areas having more power and responsibility through the municipal district system.

There are 70 reserved functions assigned to the elected members at the municipal district level. Some are no big deal but for the first time there are other substantive ones. Town councils did not have them but the municipal districts will have these particular powers. Districts will have full power to decide on matters at district level, local area plans, by-laws, works on roads, housing and amenities and will be fully engaged in a structured way with the local community. I will insist that they engage with the citizen in a structured way at that level, for the first time. The democratically elected councillor for the municipal district will be able to attend plenary session in the same local authority area to fight the case even further for the needs and resources of a particular district. There is no duplication of public representation, no dual mandate, and I would prefer, as I am sure most people would prefer, to be on a local authority that had meaningful power and responsibility rather than tokenism.

There was a structure in place, for many years, the town council, whose powers have been taken away. It started in 1977 with the abolition of rates but that is history. We want the mu-

municipal district system to provide a coherent and comprehensive system of governance within each county, to embrace as many areas as possible. It is up to the local authorities in plenary session to devolve more than I am devolving. This is the list of reserved functions we have put into the legislation but if it wants to, the full council can decide that the municipal district can do more. We are giving that flexibility to local authorities, not to put them in a straightjacket in terms of what they do at municipal district level but to see if there are powers more appropriate to the municipal level than the full plenary council level.

This reform programme introduces more power and responsibility and brings it closer to the citizen in an integrated way, not an administrative and bureaucratic way, not for the sake of having a town council in every town over a certain population or, in the case of Granard, with effectively no population. This is the type of change we are trying to make in order to eliminate the structural duplication. The human and other resources will be put to better use to promote the sustainable economic, social and community development of an area. The functions that may be performed by the elected members at various levels of governance are set out in the Bill. Section 21 will insert a new section, 131A, and a new schedule, 14A, in the 2001 Act, the first and second parts of which will deal with the functions that should be performed by members at municipal level or by members of the municipal district or local authority levels.

The allocation function as set out in the Schedule was decided almost entirely on the basis of the recommendations of the working group that I set up between the Association of Municipal Authorities of Ireland and the Association of County and City Councils. They have engaged very constructively in this process. By giving them the opportunity to allow the full plenary session of a council to devolve more in addition to what we have agreed gives some credibility to the notion that I want to devolve as much as I possibly can to the lowest possible level. I am firmly of the same view as the Deputies opposite. There is discretion to do that.

While I am sympathetic to Deputy Catherine Murphy's point about more devolution I have explained what I am doing but I will reconsider the matter for Committee Stage in the Seanad to give a bit more legal impetus to the notion that we have to consult with municipal district level members on the revocation of delegated functions to that level. If it would make even further progress towards showing my bona fides in regard to these amendments, I am certainly prepared to do that part of it on Committee Stage in the Seanad. However, I am not prepared to use the term "council". There is one council and there will be 31 local authorities, not 114. I do not want to recreate or confer corporate status on an entity like the municipal district just for the sake of it.

Deputy Brian Stanley: With regard to the devolution of powers, one issue is that of bus stops, which is not dealt with in the reserved functions. Perhaps the officials will take note of this point. At the moment, in order to install a bus shelter, it is necessary to contact the National Transport Authority and chief executives and a plethora of other people have to become involved. If a bus shelter is needed in Johnstown, Urlingford or anywhere else, it should be within the competence of the local authority to erect one so that four or five people can stand in out of the rain while waiting for public transport. The current situation is ludicrous. By and large, there are no bus shelters in rural areas whereas there are plenty of them in the North. Small, modest bus shelters can be cheaply installed. It is one of the issues we need to address. We are talking about involving local councils more in performing functions and about more environmentally friendly policies. If we are to get people to use public transport, we have to provide shelters for them to stand in out of the rain while they are waiting for that transport. The people who can decide best where to locate that bus stop are the local councillors elected

on behalf of the people.

Some of the measures in regard to the devolution of powers are very small and frivolous whereas the Bill does not deal with some of the major issues. For example, we lobbied for the joint policing committees, as did other parties. The Department, with the Department of Justice and Equality, needs to consider strengthening those joint policing committees to give them real teeth because they will be better if they are strengthened.

Deputy Barry Cowen: I acknowledge what the Minister has said in regard to what he believes and the manner in which he has set out devolved powers to district councils, as I will continue to call them, as well as the option and the powers that remain with the local authority to devolve further powers. Perhaps the Minister could set this in train at this early stage and ask local authorities to begin this process, as they see fit, in order to have brought finality to it before the elections take place next May.

I am still disappointed the Minister does not believe it is necessary to allow the terminology to include the word “council”. In my own county, for example, in any correspondence or communication they have, they now refer to themselves as Offaly local authorities, made up at present of Birr Town Council, Tullamore Town Council, Edenderry Town Commission and Offaly County Council. I do not believe it would have any adverse effect on the workings of that local authority and its function in devolving powers to district councils, of which there would be only three. It would give greater credence and authority to many candidates and councillors alike, as they seek the affirmation and support of the electorate in order to serve on those district councils, to be able to say that person is being elected to the overarching Offaly local authority with specific responsibility, as devolved by that authority, to a municipal district, with the effect of having responsibility for many devolved powers, as the Minister said.

I reiterate that this process should now begin, in addition to the list the Minister has drawn up, and for it to be added and agreed across the country prior to any election taking place. It is in that vein I believe it is an easier sell to the public because they will feel they are electing a person to a district or area who can effect change and progress in that area for which they are elected, and have the funding available to them to do so.

Deputy Catherine Murphy: As I have said on numerous occasions, and will say again, I am not arguing that every town council should be retained. The Minister said the coverage is 7%. There is a lesson to be learned from some of the functions that town councils carried out that are necessarily going to transfer into the municipal district councils. The county councils tended to focus much more on what I would call hard services, such as roads, footpaths, street lighting and that kind of thing, whereas the town councils would have a stronger role in regard to softer services involving engagement with communities and running events, such as awards nights, tidy estates competitions and so on, that really make a difference to an area. That is the area I am concerned is not going to be picked up by the municipal authorities.

I am very unhappy we cannot debate section 69, which relates to local government funding and Irish water, because the level of discretionary spend will be incredibly important right across the spectrum, including the points that have been made in regard to commercial rates and all the rest. However, the amendments on that have been ruled out of order. This will have a bearing in terms of the kind of services about which I am talking.

It will be very important that the passage of this legislation is a process rather than an event

in regard to the devolution of functions. For example, if the Committee on the Environment and Local Government has a role in this regard, or if there is another monitoring agency, which we will discuss later on other amendments, it is very important that this is a dynamic process.

The Minister did not come back to me with regard to amendment No. 15, although he had said he would look at this when we discussed it on Committee Stage. The county council can revoke the delegation but I sought that this would be by consent rather than by diktat, more or less. The Minister might address this point.

An Leas-Cheann Comhairle: I call Deputy Deasy on amendments Nos. 1, 10 to 12, inclusive, and 15.

Deputy John Deasy: We are talking about the funding of local government, as Deputy Murphy mentioned. Some 50% is the estimate with regard to commercial rates funding local government, so I believe it is germane.

An Leas-Cheann Comhairle: We are not on amendment No. 23.

Deputy John Deasy: I ask the Minister to comment on the three amendments concerning the transitional relief fund, the 50% rebate issue and how we propose to deal with the legacy or historical arrears on properties.

I wish to raise two other issues. First, we need to get into a debate here as to how, organisationally within government, we deal with the whole area of rates and whether this should be dealt with by one Department. This area crosses over into three or four different Departments at present and an argument might be made that it would be better for any regulations or legislation dealing with this area to be centrally located in one Department.

Second, legislation was introduced this year in the Seanad, the Valuation (Amendment) (No. 2) Bill. I know the Minister is aware of this Bill and is anxious to move it on. One issue in the Bill is the whole area of self-assessment and whether businesses that are now being revalued and given new valuations will be allowed to self-assess under the new legislation. It is something that is very pertinent. I am being asked that question by businesses that have new valuations and I would appreciate a response from the Minister.

Deputy Phil Hogan: All I would say to Deputy Deasy is that the issues he has raised are being discussed during the course of the day. Any savings that will accrue from the reforms we are undertaking should not impose any additional cost on business. This is about harmonisation of the systems in place downwards, not upwards. At the end of the day, it is a matter for the elected members, who have a reserved function on this matter at budget time, to ensure that is the case.

Considerable savings will be made from the elimination of the duplication and the integration of services at staffing level, as well as at a structural level, to allow for that to happen. I will make allocations very shortly in regard to the general purpose grants, in conjunction with Irish Water, which will hopefully allow local authorities to see the benefit of the reform in 2014 and not just be waiting over a ten-year period. Under the legislation, it can be up to ten years but if local authorities are in a position financially to harmonise their rates in one go and have the resources arising from these allocations to do so, we will do so. In respect of the other issues relating to 50%, we suggested on Committee Stage in the Seanad that will be a reserved function of the local authorities.

Deputy Brian Stanley: May I speak?

An Leas-Cheann Comhairle: The Minister only has a minute remaining.

Deputy Phil Hogan: I will come back for that one later on. Most of the functions mentioned by Deputy Catherine Murphy will be allowed to continue at municipal district level. I do not think people have got into their minds that they have seven or eight councillors at municipal district. These councillors will be able to perform many more functions than the old town councils. The same people will also be able to go to the plenary session of the council and fight their case for resources for the municipal district. That is eliminating duplication and giving them another chance. Obviously, they must build relationships with municipal districts around their county or city to achieve that. It is a process and I agree with the Deputy that this will not just end with this legislation. That is why I have given powers to the local authority in plenary session to add more reserved functions to be devolved at local level to municipal district level if it wishes to do so. In respect of amendment No. 15, I spoke about the discretion that will be available in the Bill for functions to be re-allocated between different levels of the council on the basis of local decisions but, as I said on Committee Stage, I am sympathetic to considering what amendment we could bring forward in the Seanad to reflect the need to consult municipal district members on the revocation of a delegation function to that level. We are prepared to look at the context of the Seanad. We have not had it for this Stage.

An Leas-Cheann Comhairle: Is Deputy Stanley pressing the amendment?

Deputy Brian Stanley: Yes.

An Leas-Cheann Comhairle: Does Deputy Stanley wish to conclude?

Deputy Phil Hogan: The Deputy mentioned bus stops.

Deputy Brian Stanley: Bus shelters.

Deputy Phil Hogan: Most traffic and parking functions will be at district level so we will check the situation regarding bus shelters. I do not see any reason a local authority cannot provide an essential facility for citizens at that level if it wishes to do so.

Deputy Brian Stanley: Small bus shelters.

Deputy Phil Hogan: If it wishes to do so, I am sure there is nothing stopping it at the moment.

Deputy Brian Stanley: They are not allowed to do it.

Deputy Phil Hogan: We will have a look at that.

An Leas-Cheann Comhairle: How stands the amendment?

Deputy Brian Stanley: One has to go through the National Transport Authority to apply for the bus shelter. The list is drawn up by the senior executives in the National Transport Authority. I am not casting any aspersions on them but they are remote from where the bus stop is needed. If the bus stop is needed in Urlingford or Castletown, the councillors need to be able to make that decision. It is not something that needs to be made centrally in an office in Dublin. The people in the locality - the local area engineer and the local councillors - should be involved in the same way as they would be when a roads plan is done for the area. They are the people

in the area. The Minister has been a local councillor, as has Deputy Cowen and some of the other Deputies present, and he understands what I am talking about. Regardless of whether one is to the right or left or in the centre of the political spectrum, it is practical stuff that needs to be devolved.

Amendment put and declared lost.

An Leas-Cheann Comhairle: Amendments Nos. 2 to 4, inclusive, are out of order.

Amendments Nos. 2 to 4, inclusive, not moved.

Deputy Catherine Murphy: I move amendment No. 5:

In page 28, after line 36, to insert the following:

“19. (1) The Minister shall as soon as is practicable and in accordance with this Part establish an Advisory Panel on the Future Development of Local Government (in this Part referred to as the Panel).

(2) Membership of the Panel shall comprise of three persons appointed by the Minister with the consent of the Joint Oireachtas Committee on the Environment, Community and Local Government.

(3) The Panel shall prepare and submit to the Minister not less than 1 year after the 2014 Establishment Day, and every second year hence, a report detailing—

- (a) the effectiveness of the reforms made to Regional Authorities under this Act;
- (b) the effectiveness of the reforms made to Local Authorities under this Act;
- (c) the effectiveness of the reforms made to Municipal Districts under this Act;

(d) a review indicating the level of adherence in the State to each provision of the European Charter of Local Self Government done at Strasbourg on 15 October 1985, and what measures the Panel consider necessary to achieve the fullest adherence (ETS No. 122);

(e) the measures the Panel deems necessary to further devolve functions and powers to regional authorities from central government in the areas of—

- (i) planning and development;
- (ii) environmental protection;
- (iii) sustainable economic growth;
- (iv) transport provision, including roads and public transport;
- (v) household, commercial and industrial waste;
- (vi) public procurement;
- (vii) renewable energy capacity;
- (viii) social and community development;

(ix) education and training;

(x) culture and heritage;

(xi) parks and wildlife;

(f) the measures the Panel deems necessary to further devolve functions and powers to municipal district councils from local authorities in the areas of—

(i) planning and development;

(ii) environmental protection;

(iii) sustainable social and community development;

(iv) sustainable economic growth;

(v) energy microgeneration;

and all powers and functions referred to in Parts 1, 2 and 3 of Schedule 14A of the Principal Act;

(g) a review of the funds, assets and resources assigned to local government on a per capita basis for each Municipal District Council, Local Authority and Regional Authority.

(4) The Panel shall publish its report within 30 days of presenting it to the Minister and it shall be laid before Dáil Éireann by the Government forthwith.

(5) The Panel shall stand dissolved only with the consent of both Houses of the Oireachtas on the request of the Government.”.

Again, we had a debate on Committee Stage on this issue. The basis of it is that many of the functions I have included here are contained in the European Charter of Local Self Government, to which we signed up. In essence, I was looking to connect the two. The Minister said he was sympathetic to some of the points I was making and I will reserve saying anything further until I hear what he has to say and respond to it rather than labouring the point because the Minister knows the issue I raised on Committee Stage.

Deputy Phil Hogan: I acknowledge the spirit and intent of what Deputy Catherine Murphy is seeking to do here. I believe the Bill caters fairly well for her objective, particularly through the establishment of a national oversight and audit commission. This commission will scrutinise local government performance in fulfilling national, regional and local mandates. It promotes value for money where State funds are channelled through local government and the development of best practice and enhanced efficiency in the performance of local government functions. In terms of this latter point, this will achieve the Deputy’s objective to ensure the functions of local government are kept under review.

In this regard, like Deputy Catherine Murphy, I strongly support devolution of functions to local government. It is clear, as I said earlier about the other amendments, that the Bill provides opportunities for significant devolution in terms of enterprise support and local and community development. It provides for further scope for further devolution from national level through the extension of section 72 of the principal Act to include all Departments and State agencies.

I am also glad to be able to state to the Deputy that at yesterday's Cabinet meeting, the Government agreed to a local government proofing procedure in respect of any new public services at local level. This will have the effect that in the future, local government must be considered first as a service delivery mechanism at local level. In terms of the overall review of the reform programme, we are also strengthening the representative structure for local authority elected members, including the development of a unified association and enabling the members to have a more effective input into the development of policy nationally.

The Bill also provides specifically for meetings with the members' representative associations. I also note the point raised by the Deputy during our last debate whereby the language of this amendment comes from the European Charter for Local Self Government. I remind her that we have recently been the subject of a review by the Council of Europe's Congress of Local and Regional Authorities which welcomed the efforts for greater devolution enshrined in this Bill and called for accelerated implementation of the action programme to address the issue of inadequate subsidiarity and scope within the Irish local government system. I again make clear that criticisms made in that report, which was finalised last July, relate to the existing position and not, as some have misleadingly suggested, to this Bill. The Council of Europe has confirmed this. That said, a key objective of this reform programme is to reduce significantly the number of structures and processes and we are doing this with regard to the number of duplicative administrative and political structures through the replacement of town councils with municipal districts and in the mergers of Limerick, Waterford and Tipperary. It would be inconsistent of us to support the proposed establishment of an advisory panel in that context.

Deputy Catherine Murphy: I welcome the point made by the Minister in respect of local government proofing services. It must be an ongoing and dynamic thing. We would agree that it is not going to happen unless it is that. My concern was that oversight and audit would be counting what is in place rather than looking to the future. I was wondering how that was going to happen, which was the motivation for my tabling this amendment. It is critical if we are going to de-clutter in many ways what we do at national level and do it at a much more appropriate level, which is at local level. I accept the point made by the Minister in respect of section 72. It remains to be seen whether it actually happens. I will withdraw the amendment in the interests of good faith but I may come back and seek that if I am not satisfied in a year's time that we are seeing the right outcome. I hope the Minister would give me a hearing at that stage if it is not playing out in the way we hope it will.

Amendment, by leave, withdrawn.

An Leas-Cheann Comhairle: Amendment No. 6 is out of order.

Amendment No. 6 not moved.

An Leas-Cheann Comhairle: Amendment No. 8 is an alternative to amendment No. 7 and both may be discussed together.

Deputy Brian Stanley: I move amendment No. 7:

In page 29, between lines 2 and 3, to insert the following:

“CHAPTER 1

Community Councils

Community councils

19. The Principal Act is amended by inserting the following Part after Part 3:

“PART 3A

COMMUNITY COUNCILS

22A. (1) Every city and county council shall designate community council areas throughout its local authority area.

(2) The community councils would be on a statutory basis so that all agencies involved are obliged to act accordingly to that plan as passed by the councils.

(3) The structure of each such community council area shall reflect the natural community of that area and each village and town shall have its own community council.

(4) The number of members on each community council shall be between the range of 10 to 15 (dependent on population).

(5) Members of the community council shall consist of local councillors, statutory agencies, residents and representatives from the local community and voluntary sector.

(6) Residents shall be elected to the community council annually; such election shall take place at an annual general meeting of the community council.

(7) Membership of the community council will be on a voluntary basis.

(8) Persons registered on the register of electors for the particular year shall be invited to the annual general meeting and each such person shall be entitled to vote to elect community council members.

(9) Each community council may extend ex-officio, non-voting positions to representatives of local community groups, local councillors, statutory agencies and representatives from the local community and voluntary sector. Community groups shall be registered with the relevant local authority. Community and voluntary sector representatives would be nominated by their respective networks.

(10) Community councils may draft Local Area Plans in conjunction with the executive of the relevant local authority and any such plans so drafted shall only be put to the relevant local authority for approval following a vote of persons on the register of electors of the relevant community council area.

(11) The plans would be on 6 year cycles in line with city and county development plans.

(12) Community councils shall be consulted on any major planning applications within that community council's area and shall be invited to make submissions on same to the relevant local authority.

(13) Community council functions will include—

- (a) organising local community events,
- (b) organising plebiscites on matters including street name changes,
- (c) organising community levies for specific projects, including playgrounds, sports facilities and parks,
- (d) allocation of funding for lighting, traffic calming measures, upkeep of play areas and minor remediation measures, and
- (e) establish advisory councils on community-based planning to provide a forum for discussion and development of the framework for community-based planning.”.

This amendment is in essence about the setting up of voluntary community councils. We are not talking about an extra cost. There are many voluntary community councils throughout the State as well as local development groups, forums and committees in towns, villages and suburbs. What we are seeking to do is to link these into the local authority system.

These community councils could deal with a number of issues, for example, local area plans, community functions involving plebiscites and events, local community levies, the allocation of funding for minor remediation works, etc. We are trying to strengthen and recognise what is in place, to put it on a sounder footing and to link it with the local authority system. It is not a question of creating another layer of bureaucracy. Rather, it is a question of recognising the role of these voluntary groups, which have various names, and putting them on a proper electoral footing. This issue is often raised. From time to time, every Deputy attends public meetings called by various groups. In the case of a small number of groups, questions are asked about where they get their mandate from and how they are elected. Sinn Féin is seeking to ensure such groups are representative of the communities they claim to represent and are linked with the local authority system. They deal with local matters that should not tie up the next tier of local government.

In recent years, there has been much talk of social engagement and citizen engagement. We in this country are good in those respects compared with other countries, but we are in danger of losing that engagement, particularly in cities. It is still fairly good in rural areas, but our amendment is intended to improve civic participation and ensure it is done in a democratic way.

Deputy Barry Cowen: My amendment is similar to the one that has been discussed, in that it would set up community councils in an effort to plug the gap that will exist once the Minister’s cull of many councils throughout the country as well as many of his colleagues at local authority level has been completed.

Deputy Phil Hogan: We will be okay.

Deputy Barry Cowen: Many of my own colleagues, too. I recognise the Minister’s efforts to appease many of the authorities’ members by ensuring municipal district councils will have devolved or, as he stated, greater, powers, but only one such power is not currently in the remit of local authorities. Hence my suggestion that the list be updated and that departmental functions relating to local authorities be devolved so as to give meaningful effect to the change that has supposedly been promised.

Deputy Catherine Murphy rightly stated that many town councils had played a fine role in

areas other than those normally associated with local authorities, those being, housing, planning, lighting, water, etc. Town councils give much help and deliberation to retailers, community organisations and sporting clubs that may be lost in this change. I am mindful that some town council areas do not have the populations of many larger areas, from 7,000 people down to the likes of Clones, which has a small population but an effective town council. The same is the case in many parts of Donegal, my county and elsewhere.

Deputy Stanley and I have the best of intentions in wanting to plug the gap. There is room for community councils. Their work can be assessed, a similar proposal to Deputy Catherine Murphy's, who referred to analysing the benefit of the so-called reform that has been laid before the House. Community councils would look after areas that will be lost in the cull. Their structures would reflect the natural communities of their respective areas and each village and town should have its own community council. The number of members should range from seven to 15 people, who could undertake their duties on a voluntary basis and be elected annually at the council's AGM, where persons on the register of electors would be invited to cast their votes. Each council could extend *ex officio* non-voting positions to representatives of local community groups. The community councils could draft local area plans in conjunction with the executive of the districts.

Deputy Phil Hogan: What will the councillors do?

Deputy Barry Cowen: I acknowledge the Minister's intention in giving municipal district councils the power to set local area plans, but I also acknowledge the many county councils that involved town councils in the process without being compelled to do so. They did this in a spirit of unity and with the aim of delivering to their communities in the fullest possible sense. This practice can be continued.

Community councils would also be consulted on major planning applications. The Minister knows well the difficulties facing companies trying to develop wind energy and facing EirGrid in its efforts to improve its systems and networks. Many of the groups and organisations that are fearful of these proposals have pointed out that the public are not being engaged with in the consultative manner that is set in stone by various European conventions. The belief is that many of the companies involved are in contravention of those conventions. This Bill is a means to address that issue at local level by giving the public a greater level of involvement in local authorities' major planning decisions.

Community councils could also have responsibility for organising local community events, holding plebiscites on street name changes and so forth and raising community levies for playgrounds, sports facilities, parks, etc. When considering ways to devolve more power to local authorities, the Minister should ask his Cabinet colleagues about the way in which, for example, lottery grants are dispersed. Local authorities could also have a role in providing amenities and co-operating with local sporting and cultural organisations, the effectiveness of which is dependent on a local authority executive's good will in empowering members. This suggestion should be explored.

A cull is being carried out and the Bill is eroding local democracy. My amendment represents a constructive Opposition's approach to plugging gaps. It also offers an opportunity for greater community involvement than would be the case under the Minister's proposal.

Deputy Phil Hogan: I am surprised that Deputy Cowen has the mistaken view that we are

taking powers from local authorities, given the fact that his party in government set up so many agencies and abolished so many opportunities for local government to play its part. Town councils were effectively made redundant.

Deputy Barry Cowen: That is a general statement.

Deputy Phil Hogan: I draw his attention to the fact that former town commissions had no power to adopt local area plans.

Deputy Barry Cowen: I made that point.

Deputy Phil Hogan: No, the Deputy did not.

Deputy Barry Cowen: They were engaged with under the goodwill of the local councils-----

Deputy Phil Hogan: If we were to allow-----

Deputy Barry Cowen: -----and the responsible attitude of the members of those councils.

Deputy Phil Hogan: What the Deputy is proposing with the community council is effectively to over-ride the democratic input of the elected members-----

Deputy Barry Cowen: We are not.

Deputy Phil Hogan: -----of the municipal district by asking them-----

Deputy Barry Cowen: We merely asked for a consultative process.

Deputy Phil Hogan: The Deputy is asking them to draft the local area plans. The democratically elected person in the municipal district is the elected person who should be in charge of adopting that plan.

Deputy Barry Cowen: It is a consultative process on the draft, not the plan.

Deputy Phil Hogan: There certainly should be a structure to ensure the community is engaged in the process, but not involved in the drafting of it.

Deputy Barry Cowen: The Minister has gone a step further actually.

Deputy Phil Hogan: No.

Deputy Barry Cowen: He has given non-elected people a role in the corporate policy group.

Deputy Phil Hogan: We will come to that later.

Deputy Barry Cowen: When we reached it on Committee Stage, the Minister did not answer any of our queries about it.

Deputy Phil Hogan: Everybody agrees that the existing community and voluntary structure is not working. I will try to reflect the tenor of the amendments. A working group has been established under the chairmanship of Fr. Seán Healy, whom the Deputy knows well, to bring the people together to assess what structure of citizen engagement and participative democracy we

can have in conjunction with the municipal district members and the plenary council members.

Deputy Barry Cowen: I have one here.

Deputy Phil Hogan: I will certainly reflect on it for an amendment in the Seanad. I will get the report from Fr. Seán Healy on Friday and we will see what recommendations he offers. I am prepared to look at a structure to be put in place, but I will not agree to a list of functions for a community council that would actually subvert the powers that were given to the municipal district member at local level.

Deputy Barry Cowen: It would not. The Minister is being disingenuous.

Deputy Phil Hogan: In addition, council officials would be tied up with doing the work with the community council rather than with the democratically elected member at municipal district level. We will not do that. We will come up with a structure and hopefully the Deputy-----

Deputy Barry Cowen: The Minister acknowledges there is a gap.

Deputy Phil Hogan: Yes, there is a gap, and I acknowledged that on Committee Stage. That is the reason I set up the working group, to look at what it considered to be an appropriate structure and to give some advice on it.

Deputy Barry Cowen: That is a big acknowledgement.

Deputy Phil Hogan: We will consider that in the context of ensuring that there are proper structures in place to engage effectively at local level, in a structured way rather than a haphazard way or on an *ad hoc* basis. It will be the first time the community and voluntary sector will have a role and responsibility with local government, as it has throughout other sections of the Bill.

Deputy Brian Stanley: The Minister is overstating the role of what is being proposed here. I accept his statement that he will await the feedback from the working group. While I welcome that, I appeal to him to try to give due recognition to the voluntary groups. They are haphazard at present and some of them do not have a uniform system for how they are elected or to establish their mandate. That must be addressed too, along with linking them into the local authority system.

Deputy Barry Cowen: First, I welcome the fact that the Minister has acknowledged that, by virtue of what he has proposed in this Bill *en masse*, a gap exists in respect of the involvement of various communities which now find themselves without a town council. Second, I welcome the fact that he is open to suggestions, such as what is proposed by myself and Deputy Stanley, to fill that gap. However, I am very disappointed that on Report Stage of this Bill the Minister is telling us that on Friday, after this Bill is passed, he will look at the report from Fr. Healy and others with a view to possibly amending the Bill on Committee Stage in the Seanad.

Deputy Phil Hogan: It will come back to this House again.

Deputy Barry Cowen: That shows a great disregard for this process.

Deputy Phil Hogan: It will be brought back before the House.

Deputy Barry Cowen: I would have preferred an amendment such as this-----

Deputy Phil Hogan: I do not agree with the wording.

Deputy Barry Cowen: The Minister acknowledges there is a gap.

Deputy Phil Hogan: Yes.

Deputy Barry Cowen: He has acknowledged the folly in his Bill if it means that many communities will be left without the type of input he and I believe they should have and which they have had in many local authorities and town councils heretofore. The Minister set up a working group which will make recommendations to him, and to him alone. It will not consult with me or any other representative on Committee or Report Stage. That is a total disregard for the process in which we are engaged. I am sure there are many other Members whose constituencies are greatly affected by this Bill, which, at its core, attacks much of the local democracy to which we have become accustomed and which we wish to grow and elongate. It is very disingenuous and shows great disregard for the process in which we are engaged to consider the weight that may be given to a report that will be published next Friday. I accept that the authors of that report, on foot of the Minister's recommendations, have done much work over the last number of months, but it would have been more appropriate if the Minister had asked them to report and allow us to digest it-----

Deputy Phil Hogan: I did ask them.

Deputy Barry Cowen: -----before this process came about.

Amendment put and declared lost.

Deputy Barry Cowen: I move amendment No. 8:

In page 29, between lines 2 and 3, to insert the following:

“CHAPTER 1

Community Councils

19. The principal Act is amended by inserting the following Part after Part 3:

“PART 3A

COMMUNITY COUNCILS

Community councils

22A. (1) Every city and county council shall designate Community Council Areas throughout its local authority area.

(2) The structure of each such Community Council Area shall reflect the natural community of that area and each village and town shall have its own Community Council.

(3) The number of members on each Community Council shall be between the range of 7 to 15 (towns shall have 15 members and villages shall have 7 members).

(4) Members of the Community Council shall undertake their duties on a voluntary basis.

(5) Community Council members shall be elected annually, such election shall take place at an annual general meeting of the Community Council.

(6) Persons registered on the register of electors for the particular year shall be invited to the Annual General meeting and each such person shall be entitled to vote to elect Community Council members.

(7) Each Community Council may extend ex-officio, non-voting positions to representatives of local community groups, such groups shall be chosen at the Annual General Meeting.

(8) Community Councils may draft Local Area Plans in conjunction with the executive of the relevant local authority and any such plans so drafted, shall only be put to the relevant Local Authority for approval following a vote of persons on the register of electors of the relevant Community Council Area.

(9) Community Councils shall be consulted on any major planning applications within that Community Council's area and shall be invited to make submissions on same to the relevant local authority.

(10) Community Councils may organise matters such as—

(a) local community events,

(b) plebiscites on matters including street name changes,

(c) community levies for specific projects, including playgrounds, sports facilities, parks.”.”.

Amendment put and declared lost.

An Leas-Cheann Comhairle: Amendment No. 9 is out of order.

Amendment No. 9 not moved.

Deputy Barry Cowen: I move amendment No. 10:

In page 29, line 12, to delete “districts” and substitute “district councils”.

Question, “That the words proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

Deputy Barry Cowen: I move amendment No. 11:

In page 29, line 13, after “district” to insert “council”.

Amendment put and declared lost.

Deputy Barry Cowen: I move amendment No. 12:

In page 29, line 14, after “districts” to insert “or as municipal district councils”.

Amendment put and declared lost.

An Leas-Cheann Comhairle: Amendments Nos. 13 and 14 are out of order.

Amendments Nos. 13 and 14 not moved.

Deputy Catherine Murphy: I move amendment No. 15:

In page 33, to delete lines 5 to 8 and substitute the following:

“(b) A local authority may, by resolution and having received the prior consent of the municipal district council concerned, revoke the delegation by it under this subsection of a function, but the revocation is without prejudice to anything previously done by virtue of the delegated function.”.

Question, “That the words proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

An Leas-Cheann Comhairle: Amendments Nos. 16 to 19, inclusive, are out of order.

Amendments Nos. 16 to 19, inclusive, not moved.

Deputy Brian Stanley: I move amendment No. 20:

In page 40, between lines 16 and 17, to insert the following:

“(2) Each municipal district may in respect of that district set the commercial rate based on profits in the previous year. This should be part of the calculation along with valuation.”.

As we heard a Member on the government benches say this morning, there are two economies. The economic realities in commercial areas in some towns and villages can be very different from what it is in others. Rates is one of the biggest matters of contention at present with regard to the funding of local authorities. The case was set out by the previous speaker in respect of the legacy rates. I agree with that and I have spoken to the Minister a few times about it. However, the issue here is the proposal in the amendment that the profitability of the company or business involved must be a factor. Some businesses have very small turnovers and profit margins. There are businesses with zero profit margins and some businesses are actually trading in the red, with people trying to keep them going on overdrafts. The amendment recognises that reality.

Currently, banks or other profitable businesses with turnovers of millions of euro, pay the same rates per square metre as the pound shop or a shop selling sweets or bicycles. We must have a rates system that is more reflective of economic reality in order to keep small businesses going.

We pay a lot of lip service to the SME sector, saying that we are all in favour of it, but in framing this legislation we must ensure that this sector is recognised. We must provide for the fact that even in good times some businesses will struggle. Where a business is making substantial profits, such as in the financial sector, the Bill should recognise that a bank can pay more than a bicycle shop. That key point needs to be reflected in the legislation. We want that discretion to be added to the calculation process which is archaic at the moment. It does not reflect the commercial and economic reality on the ground. Sinn Féin wants to ensure that jobs are protected, even if there are only one or two jobs in a small business. We must try to help

businesses, particularly when there are difficult times, as there have been for the past four or five years. Start-up businesses should also be assisted to get off the ground when their profits are low.

Where businesses can pay substantially more and are making large profits, that should be taken into account. It is the fairest and most realistic way of doing it. It is also the most sensible way to create and maintain jobs.

Deputy Barry Cowen: The proposed amendment allows us to go a bit further and seek the Minister's opinion on funding local authorities in general. Despite the commitments made by the Minister and his Government colleagues prior to the introduction of the local property tax that people will be able to see the effect of such funds on local authorities, he has since stated that he is taking 20% out of that funding pool for the Exchequer. On Committee Stage of this Bill, the Minister also stated that he would take €600 million from that fund for Irish Water. That provision was not contained in the initial draft of the Bill. That is a runaway train as regards costs without having the necessary legislation to give effect to it in future. We have had no legislation concerning the transfer of networks from local authorities to Irish Water, or any legislation to set out the mechanism whereby the billing system will be put in place. We have only had legislation to establish Irish Water and commence metering.

Last week, I asked what specific target had been achieved to date since the metering installation process began. The Department refused to answer me, saying it was a function and duty of Irish Water and not the Department's responsibility. I am reliably informed, however, that only 20% of the target has been achieved to date. One must compare the great promise of reform that was made in setting up Irish Water with the mechanism for delivering water by local authorities. One should consider that many of the people hired by Irish Water have come from management roles in local authorities.

On Committee Stage, I said that about 30 people are currently employed in the provision of water services in County Leitrim. Some 16 or 17 of them are at engineering level, while the remainder are at management level. I understand that the Minister has put in place service level agreements with local authorities for the next 12 years where those 30 staff will remain and more management exists in Irish Water. The management of Leitrim County Council, for example, have a responsibility for the provision of water as they have for many other services that authority provides for local communities there. They will continue to have that responsibility and will be paid appropriately. Now, however, the management in Irish Water is going to do the same thing and will also be paid to provide that service.

There will also be a call centre with 450 staff, in addition to the responsibilities and duties under the service level agreement that staff have within local authorities throughout the country.

An Leas-Cheann Comhairle: This amendment is about commercial rates.

Deputy Barry Cowen: Yes, it is about the commercial rate which is about funding local authorities. This Government promised that the funding of local authorities would be most transparent by virtue of the property tax being available to local people who pay it, and the services they expect. However, €600 million of it has already been taken for Irish Water and 20% is being taken for the State, but not for the provision of local services. This highlights the folly of the process and the haphazard manner in which it is being managed. We can now see the duplication that exists in Irish Water and in local authorities for the provision of water services.

I want to hear some comment from the Minister in this regard, given that the questions I have tabled are not being answered by his Department.

On foot of the debate that has ensued since the publication of this Bill, will the Minister acknowledge its flaws? *Forbes* magazine says that Ireland is a great place to do business and we acknowledge that for many multinationals it is so. We also acknowledge the work undertaken by IDA Ireland and Enterprise Ireland, and the strides that have been made in their areas of responsibility. It should be acknowledged, however, that this country is not a great place for small retailers to do business in town centres. Commercial rents have come down by up to 70%, while commercial rates have declined by no more than 5%. If that is the case, how can Ireland be perceived as the greatest country in which to transact business?

I know the Minister will say that there is a responsibility on the part of the Minister for Public Expenditure and Reform, Deputy Howlin, in this area. However, it all ties in to both Ministers' ability to provide relevant and proper funding for local authorities to carry out their functions, as well as assisting local businesses in town centres which are dilapidated due to the Government's ineffectiveness in tackling this issue. Will the Minister acknowledge, as Deputy Deasy said earlier, that there has to be a complete overhaul of the commercial rates system, including the way rates are evaluated and collected? In the Internet age, the current archaic system disregards the turnover of any particular business. In addition, there is no regard for a business's alignment to commercial rent or its profitability. Neither is there any regard to the lack of surcharge on out-of-town-centre developments, as is the case in the North of Ireland which has a 15% rate. Such a rate here would allow funding for local authorities to make a difference in towns which are facing ruin.

Prior to the last general election, the Minister and his colleagues gave a commitment on upward-only rent reviews. Now, however, the legal opinion tells them that it cannot be done, despite the fact that it was the same legal opinion that advised either government party prior to the election.

Debate adjourned.

12 o'clock

Leaders' Questions

Deputy Micheál Martin: During Private Members' business last week we debated a motion tabled by Fianna Fáil on the need for an independent international assessment of EirGrid's Grid25 proposals in regard to the upgrade and expansion of our national grid using only over-ground pylons. This matter is causing genuine concern across the country. Thousands of people have turned up at public meetings to voice their anger and concern about a range of issues, from the impact of this project on people's health to the character of our landscape and cultural heritage and on residential housing and amenities.

There is a fundamental problem in terms of the appalling way in which this issue is being handled by EirGrid. The consultation process in terms of addressing people's genuine concerns has not been full or meaningful. In particular, it appears the key decisions, namely, the erection of a single string of mega pylons from Knockraha in County Cork to Dunstown in County Kildare and the ruling out of any underground cabling, were made in advance of that consul-

tation process. The consultation process was, therefore, narrowed to the single process upon which EirGrid had already decided. This has created huge concern across the country.

I am aware that the Minister, Deputy Rabbitte, held an *in camera* session with his councillors at the recent Labour Party conference. I am aware also that during the debate on Fianna Fail's motion last week many Fine Gael and Labour Deputies said they supported the thrust of the Fianna Fáil motion calling for an independent international assessment of the options. We accept the need to modernise our grid but there are other alternatives.

An Ceann Comhairle: A question please.

Deputy Micheál Martin: In Denmark, which is a country that is very focused on its energy agenda, pylons erected overground have been taken down and a different set of options in terms of its grid and power lines have been adopted.

Will the Taoiseach agree to an independent international assessment and will he confirm whether the Government has ruled out the issue of underground cabling?

The Taoiseach: The Deputy is himself not very clear in terms of what he is proposing. Debate on this issue has been ongoing for some time. There is always consternation and controversy in the country on issues such as the development of dual carriageways or motorways, the provision of gas lines or wind turbines or, in this case, upgrade and expansion of the electricity grid.

As leader of the Fianna Fáil Party, Deputy Martin understands very well that our country cannot be left bereft of infrastructure for investment purposes. Unfortunately, we have not yet arrived at the point where it is possible to transmit power without cables. The question that then arises is how do we provide physical infrastructure that will have capacity for power which will result in locations being able to attract investment and, as a consequence, jobs. Everybody is aware that a major entity cannot be supplied with an inferior water pipeline and that infrastructure such as is required throughout the country cannot be provided without electricity provision.

The modern communications systems available to us today allow people to access torrents of information on every conceivable aspect of these developments. The Government does not speak for EirGrid. It has no function in determining whether it should recommend a particular, or series, of locations for the erection of pylons. The Deputy will be aware that the previous Government carried out an assessment on the cost of undergrounding a major line in the country from County Meath northwards, which assessment was that doing so would be three times more costly. Given the need for this grid, I am not sure people would be willing to agree to underground it, in respect of which there appear to be technical difficulties, if required to pay three times the cost to do so. There is a need for rational discussion on an issue as important as this. We all agree that the country cannot be left bereft of opportunities for the future. This means we must have infrastructure capable of providing electricity for industry, business and homes throughout the country.

While we have a degree of capacity now owing to the unfortunate circumstances within our economy, a time will come, with Ireland now being recognised by some influential economic entities as being the best country in which to do business, when we will have decide what it is we want to do. I agree with the Deputy that consultations with communities, many of which I have attended down through the years, must be full and real, take on board people's concerns, anxieties, fears and questions and deal with them in as comprehensive a manner as possible. I

know that in some cases these consultations have not been as full as I would like. There is a need for a balanced and rational discussion on what we want to do.

I understand that a cable of this magnitude if buried will need to be dug up every so often using converters which are very expensive. I hear the arguments about other countries. In Finland, the 110 kV line was undergrounded and the 400 kV line was not. When visiting Japan, from which I returned only last week, I noted around the areas that I travelled that the pylons and power grids were located overground. This debate is ongoing. I would welcome if it can be conducted in a rational and commonsense fashion. People say they want jobs all over the country. We cannot have them without infrastructure such as water, communications, roads and power. How this infrastructure is provided forms part of that discussion.

The Government is not dictating to EirGrid. There is a process and procedure to be followed which is based on law. There was much protest when construction of the motorway from here to Waterford was proposed and in respect of the construction of other roads. Nobody wants to go back to the situation of not having that facility to allow commerce and business to thrive.

Deputy Micheál Martin: We have not had that comprehensive, full consultation about which the Taoiseach speaks.

Deputy Bernard J. Durkan: It is ongoing.

Deputy Micheál Martin: The Taoiseach cannot in this case hide behind the regulator. Ultimately, this project will be funded by taxpayers' money. The problem is that EirGrid decided on one particular option and then sought to ram it down people's throats whether or not they liked it.

Deputy Paul Kehoe: Fianna Fáil did the same when in power.

Deputy Micheál Martin: That is the problem in terms of this issue.

(Interruptions).

An Ceann Comhairle: Order, please.

Deputy Micheál Martin: I am asking for an independent international assessment of the options. Grid25 is a big project. Nobody is questioning the need to modernise our capacity in terms of energy. What is at issue is the manner in which this is being done. The Minister for Transport, Tourism and Sport, Deputy Varadkar, this morning endorsed Fáilte Ireland's concerns. Deputy Varadkar, was all over the newspapers today saying that he supports Fáilte Ireland's concerns about the damage and the risk, in its words, that cultural heritage amenities will be at and the risks for scenic landscapes throughout the country. There will be mega pylons across the Comeragh Mountains, for example.

An Ceann Comhairle: A question please, thank you.

Deputy Micheál Martin: That is the view of the Minister, Deputy Varadkar. I accept that he is entitled to have that view and so am I. It is not only exclusive to Ministers to have concerns.

An Ceann Comhairle: Could you put your question? Thank you.

Deputy Micheál Martin: This is a mega project. There are 1,300 pylons across the coun-

tryside in a straight line as decided by EirGrid. That is the way the company wanted to do it, although there were other options. The public never got any pre-consultation opportunities in respect of the EirGrid proposal, but that is the minimum that is required. It would make sense for genuine consultation to take place for all concerned. The concerns that exist are not figments of the imagination. The Taoiseach knows that and many people know it. It is on a scale that dwarfs anything in respect of roads or any other infrastructure projects that we have had. That is the reality. We can quote international studies. Other countries throughout Europe can do it, including countries that have a far greater record in terms of energy, moving away from fossil fuels and so on. Denmark is one such country. What are we afraid of in terms of a genuine international independent assessment of whether we are doing the right thing?

Deputy Bernard J. Durkan: What was Deputy Martin afraid of when he was in power?

Deputy Micheál Martin: It is not only a question for energy, but whether it is the right thing for tourism, landscape and our cultural heritage, which are important considerations in the long term.

The Taoiseach: Deputy Martin is not saying what it is that he wants.

Deputy Micheál Martin: I am. An independent assessment.

The Taoiseach: No. Hold on.

Deputy Barry Cowen: Change the policy.

The Taoiseach: Deputy Martin says there are other options. I do not know what he is talking about when he says there are other options.

Deputy Micheál Martin: RPS did a series of work and produced a document.

The Taoiseach: As I understand it, we cannot transmit power without cables. Do we provide the country with capacity to have business and generate power for industry, and, therefore, economic expansion and jobs, or do we not? If we do, what is the way we do this?

I listened to the news this morning of a major case in Wicklow which was turned down by the planning appeals process and which was overturned by the Supreme Court. There was a case in which EirGrid was negligent in adhering to the planning process and the application for the major North-South interconnector was turned down.

As part of the programme for Government, the Minister appointed a panel of international experts which concluded that the cost of undergrounding a grid would be three times the cost of over-grounding it. Are we expecting everyone to have to pay three times the cost for their electricity?

Deputy Micheál Martin: That proves my point.

The Taoiseach: There is a process and a procedure to be gone through which is very exact.

Deputy Micheál Martin: There is a precedent where some of the grid was put underground.

The Taoiseach: I would be happy, as part of a full and open consultation in the House, to hear of Deputy Martin's other options, which would be able to provide capacity, power and infrastructure to deal with this matter.

Deputy Barry Cowen: Is the Taoiseach saying he has none?

The Taoiseach: People say to me that I am the Taoiseach and ask why can I not provide jobs all over the country. People are entitled to their concerns and objections relating to gas lines, wind turbines, pylons, motorway development or whatever.

Deputy Barry Cowen: Get out of the way.

The Taoiseach: This applies whether it is to supply water for this city for the next 50 years or to supply quality water for major infrastructure projects that need huge quantities of it and so on.

Do we want to deal with these problems or do we want to shove them aside? As far as I am concerned, we must deal with the future. We exit the bailout programme on Sunday. On Monday, we stand as a free member of the eurozone, with all the opportunities, constraints and securities of that.

We must plan for the future in a proper fashion. I am all for full wholesome and open consultations. I have never been a supporter of behind-closed-doors decisions. In this case, the GRID25 plan is not about our generation but the one coming behind us and whether we are in a position to have a system and structure that will deliver for the next generation and allow it to continue to belong among the best countries in the world in which to do business. That requires rational common sense discussion and I am prepared to have that from our point of view and from the Government's point of view. We do not speak for EirGrid. We do not have a role in directing that the company should put a line here or there.

Deputy Martin's proposal for an international assessment has already been addressed by the Minister in respect of the work of the independent international group, which concluded that it would be three times the cost in terms of underground as opposed to overground. If we appointed another, it might conclude it would be two and half times the cost or five times the cost. What is the answer?

Deputy Mattie McGrath: That was then. Technology is advancing.

The Taoiseach: We still must provide power for infrastructure in order that we can have jobs in Donegal, west Kerry, Wexford and everywhere else. We cannot have that unless we have basic infrastructure. To do that, there is a process in law and a planning process that must be adhered to and determined independently. This is not a case of a Government diktat. It is a case of talking about what kind of country we want in the next 20 or 50 years. This is an essential part of it.

I take the validity of the issue Deputy Martin is raising. We need to have an open and accountable process in order that the people and the areas throughout the country get the capacity and the opportunity to benefit from economic expansion in the coming 20 years.

Deputy Caoimhghín Ó Caoláin: On Monday, the Minister for Health wrote to the Oireachtas Joint Committee on Health and Children to advise that he would not now be attending tomorrow's scheduled meeting of the committee to discuss the HSE national service plan for 2014, because, as he said, it is still not ready. There is now the real possibility, uniquely, perhaps, that we will not have an opportunity to discuss the HSE service plan for 2014 in advance of the new year and its introduction, a bizarre situation.

The signing off and publication of the plan have already been delayed on several occasions. The Minister granted extensions to the HSE. I have to say that is not surprising because in budget 2014 the Government imposed cuts of at least €666 million on the health budget for the coming year. The Taoiseach knows this is unsustainable. I believe the Taoiseach has given his health Ministers, the Department and the HSE an impossible task. More important, he is imposing on front-line workers and patients within the health services an impossible burden. Can he tell us how it will be possible to maintain health services in 2014 on such a drastically reduced budget? All this, when, only yesterday, we had the publication of a Supplementary Estimate for a further €219 million in order for the Health Service Executive to be able to get to the end of this month. It is time to face the facts. I have to say that there is grave concern.

It is reported that the director general of the HSE, Tony O'Brien, has written to the Government to state that the figure for medical card cuts in the draft service plan is in fact €133 million and not the €113 million as signalled in the Budget Statement. Moreover, the medical card cuts are against the advice of the HSE and the Department of Health. Can the Taoiseach confirm that letter and the figures it cites?

The Taoiseach: What I can confirm to Deputy Ó Caoláin is that the process followed here is well known to him. Deputy Ó Caoláin was at the meeting yesterday. He is aware of the Minister's intention to attend the committee once due process has been followed in respect of provision of the HSE service plan. The budget takes place in October. Then there is a Vote given for the health Estimate for 2014. Following that, the Health Service Executive has a requirement to produce its draft plan on how it intends to run the services for 2014 based on that figure. That draft plan is sent to the Minister for Health for his approval or amendment and acceptance of the report. The Minister has until Monday, 16 December to respond to the Health Service Executive following his having received the draft programme. That is the system that operates.

The Minister is currently going through the draft plan as submitted by the Health Service Executive. He has already made clear that for this year he requires a Supplementary Estimate of €199 million. This is not the first time this has happened in the Department of Health. Clearly, he indicated last September or October that something less than €200 million would be required in respect of 2013. In response to Deputy Ó Caoláin, it is a matter for the committee as to when it wants the Minister to attend. I expect the Minister will comply-----

Deputy Micheál Martin: That also is the way it works in Ukraine.

The Taoiseach: Deputy Martin is someone to talk about health, is he not?

Deputy Bernard J. Durkan: He has a very poor record.

Deputy Mattie McGrath: Deputy Durkan should relax.

Deputy Bernard J. Durkan: As a former Minister, the Deputy has a very poor record.

Deputy Phil Hogan: What were the overruns like in those years?

An Ceann Comhairle: Thank you. Let us settle down now please.

The Taoiseach: I believe there were a few major overruns in Deputy Martin's time.

Deputy Jerry Buttimer: Over the runway.

Deputy Barry Cowen: Will the committee meet on Christmas Day?

An Ceann Comhairle: Quiet please.

The Taoiseach: The answer to Deputy Ó Caoláin's question is that I expect the Minister will comply with his requirement to respond to the Health Service Executive with his views on the draft plan as submitted-----

Deputy Mattie McGrath: Put him in charge.

The Taoiseach: -----and his recommendation for acceptance or otherwise.

Deputy Dara Calleary: Get him to send a "Dear Tony" letter.

The Taoiseach: Obviously, he will be quite happy to discuss this matter in public forum with the committee and as he indicated at yesterday's meeting, I am sure he is more than happy to attend. That process now is nearing a conclusion because there is a timeline on it. I expect that next week the Deputy will see the evidence and the conclusion of their deliberations of the Minister.

Deputy Micheál Martin: Next Thursday.

Deputy Dara Calleary: Perhaps on Friday.

Deputy Barry Cowen: What day is Christmas Day? It is two weeks from today.

The Taoiseach: There is no intention to try to delay the opportunity for the committee of which the Deputy is a member to discuss these matters and to give out, as the Deputy normally will, about matters that are of concern to him in the system.

Deputy Dara Calleary: The Taoiseach himself was good at it.

An Ceann Comhairle: Thank you, we are over time.

The Taoiseach: The Minister's priority is to focus on the delivery of effective services on the front line and, clearly, there are challenges for all Ministers and all Departments in government in meeting these objectives and targets. The Minister, Deputy Reilly, is no different from that point of view.

Deputy Caoimhghín Ó Caoláin: One would almost draw from the Taoiseach's remarks that it was the committee's fault the Minister has not yet come forward with the service plan for 2014.

Deputy Jerry Buttimer: Deputy Ó Caoláin should read out the full letter.

Deputy Micheál Martin: Deputy Buttimer is not leader yet.

Deputy Caoimhghín Ó Caoláin: I assure the Taoiseach-----

Deputy Jerry Buttimer: Deputy Ó Caoláin should read out the full letter.

An Ceann Comhairle: Would you stay quiet please?

Deputy Caoimhghín Ó Caoláin: -----and Deputy Buttimer that the committee-----

Deputy Jerry Buttimer: Read out the full letter.

Deputy Caoimhghín Ó Caoláin: -----is quite prepared to engage with the Minister in respect of the national service plan.

An Ceann Comhairle: Deputy Buttimer, I will not ask you a third time.

Deputy Finian McGrath: Hear, hear.

Deputy Caoimhghín Ó Caoláin: One should be clear in this regard. The Minister gave an extension of ten days to the Health Service Executive, HSE, to publish the service plan. Then he gave a further ten days to the HSE to complete its deliberations. I have asked the Taoiseach important questions. I have asked him whether he is aware of a letter from the director general of the HSE in respect of the service plan, quite particularly addressing the issue of the cuts to medical card provision in the coming year and that the figure presented in the Budget Statement last October is an understatement of what actually is to be provided for by €20 million-----

An Ceann Comhairle: Thank you.

Deputy Caoimhghín Ó Caoláin: -----and that it is €133 million.

An Ceann Comhairle: A question, please.

Deputy Caoimhghín Ó Caoláin: Is the Taoiseach aware of this letter? Is he aware it is indicated strongly and clearly that the HSE and the Department of Health are opposed to the extent of cuts being sought in respect of medical card provision? Is he aware they also make the case that €666 million, which might not be the total sum involved, is impossible to extract from a health budget that has been decimated year-on-year over recent years? In conclusion, can the Taoiseach provide Members with an idea of the numbers of people who now are likely to lose their medical cards at the end of this year and in the coming year on foot of decisions-----

An Ceann Comhairle: Thank you, Deputy.

Deputy Caoimhghín Ó Caoláin: -----to not only arrest but significantly reduce the sum being provided. Many who have known the certainty, comfort and assurance of a medical card, be they people in advanced years over 70 or, as in many cases in families across the country, children dealing with issues of grave sickness, now face the prospect of losing their cards.

An Ceann Comhairle: I ask Members to try to stick to the allocated time. Otherwise, they should change the time allocated but please do not have me interrupting everyone day in and day out.

Deputy Finian McGrath: Hear, hear.

An Ceann Comhairle: The Taoiseach has one minute in which to reply.

The Taoiseach: I do not wish to get into the details of any aspect of the many areas that are involved in the health budget. I am aware that the Health Service Executive wrote to the Minister with its submission of the draft plan for service provision for 2014. I am aware that a number of matters to which reference was made in the letter are being considered by the Government as how best to deal with them. I genuinely am not aware of the specific point the Deputy mentioned. However, I repeat that the Minister for Health has a responsibility to assess the draft plan, as submitted by the Health Service Executive, to provide services for 2014 and

to respond to the Health Service Executive with his approval or amendments to the draft plan as he considers. This work now is concluding with the Minister for Health. I believe that next week, Members will see the result of his deliberations here.

An Ceann Comhairle: Thank you.

Deputy Caoimhghín Ó Caoláin: The Taoiseach claimed not to be aware. Is it not past time that he made it his business to be aware?

The Taoiseach: The Minister's focus is on the provision of the excellent front-line services that are being provided. I do not agree with the Deputy's scaremongering tactics in this regard. An unprecedented number of medical cards have been issued and are being issued, with the highest ever numbers covered by the medical card service.

Deputy Michael Healy-Rae: Tell that to the people who are waiting.

Deputy Sandra McLellan: No one believes that.

The Taoiseach: I agree with Deputy Ó Caoláin that quite a number of sensitive cases came to light following the centralisation of the medical card system.

Deputy Michael Healy-Rae: Scandalous cases.

The Taoiseach: The issue was called before the Cabinet sub-committee and a process was put in place to deal with cases, particularly where discretion was required. In recent weeks, numbers were raised that have brought a requirement for experience to deal with particular kinds of cases and I believe that has been put in place. In response to Deputy Ó Caoláin, next week will see the Minister respond to the Health Service Executive and its draft plan and all these issues will be dealt with in the best way possible-----

Deputy Caoimhghín Ó Caoláin: Will the committee have a chance to discuss it with the Minister before the Christmas recess?

The Taoiseach: -----and while maintaining front-line services, to give the most effective and higher standard of medical care to the people.

Deputy Barry Cowen: Forget about the Dáil. No business here.

Deputy Caoimhghín Ó Caoláin: Will the committee have that chance in the coming week?

Deputy Jerry Buttimer: Deputy Ó Caoláin agreed this at the committee meeting yesterday.

Deputy Caoimhghín Ó Caoláin: Is that what will happen?

An Ceann Comhairle: I call Deputy Healy.

The Taoiseach: Yes, I do not see-----

Deputy Caoimhghín Ó Caoláin: I am not asking Deputy Buttimer; I am asking the Taoiseach and the Deputy is not in his seat yet.

The Taoiseach: The Deputy was at the meeting yesterday.

Deputy Barry Cowen: Deputy Buttimer has a few steps to go yet.

An Ceann Comhairle: I call Deputy Healy.

The Taoiseach: The Deputy was at a meeting yesterday. It was a tentative meeting based on-----

An Ceann Comhairle: Taoiseach, please. I already have called Deputy Healy.

Deputy Jerry Buttimer: Deputy Ó Caoláin is playing politics.

An Ceann Comhairle: Deputy Buttimer, would you please stay quiet or else leave the Chamber?

Deputy Finian McGrath: Yes, he is eating into the Technical Group's time.

A Deputy: Throw him out.

Deputy Seamus Healy: Christmas can be a lonely and difficult time of the year for the poor and low-income families, for the elderly, for carers and for long-term social welfare recipients. The Christmas bonus made Christmas for many such families and gave them a little bit of comfort. The official State statistics agency, namely, the Central Statistics Office, has found that almost one quarter of the people do not have the money to afford at least two goods and services that generally are considered the norm for society. This quarter of the population is categorised by the CSO as deprived and that figure has doubled over the past five years. The accepted definition of deprivation means that people cannot afford such basics as heating their homes, buying meat, having a warm coat or buying a gift for a grandchild at Christmas time.

Members know the money is there to pay for a Christmas bonus. Not too long ago, the Minister of State at the Department of Foreign Affairs and Trade, Deputy Costello, told Members in this Chamber that this country is the seventh wealthiest country in the world. In addition, the Central Statistics Office has revealed that gross financial assets of the wealthy are back up to boom levels, at €310 billion. Moreover, the Minister, Deputy Noonan, has informed Members that the top 20,000 earners in this country each earns in excess of €430,000 per annum. A minimal asset or wealth tax or a small increased rate of income tax on such very wealthy individuals would cover the cost of the Christmas bonus many times over. Many civil society organisations, including Age Action, Focus Ireland, OPEN, the Irish National Organisation of the Unemployed, Barnardos, the National Women's Council, the ICTU president, John Douglas, as well as many more, have called for the restoration of the double social welfare payment at Christmas. In the context of the acknowledged levels of deprivation in Ireland and in the context of such wealth, will the Government show compassion this Christmas and restore the Christmas bonus?

Deputy Michael Healy-Rae: Wonder Woman might bring it back.

The Taoiseach: The abolition of the Christmas bonus was announced in 2009 and to restore it now would cost €261 million. The rationale for the abolition of the Christmas bonus back in 2009 was that it was preferable to cutting social welfare rates across the board. In 2010 and 2011, however, the Government of the day reduced primary personal welfare rates for all persons under 66 years by more than €16 per week. In budget 2014 the Government was able to protect the State pension, the carer's allowance, the disability allowance and other core weekly payments in addition to child benefit, while still reducing the overall welfare spend as part of the necessary effort to reduce the deficit. It would be grand to think that one could do these

things but it is not possible.

I appreciate the difficulties that many people have had and continue to have as a result of the economic recession of recent years. That said, we have gone from a position where the country lost 250,000 jobs in three years to one where 1,200 net jobs are being created every week and there has been a fall in the numbers on the live register over 18 consecutive months. It is heartening to see the trends of confidence. Interest rates have fallen below 4% and even the construction index is rising. We still face significant challenges and it is not easy to make decisions to reduce public debt, but we have one of the highest deficits in Europe. We have targets and objectives to achieve and the people have made great sacrifices, but I think they see the process leading in the first instance to an exit from the bailout and following through to creating more jobs and achieving our target of having a deficit below 3% by 2015. By growing the economy there will be more opportunity for people to get gainful employment and to benefit from the rise in the economy. The Government has committed to not reducing core welfare rates and not increasing income tax because that is a tax on work. These are always difficult balances.

I am sorry to have to say to Deputy Healy that it is not possible to restore payment of the Christmas bonus as it was previously. The cost would amount to €261 million and we do not have that money. Unfortunately, we cannot return to the situation where there was an assumption that everything was available for nothing. Someone has to pay at the end of the day and balance is required. The budget maintained the State pension, the carer's allowance, the disability allowances, other core weekly payments and child benefit. Despite all the cynics and all those who said we would destroy all the welfare payments, that did not happen.

Deputy Mattie McGrath: It did happen.

The Taoiseach: Considering everything, it has not been possible to restore this year's Christmas bonus at a cost of €261 million.

Deputy Seamus Healy: That is a mean and shameful reply. However, those are not my words. Those are the words of Deputy Eamon Gilmore, leader of the Labour Party, when he addressed a question on Leaders' Questions to a former Taoiseach who had abolished that bonus:

This payment has been made to pensioners every year for 30 years, even in some of the country's most difficult economic years ... for the first time in 30 years pensioners will not get the small bonus which has been paid to them in years past ... The Taoiseach's reply contrasts sharply with his more sympathetic approach to the golden ten yesterday ... They get all the comfort from the Government but pensioners, who worked hard to make the country what it was ... are told they will not receive the small payment which made Christmas worthwhile for many of them. This is mean and shameful.

An Ceann Comhairle: Deputy Healy, please put your supplementary question.

(Interruptions).

Deputy Seamus Healy: I want to ask Deputy Eamon Gilmore and the Labour Party how they can stand over not restoring the Christmas bonus in these circumstances.

An Ceann Comhairle: The Deputy is not asking Deputy Gilmore at the moment. He must ask the Taoiseach a supplementary question.

Deputy Seamus Healy: I am referring to how wealthy people were comforted by the previ-

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ous Government. We know that during the course of this Government since Deputy Gilmore and the Taoiseach came to power-----

An Ceann Comhairle: Please put your supplementary question, Deputy Healy.

Deputy Seamus Healy: -----we know from the *Sunday Independent* 300 rich list that they have increased their wealth by €9 billion since 2011.

An Ceann Comhairle: Please put your supplementary question, Deputy Healy.

Deputy Seamus Healy: That is €9,000 million. A very small tax, wealth assets or income tax, on these very wealthy individuals would cover-----

An Ceann Comhairle: The Deputy is not listening to me. Please put your supplementary question.

Deputy Seamus Healy: I have a question.

An Ceann Comhairle: You are way over time.

(Interruptions).

Deputy Seamus Healy: With all respect, the first question took 15 minutes.

An Ceann Comhairle: With all respect, please put your supplementary question.

Deputy Seamus Healy: As I said, a very small tax-----

Deputy Paul Kehoe: Did the Deputy vote for it? Does he remember that?

Deputy Seamus Healy: -----on these very wealthy individuals would cover this Christmas bonus-----

Deputy Mattie McGrath: The same as Deputy Brian Hayes, the Minister of State.

An Ceann Comhairle: Stay quiet, please.

Deputy Seamus Healy: -----numerous times over.

(Interruptions).

Deputy Seamus Healy: In the context of the obscene wealth-----

Deputy Mattie McGrath: The Ceann Comhairle is not protecting the Members.

Deputy Seamus Healy: -----of those 300 richest people in this country-----

An Ceann Comhairle: Please, Deputy Healy. Put your supplementary question.

Deputy Seamus Healy: -----will the Taoiseach reconsider his decision not to pay the Christmas bonus and at least give some little comfort to people who are deprived this Christmas?

Deputy Finian McGrath: Do not be a Scrooge.

An Ceann Comhairle: I call the Taoiseach to reply and I ask if he would please stick to one minute. I am getting totally frustrated here. We are now about 12 or 13 minutes over the

allocated time. Members either want me to chair this or they do not want me to chair it but do not give me time limits which nobody is prepared to stick to. I do not like interrupting speakers consistently but Members will have to change these time limits if they are not prepared to stick to them, and it is not on.

Deputy Mattie McGrath: The Ceann Comhairle should talk to the Government Whip.

An Ceann Comhairle: I am not referring to you, Taoiseach.

The Taoiseach: It is not possible to restore the Christmas bonus as Deputy Healy suggests because it would cost €261 million. The entire social welfare system is being reformed.

Deputy Seamus Healy: It is being destroyed every day of the week.

The Taoiseach: Instead of passive payments, the change will demonstrate that work will pay and activation measures are being put in place. When the Christmas bonus was abolished in 2009 it was followed in 2010 by reductions in all those areas of social welfare. This Government is committed to not reducing core rates, and in budget 2014 it was possible to protect those.

Deputy Patrick Nulty: The budget cut core rates.

The Taoiseach: It would be lovely from a political point of view to say we can pay for this.

Deputy Seamus Healy: There are buckets of money. This is a very wealthy country.

The Taoiseach: The money is not there.

(Interruptions).

The Taoiseach: The system is that those who earn most pay the most. The Government restored the minimum wage, removed 330,000 people from liability to the universal social charge, and maintained core rates in all the areas I mentioned, including carer's allowance, the State pension, disability allowance and child benefit, which is very beneficial for families with children.

Deputy Seamus Healy: Child benefit was cut in the last two budgets. Another promise broken by the Labour Party.

Order of Business

The Taoiseach: It is proposed to take No. 9a, motion re leave to introduce Supplementary Estimate - Vote 39; No. 9b, motion re referral of Supplementary Estimate - Vote 39 to select sub-committee; No. 22, Local Government Reform Bill 2013 - Report Stage (resumed) and Final Stage; and No. 23, Assisted Decision-Making (Capacity) Bill 2013 - Second Stage (resumed).

It is proposed, notwithstanding anything in Standing Orders, that in the event a division is in progress at the time fixed for taking No. 132, Private Members' business, motion re Bethany Home, the Dáil shall sit later than 9 p.m. and Private Members' business shall, if not previously concluded, be brought to a conclusion after 90 minutes; and No. 9a shall be decided without

debate and, subject to the agreement of No. 9a, No. 9b shall be decided without debate and any divisions demanded thereon shall be taken forthwith.

Tomorrow's business after Oral Questions shall be the Companies (Miscellaneous Provisions) Bill 2013 [*Seanad*] - Order for Report, Report and Final Stages; Public Service Management (Recruitment and Appointments) (Amendment) Bill 2013 [*Seanad*] – motion to instruct the committee; and Public Service Management (Recruitment and Appointments) (Amendment) Bill 2013 [*Seanad*] - Order for Report, Report and Final Stages.

An Ceann Comhairle: Is the proposal for dealing with Private Members' business agreed to? Agreed. Is the proposal for dealing with Nos. 9a and 9b, motions re leave to introduce and referral of Supplementary Estimates without debate, agreed to? Agreed.

Deputy Micheál Martin: I have a number of questions for the Taoiseach on proposed legislative measures. As he is aware, the Church of Ireland in particular is very concerned about the threat to its schools, given the Government's policy on small rural schools generally. Given that about 50% of all Protestant primary schools have fewer than 56 pupils there is huge concern in terms of the capacity of members of the Church of Ireland to have education through their faith and have members of the Church of Ireland educated in Protestant schools. Will the Taoiseach indicate when the education Bill will be brought forward and if it can take into account the genuine concerns of minority faiths in regard to the impact the Government's policies will have on small rural schools?

Will the Taoiseach indicate when the Eirgrid Bill is to be published? This is the Bill to establish Eirgrid in primary legislation. It currently depends on statutory instrument.

Yesterday, I asked the Taoiseach about a number of pieces of legislation on health that were committed to under the programme for Government. I gave those to the Tánaiste last week but he did not have a clue about them, and I do not mean that in a disparaging way. It was as if the commitments in the programme for Government belonged to a different planet that the Tánaiste inhabited in terms of the way he responded. I asked the Taoiseach the same questions yesterday and I got the same reply; it is as if I was introducing something completely new. What I am asking about is in the programme for Government.

In the bioethics area I asked when we will legislate to regulate stem cell research, and when the legislation on assisted human production will be published. I asked when the integrated care agency will be established. I asked also when the hospital insurance fund will be established. I asked when the legislation for the patient safety authority will be published.

In regard to the care of older people in communities, I asked when more residential places, more home care packages and the delivery of more home help and professional community care services will happen because that is in the programme for Government. I asked also when we can expect the legislation on the review of the fair deal system of financing nursing homes. I asked the Taoiseach, in regard to the new GP contract, which will be central to the universal primary care advance in the programme for Government, if negotiations have begun and when we can expect a new GP contract regarding the primary care proposals the Government has put forward. Finally, when can we expect access to primary care without fees to claimants of free drugs under the high tech drugs scheme?

The Taoiseach: The Deputy asked a number of questions. The matter of small schools applies not just in the case of any faith in particular but is an issue of concern that has been raised

by both Catholic schools and Church of Ireland schools. This was of particular concern in the run-up to the most recent budget and was reflected in the decision of the Minister not to change the pupil-teacher ratio and therefore have an effect on it.

Deputy Micheál Martin: The Taoiseach did not reverse what he did in the previous budget. That is the problem.

An Ceann Comhairle: Would Deputy Martin let the Taoiseach speak?

Deputy Brendan Howlin: After all the damage the Deputy's party did-----

Deputy Barry Cowen: The Minister's Government made a change-----

The Taoiseach: The concerns and anxieties expressed were taken into account by the Minister for Education and Skills in the determination of his budget for 2013.

Deputy Brendan Howlin: We know all about what the Deputy's party did.

Deputy Barry Cowen: -----and he should not try to deny it.

The Taoiseach: The Eirgrid Bill is due next year.

Deputy Brendan Howlin: It ruined the country.

The Taoiseach: The Deputy asked a number of questions yesterday in regard to health. All of the information I have will go out in letter form to him today. I can go through each of the individual issues he raised if he wishes-----

Deputy Micheál Martin: If you could.

The Taoiseach: -----but there is a full letter dealing with each of the issues he raised on its way to the Deputy this morning. If he wants me to go through that I will but it is being sent to the Deputy in a full and comprehensive form.

Deputy Micheál Martin: I would like to hear it. We have only-----

The Taoiseach: I can tell the Deputy now. He asked in respect of stem cell research and assisted human reproduction. I can inform the Deputy that the Minister for Health is examining proposals now to regulate assisted human reproduction and related matters that include stem cell research. He will make a decision on this in due course in the context of his legislative priorities. He is currently preparing a family relationships and children Bill. The intention of the Bill is to create a legal architecture underpinning diverse parenting situations and provide legal clarity on parental rights. It will address the legal issues in terms of parenting that arises for children born by means of surrogacy or assisted human reproduction.

In respect of the patient safety agency, the Department is in contact with the Health Service Executive on the details surrounding the establishment of the patient safety agency to ensure an identifiable and distinct leadership responsibility for patient safety and quality at national level, having regard to the need for a quality and safety function within the new delivery structures of the reform programme. Discussions are continuing with the HSE on establishing the patient safety agency, initially on an administrative basis, within the HSE structures in 2014. That will allow the patient safety agency to become an identifiable entity within the Health Service Executive and to facilitate a smooth transition of the functions to that authority.

Deputy Micheál Martin: So it is not a patient safety authority.

The Taoiseach: The agency will be in a position to provide a quality improvement focus across a range of health care settings. The main priorities will be to ensure that patients, their families and their carers experience high quality care and ensuring the provision of care that is safe and protects patients from harm. The agency will seek to ensure that the care provided is effective and based on the best available evidence. The establishment of the PSA will be included in the work programme in the service plan for 2014.

The Deputy mentioned the insurance fund. As the Deputy is aware, the Government is making a number of changes in regard to the health system, the aim of which is to deliver a single tier health service supported by universal health insurance where there is fair access to service based on need and not on ability to pay. Under the UHI system everybody will be insured with their choice of insurer and will have equal access to a standard package of primary and acute hospital services, including acute mental health services. A new insurance fund will subsidise or pay insurance premiums for those who qualify for a subsidy. I confirm for the Deputy that intensive work is under way on the completion of the White Paper on universal health insurance, which will provide more detail on the UHI model.

Deputy Micheál Martin: When will that be?

The Taoiseach: I expect it shortly.

The Deputy also raised the issue of the integrated care agency. The document Future Health - A Strategic Framework for Reform of the Health Service 2012 - 2015, published in November 2012, recognises that the current hospital centric model cannot deliver the quality of care that is required by our people at a price the country can afford. For that reason, Government has set about creating a new integrated model of care that treats patients at the lowest level of complexity in a way that is safe, timely, efficient and as close to home as possible. Crucially, that new integrated model will help to ensure that services are better co-ordinated around the individual needs of patients. As outlined in that, it is intended that a new health care commissioning agency will fulfil the functions of an integrated care agency. The forthcoming White Paper on UHI will give further detail on that.

The Deputy mentioned the new GP contract.

(Interruptions).

Deputy Barry Cowen: Who wrote that?

The Taoiseach: The Government is committed to introducing a universal GP service by 2016 as an essential component of introducing universal health insurance. As announced in the budget, it has been decided to commence the roll-out of the universal GP service by providing all children aged under five with access to a GP service without fees. The implementation of this particular measure will require primary legislation. The Department and the HSE are examining that in terms of the changes which need to be made to the GMS contract to facilitate the introduction of universal primary care. That new GP contract will focus on prevention and will include a requirement for GPs to provide care as part of an integrated multidisciplinary series of primary care teams. The formulation of the new contract will have regard to the constraints of Irish and EU competition law, in particular in regard to the setting of fees and allowances. The Minister of State, Deputy Alex White, met the Irish Medical Organisation earlier this year

and outlined the Government's policy in regard to primary care. Obviously, he will engage with personnel in the coming weeks in regard to details of that contract. Deputy Healy-Rae asked about the fair deal scheme, about which I am sure he will ask later. All of this will be sent to Deputy Martin today.

Deputy Caoimhghín Ó Caoláin: While one would wonder if there was anything left on the list of legislation in regard to the Department of Health, I wish to ask about two Bills. In doing so I will not deny others the opportunity to participate in the limited time afforded to us at this juncture. The first Bill is to establish a statutory financial governance framework for the HSE, namely, the Health Service Executive (financial matters) Bill which was to be published in this term but has not yet appeared. One would wonder about the implications of such delays for the so-called reform agenda in health.

The second Bill about which I want to ask is the public health (sunbeds) Bill which has been raised year after year. It is to introduce a number of measures to regulate the use of sunbeds, including the prohibition on their use by those under 18 years of age. Again, it was due for publication in this term but it has not appeared and we have been waiting a long time. Melanoma is the fastest growing cancer in this country and, I understand, globally. Some 720 new cases of melanoma arise in this State each year. There is insufficient awareness of the dangers involved, in particular in regard to the exposure of young children. The introduction of this legislation will help in that cause.

The Taoiseach: We expect the Health Service Executive (financial matters) Bill to come to Cabinet next week, on 17 December. In regard to the sensitive issue the Deputy raised about melanoma and the public health (sunbeds) Bill, the standstill period within the framework of the notification procedure to the European Union which one must follow pursuant to directive 98/34/EC ended on 2 December last. The final draft of the Bill was received on 5 December last from the Office of the Parliamentary Counsel, so the regulatory impact analysis of that Bill is being revised and the explanatory note is being prepared. Therefore, a memorandum for Government will be drafted seeking approval to publish the Bill. Subject to Government approval, it is proposed that the Bill will be published probably in late January or early February 2014.

Deputy Marcella Corcoran Kennedy: In light of the publication of the report of the inter-governmental panel on climate change and the recent joint committee report to inform the drafting of the heads of the climate change legislation, when will the climate action and low-carbon development Bill be published? In the context of ensuring our energy security into the future and the need for us to generate a considerable amount of our energy from renewables, when will the geothermal energy development Bill be published?

The Taoiseach: Both Bills will be published next year. The geothermal energy development Bill will be taken first. Obviously, work is advancing on them.

Deputy Thomas P. Broughan: I refer to the environmental liability Bill, which I think was originally to be the pyrite levy Bill. The Taoiseach told me some time ago we would have it before Christmas. We are almost there but there is no sign of the Bill.

On a related matter, will the Taoiseach give Members another chance to discuss the building control regulations given that it seems responsibility is being placed on parts of the construction industry and the Government is not instituting an invigilation process? The Government is not taking any steps to avoid the kind of pyrite disaster we had and the Priory Hall situation. As the

Taoiseach will have noticed, the Prime Minister of Latvia resigned a few weeks ago because of a major construction disaster in his country.

An Ceann Comhairle: We will not deal with the resignation now.

Deputy Thomas P. Broughan: Is the Taoiseach happy that the pyrite Bill and the building control regulations, as they are framed, will do the job for the construction industry?

The Taoiseach: The environmental liability Bill will be published in the middle of next year. Yesterday, the Cabinet approved the pyrite resolution Bill which will be debated in the House next week. I will come back to the Deputy on the other matter he mentioned about the building regulations.

Deputy Ray Butler: When is the gambling control Bill to update and consolidate the law on betting and gambling expected in light of English legislation under which a mandatory 3% levy will be placed on all online transactions from next year? We have talked about this for the past 12 to 18 months.

The Taoiseach: The heads of that Bill were cleared last July but I think it will be the latter half of next year before it comes to light. It is a complicated process.

Deputy Bernard J. Durkan: What is the progress on the promised exchange of criminal records information Bill whereby criminal records data are exchanged between this jurisdiction and other EU and non-EU jurisdictions, with particular reference to habitual sex offenders?

The Taoiseach: The heads of the exchange of criminal records Bill were cleared last year. It will be early next year before it is published.

Deputy Peter Fitzpatrick: When can we expect publication of the regulation and valuation of land Bill which will merge the Property Registration Authority, the Valuation Office and Ordnance Survey Ireland?

The Taoiseach: I do not have a date for publication of that Bill. I will give the Deputy an update on the work that is proceeding on it.

Deputy Robert Troy: I understand the review of the wind energy guidelines 2006 are to be published. How long will the consultation process afforded to the public be? Does the Taoiseach not think it would be more appropriate to put in place a robust regulatory framework on a legislative basis to deal with the-----

An Ceann Comhairle: That is not a matter for the Order of Business.

Deputy Robert Troy: Legislation is promised-----

An Ceann Comhairle: Is there?

Deputy Robert Troy: -----governing wind farms.

An Ceann Comhairle: What is it?

Deputy Robert Troy: One Bill is in the Seanad and the other is a Private Members' Bill from a member of a Government party.

An Ceann Comhairle: We are not dealing with Private Members' Bills.

Deputy Robert Troy: I have asked about this on a number of occasions and for time to be made available to debate this important issue in the House. The Taoiseach promised that it would be made available but it is still not forthcoming. This is an extremely important issue in the midlands and it is being ignored. Members of the Government parties are saying one thing in the House and something totally different in their constituencies.

(Interruptions).

Deputy Robert Troy: There should be an opportunity for all Members of the House-----

An Ceann Comhairle: Not on the Order of Business.

The Taoiseach: These are both Private Members' Bills and discussion was held on them. In regard to the Deputy's comment on saying things in the House and different things in constituencies, I refer him to a comment made by the late Jim Kemmy on that a number of years ago.

Deputy Mattie McGrath: I refer to the issue raised by Deputies Martin and Troy. I was at a committee this morning at which the Government members backed off on a motion they had last week in regard to EirGrid.

An Ceann Comhairle: We are not interested in where the Deputy was this morning.

Deputy Mattie McGrath: I know that.

An Ceann Comhairle: We are interested in what he is doing now.

Deputy Mattie McGrath: I was doing my duty as an elected Member at the committee of which I am a member.

1 o'clock

An Ceann Comhairle: I am delighted to hear that, but not on the Order of Business.

Deputy Mattie McGrath: I want to wish you a happy Christmas as well, a Cheann Comhairle.

An Ceann Comhairle: Thank you.

Deputy Mattie McGrath: I wish you luck turning on the tree this evening. I hope to join you.

Deputy Patrick O'Donovan: Is Deputy McGrath not around next week? Is he taking next week off?

Deputy Mattie McGrath: It is very important that we are talking about trees and lights. I hope EirGrid will have enough power to put on the Christmas tree lights. They are telling us the lights are going to go off.

Deputy Brendan Howlin: The Deputy is behind the news. It was called off two days ago.

Deputy Mattie McGrath: When will the EirGrid Bill be brought in to regulate all of this? The Commission for Energy Regulation and others are not doing it.

An Ceann Comhairle: The Taoiseach has an answer for the Deputy.

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Deputy Mattie McGrath: I want to keep the lights on at all costs.

Deputy Brendan Howlin: The Deputy's question has been answered already.

The Taoiseach: It will be next year.

Deputy Michael Healy-Rae: I will not be able to follow that, a Cheann Comhairle.

An Ceann Comhairle: Thanks be to goodness.

Deputy Barry Cowen: The Deputy could wish us a happy Easter.

Deputy Michael Healy-Rae: A judicial review by a company seeking to construct a major infrastructural project-----

An Ceann Comhairle: We are not into judicial reviews.

Deputy Michael Healy-Rae: -----in north Kerry has been unsuccessful.

An Ceann Comhairle: Please, Deputy, do not make a fool out of everybody.

Deputy Michael Healy-Rae: I am asking the Taoiseach under the mineral development Bill about a €500 million project in north Kerry that is in jeopardy.

Deputy Brendan Howlin: It is subject to a judicial process.

An Ceann Comhairle: That is not in order on the Order of Business.

Deputy Michael Healy-Rae: I am asking about the mineral development Bill.

An Ceann Comhairle: Why did the Deputy not confine himself to asking about the Bill?

Deputy Michael Healy-Rae: The Chair would not give me a chance.

The Taoiseach: It is next year, a Cheann Comhairle.

Deputy Mattie McGrath: Everything is next year.

Deputy Brendan Howlin: This year is nearly done.

Deputy Mattie McGrath: I know that.

An Ceann Comhairle: I ask people to remember that we are in the Houses of Parliament here. This is not a sort of-----

Deputy Lucinda Creighton: I would like to ask the Taoiseach about the health service delivery plan for 2014, which has been delayed. It was supposed to go before the health committee this week. Is there a reason for the delay? When is it likely to go to the Cabinet? When will it come before the health committee? In light of the extent of the cuts that are proposed for 2014, is there any prospect of having the plan debated in this Chamber?

The Taoiseach: I have already dealt with this. There is no reason for the delay. The Minister will comply with the requirement on him to respond to the draft plan that is submitted by the HSE.

Deputy Micheál Martin: There is a delay.

Deputy Robert Troy: If there is no reason for the delay, why is there a delay?

Deputy Barry Cowen: There is no reason for a delay, but there is a delay.

Deputy Robert Troy: Why is there a delay?

The Taoiseach: He takes his time.

Deputy Barry Cowen: He sure does.

Planning and Development (Transparency and Consumer Confidence) Bill 2013: First Stage

Deputy Catherine Murphy: I move:

That leave be granted to introduce a Bill entitled an Act to amend the Planning and Development Act 2000 and related Acts in order to better regulate and bring greater transparency to planning and development activities in the State by establishing a national planning compliance register; by introducing new requirements upon planning authorities in the consideration of permission; by ensuring the consistency of certain development plans is further strengthened and maintained in the execution by planning authorities of their established functions; by establishing an accessible national schedule of development contributions and limiting the liability of development contributions in certain instances; by further limiting the term of an extension of planning permission for certain developments; by further removing obstacles to the taking in charge of unfinished estates by local authorities; by amending the Multi-Unit Development Act 2011; by providing for strengthened public right of appeal in cases of local authority developments, and to provide for related matters.

Most planning and development legislation focuses on builders, developers and planning authorities. The intention of this Bill is to ensure there is a focus in planning legislation on citizens and consumers.

An Ceann Comhairle: Is the Bill opposed?

Minister of State at the Department of the Taoiseach (Deputy Paul Kehoe): No.

Question put and agreed to.

An Ceann Comhairle: Since this is a Private Members' Bill, Second Stage must, under Standing Orders, be taken in Private Members' time.

Deputy Catherine Murphy: I move: "That the Bill be taken in Private Members' time."

Question put and agreed to.

Supplementary Estimate for Public Services 2013: Motion

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): I move:

That leave be given by the Dáil to introduce the following Supplementary Estimate for the service of the year ending on the 31st day of December, 2013:

Vote 39 — Health Service Executive (*Supplementary Estimate*).

Question put and agreed to.

Supplementary Estimate for Public Services 2013: Referral to Select Committee

Minister for Public Expenditure and Reform (Deputy Brendan Howlin): I move:

That, subject to leave being given to introduce the following Supplementary Estimate for the service of the year ending on 31st December, 2013, the Supplementary Estimate be referred to the Select sub-Committee on Health, pursuant to Standing Orders 82A(3)(c) and (6)(a) and 159(3), which shall report back to the Dáil by no later than 12th December:

Vote 39 — Health Service Executive (*Supplementary Estimate*).

Question put and agreed to.

Topical Issue Debate

IBRC Liquidation

Deputy Catherine Murphy: During the consumer impact section of last February's debate on the promissory note deal, the Minister for Finance made a point of saying it was "critically important that deposit account holders, mortgage account holders and those indebted to the Irish Bank Resolution Corporation, IBRC, understand that their situation following the liquidation should generally remain unchanged". I have been contacted by a number of former Irish Nationwide mortgage holders, who are now obviously involved in the IBRC, since a variation on that statement was contained in a recent reply the Minister gave to a number of Deputies from the Technical Group. The reply stated:

I am advised that the contractual terms and conditions of customer mortgages and other borrowings of IBRC will not change as a result of the appointment of the Special Liquidators or the ultimate sale of the obligations to a third party ... The continued applicability of the Central Bank Code of Conduct on Mortgage Arrears and Mortgage Arrears Targets Programme will depend on the regulatory status of the ultimate acquirer of the portfolio which we will not know until the sales process has concluded.

There is a complete contrast between the two commitments. The Minister said in February that the circumstances will not change, but he said more recently that the question of whether the circumstances will change will depend on who buys the loan book. People with performing and non-performing mortgages are very concerned about who might ultimately buy these loan books and the changes in circumstances that might arise at that time. For example, the Central Bank might afford a lack of protection to some of the entities that might purchase loan books. I will come back in on other aspects of this matter after I have heard the Minister of State's reply.

Deputy Michael McGrath: I support Deputy Murphy in this regard. The issue at hand is the future of approximately 13,000 individual IBRC mortgage holders. Over 11,000 of those mortgages relate to principal private residences and family homes. The key issue is the potential for these people to lose the protections afforded to them by the code of mortgage arrears if the mortgage book is sold by the special liquidator to an entity that is not regulated by the Central Bank. That is the key concern. As Deputy Murphy has said, a recent ministerial reply suggested that "the continued applicability of the Central Bank Code of Conduct on Mortgage Arrears and Mortgage Arrears Targets Programme will depend on the regulatory status of the ultimate acquirer of the portfolio which we will not know until the sales process has concluded". That is not acceptable. The Minister has the power under section 4 of the IBRC Act to issue direction orders to the special liquidator. As far as I am concerned, under no circumstances should the Minister allow the mortgage book to be sold to an entity that is not regulated by the Central Bank. The consequence of such a sale would be that 11,000 mortgage holders would lose the key protections that apply to their family homes having been built up by successive Governments. To my mind, that would be unacceptable.

The mortgage holders have organised themselves as a group and this is to be welcomed. There is a great deal of information on a website, *askaboutmoney.com*. Mr. Brendan Burgess is advocating quite strongly on behalf of these mortgage holders. They have other concerns apart from those I have raised. In particular, they are concerned that the mortgage book might be sold on to a vulture fund or a venture capital fund that might unilaterally decide to increase interest rates. While it could be argued that the same thing applies to any bank or individual mortgage holder, it is a key concern for individuals. It is important for this House to reassure people that they will retain these key protections if the mortgage book is sold. That is absolutely essential. The Minister has made some positive noises about the possibility of NAMA ending up with the mortgage book. NAMA would almost certainly step up to the plate in terms of applying the current standards and protections. We need reassurance to be provided in this House.

Minister of State at the Department of Finance (Deputy Brian Hayes): I thank the Deputies for raising this very important issue for the people concerned. As the House will be aware, the special liquidators were appointed on 7 February to manage the liquidation of the IBRC for the benefit of all the creditors of the IBRC. Their role is to ensure the liquidation is carried out in an orderly manner within a given timeframe.

Independent valuers were engaged to value all the assets of the IBRC including the residential mortgage portfolio. All IBRC borrowers including the residential mortgage customers received correspondence from the special liquidators. This provided them with an update on the special liquidation and the sale of their loans. Borrowers were invited to make representations on the method of the disposal of their loans and the criteria for determining who may bid for these assets. The special liquidators took into consideration the responses received from the borrowers and also the independent sales advice they received. They then decided to split the residential mortgage book into four segments, namely, performing, non-performing, owner-

occupier and buy-to let-mortgages, to bring them to the market. The special liquidators believe this sales approach would be the most efficient method of disposal. It is their belief that this approach is in the best interest of IBRC creditors, including the State and by extension the taxpayer.

The special liquidators are obliged to ensure that the assets of the IBRC are sold at a price that is equal to or in excess of the independent valuation obtained from the independent valuers. If no bid is received which is either at or above the valuation price, the loan asset will then be transferred to NAMA at the independent valuation price.

On the sale of the residential mortgage book, it is important to remember that phase 2 of that process has only commenced in the last week. I am advised by the special liquidators that the portfolio has attracted a range of credible bidders. However, it is far too early to speculate as to who may ultimately acquire the portfolio.

The regulatory status of the ultimate acquirer of the residential mortgage book will determine whether the Central Bank code of conduct on mortgage arrears, CCMA, will formally apply to that institution. The CCMA is issued under section 117 of the Central Bank Act 1989 and only applies to PDH mortgages by lenders who are regulated by the Central Bank. Unfortunately, given the legal status of the code, it is not possible to apply the code to institutions other than those institutions regulated by the Central Bank.

While I appreciate the concern of IBRC customers over the continued applicability of the code, a number of factors should be considered in the context of the sale of this book. First, I have been advised that in the event that NAMA ultimately acquires this IBRC residential mortgage book, it will determine its strategy for the management of that book being mindful of its legal obligations and also general market norms. As such NAMA is likely to apply best practice and no borrower will be in any worse position legally.

Second, recent court judgments suggest that compliance with the code is becoming a necessary condition for lenders seeking court orders for the repossession of primary residences. This is an important consideration as it is unlikely that an unregulated acquirer of the IBRC residential mortgage book would not seek to apply the code where it might have a detrimental impact on its ability to seek a repossession order.

I understand and appreciate that the sales process of the IBRC loans is an anxious time for mortgage holders with the bank. I reassure customers that the contractual terms and conditions of customer mortgages and other borrowings have not changed as a result of the appointment of the special liquidators. Furthermore they will not change as a result of the ultimate sale of these obligations to a third party.

The liquidation of the IBRC is progressing in a timely and orderly manner, and I am satisfied with the progress that has been made to date. The wind-down of the IBRC has been an arduous task and there have been many challenges in its execution. However, I reassure the House that the mortgage-holder customers of the IBRC are being treated fairly in this liquidation.

Deputy Catherine Murphy: The key point is that they do not feel they are being treated fairly and that moral hazard only seems to apply to the little man. There is an inadequate supply of funding in the Irish banks and they are not interested in taking on these mortgages - even those that are performing. We can assume that the people who will be interested in purchasing these loan books and particularly the performing ones - unless the others are to be very heavily

discounted - will be from outside the State. If that is not the case, from where will the money come? Therefore there is a considerable prospect that they will not be under the control of the Central Bank. There is good reason for people to be concerned about how they might be treated afterwards. The loans that are likely to go to NAMA are the non-performing ones that are not attractive to prospective purchasers. People are telling us they are hanging on by their fingernails. Any change in conditions will be of major significance for people with these mortgages. It is not right that they will not be covered by the Central Bank guarantee in how they are to be handled.

Deputy Michael McGrath: I thank the Minister of State for his response. If the loan book ends up in NAMA, I expect that best practice will apply. Even though NAMA is not a regulated entity, I suspect the code of conduct would be applied; I do not question that.

Deputy Brian Hayes: It would have to have regard to it.

Deputy Michael McGrath: The issue arises if it goes to an entity not regulated by the Central Bank of Ireland. In his response, the Minister of State said it would be in the purchaser's interest to apply the code because it might find it difficult to get a repossession order in court otherwise. However, there is uncertainty there. I believe it should be explicit and clear that under no circumstances should the IBRC mortgage holders lose the key protections every other borrower has under the code of conduct on mortgage arrears. That should be a condition of the sale of the mortgage book. Under section 9 of the legislation, the Minister has the power to impose that condition. I believe that should be done as otherwise we run the risk that 11,000 borrowers in respect of their principal private residences will lose statutory protection for their family homes. That is unacceptable and is entirely avoidable if the political will exists.

Deputy Brian Hayes: It has been very useful to have this debate and I thank both Deputies for raising the issue. I can understand the reasons for concern.

Deputy Catherine Murphy should not assume anything as to who will ultimately purchase this loan book. The State's objective through the special liquidation process is to obtain the best price we can on behalf of the taxpayer, which we all support. As we are now in the process of the sale, I will not prejudge what third party might ultimately acquire this loan book.

As I outlined, there are existing contractual arrangements between lenders and borrowers for those people who took out loans in the first place. They do not ostensibly change. The key issue, as Deputy Michael McGrath said, is whether the code of conduct, which we all support, is applicable in this case. NAMA has made clear its intention to apply the code, which we welcome. Whether it ultimately purchases the loan book is a matter that will become known in due course and I will not prejudge that. However, even if it does not, as a result of recent court decisions on repossessions it is clear that the courts are requiring parties to have a clear understanding and operation of the code where repossessions proceedings are brought before the courts.

Having the code in place provides an additional layer of protection. Most importantly having the code applied across the spectrum of people in mortgage difficulty provides some bone of comfort for people. Notwithstanding that, I take Deputy Michael McGrath's point seriously. We will keep this matter under constant review. I fully understand the difficulties people face and the Minister is being briefed on the matter on an ongoing basis.

Schools Building Projects Status

Deputy Helen McEntee: The building of a new secondary school in the town of Kells is an extremely important issue for the town and the surrounding communities. The local community supports the building of a new school but wants it to be completed as soon as possible. It is equally important that the right site is chosen and the future and current needs are met.

I and my colleague, Deputy Hannigan, other local Deputies, the town council and the local area councillors have raised concerns about the Cavan Road site. We think that the Navan Road site would be a better long-term solution. The Kells development plan recently zoned two suitable sites but it is my view and that of my colleagues that every effort should be made to develop the school on the community zoned land adjacent to the existing school campus on the Navan Road. The site on the Cavan Road is approximately 9.5 acres but it is landlocked by a supermarket on one side, a business on the other and a residence on another making it impossible to expand it for future needs. On the Navan Road site there are 12 acres adjacent to the existing school and the landowner has confirmed willingness to carry out a land swap which could be completed within a short timeframe. The site would also allow for future expansion, which is extremely important. It has been acknowledged that approximately 240 m of new road would be needed for this area but that land is available free of charge to the Department of Education and Skills should it decide to go with this site.

From a traffic management point of view the Navan Road site is much better for car-sharing. Parents would not have to make two journeys up and down the town. There are amenities next to the site, a swimming pool and playing fields. Many of the facilities there serve the schools that are there already and it would be detrimental to put the school at the other end of town. The Department needs to conduct a full assessment and comparison of the costs of the overall projects, including the possibility of having to carry out the works on the Cavan Road. The town council and Meath County Council have unanimously adopted motions asking the Department to carry out proper assessments on both sites. I ask the Minister to consider that today.

Deputy Dominic Hannigan: The people of Kells fully support the proposal to build a new secondary school. The issue is the location of the school. There are two sites, one on the Cavan Road at the north end of the town and one on the Navan Road at the south end of the town. The Kells development plan has zoned both sites for the purposes of building a new school. The important thing for us is that the right site is chosen. We have already spoken about this to the Minister for Education and Skills. I have visited both sites and walked up and down the fields as they are now. I share the concerns of many residents of the town. The Navan Road site is much closer to the new housing developments where the children are growing up. That site would enable them to walk and cycle to school in safety. It would also make it easier for parents to drop their children to school. It is closer to the existing school campuses where, as my colleague outlined, there is a swimming pool and sports pitches. There is in effect a campus there waiting for this new school.

I have spoken to many Kells residents about the school. They are perplexed and wonder why the Department would consider putting a school on the Cavan Road at the north end of town. People do not understand it. They are not particularly happy about it. When we spoke about this in the past the Minister told me that he needed to see some sort of consensus on behalf of the town councillors. We went to the town councillors and across the parties they have put forward a motion asking the Department to put the site on the Navan Road site as opposed to

the Cavan Road site. I think a copy of that motion was sent to the Minister.

I understand that there were some land-locking issues but they have been resolved because the landowners will give permission for any access road to be built. Today we want the Minister to give a commitment that a review will be carried out of the merits of both sites. We do not want to see favouritism towards any particular site. We are simply concerned that we get the best site and we believe that is the Navan Road site.

Minister for Education and Skills (Deputy Ruairí Quinn): I thank the Deputies for raising this matter. As both Deputies said, I am familiar with the issue. It has been brought to my attention. I thank both Deputies for outlining the situation and indicating that there is a great deal of concern about the location of this school.

The new school building will see some 800 students benefit from state of the art classrooms and facilities. Eureka secondary school, along with all the other schools included in bundle 5, which is part of the public private partnership, PPP, process, is scheduled to be completed by the end of 2016. It is envisaged that construction of this bundle of school projects will begin approximately 18 months prior to this target completion date. The delivery of this school through the PPP process is being carried out with the assistance of the National Development Finance Agency, NDFA.

The Deputies are aware that a site in Kells was acquired by my Department in 2007. This site is considered suitable for the development of the planned post-primary school and on this basis the project for Eureka secondary school was included for delivery under the PPP schools bundle 5. In that respect, work has already begun on the design of these schools and site investigations are scheduled to take place shortly. As part of the recent review of the Kells Development Plan 2013-2019, the members of the local authority approved a request from my Department to rezone the land to provide for community infrastructure, which includes educational facilities. The site is in the Department's ownership.

Ongoing representations, which have been repeated here today and to which I am listening carefully, have been made to my Department regarding the alternative site zoned in Kells for educational provision. Leaving aside that this site is not in the Department's ownership, although there have been clear indications that ownership could be available on the basis of a land swap, as I understand is the case with any proper accommodation to our benefit, several factors need to be taken into account. These include technical feasibility, associated development costs and implications for timely delivery of the project.

As part of the preliminary work to progress the PPP project, preparation of planning and surveys has commenced. This preliminary work will indicate whether any significant additional development costs are likely to be incurred in respect of the existing site in the Department's ownership. These facts will also inform the decision process. The Department will take all relevant factors into account when considering the outcome of this preliminary work, with a view to ensuring that the best interests of the taxpayer and the school community are served. I have heard very clearly, not for the first time, that it is the wish of the representatives in the area, and I am reliably informed, of parents and school communities, to have a consolidated education campus. We have some time in which to examine this particular site to see if what the two Deputies have said actually stands up. Without prejudice to any final decision I will undertake to expedite that so there will be some degree of certainty.

Deputy Helen McEntee: I thank the Minister for his response. There are technical issues that have to be addressed, such as costs and timely delivery. The fact that the landowner is willing to do a land swap and this could be completed within a short timeframe, under three months, would significantly speed up the process. A full review of both sites would be very worthwhile and will make clear what has been said.

Deputy Dominic Hannigan: I thank the Minister for his comprehensive reply, which we welcome, along with his commitment to consider this proposal. I welcome his saying that he will study the additional development costs. Within the programme for Government we have committed to examining cost-benefit analyses. I expect that these development costs will not be financial only but will include social costs, such as journey time costs for parents to bring the kids to the other side of town, the additional traffic management costs and congestion costs. These should all form part of this appraisal when the Minister carries out this review. I thank the Minister for giving us his time and I look forward to a positive outcome.

Deputy Ruairí Quinn: I welcome the fact that this matter has been raised again. Several Deputies have raised it on different occasions. We have a degree of clarity now about the choice between the two sites. Without prejudice to any final decision there should be a comprehensive cost-benefit analysis in the totality of the terms outlined by both Deputies. This should be done as quickly as possible in order not to delay the project and to ensure that the 800 pupils are accommodated by 2016. I will report back to all the Deputies in the constituency on this matter.

National Food Bank

Deputy Dessie Ellis: It is believed that, globally, one third of the world's food goes to waste. Unsurprisingly, the bulk of that waste is in the Western world - in Europe and the United States. Of course, to address global hunger fully, we need a radical shift in the distribution of wealth but, more locally, we can also help to ease the suffering of those currently economically oppressed by putting in place an infrastructure which can redistribute food to where it is most needed and save it from the bin.

Across Europe, €1 billion of food is redistributed through food banks every year. This equates to approximately 33,000 tonnes of food reaching 5 million people and making up 776 million meals. This saves businesses and charities money as well as paying for meals they are already serving, and it puts food on the plate for many people who are seriously suffering, particularly in this economic depression. A food bank rescues good quality surplus food that would otherwise have gone to waste and sends it to charities and community projects.

FareShare is a large food bank in Britain which only redistributes food inside its "best before" and "use by" dates. In 2012, it rescued 3,600 tonnes of food which would otherwise have gone to landfill. FareShare contributed towards more than 8.6 million meals in 2012, which equates to feeding 36,500 people a day. This food is delivered to a broad range of grassroots organisations all across the UK, including homeless shelters, day centres, women's refuge centres and children's breakfast clubs.

We have organisations like this in Ireland, such as Bia Food Bank and the Crosscare food bank, as well as a number of community projects in the North of Ireland, but there is no national distribution centre and, despite the great work being done, achieving the maximum capacity for sourcing food and rescuing it from waste is not currently possible. Some believe that a national

food bank distribution centre could work with major supermarkets, wholesalers and others on the supply chain, and could massively increase the ability of charities and community groups to provide food where it is needed. This would only cost a small sum relative to the benefit it would yield. The head of Bia Food Bank believes it would cost some €250,000 and, given he has indicated €100,000 has already been raised, this leaves just €150,000 needed to get it off the ground.

Has the Government looked into aiding and funding these groups, helping them to source finance or taking any other type of supportive role? Crosscare runs a small food bank in Dublin but the Bia Food Bank initiative is for a nationwide scheme. Last month, Aldi stated it had to get rid of €10 million worth of surplus food each year, which is scandalous. Supermarkets, factories and other sources have also indicated they have huge waste. Nationally, it is estimated that 50,000 tonnes of good food is thrown away or fed to animals annually. When food poverty is increasing so much, it is a scandal we have not managed to organise proper distribution along the lines I have outlined.

Minister of State at the Department of Agriculture, Food and the Marine (Deputy Tom Hayes): I thank Deputy Ellis for raising this timely and important issue in regard to the distribution of surplus food. The Department has been involved for some years in administering the programme of food aid for deprived persons. The programme of food aid for deprived persons was first introduced in 1987 as a reaction to conditions faced by deprived persons during a particularly harsh winter. It was designed to release products that were available in European Community intervention stocks to charitable organisations for free distribution to people in need. Its primary objective was considered to be a social measure but it also had the effect of reducing the intervention storage costs for those products that are distributed which are borne by the EU.

For some years, butter, cheese and rice have been distributed to various charities by my Department. This year, my Department will be distributing cheese, butter and rice to the value of €2.6 million to 563 registered charities. Among those in receipt of product is the Dublin-based food bank operated by Crosscare. A number of the charities utilise the product distributed to provide meals for the most deprived in society.

In Ireland the programme is managed at operational level by hundreds of charitable organisations, mainly staffed by volunteers. The charities currently participate in the reception and distribution of the foodstuffs to deprived persons. These organisations play a key role in the implementation of the programme. However, the majority of the charitable organisations using the scheme in Ireland do not have the capacity to store large quantities of product and, therefore, the Department, as the intervention agency, arranges for the storing of the foodstuffs in various stores located throughout the country. The charities withdraw quantities of product from the stores as required and approved by the Department. The deprived programme operates as a stand-alone scheme and is not run in tandem with a national scheme.

This will be the last year that the current programme will operate under the Department of Agriculture, Food and Marine in line with the expiry of the EU regulation. From 2014, the European Commission has proposed the introduction of a new fund to support the provision of food and consumer products for people who are the most deprived. The regulations for this fund have been agreed by the European Parliament and the Council and will be voted on in February 2014. The Department of Social Protection has begun preparatory work for the introduction of the new fund, which will have a budget of up to €3.5 million when co-funding by the

Exchequer is taken into account.

Any proposals for the establishment of a national food bank will come in the first instance from the charitable sector in conjunction with food producers and retailers. The Minister for Social Protection and myself would welcome any ideas the Deputy might have on such a proposal.

Deputy Dessie Ellis: I thank the Minister of State. There is no doubt a huge amount of work is done by the charities, and the Minister of State referred to 563 charities which are delivering different items, which is very worthwhile. However, it is clear there is a huge loss of food from other sources. As I said, Aldi indicated it had to get rid of €10 million worth of surplus food, which is scandalous. There must be some means of pulling together all of these supermarkets, businesses and other producers of food of all types, preparing a register of the food available and distributing it.

I have been out on a soup run and have seen the problems on the ground. I have also seen the problems in my own constituency office and know that due to the economic climate, some people are having cornflakes as their main meal. While this is hard to believe, it is the case that some people are not getting a full meal. There have also been cutbacks to the meals-on-wheels service for senior citizens and some children are going to school malnourished. These are the areas where we need to deliver the food. If this is co-ordinated better, we can deliver more, and there is certainly scope to do this, from the information I have received. It is clear that the amount of food that is being thrown away in this society is massive. The Minister spoke about a new European initiative. I am not too clear about what that means. Does it mean that more money is coming in? Will it help in terms of funding, co-ordinating and bringing more groups on board to distribute and store food? The storing of food is probably very important. It is important that we can hold that food in case of emergencies and serious breakdown somewhere along the line.

Deputy Tom Hayes: I cannot but agree with what the Deputy says about the huge amount of food that is being wasted but consumers are demanding that very uniform products be available in the supermarkets. This morning, I visited north Dublin where the horticultural growers have a significant problem. There are many issues relating to supermarkets. One thing they pointed out was the demand for very uniform Brussels sprouts, carrots and turnips. There is a significant amount of wastage arising out of that. That material should certainly be looked at because the same quality exists in a carrot regardless of whether it is crooked or not and people must understand that. Shoppers do not want to buy these products.

Deputy Ellis said he did not understand the new European measure. The European Parliament has passed a directive which will come here for discussion. I welcome the input of the Deputy and everyone else because it is a huge problem and if really good, top class food is being produced here, if people here do not want to buy it, at least it should be made available. The Government will do everything in its power to help alleviate a problem with food. I welcome the opportunity here to clarify exactly where we are.

An Teanga Ghaeilge

Deputy Éamon Ó Cuív: Lá dubh don Ghaeilge a bhí ann an tseachtain seo caite nuair a d'fhógair Seán Ó Cuirreáin, an Coimisinéir Teanga, go bhfuil i gceist aige éirí as a phost mí

Feabhra seo chugainn. Tá go leor sa ráiteas a thug sé don choiste Dála, ach tá abairt amháin sa ráiteas a léiríonn cé chomh tromchúiseach agus atá an cheist. Dúirt sé:

Ní fhaca mé in imeacht 30 bliain mar iriseoir nó mar Choimisinéir Teanga an oiread ísle brí agus lagmhisnigh. D'ainneoin tacaíocht ollmhór ag tromlach an phobail i gcoitinne sa tír don teanga, tá sí á ruaigeadh go leanúnach chuig imeall na sochaí, agus áirim anseo cuid mhaith den riarachán phoiblí; ní bheidh sé furasta í athabhairt ar ais go háit níos lárnaí.

Ba mhaith liomsa buíochas a shabháil leis an gcoimisinéir as ucht an éacht oibre a rinne sé agus ba mhaith liom buíochas a ghlacadh leis an bhfoireann atá aige freisin. Níl aon amhras ach go ndearna siadsan a ndualgais a chomhlíonadh.

Tá an-bhrón orm nach é an tAire sinsearach, an fear a fuair séala na hoifige mar Aire Gaeltachta, atá anseo inniu. Is léargas ar an dímheas atá ag an Aire ar an nGaeilge nach bhfuil seisean ag tógáil na ceiste seo inniu, agus ceist chomh tromchúiseach léi á tógáil. Muna bhfuil Gaeilge aige, tá córas aistriúcháin sa Teach. Dá mbeadh sé thall i bParlaimint na hEorpa, agus dá mbeidís ag labhairt Fraincise, cuirfeadh sé air na cluasáin muna mbeadh Fraincís aige. Tá trua agam don Aire Stáit mar is eisean a cuirtear amach i gcónaí. Is léir go bhfuil a chroí san áit cheart, ach níl cumhacht dá laghad aige ar pholasaí an Rialtais. Ag deireadh an lae, caithfidh an tAire sinsearach, fear a bhfuil séala na hoifige aige, an fhreagracht a ghlacadh.

Nuair a thóg mise isteach an tAcht Teanga agus nuair a mhol mé don Rialtas é a chur faoi bhráid an Taoisigh agus nuair a glacadh leis, is é an smaoineamh a bhí taobh thiar den Acht sin ná go mbeadh cearta an tsaoránaigh Gaeilge a úsáid cosanta sa dlí. Thuig mé ag an am nárbh fhiú an chosaint a scríobh sa dlí muna mbeadh duine éigin ann leis an gcosaint sin a dhéanamh ar son an phobail agus sin an fáth gur cuireadh Oifig an Choimisinéara Teanga mar chuid den Acht sin. An té a mhol mise don Rialtas le ceapadh ag an Uachtarán mar choimisinéir ná Seán Ó Cuirreáin, duine a bhfuil éacht oibre déanta aige le deich mbliana anuas.

Tá dualgas bunreachtúil an Ghaeilge a chosaint agus ní rud roghnaíoch é seo mar luaitear í sa Bhunreacht mar an teanga náisiúnta. Ach céard atá déanta ag an Rialtas seo? Tá sé tar éis na dualgais reachtúla agus bunreachtúla a chaitheamh ar neamhní. Tá gach rud déanta gur féidir le Oifig an Choimisinéara a chailliúnt. Níl ach ceathrar fostaí as seachtar atá ceaptha a bheith ar an bhfoireann. Tá leath de na poist le líonadh i gcónaí. Tá an Rialtas ag iarraidh an oifig a chruthú ar bhealach eile trí í a chuir isteach faoi Oifig an Ombudsman. Go simplí, tá sé ag iarraidh nach mbeidh deis cheart ag lucht labhartha na Gaeilge an Ghaeilge a úsáid.

Mar adúirt Seán Ó Cuirreáin, ní ceist airgid í seo. Is ceist pholasaí agus dearcaidh í. Ní leithscéil ar bith é mar a úsáideann an Stát go bhfuil dua ag baint le seo, mar dúirt Ó Beoláin sa Chúirt Uachtarach:

Caithfidh an Stát féin a dhualgais [i leith na Gaeilge] a chomhlíonadh, go háirithe iad siúd atá cumhdaithe sa Bhunreacht agus ní féidir é a chloisteáil ag gearán ach chomh beag leis an saoránach aonair gur dualgais thuirsiúla, throma iad sin.

Mar sin, tá mise ag rá gurb é an té ar cheart éirí as oifig anois ná an tAire Deenihan. Dá mba rud é gur éirigh Aire Leanaí as oifig nó dá n-éireodh Rialatheoir Airgeadais as oifig de bharr go raibh sé nó sí ag ceapadh go raibh an Stát faillíoch, bheadh na meáin Bhéarla ar fad ag rá gur vóta muiníne a bhí ansin san Aire. Is vóta iomlán mímhúiníne sa Rialtas, sa Taoiseach agus go mórmhór in Aire na Gaeltachta go mbraitheann an Coimisinéir Teanga go gcaithfidh sé éirí as a oifig.

Minister of State at the Department of Arts, Heritage and the Gaeltacht (Deputy Dinny McGinley): Chuir an Coimisinéir Teanga in iúl dom ar 4 Nollaig, an tseachtain seo caite, go raibh sé tar éis scríobh chuig an Uachtarán an lá sin ag cur in iúl dó go mbeadh sé ag éirí as oifig ar 23 Feabhra 2014, tar éis deich mbliana a chaitheamh sa phost. Rinne an Coimisinéir Teanga fógra poiblí maidir lena chinneadh le linn dó a bheith ag tabhairt tuairisice maidir le tuarascáil bhliantúil a oifige don bhliain 2012, ag cruinniú den Chomhchoiste um Fhormhaoirsiú ar an tSeirbhís Phoiblí agus Achainíocha i dTeach Laighean ar an lá céanna, 4 Nollaig 2013.

Tá mo bhuíochas curtha in iúl agamsa don Choimisinéir Teanga, go pearsanta agus go poiblí, as an méid atá curtha i gcrích aige le linn a thréimhse in oifig agus tá áthas orm an deis a fháil é sin a chur ar thaifead an Tí seo inniu. Níl aon amhras ach go ndeachaigh an Coimisinéir Teanga i gceann a oifige nua a bhunú le fis agus díograis agus tá an t-ardmheas atá air i measc phobal na Gaeilge agus na Gaeltachta tuillte dá réir aige. Is trua liom, ar ndóigh, gur thóg an Choimisinéir Teanga an cinneadh gan a théarma ceapacháin, a mhaireann go dtí 22 Feabhra 2016, a chríochnú. Tá na céimeanna cuí á nglacadh ag mo Roinn anois chun coimisinéir nua a cheapadh agus cuirfear moladh ina leith seo faoi bhráid an Rialtais in am trátha.

Ba mhaith liom díriú anois go hachomair ar chuid de na pointí atá ardaithe sa phlé atá idir chamáin ó chuir an coimisinéir in iúl go raibh sé chun éirí as oifig. Tá sé tábhachtach a aithint go bhfuil feabhas tagtha ar líon agus ar chaighdeán na seirbhísí Stáit i nGaeilge a chuireann comhlachtaí poiblí ar fáil ó tháinig Acht na dTeangacha Oifigiúla i bhfeidhm. Aithníodh ón tús gur próiseas forchéimnitheach a bheadh i gceist le forfheidhmiú an Achta agus tá an dul chun cinn atá déanta maidir le forálacha éagsúla den Acht nótaílte sa Teach seo cheana féin. Faoi Acht na dTeangacha Oifigiúla, is é an tAire Ealaíon, Oidhreacht agus Gaeltachta atá freagrach as scéimeanna teanga na gcomhlachtaí poiblí a dhaingniú. Ní miste dom a threisiú arís go maireann scéim teanga i bhfeidhm ar feadh trí bliana ón dáta a dhaingnítear í, nó go dtí go ndaingnítear scéim nua, cibé acu is moille. Ó tháinig an tAcht i bhfeidhm, tá 148 scéim san iomlán daingnithe, ar a n-áirítear 112 céad scéim, 35 dara scéim agus tríú scéim amháin. Tá beagnach 200 comhlacht poiblí san iomlán clúdaithe faoi na scéimeanna éagsúla seo. Ní miste a aithint maidir le feidhmeanna comhlachtaí poiblí go ndéantar cuid dóibh a scor ó am go chéile. Mar shampla, tá an Bord Oideachais agus Oiliúna tagtha in áit na gcoistí gairmoideachais agus tá iarrtha agam ar gach ceann de na boird nua scéim teanga a ullmhú.

Faoi láthair, tá plé leanúnach ar siúl ag mo Roinn le 128 comhlacht poiblí maidir le scéimeanna a aontú. Tá sé aitheanta cheana go bhfuil an próiseas maidir le scéimeanna teanga a aontú casta agus tá céimeanna éagsúla chun an córas a éascú á mbeartú, go háirithe i gcomhthéacs na leasuithe reachtúla atá beartaithe a dhéanamh ar an Acht.

Is aidhm lárnach pholasaí de chuid an Rialtais é úsáid na Gaeilge agus tá sé ina ghné thábhachtach den pholasaí sin i gcónaí go mbeadh baill fhoirne atá inniúil sa Ghaeilge ar fáil sa Státseirbhís. Ceaptar gurb é an bealach is fearr chun an aidhm seo a bhaint amach ná trí chur chuige níos spriocdhírthe a úsáid chun a chinntiú go mbeidh foireann leis na scileanna riachtanacha Gaeilge ar fáil chun seirbhísí a sholáthar trí Ghaeilge nuair a theastaíonn sin. Sa chomhthéacs seo, thóg an Rialtas cinneadh i mí Dheireadh Fómhair 2013 an polasaí maidir le marcanna bónais do chomórtais earcaíochta agus ardaithe céime a chur ar ceal agus bearta a chur in áit a gcuirfidh leis an líon oifigeach sa Státseirbhís a bheidh in ann feidhmiú go dátheangach. Mar chéad chéim sa phróiseas seo, sa chéad chomórtas eile d'oifigigh fheidhmiúcháin a réachtálfar go luath, tá sé i gceist fo-phainéal de dhá theanga feidhmeacha a bhunú nach rachaidh thar 6% den phainéal iomlán. Is dóigh liom féin gur céim dhearfach í seo, a thabharfaidh deis do Ranna Stáit a gcuid riachtanas maidir le seirbhísí i nGaeilge a aithint, agus tá mé dóchasach go

rachaidh an t-athrú seo chun sochair don Ghaeilge sa státchóras sa todhchaí.

Tá dréacht cinn de Bhille chun Acht na dTeangacha Oifigiúla a leasú beagnach ullmhaithe agus tá mé ag súil iad a chur faoi bhráid an Rialtais ag tús na hathbhliana. Chomh maith leis na leasuithe éagsúla atá beartaithe mar thoradh ar an athbhreithniú, beidh bearta a bhainfidh le cónascadh Oifig an Choimisinéara Teanga le hOifig an Ombudsman a chur i bhfeidhm. Ba mhaith liom a threisiú anseo inniu nach gcuirfidh an cónascadh seo isteach ar neamhspleáchas an Choimisinéara Teanga i bhfeidhmiú a chuid cumhachtaí agus go bhfanfaidh an oifig lonnaithe sa Ghaeltacht.

Mar fhocal scoir, ba mhaith liom a rá arís go bhfuil mé an-bhuíoch don Choimisinéir Teanga as an méid atá déanta aige chun a chinntiú go mbeidh feabhas forchéimnitheach ag teacht ar sheirbhísí an Stáit do phobal na Gaeilge agus na Gaeltachta sna blianta amach romhainn. Aithníonn muid ar fad go bhfuil dúshláin le sárú maidir le cur chun cinn na Gaeilge sa státchóras féin, sa Ghaeltacht agus sa phobal i gcoitinne. Is ábhar misnigh é an méid atá curtha agus á chur i gcrích ag an Rialtas seo chun bonn láidir folláin a chur faoin Ghaeilge. Tá mé dóchasach fosta go rachaidh an té a thiochfaidh i gcomharbas ar an Choimisinéir Teanga i mbun oibre chomh díograiseach agus chomh fuinniúil céanna leis an chéad choimisinéir, ag tógáil ar an dúshraith láidir atá leagtha síos aige le deich mbliana anuas.

Deputy Éamon Ó Cuív: Tá trua agam don Aire Stáit, ag léamh amach an méid atá léite aige anois agus fios aige nach amhlaidh atá an scéal. Cuirtear faoin Aire teacht isteach anseo leis na finscéalta seo. Deir sé go bhfuil feabhas tagtha ar líon na seirbhísí atá ann trí Ghaeilge - tá, de bharr obair an Rialtais deiridh. Rinneadh dul chun cinn maith ag an am sin agus tá 28 de rudaí a rinne muid, ina measc: Acht na dTeangacha Oifigiúla; Coimisinéir Teanga; Gaeilge san Eoraip; Gaeilge sa Tuaisceart; agus míle rud eile. Ceann ar cheann, tá an tAire Stáit ag dul ar gcúl orthu sin.

Maidir le seirbhísí agus na pleananna teanga a bheith ar fáil, má bhreathnaíonn muid ar an mhéid a dúirt an Coimisinéir Teanga, feiceann muid go ndeir sé go bhfuil na pleananna seo ag dul ar gcúl agus go bhfuiltear ag éirí coinníollach, is é sin go bhfuil bealach éalaithe i go leor de na pleananna teanga anois gan a ndualgais a chomhlíonadh. Deir sé freisin go dtógfaidh sé 28 mbliain ag an Roinn Oideachais agus Scileanna 3% den fhoireann sa Roinn sin a bheith inniúil ar an Ghaeilge, ainneoin a bhfuil de Ghaelscoileanna agus Gaelcholáistí sa tír - ach deir an tAire Stáit go bhfuil polasaí ann maidir le hearcaíocht.

Tá an tAire Stáit fós ag leanúint leis an smaoineamh craiceáilte nach bhfuil glactha ar bith ag éinne i bpobal na Gaeilge leis cónascadh a dhéanamh idir Oifig an Choimisinéara Teanga agus Oifig an Ombudsman. Tá a fhios agamsa nach bhfuil aon neart ag an Aire Stáit ar seo agus nach n-aontaíonn sé le seo ar chor ar bith. Is é an tAire sinsearach atá ag bord an Rialtais atá ag aontú na bpolasaithe seo. Tuigim nach bhfuil aon neart ag an Aire Stáit ar seo. Níl ann ach an duine a cuirtear amach leis an teachtaireacht. Is dóigh liom gur chuir an coimisinéir a mhéar air nuair a dúirt sé:

Tráth a bhfuil muid ag teannadh lenár bhflaitheas eacnamaíoch a fháil ar ais, ba mhór an feall é dá gcaillfimis ár bhflaitheas teanga - bunchloch dár bhféiniúlacht chultúrtha, dár n-oidhreacht agus dár n-anam mar náisiún. Creidim gur measa mar bhaol é sin anois ná riamh.

Eisean atá á rá. Eisean, fear neamhspleách agus fear a bhfuil meas ag an Aire Stáit air agus ag pobal na Gaeilge air. Eisean a dúirt é, ní éinne eile. Tá sé in am ag an Aire Stáit éisteacht.

11 December 2013

Deputy Dinny McGinley: Ba mhaith liom cúpla rud a shoiléiriú don Teachta. Thagair sé don Aire Deenihan agus is cinnte gurb é an tAire sinsearach sa Roinn. Tá córas sa Roinn maidir le feidhmeanna dlite atá socraithe ag an Rialtas agus atá tugtha domsa. Tuigim, mura bhfuil dul amú orm, go raibh an socrú céanna i bhfeidhm uair amháin nuair a bhí an Teachta ó Cuív ina Aire Stáit.

Deputy Éamon Ó Cuív: Ar phointe eolais, ní raibh riamh agus ghlac an tAire sinsearach i gcónaí freagracht as an nGaeltacht, nuair a bhí mise sa Roinn mar Aire Stáit agus mar Aire sinsearach. I gcónaí, ghlac an tAire sinsearach le bun fhreagracht maidir leis an Ghaeilge.

Deputy Dinny McGinley: Chomh fada agus a bhaineann sé liomsa, tá na cumhachtaí sin tugtha dom agus glacaim go hiomlán le freagracht ina leith. Ba mhaith liom é sin a shocrú - gur sin mar atá sé i láthair na huaire ag an Rialtas seo.

Ar ndóigh, tá coiste Rialtais againn chomh maith ar a bhfuil an Taoiseach ina Chathaoirleach. Bíonn deis agam féin, ag an Aire Deenihan agus ag Airí eile a bhfuil páirteach i seo a bheith i láthair agus rudaí mar seo a phlé. Maidir le pleananna teanga, tá níos mó pleananna á n-ullmhú i mbliana ná mar a rinne le blianta - ar a laghad scór, agus b'fhéidir níos mó. Tá teagmháil déanta le 128 comhlacht eile le pleananna teanga a chur ar fáil. Sílim gur céim ar aghaidh mhór í sin.

Tá mise i mo Theachta Dála le breis agus 30 bliain. Níl a fhios agam an raibh an Teachta Ó Cuív anseo romham nó nach raibh. Bhí baint lárnach agam i gcónaí le cur chun cinn agus foscadh saol na Gaeilge sa Dáil seo agus sa tír seo. An rud a shásaigh mé i gcónaí, cé acu agus mé sa Fhreasúra san áit a bhfuil an Teachta Ó Cuív nó an tamall beag atá mé abhus anseo, ná nach ndearna mé uirlis pholaitíochta den Ghaeilge riamh. Má dhéanann muid uirlis pholaitíochta ná uirlis pháirtí den teanga Ghaeilge, is í an Ghaeilge a bhíonn thíos leis ar an drochuair. Tá súil agam go rachaidh muid ar aghaidh le chéile, gan a bheith scoilte ar an Ghaeilge. Rinneadh sin cheana féin agus tá an t-eolas sin ag an Teachta. Rinneadh scoilt ar bhonn páirtí polaitíochta agus páirtithe eile maidir leis an Ghaeilge agus is an teanga a bhí thíos leis. In ainm Dé, seasaimis le chéile ar son na teanga san am amach romhainn agus déan dearmad den pholaitíocht.

Sitting suspended at 2 p.m. and resumed at 3 p.m.

Local Government Reform Bill 2013: Report Stage (Resumed)

Debate resumed on amendment No. 20:

In page 40, between lines 16 and 17, to insert the following:

“(2) Each municipal district may in respect of that district set the commercial rate based on profits in the previous year. This should be part of the calculation along with valuation.”.

- (Deputy Brian Stanley).

Minister for the Environment, Community and Local Government (Deputy Phil Hogan): I thank Deputy Stanley for his amendment. The approach that I am proposing in the Bill

is that, following the restructuring of the local government sector, there will be a single rating authority and a single valuation list, with a single, unified annual rate on valuation on every local authority. The power to determine the annual rate on valuation will rest with the elected members at plenary council level.

One of the key objectives of the reform programme, including the establishment of municipal districts, is to establish a more coherent approach to rates and charges across counties. To accept Deputy Stanley's amendment would be to undermine this approach. Inevitably, one municipal district in Laois would have one commercial rate and another district would have a different one. I do not know what impact this would have on economic development or incentives to attract people to a particular area of a county over another. I appreciate the Deputy's interest in the small business sector and I am sure that it will be reflected when he gets his party's county councillors in Laois to reduce commercial rates in the context of next year's budget.

Deputy Brian Stanley: We always do. We are very sharp on that.

Deputy Phil Hogan: Regarding Deputy Cowen's points, we did not take €600 million out of the local property tax. Seeing as how the total take was €550 million, we could not possibly have done that. The €600 million has come from motor tax, which used to be the Exchequer's means of helping local authorities with their funding. All of the proceeds of the local property tax are going into local authority services. I expect to be able to tell the local authorities what the allocations to their 2014 budgets will be within the next 24 hours.

Deputy Brian Stanley: I will press the amendment. The Minister mentioned rates. County managers and councillors have been exercised about the local government fund this week. As late as this morning, I was contacted by people in local government circles who were concerned that they had not received notification of next year's allocations. They are trying to frame their budgets. They would normally have received notice of allocations by now.

Deputy Phil Hogan: Yes.

Deputy Brian Stanley: It is normally by the end of November or the first week of December. The point of this amendment relates to the Minister's point, in that there will be small towns with low levels of business and footfall. There may also be other socio-economic issues. The same applies in the cities. We need to make such places more attractive, in turn creating a positive cycle for those areas that are falling behind.

Amendment put:

| <i>The Dáil divided: Tá, 38; Níl, 75.</i> | |
|---|-------------------------|
| <i>Tá</i> | <i>Níl</i> |
| <i>Boyd Barrett, Richard.</i> | <i>Barry, Tom.</i> |
| <i>Broughan, Thomas P.</i> | <i>Breen, Pat.</i> |
| <i>Calleary, Dara.</i> | <i>Bruton, Richard.</i> |
| <i>Collins, Joan.</i> | <i>Burton, Joan.</i> |
| <i>Collins, Niall.</i> | <i>Buttimer, Jerry.</i> |
| <i>Colreavy, Michael.</i> | <i>Byrne, Eric.</i> |
| <i>Cowen, Barry.</i> | <i>Cannon, Ciarán.</i> |
| <i>Crowe, Seán.</i> | <i>Carey, Joe.</i> |

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|--------------------------------|------------------------------------|
| <i>Dooley, Timmy.</i> | <i>Coffey, Paudie.</i> |
| <i>Ellis, Dessie.</i> | <i>Conaghan, Michael.</i> |
| <i>Ferris, Martin.</i> | <i>Conlan, Seán.</i> |
| <i>Flanagan, Luke 'Ming'.</i> | <i>Connaughton, Paul J.</i> |
| <i>Fleming, Sean.</i> | <i>Conway, Ciara.</i> |
| <i>Fleming, Tom.</i> | <i>Coonan, Noel.</i> |
| <i>Halligan, John.</i> | <i>Corcoran Kennedy, Marcella.</i> |
| <i>Healy, Seamus.</i> | <i>Creed, Michael.</i> |
| <i>Healy-Rae, Michael.</i> | <i>Daly, Jim.</i> |
| <i>Higgins, Joe.</i> | <i>Deering, Pat.</i> |
| <i>Keaveney, Colm.</i> | <i>Dowds, Robert.</i> |
| <i>Kirk, Seamus.</i> | <i>Doyle, Andrew.</i> |
| <i>Lowry, Michael.</i> | <i>Durkan, Bernard J.</i> |
| <i>Mac Lochlainn, Pádraig.</i> | <i>English, Damien.</i> |
| <i>McConalogue, Charlie.</i> | <i>Farrell, Alan.</i> |
| <i>McDonald, Mary Lou.</i> | <i>Feighan, Frank.</i> |
| <i>McGrath, Finian.</i> | <i>Ferris, Anne.</i> |
| <i>McGrath, Mattie.</i> | <i>Fitzpatrick, Peter.</i> |
| <i>McGrath, Michael.</i> | <i>Flanagan, Charles.</i> |
| <i>McLellan, Sandra.</i> | <i>Griffin, Brendan.</i> |
| <i>Martin, Micheál.</i> | <i>Hannigan, Dominic.</i> |
| <i>Mathews, Peter.</i> | <i>Harrington, Noel.</i> |
| <i>Moynihan, Michael.</i> | <i>Heydon, Martin.</i> |
| <i>Murphy, Catherine.</i> | <i>Hogan, Phil.</i> |
| <i>Nulty, Patrick.</i> | <i>Humphreys, Heather.</i> |
| <i>Ó Fearghail, Seán.</i> | <i>Humphreys, Kevin.</i> |
| <i>Shortall, Róisín.</i> | <i>Keating, Derek.</i> |
| <i>Smith, Brendan.</i> | <i>Kehoe, Paul.</i> |
| <i>Stanley, Brian.</i> | <i>Kelly, Alan.</i> |
| <i>Troy, Robert.</i> | <i>Kenny, Seán.</i> |
| | <i>Kyne, Seán.</i> |
| | <i>Lawlor, Anthony.</i> |
| | <i>Lynch, Ciarán.</i> |
| | <i>Lynch, Kathleen.</i> |
| | <i>Lyons, John.</i> |
| | <i>McCarthy, Michael.</i> |
| | <i>McEntee, Helen.</i> |
| | <i>McGinley, Dinny.</i> |
| | <i>McHugh, Joe.</i> |
| | <i>McLoughlin, Tony.</i> |
| | <i>McNamara, Michael.</i> |
| | <i>Maloney, Eamonn.</i> |
| | <i>Mitchell, Olivia.</i> |

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| | <i>Mitchell O'Connor, Mary.</i> |
| | <i>Mulherin, Michelle.</i> |
| | <i>Murphy, Dara.</i> |
| | <i>Nash, Gerald.</i> |
| | <i>Neville, Dan.</i> |
| | <i>Nolan, Derek.</i> |
| | <i>Ó Riordáin, Aodhán.</i> |
| | <i>O'Donovan, Patrick.</i> |
| | <i>O'Dowd, Fergus.</i> |
| | <i>O'Mahony, John.</i> |
| | <i>O'Reilly, Joe.</i> |
| | <i>O'Sullivan, Jan.</i> |
| | <i>Penrose, Willie.</i> |
| | <i>Phelan, Ann.</i> |
| | <i>Phelan, John Paul.</i> |
| | <i>Quinn, Ruairí.</i> |
| | <i>Reilly, James.</i> |
| | <i>Spring, Arthur.</i> |
| | <i>Stagg, Emmet.</i> |
| | <i>Stanton, David.</i> |
| | <i>Tuffy, Joanna.</i> |
| | <i>Varadkar, Leo.</i> |
| | <i>Wall, Jack.</i> |
| | <i>White, Alex.</i> |

Tellers: Tá, Deputies Sandra McLellan and Brian Stanley; Níl, Deputies Joe Carey and Emmet Stagg.

Amendment declared lost.

An Leas-Cheann Comhairle: Amendments Nos. 21 to 26, inclusive, are out of order.

Amendments Nos. 21 to 26, inclusive, not moved.

An Leas-Cheann Comhairle: Amendments Nos. 27 and 28 are related and may be discussed together. Amendment No. 27 is in the name of Deputy Maureen O'Sullivan who is not present. I call Deputy Catherine Murphy.

Deputy Catherine Murphy: I move amendment No. 27:

In page 44, line 13, after "development" to insert "in partnership with the local communities".

This matter came up on Committee Stage as well, when Deputy Maureen O'Sullivan sought assurances that it would not impact on partnership with local communities. Some very good work has been done there and an input is required from those communities to understand what is needed. Therefore Deputy O'Sullivan was anxious that the Minister's response should be put on the record.

Deputy Phil Hogan: I understand the spirit in which Deputy O’Sullivan tabled these amendments but I wish to draw the attention of the House to some points. As regards amendment No. 27, section 35 of the Bill already provides that representatives of local community interests will in fact be members of the local community development committees or LCDCs. Given their status as members of those committees, I do not see how the amendment would improve that status. I am satisfied therefore that the issue of participation is addressed in section 128B(5) as well, which specifies that the LCDCs shall co-operate and consult with local development bodies.

Similarly, with regard to amendment No. 28, I do not consider it appropriate to broaden the definition for representatives of local community interests provided in section 128A also specifically to include anti-poverty or social inclusion groups. The definition for representatives of community interests, already set out in the Bill, is inclusive in its nature and already provides for community-based groups, social movements and networks, which are clearly inclusive of the groups referred to by the Deputy. I do not think therefore that we would improve the situation by accepting these amendments.

Amendment, by leave, withdrawn.

Amendment No. 28 not moved.

An Leas-Cheann Comhairle: Amendments Nos. 29 to 32, inclusive, are related and may be discussed together. As Deputy Maureen O’Sullivan is not here, we will go on to the next one.

Deputy Phil Hogan: Does Deputy Murphy want an explanation on it?

Deputy Catherine Murphy: Yes.

An Leas-Cheann Comhairle: I call on Deputy Murphy to move amendment No. 29.

Deputy Catherine Murphy: I move amendment No. 29:

In page 46, between lines 10 and 11, to insert the following:

“(c) to implement, or to arrange for the implementation of, the Plan (as the case may be) having been considered and approved by the local

community development projects/structure or local development company.”.

This amendment seeks again to bring local groups into the setting of a community development plan. That is what is being sought.

Deputy Phil Hogan: Amendments Nos. 29 to 31, inclusive, would have the effect of requiring consultation with, or prior approval of, the local community plan by local community development projects, structures or local developments companies. In addition, the committee would have to co-operate and co-ordinate with these projects in the performance of its functions. I am satisfied that the Bill already makes sufficiently strong provision for co-operation by committees with local publicly-funded bodies.

Deputy Brian Stanley: My amendment No. 30 seeks to insert the following wording in page 47, between lines 9 and 10: “(i) to co-ordinate cross Border work tackling social exclusion, including long term unemployment and seeking support for cross-Border, cross-commu-

nity initiatives.”.

The Minister will be aware that much good work has been done by the Border corridor groups. Partnerships have been formed by councils on either side of the Border from Dundalk to Letterkenny. Good work has been done there by representatives of all parties North and South. Some people from the North who were somewhat reluctant to buy into the partnerships at the start are now fairly well embedded in them.

The Border region suffers from a lot of disadvantages, as the socio-economic indicators show. I think this is a reasonable amendment, so I am asking the Minister to consider allowing it in the spirit of the Bill.

Deputy Phil Hogan: I do not want to be proscriptive or explicit in the list of bodies that must be consulted as regards the LCDCs’ point of view. I want to make it as broad as possible and not to exclude anybody. If we go down the road of naming a list of organisations or groups with whom one must consult, one will inevitably omit somebody. Rather than doing that, I intend to bring forward amendments to the published Bill in the Seanad on Committee Stage that will require LCDCs to consult with, amongst others, relevant publicly-funded bodies providing services within the committee’s area. I think that will address both Deputies’ concerns.

As regards amendment No. 30, I also intend to bring forward amendments on Committee Stage in the Seanad that will provide that the local community plan will focus on tackling disadvantage and social exclusion. Hopefully, that will meet some of the requirements in the spirit of what is intended as part of these amendments.

Amendment, by leave, withdrawn.

An Leas-Cheann Comhairle: Does Deputy Stanley wish to move amendment No. 30?

Deputy Brian Stanley: No. I will take what the Minister has said in good faith. I ask him to bear it in mind at a later stage.

Amendments Nos. 30 to 32, inclusive, not moved.

An Leas-Cheann Comhairle: Amendments Nos. 33 and 34 are related and may be discussed together. Does Deputy Murphy wish to move amendment No. 33?

Deputy Catherine Murphy: Yes. I move amendment No. 33:

In page 48, between lines 40 and 41, to insert the following:

“(b) The Committee shall submit the Plan for consideration by local community development projects which currently operate by local voluntary

management committees, and the local community development projects’ management committees shall adopt a statement in that regard

indicating approval and/or need for amendments to be considered by the elected council of the local authority.”.

This is the reverse scenario whereby it requires the committee to submit the plan to the local community projects. It is the ultimate in consultation and inclusion. The intention is that the consultation should be a two-way process.

Deputy Phil Hogan: Amendment No. 34 proposes to extend the requirement of regulations concerning engagement with the local community also to include consultation with the local community. I accept the merit of this suggestion and I will bring forward an amendment to that effect on Committee Stage in the Seanad.

Deputy Catherine Murphy: In that context, I wish to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment No. 34 not moved.

Deputy Catherine Murphy: I move amendment No. 35:

In page 52, line 34, after “Schedule 16” to insert the following:

“including the new addition of a relevant body in Schedule 16 titled the North Inner City Community Development Structure Limited”.

This amendment seeks to add the North Inner City Community Development Structure Limited to Schedule 16. We all appreciate that Dublin’s north inner city has been one of the most deprived communities in the country. A great deal of work has been done to create a community development structure. This company is the vehicle for that. That is the argument for it to be added to Schedule 16.

Deputy Phil Hogan: The Bill already provides a requirement for certain prescribed bodies to co-operate with LCDCs. In this regard, Schedule 16 lists the partnership companies that currently manage or implement programmes on behalf of my Department. The entity identified in the proposed amendment, namely the North Inner City Community Development Structure Limited, is not a contracted body with my Department and therefore it is not appropriate to include it. However, new bodies can be added to the list of relevant bodies by ministerial order if new arrangements are agreed for the implementation of programmes by bodies other those already listed. I am not therefore ruling out a new entity being created.

Amendment, by leave, withdrawn.

Deputy Brian Stanley: I move amendment No. 36:

In page 61, after line 44, to insert the following:

“(9) The role of Chief Executive shall be reviewed within one year of the enactment of the *Local Government Reform Act 2013* with a view to maximising recalibration of power to elected members.”.

The amendment proposes that the role of the chief executive would be reviewed. I welcome the fact that there will be a major shift in the balance of power between elected councillors and the management of councils. This has been one of the big complaints by councillors. We have had this discussion both in the Chamber and outside it many times in the past two or three years. We are taking that proposed change in good faith, but Sinn Féin is seeking that the role of chief executive shall be reviewed within one year of the enactment of this legislation to see how it is working out and if changes need to be made. When one is doing something new it is a good idea to examine it and benchmark it. A year is a good period to have elapsed before determining how the measure is working out. We should then examine whether further recalibration is

required for the powers of county managers *vis-à-vis* those of elected councillors.

Deputy Phil Hogan: I have no difficulty with providing for reviews of legislation on a regular basis. Under the new Dáil reform measures and as provided for in the legislation, the Minister is required one year following enactment of this Bill to report to a committee on whether the measures laid down therein are working. In that context, I will be happy to do so. I do not want to provide for this in legislation because it is open to a Minister to amend legislation at any particular time. I am giving an undertaking to the House that within a year a review of the legislation, in terms of how it is being implemented on the ground, will be undertaken.

Deputy Brian Stanley: I welcome what the Minister said. I suggest that the Joint Committee on the Environment, Community and the Gaeltacht would be briefed by the AMAI-new entity - we will have to come up with a new name for it - and county managers' association at the end of the year on how, from both points of view, the legislation is working.

Deputy Phil Hogan: Okay.

An Leas-Cheann Comhairle: Is the amendment being pressed?

Deputy Brian Stanley: On the basis of the Minister's commitment today, I will withdraw the amendment.

Amendment, by leave, withdrawn.

An Leas-Cheann Comhairle: Amendment No. 37 arises out of Committee proceedings while amendments Nos. 38 and 39 are alternatives to amendment No. 37. Amendments 37 to 39, inclusive, may be discussed together.

Deputy Catherine Murphy: I move amendment No. 37:

In page 62, to delete lines 1 to 41, and in page 63, to delete lines 1 to 23.

I understood from the Minister on Committee Stage that he proposed to delete this section. However, I tabled amendment No. 37 in case he did not. If the Minister proposes to introduce an amendment to the Bill on Committee Stage in the Seanad to amend rather than delete this section, it will be difficult for us to have any meaningful say on the matter at that stage. I will make a decision on the amendment when I have heard what the Minister has to say on this matter.

Deputy Phil Hogan: I recognised on Committee Stage that the provision in relation to representation of political parties and groupings on the corporate policy group, CPG, would be very unwieldy. I propose to delete the entire section by way of an amendment to be introduced on Committee Stage of the Bill in the Seanad. Ultimately, the Bill, as amended, will have to be returned to the Dáil for approval.

Deputy Catherine Murphy: I welcome the Minister's commitment that the section will be deleted.

Deputy Phil Hogan: Perhaps for the benefit of the House I should elaborate a little further on the matter. A number of representatives have raised the issue of the inclusion of a non-elected person on the CPG in terms of the leader of the local community development committee, LCDC. I know that the representative organisations and Deputies Barry Cowen, Brian Stanley

and Catherine Murphy also expressed concern about this issue. There is a need to ensure that the views of the local community development committee are adequately represented on the council. However, this might be more appropriate to the relevant SPC rather than the CPG.

Deputy Catherine Murphy: I welcome that the Minister proposes to delete this section. On that basis, I will withdraw the amendment.

Deputy Barry Cowen: I, too, welcome the Minister's commitment in this regard, which is an acknowledgement of the representations made by ourselves and representative bodies of councillors who were rightly concerned that a non-elected member of the public could be elected at CPG level of the local authority, at which level a great deal of management and day-to-day operational issues are decided, in the absence of any members who, while not privy to that body, are guided by it on policy and functional matters of the local authorities from a financial and other perspectives. I welcome the Minister's decision in this regard.

With regard to the selection of a chairperson of the local development companies, will it be open to any member of the committee to put his or her name forward for that position and thereafter be democratically elected? Am I correct that nomination in this regard does not, as initially indicated on Committee Stage, have to come from within the community sector?

Deputy Brian Stanley: I, too, welcome the Minister's commitment on this matter. Sinn Féin was concerned that membership of the CPG could include a person who had not even received one vote while five or six councillors, who between them may have obtained 10,000 or 15,000 votes, could not attend a CPG meeting.

Amendment No. 38 seeks the inclusion of the words "political grouping and non-aligned councillors". This is not an issue by which Sinn Féin is affected. I will give an example of where it might have an effect. At one stage the majority of councillors on Clonmel town council were from non-aligned groups or not registered members of a political party. I accept it is not possible when a council includes representatives of the hard right and the extremely hard right and so on to accommodate every grouping in the chamber. We all know that in such cases groups of councillors come together and seek to get one of their members elected to the CPG.

I have been a member of a CPG. As a member, one has the inside track in terms of what is going on, or at least some of it. I have also been a member of a council and leader of a group which had no representative on the CPG, which meant we never knew what was going on. Any information we got in this regard was from the newspapers. In fairness, towards the end of my term on the council the county manager at the time put in place a procedure under which we were provided with a monthly written report on what was happening, which was a welcome change. In my experience, membership of local authorities and county councils is usually made up of representatives from three groups, two large parties, a number of smaller parties and a couple of Independents. The Minister needs to do something to reflect this. Perhaps he would spell out his intentions in this regard.

Deputy Phil Hogan: As I said, I propose to delete the section. The corporate policy group, CPG, often developed into a secret society which did not provide necessary or full information to the groups. I looked at this in the context of putting the leaders of the groups on the CPG so that they could report back to the group on a more regular basis. However, having considered the matter further following Second Stage, I felt that this would result in too many representatives on the CPG and, therefore, make it unwieldy. I agree there is a need to find a better

channel of communication between what happens in CPG and the political groups in order that people are kept fully informed about what is going on. I hear many complaints from councillors that as ordinary members of the council who are not in any of these privileged positions they do not get information before particular decisions are made. It is a matter for the councils to work out in a more open way.

Deputy Cowen referred to membership of the LCDC and who can become chairperson. The chair, who can be a public representative or community person, will be elected by the members of that group. For the purpose of drawing EU funds the majority of membership must come from within the community. For example, taking into account the new alignment of community and local authorities, if there are 15 members on the LCDC eight of them must come from the community sector. This does not mean that a public representative cannot be elected chairperson.

Deputy Brian Stanley: I am still not clear on what the Minister's intention is in respect of amendment No. 38. Is he saying that he will introduce a provision to deal with the issue? If left up to the local authorities, this will be addressed under the grouping system, which system-----

Deputy Phil Hogan: I am taking that out.

Deputy Brian Stanley: Okay.

Amendment, by leave, withdrawn.

Deputy Brian Stanley: I move amendment No. 38:

In page 62, line 18, after "party" to insert ", political grouping and non-aligned councillors".

I am not clear as to the Minister's intention on this amendment. Is he saying he will include the provision? If it is left to local authorities, it is left to the grouping system which will leave-----

An Leas-Cheann Comhairle: We have discussed this with a previous amendment.

Amendment, by leave, withdrawn.

Amendment No. 39 not moved.

Deputy Catherine Murphy: I move amendment No. 40:

In page 63, to delete lines 37 and 38, to delete pages 64 and 65, and in page 66, to delete lines 1 to 16.

I am not opposed to the development of service delivery plans. I believe the public should know what is likely to happen in a particular year.

I have the same concern about the range of services or initiatives that will be taken at municipal level where the chief executive is required to consult. Often, the term "consult" is a one-dimensional thing but it must be two-dimensional to really matter. I have concerns about it. Obviously, I am looking to amend a particular part of the section rather than withdraw the whole section.

If it was a question that there was the prospect or mechanism of reviewing it in a year's time to determine whether it is working and if the Minister is prepared to review it to see if it is working effectively, say, 12 months after the local elections, by which time it would be properly in place, then I could live with it on that basis. However, I am rather sceptical about how meaningful the consultation will be and whether it will work in practice. Perhaps it is the doubting Thomas in me.

Deputy Phil Hogan: There is a precedent for a service delivery plan under the old health board system. It worked rather well contrary to what people might have thought about the regional health boards. It was one aspect of it which definitely worked well and I know as much from many years of experience. It was the only time that councillors had a chance to scrutinise exactly where the money was going and the only chance to re-orientate the priorities if a group had a majority on the committee.

I am somewhat surprised that Deputy Murphy might have a problem with this, because it is open and transparent in respect of where money is being allocated and where it is going. The national oversight and audit commission will be able to scrutinise and determine whether it is the appropriate vehicle for implementation. These matters can be reviewed any time. Anyway, if we want to have good quality services provided, now that the people will be paying more at local level, we need to have more openness about where the money is going. That will happen through these service delivery plans. For that reason I believe this is one of the meaty suggestions in the legislation that will give real teeth to local authority members and ensure they are in charge of the budgets rather than the officials.

Deputy Catherine Murphy: In theory the Minister is right but in practice we can see how the Local Government Fund works. The Minister made reference to the Local Government Fund rather than the property tax because that will be diverted to Irish Water. The money will be coming out of the Local Government Fund, which is the motor tax fund. It is all put into the one fund and therefore we are unsure which part of it comes out, but the Minister is telling us it will come from the motor tax fund. Basically, a commitment has been given about the extent of what will be delivered to local authorities in the context of the amount of money collected from the property tax. However, we do not know how much will be taken from the Local Government Fund. For example, money has been taken each year from the motor tax fund to go to the Exchequer.

There is a major level of expectation among people about service delivery because they are paying the property tax. They will be looking to see what exactly they are getting for their money. If there is no commitment to give 80% to local authorities, the level of discretion at municipal level will be low. Precisely what the Minister is trying to achieve in terms of service delivery will not be achieved if at least 80% of the property tax does not go to the local areas. It seems that the commitment has been rowed back on. Essentially, that will be the real meat. Rather than a nice plan, the actual delivery of services and the commitment to the delivery of additional services will be the key to whether the changes in local government will be seen as a positive initiative. It is not only about the plan, it is about the money behind it and the philosophy behind where that money comes from.

Deputy Phil Hogan: I genuinely believe that this is an important provision. Deputy Murphy's concerns about this provision are, with all due respect, not well founded. If a local authority is getting more money at local level for the provision of services, the people will demand to know where the money is going. They need authorities to be explicit, more than ever, in

respect of what services are being funded from and from where. Through the service plan a local authority also has an opportunity to look at the performance of a given service during the course of the year. Councillors will have an opportunity to ensure that officials will be unable to divert money without approval during the course of the year to some other project without the approval of the councillors. This is a vehicle that gives vast scope for the implementation of essential services. It shows where they are funded and it also shows whether they have achieved the objectives set out at the beginning of the year when they are reviewed at the end of year. I simply do not understand where Deputy Murphy is coming from on this issue.

Deputy Catherine Murphy: It is about the money.

Deputy Phil Hogan: The 80% objective is still there from 1 January 2015. Therefore, many local authorities will be winners. Equally, a number of local authorities will continue to require equalisation from the 20% tranche. These are the types of decisions that will be made all the more explicit and transparent through the service delivery plans.

Amendment put and declared lost.

Amendments Nos. 41 and 42 not moved.

An Leas-Cheann Comhairle: Amendment No. 43 was due to be discussed with amendment No. 42. Deputy Stanley, you can move them all.

Deputy Brian Stanley: Am I moving amendments Nos. 43 and 44?

An Leas-Cheann Comhairle: It is just amendment No. 43. Amendment No. 42 was in the name of Deputy Wallace.

Deputy Brian Stanley: I move amendment number 43:

In page 78, line 6, after “report” to insert “, in writing if requested,”.

It is a simple thing. We are asking that if the chief executive is asked to supply it in writing, he should do so.

Deputy Phil Hogan: These amendments require that reports and reviews required of the chief executive by the elected members be prepared in writing. The current provision provides flexibility for the report from the manager to be in writing, which is the norm. Where a formal request for a report or review is made by the elected members by way of a resolution, it would be expected that an appropriate future agenda of the council would have this item on it and in the circulation of any related papers. There may be occasions where it suits members and the chief executive for a matter to be reported orally or for an initial oral report to be followed by a formal written report. Flexibility in meeting the needs of the elected members is best met by not specifying reports in writing. However, where the elected members consider it necessary to specify a report in writing it would be open to them to include this in the resolution.

Question, “That the words proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

Deputy Brian Stanley: I move amendment number 44:

In page 78, line 8, after “review” to insert “, in writing if requested,”.

An Leas-Cheann Comhairle: Amendment No. 44 has already been discussed.

Deputy Brian Stanley: Is it possible for me to say a couple of sentences?

An Leas-Cheann Comhairle: The rule is the rule. Are you pressing it?

Deputy Brian Stanley: I am.

Amendment put and declared lost.

Deputy Brian Stanley: I move amendment number 45:

In page 80, line 36, after “discussion)” to insert “, receiving 75 per cent support of members present,”.

I am seeking to protect the process in the case where someone is disrupting a council meeting. Sometimes councillors can disrupt council meetings. However, that is not the norm. There may be some problem areas with this. We want to have mechanisms to protect the elected members in order that they can come in and do their business and that the work of the council can be carried out on a monthly basis. The monthly meeting is very important for doing that. Councillors should be able to come in and make their contribution and decisions about their areas. We do not want meetings held by people playing to the gallery or holding up meetings for their own reasons or disrupting the work of the council unnecessarily.

I am also keen to ensure people are not excluded for frivolous reasons. Let us suppose a chair is in bad humour or somewhat cross on a given day and strikes the hammer on the table rashly and orders someone outside the chamber. This is an effort to protect members and the reason I suggested a figure of 75% is that a three quarters majority, rather than a simple majority, gives some balance in this regard. In other words, the situation should not arise whereby the major group on the council - which may not be one of the dominant parties but could be a combination of a couple of smaller parties - for its own reasons could seek to exclude anyone, because the chairperson will be the man or woman of that group. That is how local government works, as all Members are aware. The situation should not arise whereby the council's cathaoirleach or mayor can exclude someone unfairly. I have suggested a majority of 75%, which strikes the correct balance. When 75% of a council agree that someone is being obstructive, is disrupting the council's business or is preventing the councillors from doing their work, it is time to remove that person. However, I believe specifying a simple majority is a dangerous step to take.

Deputy Phil Hogan: Deputy Stanley is aware that on Committee Stage I reflected on this proposal and indicated that I would bring forward another amendment to change this provision in subsequent Stages of the legislation. Consequently, I will bring forward an amendment in the Seanad, requiring a two thirds majority of those present and voting for passage of the resolution leading to a suspension, rather than the simple majority for which there is provision at present. I take on board the need for reassurance that there would be no risk of using the suspension provision for purely political ends, while still giving sufficient and useable power to the elected members to manage their meetings in a proper manner and to exclude a member only for unacceptable and persistent disruptive behaviour. This is taking place in only a few local authorities but there is no remedy in place under current legislation to deal with it. Consequently, the intention is to put in a provision whereby there must at least be some give and take on both the official side and the elected member side. It is hoped the provision of a two thirds majority will

meet Deputy Stanley's requirements.

Deputy Brian Stanley: I will not split the difference between two thirds and three quarters. I welcome the Minister's commitment and while I had thought the Minister would table his amendment on Report Stage, he has given a commitment in the Chamber to which I will hold him. The two thirds majority certainly is a positive move in the right direction and it will enable local authorities to function better. I will withdraw the amendment on the basis of the Minister's commitment. The Leas-Cheann Comhairle should be aware that I am taking note of all the commitments given by the Minister.

An Leas-Cheann Comhairle: Yes.

Deputy Phil Hogan: They will be there. I usually do what I say.

Amendment, by leave, withdrawn.

An Leas-Cheann Comhairle: While amendments Nos. 46 and 47 are to be discussed together, amendment No. 46 is in the name of Deputy Wallace, who is not present.

Amendment No. 46 not moved.

Deputy Catherine Murphy: I move amendment No. 47:

In page 82, to delete lines 31 to 37, and in page 83, to delete lines 1 to 17 and substitute the following:

“(4A) (a) In the case of a county council or city and county council, the chief executive shall, prior to the preparation of the draft local authority budget, invite municipal district members for each municipal district in the council's functional area to make and submit a budgetary submission in respect of their municipal district.

(b) The chief executive shall make all necessary resources available to municipal district members to enable them to prepare a budgetary submission under paragraph (a).

(c) The chief executive shall direct the preparation of a draft budgetary plan for each municipal district following receipt of each budgetary submission under paragraph (a), the provisions of each shall be adhered to unless otherwise directed by the chief executive.

(d) In each case where the chief executive, in preparation of a draft budgetary plan, deviates from consistency with the budgetary submissions received under paragraph (a) he or she shall state the reasons for such deviation.

(e) Following consideration of a draft budgetary plan under this section, the municipal district members may make amendments to the draft budgetary plan.

(f) The making of amendments under paragraph (e) by the municipal district members is a reserved function.

(g) The chief executive shall incorporate the budgetary plan adopted by the municipal district members in preparing the draft local authority budget (in accordance with subsection (2)).””.

Essentially, the objective of this amendment is to strengthen the hand of the municipal district. At present, the legislation provides that the chief executive will consult the municipal district, whereas this amendment proposes that resources would be provided to the municipal district to do some of this work itself. Clearly, there is an overall council where it will be necessary to have a fair distribution of resources but if power is to reside at municipal level, it must be seen to be much more proactive about the budgetary process as it affects the area the councillors are elected to represent.

Deputy Phil Hogan: The proposed budget process is intended to clarify the approach to be taken by the chief executive in providing for a general municipal allocation. The Members of the municipal district will be centrally involved in the local authority budget process. The municipal district representatives on the corporate policy group, CPG, will have a direct input in the initial discussion on the framing of the overall local authority budget. Thereafter, the members of the municipal district again will have the opportunity to consider and amend the draft budget, before having a final opportunity in plenary session to discuss and adopt the overall local authority budget. Consequently, I am satisfied the principles of fairness and equity are enhanced and will facilitate the development of a budget that respects both the resources and needs of the local authority as well as the needs of its constituent municipal districts.

Deputy Catherine Murphy: On the way it works at present, before the enactment of this legislation, in essence the county manager will take soundings at area level in most cases and will try to include some of the suggestions when framing the budget. I have always thought the very fact that all the resources more or less reside in the control of the county manager, who has the control of and responsibility for the staff, puts the councillors at a disadvantage in respect of the information available. I do not see how this will change, and as for the change in culture in respect of councillors taking responsibility, most of the work must still be undertaken by the officials.

Acting Chairman (Deputy Jerry Buttimer): I must ask the Deputy to move her mobile telephone away from the microphone.

Deputy Catherine Murphy: No, my mobile telephone is on aircraft mode. It is not as though I am about to take off any time soon but it should not interfere. In essence, I do not see how the culture will change whereby the councillors have almost depended on the county finance officer or the county manager for the information they have got to help frame the budget. I cannot envisage how the new legislation will change that culture. This is the reason I thought that changing the location at which one makes the decision might be a way to achieve this.

Deputy Phil Hogan: While cultural change cannot be enshrined in legislation, one can be definitive about the additional powers one gives to elected members and one can then train them and provide resources to them to ensure they are able to understand and implement those powers. I acknowledge that at times, there are difficulties with certain local elected members, particularly people who are new and who may not be aware of the extent of their powers. This can only come through experience, but proper training, educational and awareness programmes must be put in place on the legislative powers and responsibilities they have. I intend to address this after the local elections with the aim of providing resources to local authorities and members. It will not be a case of engaging in conferences around the country but to be able to have sufficient in-house training and educational seminars for them, established with reputable people on an independent basis, that will provide them with the best advice they can possibly get to enable them to tackle the issues surrounding their responsibilities and to be equipped with

the knowledge to be able to take on the other view they might get from officials.

Question, “That the words proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

Acting Chairman (Deputy Jerry Buttimer): Amendment No. 48 has been ruled out of order as a potential cost to the Exchequer.

Amendment No. 48 not moved.

Deputy Brian Stanley: I move amendment No. 49:

In page 98, line 8, to delete “persons who are members” and substitute “3 members”.

This amendment pertains to regional authorities and I note that under the Putting People First guidelines, the Minister has set out that two members of each local authority will represent that local authority on the regional authority. At present, there are six representatives on such bodies from smaller counties. For example, County Laois has six representatives on the Midland Regional Authority. In this amendment, I am arguing for half that number and the reason I propose three members is my concern that under the grouping system, with which all Members are familiar as all have been obliged to make use of it over the years, putting forward two delegates from the local authority to the regional body has the potential to exclude the third group on the council forever and a day. The Minister suggested to me that one could rely on generosity of spirit but unless one were to hold the council’s annual general meeting on Christmas Eve each year, one is unlikely to get that.

Deputy Phil Hogan: One should not be so sure.

Deputy Brian Stanley: One might not even get it on Christmas Eve but my point is that at the council annual general meetings, all Members will have seen cases in which the dominant groupings will have circled such opportunities. I believe the former Minister, Liam Kavanagh, introduced the grouping system in the 1980s, which was a step forward in that at least some divvying out was done in respect of the sharing out of such positions. I believe the present Government parties were in power at the time. While this loosened up matters somewhat, no matter what way one turns the grouping system, inside out or upside down, and I have been obliged to do this many times to try to ensure I was not excluded myself, one still is squeezing out one third of the council membership.

4 o'clock

I ask the Minister to reconsider. While regional authorities should not be over-large or unwieldy, he should try to ensure it is not a case of replacing Tweedledum with Tweedledee.

Deputy Catherine Murphy: I support the general point that we need to achieve diversity in regional authorities without creating unwieldy large assemblies. A bias would not be desirable either - I do not mean political bias or political parties. I made the point on Committee Stage that diversity is critical if we are to avoid the mistakes we made in the past. A key issue to be dealt with by the regional assemblies is the issue of land use planning. We do not want to repeat ghost estates and building on flood plains and inappropriately zoned land. Those mistakes were part of the reason this country is in the position it finds itself. We cannot repeat those mistakes. A diversity of opinion in the regional assemblies is important. I referred as an example to the

mid-east region and the Dublin regional authorities which had joint responsibility for devising the regional strategies following on from the national spatial strategy. In my view to some extent the strategy made a positive change in the culture in our local authority. We need to get the right numbers and diversity in the regional assemblies.

Deputy Phil Hogan: Deputy Stanley will recall the very valuable discussion on this issue on Committee Stage and I indicated there is scope to increase the number of members in the regional authorities without making them unwieldy. At the moment, there are 290 representatives on regional authorities. The policy document recommends that number be reduced to 62. We have in mind a number around 78 representatives. It will not be an arbitrary number of three members per local authority, for example; it will depend on the population to be represented. I plan to have discussions with the representative organisations about how a revision can be undertaken. For example, currently Dublin city with its population has the same number of members as County Leitrim and this does not make sense. This difference must be recognised and I do not mean any disrespect to Leitrim, Longford or Roscommon. The economy and the population of each area has to be taken into account. We are considering a regulatory measure to meet the objectives.

Question, “That the words proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

Acting Chairman (Deputy Jerry Buttimer): Amendment No. 50 has been ruled out of order.

Amendment No. 50 not moved.

Deputy Catherine Murphy: I move amendment No. 51:

In page 116, between lines 11 and 12, to insert the following:

“(6) A regional assembly, upon determination that a development plan prepared by a local authority is inconsistent with the regional spatial and economic strategy applicable in its jurisdiction, shall forthwith instruct a local authority to make such amendments deemed necessary to ensure consistency is achieved in respect of the regional spatial and economic strategy.”.

The Minister said on Committee Stage that he was willing to look at the wording, “either in compliance or consistent with”, as opposed to “have regard to”. There should be a consistency of language throughout the legislation.

Deputy Phil Hogan: We looked at this matter in the spirit of what Deputy Catherine Murphy said on Committee Stage. We discovered the sentiment she wishes to include is already included in the Planning Acts which are updated in this Bill.

Deputy Barry Cowen: There has to be a regard. One cannot say it is contradictory.

Deputy Phil Hogan: It has to be consistent but the consistency is already included in the Planning Acts which are updated in this Bill.

Deputy Catherine Murphy: If the Bill is achieving the objective I am happy to withdraw the amendment.

Amendment, by leave, withdrawn.

Acting Chairman (Deputy Jerry Buttimer): Amendments Nos. 52 to 58, inclusive, are out of order.

Amendments Nos. 52 to 58, inclusive, not moved.

Acting Chairman (Deputy Jerry Buttimer): Amendments Nos. 59 and 63 are related and may be discussed together by agreement.

Deputy Brian Stanley: I move amendment No. 59:

In page 119, between lines 39 and 40, to insert the following:

“(viii) further functions that may be devolved from government departments to a directly elected mayor.”.

The plebiscite should be at the discretion of local authorities.

Deputy Phil Hogan: The provision for a plebiscite in Dublin is an important element of empowering locally elected councillors in Dublin together with the electorate to decide on a key element of future governance for the capital city. As such, any proposal will not be my model nor the Government’s model for a directly elected mayor but rather it will come from the elected members so that it can be put to the people of Dublin for decision. I will not be prescriptive about what the powers or functions of a directly elected mayor should be, so long as there is a clarity and full information for the Dublin electorate to make an informed choice. It is up to the councils in the four local authorities to agree to a model to put to the people in a plebiscite. I understand the forum of the four authorities convened at my request by the lord mayor is close to finalising its work. I look forward to the proposal for the resolution to be decided by the four authorities being submitted to me, probably before Christmas.

There is an onus on the 130 elected members in Dublin to develop a consensus on the clarity of purpose and role of the directly elected mayor, the functions to be discharged by that post and what mixture of powers of local authorities, central government and national bodies could most efficiently and effectively be discharged by the holder of the position. There will also be need for clarity about the residual powers and functions of themselves as elected members and their councils. This balance must be struck in such a way as to make the prospect of a directly elected mayor attractive to a majority of the Dublin electorate so that the proposal of the councils can pass in a plebiscite next May.

To maximise the prospects for passage of the plebiscite, it will need to be very clear that the model recommended represents a consensus view of the elected members across the four authorities and all political persuasions. If the elected members cannot form a consensus as to the form and function of the directly elected mayor I will not be the referee as to which competing model for the post can be put to the electorate in a plebiscite.

Amendment No. 59 is not necessary because the Bill already addresses the concerns of the Deputy. As I have outlined, a range of functions and governance arrangements must be identified prior to a plebiscite for a directly elected mayor. This requirement is already clearly set out in the Bill. The amendment ignores section 61 which requires the identification of functions for possible transfer to the new office of directly elected mayor including from central Departments. As I have indicated I will not be prescriptive as to what these functions should be, where

they should come from, nor will I place limits on the ambition of the elected members in this regard, so long as there is clarity for the electorate as to the costs and other implications of the suggestions advanced for decision in the plebiscite.

On amendment No. 63, the Minister will be required within two years to present a legislative proposal for the directly elected mayor, having regard to the question put to the electorate or else explain to both Houses why this will not be brought forward if that is the decision.

Deputy Brian Stanley: The amendment proposes further functions that may be devolved from central government or public bodies to the directly elected mayor. What we are talking about here is rolling devolution, which is a term the Minister might remember, in other words, that we would leave the way open to devolve additional powers in the future.

Amendment put and declared lost.

Acting Chairman (Deputy Jerry Buttimer): Amendments Nos. 60 to 62, inclusive, in the name of Deputy Cowen are out of order.

Amendments Nos. 60 to 62, inclusive, not moved.

Acting Chairman (Deputy Jerry Buttimer): Amendment No. 63 was discussed earlier with amendment No. 59.

Deputy Brian Stanley: I move amendment No. 63:

In page 121, line 36, to delete “having regard to” and substitute “in line with”.

Question, “That the words proposed to be deleted stand”, put and declared carried.

Amendment declared lost.

Acting Chairman (Deputy Jerry Buttimer): Amendments Nos. 64 and 65 in the name of Deputy Cowen are out of order. Amendment No. 66 in the names of Deputies Murphy and Stanley is out of order.

Amendments Nos. 64 to 66, inclusive, not moved.

Deputy Brian Stanley: I move amendment No. 67:

In page 178, to delete lines 14 to 21.

This amendment refers to fluoridation. I ask that this particular reference in lines 14 to 21 be deleted. We believe that decision should be left to local authorities, as is the case in other countries. The decision is centralised here and we believe that as we are reforming local authorities we should allow the electors and their representatives in each of the districts and local authority areas to have discretion in that regard. There is a big debate about the issue, which is getting bigger, and I am using this opportunity to highlight it here. It is timely because we are drafting legislation for the new local authorities, and it is time we removed that reference. We must never forget that the corporate body of the council is made up of the elected councillors and in an increasing number of councils the elected councillors want to stop this practice. This is an opportunity to start that process. I know it has implications for the Health Act but we should start moving on this issue.

Deputy Catherine Murphy: I support the sentiments expressed by Deputy Stanley. I raised the issue on Committee Stage. I am not sure deleting the words will give us the result we want. I wish it would because it would be a simple way of achieving that. I support the principle in terms of what is being sought. Deputy Stanley is right when he said this is a growing area of concern.

Deputy Phil Hogan: I am aware of Deputy Stanley's view on this matter but the effect of his amendment would not be to in any way change any substantive provision within the Health (Fluoridation of Water Supplies) Act 1960 but rather it would create an anomaly in the legislative code where the definition of a sanitary authority would be outdated.

Question, "That the words proposed to be deleted stand", put and declared carried.

Amendment declared lost.

Acting Chairman (Deputy Jerry Buttimer): Amendment No. 68 is in the name of Deputy Maureen O'Sullivan. As the Deputy is not present the, amendment cannot be moved.

Deputy Phil Hogan: I think we have already discussed that.

Deputy Barry Cowen: There was a commitment on it earlier.

Amendment No. 68 not moved.

Bill reported without amendment and received for final consideration.

Local Government Reform Bill 2013: Fifth Stage

Question proposed: "That the Bill do now pass."

Minister for the Environment, Community and Local Government (Deputy Phil Hogan): I thank the Acting Chairman and the Members who have been very interested in this legislation, Deputy Cowen, Deputy Stanley and Deputy Murphy in particular. I thank them for their contributions to the debate. I hope we will see even further improvements made in the other House and that we can come back to this House in January to resolve those outstanding issues. This Bill has been in gestation for a considerable number of years and I thank the Members for the constructive engagement we have had from all sides of the House, notwithstanding that we have a few more amendments to deal with arising from amendments to which I committed myself in the other House.

I thank my officials also for their patience, and the representative organisations of the local authorities who have engaged fully in these matters over the past year or so in terms of the various changes they proposed regarding these matters. I also thank the Parliamentary Counsel in the Custom House, who was also involved in the drafting of the 2001 Act. We brought him out of retirement to assist us on this matter.

Deputy Barry Cowen: I thank the Minister and his staff for their efforts to acquiesce to some of what was proposed in various amendments on Committee Stage and here again today. I acknowledge the various commitments the Minister has made further to representations from us all. I expect many of those will be addressed on Committee Stage in the Seanad. While we

do not agree with the Minister's sentiments regarding the meat of the Bill in the sense that we do not believe the reform he is talking about will effect the sort of change he would like the public to believe will happen, we appreciate and recognise his bona fides in that regard while fundamentally disagreeing with much of what is contained in the Bill.

I reiterate my disappointment that many of the amendments on this Stage were deemed not suitable to be discussed. For example, I had proposed an amendment whereby a regulator would be appointed to oversee how the local government system works, the way it contributes to the State and how it can be adjudicated to be delivering on the ground, especially when we consider the amount of funding that supposedly is to be made available to it by virtue of the property tax, the onerous responsibility that will be on Irish Water to maintain what we believe to be an unbroken system heretofore, the costs associated with the setting up of that body, and the sort of funding that has been allocated to it, not necessarily from the property tax fund but from the central government fund, which was inclusive of the motor tax collected heretofore.

During the course of the debate the Minister said there would be a review after one year by the relevant committee to consider the effectiveness or otherwise of the local authority system further to this Bill having been enacted. I believe that would be better represented with the appointment of a regulator's office, which would report to the Government and to the Dáil on the deliverance on the part of local government as against the commitments made by Government, and specifically this Minister. That is for another day but I would hope the Ceann Comhairle might make available to myself and others the reasons he believes many of those amendments involved a potential cost to the State. A potential saving to the State would have been the appointment of a regulator in that area to ascertain a cost benefit analysis, value for money, etc., which in the long run would be more beneficial. The Ceann Comhairle's office might make available to us more detailed information as to why many of those amendments were adjudicated to have involved a potential cost to the State. It is an open-ended type explanation that requires further clarification for my own sake and the sake of many others here who in the future may be faced with the same dilemma and might have consideration for the Ceann Comhairle's views on these matters in terms of the type of amendments we propose.

I pay tribute again to the Minister and his staff for their efforts in acquiescing, as far as they could, to many of the proposed amendments that were made in good faith by Members on this side of the House. However, I do not agree with the thrust of the Bill and will not be supporting its passage.

Deputy Brian Stanley: In terms of local government legislation this is a substantial Bill. I thank the Minister and the officials for their work in preparing it. There are many areas on which we disagree. At the same time I note the Minister has given a commitment to bring forward some amendments on Committee Stage in the Seanad. They will be welcome because we should always seek to improve on what we have. Many of us hoped there would be substantial reform following the 2000 legislation but there was very little. It was substantial legislation but it did not lead to any kind of significant devolution, in fact there were further restrictions in terms of the powers and functions of local government in the following years. Since then many of us have lobbied for changes and more devolution. I am a firm advocate of devolving as much power as practicable as close as possible to the people, and I represent a party which advocates this. That is one of the things which is missing.

This State has become even more centralised since Independence. Those in political parties to whom I have spoken over the years - not just councillors but Deputies also - have said it is

overly-centralised. Some of the things we see micro-managed are crazy. No system can operate effectively in such circumstances. I gave an example earlier of bus shelters. Why would one discuss a bus shelter in Ballydehob, Borris-in-Ossory or somewhere with someone in Dublin? Many things need to be devolved down.

One of the positives of the legislation, although I am critical of much of it, is that it has enabling mechanisms. There are commitments in the Putting People First document. I hope the Minister and his successors use that to devolve further powers and functions because that is what we want to see. We want to see real power being devolved down to local councillors who are not just there to rubber-stamp things but who are responsible and accountable to the people they represent. That is real democracy but there is a weakness in this country in that regard.

We often talk about the weakness in civic responsibility. Part of the weakness in civic responsibility is that lack of connection at local level to government. One must connect people locally to local government. Although we would argue it is deficient, we must use this Bill. There are some positives in it - unfortunately, not enough - and we will seek to maximise them over the coming years. Hopefully, when the Bill comes back to the House, it will be improved by the amendments the Minister will bring forward in the Seanad. I thank everybody for their help with the Bill.

Deputy Catherine Murphy: I acknowledge this is a large Bill. The last time there was a big review of the local government system I was a member of a local authority and would have said what would and would not work. We have the benefit of seeing how it played out. I also acknowledge the work the staff have put into producing the legislation. It comes as no surprise that I have a difficulty with the direction in which the legislation has gone. It is a missed opportunity in terms of the reform agenda for the entire political apparatus of the State. That is my view and I accept the Minister has a completely different one, which is entirely valid. He will, however, accept it is okay for me to have a different opinion from him.

The key issue in terms of the delivery of changes in local government will not only be the institutional arrangements. It will be changes in the culture, which will be difficult to achieve. For example, some of those changes will be driven by how the local authorities are funded from now on. I mention the distribution of resources not only at local level between the centre and the municipal level but between the central government and the local government level through the local government fund in addition to the local property tax. There must be a fair distribution model. The needs and resources model obviously must be looked at in that context. We were told there was some workforce planning underway which will be incredibly important because there is a big mismatch there. One cannot deliver adequate public services if one does not have the people do so.

The Minister mentioned the €600 million, which we did not really get to debate, that will come from the Local Government Fund as opposed to the local property tax. That is a very large amount of money. Change will be driven by the demands of the public for services. They will want to see a relationship between what they pay for and what they get but that will not be evident if the money is withheld at national level. We are going about it the wrong way. In Europe, property taxes are generated and spent locally but that is not the case here.

I look forward to seeing the amendments made in the Seanad when the Bill comes back to us and to the report being done by Fr. Seán Healy because it will be an important element in engaging with the community and voluntary sector, which is a very important one. I welcome

the fact the Minister said this will be an ongoing process. Members on this side of the House will hold him to that.

Question put:

| <i>The Dáil divided: Tá, 75; Níl, 41.</i> | |
|---|--------------------------------|
| <i>Tá</i> | <i>Níl</i> |
| <i>Barry, Tom.</i> | <i>Boyd Barrett, Richard.</i> |
| <i>Breen, Pat.</i> | <i>Broughan, Thomas P.</i> |
| <i>Bruton, Richard.</i> | <i>Browne, John.</i> |
| <i>Butler, Ray.</i> | <i>Calleary, Dara.</i> |
| <i>Buttimer, Jerry.</i> | <i>Collins, Joan.</i> |
| <i>Cannon, Ciarán.</i> | <i>Colreavy, Michael.</i> |
| <i>Carey, Joe.</i> | <i>Cowen, Barry.</i> |
| <i>Coffey, Paudie.</i> | <i>Ellis, Dessie.</i> |
| <i>Conaghan, Michael.</i> | <i>Ferris, Martin.</i> |
| <i>Conlan, Seán.</i> | <i>Flanagan, Luke 'Ming'.</i> |
| <i>Connaughton, Paul J.</i> | <i>Fleming, Sean.</i> |
| <i>Conway, Ciara.</i> | <i>Fleming, Tom.</i> |
| <i>Coonan, Noel.</i> | <i>Halligan, John.</i> |
| <i>Corcoran Kennedy, Marcella.</i> | <i>Healy, Seamus.</i> |
| <i>Creed, Michael.</i> | <i>Healy-Rae, Michael.</i> |
| <i>Daly, Jim.</i> | <i>Higgins, Joe.</i> |
| <i>Deering, Pat.</i> | <i>Keaveney, Colm.</i> |
| <i>Donohoe, Paschal.</i> | <i>Kirk, Seamus.</i> |
| <i>Dowds, Robert.</i> | <i>Kitt, Michael P.</i> |
| <i>Doyle, Andrew.</i> | <i>Lowry, Michael.</i> |
| <i>Durkan, Bernard J.</i> | <i>Mac Lochlainn, Pádraig.</i> |
| <i>English, Damien.</i> | <i>McConalogue, Charlie.</i> |
| <i>Farrell, Alan.</i> | <i>McDonald, Mary Lou.</i> |
| <i>Feighan, Frank.</i> | <i>McGrath, Finian.</i> |
| <i>Ferris, Anne.</i> | <i>McGrath, Mattie.</i> |
| <i>Fitzgerald, Frances.</i> | <i>McGrath, Michael.</i> |
| <i>Fitzpatrick, Peter.</i> | <i>McGuinness, John.</i> |
| <i>Flanagan, Charles.</i> | <i>McLellan, Sandra.</i> |
| <i>Gilmore, Eamon.</i> | <i>Mathews, Peter.</i> |
| <i>Griffin, Brendan.</i> | <i>Moynihan, Michael.</i> |
| <i>Hannigan, Dominic.</i> | <i>Murphy, Catherine.</i> |
| <i>Harrington, Noel.</i> | <i>Nulty, Patrick.</i> |
| <i>Harris, Simon.</i> | <i>Ó Caoláin, Caoimhghín.</i> |
| <i>Hogan, Phil.</i> | <i>Ó Fearghail, Seán.</i> |
| <i>Humphreys, Heather.</i> | <i>Ó Snodaigh, Aengus.</i> |
| <i>Humphreys, Kevin.</i> | <i>O'Dea, Willie.</i> |
| <i>Keating, Derek.</i> | <i>Ross, Shane.</i> |

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|---------------------------------|--------------------------|
| <i>Kehoe, Paul.</i> | <i>Shortall, Róisín.</i> |
| <i>Kelly, Alan.</i> | <i>Stanley, Brian.</i> |
| <i>Kenny, Seán.</i> | <i>Tóibín, Peadar.</i> |
| <i>Kyne, Seán.</i> | <i>Troy, Robert.</i> |
| <i>Lawlor, Anthony.</i> | |
| <i>Lynch, Ciarán.</i> | |
| <i>Lynch, Kathleen.</i> | |
| <i>Lyons, John.</i> | |
| <i>McCarthy, Michael.</i> | |
| <i>McEntee, Helen.</i> | |
| <i>McGinley, Dinny.</i> | |
| <i>McHugh, Joe.</i> | |
| <i>McLoughlin, Tony.</i> | |
| <i>Maloney, Eamonn.</i> | |
| <i>Mitchell, Olivia.</i> | |
| <i>Mitchell O'Connor, Mary.</i> | |
| <i>Mulherin, Michelle.</i> | |
| <i>Murphy, Dara.</i> | |
| <i>Murphy, Eoghan.</i> | |
| <i>Nash, Gerald.</i> | |
| <i>Neville, Dan.</i> | |
| <i>Nolan, Derek.</i> | |
| <i>O'Donovan, Patrick.</i> | |
| <i>O'Dowd, Fergus.</i> | |
| <i>O'Mahony, John.</i> | |
| <i>O'Reilly, Joe.</i> | |
| <i>O'Sullivan, Jan.</i> | |
| <i>Penrose, Willie.</i> | |
| <i>Phelan, Ann.</i> | |
| <i>Phelan, John Paul.</i> | |
| <i>Quinn, Ruairí.</i> | |
| <i>Reilly, James.</i> | |
| <i>Ring, Michael.</i> | |
| <i>Shatter, Alan.</i> | |
| <i>Spring, Arthur.</i> | |
| <i>Stanton, David.</i> | |
| <i>Tuffy, Joanna.</i> | |
| <i>White, Alex.</i> | |

Tellers: Tá, Deputies Paul Kehoe and Emmet Stagg; Níl, Deputies Seán Ó Feargháil and Aengus Ó Snodaigh.

Question declared carried.

An Ceann Comhairle: The Bill will now be sent to the Seanad.

Assisted Decision-Making (Capacity) Bill 2013: Second Stage (Resumed)

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

Deputy Luke ‘Ming’ Flanagan: I will be supporting the Assisted Decision-Making (Capacity) Bill 2013. The current legislation dates back to 1871 and one does not need to be a genius to work out that the attitude to allowing people with mental problems to make their own decisions has changed considerably since then. So the Bill is long overdue.

Treating people with such problems is evolving, but not as quickly as I and many people with such problems would like. A change in legislation without a change in culture will not mean much. There is a valid theory to which I subscribe that those with mental health problems should be treated in the same way as those with a broken leg, a broken arm or something like that. I believe that is absolutely wonderful and we should aspire to it. However, sadly in politics that is not the case. When I ran in the last general election one of my opponents, a Fianna Fáil candidate who failed to get elected fortunately, suggested that I should only take half my pay because apparently I was mentally ill. If he had said something similar about a person in a wheelchair, I do not believe he would have got three votes in the election. Sadly, he got more than 5,000 votes even though he was running for a party that had destroyed the country and even though he insulted people with mental health problems.

Previously in this Chamber I have openly admitted that I suffered from depression in the past and even at one stage contemplated suicide. I was quite aghast when yesterday in the Chamber the Minister for Justice and Equality, Deputy Shatter, decided to goad me over the fact that he believes I have mental health problems. I was even more astounded that the Minister of State with responsibility for this area sat beside him and remained 100% silent. The Government can introduce the Assisted Decision-Making (Capacity) Bill 2013 and claim it has done a wonderful job. However, if deep down the people in government do not believe that people with mental health issues are equal, it is not worth a damn. At the end of the day if we have legislation, but no one takes any notice of or has respect for people with mental health issues or who might have had them in the past, what use is it?

I do not expect an apology from the Minister, Deputy Shatter, for insulting me because I had mental health problems in the past, but it would be nice if he would. By doing so he might admit it is wrong to abuse and goad people on the basis of believing they have mental health problems. Fortunately, and luckily for me, I have managed to survive that struggle. However, it does not help when I come into the Chamber and am goaded by a Minister about having a mental health problem in the past. It is sick and twisted. The Government Members should hang their heads in shame if they do not make him apologise.

Deputy Catherine Murphy: The Bill is welcome in so far as it makes substantial improvements to the existing legislation dating from 1871. Our outdated wardship system has been heavily criticised by international human rights bodies and by the people unfortunate enough to be forced to avail of the obtuse and grossly unfair provisions, which labelled a person who needed definite legal protections as a lunatic. Up to now such people have been given a very real form of second-class citizenship. I am pleased the Bill restores a measure of equality to

these citizens and places them at the heart of the new legal arrangements. The Bill will finally allow the State to ratify the UN Convention on the Rights of Persons with Disabilities.

I wish to highlight some concerns with the Bill, perhaps not with the legislation itself but with how it might be applied. Families need to have better access to information when they find themselves immersed in this new system, which often arises as the result of a sudden accident. With no guidance available for these people, assets can be mismanaged or abused by an uncaring and remote system. I have heard of horrible cases of the abuse of people who have been made wards of court. We need to ensure that this legislation properly protects them and lets them have as much say as possible over their own affairs. That is the aim of the legislation and is laudable. On several occasions I have asked on the Order of Business when this legislation would be introduced. Obviously it was delayed for a considerable time owing to technical reasons. It is important to get it passed, but more important will be how we subsequently implement it.

Free legal aid needs to be made available and it needs to be specifically tailored. It is often assumed that wards of court are extremely wealthy, but in many cases the means are quite limited and family members need access to proper legal aid if that is the case.

We have to be certain that there is no conflict of interest among those agents of the State who may be exercising decision-making on behalf of an individual. This may extend to HSE personnel, nursing home agents, etc., so it may not just be family members.

We need guidelines to ensure abuse of persons with limited capacity does not take place. There have been a number of cases, most notably the recent case of an Italian woman in the UK. She has bipolar disorder but on becoming pregnant had stopped taking her medication. As a result her behaviour became extremely erratic and dangerous, and in the absence of next of kin or friends she was taken into care. Her baby was delivered by caesarean section and put up for adoption. Clearly in that case, complete control was taken from the person. That did not happen in this country, but it shows the kind of thing that can happen where a person loses that independent control over his or her own affairs.

Regarding costs, very little burden should be placed on the individual in the transition to the new system. Some significant concerns have been raised over wards of court funds. In some cases moneys collected by the courts, including fees, financial assets of the wards, etc., have been risked in private investments. We have undergone a financial crash. People would have been charged with making investments to ensure that there is a return on the money. In principle, that is not a bad thing but great care must be taken. If the fund is mismanaged or it works to the disadvantage of the person, it may be that the funds may not be there to provide for the person's needs. It will be important that the judges of the Circuit Court have adequate knowledge of the new law.

This is an extremely important Bill and I support it. I take the point made by the last contributor that there urgently needs to be a change of attitude too. In recent years people have talked much more openly about mental health issues, which is very welcome. Sometimes mental capacity is different from mental health. This House should take the lead in attitude. We should not take it lightly when a complaint is made of the nature of the one just made. The Minister owes Deputy Luke 'Ming' Flanagan an apology for making the remarks he did.

Acting Chairman (Deputy Jerry Buttimer): I call Deputy Seán Kyne. The Deputy is

sharing time with Deputies Peter Fitzpatrick and Joe Carey. Deputies Kyne and Fitzpatrick have five minutes and Deputy Carey has ten minutes.

Deputy Seán Kyne: The Assisted Decision-Making (Capacity) Bill is a very significant step on the road to our country ratifying the UN Convention on the Rights of Persons with Disabilities. For far too long this area of law has been neglected to the extent that the current provisions are helplessly and hopelessly outdated and do not reflect the standards that we should exceed in a modern republic.

Very often the debate on issues concerning persons with disabilities centres on resources and available infrastructure for day-to-day support and care. Equally important, however, is the legislative framework for ensuring that the rights of every person with a disability are realised and vindicated. There will always be additional challenges to achieving this crucial objective. The challenges must be met and the State must – not ought to or should – have in place the appropriate laws.

The Assisted Decision-Making (Capacity) Bill is the first time ever that Ireland will have a system of supported decision-making. It will provide the opportunity for individuals to make legally-binding agreements with others to assist and support them in making their own decisions. No longer will it be permissible to make decisions for a person without regard to that person's thoughts, wishes and opinions, no matter how much the decision-maker is acting out of kindness or out of what they perceive to be the best interests of the person. No longer will we rely on terminology and definitions from an Act passed in 1871. No longer will we be dependent on the cumbersome, complicated and, to be honest, often ineffective ward of court system. No longer will we be operating a system for which there is no right of review, and no longer will we be reliant on a system in which consent to make medical treatment decisions is given solely on an *ad hoc* basis.

One issue that the Bill addresses is the increasing incidence of dementia. As our population lives longer, dementia is a pressing issue that is affecting more and more of society. I recall watching a television documentary on RTÉ on failings within the health care system - I think it was "Prime Time". The undercover camera captured the ill-treatment of a vulnerable and elderly lady which I am sure was an isolated case. I recall the phrase the elderly woman used - "Let me alone, let me alone," she pleaded. It was an old-fashioned phrase but one which left the viewer in no doubt as to the woman's distress and of the complete disregard that was being shown for her feelings, wishes and preferences.

This Bill alone will not guard against such abuse but it is a very necessary component which will help establish a society in which vulnerable people are protected. Several organisations, including the Centre for Disability Law and Policy at National University of Ireland, NUI, Galway, Inclusion Ireland and the Disability Federation of Ireland, have highlighted a number of issues regarding the legislation which I think merit attention and consideration and which I hope will be explored further and addressed on Committee Stage.

I agree with the assertions made by the organisations that the positive measures in this Bill, which support people, must be open to all, accessible, inexpensive, easy to use and flexible. It is vital that the procedures and mechanisms being put in place in this Bill emphasise and prioritise the will and preferences of the person involved. While concerns have been raised relating to the use of informal decision-making mechanisms, a balance must be struck in establishing the most effective supports while ensuring such supports are accessible and uncomplicated.

Independent advocacy is important to everyone in society. At times having impartial, friendly and accurate information and support makes a world of difference to a person in a stressful or complicated situation. When a situation concerns a vulnerable person, it is even more important to have an independent advocate. I am encouraged to see that the Bill has been designed with a flexible system that reflects the different levels of support which people in different circumstances will require.

The decision-making option will help people who need a small amount of help in interacting with systems or in obtaining information. The co-decision making option, which requires court approval, will enable a person to appoint a trusted relative or friend to help make decisions on a joint basis. That the co-decision option contains a built-in review process is very positive and will help ensure that the order remains relevant and is the best option for the person with a disability. The decision-making representative option is a step further and is applicable to cases where a person with a disability is unable to be a co-decision maker. A crucial feature of this option is the role played by the public guardian on whose nomination a court appoints the representative. It is a clear, verifiable and independent process with the interests of the person with a disability at the very centre.

Above all else, section 8 of the Bill encapsulates what we are trying to achieve. It makes clear that capacity is always presumed until the contrary can be shown. It ensures that a person will only be considered to be unable to make a decision after all steps to help the person have been taken and that a person will not be considered to be unable to make a decision merely on the basis that the decision is considered unwise and that no interventions shall be made unless it is absolutely necessary to do so. I commend the Minister and his staff on the preparation of this Bill and welcome its progress through the House.

Deputy Peter Fitzpatrick: Mental capacity refers to a person's ability to make decisions about their life in areas such as finance or health care as well as common day-to-day decisions. A person may lose mental capacity due to an injury or an illness and this may be a temporary or permanent loss. Legal capacity refers to a person's ability to act within the legal system. Unlike mental capacity, it is a legal construct. The Council of Europe Commissioner for Human Rights 2012 defines legal capacity as something "...assigned to most people of majority age enabling them to have rights and obligations, to make binding decisions and have them respected... It also protects the individual against (some) unwanted interventions." The two concepts are linked in that diminished mental capacity often results in the relevant person's losing their legal capacity, for example, their right to make decisions regarding their finances, living arrangements, etc.

The current legislation governing mental capacity in Ireland dates back to 1871 and is widely considered to be outdated and inappropriate for dealing with people whose ability to make decisions is affected, through illness, injury or another cause. Under the current law, a person who lacks decision-making capacity can be made a ward of court. As a ward of court they will not be allowed to make any decisions regarding their personal welfare or financial affairs, including the right to marry, enter into contracts or decide where to live.

In order for a person to become a ward of court, a petitioner, usually a family member, must make a formal application asking the High Court to hold an inquiry into whether the proposed ward is capable of dealing with their affairs, managing their person or property. In addition, they must swear an affidavit witnessed by a solicitor and include the opinion of two doctors in their application.

In relation to the proposed ward, the following information must be provided: information about his or her medical condition; information about his or her next-of-kin; information about his or her assets; and information about his or her income. The decision on whether to conduct an inquiry rests with the President of the High Court. If an inquiry is ordered, the proposed ward will be examined by a doctor appointed by the High Court.

This Bill proposes to replace the wards of court system with a legal framework to support people in exercising their decision-making capacity so that they can better manage their personal welfare, property and financial affairs, and to change the existing law on capacity from the current all-or-nothing status approach to a functional one, whereby decision-making capacity is assessed on an issue-and time-specific basis.

5 o'clock

It also proposes to provide a range of supports on a continuum of intervention levels, for example, decision-making assistance, co-decision making, decision-making representation and informal support, to support people in maximising their decision-making capability; to provide, in circumstances where it is not possible for a person to exercise their capacity even with support, that another person can be appointed by the court to act as their representative with regard to specified matters; to provide that the Circuit Court will have jurisdiction in this area, giving court-backed protection to the options chosen by people; to clarify the law for carers who take on responsibility for persons who need help in making decisions; to establish an office of public guardian within the Courts Service, with supervisory powers to protect vulnerable persons; and to subsume into the Bill the provisions in the Powers of Attorney Act 1996 on enduring powers to bring them into line with the general principles and safeguards in the Bill.

It is also intended that the Bill will, on Committee Stage, incorporate provisions relating to advance care directives, which will be provided by the Department of Health. Advance care directives relate to legal documents which enable a person to specify what type of treatment they want in the event of them becoming incapacitated or nominating a health care agent to make decisions for them. Human rights groups have long called for a revision of the legislation with a shift from substitute to supported decision-making in order that individuals are enabled to make their own decisions wherever possible.

Deputy Joe Carey: I welcome the Bill. The legislation, to say the very least, is long overdue. The Bill puts forward a modern statutory framework to support decision-making by adults who have difficulty in making decisions without help. It will repeal the Marriage of Lunatics Act 1811 and will cause the Lunacy Regulation (Ireland) Act 1871 to cease to have effect.

The Bill strongly reflects the recommendations of the Law Reform Commission reports and the 70 written submissions to the Joint Committee on Justice, Defence and Equality of last year. The Bill will bring about substantial change. It will change the existing law to a functional one whereby decision-making capacity is assessed on an issue-specific and time-specific basis, replace the wards of court system with a new legal framework, provide for a range of different types of assistant decision-makers, establish an office of public guardian with supervisory powers to protect vulnerable people, and modernise the law in regard to enduring powers of attorney.

With specific regard to the elderly and those with diminishing capacity, there are many who find themselves in great difficulty when trying to deal with their affairs as their mental capacity

deteriorates. Throughout my life as a public representative, I can reference many cases where an older person was living a wholly independent life one day and the next day their life changes. This generally happens as a result of a minor issue such as a fall or a burn, or perhaps a more serious condition may arise following a leg or a hip being broken, necessitating a stay in an acute hospital setting followed by care in a nursing home. For whatever reason, perhaps because of their vulnerability at this desperately traumatic time, their mental capacity disimproves rapidly and, in many instances, their legal affairs, particularly those which concern their continuing care, are not in order. This situation in many cases places a terrible strain on the person themselves, their immediate or extended family and perhaps their friends or neighbours. This legislation, as presented, should be of significant benefit in instances such as this. Furthermore, the chronic condition of dementia, without any specific acute trigger, is acknowledged by all to be on the increase, certainly in this country.

The Bill provides a statutory framework for the appointment of different types of people to assist the vulnerable with decision-making, with these to be called assistant decision-makers and co-decision making representatives. They can facilitate decisions, where specified, regarding welfare, property and affairs and most medical treatment of the relevant person. They are appointed by that person or the court. They must also submit annual reports to the public guardian.

I welcome the provision whereby an office of the public guardian, which will replace the Wards of Court Office, will be established within the Courts Service to manage capacity related matters for adults. The office of the public guardian will supervise and handle complaints against decision-making assistants as well as against the co-decision makers, decision-making representatives and attorneys of enduring powers appointed by the court. It will also prepare codes of practice for specific groups and will promote awareness of the legislation among the public. I believe this will be a critical function of this new office.

It is important that awareness is also brought to the relevant public and private sector bodies of issues relating to capacity. Sometimes, as a people, we have a tendency to ignore very real issues, as this issue is. It is a fact that we are living longer but there is a *quid pro quo* with regard to capacity. In far too many instances, capacity can diminish without warning, which is why this Bill is so important. I welcome the fact the Bill has the dignity of the individual at its core. I commend the Minister, Deputy Shatter, and his officials at the Department for preparing the legislation and bringing it before the House. I support it wholeheartedly.

Deputy Colm Keaveney: I wish to share time with Deputy John Browne.

Acting Chairman (Deputy Jerry Buttimer): Is that agreed? Agreed.

Deputy Colm Keaveney: I am grateful to have the opportunity to speak on the Bill. I welcome it as an important step in the State's progress towards ratifying the United Nations Convention on the Rights of Persons with Disabilities. It bears some relation to the earlier legislation offered in this area and drafted by Mr. Dermot Ahern, the then Minister for Justice, Equality and Law Reform. That Bill was based, in part, on the United Kingdom's legislative experience. The Bill before us has clearly benefited from the experience of the UK legislation, and I welcome that.

As the Minister of State is aware, more than 600,000 Irish people, not far off one in five of the population of the State, have some form of a disability. There are 57,000 persons within

Ireland who have an intellectual disability. Historically, such persons have not been treated well and the State has failed to provide for the dignity and respect owed to all persons simply by virtue of their humanity. Ireland has a poor record in this respect, as it does in the area of mental health. Thankfully, the past 15 years have seen significant progress in addressing this historic failing, with the Mental Health Acts of 2001 and 2008 standing as a significant milestones in the area.

I welcome this Bill because it is another significant change in updating antiquated legislation such as the Lunacy Regulation (Ireland) Act 1871. It touches on many aspects that go to the heart of what we should regard as the essence of any state calling itself a republic: equality before the law, liberty of the individual as a default position protected by law, and the autonomy of citizens in making decisions concerning their own lives, including decisions that others might judge unwise or imprudent. The law both reflects and helps to shape societal attitudes. In the case of this Bill, I hope it will alter our attitudes towards those people with intellectual disabilities. It signals a significant move away from the paternalistic approach of the current legislative framework towards one that respects the autonomy and will of the individual to make a decision. The move from the current standard of “best interests” towards one that respects the “will and preference” of the individual is welcome in that regard, as is the move from substitute decision-making to that of an assisted or co-operative decision-making process.

In general, the Government needs to signal, through its choices on how it allocates resources as well as on policy and legislation, that the disability sector should not be viewed as a charitable one. The Government needs to change its attitude in that respect. Instead, all policy needs to be informed by the attitude that all citizens should be given a fair opportunity to live their lives to the fullest potential and play a full part in the life of their communities. Resources should not be allocated on a charitable basis but on one that recognises that persons with disabilities are entitled to these supports and respect as a basic right, the same as any other citizen, and as an imperative of social justice.

Deputy Niall Collins stated last week that we will be seeking to address several concerns with this Bill on Committee Stage. As I mentioned, this Bill uses different language from other legislation in this area, including the Mental Health Act 2008. How it will interface with such legislation? How will we approach previous legislation in order to make it compatible with this legislation and will amendments be required before this Bill comes into operation? Dr. Eilíonóir Flynn from NUIG has raised concerns in respect of section 3. This defines mental capacity in a way that suggests that if a person is found to lack mental capacity, it will result in the loss of their legal capacity to make decisions. Article 12 of the UN convention makes plain that persons with disabilities must enjoy legal capacity on an equal basis with others in all aspects of life. Dr. Flynn believes that this provision may be problematic from a human rights perspective. There are some provisions of the Bill that, while not intending to do so, may result in the continuance of the current substitute decision-making regime. Stronger protections will be needed to ensure that court appointed co-decision makers or decision-making representatives take sufficient and proper account of the will and preference of the individual rather than what is considered the “best interest” of the individual from another person’s point of view.

The Bill provides for a broad range of powers for informal decision makers but does not provide for similar safeguards as for other the decision makers contained in the Bill. This power need to be restricted, with a duty to explore assisted or co-operative decision making. This Bill continues to leave unresolved an issue that currently exists under the Mental Health Act. There are still no adequate safeguards for persons who are detained against their will. There has

been case law on this and the European Court of Human Rights now demands that changes be made in our own legislation. Not the least of such changes must be a person's ability to challenge their deprivation of liberty.

Section 106 of the Bill restricts the application of this Bill in a wide range of areas, including marriage and voting. Again, this is in conflict with the UN convention which states that persons must enjoy legal capacity in all areas of life. I have already referred to a change in attitude that this Bill signals. In that regard, I ask the Minister to reconsider the name of the Office of Public Guardian, which suggests that we are returning to the older paternalistic view that we are working to move away from in this legislation.

Outside of any concerns with the content of the legislation but as essential to its operation as any provision within it is the question of funding about which we need clarity. Several aspects of this Bill ranging from the issue of legal aid needed by those wishing to access its provisions to the Office of Public Guardian will require solid and significant commitments with regard to funding from the Government. There will be little point in advancing such legislation only to find that its provisions remain out of reach or insufficiently enforced to deliver on the promise it contains.

Sadly, this Government has shown little commitment to protect funding to the disability sector and the recent budget only demonstrated this. These measures included a savage 20% cut to the respite care grant, increases in prescription charges and the reassessment of entitlement to medical cards that has affected many persons with a disability. These have been the cause of significant anxiety and the refusal to reverse some of these decisions has challenged the ideals of living in a republic. The true testament of the Government's commitment to the disability sector would be a decision to reverse these cuts.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Jan O'Sullivan): The Deputy might look to his current party for some of the causes of that.

Acting Chairman (Deputy Jerry Buttimer): We will have one speaker please.

Deputy Colm Keaveney: The commitment I made prior to the last general election is very clear.

Acting Chairman (Deputy Jerry Buttimer): Could the Deputy speak to the Bill?

Deputy Jan O'Sullivan: The Deputy may be aware of the cause of it.

Deputy Colm Keaveney: I am very aware of your lies. I am very aware of your untruths.

Deputy Jan O'Sullivan: He may be aware of agreements made by the previous Government.

Deputy Colm Keaveney: I am very aware of your broken promises.

Acting Chairman (Deputy Jerry Buttimer): Can Deputy Keaveney address his remarks through the Chair?

Deputy Colm Keaveney: The true test of the Government's commitment to the provisions of this Bill will be for the Minister to reverse the odious cuts for people who have disabilities. It

is probably easy for the Minister to adopt that cynical and critical role. The proceedings of the Dáil are broadcast live to the nation. People sit at home today and wonder why the Minister-----

Acting Chairman (Deputy Jerry Buttimer): We are talking about the Bill, not the television page of the *Irish Examiner*.

Deputy Colm Keaveney: We are talking about the Bill. Of course, people are cynical when they see that a Minister in this section would critically object to the reversal of decisions that affect the most vulnerable people in society. To that end, I hope the Minister-----

Acting Chairman (Deputy Jerry Buttimer): The Deputy's time is up.

(Interruptions).

Deputy Colm Keaveney: Could the Minister of State try to remember her own faults - the untruths and the lies that she told the Irish people?

Deputy Jan O'Sullivan: The Deputy might have a few faults.

Deputy Colm Keaveney: The Minister of State has a very selective memory.

Acting Chairman (Deputy Jerry Buttimer): Deputy Keaveney's time has elapsed. It is a pity his maiden speech as a Fianna Fáil Member has been interrupted.

Deputy Colm Keaveney: I thank the Acting Chairman for his co-operation in that respect.

Deputy John Browne: Fianna Fáil supports the Bill. It is important that the State moves towards a supportive legal framework for individuals with intellectual disabilities. The Bill should be strengthened by ensuring that provisions are open to all in line with the UN Convention on the Rights of Persons with Disabilities. The Government needs to re-emphasise its commitment to the disability sector by bringing an end to the perverse situation where many are being re-assessed for medical cards and other cutbacks in the area. It is important to have a legal framework in place. This would be a positive step but requires a coherent and comprehensive plan if laws are to translate into positive impacts.

It is also important to accept that the Bill has some flaws and that the Government accepts amendments from this side of the House regardless of which political party they come from. I also ask the Minister of State to outline in her reply what discussions, if any, have taken place with the disability groups and groups representing the elderly such as Age Action Ireland. I have a document from Age Action Ireland expressing serious concerns about some of the anomalies in the Bill and putting forward suggestions as to how the Bill could be strengthened. It is important to talk to groups like Age Action Ireland which are at the coalface and are working on the ground with many families that have difficulties which this Bill is trying to address.

The Bill aims to update and modernise Irish law in respect of assisting those with limited intellectual capacity. It will enable greater levels of autonomy for these individuals where possible. The Bill also updates the Lunacy (Regulation) Act 1871 and creates a new flexible approach rather than a black-or-white binary division where all decisions must be entrusted rather than a hierarchy of decisions depending on importance. In strengthening the provisions of the Bill, we must ensure its provisions are open to all individuals affected. It should also broaden the number of supports available to those affected. The Bill should be reviewed after five years to ensure it is in keeping with best international practice. It should also mark an important step

towards ratifying the UN Convention on the Rights of Persons with Disabilities, an issue in respect of which there are serious problems.

As public representatives, we must intervene daily on behalf of people with disabilities. They never seem to be able to acquire their rights, particularly from the HSE. A Deputy spends most of his or her time fighting on behalf of such people to get decisions on services to which they should be entitled without ever needing to approach a politician. Unless they have health insurance, more often than not their cases are put on the long finger and they must wait ages for hospital appointments, etc. There is a lack of support for people with disabilities. It is important that these issues are addressed.

To breathe new life into the legal framework, the Government must focus on developing a coherent disability strategy. The systematic reassessment of medical cards has generated considerable fear. This shows that the people in question are the most vulnerable in society. Often they have no one to fight their cause for them. As a result, the Government of the day takes the easy option of cutting back and reassessing their entitlements.

The issue of the wards of court fund has been raised with me by many people since the Bill was printed. The fund has been poorly invested and a pressing area of concern that has been raised constantly by several parents is the lack of transparency in its investment. Families are deeply concerned that investments have gone awry and that the money put aside, usually as a result of a settlement, has been squandered by high-risk investments. Wards have no say in the kinds of investment used by the fund. They also have no access to financial statements beyond rudimentary facts that have to be specifically sought rather than sent out as a matter of course as any normal investment fund would do. Wards are justifiably concerned that the losses sustained by the fund are not being regained, leaving them exposed to insurmountable financial hurdles in the future. They have also raised significant fears about the levels of professional fees being exacted from the fund and the lack of oversight and transparency in that aspect of the process. I have often heard the Minister of State at the Department of Health, Deputy White, who has arrived, discuss openness and transparency. There is a major concern about this fund, how it operates, the level of transparency and the types of investment made.

In this context, people regularly raise another issue with me. If a ward of court needs financial assistance, the level of bureaucracy involved makes it almost impossible for a guardian to get money from the fund to cover hospital and other costs. It takes months. While I accept that money cannot be paid out willy-nilly, it should be freely available following a genuine application.

The Bill provides a range of supports on a continuum of intervention levels, for instance, decision-making assistance, co-decision making, decision-making representation and informal support, in order to support people in maximising their decision-making capacity. These supports should be expanded to encompass all affected persons and backed up by real resources.

The Bill establishes an office of public guardian within the Courts Service, with supervisory powers to protect vulnerable persons. This office needs to be properly resourced to ensure its role in expanding decision-making powers is effectively implemented. When the Minister of State replies, he might outline how this office will work and the number of people who will work in it. For example, will it be a legalistic office or open and transparent? How will it be established? While openness and transparency are important, it is also important that there is a certain amount of flexibility when dealing with the family of a person who is a ward of court.

I could outline the cutbacks to the health services, including services for people with disabilities, for example, the respite grant. However, the important issue is that this Bill is effective legislation and of help to wards of court. For this reason, the Minister of State should consider taking on board positive amendments from this side of the House.

I mentioned Age Action Ireland because I received an e-mail from Mr. Eamon Timmins, who happens to be a Wexford man and the head of advocacy and communication for Age Action Ireland Limited. He outlined a number of areas of concern in the Bill. He believes the Bill needs to strengthen its provisions for making unwise decisions once the consequences are understood. Age Action Ireland fears that the Bill's provisions are vague in this regard. Mr. Timmins also referred to how older people were particularly vulnerable to abuse in their homes, often at the hands of relatives. A misuse of the Bill's provisions for restraining an individual can lead to an abject abuse of power. The Bill allows informal decision makers to use restraints where necessary. Unlike the co-decision makers or decision-making representatives, the office of the public guardian will not review the actions of the informal decision makers. In Mr. Timmins's opinion, these powers need to be removed from that group immediately. Perhaps the Minister of State will refer to some of Age Action Ireland's concerns when replying. Age Action Ireland also asks that the Bill guarantee fast access to free legal aid for vulnerable groups. We all know that free legal aid is slow and cumbersome and there is a long waiting list for the service.

Other than these concerns, Age Action Ireland welcomes the Bill and views it as a move in the right direction, but one that could be improved dramatically on Committee Stage by implementing some of the changes suggested by it and a number of disability groups. I welcome the Bill. I am sure that the Minister is listening and will accept amendments from this side of the House.

Deputy Dan Neville: I welcome the opportunity to contribute on this important Bill, which we have been seeking for several years. I will identify the positives, but I am also concerned about the relationship with the Mental Health Act 2001, as the Bill does not cover people with mental incapacity owing to mental illness. This Bill proposes a modern statutory framework to support decision-making by adults who have difficulty making decisions without help. It repeals the Marriage of Lunatics Act 1811 and causes the Lunacy Regulation (Ireland) Act 1871 to cease to have effect. When one reflects on the names of both Acts, one realises how outdated much of the legislation that deals with incapacitated people is, particularly as regards people with mental illness. In a previous time, our psychiatric hospitals were called lunatic asylums. That changed in the 1920s but the word "lunatic" is still used in legislation. We have been raising this for a number of years in the context of the stigma regarding those who have a mental health issue. I will refer to that again later.

The legislation will enable the State to ratify the UN Convention on the Rights of Persons with Disabilities. This is part of the programme for Government. The Bill is considered to be a major step forward in terms of safeguarding the autonomy of vulnerable people in their decision making. In this context, disability organisations have monitored progress on the Bill closely and are anxious that it is enacted without delay. While the Bill does not cover the issue of mental illness, there is a connection with it. For a number of years we have been raising the issue of consultation with those who suffer from a psychiatric illness in a psychiatric institution. They are often ignored by the majority, although not all, of the psychiatric profession. In addition, while there are very good people in the psychiatric profession, the majority of them fail to consult with the carers of people who are suffering from a psychiatric illness. That is a seri-

ous fault in how our psychiatric services are administered. A certain section of the psychiatric profession fails to assist families and carers in dealing with the after-care of a person who has been treated as an psychiatric inpatient.

The Bill sets out the important guidelines which will safeguard the autonomy and dignity of the person who does not have the capacity and will apply to all interventions in their case. The most important principle in the Bill is that decision-making capacity is presumed, unless the contrary is shown, and no intervention will take place unless it is necessary. The incapacitated person will be treated as unable to make a decision only where all practical steps to help that person to make the decision have been unsuccessful. Any action or decision made under the Bill must be done or made in a way which is least restrictive of a person's rights and freedoms. The Bill establishes in law the rights and freedoms of all people, regardless of their incapacity. Any action or decision made under the Bill in support of or on behalf of a person with impaired capacity must give effect to the person's will and preference.

There are three decision-making support options to respond to the range of needs. First, the person can appoint a decision-making assistant - in most circumstances this would probably be a family member or a carer - through a formal decision-making assistance agreement to support him or her to access information or to understand, make and express decisions. Decision-making responsibility remains firmly with the person, not with the assistant. The second option is co-decision-making. A person can appoint a trusted family member or friend as a co-decision-maker to make decisions jointly with him or her under co-decision-making agreements approved by the Circuit Court. A co-decision-maker will help to access and explain information relevant to the decision to the person. The co-decision-maker will also help the person to make and express their decision. A co-decision-maker cannot oppose a decision made by the person where it is reasonable and will not cause harm to another person. The third option is a decision-making representative. That is for a small minority of people who are not able to make decisions, even with help. The Bill provides for the Circuit Court to appoint a decision-making representative who will make decisions on behalf of the person, but the representative must abide by the guiding principles and must reflect the person's will and preference.

The current legislation governing mental health capacity dates back to 1871 and is widely considered to be outdated and inappropriate for dealing with those whose ability to make a decision is affected through illness, injury or some other cause. Under the current law a person who lacks decision-making capacity can be made a ward of court. As a ward of court they will not be allowed to make any decision regarding their personal welfare or financial affairs, including the right to marry, enter into contracts or to decide where they live. The Bill defines the decision-making capacity of a person, which is important. A person lacks the capacity to make a decision if he or she is unable to understand the information relevant to the decision, to retain that information, to use or weigh that information as part of the process of making a decision or to communicate his or her decision whether by talking, writing, using sign language, assisted technology or any other means, or, "if the implementation of the decision requires the act of a third party, to communicate by any means with the third party".

I referred earlier to the overlap with the Mental Health Act 2001. We have been seeking a review of that Act for a number of years. Amnesty International has done a great deal of work in this area. There is overlap between that Act and the legislation before us, as mental illness might diminish a person's ability to make decisions. In the case of somebody in a psychiatric hospital or approved centre, both legislative measures are relevant. As a result, some commentators have urged that the two legislative measures "talk to each other" by using the same

language and over-reaching principles.

While the Bill before the House has largely been welcomed by stakeholders as a significant and sought-after reform of the capacity legislation, concerns have also been expressed that the provisions of the Bill might not be available to those treated under the Mental Health Act 2001. Of particular concern is the status of patients in a psychiatric hospital or approved centre, who do not have mental capacity but are treated as voluntary patients, not involuntary patients. As such, they are not entitled to a review tribunal or legal representation, as they are if they are involuntary patients under the 2001 Act. Some stakeholders argue that this is a breach of their human rights. In addition, some commentators have suggested that multidisciplinary tribunals, similar to those under the Mental Health Act 2001, would be more suitable than courts for dealing with capacity cases. The programme for Government includes a commitment to “review the Mental Health Act 2001 in consultation with service users, carers and other stakeholders, informed by human rights standards; and introduce a mental capacity Bill that is in line with the UN Convention on the Rights of Persons with Disabilities”.

The vast majority of psychiatric patients in Ireland are voluntary patients. Section 2(1) of the Mental Health Act 2001 defines a voluntary patient as “a person receiving care and treatment in an approved centre who is not the subject of an admission order or a renewal order”.

One of the most significant provisions of the Mental Health Act 2001 relates to involuntary patients. The 2001 Act provides that a person who is admitted to an approved centre as an involuntary patient is entitled to legal representation through a tribunal hearing within 21 days of their detention.

The Act, however, does not take mental capacity into account when deciding who is a voluntary patient. Effectively, this means that a person who does not have decision-making capacity can be considered a voluntary patient and is therefore not entitled to the same safeguards as an involuntary patient.

Amnesty International Ireland has stated that “the description of such patients as voluntary is misleading, in that it suggests the exercise of free choice by the individual concerned. This raises a number of concerns from a human rights perspective, some of which have been highlighted most recently by the Irish Human Rights Commission”.

In the Bill before us, the Mental Health Act 2001 is referred to as “the Act of 2001”. The explanatory memorandum to the Bill states that section 104 of the Bill “ensures that there is no conflict between this Bill and the Mental Health Act 2001. If a patient is being treated under Part 4 of the Act of 2001, i.e. consent to treatment, then nothing in this Bill authorises a person to give a patient treatment for mental disorder or to give consent to a patient being given treatment for a mental disorder”.

Part 9, section 67 of the Bill stipulates that “Where an issue arises in the course of an application to the court or the High Court under this Act, or otherwise in connection with the operation of this Act, as to whether a person who lacks capacity is suffering from a mental disorder, the procedures provided for under the Act of 2001 shall be followed as respects any proposal to detain (within the meaning of the European Convention on Human Rights) that person.” The 2001 Act provides for involuntary detention. In the old days that horrible term “being committed to a mental hospital” was used.

The experience both here and in Britain was discussed by Professor Genevra Richardson

at a conference in Dublin last year entitled “Looking Globally, Legislating Locally: The Irish Legal Capacity Bill”. Professor Richardson cautioned that creating two separate legislative structures, i.e. a Mental Health Act and a Mental Capacity Act, will “inevitably lead to problems at the interface” for those suffering from a mental illness.

In England and Wales, the Mental Health Act 1983 allows for the provision of involuntary medical treatment to a person with a mental disorder. The Mental Capacity Act 2005 provides for a more general framework where decisions may be made on behalf of someone who lacks a decision-making capacity. If someone is deemed to lack mental capacity due to a mental disorder, a doctor will have to make a conscious choice between the two frameworks, either the Mental Health Act or the Mental Capacity Act.

Despite this overlap, Professor Richardson stated that the two statutes are designed with very different aims. The Mental Health Act is designed to minimise the risks to a patient and others, while the Mental Capacity Act is designed to empower individuals to make decisions for themselves where possible.

Professor Richardson has identified four questions clinicians must ask in order to decide between both Acts: does the patient have relevant decision-making capacity; if so, should the Mental Capacity Act or Mental Health Act apply; in particular, does the patient object to admission or treatment; and is deprivation of liberty required.

I will now turn to stakeholders’ comment on capacity and the Mental Health Act 2001. Under the current Mental Health Act 2001 a voluntary patient includes a person who is incapacitated. As these people are treated as voluntary patients, they do not have their detention reviewed by a mental health tribunal. Dr. Maurice Manning is president of the Irish Human Rights Commission, IHRC, as well as being a former Member of this House and Leader of the Seanad. He has urged that the new legislation would allow “for an assessment of a person’s capacity to consent or object to their admission to a psychiatric institution”.

The IHRC recommend that any person deemed incapacitated and proposed to be admitted to an approved centre, should be considered as an involuntary patient under the Mental Health Act 2001. This same point was echoed in submissions by the Mental Health Reform group and the Psychiatric Nurses’ Association to the Joint Committee on Justice, Defence and Equality. This would entitle such patients to have their detention reviewed.

The Law Society of Ireland recommends that a specific provision be put in the legislation recommending that a person who lacks the capacity to make a decision cannot be deemed a voluntary patient for the purposes of the Mental Health Act 2001. The society also states that where a person is suffering from a mental health disorder and also lacks capacity, the provisions of the Mental Health Act 2001 will prevail, but the safeguards of a review by a mental health tribunal should also be available to such a person.

NUI Galway’s Centre for Disability Law and Policy welcomed the Bill before us and praised its publication as:

a landmark moment in the process of disability law reform in Ireland. Once enacted Ireland should be able to ratify the UN disability treaty. The Minister is to be congratulated for moving beyond traditional guardianship to enable people take charge of their own lives. In particular, as the changed Title of the Bill suggests, it innovates by putting into place supports where needed to assist people make their own decisions and chart their own life

choices.

I look forward to the Minister's reply to the Second Stage debate, as I know he has a specific interest in reforming the Mental Health Act 2001. In his response, perhaps he could update us on the current status of the review of the 2001 Act and indicate when amending legislation will be introduced.

I thank the House for the opportunity to contribute to this debate.

Deputy Caoimhghín Ó Caoláin: I welcome the publication of this Bill, which has been awaited for some considerable time. I wish to reflect on the position on the legislation taken by the Mental Health Reform organisation. During preparation of the Bill, Mental Health Reform, MHR, made a submission to the Department of Justice and Equality in regard to a number of concerns which it believes should be addressed during passage of the Bill through the Houses.

For the sake of all of those taking note of this particular debate Mental Health Reform, which the Minister of State, Deputy Lynch, is aware, is a national coalition of 40 organisations working to promote improved mental health services and the implementation of A Vision for Change, a policy position we share and universally endorse, in terms of political representation in the Houses. The Minister of State will also be aware that Mental Health Reform has been an active participant of the civil society group that prepared the document, Essential Principles: Irish Legal Capacity Law, which group has endorsed the submission of 4 October 2013 to the Department of Justice and Equality to which I referred earlier.

While the Mental Health Reform submission focuses on specific proposed amendments to the Bill, it reasserts the need to ensure that the legislation as enacted provides a statutory framework for assisted decision-making that is compliant with the UN Convention on the Rights of Persons with Disabilities. I would like to read into the record some of the recommendations proposed by Mental Health Reform in regard to this Bill, which I expect will be reflected in amendments tabled for consideration by the Minister on Committee Stage. I strongly commend the following series of amendments proposed by Mental Health Reform: to ensure that all individuals in approved centres as defined under the Mental Health Act 2001 can avail of the provisions in the Bill; to ensure a timely review and transition of all persons currently subject to wardship; to ensure that the legislation protects people who are incapacitated and compliant; to restrict the scope of informal decision-making, in particular in respect of restraint of persons who are in mental health services, and to address concerns regarding potential overuse of medication; and to introduce advance directives and ensure that these are binding on decisions about mental health treatment, except in life-saving emergencies. All of these are common sense positions, which I strongly support.

While I have not yet had an opportunity to engage directly with my fellow all-party mental health group representatives *vis-à-vis* their respective positions I would expect, from what I know of their shared enthusiasm for the introduction of this Bill, that they, too, would reflect on these points positively. It is important in mentioning the all-party group on mental health that I acknowledge the important assistance provided by Mental Health Reform to those of us who represent our specific constituent parts of these Houses on that all party group. Along with Amnesty International, Mental Health Reform has been of huge assistance to us. With the departure of Amnesty International from this particular area of responsibility, Mental Health Reform is now our sole resource.

I would like now to deal with some of the areas of particular interest and, in particular, to interaction of this legislation with the Mental Health Act 2001. Mental Health Reform, in arguing for specific amendments to not only be tabled but, hopefully, accepted, welcomes the provisions regarding co-decision making and decision-making representatives in the Bill. It makes the point that to protect the independence and integrity of the position of co-decision makers and decision-making representatives, it is important that the list of persons who cannot act as co-decision makers or decision-making representatives be extended to include staff of approved centres at which a person is a patient. This recommendation needs to be taken on board. It would provide greater clarity and be of great assistance in terms of best practice *vis-à-vis* co-decision making into the future.

Mental Health Reform believes that it should be clearly stated in the Bill that it applies in full to all patients in approved centres, approved centres being those designated in the Mental Health Act 2001 and that, save as provided in section 104 that the Bill applies to any such patient, an expressed statement be included to this effect to ensure that the benefits of the legislation are available to people in approved centres. This recommendation from MHR is not to be taken as an endorsement of current provisions in Part 4 of the Mental Health Act 2001. MHR's previous submissions to the Department of Health regarding the review of the Mental Health Act 2001 should be read in conjunction with this recommendation. It is important that what has been already submitted by Mental Health Reform is taken into account. However, all of this will be clarified in our elaboration on Committee Stage when specific amendments are being considered.

Regarding wardships, which is another area highlighted by Mental Health Reform, the position of persons who are wards of court and who are detained in approved centres is a matter of particular concern to all of us but of particular concern to Mental Health Reform. It considers it unacceptable that any person currently subject to wardship would remain subject to that regime following the introduction of the capacity provisions under this Bill. Mental Health Reform believes that following passage of this legislation, all wards should, as a matter of right, have immediate access to the range of decision-making supports, including an automatic right to a decision-making representative or co-decision maker where the conditions for same are satisfied. Further, on review, as provided for in section 35(2) of this Bill, the court should be required to make what orders are necessary to ensure that each person currently subject to wardship is discharged from wardship with the appropriate orders and-or directions put in place to ensure that the person previously subject to wardship has the benefit of the provisions of this legislation whether by means of a co-decision maker or decision-making representative, as the case may be.

While a number of other points are made by Mental Health Reform, I would like to deal with its concerns regarding the use of restraint. This is a hugely important area, one which I recall the Minister of State and I have previously addressed in this Chamber. The issue of restraint of relevant persons is addressed by reference to restrictions of decision-making representatives under section 27 of the Bill. Mental Health Reform considers it imperative that the provisions permitting restraint of a person by a decision-making representative should be strictly construed and should explicitly require that the decision-making representative acts in a manner consistent with the principles of this Bill. The provisions should only allow restraint where this is the least restrictive measure to prevent harm.

6 o'clock

Before the Acting Chairman rings the gong on me, I will conclude by saying that Mental Health Reform considers that the definition of restraint as provided for at section 27(6) should be extended. I put it to the Minister of State that she should not leave it to those of us in the Opposition benches to come forward with MHR's proposed changes. She should take a look at them, evaluate them, and, if she can make them her own, all the better. All we want to see is that the Bill is at its best and fit for purpose. The organisation is calling for section 27(6) to be extended to include the use of chemical restraint, something not reflected in the current drafting, as I understand it.

I commend the work of Mental Health Reform prior to and since the publication of the legislation. I welcome the publication of the Bill and I look forward to continuing to play an active role in assisting the legislation to arrive at its best possible fit-for-purpose state.

Acting Chairman (Deputy Robert Troy): I call on Deputy Tony McLoughlin to speak. I understand you are sharing time with Deputies Anne Ferris and Ciara Conway, with five minutes each.

Deputy Tony McLoughlin: I thank the Acting Chairman for the opportunity to speak on this Bill, which will have a meaningful impact on many families in Ireland. Over the lifetime of a government many areas of law are examined or renewed from financial issues to family life. Often, when it comes to law reform, governments point to the existing legislation, which may be Acts from the 1930s or 1940s. In some rare cases the relevant law of the day may date back to the beginning of last century. However, in this case we must go back to 1871 to get to the legislation that provides the *status quo* in respect of the law on mental capacity.

I commend the Minister for Justice and Equality, Deputy Alan Shatter, and the Minister of State, Deputy Kathleen Lynch, on their work on introducing the Bill. The legislative reform of the Minister, Deputy Shatter, compares only to his time as a backbencher when he introduced several Private Members' Bills on a range of issues relating to family law. Many will look back on this time in history as having one of the most proactive governments in the area of law reform. Again, I thank the Minister of State, Deputy Lynch, who, despite a difficult funding time for health, remains deeply committed to providing for our citizens who suffer from mental illness.

The Bill will greatly assist vulnerable people with limited decision-making capacity to better manage their personal, property and financial affairs. It is clear that in the past many people with mental challenges were used and abused by members of their family. Many who showed a slight level of mild mentally abnormal behaviour were made wards of court and decisions were made for them, raising, perhaps, the possibility that those decisions would not have not been made with the input of the person themselves.

The proposed change in the law is welcome. Part 3 provides that a person whose capacity is or will soon be in question can appoint another person to assist him or her in making decisions regarding personal welfare or property affairs. Let us consider, for example, a person in the early stages of the dreaded Alzheimer's disease who has been diagnosed but who has the ability to make some decisions with the assistance of a trusted friend or relative. Such a person can make these personal decisions before their condition gets much worse. Section 11 provides that the authority over decision-making will reside with the person who does not have the capacity to make a decision, while the assistant decision-maker must understand and clarify the will and preferences of the person with the mental challenges and try to ensure that these are carried

through.

The option of entering into a co-decision-making agreement is another proposal in the Bill for those who need added support to make decisions jointly. The Bill states that a co-decision-making agreement has no legal effect unless the court approves it by issuing a co-decision-making order. This is welcome and allows, under the eye of the court, for changes to be made or provides for a period of review if circumstances change, such as those relating to the condition of the person. In essence, this is the central plank of the Bill. We all know that some people may need a little help in obtaining information and in understanding their options. The decision-making assistant option will suit such people.

The other option is the co-decision-making option, which may be most suitable for people who need a trusted person to make a decision jointly with them. Many people will be able to using informal arrangements rather than formal agreements. Under the Bill protection in such cases is available.

In many cases there will be a court-ordered decision-making representation. Let us consider a case where a person is involved in a bad car accident, goes into a coma and cannot communicate, or where a person suffers a severe stroke in an instant. The reality is that the law must provide for that scenario. Family representatives or others will be required to act for these people as they would if they had their full senses. The Bill provides for the courts to ensure that this is the case. Let us consider a case where a wealthy man or woman with a number of businesses, perhaps employing 100 people or more, finds himself or herself suddenly in a position of mental incapacity. This is a precarious position for the person in question and for the many people who depend on him or her for their livelihood. It would be wrong to appoint a person with a poor financial track record, for example, a bankrupt, or an appointed person who is not allowed to claim the relevant expenses to perform his or her duty. This is dealt with in the Bill. In such a case the law must act swiftly. I believe we have the proposals in this legislation to deal with such a scenario.

I welcome the proposal to create the office of public guardian to replace the ward of court system. The service will be managed by the Courts Service with the back-up of civil servants. The office of public guardian will, among other things, supervise decision-making assistants, co-decision makers, decision-making representatives and solicitors for the relevant persons. The office will establish and maintain a register of decision-making assistant agreements, co-decision-making orders and decision-making representatives orders along with other relevant supervision. It is clear that the Minister is keen to ensure that an information website is maintained to communicate the guardian's role, which is vital. I believe the passing of the Bill would be a good day's work on behalf of most vulnerable citizens and I welcome it strongly.

Deputy Anne Ferris: This is a difficult subject to legislate for. It is a complex area, affecting a wide range of people with different needs. No matter how it is written, it will never be able to provide an acceptable answer in all situations. It is an area of our legislation that will require on-going monitoring and improvement as its consequences and effects become apparent. In this regard I welcome the inclusion in the Bill of a new office of public guardian to monitor the progress of the legislation. I expect the new office to commence with the clear understanding that this legislation is not written in stone and will need to be updated from time to time to ensure that one of the most basic human rights that a person can make is upheld, that is, the right to make a decision. I would prefer it if the remit of the office of public guardian was extended to monitor the role of informal decision makers.

The risk that any one of us might find ourselves in a situation with reduced capacity to make a decision is never far away. Every time I take my car out onto the road there is a risk that an accident could leave me with reduced decision-making capacity. Age Action Ireland tells us that by 2041, three times as many people in Irish society will be living with dementia. That could include me or any Member present.

The Bill starts out with a presumption of decision-making capacity. Every adult under law will be presumed to have the capacity to make a decision unless their capacity is questioned. That is a vital part of the legislation. Every doctor, nurse, lawyer, garda and family member involved in a situation where a person's decision-making powers are being questioned must first start at the place where the ability to make a decision is automatically presumed and this presumption has legal protection. From that point, it would represent a major legal jump to get to the position of assuming that a person needs assistance to make what could be a life-altering decision and an even greater legal jump to appoint another person, however temporarily, to make decisions on their behalf.

Newspapers last week reported a distressing case in England. In August 2012, Essex social services obtained a High Court order to forcibly sedate a heavily pregnant woman and carry out a Caesarean section to take her child from her. The woman, it was reported, was an Italian national, a mother of two and an airline cabin crew member on a training course in England when she had a mental breakdown. We are told that she was kept in the dark about the legal proceedings and was sedated. When she woke up her child had already been delivered by Caesarean section and taken into care. Fifteen months later, the child still is in care and may be placed for adoption. Her Italian lawyers are now fighting to have the baby girl returned to her.

In general, I am wary of analysing cases involving child safety issues and vulnerable people, particularly when privacy laws mean that much of the information about these cases is not publicly available. While not all the facts of this case are available, the facts, as reported by the media in respect of the decision-making rights of the woman, appear to be truly shocking. Her lawyers are claiming that all these significant, life-changing decisions were taken on her behalf in a foreign country without any contact having been made with her next of kin in Italy. She was not represented before the court that had ordered her baby to be removed because she had been deemed not to have any legal capacity because of her reduced mental capacity. This is an extreme and shocking case and, as I noted, not all the facts are available but they illustrate clearly the reason the highest legal protection possible must be given to people who find themselves in a situation of reduced decision-making capacity.

The Bill before Members today represents a marked improvement on the existing wards of court system, which automatically removes legal capacity from persons with diminished mental capacity. The new legislation changes that position and offers support to those who need help to exercise their legal capacity. I welcome the spirit of this legislation and trust that its implementation is something the Department of Justice and Equality, as well as the new office of public guardian, will be monitoring closely and carefully to ensure this basic human right is protected for all citizens.

Deputy Ciara Conway: I thank the Minister of State and I am pleased to speak on what is, as noted by my colleague, Deputy Anne Ferris, important legislation that seeks to redress a number of important issues that have been ignored for too long. I thank the Minister of State for her determination in getting the legislation to this Stage. She has taken a special interest in ensuring the Bill is moved along. A welcome feature of the Assisted Decision-Making (Capacity)

Bill is that it moves away from the way of looking after what have been decided are people's best interests. Instead, it recognises a person's fundamental right to make decisions about his or her own life. This is about giving power back to the individual, which has been absent in far too many lives - often at the behest of the State - and I welcome the change encapsulated in this legislation.

This Bill will enable and support people in that decision-making process. It will give more autonomy to those who are affected or are likely to be affected by incapacity by replacing the current wards of court system with a graduated supported decision-making framework. There also are provisions in the Bill for the transfer of the supervision of existing wards to the public guardian and the repeal of the Marriage of Lunatics Act 1811. Words like "lunatic" have no place in the modern vocabulary when it comes to describing mental health issues. The word "lunatic" is out of date, inappropriate and insulting. Members are aware that language matters and I am glad this word is to be eradicated from the legislation. It belongs in the past, much like the legislation this Bill seeks to correct and update.

Another important aspect of this Bill pertains to international human rights. This legislation will pave the way for the State to ratify the UN Convention on the Rights of Persons with Disabilities. It will give effect to Article 12 of that convention, particularly in respect of equal recognition before the law, regular review, adequate procedural safeguards and access to the support required to exercise legal capacity. This relates to people's fundamental rights to make decisions. I have first-hand experiences from working within the mental health services, within long-stay mental health facilities and within day services that, over the years, bit by bit, decision-making and capacity have been eroded and taken from people who have become institutionalised and reliant on others, as well as on systems and the State, to make decisions on their behalf. I believe this legislation will give back this fundamental right to people to make decisions about their own lives.

The Law Reform Commission made a number of strong recommendations on this Bill that are strongly reflected in the legislation, which is greatly to be welcomed. More than 70 written submissions were made on this issue to the Joint Committee on Justice, Defence and Equality last year, thereby demonstrating the level of interest and consultation. This was a welcome process in the negotiation of this legislation. As mentioned, some major changes in this Bill include the fact that a new legal framework will replace the wards of court system. The Bill will change the law in order that decision-making is assessed on an issue and time-specific basis and will provide for a range of different types of assistant decision-makers. The proposed office of the public guardian has been referred to by a number of previous speakers and is to be welcomed strongly. The replacement of the wards of court office by the office of public guardian is a positive development. This office will have supervisory powers to protect vulnerable people. It will modernise the law on enduring powers of attorney and will provide for advance care directives. Again, while this is about protecting those who need help, namely, the most vulnerable, it is also geared towards helping many people make decisions about how they might be cared for in the future. The point has been raised in the Chamber that Members must ensure funding is in place to enable the office of the public guardian to operate effectively. I urge the Minister of State to give serious consideration to this issue because it is fundamental to ensuring the protection of this most sacred of rights, namely, that of people to make their own decisions.

This Bill marks a shift away from paternalism and the paternalistic way of looking after what one decides are people's best interests. Instead, it recognises a person's right to make decisions about his or her own life, and enabling and supporting him or her in that decision-

making is fundamental. The Bill sets out a menu of options to respond to people's differing needs. An effort has been made to recognise that citizens have different needs, and this must be welcomed. Some people may need a small amount of help in obtaining information and in getting to grips with systems. Everyone needs that from time to time and we all rely on friends and agencies to help us get such information to make correct decisions. I acknowledge we do not always make correct ones. The decision-making assistant option will suit such people.

The co-decision making option might be most suitable for those who need someone to help them to make a joint decision. Such people will be able to enter voluntarily, which is highly important, into a co-decision making agreement with trusted friends or relatives. The Minister of State, Deputy Kathleen Lynch, made the point on the publication of this legislation that many people will be able to use informal arrangements rather than formal agreements. However, the Bill also must provide for formal agreements. In a minority of cases, there is provision for court-ordered decision-making representation. This will be an option of last resort but I reiterate the reality must be reflected in law to provide such an option. In such cases, the representative will be required to act faithfully as the individual's voice. In all cases, the person's will and preferences must be centre stage.

I conclude by reflecting again on what an important and fundamental right it is for people to have the opportunity and power and to be empowered to make their own decisions about their own lives.

Deputy Richard Boyd Barrett: I welcome the introduction of this Bill. I commend the Minister of State and the departmental officials on producing this substantial legislation in an area that is complex, sensitive and vital for a huge range of people who will be affected by it, be they those who were born with incapacities or disabilities, those who developed them, or elderly people. Huge numbers of elderly people develop dementia and of the half a million elderly people in the State, 44,000 of them, which is a substantial proportion, have dementia. We are speaking here about huge numbers of people who are affected, including the families and loved ones. I do not pretend to be an expert on this. In so far as I have developed any awareness or understanding of it, it is because I have been pressed to do so by constituents who are affected. On foot of those representations I have asked about the Bill on the Order of Business. On a number of occasions I asked on behalf of one family. I will not mention it by surname but I commend it for its interest. The family member concerned is April, who is a ward of court and is a constituent of mine. Her guardians, Jim and Noelle, are very concerned that this legislation will be passed.

I would also like to pay great tribute to the range of organisations who were mentioned earlier which have scrutinised the Bill, made submissions and are still seeking further amendments to make it everything that it needs to be. I believe we are all agreed that it is long overdue, that laws that even refer to concepts such as lunacy are outdated and unacceptable and that we should not in any way be governed by such laws that make reference to such categories. It is, therefore, welcome that we finally have a chance to discuss these issues and try to legislate in a humane way, in a way that, as has been said by other speakers, starts from the simple premise that because one has a disability or incapacity that does not mean one should not enjoy any less the rights available to any other citizen. It is about ensuring and underpinning legally the idea of equality for all citizens, be they elderly, incapacitated or disabled in one way or another.

I fully accept the bona fides and commitment of the Government in terms of the stated intention of the Bill to try and improve the situation in that direction. The stated intention of the Bill

that people must have the right to make decisions themselves in so far as that is possible must be vindicated. In this regard any assistance, support and legal underpinning must be given to them so that they can make their own decisions about their lives, their treatment, the care they may receive, where they live and their financial affairs. In April's case as a ward of court, a big issue was her right to control her own financial affairs.

This is not the place to discuss issues we have debated many times in this forum, such as cuts to services and so on. However, in order to give full effect to legislation that is attempting to move in a positive direction, it is not enough to enact legislative provisions. To do many of the things the Bill seeks resources are required. An example in this regard is one that received considerable public attention a couple of years ago. In one institution people with mental illnesses were essentially, because of cutbacks, locked up in an unsuitable and inappropriate ward over Christmas because of staff shortages. We should seek to have the best legislation in place and while I fully accept the intention of the Bill to provide the best legal situation in terms of equality and rights, without the resources to secure full vindication serious problems can arise. The rights of people can conflict with the ability of the State to deliver and resource those rights.

Another example along these lines concerns a residential home in Monkstown in my own area which caters for the severely physically disabled. I think of two categories of people in there at the moment. One woman campaigned for a long time that she should not have to be in this residential environment and wanted to live in her own home. She had to fight for the right to do that against those who said she was better off in residential care where she would be looked after. One of the submissions concerning this legislation referred to a similar case in England where the courts decided that even if it was the case that there might be certain dangers associated with somebody living alone, that person had the right to make such a decision about their own life and to have that level of autonomy and personal dignity, including if needs be how that person should die. That is a right and I am glad to say that the woman to whom I referred earlier eventually won her battle to live where she wished. She had to fight a battle against those who thought, and perhaps with good intention believed, it was not in her in best interest to do so.

However, in that same home a situation has arisen, because of threatened cutbacks and closures, where many other residents do not want to leave. Just a few years on the situation has now been reversed on the back of cuts, austerity and so on. People are now being told they will have to be cared for elsewhere, ideally in their own home or with family members. Many people there do not want to leave as they have been happy to be there.

These are examples of how in order to underpin the legal rights we are endeavouring to enshrine in this legislation, the issue of resources is very important. Many of the issues under discussion are sensitive and complex. As one who is inexperienced in this area I must emphasise it is crucial we listen to the people who know. In so far as I have learnt anything in this area it is from those who know, including those directly affected, that is, those for whom we are legislating as well as those organisations which help them and have developed expertise in these areas.

Legislation such as this, which deals with complex and sensitive issues, cannot be set in stone. It must be a work in progress and one that is subject to review. There must be an openness on the part of the Government, as the Bill makes its way through the Oireachtas and subsequently, to listen and take on board the views of those who know at first hand what is needed, what are the deficiencies and what assistance and supports people need in order to have the right which the legislation seeks to enshrine. It is the right to make decisions about their own lives.

As other speakers have said, there are a number of key points in that regard that those groups of organisations have set out as priorities on which they still hope there can be further amendments and refinements to the legislation. I hope the Government is open to that discussion and to trying to refine the Bill as it passes each Stage in the Houses. We must first have the strongest presumption of capacity, the right to legal capacity and safeguards about choosing co-decision makers who will assist people who have difficulty in making decisions to make sure that people have the fullest autonomy to make the decision about who they want to assist them. The provisions and rights enshrined in the Bill should extend to everybody who has an incapacity or a disability, particularly those in prescribed mental health institutions.

The other issue that was mentioned is the advanced care directives. Where people still have the capacity, which they may lose subsequently, they should have the right, in as far as is possible, to make decisions in advance about what they do and do not want in terms of treatment, how they will end their lives and various other decisions. That is complicated because as some of the submissions indicated, it is sometimes easier to legislate for what people do not want than to legislate for what people might want in future situations. In complex areas such as that it is a question of going through this legislation line by line and trying to get the best formulations that are specific enough but flexible enough to accommodate those grey areas and complexities in the best possible way.

The issue of restraint is critically important. One of the popular dramatisations of neglect and abuse in these areas was “One Flew Over the Cuckoo’s Nest”, which is a brilliant film that dramatises those issues very well. It showed how people were subject to abuse in particular situations. The film was set in the United States and showed how people were force-fed drugs they probably did not need, subjected to forced electrotherapy and so on. It was a shocking dramatisation of the potential for abuse where people are categorised as being mentally or physically incapable. I am not saying that persists here but there is always that potential where there are prejudices and stigmas. Where people do not fully have the capacity to articulate their own desires, views and needs there is always the potential for them to be mistreated, abused, ignored and dismissed, and restraint being the most serious example of that. Another brilliant book is Sylvia Plath’s *The Bell Jar*, which is a similar instance about women in the United States treated in that way and categorised as mentally unwell, incapable of making their own decisions and therefore becoming subjects of abuse and victimisation.

In terms of restraint, the various organisations have mentioned not just physical restraint but also chemical restraint and the misuse of medicines to restrain people unnecessarily. This is not just a point for people with incapacities. There is a more general issue in that it can often be cheaper, easier and, for some pharmaceutical companies, more profitable to give people drugs than to listen to them. I attended a very interesting meeting recently of psychiatrists and people involved in the critical psychiatry movement who spoke about that. There is a real issue that we need to examine in that regard. There is a more general issue in the area of mental health but when we are talking about people in mental health institutions this is an area about which we have to be careful. We have to try to ensure that people are not being given, for the wrong reasons, drugs to restrain them because it is easier to do it that way to manage them. We have to avoid doing that and listen as much as possible to the people themselves, allow them identify the help they need, and not have other people deciding what is best for them, often on the basis of what is easier to manage certain situations.

Another area that has been highlighted is the right of people to appeal decisions where they believe their rights have not been fully vindicated, they have not been listened to or decisions

are being made on their behalf that they do not believe are in their best interests through an appeal mechanism. I welcome in that regard the proposal on the office of the public guardian. However, I echo the point made that when we are talking about co-decision makers the group of people who should not be allowed on that list is those who work in institutions because there is a potential conflict of interest in that regard. On the other side of that equation the idea that we have an independent body, an office of the public guardian, that will monitor and make sure that the rights and best interests, as the people themselves see it, are upheld and vindicated is the right approach.

I welcome the legislation and the debate. I congratulate the officials on what is a detailed and complex Bill. I am sure a good deal of work went into it but I hope that as it passes each Stage in the Dáil, there will be an understanding and a recognition that there is probably still work to be done on it in terms of refinements and that all the stakeholders and the people who have knowledge and expertise in this area will have the opportunity to fine-tune the Bill to make it the best possible legislation.

Deputy Joe O'Reilly: I commend the Minister, Deputy Shatter, and the Minister of State, Deputy Lynch, on their work on the Bill to which I will allude later.

In 2007, Ireland signed the UN Convention on the Rights of the Person with Disabilities. I am proud to say that we were one of the first countries to sign that convention. When we signed the convention in 2007, we were making a commitment, under Article 12, to reaffirm that people with disabilities have equal rights to recognition before the law; recognise that people with disabilities enjoy legal capacity on an equal basis with others in all aspects of life; take appropriate steps to support people with disabilities to exercise their legal capacity; and provide appropriate safeguards against abuse.

The Lunacy Regulation Act 1871, which is outdated and constrictive legislation, was blocking us from being able to ratify the convention due to its confliction with Article 12 and before we could ratify it we needed to first have the appropriate legislation in place. As Deputy Boyd Barrett said, the word “lunacy” brings up all the wrong connotations. It is an insulting word which should no longer be used in any discussion as it brings up everything that is wrong and it has a terrible history.

Some would say there has been an inordinate delay in bringing this legislation forward and, to some degree, that is a valid point. However, it is arguable that the legislation needed to be as subtle, complex and sensitive as it is. That has been achieved in the drafting, which is important.

The legislation represents our commitment to and recognition of the various obligations under the convention. It represents a fundamental enhancement of our legal system, providing those who are most vulnerable with the necessary supports and assistance in making decisions that have a profound effect on their lives. At long last, we have legislation which recognises a person's right to make his or her own decisions, regardless of his or her cognitive ability. In cases where a person may lack the capacity to make such a decision, and only when it is established he or she lacks such capacity and nothing can be done by way of intervention by professionals, there will now be a range of supports available enabling and assisting him or her in the decision-making process.

I would like to comment briefly on Part 2, section 8, which deals with the guiding principles

that will apply before and during an intervention of a person to whom the Bill refers to as a relevant person. This Part ensures that a relevant person will be assumed to have the capacity to make his or her own decisions independent of any kind of external assistance unless it is medically and legally proven to be otherwise. The emphasis must be on that.

It merits saying that we cannot avoid our dark past. We tend to romanticise our past which, at times, is understandable and fair enough but this is part of our history that we share with a number of other countries and many civilisations and cultures. There is no escaping the reality that part of our culture, our heritage and our past has been the horrendous abuse of people who lacked capacity - people who may have been a little slow in the conventional sense - and that was used as a pretext to institutionalise them or to almost imprison them in the home and remove from them decision-making. The whole area of lack of capacity and weakness in people - sometimes physical weakness, sometimes mental weakness or a combination of both - was often used abusively by relatives perhaps because of property considerations, testamentary matters with a view to the acquisition of properties, etc. In many instances, it was abuse by very close relatives. It was also abused at institutional level and by supposed friends. This is part of our heritage. There is anecdotal and sad evidence of this in every community and in almost all families, if they were to look at their extended families. This kind of behaviour was rampant throughout the country. There is no escaping that and we need to recognise it as we discuss the legislation. We need to apologise to past generations for that and assure ourselves and give an unequivocal commitment that this will never happen again. It is critical that this legislation, coupled with pending legislation and the work of Cabinet and the Minister of State, Deputy Lynch, draws a line in the sand and that we have a legislative framework which will do so.

When I went through the legislation, I thought one could not discuss it without accepting this dark past that we should feel ashamed of, sorry for and want to rectify in the future. This was often done by people who considered themselves extraordinary Christians and pillars of society and for that reason, it was all the more reprehensible. It is important we get away from that.

Every person, regardless cognitive ability, has the right to an opinion on the decisions that need to be taken in his or her life. It is very important that is understood and accepted and that the dignity of the person is not removed by a lesser level of capacity, as is our conventional understanding of the term, or by a particular illness or set of circumstances. Age Action, which is happy with much of the legislation, believes that people with dementia can make important decisions about their lives, which is a very important point. Dementia can be incremental and can take many forms. Older persons should be able to make decisions about their lives and I intend to return to the advanced care directives later.

I am also pleased to see that no intervention can be made without prior regard to a person's individual circumstances and an assurance is given that the least restrictive option must always be taken. Historically, if a person was deemed by the courts to be incapable of managing his or her own property or affairs, then a committee was set up to control the assets on the person's behalf. This person would be deemed to be a ward of court and taken into wardship, which has a very Victorian ring to it. If a person was taken into wardship, then, among other restrictions, he or she was unable to marry or travel abroad, without prior permission of the court. This was very outdated and at times a degrading process for an individual to go through. I encountered a person who had a dreadful accident and who was a ward of court. This was a very paternalistic system but, thankfully, it will be amended by the legislation.

In Part 3, section 10(1), a more holistic support system is introduced. A trusted friend or relative can now support the person in making decisions instead of a committee. This is a very good option for those who only need a small amount of help in getting the appropriate information to make an informed decision. This leads on to Part 3, section 11, where it stipulates that the decision-making authority will remain solely with the appointer and the appointer will be actively assisted, typically by family members, relatives and carers, in accessing and understanding information, making and expressing decisions on matters and in implementing the decisions made. Throughout the whole process, the assistant must keep in mind the will and preferences of his or her appointer, ensuring that any decisions made are solely in the best interests of the relevant person and that he or she represents that person's preferences entirely.

I did not read the Bill forensically or with a lawyer's eye but it will be very important - I am sure this has occurred to the Minister of State but it merits repeating - that we are sufficiently careful in the implementation of this legislation that it does not become a charter for abuse or that a slick neighbour, a slick relative or a slick carer could become an abuser using this process. That is why it will need to be constantly reviewed, very restrictive and very careful in that area. I would be grateful if the Minister of State would respond to that and reassure the House on that score that it has been well thought through and that she believes the legislation protects against that. I would be grateful if the Minister of State, Deputy Kathleen Lynch, would respond to that in her final comments. Perhaps she will reassure the House that this has been considerably thought through and that she feels it is protected by this legislation. It occurs to me that it would be shocking if this legislation, despite its great intentions, were once again to facilitate an abuser by allowing him or her to pose as an assistor who is giving good advice. It is very important that this would not be the case.

I welcome the inclusion of family members, relatives and carers in the list of those who can be appointed as assistors, with the caveat I have mentioned. People with moderate to severe learning or cognitive difficulties usually depend on and place great trust in their family members or their carers. That is why the inclusion of these key people in the decision-making process is paramount. While there will be no question about the bona fides of the family member or carer in the vast majority of cases, I reiterate the caveat that we need to be careful to protect vulnerable people. We must ensure that no one of a wrong type slips through the net. This measure reinforces the point that the relevant person must feel that his or her voice is being heard and be able to trust the system that is in place for him or her.

Section 12 lists the criteria that a prospective assistor must meet prior to appointment. I welcome this inclusion as it represents responsible safeguarding for those who could be deemed to be vulnerable. I have spoken at length about this aspect of the matter. While I am glad that section 12 attempts to keep this structure in place, I would like to hear the Minister of State speaking about the matter on the record of the House.

Section 10 ensures that any appointment of a decision-making assistant must be made by means of a decision-making agreement. This is similar to the legislative position in the Canadian province of Alberta, where "co-decision-making" is practised in cases where the capacity of a person is in question. That legislation ensures that the adult and his or her co-decision-maker make decisions together and that all decisions are made in the best interests of the assisted adult. The relevant person must agree to the arrangement and to the person who is appointed as his or her co-decision-maker before anything can take place. Dr. Brendan Kelly, who is a consultant psychiatrist in the Mater Hospital, would refer to these measures as the "empowering principles" of the Bill. I commend the Minister and the Minister of State in this regard.

We are ensuring in this legislation that every person in the State has dignity, autonomy, physical integrity and privacy. These key rights should never be under any doubt for anyone in this country, regardless of that person's cognitive or physical ability. I am glad they are now enshrined in law. The Ceann Comhairle and I attended a very important function in this House today that related to the work of the Council of Europe. The sound principles of natural law about which I am speaking are of great importance for the Council of Europe, of which Ireland is a founding member.

The further safety measures included in section 17 of this legislation provide for a periodic review of a co-decision-making order within between nine and 15 months. That review is vital and must be adhered to. There must be no doubt about the implementation of this provision. Equally, the question of resources being unavailable must not arise. There will be a review every three years thereafter. This is important if the relevant person's capacity improves or deteriorates, or if the relationship between the relevant person and the co-decision maker breaks down to the point that making joint decisions is no longer possible, which can of course happen.

The new office of public guardian, which is introduced in Part 8, replaces the old ward of courts system. This important new office will oversee the whole process, in effect. The public guardian, who will be appointed by the Minister and will be based within the courts system, will supervise decision-making assistants, co-decision makers, decision-making representatives and attorneys for relevant persons.

I understand the Minister of State intends to provide for advanced care directives on Committee Stage. This is a very important principle. It is important that people with specific deteriorating conditions are able to set out a programme for their care. I take the points that have been made about the legal complexity in this regard. We are aware of that. A person who is a fantasist might set out unrealistic situations. All of that will have to be legislated for and dealt with when the Act is ultimately being implemented. Having said that, it is good and right as a principle that people should be able to dictate where they want to be. This could be done by the individual or by a care agent.

It is important that a relatively well-resourced person who wants to map out a system of care within his or her own home or apartment should be able to bring in medical support and nursing assistance, etc. Plans of this nature are sometimes thwarted by family members who argue that it is better for the person to be in a nursing home. If the person's wish is to be at home and to receive a particular type of care, that is his or her prerogative. We should be watching to make sure that wish is not thwarted. As practising politicians, we all know from our constituency work of cases in which people who want to be at home, and have a right to be at home, have been put into care or subtly forced into care. If this cannot be said to be stealing from them, it is certainly a form of theft, in effect.

I agree with Deputies that as our economy improves and we begin to benefit from the necessary policies of the last few years, it is important to resource this whole area, including the implementation of this legislation. As resources become available, we can make amends for historic failures in the mental health area - the abuses that took place and the incarcerations that were wrongly permitted - by resourcing mental health properly. Mental health supports should be resourced at community level and at every other level.

I am proud to have had the privilege of being the founding chairperson of Bailieborough Mental Health Association. I have a great interest in this area. We built up the association to the

point at which it had up to 100 members. We organised various activities, including holidays for the members, and a whole social programme. Thankfully, this very effective mental health association still exists. The Minister of State knows my colleague, Councillor Seán McKiernan, who is an area development officer and a resource director with Mental Health Ireland. I am proud to have been associated with this important area of work. As funds become available, we need to resource mental health and thereby make apologies for the past.

Change is badly needed in this area because our current system is antiquated and restrictive. It does not represent best practice. In many ways, it infringes on the basic rights of a person who is deemed to be incapacitated. I commend the Minister, Deputy Shatter, and the Minister of State, Deputy Kathleen Lynch, for all the hard work they have done, along with the officials in the Department, to ensure this legislation has finally been brought before the House. As Saint Thomas Aquinas wrote, the human person is “an intelligent being endowed with free will and self-movement”. This legislation acknowledges this fact regardless of circumstances.

Deputy Thomas P. Broughan: I am pleased to have an opportunity to speak on the Assisted Decision-Making (Capacity) Bill 2013. I note that the Minister of State has consulted various interest groups and experts in preparing this complex legislation. I commend her for the energy with which she has taken an interest in this matter over recent years. I congratulate her on bringing this Bill, which has been in gestation for such long time, before the House. It has been repeatedly delayed and is long overdue. Over five years have passed since the scheme of a mental health capacity Bill was published. It is regrettable that it has taken so long to get to the point at which substantive legislation is being progressed through the House.

The key principles of this Bill, as outlined by the Minister of State, represent an important step forward in this whole area. I refer in particular to the decision to bring the wards of court system to an end and provide for a better legal framework. I am pleased that the current all-or-nothing status approach is being abandoned in favour of a more functional approach. I also welcome the section of the Bill clarifying the law in relation to carers. As the previous speaker said, carers are often left in a very difficult situation. The Bill still requires carers to deal with the legal system, which many people will find quite difficult to do, but it certainly clarifies the law to a considerable extent.

7 o'clock

The Bill represents a welcome reform to the law on mental capacity. In Ireland, we have operated under an archaic system, particularly by continuing to have the Lunacy Regulation (Ireland) Act 1871 on the Statute Book. The persistent failure to reform this area has met with criticism internationally, including by the Council of Europe and the United Nations. As the Minister of State has pointed out, the Bill will facilitate Ireland’s ratification of the United Nations Convention on the Rights of Persons with Disabilities 2008. It is of course most welcome that the State would ratify the convention. However, concern has been expressed that the Bill does not go far enough to ensure the State is compliant with the convention. I note the Bill makes specific reference to giving effect to the Hague Convention on the International Protection of Adults, which is also welcome.

As has been widely acknowledged, the Bill contains a functional approach to capacity in section 3 and we have rightly moved away from the other status-based approach or the outcomes approaches. This is very welcome because the “best interests” test of capacity was contained in the general scheme of the Mental Capacity and Guardianship Bill 2008. The general approach

of looking at functionality in determining an individual's capacity has been recognised as best practice nationally and the paternalistic "best interests" approach is being moved away from.

There are extensive provisions in the Bill with regard to the decision-making assistance agreement under section 10 and the co-decision-making order in section 18. The Bill contains further extensive provisions concerning the power of the court to make orders and appoint decision-making representatives. Of course, there is no automatic right to legal representation in all these categories of cases, which is something the Minister of State might consider for inclusion on Committee Stage. Clear rules are obviously important in this context. However, some experts have called into question whether the operation of some aspects of the Bill actually adopts a functional approach to capacity. Dr. Eilionóir Flynn of the Centre of Disability Law and Policy at NUI Galway has suggested that the new regime under this Bill could still effectively provide for a continuation of facilitating substitute decision-making. She has suggested that the use of the word "guardian" in the office of public guardian due to be established under Part 8 of the Bill is problematic because guardian suggests an approach whereby substitute decision-making would be the norm.

Another concern with the Bill is the future interface between this legislation and the Mental Health Act 2001, which relates to people with mental disorders. However, voluntary patients have few of the safeguards that apply to involuntary patients detained under the Mental Health Act 2001. This is a particular problem for incapacitated compliant patients or the *de facto* detained. English mental health law has been amended to address concerns about the potential lack of safeguards around administering treatment and the detention of incapacitated compliant patients following the decision of the House of Lords in *HL v United Kingdom*. The relevant legislation in England and Wales was amended after the House of Lords criticised the lack of formal safeguards in place for the applicant's detention in that case. One academic commentator, Dr. Darius Whelan of University College Cork, has suggested that even with the reform to capacity legislation contained in this Bill, the so-called Bournemouth gap, identified and mostly remedied under English law, will still persist under Irish law. As the Minister of State knows, the Bournemouth gap refers to people who enter institutions voluntarily and later become incapacitated. How will the Bill address the concerns of such citizens?

Age Action Ireland has helpfully prepared a very insightful analysis of the Bill for Deputies. I share some of its concerns about this Bill, particularly in the area of restraint. It has been suggested, for example, that the Bill fails to set out any mechanisms to deal with an unlawful deprivation of a person's liberty and this must be resolved. Again the Minister of State may consider addressing this on Committee Stage. Age Action Ireland has cautioned that in the particular context of older citizens, a misuse of the Bill's provisions for restraining a person could lead to an abject abuse of power. As Deputy Reilly indicated, we have a dreadful history of elder abuse.

A related concern about the Bill is the lack of specificity about the powers of informal decision makers under Part 7. It has been suggested that because informal decision makers are not subject to invigilation by the office of the public guardian, potential problems may arise and the general spirit of the Bill, which is to have supported decision-making and a functional approach to capacity, will be eroded by potential overuse of the informal decision maker's powers.

I am also concerned about the onerous obligations the legislation could impose on some carers, who are already going through a time of very real difficulty when caring for a vulnerable adult or child. A number of commentators have urged that the office of the public guardian

must be adequately resourced in order for it to be able to perform its functions satisfactorily. I note we received a basic cost analysis in the very fine document prepared on the Bill by our Oireachtas research staff.

A comprehensive information campaign should accompany the enactment of the Bill so that affected persons will be supported in knowing their duties and obligations: I am sure the Minister of State will do that. In a similar vein, it has been suggested that legal aid for matters arising under this Bill should be fast-tracked, rather than having to go through the regular legal aid process. Perhaps this could be remedied on Committee Stage.

I thank the Ceann Comhairle for indulging me with some extra time, as he often does. Overall, I welcome this Bill. I commend the Minister of State on her extensive efforts. The Bill has been talked about for 20 or 30 years and we finally have it before us. Some of the key concerns identified by experts in this area should be considered and the Bill could be amended on Committee Stage. The scope of the powers of informal decision makers should be more clearly defined and if necessary circumscribed. Amendments should also be made to the provisions of the legal aid legislation to ensure speedy access to legal aid for vulnerable citizens affected by this legislation, particularly as the legal framework for those who may avail of this legislation is becoming much more complex.

Deputy Bernard J. Durkan: I propose to share my time with Deputy Stanton.

An Ceann Comhairle: Is that agreed? Agreed.

Deputy Bernard J. Durkan: I congratulate the Minister of State on introducing the Bill. It goes without saying that the Acts of 1811 and 1871 are somewhat out of date like much other legislation. It is a worthy decision to bring the Bill before the House. Other speakers have already referred to its merits and demerits and, of course, there are always swings and roundabouts with such legislation. In the course of our constituency work we have all come across cases where there was an obvious need for somebody to have assisted another person in making a decision at a particular time. Other cases have come to our attention where the intervention, allegedly to assist the person who required the decision-making assistance, resulted in the person not receiving the best advice in his or her interest, and ending up in court and eventually in family disputes and so on.

In these cases we need to recognise the necessity to ensure that the person, who is deemed to require assistance in making a decision, gets that advice impartially in his or her interest with due regard for natural justice and the law. For instance there would not be much sense in a vulnerable person receiving advice that was legally wrong and that could lead that person into difficulty at a later stage. The presumption is that this legislation will be able to cross that particular Rubicon and deal with that vulnerable person, regardless of whether he or she has a disability from birth or as a result of an accident. We have all come across cases where a person as a result of an accident found himself or herself vulnerable and totally dependent on those around him or her. Sometimes helpful family members become involved in a way that is not to the advantage of the person with the particular disability. Sometimes non-family members become involved by way of association or whatever, ultimately leading to the person with the disability ending up in a far greater disability.

I strongly support the legislation and the concept behind it. However, due regard must be given to the need to monitor on a fairly regular basis the legislation as it applies in order

to ascertain the extent, if at all, to which it is operating properly and working smoothly. The decision-making capacity is presumed unless the contrary is shown, but shown by whom? Is it on medical evidence, legal evidence, history or some other basis?

While I know the criteria set out in the Bill, can we be certain that due regard will be had for natural justice and the course of law in all cases of a person on whose behalf a decision will be made, or who will be assisted in that decision? The Bill provides correctly that no intervention will take place unless it is necessary. That goes without saying. It also provides that a person will be treated as unable to make a decision only where all practicable steps to help that person make a decision have been unsuccessful. That is good but the devil is in the detail. How does one come to that conclusion? Will the Minister of State in her reply give some indication as to the swings and roundabouts and the cross-checks that will apply in that situation? I am sure that everybody in this House has dealt with cases where advice was given to a person who was vulnerable at a particular time, whether suffering from a mental or physical disability which was shown to be wrong at a later stage. That does not necessarily mean that the person giving the advice and assistance will be the beneficiary. The advice can be wrong and not to the advantage of the person in need of that decision-making assistance. Any act done or decision made under the Bill must be done or made in a way that least restricts a person's rights and freedoms. That goes without saying.

The Bill proposes certain decision-making support options: assisted decision-making and co-decision making, which could involve family members or a group of people. This is along the same lines as the wards of court. The wards of court system has been greatly beneficial in defending the rights and entitlements of vulnerable people. It has also been shown not to be accessible and not capable of dealing with situations that emerge over time and we need to keep that in mind.

In respect of powers of attorney how can one be absolutely certain that the powers of attorney are given with due observance of the law? For example, I have dealt with cases, and I am sure that the Ceann Comhairle must have come across them too, in which it has been suggested to me that when the person granted power of attorney it was contended that he or she was not in a position to make the decision to confer power of attorney on anybody. There have also been numerous cases in which a family becomes entangled in a legal argument after the death of the unfortunate person. This all has to be addressed and we find ourselves going back into a maze and ask ourselves how it happened in the first place. It is very difficult to be absolute in the determination of what is right and wrong in this type of situation. Are legal and medical opinions available to those who will assist in the decision-making? Are those who provide the opinions fully aware of their obligations under the proposed legislation when giving their opinion?

An office of public guardian is proposed. This will be set up within the Courts Service to replace the Wards of Court Office to manage capacity-related matters for adults. The office of the public guardian will supervise and handle complaints against decision-making assistants as well as against the co-decision makers, decision-making representatives and attorneys of enduring powers appointed by the court. It will also prepare codes of practice for specific groups and will promote awareness of the legislation among the general public. This will all come under the jurisdiction of the Circuit Court, and I presume of the High Court and ultimately the Supreme Court, in the event of there being a requirement to go there. In a time of restricted finances would it have been possible to consider reference to the Office of the Ombudsman in such situations? It would offer a different opinion. It could be consulted in such situations which could benefit to the whole decision-making process and might have some impact by es-

tablishing continuity, in a system that is recognised as having universal application around the country.

My colleague, Deputy Joe Reilly, mentioned abuse. Abuse can come in many shapes and forms. It can be detention against the person's will. It can be the result of a person's being placed in a vulnerable position under the care or control of somebody else who has no such diminished capacity and who may or may not exercise that control in the interests of the vulnerable person. The State in the past has supervised abuse. We have all talked about it in this House. There have been numerous situations in which vulnerable people, children and adults, have been in the custody and care of the State and have been abused to a colossal extent. That is a sad reflection on our society. I hope that this Bill will address that issue in a way that it has not been addressed before and that it will prevent the possibility of a situation arising in which vulnerable people, who need support, care and appropriate treatment, are deprived of their constitutional rights as well as everything else in the course of what follows. I hope that this Bill will address those issues in a fundamental way and protect the rights of the people for whom it is intended in the first place.

Deputy David Stanton: I am Chairman of the Oireachtas Joint Committee on Justice, Defence and Equality. The Minister for Justice, Equality and Defence, and the Minister of State at the Department of Justice, Equality and Defence, Deputy Kathleen Lynch, sent us the heads of the Bill. I think that was in 2012. We called for submissions and received over 70, which were very detailed. We held two full days of hearings. It was extraordinarily complex and very interesting. Everybody welcomed the value of those hearings. We produced a 700 page report on this issue.

At that time this was called the mental capacity Bill. Then there was talk of calling it the legal capacity Bill. I am delighted to see that it is called the Assisted Decision-Making (Capacity) Bill because the Title of a Bill sets its tone. I congratulate the Minister on moving in that direction. The Bill is designed for people who have difficulty making a decision, for all kinds of reasons, intellectual disability, mental health issues, brain injury, Alzheimer's disease and so on. Some of these conditions are progressive and as they progress the legislation has to keep in line with that progression because at certain stages people need assisted decision-making, then co-decision making and at the end decisions are made for people. At other times people may have some form of remission, especially if theirs is a mental health issue and can come in and out of the need for assistance of some sort. It is a very complex area indeed.

I would like to see an easy-to-read guide to this legislation because the people whom it is supposed to help might have difficulty in understanding what has been produced in the Bill and in the explanatory memorandum. I ask the Minister of State to consider whether she can cause to be produced an easy-to-read document that those whom this Bill is intended to help could better understand. That is important and has been called for.

Central to this Bill is the will and preference of people to make a decision. That must remain central at all times, even when a person can no longer express him or herself. Years ago, when a son of mine was seven, he did not want to go on a Sunday drive. He said "Dad, when you are old, I will take you to places you do not want to go". We have to put ourselves in that position. I thought about it and after a while I was a bit horrified because I thought that might actually be true. There are older people in nursing homes and other places and this Bill really needs to consider them. Their will and preferences must remain central, even when they can no longer express themselves. We may need to consider their previous decisions and other such

matters. I believe this Bill goes a long way towards that.

My speaking time is limited but, as I spent two full days debating this earlier, I do not need to take too much time here. Nonetheless, I want to make one further point. With regard to the office of the public guardian, the word “guardian” is paternalistic and I ask the Minister to reconsider this and to come up with a different title, in particular given the Title of the Bill changed from the Mental Capacity Bill to the Assisted Decision-Making Bill. The word “guardian” grates with me a little as it is somewhat Victorian and paternalistic. It refers to somebody doing something for a person whereas the whole tone of the Bill is assisting people to make decisions on a continuum as matters move along. I will conclude as I would like to hear what the Minister of State has to say.

An Ceann Comhairle: I call the Minister of State. If she does not have enough time in the ten minutes remaining, she can continue tomorrow. It is up to her.

Minister of State at the Department of Health (Deputy Kathleen Lynch): It has been a wide-ranging discussion. As Deputy Stanton said, few other Bills have been so widely consulted on, not just in terms of the politics of this, but in terms of academic input, international input and public consultation. It has been an incredible experience. I am sure the officials in the Department will vouch for the fact the Bill as presented today is not the same Bill we started out with, and, indeed, I am sure it will not be the same Bill we end up with. That is hugely important. In many cases, we come in with legislation and we do not have that type of flexibility because it is usually about finances or pressures from other people or other legislation we have to complete. On this Bill, we have set out to take people’s views on board, to listen to their concerns and, where at all possible, to ensure those concerns are reflected in the finished Bill.

We have had a useful discussion. Deputy Boyd Barrett’s contribution was interesting from the point of view of personal experience of the people he interacts with. That is what it is really about. It is about people in an everyday setting who find themselves in a position where they are not able to make decisions for themselves. When talking about issues like this, I often say that what it is really about is the right to make the wrong decision. We all make wrong decisions, and while people may come along later and say, “I made a bit of a crock of that”, they had the right to do it. That is that this Bill is about. Hopefully, with assistance and input from other trusted people, it will be the right decision. However, those of us who rear children know that no matter what the advice is, from time to time, it is still the wrong decision.

I would like to respond to some of the points made. If I do not respond to all, Deputies should not take it that we did not listen, because we did, and we will be listening even more when it comes to Committee Stage.

We will produce a plain English version of the Bill. When we do, we will run it by the organisations which advocate on behalf of people with disabilities and which have an expertise in this area. As I said in my opening statement, legal capacity is presumed in the Bill. Everyone is entitled to equal recognition before the law. However, I realise that this message may not be clear enough in the published Bill and we are seeking to make this clearer in the final legislation.

I note the comments on informal decision-making, and we will take another look at this aspect. The provisions on informal decision-making were never intended to be a charter to undermine the Bill. They were simply designed to protect individuals, especially health care

workers and carers, against liability if they made decisions on a person's welfare in good faith. The intention was that these workers could act for a person's benefit without fearing that they might be sued. However, I see from the feedback we have received that the provisions are too loose and they need to be tightened to reflect more clearly what we are seeking to achieve. I believe we are all seeking to eventually end up in the one space.

We recognise that vulnerable people are at higher risk of exploitation and that safeguards are required. With regard to the office of the public guardian, we are not hung up on the title because titles are one thing we are not hung up on in this legislation. We will look at the name, as Deputy Stanton and others suggest. The office of the public guardian will supervise those tasked with supporting others and will act on complaints. Similarly, those appointed as co-decision makers and decision-making representatives will be accountable to the court for the performance of their duties. Nevertheless, we are listening carefully to the comments that we are receiving about improving safeguards and are carefully considering what we need to do to improve these provisions. Our aim is to have sufficiently robust safeguards to prevent the exploitation of vulnerable individuals, which we would all prefer.

The need to prevent conflicts of interest was also raised. I agree this is an important issue. Conflicts of interest have the potential to do harm to a person with capacity difficulties. This is why we have prevented staff of nursing homes or residential facilities from handling the property and affairs of a vulnerable person. We will also consider if the Bill needs to be strengthened further as regards the prevention of conflicts of interest.

The issue of establishing a separate legal aid scheme was raised in the debate. As I said, we are making it easier for people to access legal aid and removing the merits test. The likelihood of success, which was one of the issues raised, will not be a factor in deciding whether to grant legal aid. We will also examine how court-related processes can be done in a way that minimises court time and expense for the person with capacity difficulties or for their family. However, the number of people who may potentially use these options is such that we do not have the resources to give free legal aid to all of those affected. Many of those who will benefit from the legislation have resources and assets. It would be unfair if those people received free legal aid and prevented others on low incomes from getting the assistance they need.

The issue of deprivation of liberty was raised. I believe, and have always believed, that the issue of depriving a person of their liberty is the most profound and significant thing one can do in any society. The Bill provides safeguards to protect those who lack capacity and who have a mental disorder from being arbitrarily deprived of liberty. We have sought to ensure there is no conflict between this Bill and the Mental Health Act 2001. Of course, as Deputies are aware, the review of the Mental Health Act is currently under way. We will have to revisit the relevant sections of this Bill once that review is complete.

In response to Deputy Ó Caoláin, who made a particular point of this, I cannot say what will come out of the review of the Mental Health Act. I have deliberately kept out of the process. I appointed the group, met them on one occasion and gave them the criteria under which I wanted them to act, but I will not interfere in that process. I will have something to say about it as soon as I see what the group's recommendations are, and whether I agree or disagree with them or think they have gone far enough. However, it is important the process remains clean and uninhibited.

The role of advocacy has also been raised. I agree there is an important role for advocates

in supporting people with capacity difficulties and in ensuring their rights are respected. We are considering how the issue of advocacy can be addressed most effectively in the Bill.

The Bill is not cast in stone - we started off with that point in my opening speech and we will finish up with it. We are open to the views of Deputies and of stakeholders as to how the Bill can be improved. What we want to achieve is a legal architecture that promotes respect for the rights and autonomy of people with capacity difficulties in line with the UN Convention on the Rights of Persons with Disabilities. I keep making the point that if someone came to me looking for advice on the bond markets or on what shares to buy, I would readily admit I have no idea.

Deputy Finian McGrath: Ring Deputy Shane Ross.

Deputy Jerry Buttimer: He was writing for long enough and he knew nothing about it either.

Deputy Kathleen Lynch: However, if I was asked about other issues, I would have considerable knowledge. We must look at people with limited capacity in that respect. None of us, and I exclude Deputy Ross from this, is the holder of all knowledge. We must look at it in terms of some of us having expertise in one area and very little in others. I commend the Bill for second reading.

Question put and agreed to.

Bethany Home: Motion (Resumed) [Private Members]

The following motion was moved by Deputy Mary Lou McDonald on Tuesday, 10 December 2013:

That Dáil Éireann:

accepts that Bethany Home, Rathgar (1922–1972) was a maternity home, a children's home 1959 and a place of detention for women on remand or convicted of crimes referred by the courts;

further accepts that Bethany Home was subject to inspection under the Registration of Maternity Homes Act 1934;

recognises the State's failure to vindicate the rights of sick and dying Bethany children after receiving reports of neglect by the Deputy Chief Medical Adviser;

acknowledges that 219 Bethany Home children died between 1922 and 1949, and these same children currently lie in unmarked graves in Mount Jerome Cemetery, Dublin;

further acknowledges Department of Local Government and Public Health inspector and media reports detailing the very serious neglect of Bethany children in the home and of children sent to nurse mothers;

considers most serious the exclusion of the surviving men and women of Bethany Home from the Residential Institutions Redress Scheme, which provided for fair and reasonable awards to persons who, as children, were abused while resident in other institutions subject to State regulation or inspection; and

commits to a Dáil debate by mid-February 2014 as a first step in the delivery of a State apology, redress mechanism and access to personal records for the small number of surviving men and women of Bethany Home.

Debate resumed on amendment No. 1:

To delete all words after “Dáil Éireann” and substitute the following:

“notes that Bethany Home:

— evolved from two private charities, the Dublin Midnight Mission and Female Refuge and the Dublin Prison Gate Mission, which predate the existence of the State; and that in 1934 it moved from Blackhall Place to Orwell Road, Rathgar, Dublin and remained there until it ceased operation in 1972;

— operated as a charitable trust and carried out a range of functions, but in 1940 the High Court found that the majority of cases it dealt with were maternity cases;

— was registered as a maternity home and was inspected under the Maternity Homes Act 1934; and

— was not an enclosed institution;

acknowledges that Bethany Home operated at a time when poverty was widespread, infant mortality rates were high and that life for those children without family support could involve serious hardship;

recognises that those who were, as children, in homes and institutions have a right to access their personal records; and

commends the efforts being made to preserve and make more accessible relevant records.”

(Minister of State at the Department of Justice and Equality, Deputy Kathleen Lynch).

Deputy Finian McGrath: I thank the Ceann Comhairle for the opportunity to speak on this very important debate on Bethany Home. I thank and commend all those involved in the campaign for truth and justice. I fully support the delivery of a State apology, a redress mechanism and access to personal records for a small number of surviving men and women of Bethany Home. That is what this motion is about. If we are all serious about truth, justice, equality and respect for human dignity, we must support this motion. I urge everybody to look at the details of what is going on in this debate.

From 1922 to 1972, Bethany Home in Rathgar was a maternity home, children’s home and place of detention for women on remand or convicted of crimes and referred by the courts. It was subject to inspection under the Registration of Maternity Homes Act 1934. I recognise the State’s failure to vindicate the rights of sick and dying Bethany children after receiving reports

of neglect by the deputy chief medical adviser. We know that 219 Bethany Home children died between 1922 and 1949. These same children lie in unmarked graves in Mount Jerome cemetery in Dublin. I also acknowledge the Department of Local Government, public health inspector and media reports detailing the very serious neglect of children in Bethany Home and of children sent to nurse mothers. I consider most serious the exclusion of the surviving men and women of Bethany Home from the residential institutions redress scheme which provided for fair and reasonable awards to persons who, as children, were abused while resident in other institutions subject to State regulation or inspection. Tonight, I urge all Deputies to listen very carefully and to support this motion. I urge the Minister and Government to listen to the details in this motion and do their best to support this cause.

Deputy Shane Ross: I also rise to support this motion. I am very sympathetic partly because of the precedents and partly because it involves members of a minority who feel that there has been some discrimination against them on this issue. The State has available to it a redress scheme to make the necessary compensation which would be fairly appropriate to use in this case. If it does not qualify, I see no reason why redress should not be given to the Bethany Home survivors because of the small amounts of money involved.

My limited knowledge of this has found that there seems to be consensus about Bethany Home having been a home for cruelty and neglect and for the State also having been aware of it. Regardless of whether the State is responsible or not, it should put its hands up and say that those who have suffered in Bethany Home are entitled to some sort of apology. The very fact that 219 unmarked graves were discovered in 2010 should alert us to the startling nature of what was happening in those homes. The very fact that so many children died so young and that there was such a high level of mortality should also alert us to that. There is absolutely overwhelming evidence that they died from diseases, including malnutrition, from which they would not have died had they not been neglected in this way.

I believe the State has a responsibility even if it is for the very simple matter that they lived in the State and the State did not look after them in the way a state should have done - in the same way as everyone else. I am sure the Minister has read the story told by Derek Leinster. I do not know whether it is typical but I suspect it is. It involves his mother going to Bethany Home four months before he was born and leaving him there four months after he was born. According to him, he was then delivered to a new home in an extraordinarily unhealthy condition where he said he had scabs on his head and all sorts of other ailments and was lucky to survive. If that is a typical case, it is very cruel and wrong not to compensate, recognise and apologise.

Deputy Richard Boyd Barrett: It is inexplicable and frankly inexcusable that Government will not extend the redress and apology it finally and belatedly gave the survivors of the Magdalen laundries and other institutions where children or mothers suffered abuse to children who went through Bethany Home. It is unacceptable. It is very disappointing that the Government seems to be dancing around semantics, finding excuses and seeking to make frankly trivial and unsustainable distinctions between one and the other in order to avoid giving that long overdue apology and redress.

The criteria that applied to the Residential Institutions Redress Board were the following:

Were you resident in an industrial school, reformatory school, children's home, special hospital or a similar institution at any time while you were under the age of 18? Were you

subjected to sexual, physical or emotional abuse or serious neglect while you were resident in that institution? Have you suffered physical, psychiatric or other injury consistent with that abuse?

Those criteria should apply to any institution. They were criteria under which people were invited to apply to the redress scheme. Clearly, as has been mentioned, there is overwhelming evidence that there are many people who were then children who fit those criteria and were in Bethany Home. It is shocking to discover 219 unmarked graves of children in Mount Jerome cemetery, some of whom died of malnutrition, the story of Derek Leinster and the neglect and abuse he clearly suffered. I cannot understand the Government's failure to give that apology, particularly when the State had a role in inspecting those institutions and had knowledge that abuse and neglect were occurring. It is just not acceptable. Given the tiny numbers of people involved, the very small amount of money that would be involved in extending the scheme and the fact that giving the apology costs nothing, I appeal to the Government to shift its position on this. The only thing at stake is giving people the justice they deserve. I do not see what is at stake in the Government denying the survivors of Bethany Home that justice and redress.

I appeal to the Minister of State to support the call made in this motion and back away from her current position.

An Ceann Comhairle: Deputy Dowds is sharing time with Deputies Buttimer, Durkan, Fitzpatrick and Feighan, with six minutes each.

Deputy Robert Dowds: I regret having to speak on this motion, as it refers to another sorry tale from our past of how women in particular who were out of kilter with the accepted norms of society in the first half of the 20th century were treated.

In certain respects, the story of Bethany Home undoubtedly has similarities with the story of the conditions that women in Catholic institutions went through. It is a story of women who were convicted of petty crimes or had children out of wedlock. I acknowledge the damning fact that approximately 220 children died in Bethany Home between 1922 and 1949. I also acknowledge the work done by colleagues, including the Minister of State, Deputy Kathleen Lynch, as well as the work done by Mr. Neil Meehan and Mr. Derek Leinster in uncovering and drawing attention to this sad story, respectively. I acknowledge the fact of the unmarked graves in Mount Jerome cemetery.

I do not know all of the rights and wrongs of the situation, but from hearing Mr. Meehan speaking on the subject, it would seem clear that certain periods, particularly in the late 1930s and early 1940s when Dr. Winslow Sterling Berry was deputy chief medical adviser, were bad times for the home's infant mortality rate. However, it is important to accept the Minister of State's point, in that many people working at Bethany Home did so with the best intentions.

One of the most difficult issues relating to Bethany Home is that of redress. I have had conversations with the Minister of State and other Ministers concerning this question. While I regret the decision taken, I understand that, given the significant financial restraints under which the country is, Bethany Home could not be included in the redress scheme. It is not so much because of the numbers involved, as those are small, but because of the possible knock-on effects of such a decision.

I hope to attend the service being organised by the Bethany survivors in Mount Jerome on 2 April. If possible, I ask that the State apologise to those who were so dreadfully treated in

Bethany.

Deputy Jerry Buttimer: In rising to speak on this motion, like many Deputies I regret that I must do so. I was struck by the Minister of State's closing remarks last night. I commend her and the Minister for Justice and Equality, Deputy Shatter, on their work. I want the House to reflect on the Minister of State's closing words, when she stated: "I am not here to defend those who ran Bethany Home...but I am certainly not in a position to condemn them out of hand in the way proposed by Sinn Féin." If this motion does anything, it will heighten awareness and allow us to respect more those who had to endure being put into a home.

In many ways, what we have seen over the past decade or so has been a continuing narrative describing across a generation and many decades the unfortunate treatment of those men and women on the margins of society. Industrial schools, residential institutions and Magdalen laundries are just a few of the high profile examples of neglect, mistreatment and abuse of those on the margins of this society, in many cases at the hands of people who were put on a pillar - members of the clergy, those whom the State believed were immune from prosecution or even being considered guilty of wrong doing and, in some cases, family members. For many years, these transgressions against human decency were hidden, often known but sheltered from full view. They were unspeakable and not to be spoken about.

Thankfully, that day has passed. We can be thankful for the way this House and the Government have approached the horrific examples of inhumane treatment. I will pose a challenge for the Members opposite. Rather than dividing the House, they should judge the Government on its record on the Magdalen laundries and the report on child clerical abuse. It is a question of respect for the human decency of all citizens, given the abuse and neglect of the most vulnerable. If we were to examine and reflect upon what we have learned from the reports and investigations, we would see that the House and the Government have been open and transparent in their coverage and treatment of people and in what they have done for those people.

There is also a wider societal debate on how we care for those who are not as fortunate as people who have adequate support structures. We have matured as a society. We are now open and honest about confronting our past while recognising that wrongs must be corrected.

In all of these instances of abuse and mistreatment, there have been trends. It was most often those on the margins who were subjected to degrading treatment. People in industrial schools and residential institutions were often those who did not have what was perceived as being the traditional, robust family support structure. Some made what may have been considered minor transgressions for which they were made pay to an inordinate extent. This was the shame of the Ireland of yesteryear. The church and the State cast an aspersion on young women who got pregnant, on men and women who committed suicide and on people who did very silly things. They were made to pay an extraordinary price. I hope that this generation of Irish citizens will be more mature in confronting societal norms and views. The society of yesteryear had an idealised image of people, how they should live and how they should be perceived. Those of us, then and now, who fall short of the ideal are often shunned and made to feel outcasts. That is not the Ireland that I want to see portrayed or in which I want to live. There is a duty on us all, including members of the Government and church leaders North and South, to ensure that the Ireland in which we live is free from that type of awful behaviour.

Our treatment of people on the margins of society went beyond the examples I have mentioned. It also extended to mental health and the incarceration for years of people, many of

whom should never have been put into institutions. Society's mistreatment extended to children, who suffered abuse that was hidden and covered up. Society's mistreatment also extended to those who happened to be gay or lesbian or were pregnant outside of marriage. Again, because they fell short of the ideal, they could not lead a life that was true to their identity.

We must never again allow a situation where those who live on the edge of society are affected and are judged wrongly and badly. Tonight we are discussing Bethany Home and those who found themselves there - women on the margins of society, women who found themselves in the criminal justice system who should never have been put there, women who were pregnant and who should never have been put away and the children of these women who were there for a number of years before being fostered. I heard the reply given by the Minister of State, Deputy Kathleen Lynch, last night. I refer back to my remarks regarding the deputy leader of Sinn Féin who wants to forget her past and who should forget her past and apologise to the Irish State.

Deputy Mary Lou McDonald: My past? To what past is the Deputy referring?

Deputy Jerry Buttimer: She should apologise as a member of the party to which she belongs. She should not divide the House and-----

Deputy Michael Colreavy: That is scurrilous.

Deputy Jerry Buttimer: -----should not use the people who are the most important matter here as a political pawn. I appeal to her not to divide the House tonight.

Deputy Bernard J. Durkan: I thank my colleague for affording me the time to speak on this important issue. I support the point made by Deputy Buttimer, that the House should not divide on this issue.

Deputy Mary Lou McDonald: Then withdraw the amendment.

Deputy Bernard J. Durkan: There has been enough division in this society over the years. We have had enough of examples of neglect, hardship and revisiting the scenes of the past to illustrate, beyond a shadow of doubt, that things happened with which we would not wish to be associated. They continued to happen up to very recent times.

It goes without saying that there is considerable doubt about the standards that applied in Bethany Home. Members on all sides of the House are concerned about this. We have expressed that view and we will continue to express it. I hope that at a later stage the Government, having considered everything, will introduce a Bill that will address the issues in a fundamental way. It should not be on the basis of the small number of people involved in this instance, because that is not the issue. Regardless of whether the number is great or small, if an injustice has been done to the extent that is suggested, and I believe it has, our society must address it.

However, it must be remembered that our society during those times was harsh. It had no regard at all for the rights of individuals, of unmarried mothers or of people with disabilities, physical or mental. There are scores of people in homes and institutions who were committed to them for their lifetimes. They were ill-treated by their detention in the first place and by the failure of the State to provide assistance from any quarter to recognise their position and their plight. I do not shirk from the issue before us any more than anybody else does. I believe our society was harsh and uncaring, but there was also a great deal of poverty in this country at that

time and there were many competing demands. Issues that appear to be very pertinent, simple and straightforward were not so simple and straightforward then. There were very serious compelling issues competing with them at that time and there was poverty all around. What are now regarded as basic minimum rights were not even on the horizon at that time.

With hindsight, we must look again at the extent and degree to which deprivation took place, rights were not recognised, abuse and mistreatment took place and detention took place against the will of those detained and beyond their power to do anything about it. There was deprivation in institutions such as Bethany Home. We must look at that again in a cold, hard light and make a decision on it. As a society we must make a decision on what we stand for. Do we accept that the things that happened in the past were all right then and that we should ignore them now? Do we accept that those things were wrong then, that it was wrong of society to condone them then and that we must do something about it now, or do we just ignore it? There is something very important in all of that.

In recent times we have tended to look back on history, both recent and earlier, and try to airbrush it into what is acceptable. I am not making a political point on this. I could talk on this subject for as long as anybody wishes, as I am sure you can too, a Cheann Comhairle. Many things happened in this country that were appalling. We should never try to justify them, sweep them under the carpet, walk away from them or fail to accept responsibility for them. Our society has the responsibility. We must accept responsibility for the things that happened which did not have our consent, because we were not there, but did have the consent of people who either judged harshly or felt they had the right to judge harshly in those circumstances. Now is the time to look at those issues again.

I listened carefully to the speech of the Minister of State, Deputy Kathleen Lynch, last night and I congratulate her on it. She examined and identified the issues in a very impartial way and presented the case in a way which clearly indicates that something must be done to address them, regardless of who raised them.

Deputy Mary Lou McDonald: That is not what she said.

Deputy Bernard J. Durkan: I listened to her speech and also to the speeches from the other side of the House. It is important to point out that we all feel the same way. It is not just the preserve of Members sitting on the opposite side of the House who suddenly have a conscience and bring this to our attention as if nobody else cares. We all care. We all know about these situations and have dealt with them previously, and we continue to deal with them. We also continue to deal with situations that emerged from our more recent history and we have an obligation to deal with them in a fair and impartial fashion. That means we must accept our history, culture and lifestyle, warts and all, and try to do something about it, not try to paint each other in an unsavoury light and, as a result, attempt to gain a political advantage.

I support the call for the House not to divide, and I hope the parties opposite will accept that. I ask the Government to introduce a Bill in due course, having considered the entirety of what has been discussed, which it is to be hoped will do something similar to what has been suggested.

Deputy Peter Fitzpatrick: Bethany Home was established prior to the foundation of the State as a private organisation with a Protestant ethos to provide charitable assistance to women of all denominations on the margins of society. It closed in 1972. While it continued to provide

a range of assistance, it evolved primarily into a mother and baby home. Women would usually go there a few months before the baby was due, give birth and leave a few months later without their child. Most of the children were fostered, and there was no legal provision for adoption until the 1950s.

Bethany Home was registered as a maternity home and was inspected under the Registration of Maternity Homes Act 1934. The inspection records indicate that in addition to being a maternity home, it was also a children's home for children up to three years of age. Infant mortality rates were very high at the home and children suffered from various conditions associated with poverty. It is not clear that conditions in Bethany Home were worse than elsewhere at the time, when a significant proportion of the population lived in conditions of extreme poverty. The number of children who died in the home is quite shocking. Up to the 1950s, poverty and diseases associated with poverty were widespread in Ireland. Children without family support could endure serious hardship. Infant mortality rates were approximately 20 times higher than they are now. The figures for those who were malnourished and subject to diseases and a lack of hygiene were even higher.

The Bethany survivors group is a group of individuals who were born in Bethany Home and who perceive they have disadvantages as a result. Some only spent a short time there, less than a month, and all would have left by the time they were five years old. They have very little first-hand recollection of conditions there. However, they are seeking redress not only for their time in Bethany Home but also for the time they lived with foster families until they were 18 years old. They sought inclusion in the residential institutions redress scheme, which is under the remit of the Minister for Education and Skills, but mother and baby homes generally and fostering were not included in that scheme. The Minister reassured the group that, contrary to some suggestions, the religious ethos of an institution was not a criterion for inclusion within the redress scheme.

8 o'clock

While acknowledging the hurt and pain that remains with the survivors, having reviewed the papers on the home and having taken all the circumstances into account, the Minister regretted that he found no basis to revisit the 2010 government decision.

The Bethany survivors' group has made it clear it never regarded the Bethany Home as falling within the same category as the Magdalen laundries. It is not seeking to be included in any compensation scheme for the Magdalen laundry women.

In April 2013, the Minister for Justice and Equality, Deputy Shatter, and the Minister of State, Deputy Kathleen Lynch, met with the Bethany survivors' group at its request. The members of the group are continuing to seek a redress scheme to cover the entire childhood on the basis of their presence at Bethany. The position was explained to them and an offer was made to assist them with questions and records. Under the Data Protection Act a living person has a statutory right to access their personal data. The person who holds that data, the data controller, must provide access. This right is limited to their own information only. Information relating to a third party, such as a sibling or a deceased parent, is not covered. The Data Protection Act applies to such individuals but there is no legal obligation on them to preserve such records.

In April 1934, the parliamentary secretary to the Minister for Local Government and Public Health, stated, "It is a well-known fact that in some of our largest cities there are maternity

homes of a very poor class which are availed of largely by unmarried mothers. We are not at all satisfied that these homes are properly managed”.

Deputy Frank Feighan: I commend Sinn Féin for bringing this motion before the House. The party’s Deputy Leader, Deputy McDonald, has called on the Government to provide resources for a small number of elderly men and women. The Government decided in July that it would not introduce a redress scheme, but it is willing to consider the question of a memorial and making records from the Bethany Home available to survivors. I understand that the Bethany survivors’ group is not happy with this decision.

The Government’s decision was based on a determination that the Bethany Home was a mother and baby home, but the survivors dispute this. The Bethany Home was closed in 1972, which was a different time. It was a home for so-called “fallen women” and was not as harsh a regime as that suffered by women in the Magdalen laundries. However, it was an Irish solution to an Irish problem, where women could hide their shame and deliver babies away from public view.

We have come through difficult times. Outside the gates of Leinster House today there were undocumented people from other countries seeking Irish citizenship. Ireland today is such a different place to when tens of thousands of men and women left here because they felt they were not being taken care of. Things are changing now.

Many of the young girls we are discussing this evening were adopted by childless Protestant couples in Northern Ireland and Britain. This remains a difficult situation for the survivors. The two rival churches, the Catholic Church and the Church of Ireland, were puritanical and judgmental. They did not deal correctly with the poor, vulnerable and forgotten.

The Minister for Education and Skills, Deputy Quinn, met with the Bethany survivors in May 2011 and reviewed the papers on the home. Having taken all the circumstances into account, he found no basis to revisit the decision not to include the home within the redress scheme.

There is a concern that the former residents of the home have been forgotten about. When the redress scheme was introduced in 2002 I introduced a lot of men to the details involved. They were delighted to get such help and to know that their suffering was being recognised. At that time, the redress board was a vehicle, although it might not have been the best one. It may have cost a lot more money than the State was willing to pay out, but it was used nonetheless.

We can now examine different ways of addressing the problems, however. The Minister should examine the possibility of reaching some accommodation - although not through a redress board or scheme - that would satisfy the few remaining people who feel they have been left out. I hope the Government can look at providing something in that regard.

Deputy Caoimhghín Ó Caoláin: I wish to share time with Deputies Brian Stanley, Seán Crowe, Jonathan O’Brien and Pádraig Mac Lochlainn.

An Leas-Cheann Comhairle: Is that agreed? Agreed.

Deputy Caoimhghín Ó Caoláin: I wish to begin by commending the Bethany Home survivors and campaigners who have worked hard for years to highlight the grave injustice to the women and children who were held there between 1922 and 1972. I commend in particular

Derek Leinster and Niall Meehan who have done a huge amount to give the survivors and the deceased a voice, to carry out detailed research on what really occurred in the Bethany Home, and to raise public and official awareness. It is sad when so much progress has been made in seeking recognition, apology and redress for other survivors of punitive institutions in this State, that so little progress has been made with regard to the survivors and the deceased of the Bethany Home.

I raised this issue repeatedly in the last Dáil, including directly with the previous Taoiseach. Some who are now on the Government benches were, at that time, highly critical of the failure to recognise Bethany for what it was. I regret to say that now they are repeating the mantra of the last government and in no greater or more direct way than in the contribution we heard last night from the Minister of State, Deputy Kathleen Lynch. I am particularly disappointed by the thoroughly negative and insulting contribution of the Minister of State, who replied on behalf of the Government.

For our part, Sinn Féin did not approach this serious matter with any spirit of party political discord. On the contrary, we tabled a modest motion that sought to reopen the debate, rekindle public and political awareness, and make progress on behalf of the small number of surviving men and women of the Bethany Home. This motion should command all-party support across the Dáil. If Government voices do not want to divide the House tonight, they should withdraw the amendment and support the substantive motion tabled by Sinn Féin. The Minister of State, Deputy Kathleen Lynch, chose to reject the motion. She tabled a paltry amendment and threw party political insults across the Chamber. It does her and this Government no credit but we will not allow such an approach to divert us.

In a letter in December 2010, Derek Leinster acknowledged those in the Oireachtas who had, up to that time, raised the case of the Bethany Home. These included the then Deputy Kathleen Lynch, my colleague Deputy Aengus Ó Snodaigh and myself. We were substantive voices on this issue going back a long number of years. Putting the case in context, Derek Leinster stated:

Ireland has moved from stigmatising certain groups, such as unmarried mothers and their “illegitimate” children, to general indifference toward marginalised children. This links the eras of religious and secular unconcern toward the vulnerable. In each era the State had or has a responsibility. This responsibility to former residents of the Bethany children and of Magdalen institutions has yet to be acknowledged through some form of redress. Though one institution was Protestant and the other Roman Catholic, the State facilitated a sectarian social care system that it then failed to regulate in the interests of residents. That is where injustice lies.

Today, at the end of 2013, that injustice has still not been addressed by the State. Children in the Bethany Home suffered disgraceful neglect and mistreatment and the State authorities knew about it. Children fostered out from the Bethany Home also suffered terrible treatment and the State knew about that as well.

We need only look at the statistics for the deaths of children in Bethany Home. Between 1922 and 1949, 219 Bethany Home children died. These same children currently lie in unmarked graves in Mount Jerome cemetery, Dublin. Of the 219 dead children 175 were aged between four weeks and two years, 25 were aged from a number of hours up to four weeks and 19 were stillborn. Cemetery records indicate that the causes of death included 54 from convul-

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sions, 41 from heart failure, 26 from starvation and seven from pneumonia. These stark and shocking figures speak for themselves.

I urge the Government to withdraw its amendment, to accept the motion as tabled and let us move forward together on an all-party basis to see justice finally done for the Bethany Home survivors and in memory of the deceased.

Deputy Brian Stanley: I take this opportunity read into the record the testimony of Derek Leinster, a survivor of Bethany Home. It states:

My mother became pregnant and as my father was a Catholic and my mother being a Protestant, that meant they could not marry. My mother's parents sent her to Bethany Home, she was sent there 4 months before I was born and was there until 4½ months after I was born. She had served her punishment for having a child out of wedlock. That was the Protestants way of dealing with a girl getting pregnant.

At 7½ months old I was nursed out to Mrs. Shirley, my head was a mass of puss, blood and scabs. I looked like a ghost. They nursed me back to normal health. I was then taken back to Bethany when I was 2½ years old, to be permanently adopted by another family - that did not happen.

There were many children in the Bethany Home who suffered from rickets. The most common cause of rickets is a lack of vitamin D or calcium in a child's diet. And the 219 dead children buried in Mount Jerome, says it all.

I then became very ill and was lucky that they had left enough time to give Cork St Isolation Hospital a chance to save my life. I had Bronchial Pneumonia, Diphtheria, Pertussis and Gastroenteritis. I survived that. I then went back to Bethany Home and was illegally adopted to a dysfunctional family in Co. Wicklow. I grew up in total poverty; in rags and starvation - to the degree that I had to go into fields at night and take potatoes just to stay alive.

I have suffered all my life with effects from Bethany Home, and now I have Cancer of the Blood due to neglect and lack of care. I left for the UK at 18 years of age unable to read or write. The Bethany Home as a Maternity & Children's Home came under the 1934 ACT and the 1908 Children's Act. It was also a Detention Centre for people under the age of 17 and a Detention Centre for adults, these came under the Justice ACT.

The Bethany Home also nursed out children and the government paid them 15/2 a week per child for that. Bethany Home wasn't excluded because it did not qualify - They just excluded it because it was a small minority Protestant Home, which they never believed that one day we would be able to find out the truth.

You see, my mother was forced to abandon me she had no other option back then but then my new parents - the State - made the decision to abandon me. Contained in the Irish Constitution it says - Cherish the Children of the Nation Equally, well I am asking today that the state treat us the survivors from the Bethany Home equally.

We want the following:

1. We want to be treated as Irish Citizens

2. We want an apology from the State
3. We want a fitting Memorial for the Graves of children from Bethany Home in Mount Jerome cemetery
4. We want the records from PACT where they keep all the Protestant Homes records to be lodged with a Government Department.
5. We want a Redress system to recognise our loss.
6. We want the State to stop discriminating against us because it was a Protestant home.

The criteria as set down by the government in 2002, in 4.1 of the ACT; for a home to go on the list of homes it had to qualify for the redress criteria. It states that it had to be to be regulated or inspected, or provide education for children or provide care for disabled children, we from the Bethany Home qualified under that criteria.

That is the testimony of Derek Leinster, a survivor of Bethany Home. I appeal to the Minister of State here this evening, Deputy Perry, and the Government to deal with this case. It is a legacy issue - the survivors of Bethany Home when children were ignored and discriminated against. The State, the institutions and the church failed them. I urge the Minister and the Government to do the decent thing and provide the simple things asked for by Derek Leinster and other survivors of Bethany Home.

Deputy Seán Crowe: The survivors of the terrible conditions of Bethany Home were excluded from the residential institutions redress scheme on the basis that Bethany Home was a private home for which the State had no responsibility. However, we know the State had responsibility for Bethany Home as it was subject to State inspections under the Registration of Maternity Homes Act 1934. In some instances, the State made financial contributions to the cost of nursing out children, namely, the fostering out of children to temporary care. We know from Department of Local Government and Public Health inspector reports and media articles at the time just how barbaric the conditions were at Bethany Home. How can this Government say the State had no responsibility for Bethany Home?

In 1924, *The Irish Times* reported that a woman was charged with breaking her probation bond by refusing to remain in Bethany Home, to which she had been sent following the hearing of a series of charges against her for theft. In the same year the *Irish Independent* reported that a young woman was charged with obtaining food and lodging at the Royal Hotel in Bray by false pretences and was ordered to enter the Bethany Home for six months. In 1931, the *Irish Independent* reported that a woman pleaded guilty in the Central Criminal Court to the crime of concealment of birth and was bound to the peace for two years, with an undertaking that she should remain in a home. She was given to the care of Bethany Home. In January 1940, *The Irish Times* and *Irish Independent* published articles stating it was reported in the High Court that the Garda were in the habit of sending any homeless Protestant girl to Bethany Home.

The evidence of State involvement goes deeper. In 1939, then deputy chief medical officer for the Government Dr. Winslow Sterling Berry refuted public and health inspectorate concerns over standards of care at Bethany Home, with his jaundiced opinion that it was well known that illegitimate children were delicate and suffered from starvation. He then forced the home to agree to cease admitting Roman Catholics. This highlights the sectarian and partisan nature of

then Government policies.

The conditions at Bethany Home and the decision to send women and children there did not matter as long as Roman Catholics were not affected. Such was the brutal neglect in Bethany Home that 219 children died there between 1922 and 1949. These same children currently lie in unmarked graves in Mount Jerome cemetery, Dublin. I have attended their annual and moving remembrance ceremony. The State is, and has been, aware of the unmarked graves for a number of years yet they lie to this day hidden, their passage in life ignored and in death abandoned. Bethany Home in Rathgar was not simply a mother and baby home. Any attempt by Government to present it as such is deliberately misleading.

Despite a new Government inspection regime, child mortality in the 51 year history of the home was at its highest between 1935 and 1939, with 86 children interred in Mount Jerome during this time. More deaths, and additional non-fatal illnesses, took place in the first ten year period during which Bethany was subject to a State inspection regime than occurred in the previous ten years when 57 children died. Why did the numbers increase so substantially and under the State's watch?

In 1940, Bethany Home changed its admissions policy to exclude Catholics. It appears then Government Departments took no interest in the home after this point despite the State's statutory obligation and responsibility for it. The Government should live up to its responsibility and add Bethany Home to the residential institutions redress scheme.

We were told for years that there was no information linking the State to the Magdalen laundries, but it was found somehow. Perhaps the Minister of State could tell us where it was found. I respectfully suggest that the overlooked or ignored information linking Bethany Home to the State can also be found. I call on the Minister of State to ponder that during tonight's debate. Clearly, there is information available. There was no information for the Magdalen laundries, but miraculously it was found. I am certain that the information on Bethany Home is sitting on someone's desk.

Deputy Jonathan O'Brien: Thankfully, I was not here last night to listen to the contribution of the Minister of State, Deputy Kathleen Lynch, because when I read the transcripts today I was rather shocked by some of the things she said. I was shocked because it was as if, when she walked into Government Buildings, someone had erased her memory. It was like something from "Invasion of the Body Snatchers", as if someone took her out and put in someone else's memory and feelings. It was as if everything she had said on this issue went out the window during her contribution last night. That was rather disappointing not only for me but, I imagine, for the Bethany Home survivors as well. I will quote some of the things she has said previously on this issue. On 7 October 2010, Deputy Kathleen Lynch issued a statement and I will quote from that statement:

The continued refusal of the Government to include former residents of the Bethany Homes and the Magdalene Laundries under the provisions of the Residential Institutional Redress Scheme is a running sore ... As a result, the survivors have been deprived of the opportunity of having their case heard and of obtaining some justice and redress for the abuse they suffered as young, innocent and vulnerable children.

In recent times some tenacious survivors and dedicated researchers have managed to piece together the grim picture of what happened in these bleak places. As a result, it is now

becoming clearer and clearer that these institutions were, to all intents and purposes, places of detention, and that as such, ‘residents’ were effectively sentenced by servants of the state, to periods of confinement therein.

She went on to say:

I raised this matter with the Tánaiste, Deputy Mary Coughlan in the Dáil today, but unfortunately nothing she said to me in reply, would lead me to conclude that she has any plans to address this issue in any meaningful way ... The Government must do the decent thing and end this outrage.

Those were the words of the now Minister of State, Deputy Kathleen Lynch, only three short years ago, in stark contrast to what she delivered to the Chamber last night. She said it was an outrage back then but it is still an outrage now.

Yet, last night in the Chamber the Minister of State spoke in favour of a Government amendment to our Private Members’ motion which, in one fell swoop, practically revised history given what she has said previously on Bethany Home. She glossed over the fact that the State was directly responsible for sending women to the institution. She blamed the deaths of hundreds of children on the fact that poverty and infant mortality rates were high back then. She further attempted to paint Bethany Home as some type of blissful sanctuary for the pregnant and destitute women of this State, especially those from Dublin. She said it was completely open to the public. She pointed to the fact that there were sales of work and that the residents of the institution made various products that had been for sale. She did this in a bizarre effort to try to portray an institution that was not so unjust and harsh on the people who, unfortunately, found themselves behind those doors.

The Minister of State made further comments last night which were even more disappointing because she referred to us and questioned our motives for putting down this Private Members’ motion. She said she was “surprised by the people in Sinn Féin putting down this motion”. She went on to call on us to “reflect on the work of this Government, which has dealt with symphyotomy, the Magdaleni laundries women, Mr. Neary and all the other major legacy issues that will have a substantial cost on the State”.

Let us be clear. I hope the Minister of State, Deputy Kathleen Lynch, is listening because I want her to be clear to her as well. It is neither here nor there what the State has had to deal with up to this point. There is a litany of people who are owed apologies on behalf of the State and who were failed by the State. The Bethany Home survivors are one such group. They are entitled to justice, an apology and a redress scheme, the same as any other group who have been failed by the State.

The Minister of State made a particular point in asking whether those of us in Sinn Féin did not believe that if this Government could have included the Bethany Home survivors that it would not have been done. She went on to speak about transparency, honesty and integrity in respect of this issue. That took a little nerve, even for someone like Deputy Kathleen Lynch, because on 26 May 2010, before she became a Minister of State and entered Government Buildings, she attended a function hosted by the Bethany Home survivors group. After that function she issued a statement to the media in which she said she would add her support to the campaign:

I believe that the Bethany Home should be included within the Irish Government’s re-

dress scheme as well as the Magdalen laundry women so that people who suffered the horrors of abuse in those institutions, on the wink and nod of the State, can be afforded the reparations that they deserve. I also believe that there should be a fitting and appropriate memorial to children who did not survive such as those who are buried in Mount Jerome cemetery which I visited today.

I would like Deputy Kathleen Lynch to come to the Chamber before 9 p.m. I am unsure whether she is wrapping up on behalf of the Government, but I would like her to explain not only to me but to the survivors what has changed in those three short years. In 2010 before she was in government she was willing to acknowledge the horrors of abuse on the wink and nod of the State. However, last night she stood up with a straight face in the Chamber and told us that Bethany Home was basically not all that bad because life was tough for everyone back then, there was child poverty generally and she suggested we should not forget that children did not spend long there and, therefore, what was all the fuss was about. I can only imagine what listening to that tripe must have felt like for the survivors, who embarked on a brave and incredibly difficult journey for justice, one which, I fully expect, they will someday achieve. I imagine it was rather like being kicked in the teeth.

The Minister of State, Deputy Lynch, went to some pains to say that she understood just how poor the women who ended up in Bethany Home were. She even made the point that the State could not be held responsible for every tragedy that arose or that was visited on every child. She said “those from Bethany Home were not alone in their experiences and the State cannot accept liability for everything that happened in families when it had no direct involvement”. I disagree with that. The State has a responsibility to every child, man and woman. I call on the Minister of State, Deputy Lynch, to explain what has changed in her position since 2010. The children who suffered terribly in foster homes upon leaving Bethany Home did not get the luxury of picking who they went to live with. I conclude by noting one cannot pretend to care about the suffering through which the Bethany Home survivors have gone and then wash one’s hands of it when one gets into a position of power and has the means to do everything for which one called when in opposition. It is not acceptable and the Minister of State, Deputy Kathleen Lynch, is doing herself no favours by being such a hypocrite on this issue. Moreover, she certainly is doing no justice to the survivors themselves.

Deputy Pádraig Mac Lochlainn: As I begin my contribution on this matter, I am mindful that behind me is the statue of James Connolly, as well as those of all the other leaders who fought in the 1916 Rising. Many people share my view that James Connolly was the greatest Irish person who ever lived and that the courage and values he espoused, which are imprinted into the Proclamation, will forever be a framework for the Irish people. However, it was not just about James Connolly because he was inspired by those who came before him, just as Members are today, such as Michael Davitt and James Fintan Lalor, who had a vision for a society that was fair and just. After the execution of James Connolly, people such as Liam Mellows, about whom I saw a documentary the other night, came to the fore. These were people who really believed in equality and fairness and in everyone having a chance in life. Their values, courage and message were hijacked by conservatives, by people whose vision was narrow, mean and cruel and who besmirched the promise of the Proclamation very quickly after partition and the treaty. It is no accident that Bethany Home came into being in the year of the treaty and the foundation of the new State.

I cannot understand how the Minister of State, Deputy Kathleen Lynch, can wipe her hands of this issue. Anyone with basic knowledge of history knows the regimes that ran the State in

the decades that followed its foundation pursued an agenda that put poor children and mothers into homes. How much more evidence does one need? One can research the newspapers and people such as Niall Meehan have demonstrated clearly and beyond any reasonable doubt that this State was culpable in putting young mothers and leaving children abandoned in this home, as well as in so many others. It is incredible that when some people enter Government, the bean counters sometimes influence their direction, that is, those who know the cost of everything and the value of nothing, to use Oscar Wilde's famous phrase. I refer to the people who always look at the bottom line rather than what is right or what is the right thing to do. One should remember that these people who controlled the State with the willing consent of the Governments that had been elected during those decades, be they Fine Gael or Fianna Fáil-led or whatever, would call themselves Christians. Regardless of whether they were Protestants or Roman Catholics, they professed to follow the lesson of Christ. What would Christ think about what was done in his name in Bethany Home? What would Christ think of the 222 children who died because of meanness, cruelty and harshness and of enforcing one's moral values on people and simply perceiving them as pieces of dirt? That is what happened in the State. That was the history of the State for decades, in which the promise of men and women of values, of passion, of equality and of decency were besmirched and buried.

Now is the time for Members to set right these things and they must do it. I sat through the presentations given in Leinster House earlier this year and I do not believe there was a dry eye in the AV room when Derek Leinster and Patrick Anderson-McQuoid, two people who are decent to the core of their being, to their bone, gave their testimony. I simply cannot understand how any politician who heard the evidence and testimony or who saw the compelling evidence put together by Niall Meehan and others can deny these people and these families their justice. Members must do the right thing and must do what is right. How, with all the evidence of history and all the multiples of reports, newsreels and everything that is available, can Members deny they owe a debt of service to the citizens who the State failed? Members owe an apology to those who have been so cruelly failed in the past.

I am aware this motion will be voted down late at night. Sitting opposite me on his own on the Government benches is a Minister of State who has absolutely no responsibility for justice and equality. He is the only representative of the Government in the Chamber this evening. I have nothing against the Minister of State, Deputy Perry, personally but for God's sake. Last night, the Minister of State, Deputy Kathleen Lynch, was in the Chamber rewriting history. I will reiterate what I have stated previously on such occasions, which is that my party does not claim to have a monopoly of decency. I believe the vast majority of parliamentarians in these Houses to be thoroughly decent people. However, what will happen here this evening, when this motion is voted down, is indecent. I ask the Government to reflect on this and to deliver justice to those families who were failed as part of that hijack of the Republic for decades by people who besmirched the Republic and besmirched the name of Jesus Christ to keep people down in oppression. While those days are over, Members must now heal the wounds and give justice and a simple apology to those who suffered at their hands.

Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy John Perry): My colleague, the Minister of State, Deputy Kathleen Lynch, set out the Government's position in detail last night. I will take this opportunity to address some of points raised by other Deputies during the debate. In particular, I must address the insinuation made by one Deputy that decisions on Bethany Home may have been influenced by sectarian discrimination. It is patently absurd to suggest that the Ministers for Education and Skills and Justice and Equality,

Deputies Quinn and Shatter, or the Minister of State at the Department of Justice and Equality, Deputy Kathleen Lynch, are in any way biased in favour of treating those who were in Roman Catholic institutions more favourably than those in institutions with a Protestant ethos. I must reject completely any such suggestion.

Last night, frequent references were made to the link between Bethany Home and the criminal justice system. There was such a link but I do not see any particular significance in it. Bethany Home evolved from two charities, one of which was the Dublin Prison Gate Mission, which was established in 1876 by a Quaker woman to assist women recently released from prison. It is not surprising, therefore, that this link established in the 19th century continued on into the 20th century. However, I hope there is no suggestion that Bethany Home was in any way the equivalent of a prison. It was not a place of detention for adult women. While women on probation might stay there, they were not detained there. From 1934, Bethany Home was based in the suburb of Rathgar in a home already built on the site. I have heard no suggestion that it was in any way a closed institution surrounded by high walls. Indeed, all the indications are that there was free access to the home. It is true that with effect from 1945, a girl under the age of 17 could be detained there by order of a criminal court but for short periods only and this does not seem to have been a frequent occurrence. There have been no complaints from any individuals in Bethany linked to the criminal justice system and nor has there been any suggestions of wrongdoing as regards this aspect of Bethany Home.

Any objective observer must accept that for most of its existence, Bethany Home was primarily, although not exclusively, a mother and baby home. Its registration as a maternity home under the Registration of Maternity Homes Act 1934, the finding of the High Court in 1940 and the testament of the survivors all support this view. Indeed, as illustrated by the testament read into the record last night, the main complaint of the Bethany group relates to their childhood experiences, starting with their birth in Bethany Home. It is the mother and baby aspect of the home that has given rise to all the controversy. Mother and baby homes were not included within the scope of the residential institutions redress scheme under the remit of the Department of Education and Skills. I understand that St. Patrick's mother and baby home was included in the redress scheme on the basis that it was subject to inspection by a public body and that it operated as a children's home as well as a mother and baby home. Requests to have other mother and baby homes included in the scheme were also rejected, regardless of their religious ethos. As all the major decisions on the residential institutions redress scheme were made by a Fianna Fáil-led Government, the contribution by Deputy Niall Collins yesterday is somewhat puzzling.

I should clarify that when the Minister of State, Deputy Kathleen Lynch, referred to a charity in the context of Bethany Home, this was not intended as an endorsement of its aims or methods. The term was used in the sense that it was a body established for charitable purposes rather than as a commercial entity.

I wish to clarify that the Government fully acknowledges the hardships and emotional challenges faced by those who started life in Bethany Home. As their testament makes clear, most of them spent a very short time in the home and many of their issues and claims for redress relate to what happened after they left the home.

The remarks made by the Minister of State, Deputy Kathleen Lynch about poverty and infant mortality were not to belittle the experience of those in Bethany Home nor to excuse what happened at the time. Rather it was to point out that, unfortunately, poverty and hardship affected a significant proportion of the population at the time, not just those in Bethany Home.

Infant mortality rates at the time were high, regardless of the marital status of the parents.

Deputy Aengus Ó Snodaigh: I wish to share time with Deputy Mary Lou McDonald. Gabhaim buíochas do Derek Leinster, Patrick McCabe, Niall Meehan agus siúd eile a bhuaill liom thar na blianta agus a thug eolas dom faoin scannal seo agus a chur na firicí os ár gcomhair. Níl a fhios agam an raibh an deis ag an Aire Stáit, an Teachta Perry, nó an Aire Stáit, an Teachta Kathleen Lynch, bualadh leis na daoine seo riamh nó fiú éisteacht a thabhairt don mhéid a bhí le rá acu. B'fhéidir dá mbeadh sé sin déanta go dtuigfeadh na hAirí Stáit go díreach cén fáth go bhfuil sé ceart agus cuí brón a ghabháil leo siúd a bhí i dTeach Bethany agus go bhfuil an méid atá sa rún os ár gcomhair ceart.

Our motion calls on the Government to accept the historic facts. I ask the Minister of State to read Niall Meehan's history of the institution which was published in the 2010 September-October edition of *History Ireland*. This was a Protestant institution but it was similar to many Catholic institutions. It was a maternity home and a children's home but it was also a place of detention for women on remand or convicted of crime. Not all its inhabitants were Protestant.

The motion calls for a State apology and a redress mechanism. A State apology is appropriate in this instance because of the role this State and its officials played in sustaining the institution that was Bethany Home. A State apology is not given lightly nor should it be but once a case has been proven and a wrong exposed, as in this case, the proper and right course of action is to admit the mistakes of the past.

In 2010 the British Prime Minister, Gordon Brown, had the courage to apologise to victims who were transported to Australia. He apologised for Britain's role in stealing those children from their families. The extent of that practice only came to light because of the Trojan work of Margaret Humphreys. Ireland, to its shame, has not begun to address the similar situation, the harrowing and brutal episode of our past when children born in Ireland were spirited away by religious orders and others. Bethany Home also played a role in that scandal which remains to be fully uncovered. While some apology has been issued to those wronged in this State in the case of the Magdalen women and those abused by members of the Catholic Church orders, other victims of State indifference or State collusion with institutions still await an apology. We need think only of the victims of the depraved practice of symphysiotomy or the victims of thalidomide. We appeal to the Minister of State for one case and we ask the State to issue an apology to the few survivors of Bethany Home.

I listened last night in amazement to the Minister of State's contribution. I re-read it today to ensure she said what I thought I heard. She was trying to lay the blame on Sinn Féin for stirring up this issue, the righteous call for an apology contained in this motion. She said this is what Sinn Féin does. It is always about the next impossible task. This is not an impossible task nor is the legacy of those stolen children exported like cattle to Britain, Canada, Australia and elsewhere, not only from Bethany Home but also from various Catholic institutions. It is not an impossible task to issue an apology or to look to find out the full history of what happened in Bethany Home. We have taken on much bigger tasks and proved they are not impossible. The will must be there because if the will is not there, it is impossible. I urge the Minister of State to find the will and to look at this task properly. The disgraceful legacy of this State, its institutions and its officials in labelling children as illegitimate or incarcerating their expectant mothers and banishing them from their home towns, fallen women to be ostracised or shunned, is history and I agree it cannot be undone. A mature State acknowledges the mistakes of the past and ensures they will not happen again. It does more than that. It apologises to the victims for the attitudes

it perpetuated. It apologises for the resultant abuse and crimes, the exploitation and the mental and physical torture suffered as a consequence of its actions or inactions to uphold the dignity and rights of those citizens of the State who suffered in Bethany Home.

The Government amendment is shameful and seems to seek to exonerate the State from all blame, despite the facts. The Minister of State's response will be remembered as similar to Michael Woods in 2002 who at the last minute did a disgraceful indemnity deal with the Catholic Church orders. The Minister of State said that the inclusion of Bethany Home in the redress scheme was ruled out in May 2007, as the information located indicated it operated as a mother and baby home and therefore not regarded as eligible to be considered. The Minister of State referred to St. Patrick's mother and baby home on the Navan Road. Because it was inspected by State officials it was included in the redress scheme, but I remind him that Bethany Home was also inspected.

Deputy Mary Lou McDonald: I would like to know where is the Minister, Deputy Alan Shatter or indeed, his sidekick, the Minister of State, Deputy Kathleen Lynch who had so much to say last evening. I do not level that as a personal insult to the Minister of State, Deputy Perry, but it is quite clear he is not the member of the Government who should be seated, on his own, on the Government benches to take this debate.

We can draw conclusions from the absence of the Minister, Deputy Shatter and the Minister of State, Deputy Kathleen Lynch. Either they do not care about this issue or they are at some human level deeply aware and deeply ashamed of the action their Government is taking. I cannot be absolutely sure which motivates their absence from the Chamber but I hope that it is the second. I hope that when the lights are out and the microphones are off and both of those individuals, indeed every individual member of the Cabinet, along with those on the backbenches reflect for themselves, they will realise the injustice that is being done. This injustice is not in the past, not by those who ran a home, but in the here and now by the democratically elected Government of this State.

When it is boiled down, the Government's rationale for rejecting our motion is that Ireland was poor and things were tough. The Minister of State, Deputy Kathleen Lynch, had a lot to say about that yesterday. This sentiment has been echoed from the Government benches.

In this impoverished Ireland, those who ran the Bethany Home were moved by what the Minister describes as charitable motives. The amendment the Government has brought before the House amounts to an *apologia* for those who ran the Bethany Home, citing their charitable motivation and the poverty of Ireland in general at that time. There is no other possible interpretation of that amendment, and there is no other possible understanding of the contribution of the Minister, Deputy Kathleen Lynch, last night, re-affirmed in part by the Minister of State, Deputy Perry, this evening.

In the Bethany Home institution, children and babies, for the short time they were there, suffered. That is what happened. In that institution children and babies died at enormously high rates. My colleagues and others have referred to the remains of 219 small souls in Mount Jerome cemetery still in unmarked graves. Far from affirming, recognising or sympathising with the experiences of those children the Minister and this Government have belittled their experiences and set them aside because they are inconvenient for them. They seek to deny their experiences despite testimony from the small number of courageous survivors who have come forward, many of them, as the Minister of State will have heard in their own testimony, dam-

aged and traumatised in their childhood and further dismayed and traumatised in adulthood by the failure of this Government to look their experiences in the eye and account and apologise for them.

Last night, the Minister, Deputy Lynch, accused the Sinn Féin Members of having our facts wrong. It is a measure of how pathetic and perverse her position on this matter is that she sought to zone in on the fact that we identified Bethany Home as being located in Rathgar and omitted to make reference to the fact, of which we are aware, that the home started its life in Blackhall Place, where it was located for 12 years. It moved to Rathgar in 1934. Incidentally, 1934 is also the year in which the registration of maternity homes legislation comes onto the Statute Book. The Minister, Deputy Kathleen Lynch, had the gall to stand in this Chamber and engage in that level of petty political point-scoring when we were seeking to discuss a matter of grave importance. Her position was pathetic and perverse.

I respectfully suggest to the Minister of State, Deputy Kathleen Lynch, to the Minister, Deputy Alan Shatter, to the Taoiseach, the Tánaiste and all involved in this Government that they check their facts, and the facts are that Bethany Home was inspected by the State. The facts are that records held by the then Department of Local Government and public health inspectors' reports registered the level of neglect of children in the home, and subsequently in foster homes, when they were sent to what were called nurse mothers. The fact is that the State paid a subvention in many cases in respect of these nursing out foster care situations. Those are the facts, and the Ministers, Deputy Kathleen Lynch and Deputy Alan Shatter, up on their high horses, should dust down those facts and not pretend for another second that the State's fingerprints were not all over Bethany Home because the facts are that they were.

It is a fact also, and this is keenly felt by the survivors, that perhaps the sole action by this State to intervene in the Bethany Home was to ensure that Roman Catholic children were not admitted to it for fear that they might be transformed into Protestant children. That was the State's action in the face of sky high infant mortality rates and general child mortality rates. In the face of known and reported abuse and neglect the State sought to intervene to stop what it viewed as proselytizing activities, namely, turning Catholic children into Protestant children.

It is entirely wrong for anybody to argue that this motion is simply concerned with the past. As my colleague, Deputy Ó Snodaigh, said, wrongs done in the past cannot be undone, and therein lies the greatest tragedy. This is about now. This is about a very small group of survivors who experienced what can only be properly described as horrific trauma in childhood in institutions and subsequently in foster care arrangements inspected, overseen and known by the State. That is what happened. Even at this stage and at this remove from their trauma these people deserve the dignity of acknowledgement and the dignity of us, as elected legislators, saying "We have heard your story. We believe you. We acknowledge your hurt and as a State and a people, we apologise for that." That is what needs to happen.

Despite its posturing, this Government strenuously resisted affording that same dignity to the Magdalen women and but for the intervention of the United Nations Committee Against Torture, I dare say we might be standing in the Chamber this evening discussing the trauma of those women and girls.

Deputy Bernard J. Durkan: You dare say that wrongly.

Deputy Mary Lou McDonald: Fortunately, that is not the case.

The Government says that mother and baby homes are excluded from redress. We have noted the exception of St. Patrick's Home on Navan Road. I query the rationale for this State excluding mother and baby homes. I go further and say there is a great need for us to uncover and put the full glare of public understanding on precisely what happened in mother and baby homes dotted across this land.

Leaving that aside, Bethany was not simply a mother and baby home. It was a children's home and a place of detention also. The Minister said last night in her rather warped contribution to this debate that the State cannot have responsibility for what happens to every child in every family when there is no responsibility for the State. That is a dubious statement in and of itself but let us be clear. We know that the State was right in the middle of the operation and oversight of the Bethany Home. The Minister's own records, the records of the State, reflect that.

There is not a reason to exclude further these survivors unless the Government is so mean-spirited and so cruel as to consider that a small group of survivors, elderly people at this stage, can be just disregarded because there are so few of them.

9 o'clock

I thank those who took part in this debate. I note again that the Government benches were remarkably bare for the course of this debate. I appeal to my colleagues, the Deputies of this House, to do the right thing this evening. I want them to understand clearly that if they vote in favour of the Government's amendment, they set aside the truth and underwrite and underscore the big lie that the State, and by extension this Government, has no responsibility for what happened in Bethany Home in the past and for recognition and making amends in the present.

Amendment put:

| <i>The Dáil divided: Tá, 73; Níl, 44.</i> | |
|---|-------------------------------|
| <i>Tá</i> | <i>Níl</i> |
| <i>Barry, Tom.</i> | <i>Boyd Barrett, Richard.</i> |
| <i>Bruton, Richard.</i> | <i>Broughan, Thomas P.</i> |
| <i>Burton, Joan.</i> | <i>Browne, John.</i> |
| <i>Butler, Ray.</i> | <i>Calleary, Dara.</i> |
| <i>Buttimer, Jerry.</i> | <i>Collins, Joan.</i> |
| <i>Byrne, Eric.</i> | <i>Collins, Niall.</i> |
| <i>Cannon, Ciarán.</i> | <i>Colreavy, Michael.</i> |
| <i>Carey, Joe.</i> | <i>Crowe, Seán.</i> |
| <i>Coffey, Paudie.</i> | <i>Daly, Clare.</i> |
| <i>Conaghan, Michael.</i> | <i>Doherty, Pearse.</i> |
| <i>Conlan, Seán.</i> | <i>Dooley, Timmy.</i> |
| <i>Connaughton, Paul J.</i> | <i>Ellis, Dessie.</i> |
| <i>Conway, Ciara.</i> | <i>Ferris, Martin.</i> |
| <i>Coonan, Noel.</i> | <i>Flanagan, Luke 'Ming'.</i> |
| <i>Corcoran Kennedy, Marcella.</i> | <i>Fleming, Tom.</i> |
| <i>Creed, Michael.</i> | <i>Healy, Seamus.</i> |
| <i>Daly, Jim.</i> | <i>Healy-Rae, Michael.</i> |

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| <i>Deenihan, Jimmy.</i> | <i>Higgins, Joe.</i> |
| <i>Deering, Pat.</i> | <i>Keaveney, Colm.</i> |
| <i>Doyle, Andrew.</i> | <i>Kirk, Seamus.</i> |
| <i>Durkan, Bernard J.</i> | <i>Mac Lochlainn, Pádraig.</i> |
| <i>English, Damien.</i> | <i>McConalogue, Charlie.</i> |
| <i>Farrell, Alan.</i> | <i>McDonald, Mary Lou.</i> |
| <i>Feighan, Frank.</i> | <i>McGrath, Finian.</i> |
| <i>Ferris, Anne.</i> | <i>McGrath, Mattie.</i> |
| <i>Fitzpatrick, Peter.</i> | <i>McGrath, Michael.</i> |
| <i>Flanagan, Charles.</i> | <i>McGuinness, John.</i> |
| <i>Griffin, Brendan.</i> | <i>McLellan, Sandra.</i> |
| <i>Hannigan, Dominic.</i> | <i>Mathews, Peter.</i> |
| <i>Harrington, Noel.</i> | <i>Moynihan, Michael.</i> |
| <i>Harris, Simon.</i> | <i>Murphy, Catherine.</i> |
| <i>Hayes, Brian.</i> | <i>Ó Caoláin, Caoimhghín.</i> |
| <i>Heydon, Martin.</i> | <i>Ó Cuív, Éamon.</i> |
| <i>Howlin, Brendan.</i> | <i>Ó Feargháil, Seán.</i> |
| <i>Humphreys, Heather.</i> | <i>Ó Snodaigh, Aengus.</i> |
| <i>Humphreys, Kevin.</i> | <i>O'Brien, Jonathan.</i> |
| <i>Keating, Derek.</i> | <i>O'Sullivan, Maureen.</i> |
| <i>Kehoe, Paul.</i> | <i>Pringle, Thomas.</i> |
| <i>Kenny, Seán.</i> | <i>Ross, Shane.</i> |
| <i>Kyne, Seán.</i> | <i>Smith, Brendan.</i> |
| <i>Lawlor, Anthony.</i> | <i>Stanley, Brian.</i> |
| <i>Lynch, Ciarán.</i> | <i>Tóibín, Peadar.</i> |
| <i>Lyons, John.</i> | <i>Troy, Robert.</i> |
| <i>McCarthy, Michael.</i> | <i>Wallace, Mick.</i> |
| <i>McEntee, Helen.</i> | |
| <i>McGinley, Dinny.</i> | |
| <i>McLoughlin, Tony.</i> | |
| <i>Maloney, Eamonn.</i> | |
| <i>Mitchell, Olivia.</i> | |
| <i>Mitchell O'Connor, Mary.</i> | |
| <i>Mulherin, Michelle.</i> | |
| <i>Murphy, Dara.</i> | |
| <i>Murphy, Eoghan.</i> | |
| <i>Nash, Gerald.</i> | |
| <i>Neville, Dan.</i> | |
| <i>Nolan, Derek.</i> | |
| <i>Ó Riordáin, Aodhán.</i> | |
| <i>O'Donnell, Kieran.</i> | |
| <i>O'Donovan, Patrick.</i> | |
| <i>O'Dowd, Fergus.</i> | |

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| <i>O'Mahony, John.</i> | |
| <i>O'Reilly, Joe.</i> | |
| <i>O'Sullivan, Jan.</i> | |
| <i>Perry, John.</i> | |
| <i>Phelan, Ann.</i> | |
| <i>Phelan, John Paul.</i> | |
| <i>Ring, Michael.</i> | |
| <i>Spring, Arthur.</i> | |
| <i>Stagg, Emmet.</i> | |
| <i>Stanton, David.</i> | |
| <i>Tuffy, Joanna.</i> | |
| <i>Varadkar, Leo.</i> | |
| <i>Wall, Jack.</i> | |

Tellers: Tá, Deputies Paul Kehoe and Emmet Stagg; Níl, Deputies Aengus Ó Snodaigh and Mary Lou McDonald.

Amendment declared carried.

Question put: "That the motion, as amended, be agreed to."

The Dáil divided by electronic means.

Deputy Mary Lou McDonald: Given that the Minister sponsoring this disgraceful amendment does not even have the grace to appear and support his own warped and gratuitously cruel position in respect of survivors of the Bethany Home-----

(Interruptions).

An Leas-Cheann Comhairle: Is the Deputy looking for a walk through vote?

(Interruptions).

Deputy Mary Lou McDonald: Given the clearly defensive stance of the spineless sheep on the Government backbenches, I think it only fair to give Deputies an opportunity to reconsider their position and, therefore, I request the vote be taken by other than electronic means.

Question again put: "That the motion, as amended, be agreed to."

| <i>The Dáil divided: Tá, 73; Níl, 44.</i> | |
|---|-------------------------------|
| <i>Tá</i> | <i>Níl</i> |
| <i>Barry, Tom.</i> | <i>Boyd Barrett, Richard.</i> |
| <i>Bruton, Richard.</i> | <i>Broughan, Thomas P.</i> |
| <i>Burton, Joan.</i> | <i>Browne, John.</i> |
| <i>Butler, Ray.</i> | <i>Calleary, Dara.</i> |
| <i>Buttimer, Jerry.</i> | <i>Collins, Joan.</i> |
| <i>Byrne, Eric.</i> | <i>Collins, Niall.</i> |
| <i>Carey, Joe.</i> | <i>Colreavy, Michael.</i> |

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| <i>Coffey, Paudie.</i> | <i>Crowe, Seán.</i> |
| <i>Conaghan, Michael.</i> | <i>Daly, Clare.</i> |
| <i>Conlan, Seán.</i> | <i>Doherty, Pearse.</i> |
| <i>Connaughton, Paul J.</i> | <i>Dooley, Timmy.</i> |
| <i>Conway, Ciara.</i> | <i>Ellis, Dessie.</i> |
| <i>Coonan, Noel.</i> | <i>Ferris, Martin.</i> |
| <i>Corcoran Kennedy, Marcella.</i> | <i>Flanagan, Luke 'Ming'.</i> |
| <i>Creed, Michael.</i> | <i>Fleming, Tom.</i> |
| <i>Daly, Jim.</i> | <i>Healy, Seamus.</i> |
| <i>Deenihan, Jimmy.</i> | <i>Healy-Rae, Michael.</i> |
| <i>Deering, Pat.</i> | <i>Higgins, Joe.</i> |
| <i>Doyle, Andrew.</i> | <i>Keaveney, Colm.</i> |
| <i>Durkan, Bernard J.</i> | <i>Kirk, Seamus.</i> |
| <i>English, Damien.</i> | <i>Mac Lochlainn, Pádraig.</i> |
| <i>Farrell, Alan.</i> | <i>McConalogue, Charlie.</i> |
| <i>Feighan, Frank.</i> | <i>McDonald, Mary Lou.</i> |
| <i>Ferris, Anne.</i> | <i>McGrath, Finian.</i> |
| <i>Fitzpatrick, Peter.</i> | <i>McGrath, Mattie.</i> |
| <i>Flanagan, Charles.</i> | <i>McGrath, Michael.</i> |
| <i>Griffin, Brendan.</i> | <i>McGuinness, John.</i> |
| <i>Hannigan, Dominic.</i> | <i>McLellan, Sandra.</i> |
| <i>Harrington, Noel.</i> | <i>Mathews, Peter.</i> |
| <i>Harris, Simon.</i> | <i>Moynihan, Michael.</i> |
| <i>Hayes, Brian.</i> | <i>Murphy, Catherine.</i> |
| <i>Hayes, Tom.</i> | <i>Ó Caoláin, Caoimhghín.</i> |
| <i>Heydon, Martin.</i> | <i>Ó Cuív, Éamon.</i> |
| <i>Howlin, Brendan.</i> | <i>Ó Fearghail, Seán.</i> |
| <i>Humphreys, Heather.</i> | <i>Ó Snodaigh, Aengus.</i> |
| <i>Humphreys, Kevin.</i> | <i>O'Brien, Jonathan.</i> |
| <i>Keating, Derek.</i> | <i>O'Sullivan, Maureen.</i> |
| <i>Kehoe, Paul.</i> | <i>Pringle, Thomas.</i> |
| <i>Kenny, Seán.</i> | <i>Ross, Shane.</i> |
| <i>Kyne, Seán.</i> | <i>Smith, Brendan.</i> |
| <i>Lawlor, Anthony.</i> | <i>Stanley, Brian.</i> |
| <i>Lynch, Ciarán.</i> | <i>Tóibín, Peadar.</i> |
| <i>Lyons, John.</i> | <i>Troy, Robert.</i> |
| <i>McCarthy, Michael.</i> | <i>Wallace, Mick.</i> |
| <i>McEntee, Helen.</i> | |
| <i>McGinley, Dinny.</i> | |
| <i>McLoughlin, Tony.</i> | |
| <i>Maloney, Eamonn.</i> | |
| <i>Mitchell O'Connor, Mary.</i> | |
| <i>Mitchell, Olivia.</i> | |

11 December 2013

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| <i>Mulherin, Michelle.</i> | |
| <i>Murphy, Dara.</i> | |
| <i>Murphy, Eoghan.</i> | |
| <i>Nash, Gerald.</i> | |
| <i>Neville, Dan.</i> | |
| <i>Nolan, Derek.</i> | |
| <i>Ó Ríordáin, Aodhán.</i> | |
| <i>O'Donnell, Kieran.</i> | |
| <i>O'Donovan, Patrick.</i> | |
| <i>O'Dowd, Fergus.</i> | |
| <i>O'Mahony, John.</i> | |
| <i>O'Reilly, Joe.</i> | |
| <i>O'Sullivan, Jan.</i> | |
| <i>Perry, John.</i> | |
| <i>Phelan, Ann.</i> | |
| <i>Phelan, John Paul.</i> | |
| <i>Ring, Michael.</i> | |
| <i>Spring, Arthur.</i> | |
| <i>Stagg, Emmet.</i> | |
| <i>Stanton, David.</i> | |
| <i>Tuffy, Joanna.</i> | |
| <i>Varadkar, Leo.</i> | |
| <i>Wall, Jack.</i> | |

Tellers: Tá, Deputies Paul Kehoe and Emmet Stagg; Níl, Deputies Aengus Ó Snodaigh and Mary Lou McDonald.

Question declared carried.

Message from Select Sub-Committee

An Leas-Cheann Comhairle: The Select Sub-Committee on Transport, Tourism and Sport has completed its consideration of the Road Traffic (No. 2) Bill 2013 and has made amendments thereto.

The Dáil adjourned at 9.35 p.m. until 9.30 a.m. on Thursday, 12 December 2013.