



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

DÁIL ÉIREANN

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

Referendum of 25 May: Statements (Resumed)	1104
Ceisteanna - Questions	1118
Priority Questions	1118
Postal Services	1118
National Mitigation Plan Implementation	1120
Renewable Energy Incentives	1124
Broadband Service Provision	1127
Recycling Policy	1129
Other Questions	1132
Energy Policy	1132
Electric Vehicles	1134
Greenhouse Gas Emissions	1138
Offshore Exploration Licences	1140
Bioenergy Strategy	1142
Message from Seanad	1143
Leaders' Questions	1143
Questions on Promised Legislation	1152
Message from Select Committee	1159
Fatal Road Traffic Collision in County Monaghan in 2011: Statements	1159
Mental Health (Amendment) Bill 2017: From the Seanad	1175
Judicial Appointments Commission Bill 2017: Report Stage (Resumed) and Final Stage	1182
Topical Issue Matters	1225
Topical Issue Debate	1225
European Court of Human Rights Judgments	1225
Water Services	1228
Garda Divisional Headquarters	1231
Disposal of Hazardous Waste	1234
Maternity Protection (Members of the Houses of the Oireachtas) Bill 2018: Second Stage [Private Members]	1237
Maternity Protection (Members of the Houses of the Oireachtas) Bill 2018: Referral to Select Committee [Pri- vate Members]	1251

DÁIL ÉIREANN

Déardaoin, 31 Bealtaine 2018

Thursday, 31 May 2018

Chuaigh an Leas-Cheann Comhairle i gceannas ar 9.30 a.m.

Paidir.

Prayer.

Referendum of 25 May: Statements (Resumed)

Minister of State at the Department of Foreign Affairs and Trade (Deputy Helen McEntee): I always have and always will respect that there are different views, beliefs and opinions on this issue, however, the outcome on Saturday and the resounding “Yes” from the people of Ireland to repeal the eighth amendment was one of the proudest moments for me in over five years that I have been in this House. As a citizen of Ireland, it represents a seismic shift and change in our society, especially for the women in this country. I am proud if I played any small part in bringing about that change.

Much of what needed to be said has been said, so I want to thank the people who have played a part, large or small, in this process. I thank the people who campaigned against inserting the eighth amendment into the Constitution in 1983, those who had the foresight to know that it would not save lives but would in fact cost lives. I thank the women, men and organisations who have campaigned since then, many of whom made it their life’s ambition to remove the eighth amendment from the Constitution. I thank the Members of the Dáil and Seanad, those in Governments past and those in the current Government. I thank Deputies Ruth Coppinger and Clare Daly for bringing forward proposals and legislation, although they were not compatible with the eighth amendment, and for keeping this issue on the agenda and for continuously trying to do so, even when it was not the popular thing to do.

Our former Taoiseach, Deputy Enda Kenny, understood what the people of this country needed and had the foresight to recognise that this decision had to come from the citizens of this country. I thank him for bringing this to the Citizens’ Assembly and the work he has done in that regard. I thank the members of the Citizens’ Assembly and its chair for the time they gave to the assembly, for listening so carefully to the evidence presented to it and for their recommendations.

I thank the Joint Committee on the Eighth Amendment of the Constitution, and particularly to my colleagues, the Chairman, Senator Catherine Noone, for her exemplary work and the manner in which she chaired the committee, Senator Jerry Buttimer, Deputies Peter Fitzpatrick,

31 May 2018

Hildegarde Naughton, Bernard Durkan and, in particular, Kate O'Connell, many of whom have come on their own journeys along the way. I thank the members from all political parties for the difference they have made, the many hours of listening to expert medical and legal advice, and the most important advice, which came from the men and women of this country who have been impacted by the eighth amendment.

I thank our Taoiseach, Deputy Leo Varadkar, for staying true to his word, for listening and understanding that the people of Ireland would make the right decision. I thank him for setting a date for the referendum so quickly. I thank the Minister for Health, Deputy Simon Harris, for treating this issue with such care and for bringing forward legislation, and having set the wheels in motion already for legislation that I believe will allow the women and the doctors of Ireland to make the right decisions for them and their families in their own situations.

I thank the Members of this House from all parties, the people who work in their offices and those from all the organisations who came together and said "Together for Yes", including Ailbhe Smyth, Orla O'Connor and Gráinne Griffin, the people who knocked on doors, who canvassed, dropped in literature, put up posters and who had the difficult conversations that they never thought that they would have. To the many people who came on their own journeys - a phrase that we can probably get rid of now - I thank them sincerely for the difference they have made, and I particularly thank the young women and men who put their names on the register for the first time, who campaigned and made a difference. I ask them to please continue to be involved, to campaign and to make a difference because they are the kind of people that this country needs and will depend on in the years to come.

Finally, to the women who lost their lives because of the eighth amendment, their families who told their stories and the women of this country who told their stories when they never should have had to, I thank them for opening so many eyes to reality. As a young woman, I will be forever grateful.

Deputy Stephen S. Donnelly: Last Friday Ireland took a giant leap forward. For the first time in our history, women with crisis pregnancies will be treated with compassion in their own country. They will be supported, have access to professional, regulated medical care, be trusted and be able to choose in their own country.

Many people deserve great credit for Friday's result. There are those who have campaigned for decades, women such as Ailbhe Smyth, Catherine McGuinness, Senator Ivana Bacik and Deputy Clare Daly. Others have worked tirelessly to run the campaigns, to raise money to produce leaflets, newsletters, posters and everything in between. They were the engine of what undoubtedly became a grassroots movement. Women and men all over Ireland, with no background in politics or activism, stepped forward. They spoke with friends and family, knocked on doors and handed out leaflets.

I want to acknowledge, in particular, the women and men who shared their own stories. Their testimonies were deeply personal. In many cases, they were deeply painful, yet still they spoke. I campaigned in Wicklow with women and men who were willing to knock on the doors of strangers and talk about what they had been through. It was an incredibly brave and powerful thing for them to have done. On Friday the Irish people responded. They did so in unprecedented numbers and with compassion.

If my information is correct, this Saturday, seven days after the result was announced, the

eight amendment will no longer exist in Bunreacht na hÉireann. Now it falls to us in this House to bring in the required legislation. Yesterday, we heard that the aim is to have the legislation passed in October and for the healthcare services to be fully operational by January 2019. We need to get the regulations, the legislation and medical care right. If it takes the next seven months to do that, so be it. We will support all efforts to that end.

There are measures which do not have to wait until next year and which could be introduced in the coming weeks. In cases of fatal foetal abnormality, travelling to the UK can cost families thousands of euro. We should cover those costs for families from now and make it free. Contraception could be made free now. Additional funding for counselling services could be provided. Both the 1995 Act governing the provision of information and section 22 of the 2013 Act could be repealed now. That would end criminalisation. Before the Minister and I spoke yesterday, I submitted a Bill to the Bills Office which would achieve both of those objectives. The Minister has asked us to hold off for two weeks to give him and the officials time to focus on the legislation. We are more than happy to facilitate that.

Last Friday, Ireland took a giant leap forward. However, many more steps need to happen. Women are paid less than men. They have much smaller pensions and have much less control over financial assets than men. They are massively under-represented in politics and business. They are far more at risk of poverty traps than men. They are also much more at risk of domestic violence, sexual assault and sexual harassment. If we are to create a truly equal Ireland in which money and power are shared between men and women, radical change is required. Friday was a day of radical change. My hope and determination is that we can use that momentum to create more radical and important change in this country and a genuinely equal Ireland for women and men.

Deputy Louise O'Reilly: On Friday, we took a big step on an ever-evolving journey. We all talked about being on a journey. Plenty of Members, including some of my colleagues, and people outside the House were on a journey. I was very lucky in that I was raised in a pro-choice house. My parents, if they ever were on that journey, had been through it. They campaigned against the insertion of the eighth amendment. I have used as many opportunities as possible not just to thank them, because obviously they are my parents and I am very fond of them, but also to thank all the people who campaigned in 1983 against inserting it. They were right. They were absolutely castigated at the time yet they were completely right. Everything they said would happen did happen. They said it would harm women and it did harm women. The vote on Friday and the count on Saturday were a vindication of the stand they had taken, and the stand taken by all the people who campaigned up to then.

I cannot thank all of the people who need to be thanked. There are not enough hours in the day. The sun is shining and nobody wishes to sit here and hear me reel off a list of names. However, I do wish to thank Ailbhe Smyth, whom I have known for a long time. She provided incredible leadership not just in the last few weeks when she was more visible but in the years up to the historic result. We do not have the words to thank those who have been active on this campaign since 1983 other than to tell them we finally listened, recognised that they were right and fixed it. It was wrong to put the amendment in and now it is out. That is a very good thing.

Throughout the referendum campaign, we all spoke about one group in particular whose members touched our hearts. I recall when members of Terminations For Medical Reasons, TFMR, gave their evidence to the Joint Committee on the Eighth Amendment of the Constitution. It was disappointing that the Deputies who call themselves pro-life - it is not a term I use

31 May 2018

but they use it and seem to like it - could not stay for whatever reason to hear those very difficult stories and to see all of their colleagues in tears. I am not ashamed to say that I was one of them. That was the case for both men and women as well as members of the press. Some people might say they had a bit of dust in their eye but there were definitely tears that night, and rightly so. The stories were heartbreaking. I look forward to the day when they no longer have to tell those stories and bare their souls.

The campaign that was run in my constituency by Fingal Together for Yes was one of the most honest, straightforward, grassroots campaigns in which I have ever been involved. I have been a Deputy for just over two years but I have been an activist all my life and have been involved in many campaigns. I can say with my hand on my heart that I have never been involved in a campaign like it. That is not to do down what happened before the campaign by Together for Yes. In particular, I thank the men and women in my area. Whether it was a banner drop at 7 a.m., a leaflet drop after a canvass or a stall we always had more people than we had leaflets or work to do, which was great. We are politicians so we go out knocking on doors. It is great to turn up and find one will have to split a group into two canvass teams because there are so many people. That happened every time.

The most important thing Fingal Together for Yes and the general Together for Yes campaigns did was talk to people. We knocked on doors and we had honest conversations with people. We talked about the nine women who leave Ireland every day, the women who are taking abortion pills by themselves, the chilling effect the eighth amendment has on doctors, the cruel, inhumane and degrading treatment the State failed to prevent for women such as Amanda Mellet and the real, lived experience of the eighth amendment for women. We talked about our own stories and our communities. We knocked on thousands of doors and I believe we changed people's minds.

The old certainties have definitely been challenged, and a new and better Ireland will emerge from this. For the avoidance of doubt, the North is next.

Deputy Richard Boyd Barrett: There was no Trump effect here. The commentators warned there might be a Trump effect, that it would be terribly close and they referred to Brexit. There was never any doubt in my mind. This was a revolutionary upsurge that had been a long time coming. It was an unprecedented movement of people power and, in particular, of Irish women. It began way back with women being allowed to enter the workplace and third-level education in large numbers and reached a point where they were no longer willing to accept being second-class citizens in their own country. It has been a long time coming but it has been growing steadily. That is the ultimate explanation for what happened last weekend. It ushers in a new and better Ireland. People power - organising mass mobilisation - was critical to all of that. It was not a quiet revolution but a very vocal and determined one.

The first mass protest in which I participated was the X case demonstration, when the State tried to prevent a 13 year old rape victim from going to England for an abortion. It was an appalling vista that mobilised tens of thousands of people, forced the overturn of a High Court judgment and led to the Supreme Court ruling that began the process of changing everything. I know who led that demonstration. They were people such as Ailbhe Smyth and Goretti Horgan, who is still fighting in the Alliance for Choice in Northern Ireland. I remember Sinéad O'Connor and Eamonn McCann barging through the gates of Leinster House demanding justice for X. Those people inspired. At that time, I got involved in politics as did Deputies Clare Daly and Coppinger. Deputy Brid Smith had been involved since 1983 and was another person who

organised that demonstration for X. The movement just built and built from there. However, it took tragedy after tragedy, and evidence after evidence of the failure of the eighth amendment to protect and respect women and to give them equality and choice, to get to this moment. It is therefore a victory for people power, for all those young and older women who were out canvassing day in, day out, week in, week out, the unprecedented movement we saw in the last few weeks. I do not have time to thank them all, but they know who they are.

Deputy Paul Murphy: I thought the phrase “quiet revolution” was a perfect one, not as a description of the tremendous, incredible victory from below that took place last Friday, but as a description of the attempt of establishment parties to co-opt that movement and rewrite its history. If the Taoiseach thought it was a quiet revolution, he must have been wearing earplugs throughout the past number of years. It was loud, it was angry, it was described by many establishment commentators as shrill, and it was based on mobilisation. It was those who marched, those who struck for repeal and those who organised civil disobedience through the distribution of the abortion pill who won this. They fought against the majority of the Members of the Dáil, who voted down repeal Bill after repeal Bill tabled by the socialist left. They dragged politicians on a journey which resulted in a referendum, and then they won that referendum absolutely spectacularly. What we saw on Friday and Saturday was a youthquake and genderquake. Yes, it was incredibly positive that huge numbers of people across all demographics voted “Yes”, but the result was clearly driven by young people, women in particular. This was seen in the exit polls. Incredibly, there was a doubling of turnout of young women. It was also seen on the canvasses, which, if my experience is anything to go by, involved an incredibly significant majority of young women.

This is also part of an international new feminist wave. It is part of the #MeToo movement in the US and the #NiUnaMenos movement against femicide in Latin America, associated with the feminist strike against violence against women in Spain.

I will leave the Government and the Taoiseach with a warning that they will probably need the earplugs again because this movement will not go away. People have experienced that social movements win change and people will fight against all the oppressions and inequality that exist in our society. They will fight not only for free contraception, for LGBTQ rights to be fully delivered and for the complete separation of church and State, but also for economic equality: pay equality, access to public childcare, full maternity pay and access to decent housing. I call on people to stay mobilised and active and build a movement for the kind of Ireland so many people want to see: a secular and socialist society.

Deputy Jan O’Sullivan: I welcome the opportunity to speak in this debate. For me, this was a hugely emotional decision and a coming full circle because the first campaign in which I was involved politically was in 1983, when we campaigned against the insertion of Article 40.3.3° into the Constitution. I was with a small band of brave people in Limerick at the time. Most of us were also involved in the establishment and continuation, despite prayers outside, of the Limerick Family Planning Clinic, and we need to remind ourselves that access to contraception was a battle that had to be fought at that stage. This is why the first thing I want to say is that one of the ancillary recommendations of the Oireachtas committee was that contraception should be freely available. I again call on the Government to ensure there are no barriers to access to contraception. I was talking to a nurse friend of mine recently who works in a general practitioner, GP, practice. She talked about how young women, when talking about contraception, still ask, “How much will it cost?”. That recommendation is therefore really important, and I say this in the context of my own history and political history.

31 May 2018

In saying this, I want to remember a man called Jim Kemmy, a proud Member of this House who was way ahead of his time in fighting many battles. I acknowledge all the young people who were involved in the campaign, but there are older people - Jim has since died - who put their political necks on the line in 1983. I also want to speak about people such as Ailbhe Smyth, who was involved in 1983, former judge Catherine McGuinness, who was hugely important in the campaign, former Senator Mary Henry, who also fought many battles in the Oireachtas, and many others within my party. My leader has already referred to Dick Spring and the extraordinary Labour Party group in the Seanad that tried to stop the Bill in 1983, including Deputy Howlin himself, but also Catherine McGuinness, Mary Robinson and Michael D. Higgins, all of whom went on to play very significant roles in Irish society.

The campaign to repeal the eighth amendment was a tremendous victory and was broader than just the issue of abortion. It was really about Ireland changing its culture to one in which it is accepted that someone in power out there does not know what is best for us as Irish women. Sadly, we had another reminder of this in the story that broke yesterday about the people who had their birth certificates falsified in order to transfer them from their mothers to other families. This culture was very prevalent right across Irish society but, thankfully, it is now gone, and this is very significant.

So many people and groups were involved in the campaign, but I think many of us who were members of the Joint Committee on the Eighth Amendment of the Constitution have already said that the representatives of Terminations for Medical Reasons were really powerful. I pay particular tribute to Limerick Together for Yes because it was genuinely cross-party and involved many people who were not in any political party and who are a lot more politicised now than they were at the start of the campaign. It was a fantastic campaign in which to be involved. I am thinking in particular of a young couple I met at the count in Limerick last Saturday. They had a little baby in a buggy and they said to me, "This has changed our lives." They had faced a diagnosis of fatal foetal anomaly, they had had to travel to Britain, they had had one child after that, who is a perfectly healthy, lovely little boy, but they said, "We would not have chanced another pregnancy if this referendum had not passed." They left the count absolutely happy. They could now try to have another child because they knew that, if there were a problem - I do not know the details but I think within their family there was a possibility there might be a problem again - they could now say that they were safe in their own country.

Finally, I urge the Minister to get the legislation through as quickly as possible. No one in the Opposition will hold it up in any way. I know the Government is saying it just wants to deal with the general legislation, but if Senator Ivana Bacik's proposals concerning decriminalisation and the other requests concerning other issues, which I think some Deputies have already raised, can be accommodated, I ask the Government to do so. The Minister for Health himself played a blinder. I think we all just feel a great sense of relief that we finally live in a country of which we can be proud.

Deputy Joan Collins: Last Friday's vote was a truly historic event in the almost 100 year history of our State. I was quietly confident of a "Yes" vote, given the response while out campaigning in my own constituency of Dublin South-Central. I think I said last Thursday that it was a question of people vindicating what they had said on the doorsteps. The three-to-one vote on polling day was not a great surprise, but we did not know what the country as a whole was thinking, what everyone else was thinking. I was at Heuston Station at 4 o'clock on Friday with Together for Yes and was just overwhelmed by the number of people coming off the Luas at Heuston Station, walking up to us, grabbing stickers even though they had already indicated

they would vote “Yes”, smiling, winking, enthusiastic. After that activity, I just thought, “This is going to pass confidently - there is no doubt about it.” I even texted a few friends about it. It was just the way the wind was blowing. One could feel it; it was tangible around the station. The big surprise of the size of the national “Yes” vote was for the commentariat. These people are of course convinced of their own liberal views but what about the great unwashed? Who knew how they would vote. The anticipated differences between urban and rural, older and younger, and men and women never really materialised because they do not really exist. To my mind, people have voted in accordance with their life experiences.

Legislation will now follow to bring Ireland into line with the norm in most European countries. However, this vote was not just about abortion; it was a victory for women over the forces that have demanded for centuries that they be kept under control and on a tight rein because they cannot be trusted. The joyous celebrations in Dublin Castle can be understood from this perspective.

Those who voted “No” from a moral or religious conviction absolutely deserve respect, but it is necessary to differentiate between them and the forces behind the “No” campaign and the self-styled pro-life movement. The issue is about control and power. It was about maintaining their power to enforce their reactionary views on women and to impose that particular Catholic ethos on the State and its institutions. They were quite happy with the *status quo*, that is, that abortion could take place outside the State, or that women could take abortion pills purchased online without medical supervision. In fact, in the last week of the campaign, as they saw the writing on the wall, they changed tack to say the eighth amendment could possibly be amended to take account of what they termed “hard cases” - fatal foetal abnormalities and rape.

Noticeable throughout the campaign was the relatively low key role played by the Catholic bishops. Yes, they used the pulpit and held prayer vigils in churches, but nowadays most people do not go to church, especially young people. This was a recognition, I believe, of the fundamental change which had taken place in society and the limits of their power.

This is a victory for those men and women who have long campaigned not just on abortion rights but on contraception, divorce, gay rights, liberal rights, equal pay, etc. It is at the same time a massive defeat for the international forces that want to roll back the clock on women’s rights. I hope many thousands of women and men in countries such as the Philippines and Argentina who are under the same strict rules that we derive hope for change from the “Yes” vote in Ireland on Friday.

What do we need to do now? A number of Deputies met with the Minister yesterday. We need proper sex and relationships education for young people in schools. It should be part of the curriculum and delivered by trained teachers in schools, working in catchment areas with age-appropriate education. We need freely available contraception for both men and women. All services funded by the State should be owned, controlled and run by the State in the interests of all, regardless of faith or lack of it. These are the political battles that will take place in the future.

Yesterday Deputy Clare Daly spoke very emotionally about the campaign and why we are here today. She mentioned organisations such as the Irish Family Planning Association, IFPA, the Well Woman Centre and the abortion clinics in Britain which had helped Irish women and paid for them to have abortions there. She mentioned Ms Ailbhe Smyth, who should be men-

31 May 2018

tioned. I highlight the role Deputy Clare Daly played because she did not recognise it in her contribution. She has played a key role and I was very proud to be part of it with Deputies Mick Wallace, Richard Boyd Barrett and Catherine Murphy, as well as all those who supported the legislation we brought forward.

I will finish by saying onward to a modern, secular Ireland, both North and South. I hope the people will continue in their struggle to change Irish society.

An Leas-Cheann Comhairle: I respectfully suggest Deputies curtail their remarks to four minutes. I have to call the Minister for Communications, Climate Action and Environment at 10.25 a.m.

Deputy Hildegarde Naughton: As a member of the Oireachtas Joint Committee on the Eighth Amendment of the Constitution, I am particularly pleased to speak in this debate. For me, the referendum was not about winning or losing, although that is the obvious outcome of such referendums. It was more about an acknowledgement of how informed debate could change society, how the expert - I stress the word "expert" - evidence given to the Citizens' Assembly and then the Oireachtas joint committee changed people's perceptions and minds. It also showed what politicians could achieve when they left their bias outside the door of a committee room and agree to do what was best for the women of Ireland, no matter how much it might conflict with a perviously stated position. We in this House have to learn a valuable lesson from the referendum. The lesson is not to dismiss every suggestion because of some intrinsic bias. The lesson is that we should listen more and speak less. The lesson is that we should gather and analyse the evidence and respond accordingly. That is exactly what occurred in this case and look at what has happened.

While I thank my colleagues on the committee, they will excuse me if I reserve the vast majority of my thanks and praise for citizens. They are the people, men but mostly women, who have worked for this result for decades. I praise those who showed huge bravery by telling their own personal and very intimate stories, stories that resonated with people up and down the country, that were communicated to people as they canvassed from house to house, that people remembered and translated into a "Yes" vote in the ballot box. I also thank the Together for Yes campaign that did Trojan work on the ground. Its members were so well informed and such an impressive group who worked tirelessly in the campaign.

As a Deputy for Galway West which includes south Mayo, I have to mention Savita Halapannavar. No matter how people try to spin it, the expert evidence is that the eighth amendment was most definitely a contributory factor in her death. Professor Sir Sabaratnam Arulkumaran who conducted the case review gave clear and concise evidence to the committee in that regard. I acknowledge Savita today and also thank her family for their dignified contributions to the referendum debate. I acknowledge the clear leadership given by the Minister for Health, Deputy Simon Harris. While I am not holding up a sign declaring my undying love, I think all sides of the House will agree that he deserves great praise for the understanding and compassion he showed for women in crisis pregnancies.

I also thank the former Taoiseach, Deputy Enda Kenny, who originally agreed to set up the Citizens' Assembly which was invaluable in the process and Deputy Leo Varadkar who, since he became Taoiseach, has at all times supported the referendum being put to the people.

Minister for Culture, Heritage and the Gaeltacht (Deputy Josepha Madigan): I thank

Deputy Hildegard Naughten who has allowed me to speak for two minutes.

When the Taoiseach asked me on 29 March to be campaign co-ordinator for the Fine Gael “Yes” campaign, it was on Holy Thursday and the first thing I did was to go to the Taizé prayers in Mount Merrion parish. The irony is not lost on me. It was something that was going to come to the fore during the campaign. I had anticipated it when he asked me. It was not an easy campaign. It would be an overstatement if we said it was something that was not complex. As Ms Justice Mary Laffoy said, it has been one of the most contentious and complex topics in Irish society in recent years. My part was very small, but it took place over eight weeks. I tried to ensure the Fine Gael Parliamentary Party and, of course, members throughout Ireland came together to have a dignified and respectful debate. I think we achieved this in the main, against, I have to say, quite a lot of vitriol and acerbic barbs coming from the “No” side, which was difficult. I thank them for it. In particular, I thank people who whelped with our campaign - Dr. Peter Boylan, Ms. Nuala Jackson and Professor Fiona De Londras in particular, as well as the larger committee team within the Fine Gael Parliamentary Party.

I have to say that on Saturday I did not feel the exuberance that I think some people felt. It is important to say there are many compassionate people on the “No” side also and that not everyone who voted “Yes” is pro-abortion, but they are pro-choice. There is a really big distinction. For me, it was bittersweet; as Deputy Jan O’Sullivan said, it was more a sense of relief than anything else. It is a really pivotal, extremely significant moment in the history of the country and I say that as a woman and a mother. I do not have any daughter. I have two sons, but I hope my granddaughters will benefit from this, as well as their friends in the future. There is a line from Maya Angelou that I would like to use in finishing up which resonated for me during the campaign: “You may encounter many defeats, but you must not be defeated”. To me, that is something that sums up the campaign.

Deputy Mattie McGrath: I am happy to make a few remarks, although I am less happy with the outcome of the referendum. We now know that more than 1.2 million voters voted “Yes” for the removal of the constitutional protection of the life of the unborn child. They voted “Yes” to a Government proposal that I still believe will be seen in the fullness of time as an historic lost opportunity to choose a better way. In many respects, it is difficult to see how the result could have gone any other way under an avalanche of misrepresentations which buried the truth. It is also certain that the vote was swung by those who engaged with what are termed “the hard cases”. I understand and respect the generous way we need to deal with those hard cases and assist the families involved. We differed on what we believed should be done. In the final week of the campaign, the Taoiseach and others suggested that those who advocated a change in the Constitution to deal with these cases were engaged in a so-called pro-life tactic. I remind him and the Minister for Health that the majority of the Citizens’ Assembly also voted for that option. They are always talking about that. Indeed, 56% of those balloted at the assembly supported a vote to replace or amend Article 40.3.3°. Was that a pro-life tactic? Hardly. Of course, the vote was overwhelmingly for repeal, so here we are today.

That said, I want to talk about the 750,000 people who voted “No”. Where will their voices be heard? I want to talk about the thousands of young and not so young people who devoted time, energy and compassion to protecting the life of the unborn child and its mother. We live in a society in which their voices are silenced. Are they to be? I fear there are already moves afoot to completely silence the pro-life voice. That would not only be extremely anti-democratic but it would also be a gross insult to the sincerity and reasonableness of the pro-life position. I hope we can do better than that.

I have no intention of obstructing the forthcoming Bill but I certainly have every intention of tabling amendments. I definitely did not like what happened yesterday. The Minister said he was going to be proactive and very transparent but denied me the right to attend the meeting.

Deputy Simon Harris: No.

Deputy Mattie McGrath: Yes, he did. I was not allowed to go to that meeting yesterday. The Minister will find out. I spoke to his top person and was told there was no problem but then that person came back to me and said the Minister did not want me there. Is that the way he is going to move forward? We are used to this kind of deceit and trickery from the Minister. I will be reasonable and understanding. Are we going to have the all-party group that met yesterday representing just one side while forgetting the 750,000? Just because I was on the “No” side, I was not allowed into the room. It is a disgusting, perverse and anti-democratic action by the Minister. He is not entitled to do that because we have seven elected Deputies in our group and I was entitled to be present. Deputy Harty was invited because he is Chairman of the Joint Committee on Health. I have no problem with that. I wanted to attend alongside him on behalf of my group but the Minister said I could not do so. If that is how the Minister wants to deal with this, it is very sad. I will be tabling constructive amendments.

I thank the pro-life groups, including Save the 8th and the Life Institute, and all the groups that worked so hard and so diligently. While there might have been tension at the edges on all sides, the debate was respectful. I appreciate that. I thank those groups that had the courage and bravery to go out and campaign. I will not mention names but they know who they are. They worked tirelessly. They are down but not out. They will be back and they will be fighting for the good and for life issues in the future.

Deputy Kate O’Connell: I thank the Irish people for the resounding “Yes” vote they cast as a nation on Friday last. We have come so far since 1983, when the pulpit ruled and we were subjected to the threats and fearmongering of a vengeful creed. Looking back now, it is hard to imagine that Ireland back then was very different from the modern, globalised and informed country we have today. An information deficit left a void filled by dogma and shame. Free secondary school education, introduced in 1967, had a radical effect upon our culture, social mobility and economy. Education - and the freedoms arising from it - was the preserve of those who could afford it. At that time, fewer than half of those aged 15 were still in school. What free education did was establish an educated population across society. We have an electorate that is informed, engaged, compassionate and aware as a result.

The eighth amendment was sold as a way of protecting unborn life. From what, however, was the unborn being protected? It was from women. When one considers the matter, one realises it is a terrible way to think of women - the very women who bore us and continue to bear the children of Ireland. The consequences of the eighth amendment have been discussed at length, including in the context of the nine women who travel per day, the three per day who take abortion pills and those who will today receive the brutal diagnosis of a fatal foetal abnormality.

The principle of power and control over women is not erased, however, in spite of the huge vote in support of the 36th amendment. We have quite a way to go. This is not just an aspiration for a society of participating equals; we need to atone for wrongs that were done to so many for so long and to address the imbalance that persists within this House.

We heard much disturbing commentary in the House in the months leading up to the referendum campaign, including suggestions that women are doing grand and that the heads of Glanbia and FBD are women. We heard the head of the National Transport Authority “is a lady” and that the head of the Road Safety Authority is also “a lady”. Well, good luck to them. What on earth was the point of using them as examples and as weapons against other women? Would we not look well in here speaking about a subject concerning men who are directly suffering if we said:

Sure, the Taoiseach is a man, the Leader of the Opposition is a man, the President of Ireland is a man, and the head of the Institute of Obstetricians and Gynaecologists is a man, so men are clearly doing grand. What would be wrong with ye?

Imagine if we said that in this House. Some of this commentary regarding abortion involved nods towards misogyny and prejudices that were not reflected in the local ballot boxes of those responsible. If people are feeling sheepish now and feeling out of step with their electorates, they should be. The insertion of the eighth amendment into the Constitution was far more than what they sold it as; it was designed to exert power and wield control over women.

I would like to thank a number of people who have come out in recent years in support of the repeal of the eighth amendment and those who have exposed some of the dark, dark chapters of our history, chapters in which we paid headage payments per woman and child incarcerated for their sins behind the walls of mother and baby homes. I thank those who told their personal stories in this regard. I know that Galway County Council paid the nuns a pound per child per week in Tuam. That is what the historian Mary McAuliffe told me.

We came together last week and we did it from all quarters. Ailbhe Smyth, Orla O’Connor and Gráinne Griffin deserve considerable praise for the Together for Yes campaign, and so do Deirdre Duffy and Amy Rose Harte. So do the doctors and the lawyers, particularly Fiona de Londras. I thank the activists around the country, particularly those I met in Donegal when I travelled there to support them in Ballybofey. I thank, in particular, Theresa Newman and Etain Hobson who worked for and supported me every day and who travelled to Ennis, Tullamore, Limerick, Abbeyshrule, Meath, Donegal, Kildare and beyond. I thank my colleagues Deputies Durkan, Bailey, Hildegard Naughton, Corcoran Kennedy and Fitzgerald and Senators Buttimer and Reilly, who all supported me throughout this work. I thank my constituents, the people who put their faith in me at the last election and whom I hope will do so again. They returned the highest “Yes” vote in the country at 78.49%. Of that, we are immensely proud. Most of all, I thank the women, especially the young women, who turned out in their droves to vote in the referendum. This is your country and your voice. This is your victory and your future, and it is your choice.

Deputy Eamon Ryan: One of the things I learned in the last few weeks of the campaign was that compassion is not an exclusive commodity. By its nature, it is open and sharing and it belongs to everyone. The people I met canvassing, mainly young women who had not been involved in politics before and who were energised by the campaign, had such compassion for themselves, their sisters and friends who had been in difficult circumstances. They were determined to get a “Yes” vote, which is what happened. It is a huge reward and achievement.

Sometimes the campaigners heard harsh words from people on the other side, usually, most ironically, from older people. Supposedly, wisdom comes with age but sometimes the campaigners were subjected to harsh words and they decided they would respond by being respect-

31 May 2018

ful, by not engaging in a real row and by walking away. I hope we continue in that tradition because it brings real strength. Compassion is strong.

Towards the end of the campaign, I met a friend on the “No” side at the bottom of Grafton Street. I believe she had just been crying because she, too, had many hard words said to her from passers-by. I stopped to chat to her. She said to me that, ironically, it was sometimes people in the sharpest suits who had said the hardest words. I hope we can recognise that there is compassion on every side. I was out at night when posters were being taken down. I saw a chap on the other side of the street - a man with his son in a family saloon taking down posters. It was not big American money or anything like that. They were just ordinary decent Irish people doing what they thought was right. We should recognise them and try to not to see this as a really divisive moment. I do not think it has to be. With regard to any of the priests I have heard or any masses I have attended, and I do go, I have not felt excluded as a “Yes” voter even though I was there last Sunday and I am the representative of the party with the highest “Yes” vote. My parish priest is the same compassionate individual. They do have a belief and we have a belief. Let us remember the Church’s teaching that every individual is special. This should not be forgotten, given up or dismissed. I hope we can do that.

I heard what the Taoiseach said the other day. I think we must start looking. What are we doing now? What are we doing for the future? The Taoiseach said, and it was the most important thing he said in my opinion, that we should use this as a moment, and I think we can get agreement on this, to make this the best country in which to raise a family. This is one thing people on the “Yes” and “No” sides have in common. Nobody thinks that having a huge number of abortions is necessarily a good thing so trying to work together to ensure there is an environment where there are fewer crisis pregnancies is surely something on which we can unite, which would be a good thing for this country.

My colleague, Clare Bailey MLA, who has been a great campaigner on this issue, and Deputy Catherine Martin have written to the Minister saying that the first thing we should do in the legislation is provide provisions for women from Northern Ireland to be able to avail of whatever services we provide here. That would be a compassionate approach and a recognition that the UK health system has helped us in times when we turned our back in this House.

Second, we should concentrate on the real things that make it difficult to raise and think about having a child, whatever type of family it is and it should be all different types of family instead of one being better than another. However, someone cannot have any sort of family if they do not have a home. I am sorry. All the words about how great we are now and what a brilliant and compassionate country we now have stick in my craw. It is a slight taste of the new craw thumper world where we talk about how brilliant and compassionate we are when we cannot build homes for people. We have an economy that is not about the family. It is all about growth, profit and greed. I would love to see that sort of sense of compassionate revolution and change in terms of what we do so that every pregnancy can, in the words of Nell McCafferty, who was brilliant in this campaign, have that sense of celebration, wonder, excitement and joy. That should be the scale of our response rather than just pat ourselves on the back about how brilliant we are at the moment and talk about what a great country we are. We are a great country. I love this country but we should be slightly careful that we do not lose the run of ourselves and lose compassion for all sides and all people in this country, which is what makes it a great country to live in.

Minister for Health(Deputy Simon Harris): In January, when I addressed this House on

the report of the Oireachtas Joint Committee on the Eighth Amendment of the Constitution, I spoke of some of the dark moments in our country's history, in particular our treatment of women. Today, I address this House in what promises to be a brighter Ireland. The people have spoken, spoken clearly and spoken in large numbers and they have said "we care". The women I have spoken to since last Friday's historic step for our country feel that their fellow citizens have voted to tell them they are trusted, they are valued and they are equal. I am so proud of the Irish people. We have had a number of referenda to bring about social change in this country over the years. We have referenda on children's rights, divorce and marriage equality and now on the eighth amendment. Each and every time, the people of this country have seen through the scaremongering and voted with compassion and care to the fore. For me, this referendum was always about much more than just giving the Oireachtas the power to regulate termination of pregnancy. It was about shouldering our responsibilities and making sure that compassionate healthcare will be provided to women at home in Ireland at last. It was about women's rights. It was about respect. It is about consigning a misogynistic legacy to our country's history books. It is about maturing as a tolerant, non-judgmental and inclusive republic.

I acknowledge the unwavering work of so many women over so many years, some who had been working since 1983 and before then, in campaigning for this day to come. They worked so hard for so long. On occasions, they must have wondered whether the day would ever come. I acknowledge the work of women and men in other parties and groups here who have campaigned long and hard for this across many Dálaí. I acknowledge Deputy Clare Daly, who has been quite a legend in this area. It pained me as Minister for Health to come into this House and to not be able to accept the Bills she was putting forward because of the constitutional barrier that was the eighth amendment. I acknowledge that parties like the Labour Party and people within that party like Senator Ivana Bacik have been working on this issue for years - long before it was popular. I thank and commend the Oireachtas committee chaired by Senator Catherine Noone which worked on a cross-party basis and did not engage in this Punch-and-Judy partisanship where people shout at each other because they wear different jerseys and really just rolled up its sleeves and got down to tackling the issue. It has served our country well.

Most particularly, I acknowledge the Together for Yes campaign, members of which I will be meeting today. It built an incredible coalition of compassion right across our country and fought so hard to deliver the result we got. I think of Termination for Medical Reasons. I think of the times I sat in rooms with its members and shared tears as they told their stories. They shaped my views and the views of so many who felt that we were adding to their cruel and painful tragedy by making them travel. I thank Amanda Mellet. I felt so inadequate as Minister for Health having to sit in a room with Amanda and her partner James and to only be able to say "I'm sorry". As a result of the bravery of people like Amanda, we can now take action in this country. I think of Savita, her parents and her husband. I thank her parents for speaking out. Our country has acted in a kind and compassionate way as a result of Savita's death and I hope her parents and family know this. I thank the medical leaders, particularly Dr. Peter Boylan and others who put their heads above the parapet only to be sneered at on occasion by opponents. Their bravery in providing expert clinical advice to our people is something for which I am very thankful. I thank lawyers like Fiona de Londras and others who came forward to explain why the eighth amendment was a real legal blot on our judicial landscape. I thank the media for providing factual information to people, covering this issue over a long period of time at Oireachtas committees and the Citizens' Assembly and providing fact checking, something that was very important in a referendum. When I voted last week, I thought of all these people but I also voted thinking of the women in my own life - my mum, my sister, my wife and others - who had

to endure the vile posters with personalised attacks aimed at me and others across this country.

The people have spoken and now we need to get on with our job. I am eager to implement the will of the people without delay. I brought a memorandum to the Cabinet this week and received approval to draft the Bill to regulate termination of pregnancy. This Bill will be in line with the Bill that was put before the people when they cast their votes last week. I thank the Opposition for engaging with me yesterday. It is so important that we continue to work in a bipartisan fashion. If we do that, we can get this Bill published through this House before the summer recess.

(Interruptions).

Deputy Simon Harris: Health spokespeople were invited. Deputy Mattie McGrath is certainly not one of them.

Deputy Mattie McGrath: That is not true.

Deputy Simon Harris: I want to thank-----

Deputy Mattie McGrath: That is completely untrue and the Minister knows that.

An Leas-Cheann Comhairle: Let us continue in the vein-----

Deputy Mattie McGrath: There were people there other than health spokespeople.

An Leas-Cheann Comhairle: That is a matter between the Deputy and the Minister for another time.

Deputy Simon Harris: I assure the people of Ireland-----

Deputy Mattie McGrath: The Minister does not know what the truth is.

An Leas-Cheann Comhairle: The Minister, without interruption.

Deputy Mattie McGrath: It is completely untrue.

An Leas-Cheann Comhairle: That is for another time.

Deputy Mattie McGrath: He said that there were----

An Leas-Cheann Comhairle: The Deputy knows we are pushed for time so I ask him to sit down.

Deputy Mattie McGrath: The Minister is telling untruths. He knows who was there.

Deputy Simon Harris: There are lessons for those of us in this House. There are questions for us as an Oireachtas - questions for all of us because on this issue, the people led and politicians followed. People in this House thought there were many different types of Ireland. People in this House said to me “ah, you might pass it in Dublin but you won’t pass it in rural Ireland”. That was untrue. People said “ah sure, the women might vote for it but you won’t get it through the men”. That was untrue. People said “ah, you’ll just get it through the younger people but nobody else”. That was untrue so I think we have a lot of self-reflection to do in this House. If we are the messengers of the people, I hope we heard their message, which was loud and clear.

However, I do not think we should stop right here because on Friday, Ireland addressed a complex and difficult issue with compassion and decency. I welcome the fact that the Taoiseach wishes to establish a citizens' assembly to examine all other issues relating to equality and fairness for women. There is a movement under way in this country and those of us in the House would do well to hear it.

An Leas-Cheann Comhairle: I thank the Minister and all Deputies for observing the time.

Ceisteanna - Questions

Priority Questions

Acting Chairman (Deputy Eugene Murphy): Yesterday the Leas Cheann-Comhairle and I had issues with times in terms of questions so I will be strict on time procedures and I ask Members not to abuse them.

The first question is in the name of Deputy Timmy Dooley but it has been agreed that Deputy Kelleher will take his questions.

Postal Services

1. **Deputy Timmy Dooley** asked the Minister for Communications, Climate Action and Environment his plans to facilitate the implementation of An Post's new vision programme; and the deadlines by which State services will be rolled out to the An Post network. [24176/18]

Deputy Billy Kelleher: What are the Minister's plans to facilitate the implementation of An Post's new vision programme and what are the deadlines by which State services will be rolled out to the An Post network? This issue has been discussed numerous times. The Minister comes from a constituency where villages and communities are very dependent on the An Post service, and this is replicated throughout Ireland. Will the Minister outline his plans and the implementation of same?

Minister for Communications, Climate Action and Environment (Deputy Denis Naughten): As Minister, I am responsible for the postal sector, including the governance of An Post. I am acutely conscious of the value placed by communities in both urban and rural areas on services provided by post offices and I am concerned to ensure the future needs of those communities continue to be met.

As part of its strategy for modernising the post office network, An Post has established a dedicated business unit within An Post, An Post retail. An Post's recently announced vision for the post office network centres around the availability of new services in a modernised, revitalised network. In fact, the company has announced an investment plan of €50 million in the post office network throughout the country, which is equivalent to €45,000 per post office. Such services will include a better range of Government services, financial services and e-commerce services for shoppers and small businesses. The announcement by An Post is supported by an agreement reached with the Irish Postmasters Union, IPU, executive following three months

31 May 2018

of intensive negotiations, chaired by Mr. Turlough O'Donnell, which has subsequently been endorsed by 80% of the IPU membership.

The agreement represents a positive first step in reinvigorating our national post office network and making it a viable, sustainable, modern and vibrant network for the future, capable of adapting to the changing environment in which it operates by providing a service that meets the needs of communities across the country, particularly in rural areas and particularly in light of the fact the current contract dates back to 1907.

We are already seeing a number of important new business initiatives being progressed. In February, a pilot e-local service was launched by An Post in three districts, namely, Bantry, Mullingar and Ennis. This service combines the strengths of online commerce with those of An Post's mail network for the benefit of local business. It gives local business an edge over national and international online operators by connecting retailers with their customers, both online and in person, and provides an overnight delivery service. A key feature of the *eLocal.ie* service is that An Post gives each retailer an online presence, displaying their goods and services, and enabling online orders.

As part of its consideration of the financial position of An Post, the Government agreed that further opportunities for Government business through the post office network, particularly the payment of motor tax, should be explored.

Deputy Billy Kelleher: At the end of the day the policies to support rural Ireland have to be substantial and of the same substance and essence in terms of the direction we take. We cannot be having on the hoof conversations on a regular basis about postal services and the facilities that will be offered to An Post and, consequently, to the public. We need to ensure there is a sustained focus on delivering services through An Post, which is why the policies have to be of the same substance and essence as the rest of the policies to support rural Ireland. Does the Minister accept the postal service is an integral part of providing a service to rural Ireland? If that proposition is accepted, what we need to do is ensure it is supported in a dynamic way. For example, the Kerr report outlines in great detail what should and could be done. There is also the New Zealand-style community banking. I know this is something that is being looked at, but has it been looked at in detail? Has due diligence been done on it? Could we have clarity on what exactly the Government will do to develop policies to support An Post rather than undermining it by closing postal services?

Deputy Denis Naughten: I am not in the business of undermining An Post and the Dáil record of my years in the House will clearly show this. In fact, I am one of the six of the 266 Members of the Oireachtas who bothered to make a submission to the Kerr report when it was sought at the time. I made it crystal clear there will be no compulsory post office closures in this country. Viable post offices cannot close unless there is an opportunity for someone else to take over the business. Where postmasters or postmistresses want to take the package on offer, and there are other retailers in the community willing to take on the operation, they will be given consideration to do this. My objective as Minister is to ensure as much work as possible goes through the post office network and the control I have as a Government Minister is over Government services. I want the post office to be the offline avenue for all online Government services, including motor tax, passports, and whatever the case may be. We must remember that one in seven people in this country has never used the Internet. They should not be excluded from availing of the efficiencies of online services.

Deputy Billy Kelleher: That is why there was huge excitement when the Minister was promoted to his position. It was because of his understanding of the issues and where he comes from and what he is. The criticism is not yet of him, but the reality is that as a Minister with responsibility for An Post, the delivery of Government services through same is within his gift. This is why it is critical at this particular juncture that we accept we can no longer allow the postal service to dwindle. We had 345 post office closures between 2004 and 2010 and 24 net closures between 2011 and 2014. Since March 2014, 16 post offices have closed, which is 1.4% of the overall network. Since 1998 almost 1,000 contracted post offices have closed. There has been a continual reduction of the number of the post offices. We can understand there is not the demand for what was there previously because of the changes in how we live and technological advancements but, at the same time, if we go below a critical mass the postal service will just diminish and will be unable to deliver any form of service. We have to stop and arrest that decline and reverse it with investment in services through An Post.

Deputy Denis Naughten: I will make a number of points. I agree wholeheartedly with Deputy Kelleher; one can count on one hand the number of post offices that have closed since I was appointed Minister; and 18 months ago, the chief executive of An Post came into my office to tell me that within 30 weeks the company would run out of cash and would not have money to pay salaries. We cannot have post offices unless we have a viable company, so this was my first priority. We have now put in place a viable structure. My second priority is to ensure we get Government services in. It is my intention within the next couple of weeks to bring a memorandum, with the Minister, Deputy Donohoe, to the Government to look at how we can put new Government services through the post office network. We are already piloting this. The Minister, Deputy Ring, has given me €80,000, through the post office network, to look at the digital assist pilot. It is not just about Government services. Take websites such as *bonkers.ie* and *switcher.ie* through which people can get savings of up to €300 on their electricity bills. Offline customers cannot avail of this. It should be available to them through the post office network because they are the most vulnerable customers. They are using the post office network currently and we should be able to use the local digital avenue through the offline desk in the post office to ensure everyone can exploit the digital economy.

National Mitigation Plan Implementation

2. **Deputy Brian Stanley** asked the Minister for Communications, Climate Action and Environment his plans to replace the National Mitigation Plan under the Climate Action and Low Carbon Development Act 2015. [23936/18]

Deputy Brian Stanley: My question is about the replacement for the national mitigation plan. It is not working and that is not just my view. It is not getting us to where we need to go to. An Taisce has stated it is fundamentally flawed and that it should be withdrawn. Friends of the Earth has stated it is not fit for purpose. Stop Climate Chaos has stated it has to be radically reviewed. What action will the Minister take to redraft the plan or reinvigorate it? As it is not working, we all have to take action on the issue.

Deputy Denis Naughten: Meeting Ireland's EU targets to reduce greenhouse gas emissions by 2020 and 2030 will be extremely challenging. The latest projections for greenhouse gas emissions, published by the EPA this morning, indicate that emissions from those sectors of the economy covered by Ireland's 2020 targets could be between 0% and 1% below 2005 levels

by 2020 in the context of a target that they should be 20% below their 2005 levels. While this is deeply disappointing, it is not surprising, given the recent pace of economic growth and the consequent increases in emissions from the agriculture and transport sectors, in particular. The projected shortfall in our targets is further exacerbated by the constrained investment capacity in the past decade due to the economic crisis.

For 2030, the recently agreed EU effort sharing regulation sets out binding annual greenhouse gas emission targets for each member state for the period 2021 to 2030. Ireland's target under the regulation will be a 30% reduction in 2005 levels of emissions by 2030. That is where we must focus our efforts to ensure that at the absolute minimum we meet our 2030 target.

To meet these targets, I published Ireland's first statutory national mitigation plan. It provides a framework to guide investment decisions by the Government in domestic measures to reduce greenhouse gas emissions. The purpose of the plan is to specify the policy measures required to manage Ireland's greenhouse gas emissions at a level appropriate to making progress towards our long-term national transition objective as set out in the Climate Action and Low Carbon Development Act 2015, as well as to take into account existing EU and international obligations on the State in reducing greenhouse gas emissions. The plan very explicitly defined the scale of the challenge facing Ireland in decarbonising and declared itself to be a first step and not a complete roadmap to achieve the national transition objective to 2050; rather, it began the process of development of medium-term to long-term options to ensure we would be well positioned to take the necessary actions in the next and future decades. The plan is a living document which is being implemented and updated on an ongoing basis. In that sense, the issue of replacing it does not arise, although I will shortly publish an update on climate mitigation policy to coincide with the Empowering Communities for Climate Action event on 20 June which will reflect the significant policy developments since the national mitigation plan was published, in particular with the publication of the national development plan.

Additional information not given on the floor of the House.

Building on the national mitigation plan, the publication in February of the national development plan will lead to a significant step change in funding available for climate action in the next decade. Reflecting the strong commitment of the Government on this issue, almost €22 billion will be directed, between Exchequer and non-Exchequer resources, to addressing the transition to a low-carbon and climate resilient society. In addition, the national development plan allocated a further €8.6 billion for investments in sustainable mobility. This means that well over €1 in every €5 spent under the national development plan will be on climate mitigation and this capital investment will enable us to deliver a significant reduction in greenhouse gas emissions in the period to 2030.

The key investment priorities in the national development plan that my Department will take forward include energy efficiency upgrades of 45,000 homes per annum from 2021 and providing support for a major roll-out of heat pump technologies; delivering energy upgrades to BER 'B' level in all public buildings and a minimum of one third of commercial buildings; implementing the new renewable electricity support scheme to deliver an additional 3,000-4,500 MW of renewable energy, with the initial focus on shovel ready projects which could contribute to meeting our 2020 targets; the roll-out of the support scheme for renewable heat and national smart metering programme; transitioning the Moneypoint plant away from coal by the middle of the next decade; having at least 500,000 electric vehicles on the road by 2030 with additional charging infrastructure to cater for planned growth; and a €500 million climate

action fund, which I announced yesterday, to leverage investment by public and private bodies in climate action measures.

Both the national mitigation plan and the national development plan explicitly recognise that the reliance solely on Exchequer expenditure schemes is neither affordable nor adequate to meet the scale of the challenge to be addressed and climate mitigation action will require a targeted balance between Exchequer-supported expenditure, taxation measures, regulation and behavioural change. In certain cases, taxation policy may have a stronger role to play in changing individual or business behaviour and investment decisions, including harnessing non-Exchequer finance.

Carbon tax, in particular, has a critical role in climate mitigation policy and the national mitigation plan commits the Department of Finance to completing a review in 2018, with a view to setting a long-term trajectory for the evolution of this tax. Clear long-term signalling by the Government on the future evolution of the tax is vital, as well as an examination of what other changes to the taxation regime could be considered that would assist with the achievement of climate targets. The low emission vehicle task force is bringing forward proposals in that regard.

As regards significant regulatory change, the national development plan commits the Government to no new non-zero emission cars to be sold in Ireland post-2030, with no NCT certificates to be issued for non-zero emission cars post-2045. There is also to be a transition to a low emission urban bus fleet, including electric buses, with no diesel-only buses purchased from 1 July 2019.

In terms of ongoing climate mitigation policy development, the European Union requires that we produce a draft national energy and climate plan by the end of 2018, with the final plan to be developed by the end of 2019. This represents a further opportunity to build on the national mitigation plan and the national development plan to ensure Ireland moves to a pathway of long-term decarbonisation. I am required, under the 2015 Act, to bring forward a new national mitigation plan at least once every five years. The latest date by which this must happen is, therefore, July 2022.

Deputy Brian Stanley: From the response I am led to believe things are actually worse than I thought. We are nowhere near where we should be in tackling climate change. The Minister has said the national mitigation plan is a living document. It is a dead document. I do not mean to be negative, but we have reached the carbon cliff I feared when the climate action legislation was being passed through the House three years ago. The targets included in the plan are not binding. We are not even going to make a 2% reduction when we should be reducing carbon output by 20% by 2020. The Minister and his officials are now saying we will hopefully reach this point by 2030. The facts are that agricultural emissions are projected to increase by 45% by 2020. Transport emissions will increase by 10% to 12%. The SEAI warns that the continued use of coal, peat and oil means that the carbon intensity is 32% higher than in other OECD countries. Where is the energy mix? I do not hear any mention of the replacement of fossil fuels in the Minister's answer. Will he lay out what will displace fossil fuels?

Deputy Denis Naughten: The figures are deeply disappointing. It is clear from the EPA's report that we face an enormous challenge to meet our 2030 targets. Energy policies already announced should mean a 40% reduction in emissions by 2030. There will be increases of 7% in the area of housing, 17% in transport and 6% in agriculture. We have to look specifically at

each of these areas now. In the transport sector diesel is a huge problem for us. It is broken down into several challenges, including commercial freight. Last week I launched the first CNG filling station in Ennis for Clean Ireland. Some 80 such filling stations will be rolled out across the country. We have to consider CNG as a transition fuel to biofuels. City travel is another challenge. As part of the first ever clean air strategy that we hope to publish soon, we are considering a system similar to that which will be introduced today in Hamburg which imposes a ban on older diesel cars in the city centre. We have to look at mechanisms to drive the changes we need to make if we are to reach our 2030 targets.

Deputy Brian Stanley: It is clear from the Minister's reply that we are not moving quickly enough. There has been a succession of pilot schemes, but we are only scratching the surface. The national mitigation plan 2017 restates the Government's commitment to replace fossil fuels, but it is now relying on natural gas. The Corrib gas field has less than a ten-year lifespan. We will be relying on the use of imported gas and onshore wind energy. Where is the plan for offshore wind energy projects? It is not being developed. There is no feed-in tariff for solar energy projects; one cannot be connected to the grid to supply surplus solar energy supplies. A company in County Laois has 40 other companies lined up to feed into the grid, but it cannot gain access. I have previously outlined the need to switch to biogas in agriculture. We are scratching at the surface and I am asking the Government to up its game. All of society needs to up its game. We need clear action plans to make the transition necessary. We have lost three, four or five years and now need to play catch-up and make a serious start in moving from fossil fuels to renewable energy resources.

Deputy Denis Naughten: I reject that comment. A total of €1 out of every €5 spent under the national development plan will be spent on climate related projects. The national planning framework specifically targets brownfield sites. We have a 65% loading of wind energy on the grid, the highest anywhere on the globe. The Moneypoint plant will be decommissioned by 2025. Ireland will be one of the first countries in Europe to take coal out of the system. Smoky coal will be banned by the end of this year. Again, this one of the first countries in the world to do so. Peat will be taken out in power generation by 2030. The support scheme for renewable heat will I hope go live in the coming weeks. It will support the use of biomass and biogas. The broadband plan will be built out in the coming months, which will have a direct impact on transport emissions. We are discussing a ban on the use of non-zero emission cars from 2030. We are banning the use of diesel in new buses from 2019. The climate action fund, announced yesterday, has been allocated €500 million. The smart farming programme which targets a 10% reduction in emissions is being scaled up this year. We have genotyped 1 million beef animals in the past few years. The warmth and well-being deep retrofit pilot scheme is being expanded nationwide through the warmer homes scheme. The carbon tax report will be presented before the budget. We have introduced benefit-in-kind relief on electric vehicles. We have reduced toll fees. We have increased supports for taxis and Government services and business to convert to the use of electric vehicles. We are improving the charging infrastructure. We have established Bord na Móna BioEnergy. The Fossil Fuel Divestment Bill is going through the House.

Acting Chairman (Deputy Eugene Murphy): I thank the Minister.

Deputy Denis Naughten: We have Luas cross city, the BusConnects programme and the public sector energy efficiency scheme, which means that the public sector can now hold on to the energy savings we make. We are replacing public lighting throughout the country. We are rolling out compressed natural gas, CNG, filling stations throughout the country. We have established local authority climate action offices.

Acting Chairman (Deputy Eugene Murphy): I thank the Minister.

Deputy Denis Naughten: We have implemented the Kigali protocol and funding for that. We are rolling out brown bins throughout the country-----

Acting Chairman (Deputy Eugene Murphy): Minister-----

Deputy Denis Naughten: -----and we are addressing the issue of food waste. All of this has happened in the past two years since I was appointed Minister.

Acting Chairman (Deputy Eugene Murphy): While there is no limit as such on time for priority questions, I would appreciate it if everybody kept somewhere within the limit. I understand the Minister is trying to get a message across and I am reluctant to interrupt him.

Question No. 3 is in the name of Deputy Dooley and it has been agreed that Deputy Kelleher will take the question.

Renewable Energy Incentives

3. **Deputy Timmy Dooley** asked the Minister for Communications, Climate Action and Environment the status of the new renewable energy support scheme; the date by which this will be launched; and if he will make a statement on the matter. [24177/18]

Deputy Billy Kelleher: Does the Acting Chairman not want to interrupt the Minister for the reason that he is a constituency colleague or is it the message he is delivering?

Acting Chairman (Deputy Eugene Murphy): There are manners, too.

Deputy Denis Naughten: I am a constituent.

Deputy Billy Kelleher: In regard to climate action, will the Minister provide an update on the renewable energy support scheme, the date by which it will be launched and if he will make a statement on the matter?

Referring back to Deputy Stanley's question, while the Minister outlined a good deal of progress, the reality is that we are still behind on our targets. Progress has been made but enough has not been made so far and we are now in peril of putting the country in a position where it could be in breach of agreements already made.

Deputy Brian Stanley: It is in breach.

Deputy Billy Kelleher: It is in breach, yes.

(Deputy Denis Naughten): It will be in breach by 2020 in regard to emissions.

Deputy Billy Kelleher: Yes.

Deputy Denis Naughten: The 2015 energy White Paper presents a long-term strategic vision that is intended to guide the direction of Irish energy policy from now until 2030. It identifies the long-term strategic importance of diversifying Ireland's energy generation portfolio and largely decarbonising the energy sector by 2050. My Department is developing a proposed new renewable electricity support scheme, RESS, which is designed to assist Ireland in meeting

31 May 2018

its renewable energy contributions out to 2030 and, in addition, I intend that the scheme will provide opportunities for shovel-ready projects that can deliver for our 2020 targets.

The new scheme will support the delivery of Ireland's national policy objectives, in particular the transition to a low carbon and climate resilient society, as laid out in the national mitigation plan, the national development plan and Project Ireland 2040. In addition, the new scheme will deliver capacity building supports for community-led projects, including financial, technical and legal assistance, along with community benefit obligations for all projects looking for support under the renewable electricity support scheme.

The design of the new scheme includes an extensive independent economic appraisal to compare the cost of supporting a range of commercial renewable technologies at various scales to ensure that the new scheme delivers value for money for energy users while also delivering on the energy pillars of competitiveness, sustainability and security of supply. The assessment also includes analysis of the optimum financial support mechanisms for renewable technologies, in line with the 2014 EU state aid guidelines. The analysis indicates that a number of renewable technologies have converging and in some cases overlapping cost ranges, and I note the continued falling costs of renewable technologies such as offshore wind and solar photovoltaic, PV.

I am keen that the new scheme encourages the diversification of renewable energy technologies in Ireland while mindful of the need to minimise the costs on consumers through the public service obligation, PSO, levy. At this stage, no final decisions have been made regarding the new technologies or scales to be supported under the new renewable electricity support scheme.

The final design proposal will shortly be brought to Government for approval, including the overall costs and technologies to be supported. Subsequent to the Government decision, a formal application for state aid clearance will be submitted to the European Commission and the scheme is expected to open in 2019.

In parallel with the development of the RESS, I am also developing a pilot scheme for microgeneration which will be launched later this year and will target domestic households and self-consumption.

Deputy Billy Kelleher: The Sustainable Energy Authority of Ireland, SEAI, has assessed that it will cost the State approximately €100 million to €150 million for every percentage point we are over the 16% renewable energy target by 2020. We are facing definite fines. The key question is what we are doing about that. While we have the policies, the implementation of same is the key issue. We have no difficulty drafting policies in this country but the delivery of same is a problem. For example, we have been waiting a long time for the roll-out of the renewable energy support scheme. The REFIT scheme has stalled. The biomass sector also has been waiting on the support scheme. Those are key sectors within the sustainable sector that are literally waiting for decisions to be made by the Minister and by Government to ensure we can stimulate activity that can allow for a reduction in our emissions.

Deputy Denis Naughten: I accept the frustration Deputy Kelleher is expressing. When I went into this new Department that had been formed, the clean air strategy, the wind regulations, the renewable heat incentive scheme, the renewable electricity support scheme, both in terms of microgeneration and broadening the renewable mix, the national broadband plan, NBP, the flat rate bin charges, the mitigation plan and the adaptation were sitting there, so to

speak, trying to be progressed. We have progressed all of those now. We will be bringing a memorandum to Government on the renewable electricity support scheme.

During all of this period we have had to deal with the challenges in regard to Brexit and the consequent knock-on issues to do with energy security, the challenges we talked about earlier in regard to An Post, the waste capacity crisis and the ongoing issues to do with RTÉ. A significant amount of work has been done in the past two years. It has been challenging to move this agenda forward, but we will have the renewable electricity support scheme operational next year. I want to see that operational as quickly as possible because there is the opportunity to ensure that some of that can feed into our 2020 targets. It must be remembered that the renewable electricity support scheme was always planned for our 2030 targets, not our 2020 targets. REFIT is there to meet our 2020 targets, and we are looking to see how we can release some of the blockages in the system to achieve as much as we can under that as well.

Deputy Billy Kelleher: *Carpe diem*, Minister. We cannot depend indefinitely on the future. We can say it will happen but there is one thing we can guarantee here today and that is that Ireland is facing substantial fines for failure to meet its targets. There are key areas within the sustainable sector that need stimulation from Government policy and initiative. The biomass area, for example, solar photovoltaic, PV, and many other areas will be key components in moving the economy to a reduced carbon emission dependency, but they are waiting for Government policy. We have major sectors of the economy, so the private sector will respond to stimulation, incentive and demand. We know there is demand and if that demand is not addressed, we will face further fines continually. Rather than the Minister outlining his policies in terms of what he has done to date and the greater plans into the future, in the here and now we should start that stimulation of the private sector so that it can get on with investing in sustainable energy solutions for the broader economy.

Deputy Denis Naughten: We expect to get approval in the coming weeks from the European Commission for the support scheme for renewable heat. That will stimulate the biomass sector. Prior to that we established Bord na Móna BioEnergy because there is no point having demand unless we have a supply chain. That was established this time last year and that supply chain is now in place.

We will also support biogas, which is something about which Deputy Stanley feels very strongly, under the support scheme for renewable heat. We are engaged through Gas Networks Ireland on a working group on district heating which will also provide demand in terms of the bioeconomy aspect.

In regard to solar PV, we will have a microgeneration scheme operational before the end of this year. There are technical challenges with that but I want a scheme that is not just for this year and that can be expanded and developed in the coming years.

In regard to large-scale projects, that will be part of the renewable electricity support scheme. There are 6.5 GW of applications onto the grid. To put that into context, the total peak demand in Ireland on a cold winter's day is 5 GW, so we have more demand for connection than we can use on the heaviest loading day in this country. The pent-up demand is large. We will never meet that scale of demand but we will be facilitating getting some of those onto the grid as quickly as possible.

31 May 2018

Broadband Service Provision

4. **Deputy Mattie McGrath** asked the Minister for Communications, Climate Action and Environment his views on the poor broadband service and deteriorating mobile coverage in County Tipperary; and the measures he will take to improve same. [24178/18]

Deputy Mattie McGrath: The broadband service is non-existent in many areas, as the Minister knows, and the mobile coverage on all networks has become a complete joke. In my county, people could have good conversations ten years ago but now they cannot make or continue any conversation due to the calls dropping out. It is appalling.

Deputy Denis Naughten: The national broadband plan aims to ensure high-speed broadband access to every premises in Ireland, regardless of location. In April 2016 approximately 38,500 premises in County Tipperary had access to high-speed broadband. As of 11 o'clock March 2018 that has gone up to 40,500 premises in County Tipperary with access to high-speed broadband, with a further 13,000 to be served under Eir's ongoing rural fibre deployment. Some 30,000 premises will be served under the final phase of the State-led intervention in the national broadband plan.

I included in the programme for Government a commitment to a mobile phone and broadband task force, which works with the Minister of State, Deputy Kyne, and stakeholders to alleviate some of the mobile coverage and broadband deficits. The following initiatives are evidence of the effectiveness of the task force in bringing forward proposals that will enhance mobile phone service quality, particularly in rural areas such as County Tipperary. They include the appointment of a broadband officer in every county to act as a single point of contact in local authorities for their communities, the removal of development contributions for telecommunications infrastructure and the revision of exempted development regulations by the Department of Housing, Planning and Local Government for the rollout of 4G and 5G broadband services.

My Department and the Department of Rural and Community Development, together with local authorities, have worked with telecoms companies to achieve greater consensus around site selection for telecoms infrastructure. Both Departments also worked with local authorities to map blackspots and identify infrastructure which could be used to provide additional coverage. I know Tipperary has submitted a list to our Departments in that regard. ComReg is developing a composite national coverage map which will, together with its work on handset testing, better inform consumer choice. The release by ComReg of the 3.6 GHz radio spectrum band, following my authorisation of this, will increase mobile capacity by 86%. In County Tipperary Transport Infrastructure Ireland has completed significant duct installation along the M8 motorway between Cashel and Mitchelstown. In the months ahead the task force will continue to take actions that will further improve mobile phone and broadband coverage throughout Ireland, including County Tipperary.

Deputy Mattie McGrath: I know the Minister appreciates how fundamentally important this matter is, not only to households but to the economic rejuvenation of rural regions and the very survival of small rural businesses. I note that, at the beginning of the month, the Minister gave an interview to the *Irish Independent* in which he was asked whether we should have a universal service obligation for broadband. In addition, he recently welcomed the launch of the EU Wi-Fi initiative, which means public spaces across the country will get free Wi-Fi hotspots and money will be made available for this. I acknowledge these good and positive developments. The problem is we have been listening to announcements like this for years. I was at

many of those talks and we all fought for these services but the situation is now worse. I do not know why the Government laid the duct between Cashel and Mitchelstown because there is nothing in it at the moment but water off the mountains, and there is no mobile service. The national broadband plan has been in the pipeline since 2009, including when Pat Rabbitte was Minister. People are sick of announcements. Students cannot fill out their CAO forms, farmers cannot do their business online and businesses cannot operate and have to move from rural areas. It is not acceptable, as the Minister and I both know.

Acting Chairman (Deputy Eugene Murphy): The time is up.

Deputy Mattie McGrath: There were announcements followed by announcements but we then had the loss of a competing company. I have asked before that the Minister would buy back Eir because there is no one to deliver this on the ground and we have an antiquated system. We cannot do business either on the road or at home.

Deputy Denis Naughten: There is no one more frustrated with what is going on across this country at the moment in regard to mobile phone and broadband coverage than myself. I was the one who got this written into the programme for Government specifically in regard to mobile and wireless broadband. I know the situation at first hand. As Minister for Communications, Environment and Climate Action, I find it frustrating that I have to turn off data on my phone to make phone calls. It is not good enough that people across the country have to do this to make phone calls. Let us remember there has been a phenomenal increase in the data demand on our mobile network and many people in rural areas are dependent on that at the moment.

Things are improving, however. We are delivering fibre broadband and that will ramp up later this year or early next year with the final phase of the national broadband plan. We are working with the telecoms companies to examine how to address mobile blackspots. The resources are being put in and the spectrum has been given to those companies. What it means is that the industry now has far more space to carry data and this allows it to improve the 4G services that are available across the country, which will improve the quality of mobile services.

We are determined to do this. The Minister of State, Deputy Kyne, and myself are working very closely in regard to the deployment of the national broadband plan to put initial community hotspots in place so that, if people cannot access high-speed broadband in their homes, they should at least be able to access it in a warm location, such as a local community centre.

Deputy Mattie McGrath: I acknowledge and share the Minister's frustration. My own iPhone has no data and I cannot make or hold calls whereas I could do that ten years ago. A con is being perpetrated on the public. We are paying fees and taxpayers' money is going into this. Fees are being waived while the masts are going up but there is no service. It is like liquorice allsorts, where you pick out the nicest one. They are turning off the mobile service to boost the broadband. It is a farce in rural Ireland. I can pick ten areas between Cahir and Dublin where I lose service completely on a national motorway, never mind it happening on the highways and byways in places like Mullinahone, where people cannot do business and families are begging me to make it possible for them to work from home. This would cut down emissions and make life better for people in every way but they cannot do it. Mullinahone, Hollyford and the Glen of Aherlow are no-go areas and it is the same in many areas of Clonmel, a major town in the county, and right up to Thurles. The service is not there and it is slipping by the day. We are being conned by con artists who are telling us they are doing this. They are getting money for jam. They are getting money under false pretences because the service is not there.

31 May 2018

Acting Chairman (Deputy Eugene Murphy): I advise the Deputy not to use terms like con artist. I call the Minister.

Deputy Denis Naughten: There is a significant problem. Deputy Eugene Murphy and I travel from Roscommon through places like Ballymurray, Knockcroghery, Kiltoom and Kilbeggan, and we drop calls on the way to Dublin. It is frustrating and that is why we are putting in the ducting-----

Deputy Mattie McGrath: Why is it going backwards?

Deputy Denis Naughten: That is why we are putting in the ducting on the motorways, where 100 km of ducting has been put in by Transport Infrastructure Ireland over the last 12 months. It is currently working with the telecoms companies on the siting of antennae along those motorways and on the national primary network. However, for me and for the Minister of State, Deputy Kyne, that is not good enough. We want to address this issue in rural communities as well, not just on the motorways and the national road network. That is why we are working with the local authorities, such as Tipperary County Council, which has presented us with a list of blackspots, and the local authorities in Galway and Roscommon, and working with the companies to see how we can physically address the issues in those locations in the short term.

Recycling Policy

5. **Deputy Eamon Ryan** asked the Minister for Communications, Climate Action and Environment the steps he plans to take to achieve the measure that 100% of plastics are recyclable and that 50% of such materials are recycled by 2030 as per the EU plastics strategy; and the timeframe for the introduction of such measures. [24175/18]

Deputy Eamon Ryan: I ask the Minister to outline how we will completely change our plastics system. The European Commission was out earlier in the week on one aspect, that of single-use plastic, but we have to go far beyond that and tackle a whole range of different issues. This morning we hear the plan of this Government is to burn our waste. An incinerator is to be built in Cork, there is one in Limerick and the one in Dublin is going full steam. I do not think that is the future. I do not think anything this Government is doing in terms of the environment is looking to the future so I am keen to hear what are the real plans to treat plastic waste in a serious way.

Deputy Denis Naughten: Ireland has supported the adoption of a set of ambitious measures to make EU waste legislation fit for the future as part of the EU's wider circular economy policy. The new recycling and land-filling targets set a credible and ambitious path for better waste management in Europe. They include a new recycling rate of 55% for plastic packaging waste by 2035 which will help drive real progress towards the circular economy.

In January 2018 the European Commission published the European strategy for plastics in a circular economy. The strategy focuses on plastic production and use and sets a goal of ensuring all plastic packaging is recyclable by 2030. I recently wrote to the European Commissioner with responsibility for the environment to welcome the EU plastics strategy. I assured him Ireland would fully embrace the ambitions in the new strategy. I asked the Commission to focus, in particular, on the most difficult non-recyclable plastics such as soft wrapping, film and single use items and bringing forward timetables.

I am pleased, therefore, to note this week that the Commission has published a further proposal for dealing with the ten single-use plastic products and fishing gear that together account for 70% of the marine litter in Europe. The proposal includes: a ban on certain plastic products; targets for reducing the use of certain plastics; and obligations on producers to cover the costs of waste management and clean up.

I am urging the European Parliament and the Council of Ministers to consider these proposals as soon as possible so they can be implemented in Ireland and other member states. Before this week's Commission proposals, it would have been illegal for individual member states to take actions to ban packaging or interfere with the EU internal market. Now all 28 member states will be able to move as one to tackle plastic waste.

I am not prepared to wait for EU-wide action. In advance of the EU bans and restrictions coming into place, I am currently considering what financial incentives or penalties I can introduce in Ireland in the interim to tackle the use of the single use plastic items identified by the Commission in a way that is compatible with EU legislation. I am looking forward to bringing forward practical solutions and a package of measures, along with my Government colleagues responsible for marine environment and fisheries, that will work in an Irish context.

Deputy Eamon Ryan: I am very glad to hear that. I was also thrilled to hear the EU proposals this week because they mirror exactly what is in our waste reduction Bill. We were a year ahead of the Commission on the key things, including a ban on single use items like knives, forks and cotton tips, tackling single use cups and containers, the proposal for a 15 cent latte levy on plastic cups to fund the compost bin collection system and a deposit refund scheme which is the only way we could achieve the target of a 90% reduction in single-use plastic bottle recycling by 2025.

It is to be hoped our Bill can go to Committee Stage and be implemented. If there are amendments from the Minister on Committee Stage I would welcome them. It is doable. A Bill is in place and we do not have to wait for the European Parliament to legislate. We can legislate ahead of the curve in this instance. Will the Minister agree to allow the Bill to go to Committee Stage? What do we have to do to achieve that?

Given what we heard earlier about how long it takes to do things, should we not act with a certain urgency? The 2025 target is only seven years away. Given what we heard earlier about how difficult it is to introduce renewable incentives and broadband, we need to be quick. Will the Minister allow the Bill to go to Committee Stage quite quickly, enact it and get on with reform?

Deputy Denis Naughten: I agree with everything Deputy Ryan said. As he knows, I fully support the principles behind the Bill he introduced. He might give me a copy of the response he received from the Ceann Comhairle which would help to facilitate the debate. As the Deputy knows, we discussed the issue in the committee in private session, disappointingly, at the last meeting. It would be extremely helpful to get clarity on that issue.

Deposit and return is part of a whole suite of issues. Given the plastic industry here and the brief engagement I had with Athlone Institute of Technology, there may be opportunities in respect of that. I have also said we have a very different waste collection structure in this country. We need to make sure the system we design meets our needs, not those of the Germans or Dutch. We need to primarily ensure that waste is not generated in the first place and where

31 May 2018

it is generated that it is not going into landfill and can be recycled. That has to be our priority. Speaking privately with my ministerial colleagues at the Council of Ministers on the last occasion we met, I made it quite clear that if private companies can get rid of single-use plastic on a commercial basis within five years we should not wait 12 years to do the same.

Deputy Eamon Ryan: We have to make sure the system is right for Irish circumstances, but we also have to make sure that we are not afraid of pushing the industry. In the case of a deposit refund scheme the latest research we have shows that our companies are paying only 0.2% per container towards the recycling system. We think that should rise to the European average, if not slightly higher. That is the primary mechanism by which we can fund the new deposit refund scheme. Companies will not like that but it is part of their responsibility. It is called corporate social environmental responsibility. If everyone is doing it, there is no disadvantage to one company over another. There will be a fair and level playing field and companies will not be at a significant disadvantage. I am glad to hear that the Minister seems willing to allow the Bill to go to Committee Stage. I will talk to the Ceann Comhairle and make sure that whatever he needs to do is done.

I wish to make a wider point. This is one very important aspect of what we need to do. Another important aspect of the European circular economy and plastics directive means we have to do much more. I fear that the news today that there will be another 250,000 tonne incinerator - incinerators love plastic because it gives them energy to burn - is in direct contradiction to the European circular economy and plastics strategy. It is not a circular economy when waste is being burned. There is still 20% ash and all sorts of environmental considerations. The wasteful use of material is just plain wrong. How does the Minister intend to implement other massive changes we need to make when we will be burning so much waste?

Deputy Denis Naughten: I am not afraid to push industry. I introduced the ban on flat rate bin charges last year. I am rolling out brown bins across the country, which the industry does not like. Many issues Deputy Ryan touched on are issues we are actively engaged with at the moment.

As the Deputy knows, plastic does not go into incineration; the vast majority goes into other facilities across the country. It should not be going into facilities in the first place. The major problem we have is the contamination of plastic. The reason China is closed to us in respect of plastic is because of the scale of contamination. Since the back end of last year, we now have a uniform list of materials which can go into the recycle bin. Paper and plastic needs to be dry and clean if it is to be put into the bin. Recycling ambassadors are knocking on doors in Roscommon, Galway and every other county across the country to explain to people what can and cannot go into a recycling bin, how it should be presented and what can and cannot go into the brown bin. We want brown bins to be rolled out to every home across the country. We need to encourage homeowners to start segregating their materials properly.

Acting Chairman (Deputy Eugene Murphy): We have spent 50 minutes on five questions. While there is some latitude, we have gone way over time. I will be very strict on time for Other Questions. There will be 30 seconds to introduce, two minutes for the Minister and one minute for each supplementary question and reply. I want to be fair to all of those who have tabled questions. Sometimes as we come towards the end of the debate people who have sat around for a long time unfortunately do not have their question answered.

Dáil Éireann
Other Questions

Energy Policy

6. **Deputy Timmy Dooley** asked the Minister for Communications, Climate Action and Environment the immediate contingency steps he will take to safeguard security and competitiveness of energy supply here following the decision by UK voters to leave the EU; and if he will make a statement on the matter. [23962/18]

Deputy Billy Kelleher: I ask the Minister to outline the immediate contingency steps that he will take to safeguard the security and competitiveness of our energy supply. The key issue is a guaranteed supply of energy in view of what is happening in respect of the Brexit discussions and further afield, such as international issues that may impact on energy supply and security.

Deputy Denis Naughten: Contingency planning for Brexit is advancing through the cross-departmental co-ordination structures chaired by the Department of Foreign Affairs and Trade. This work is also informed by the ongoing stakeholder engagement. In addition, senior officials from the Department are engaged with the TF50 EU negotiating team in Brussels in mapping out particular North-South issues as part of the signalled preparations for the future trade discussions.

My Department has completed two civic engagements and published analysis of energy issues in the context of Brexit, including setting out four priorities, the first of which is to maintain security of trade in energy between the United Kingdom and the European Union. A copy of this analysis is available on my Department's website.

I would underline that Ireland is one of 27 European nations of the EU with which the UK is negotiating its future relationship and while there can sometimes be a focus on Ireland's trade patterns with the UK, it should also be noted that the UK imports approximately 50% of its gas and up to 10% of its electricity.

As the Brexit negotiations continue, of critical importance for Ireland is protecting security of supply and energy trading. Ireland currently has two gas interconnectors and one electricity interconnector with the UK. There are also connecting electricity and gas lines between Ireland and Northern Ireland, and additional North-South and east-west connection is both planned and proposed. There is no reason to believe that gas and electricity will not continue to be traded post Brexit. However, the terms of this trade will be influenced by the terms of the withdrawal agreement finally agreed by the United Kingdom with the European Union. The backstop provision in the draft agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, states at Article 6, "Single electricity market - The provisions of Union law governing wholesale electricity markets listed in Annex 2.7 to this Protocol shall apply to and in the United Kingdom in respect of Northern Ireland."

Deputy Billy Kelleher: I thank the Minister for the reply. At the outset, the single electricity market has been written into law in both jurisdictions so we can take it that regardless of the outcome of the Brexit negotiations that particular issue will continue as is. What is of importance and significance is the Integrated Single Electricity Market, I-SEM, which is further liberalisation and interconnection between North and South in terms of the energy market. That

is contingent on the withdrawal agreement and on Ireland and the UK closely co-operating regardless of the outcome of the Brexit negotiations themselves in the context of I-SEM. Has the Minister met with his counterpart to discuss this issue on a bilateral basis?

Deputy Denis Naughten: On I-SEM.

Deputy Billy Kelleher: Yes, the Integrated Single Electricity Market. Could the Minister outline whether he or his officials have met or are liaising with their counterparts, because regardless of what happens with Brexit, we should continue to pursue the further integration of the North-South energy market and electricity supply?

Deputy Denis Naughten: I have definitely met with them twice personally and I would have met some representatives of the British Government as well and this is one of the issues we discussed. I-SEM was the key priority issue discussed with Mr. Richard Harrington MP at both of those meetings. I met with my then Northern Ireland counterpart on this as well and I met with a number of companies operating in Northern Ireland and here. There is a lot of personal engagement and there is considerable ongoing engagement between my officials and British officials in Whitehall on this issue. There is also engagement between my officials and the other 26 member states and this would be an issue that I would have discussed with colleagues as well.

Deputy Billy Kelleher: The Minister is aware of the importance of having a guaranteed, consistent energy supply at reasonable prices, particularly for international investment. That is a key component for any foreign direct investment company looking around the world for where to locate and invest. The other issue is the competitiveness of the internal Irish economy and if there are tariffs on electricity or on the movement of electricity or energy supplies if I-SEM is not addressed in a proper way, it could be the case, post-Brexit that there would be difficulties and impediments to the free movement of energy supply North and South. As we move to try to integrate an all-Ireland market in this area, I welcome that the Minister has met his counterparts and is proactive and I urge him to continue to do that because this is of critical importance in the context of the climate action and environment brief he holds but also for business, employment and innovation. It is a key component in ensuring we remain competitive as an economy.

Deputy Denis Naughten: While there is a lot of focus on tariffs, regulatory impediments could be a bigger issue, not so much in relation to I-SEM but in terms of east-west developments.

Deputy Billy Kelleher: Transactional costs as opposed to tariffs.

Deputy Denis Naughten: Not costs, regulatory issues can be a bigger problem. In fairness, the team within the Department is looking at the broad aspect of this, not just the political focus which is on tariffs. In my conversations with my British counterpart, I have made these specific points. It is not just the issue of tariffs, that is relatively minor. It is getting access to the energy that is of importance. It is important to the British economy as much as the Irish economy. Remember that last winter we exported electricity to the UK because it ran a net deficit. I am glad to say that yesterday EirGrid confirmed that it has begun surveying the seabed off the coast of Deputy Kelleher's own county on the Celtic interconnector. I will be meeting with some of the representatives of Réseau de Transport d'Électricité, RTE, the French transmission network when I travel to Cherbourg next month. I hope to meet my French counterpart at the European

Council next month as well.

Electric Vehicles

Acting Chairman (Deputy Eugene Murphy): I understand the Minister is taking Questions Nos. 7 and 10 together in the names of Deputies Aindrias Moynihan and Catherine Martin. I understand Deputy Eamon Ryan is taking the question for Deputy Catherine Martin. Is that agreed? Agreed.

7. **Deputy Aindrias Moynihan** asked the Minister for Communications, Climate Action and Environment when proposals will be brought forward to support the provision of effective and efficient publicly accessible electric vehicle charging; and if he will make a statement on the matter. [23922/18]

10. **Deputy Catherine Martin** asked the Minister for Communications, Climate Action and Environment if the possibility of mandating all petrol stations, supermarket car parks and public car parks to have electric vehicle charge points has been considered. [23967/18]

Deputy Aindrias Moynihan: We need to increase the level of electric car usage to meet commitments. The State is very much behind with no more than 4,500 electric vehicles on the road at the moment. Range anxiety is a big issue for many people who are driving. The inadequate network is a huge aspect of that range anxiety, not just the lack of availability of charging points but also the slow response in getting them up and running. How quickly can that be addressed and adequate charging points made available to people?

Deputy Denis Naughten: I propose to take Questions Nos. 7 and 10 together.

There are now approximately 5,400 electric vehicles on our roads. As the electric car market matures, it is vital that the charging infrastructure develops alongside it and I recognise that a range of charging options is necessary to provide the convenience and reliability that electric vehicle drivers require.

Home charging is the primary method of charging for the majority of electric vehicles both internationally and in Ireland. Charging at home at night is the most cost efficient and eco-friendly way of charging an electric vehicle. Given the high proportion of homes with driveways and dedicated parking spaces, Ireland has greater capacity for home charging than many other countries. From January of this year, the Sustainable Energy Authority of Ireland, SEAI, grant of up to €600 is available to support the installation of home charging points. This is available to the purchasers of new and, more important, second-hand electric vehicle owners, thus providing certainty to the second-hand value of electric vehicles, which I have no doubt has contributed, along with the budget 2018 supports, to the significant increase in new electric vehicle sales.

The national policy framework, alternative fuels infrastructure for transport 2017 to 2030, sets out the need for electric charging in Ireland. Although the existing capacity of the public charging network is considered adequate, maintenance, availability of parking and the development of infrastructure to meet the growing demand is necessary. The majority of the existing network of publicly accessible charging points was rolled out by the ESB through its eCars programme where the majority of funding was recovered through the use of system charges as

31 May 2018

approved by the Commission for Regulation of Utilities. The ESB intends doubling the funding it spends on the network this year to €2 million.

Following a public consultation process, the Commission for Regulation of Utilities, CRU, published its independent regulatory decision on the ownership of this infrastructure in October 2017. A key outcome of the decision was that the charging network should not form part of the regulated asset base and therefore expansions of the network should not be funded from network charges. The decision also set out the need for the electric vehicle charging infrastructure to operate on a commercial basis. In the absence of State-led support, this is unlikely to happen in the near term. Capital funding of €1.5 million has been allocated in my Department's budget this year, therefore, to support the provision of public charging.

A key aspect of the work of the low-emission vehicle task force, co-chaired by my Department and the Department of Transport, Tourism and Sport, is to devise a sustainable policy framework to ensure sufficient and effective electric vehicle charging infrastructure. This work has included examining options for potential support measures for public charging, and I expect the task force to report on these options shortly. Support for public charging is available through the better energy communities scheme administered by the SEAI. This supports community-based partnerships to improve the energy efficiency of homes, businesses and community facilities in a local area. My Department, in conjunction with the SEAI, is also developing additional supports for the roll-out of public charging. I expect to announce those later this year.

In addition, the work of the low-emission vehicle task force includes the examination of the potential role of planning and building regulations. This includes the consideration of placing requirements on developments to install infrastructure to support the uptake of low-emission vehicles. This would include charging points for electric vehicles and potentially other infrastructure such as compressed natural gas fuelling. I expect the low-emission vehicle task force to report on planning specific aspects of its work later in the year. The implementation of any such regulations will be ultimately a matter for my colleague the Minister for Housing, Planning and Local Government, Deputy Eoghan Murphy.

Deputy Aindrias Moynihan: I raised this matter with the Minister in April. At that stage, the low-emission vehicle task force was expected to report shortly. It has been examining this since September 2017. It is a moving target and continues to slip. The original target aimed at was 50,000 for 2020. Realistically, there will only be about 8,000 in the revised targets. Things are constantly slipping. When will this task force report? Will it recommend that there be charging points in public car parks and places where there will be availability for people travelling longer distances? Range anxiety is an issue.

The Minister outlined where the current availability is considered to be adequate. How can it possibly be adequate? There are only 70 fast chargers. It also takes a long time to get them repaired. It took six months to get the one in Macroom repaired. On a journey last year from Cork to Dublin, the two large population centres, the Macroom charging point was down, the Copley Street point was down, the two points in Portlaoise were down, the point at junction 14 was down, the point at Kildare was down, the Rathcoole point was down and the Red Cow point was down. That is between the two major population centres. How can that kind of a network be considered adequate?

Acting Chairman (Deputy Eugene Murphy): I will let Deputy Eamon Ryan in now as well and then the Minister.

Deputy Eamon Ryan: The Minister is not doing enough. We are not being ambitious enough. We are not thinking big enough. The sum of €1.5 million will not cut it. The climate figures being announced today are shocking in respect of how this State, this Government and the previous Government in particular have abandoned ambition. We are not thinking big enough and not thinking into the future. In my constituency, most people will not have a driveway and will not be able to charge at home. In many parts of this country as well as in my constituency, we need to create charging spaces that the public can use.

If the budget is only €1.5 million, one of the ways it could be done is to require petrol stations, starting with a certain size, to have a charging point. Supermarkets would also have to have charging points. They would benefit from it. Municipal car parks, which are making a fortune in this city, would also have to have charging points. That regulatory system brings us back to what we were talking about earlier. Industry, or even supermarkets, for instance, would bear the cost but would benefit from attracting customers.

We need to do this quickly. Our emissions are rising and there is no reduction in sight into the next decade. We have a massive gap between what we, rightly, have committed to do within the European Union and the direction in which the EPA says we are going. Everything has to change. There has to be a quantum leap in the scale of response. It should start with electric vehicles because they comprise a better system. They are better cars, they are cleaner for asthma and other health reasons, and they use our own fuel rather than fuel from Saudi Arabia or Russia. It is win-win-win. It will only happen, however, when the State leads and on a scale ten or 20 times the present response.

Deputy Denis Naughten: I do not disagree with Deputy Eamon Ryan. The Government has finite resources and we have to use the regulatory tools available to us. That is part of the work of the low-emission vehicle task force. I am frustrated, like Deputy Aindrias Moynihan, by the progress on this and by progress in Government in general. We are making significant progress, however, and once we have the output from the task force, I intend to try to proceed in every way that I can. I did acknowledge in my initial contribution that there is an issue with maintenance. I fully accept that. I also get those complaints and that is great. It is great that I, as a rural Deputy, now get constituents coming to me complaining about the infrastructure not being in place. People are purchasing electric vehicles and making that big move away from diesel. That is significant.

There is an issue in respect of range anxiety in this country and that is slowly being addressed as well. Deputy Rock gave me much grief over not having an EV charging point here in Leinster House. He and Deputy Shortall both have electric vehicles. We will have a charging point installed as part of the ongoing works here. It will be available at Agriculture House for Members of the Oireachtas to charge their cars. I hope that by the time it is put in, many more colleagues will have electric vehicles as well.

Deputy Eamon Ryan: Put in ten-----

Acting Chairman (Deputy Eugene Murphy): Deputy Ryan will have another opportunity. He should not interrupt, please.

Deputy Denis Naughten: We have gone from a situation where, in terms of investment in the network, last year the ESB put in €1 million whereas this year €3.5 million is being put in, an increase of 250%, albeit from a small base. We need to put in more infrastructure, particular-

ly now when we see a step change in the number of vehicles being purchased. Since the start of this year, 1,000 vehicles have been purchased. Fewer than 1,000 vehicles were purchased in the whole of last year. We are reaching that tipping point now and we need to resource it properly.

Deputy Aindrias Moynihan: I am glad the Minister said step change because Ireland as a nation is behind the curve and in a catch-up situation. There needs to be a step change in pace in terms of the network and encouraging people to use electric cars and to have more of them.

Will the Minister clarify one point? He indicated that €1.5 million was available to his Department, but when this was raised earlier this year the Minister said that €1.8 million was available. Has spending started-----

Deputy Denis Naughten: Yes, it has.

Deputy Aindrias Moynihan: -----or why is there a difference in the figures? When will that spending be visible to those who have cars and who want to have cars? When will they see additional charging points throughout the country?

Deputy Eamon Ryan: The symbol of one charging point for the Dáil is an example of why this is not the required scale of change. Perhaps people cannot see that at the moment. It is very hard to get an electric vehicle at the moment. A person who wants to buy one probably could not get one because the order book is so long. The whole world is going in this direction. That is now a rock solid guarantee. In two or three years, when all the manufacturers switch to electric, which is what they are doing, and the volume of cars is available, Irish households are going to be looking to do this. It will not be one in Leinster House; it will be ten and then 100. That is what we should be thinking. It should not just be in Leinster House. Dublin city centre has approximately 10,000 public parking spaces. Apart from public servants, most workers no longer drive into the centre of Dublin. It is difficult in government sometimes, but the Minister should go to the Minister for Public Expenditure and Reform to ask for the resources to be allocated. Let us change every single public office, not just Leinster House. Let us start with the Department of Finance, not just in Agriculture House but in every public place because that is what is coming. However, it will not come fast enough if we only do it in one place. That is an example of the small thinking that is holding us back.

Deputy Martin Kenny: I concur with much of what has been said. I wrote to the Minister last year to point out that in Ballyshannon and Bundoran in County Donegal there were two electric vehicle charge points. Both were taken away and not replaced. That is happening in many places throughout the country. Electric car owners plan their journey because they have to charge them. When they travel and stop somewhere, they find a car is already being charged at that point. The problem is that we do not have nearly enough charging points. I know that many of the car manufacturers are supplying large batteries of up to 60 kW, which will improve their range. However, particularly for people who live in rural areas and have longer journeys to make, we need to have more charging points in place. We will need to look again at the model that was in place, whereby ESB was providing them free of charge. Every public lamp post has a duct containing electric cables. It should be possible to install charging points on many of them. That will have to be done throughout the country if we are to take the issue seriously.

Deputy Denis Naughten: It is great that rural colleagues are raising this issue. Deputy Martin Kenny spoke about people from rural areas finding a car already at a charging point. Things are beginning to happen, but I accept that we need to do more. Dún Laoghaire-Rath-

down County Council is considering installing charging points on lamp posts. It has been done in other parts of the world and we need to consider doing it, particularly to address the issues in Dublin raised by Deputy Eamon Ryan. As the technology develops, the vast majority of people will be able to do much of the charging at home.

I say to Deputy Aindrias Moynihan that we are not behind the curve. Ireland has a far greater spread of charging points than the United Kingdom. As we have only one operator, electric car owners only have a single card and that will remain the case. It will probably involve the use of a debit card in the future. Drivers in the United Kingdom need five or six cards to use the network. Some 90% of the existing network uses three-phase electricity which means that vehicles can be charged 50% quicker than the vast majority in the United Kingdom which use single-phase electricity. We are not behind the curve in that regard. Can we do better? Yes, absolutely. Do we need to invest more? Do we need to look at the regulation? Companies such as Lidl Ireland are already installing charging points in its supermarket car parks. Hotels are also considering installing them. However, we need to expedite the process.

Greenhouse Gas Emissions

8. **Deputy Clare Daly** asked the Minister for Communications, Climate Action and Environment his plans to support the fast-tracking of the Fossil Fuel Divestment Bill 2016 in view of the fact that the State is likely to face fines in excess of €150 million for missing CO2 emission targets by 2020; and if he will make a statement on the matter. [23902/18]

Deputy Clare Daly: As the Minister knows, Ireland is on target to be hit with substantial fines in a year or two as a result of being so far off our 2020 CO2 emissions target. It is not really about the fines; that is a bit of a sideshow. We are in this position because we have no serious policy to address these issues. We have a number of measures, but they are not the be all and end all. A number of items of pending legislation could help. What is the Minister doing about them?

Deputy Denis Naughten: The Fossil Fuels Divestment Bill seeks to amend the NTMA Acts to have the Ireland Strategic Investment Fund divest from fossil fuels. The Bill is a matter for the Minister for Finance and Public Expenditure and Reform. He informs me that to date there has been very constructive engagement with Deputy Thomas Pringle on the passage of the Private Members' Bill. He has also informed me that it passed Committee Stage on 19 April. Given that it is a Private Members' Bill, Report Stage will be scheduled in Private Members' time. Its scheduling is outside the Government's control.

Meeting Ireland's EU targets to reduce greenhouse gas emissions by 2020 and 2030 will be extremely challenging. The latest projections for greenhouse gas emissions, published by the EPA earlier today, indicate that emissions from those sectors of the economy covered by Ireland's 2020 targets might only be 1% below 2005 levels by 2020, despite a target that emissions should be 20% below their 2005 levels. This is deeply disappointing but not surprising, given the recent pace of economic growth and the consequent increases in emissions from the agriculture and transport sectors, in particular. The projected shortfall against our targets is further exacerbated by the constrained investment capacity in the past decade due to the economic crisis.

The legislative framework governing the European Union's 2020 emissions reduction targets includes a number of flexibility mechanisms to enable member states to meet their annual

emissions targets, including provisions to bank excess allowances to future years and trade allowances between member states. Using our banked emissions from the period to 2015, Ireland complies with its emissions reduction targets. However, our cumulative emissions are expected to exceed targets at end of the decade, which will result in a requirement to purchase additional allowances. While this purchasing requirement is not, at this stage, expected to be significant, further analysis will be required to quantify the likely costs involved in the light of the final amount and price of allowances required.

Deputy Clare Daly: The Minister used the word “disappointing”. That is a bit of an understatement. It is a catastrophic failure. It is absolutely shocking that we are so far off our emissions targets. It is not about massaging the figures, buying a little time, buying a few allowances here and there and all the rest. It indicates that we are well off course, particularly in the sectors mentioned by the Minister such as agriculture in which we are not facing up to our responsibilities in that regard. Ireland has the third highest emissions *per capita* with a heavy reliance on oil, coal and peat and rising emissions in sectors such as agriculture, energy and transport. We do not seem to be doing anything to correct this. Deputy Thomas Pringle’s Bill is a good initiative. It will not change things all that dramatically, but it will contribute. Unless we start to deliver on things such as this, we will not just be disappointed and paying fines with a pot load of money, we could also be spending on other things. However, our planet will be destroyed and with it our country. We need to see something much better.

Deputy Denis Naughten: If the Business Committee could facilitate the taking of the Bill, I would like to see it expedited. Based on the current trajectory, we will have an enormous challenge to meet our 2030 targets. We will need to reconcile our ambitions in Food Wise 2025, the need for food security in the European Union, carbon leakage in food production and our climate change targets for 2030. When Commissioner Phil Hogan was here recently, he highlighted CAP reform. We will need to consider mainstreaming measures such as the smart farming initiative. We have huge challenges ahead of us. The projections to 2020 do not include the measures we have announced in the national development plan to spend €1 in every €5 in the next decade on climate-related measures. They do not take fully into account the measures provided for in the mitigation plan. We need to consider not just how we spend money but also, as I said to Deputy Eamon Ryan, the regulatory and taxation structure.

Deputy Clare Daly: We are working to have Report Stage of the Bill taken before the recess and there is a will to do so. I appreciate that the Minister has acknowledged plainly - he could not do otherwise - that we will not just miss the 2020 targets but also the 2030 targets. The planet will probably have exploded by 2050. While there is honesty in the Minister’s admission, there is no consequential impact on policy. Whether it is the Minister’s office or somewhere else, somebody must start calling a halt to this. One Department is not going to address this. Climate impact and emissions are not a side issue and they should be an integral part of every Department’s briefing. Unless there is a radical departure where this is a factor in the Department’s dealings with transport, agriculture, planning and all the others, we will be in an even worse position than the Minister has acknowledged. That multidepartmental approach must be introduced as what the Minister has admitted is frightening.

Deputy Denis Naughten: It would be unfair to say we are not doing things and there has not been a step change over the past two years. The proof of that is in the national development plan, where €1 in every €5 spent over the next decade on the public side will be on climate-related activity. We have made a definitive decision to take coal out of power generation by 2025 and we will be one of the first countries in Europe to do so. We will be one of the first

countries in the world to ban smoky coal later this year.

Deputy Eamon Ryan: What about peat?

Deputy Denis Naughten: We are ahead of the curve in that we are banning the sale of all new fossil fuel vehicles from 2030, which is way ahead of anyone else. Yesterday we announced the climate action fund, one of the biggest funds of its type anywhere in the world. We will have the carbon tax report in advance of the forthcoming budget. Even yesterday I was commended on the initiative we took in Ireland on benefit-in-kind with electric vehicles, which is already stimulating demand in that market. It is far more focused than in some other European Union countries.

Offshore Exploration Licences

9. **Deputy Bríd Smith** asked the Minister for Communications, Climate Action and Environment his plans to issue new licences undertaken or leased for the exploration of oil or gas here in the coming months; if he will suspend such licences and so on until Dáil Éireann and the relevant Oireachtas committee have examined and passed the Petroleum and Other Minerals Development (Amendment) (Climate Emergency Measures) Bill 2018; and if he will make a statement on the matter. [23892/18]

Deputy Bríd Smith: I asked a similar question in February after the House debated the climate emergency measures Bill. Will the Minister commit to not issuing any new licences between now and the passing of the Bill through its various Stages? All issuing of licences for exploration offshore should be suspended in order to give the climate emergency measures Bill a chance to get through the Houses.

Minister of State at the Department of Communications, Climate Action and Environment (Deputy Seán Kyne): The Petroleum and Other Minerals Development (Amendment) (Climate Emergency Measures) Bill 2018 has been referred to select committee for consideration and, as such, it remains a legislative proposal. The challenge to reduce greenhouse gas emissions is well understood by the Government and it is reflected in our national climate action and energy policy and the debate we have had with various questions today. Ireland will, within the EU and UN climate frameworks, pursue and achieve a transition to a low-carbon, climate-resilient and environmentally sustainable economy, underpinned by a secure and competitive energy supply in the period to 2050. Within that transition, it is accepted that Ireland will continue to require and to use some fossil fuels to meet the needs of our people and economy.

In contrast, the Bill proposed by Solidarity will not reduce Ireland's greenhouse gas emissions. The proposed Bill will not help Ireland meet its 2020 or its 2030 emissions targets. The strategy outlined by Solidarity is for Ireland to rely entirely on imports for all our fossil fuel needs. In contrast to the UN intergovernmental panel on climate change, the Solidarity approach does not recognise that natural gas can play a role as a transition fuel in combination with variable renewable sources. The Government and the Irish public are willing to tackle climate change but the proposed Bill will not solve climate change and, in that context, the proposed approach to authorisations does not make sense.

Forgoing the use of Ireland's natural resources, utilised in a proportionate manner within the context of a climate transition, would be a loss to the Irish people from a fiscal, economic

and security of supply perspective. A significant change in long-established national policy should be based on informed debate and consideration. Around this time last year, when we were dealing with the prohibition of onshore fracking, I invited the Oireachtas committee to hold a broad policy debate on national energy policy. This policy debate could consider issues of competitiveness, climate change, security of energy supply and Ireland's offshore exploration policy. Such a debate would inform any future legislation in this area. The pre-legislative scrutiny proposed for the Bill in July is an opportunity for such a debate. I understand there will be meetings of the committee on 3 July and 10 July and that representatives of the International Energy Agency are due in later this month to discuss the matter of energy security.

Deputy Bríd Smith: I thank the Minister of State but he may as well have just copied and pasted the last answer he gave in February. He may have done so as I have just looked back at the Official Report. Things have changed and at the time, the Minister of State told us the Bill was useless and would need a money message. It is not at all useless and it does not need a money message, which is why we are scrutinising the Bill on 3 July and 10 July.

Apart from the machinations of how the committee might deal with this, there is a movement around the globe to ban offshore exploration for oil. These are countries that may not be significant oil producers but nevertheless there is a growing impact. France, Costa Rica, Belize and New Zealand have all banned offshore oil and gas exploration. This Bill will pass because of the cross-party support it has received and Ireland will make no small or insignificant contribution to such action. Those measures are aimed at reducing CO₂ emissions and really tackling climate change in a serious way.

Deputy Seán Kyne: I know a number of other countries have taken different approaches and France has been mentioned numerous times. France's approach for the future is underpinned by an energy mix of 50% renewables, which is excellent, and 50% nuclear, which is completely different from what we are facing here in the Irish scenario. Scotland has proposed climate change legislation but it is also a major producer of oil and gas from the North Sea, so the elements are not mutually exclusive.

We are trying to reduce the use of fossil fuels and energy through the grant system approved by the Sustainable Energy Authority of Ireland, SEAI. Previously we had questions relating to the use of plastics, and the appetite for a new directive is growing across Europe. We have to understand there are new technologies that are not here yet but may come here to help reduce the use of fossil fuels in jet fuel and the marine sector, both of which use large amounts of such fuels. The aim of the Government is to reduce the use of fossil fuels, although they will remain part of our energy mix for a period.

Deputy Bríd Smith: We will have these arguments in more detail at the committee. I appeal to the Minister and the Minister of State to end any issuing of offshore exploration licences for fossil fuels between now and when the Bill progresses. It would be undemocratic not to do so as they have had a signal from the House that there is a cross-party support for the measure. More important, we need to signal to the fossil fuel industry and the world in general that we are taking climate change seriously. This tallies with the previous argument made by Deputy Daly because if we continue to invest either directly or indirectly in exploration for fossil fuels, we will not really be taking the matter of climate change any way seriously. The science behind this cannot be refuted and climate change is rapidly increasing the temperature of the planet. We know 80% of these fuels must now stay in the ground. That is what the Bill is for. I know there will be a big discussion about energy security but I hope this Bill will give a kick up the

backside to this Government to make it get its finger out and invest seriously in renewables while moving away from fossil fuels.

Deputy Seán Kyne: We have plans for renewables and clear targets that we need to meet. We must also recognise that according to the energy White Paper of 2015, fossil fuels will continue to play a role in future. Energy security is very important. If the pipeline to this country was stopped in the morning, I am sure the Deputy would be one of the first to speak about constituents not being able to heat themselves to keep warm.

Deputy Bríd Smith: If the planet heats, there will be no security either.

Deputy Seán Kyne: We face such scenarios. The Deputy mentioned the policies of countries in Europe and elsewhere. The EU's import dependency on petroleum and its product has increased from 74% in 1995 to 89% in 2015, and from 43% to 69% with respect to natural gas over the same period. There is a challenge throughout Europe and in some cases we are reliant on areas with unstable democracies for our energy security. That is why we are looking at alternatives and investing in renewables, as well as looking to reduce energy use in homes through SEAI grants. The policy is reflected in international agencies' work and the White Paper, which indicate that fossil fuels will play a part in our energy mix for a period.

Question No. 10 answered with Question No. 7.

Bioenergy Strategy

11. **Deputy Timmy Dooley** asked the Minister for Communications, Climate Action and Environment the status of the draft bioenergy plan; when he expects to publish the plan; and if he will make a statement on the matter. [23961/18]

Deputy Billy Kelleher: Perhaps the Minister might quickly provide a reply to this question.

Deputy Denis Naughten: The draft bioenergy plan established the broader context for the development of Ireland's bioenergy sector.

It recognises that meeting the demand for biomass from indigenous sources could deliver significant economic and employment benefits and contains measures to stimulate and support the supply of Irish biomass. The bioenergy plan highlights a range of supply-side and demand-side measures that are needed to release the full potential of the domestic biomass sector in Ireland. Since the draft bioenergy plan was published in 2014, significant progress has been made on the actions set out in the plan. I have secured Government approval for the support scheme for renewable heat, a key demand-side measure. I expect the scheme to commence operation later this year subject to state aid approval. The objective of the scheme is to increase the level of renewable energy and reduce emissions in the heat sector. By stimulating demand for renewable energy feedstocks, such as biomass, the scheme will provide an opportunity for the growth of indigenous bioenergy production.

I recently published a policy statement outlining the future development of the biofuels obligation scheme. The scheme is the primary policy measure used to increase the share of renewable energy in the transport sector and has also made a significant contribution to reducing greenhouse gas emissions.

31 May 2018

An Ceann Comhairle: We will have to leave it there because we are out of time. That concludes questions to the Minister for Communications, Climate Action and Environment.

Written Answers are published on the Oireachtas website.

Message from Seanad

An Ceann Comhairle: Seanad Éireann has passed the Criminal Justice (Corruption Offences) Bill 2017 without amendment.

Leaders' Questions

Deputy Stephen S. Donnelly: Yesterday, I heard the experience of one of the 209 women at the centre of the CervicalCheck scandal. About two weeks after the story broke, she got a phone call from her consultant. She was told that she was one of the 209 women whose screening was missed. She met her consultant but could not get any details as to what supports might be available. This morning, for the first time, she was assigned to a local area and she was told that in about two weeks' time, she will be able to sit down with a liaison officer to begin a conversation about the type of supports she might need. It will be two months since this story broke before this woman will even meet someone from the State to talk about what supports she might get in the future. After Cabinet on 11 May, the Taoiseach said

Today the Cabinet agreed a range of actions to provide care and support for all the women affected, and their families. We have also agreed that all outstanding legal actions will be dealt with sensitively utilising mediation wherever possible.

The Minister for Health said “[b]ut what they need is not platitudes, they need actions, and I am determined we are going to deliver those actions.”

There was great talk from Government of medical cards, prescriptions, childcare and counselling, but it has not happened. Women are borrowing money to get to healthcare appointments on the other side of the country. They are relying on the good faith of solicitors to take legal advice. One man has been trying, without any success, to get access to his wife's medical records. There has been no central point of contact, no counselling, no multidisciplinary teams put in place and no financial support. One woman involved told me this morning that what there is is fear, anger and confusion. Five weeks on from when this story broke, what supports have been put in place for the 209 women at the centre of this scandal? How many of these women have met with the liaison officer? How many of the promised individual support packages have been put in place? What financial assistance has been put in place and is live on the ground for these women today, five weeks on from when we started talking about it here?

The Tánaiste: I thank the Deputy for raising these issues. He is right to ensure that everything that has been promised is properly followed through on. I have also spoken to women who were part of the 209. The stories that I have heard are that meetings have taken place and that the conversations with the HSE and social workers involved have been positive. If there are cases that the Deputy is hearing about where that is not the case, we need to hear about them and fix that. The Department of Health and the Government are determined to prioritise support for women who are in this difficult, exposed and pressurised situation. We made a clear

decision that the HSE would assign social workers, that in each case, there would be proper co-ordination and reach-out from the HSE as opposed to it expecting victims and patients to reach out to the HSE, that people would be met in their homes and that there would be tailored packages of supports, whether discretionary medical cards, out of pocket expenses or counselling for both individuals concerned and their broader families so that we can help people to cope with the stress and trauma over the last five weeks since the scandal broke. That is the intention and determination of the Government. I understand that those conversations are happening and that the co-ordination and commitment made by Government is being followed through by the HSE. If there are cases or parts of the country where that is not the case, we need to hear about them so we can prioritise a response.

Deputy Stephen S. Donnelly: It is not just a matter of individual cases. It is not the case that most of the 209 women are being supported in the way that was promised and that there are maybe a few outliers that have been missed. That is not what we hear. It is not what was said outside the gates of Leinster House yesterday, it is not what was said to me by Emma this morning and it was not what was said to me by one of the women involved in supporting the 209 women. That is not what they are saying. They are saying that in some isolated cases, liaison officers have been appointed. In some isolated cases, a conversation is beginning about what supports are available but it is not the norm. The Government was quick to move and implement actions regarding its own political situation. People have been fired, briefings have been given, the Taoiseach has done his Twitter videos and a full investigation is already under way with someone in from abroad. It is happening already. How is it possible that this Government has the ability to implement an international investigation that is live on the ground and yet does not appear to be capable of bringing together these women and liaison officers? That does not seem to make any sense. Can I pass on a request directly from Emma and some other women involved? It is for an event to be organised where women and families can be brought together to meet the officials, and whoever it is they need to meet to help them to figure out what supports are available and what they can get because they are not getting them.

The Tánaiste: With regard to the women concerned and, in some cases, their partners, the Government's commitment is that the HSE will approach, in an appropriate and sensitive way, those women individually and talk to them in their homes about putting tailor-made packages of support together. That is what we are doing. If people want to have meetings with Department officials or there are concerns about the roll-out of that support and those packages, we can arrange that. The Government is not hiding anything. The Government wants to ensure that the HSE is delivering on the commitments that we have made quickly so that we can provide supports for people and their families through traumatic situations. With regard to court cases, I spoke to the State Claims Agency this morning about the case of Emma Mhic Mhathúna. I understand that the senior counsel representing the State Claims Agency has made it clear that there is acceptance of liability on the State's side with regard to disclosure issues. On the other issues that are being contested that involve Quest Diagnostics, the State Claims Agency and HSE have written to Quest Diagnostics to ask it to change its approach with regard to the request that had been made for assessments of Emma Mhic Mhathúna's children which, as far as we are concerned, is totally inappropriate. We want to see these issues relating to liability and responsibility resolved through mediation, out of a court environment, as quickly as possible. That is what we are trying to pursue.

Deputy Eoin Ó Broin: Yesterday the Minister for Housing, Planning and Local Government, Deputy Eoghan Murphy, released the April homeless figures and they make for grim

reading. The number of children living in emergency accommodation is up by 43 on the figure for the previous month. The number of older people without a home is also up. According to the figures, the overall picture is stagnant. Despite claims by the Minister that he is making progress on housing supply, there is no sign of the homeless crisis abating. Under the Fine Gael-led Government, the level of child homelessness has increased by a shocking 74%. Since the Minister took office, the figure is up by 30%. Under the Fine Gael-led Government, the number of people aged over 65 years living in emergency accommodation has increased by 60%. Under the aegis of the Minister, the figure has increased by 27%. How is it possible that the Government cannot house 128 older people? Could one imagine if it was one's mother or father languishing in emergency accommodation? How is it possible for the Government to allow 3,689 children to live in emergency accommodation, many of whom will spend up to two years in inappropriate accommodation? What the figures released yesterday clearly show is that the Government's housing plan is failing and that the Minister is failing. No amount of hard hat photo tweets will change that fact. There are more homeless adults and children today than when the Government took office and they are spending longer periods in emergency accommodation.

To make matters worse, for the second month in a row, homeless families have been removed from the figures. A total of 297 adults and children in counties Dublin and Meath have simply disappeared. That brings the total number removed from the homeless figures in the past two months to 875. The Minister claims that the people concerned are not homeless, but local authority housing managers disagree. They are living in temporary accommodation without a tenancy agreement, funded from the emergency budget, while the council sources them a permanent home. Mr. Brendan Kenny, director of housing in Dublin City Council, when asked on "Morning Ireland" this morning if the families who had been removed from his administrative area from the April figures were still homeless said: "There is no tenancy agreement. They are still homeless. They are on the homeless list, and they still have homeless priority." However, the Minister thinks it is okay for them to be removed.

Does the Tánaiste accept that despite the economic recovery, the homeless crisis is getting worse? Does he also accept that the Government's housing policy is failing? Does he agree with Mr. Kenny that the families who were removed from the homeless figures in April are, in fact, still homeless and will he commit to ending the blatant manipulation of the homeless figures by the Minister?

The Tánaiste: I do not think it will come as a surprise to the Deputy to hear that there is an absolute acceptance in Government that we have a crisis that needs a comprehensive response. It is getting it. We have seen massive increases in terms of the financial response from the Government through budgets. We have a very significant and comprehensive plan to deal over time with the homeless crisis. There is, unfortunately, an over-reliance in the short term on the private rental market to try to deal with the housing demands of many families who need the State's intervention and help, but we are responding dramatically in terms of our commitment, both financial and from a delivery perspective, to increasing the number of social houses available. If the Deputy looks at the numbers, last year nearly 26,000 people were provided with a social home by the State across the various mechanisms, or 36% higher than the target set at the start of last year.

I accept that we have far too many people, including children and families, who are homeless. What the Minister for Housing, Planning and Local Government, Deputy Eoghan Murphy, is trying to do is create an accurate picture of numbers and situations of the people who

are homeless in order that we can have appropriate responses. Dealing with homelessness is a huge priority for the Government, but nobody has claimed that it can be solved overnight. What we have done in the short term is invested huge amounts of money in improving the quality of emergency accommodation and the appropriateness of emergency accommodation which is a temporary solution, while we find longer term solutions for many of the individuals and families in question. That is why we have invested so much money in hubs, providing extra emergency accommodation and better emergency accommodation.

I also listened to Mr. Brendan Kenny and know that he is deeply committed to trying to solve this problem with the Government. He is saying the figures are far too high, but they have plateaued. They are no longer increasing at anything like the pace we have seen in the past 18 months or so. Over time we will need to provide long-term housing solutions through a dramatic increase in the provision of social housing, to which we are committing billions of euro. In the next ten years we will deliver more than 100,000 new social houses. That is the Government's response and it is comprehensive, as Deputy Eoin Ó Broin knows. In the meantime, we have a continuing crisis, with families and children whom we need to ensure are in appropriate short-term emergency accommodation, while we increase the throughput in moving people from homelessness into sustainable tenancies.

On what Deputy Eoin Ó Broin describes as recategorisation, what we are talking about is how many people are exposed to the vulnerabilities and dangers of homelessness in the context of the provision of emergency accommodation. Many individuals and families are in homes and have certainty in terms of their accommodation into the future. Over time they will need to be housed in social housing, but they are not in the emergency accommodation many understand it to be.

Deputy Eoin Ó Broin: Meanwhile, outside the bubble of Government Buildings, more and more people are becoming homeless. We should not be having an argument over the figures, but behind every one of them is a real person, for example, a mother with a child trapped in emergency accommodation or a pensioner who is unsure where he or she will sleep tomorrow. At a time when the economy is growing, the number without a home should be falling. Accurate data are important and massaging the figures is wrong. That is not just my opinion. Louth County Council told councillors that the families who had been removed from its list last month were still homeless. Waterford City and County Council stated the families who had been removed from its list last month were still homeless. Focus Ireland stated the families in its Limerick facility who had been removed from the figures last month were also homeless. Today the most senior housing official in the State agrees with them. Everybody except the Minister and his Cabinet colleagues seems to know that these families are homeless. Is the Tánaiste saying Mr. Brendan Kenny and his council colleagues have got it wrong, that they are lying and, if not, how can he continue to have confidence in a Minister who is clearly failing to do his job?

The Tánaiste: It is not appropriate to effectively misquote a senior housing official which is what the Deputy has done.

Deputy Eoin Ó Broin: I quoted him accurately.

The Tánaiste: No. The Deputy is quoting him selectively. I listened to Mr. Brendan Kenny this morning when he made it very clear that it was the local authorities that were making the decisions on the categorisation of homelessness and that it had not been done on the instructions of the Government.

31 May 2018

Deputy Eoin Ó Broin: That is not what Louth, Waterford and Meath county councils stated in writing.

The Tánaiste: I am sorry, but the Deputy quoted-----

Deputy Eoin Ó Broin: They have stated they were instructed.

The Tánaiste: A Ceann Comhairle-----

An Ceann Comhairle: It would be better if the Tánaiste did not engage directly with the Deputy.

The Tánaiste: It might also be better if the Sinn Féin spokesperson on housing were not to quote selectively a senior housing official who is doing a fantastic job in very pressurised circumstances in order to try to politicise what he said.

Deputy Seán Crowe: The Government is massaging the figures.

Deputy Eoin Ó Broin: It is the Government that is politicising the figures.

An Ceann Comhairle: The Deputy should let the Tánaiste respond.

The Tánaiste: That is not what he said this morning. The Deputy then tried to back up the claim with unsubstantiated quotes from local authority meetings in various parts of the country.

Deputy Eoin Ó Broin: They are substantiated by the housing committee. They were before the Joint Committee on Housing, Planning and Local Government.

The Tánaiste: That is not what Mr. Brendan Kenny was talking about this morning.

Deputy Paul Murphy: He said they were homeless.

An Ceann Comhairle: Will Members please let the Tánaiste respond?

The Tánaiste: Rather than arguing over the figures, there should be an acceptance in this House that we do have a homeless crisis.

Deputy Aengus Ó Snodaigh: What about the commitment to have no families in hotels?

An Ceann Comhairle: The Deputy should, please, not interrupt.

The Tánaiste: We have taken 2,000 families out of hotels in the past 12 months.

Deputy Aengus Ó Snodaigh: The Government stated all families would be taken out of hotels.

An Ceann Comhairle: The Tánaiste's time is up.

The Tánaiste: It is appropriate when we are dealing with an issue as serious and emotive as this-----

Deputy Eoin Ó Broin: To be honest.

The Tánaiste: ----where we are talking about the lives of real people and real children living in inappropriate accommodation on a temporary basis that we do not misquote senior of-

ficials who are doing their best in difficult circumstances.

Deputy Eoin Ó Broin: I have not misquoted anyone.

Deputy Thomas P. Broughan: Yesterday the Taoiseach spoke about dark chapters in our history, but today tens of thousands of adults and children continue to live through a dark chapter and in plain sight. According to the Department of Housing, Planning and Local Government's homelessness report which Deputy Eoin Ó Broin quoted, almost 6,000 adults and 3,700 children are homeless. Of these, 4,005 homeless adults and almost 3,000 homeless children were based in the four Dublin local authority areas, with up to 40,000 Dublin households in all on housing waiting lists. Homeless campaigners like Mr. Anthony Flynn of Inner City Helping Homeless have seriously questioned the veracity of these figures and point to the exclusion of almost 800 applicants from homeless lists in March and April. Another analyst, Mr. Mel Reynolds, has challenged the accuracy of the Minister's direct build figures and we know that more than 6,000 households were removed from housing lists after the last Dublin city housing assessment. Is it not time to have an independent assessment of the Department of Housing, Planning and Local Government's housing statistics, perhaps carried out by the Central Statistics Office?

Dublin Bay North is the worst affected constituency in Ireland. This year, Dublin City Council housing area B, which comprises much of Dublin Bay North, has 7,345 households on waiting lists or in emergency accommodation, a higher figure than for all of Fingal, all of South Dublin or for any other Irish local authority area. When the Fingal part of the constituency is added, Dublin Bay North has a housing and homeless problem greater than all of the Cork constituencies combined. In response to this housing emergency, the Tánaiste and the Minister for Housing, Planning and Local Government have only offered very belated, confused and almost totally ineffective solutions which, combined with profound lethargy from the management of our two local authorities, has produced intense suffering for many of my constituents. The Government is not getting there. There is no way it is getting there in terms of tackling homelessness.

Last Saturday, a mother and her very bright seven year old daughter came to meet me. This child is distressed by the prospect of homelessness. She and her mother are facing their second eviction in just under two years, this time from a housing assistance payment, HAP, tenancy. Like other parents, the girl's mother is deeply concerned for the welfare of her child and herself, given the huge stress and disruption caused by constantly moving home and the very poor prospect in Dublin Bay North of a stable, forever home with a local authority or voluntary body. Of course, that child is just one of the many thousands of children awaiting rehousing or in emergency accommodation.

Yesterday, Focus Ireland, the Simon Communities, Barnardos and the Society of Saint Vincent de Paul rightly drew attention to children in hidden homelessness. All of this is happening against a background of surging and uncontrolled rents of up to €2,000 per month in Dublin Bay North which produces the regular evictions which make families homeless. The Tánaiste broke his pledge to end the practice of sending children and families to hotels by 1 July 2017. He broke that promise, did not deliver enough family hubs and certainly did not deliver the required housing. I have repeatedly asked the Minister for Children and Youth Affairs, Deputy Zappone, about Government action to prevent children becoming homeless, given the adverse effects on them.

It is egregious public relations nonsense for the Minister for Housing, Planning and Local Government to say that homelessness is stabilising. The Tánaiste, the Minister for Housing, Planning and Local Government and the Minister for Children and Youth Affairs will be held to account in the next general election. I know that the Tánaiste will give me the same old mantra he gave to Deputy Ó Broin in response, but after nearly eight years of failure and inaction, is there now any prospect of an emergency public housing programme? The Government has said this is a crisis, so where is the crisis response? We need serious rent controls and truly affordable mortgages.

The Tánaiste: The Deputy has asked a lot of questions. We do have rent controls for the first time in the history of the State. I introduced them and this Government made that happen in Christmas week, 2017.

Deputy Thomas P. Broughan: They are not working.

The Tánaiste: As a result of those rent controls, we are seeing some limitations in rental inflation. Approximately 67% of rental properties in the country are in rent pressure zones. There are issues with regard to student accommodation which the Minister has agreed to examine in co-operation with Opposition parties. On the issue of family hubs, if memory serves me correctly, we have spent about €50 million on them so far. We have seen 300 people move out of hotels and into family hubs. While the hubs are not ideal accommodation, they are a significant improvement on what we had previously. Families now have a bit more dignity and privacy, can do their own washing and cooking and can behave as families should, together. They are in the hubs on a temporary basis while the State improves the throughput times for people moving from emergency accommodation into more permanent housing.

I do not believe that family hubs are a long-term solution but we were faced with a dramatic increase in homelessness over a very short space of time. The Government has had to respond to that in terms of dealing with people in very vulnerable circumstances. It takes time and significant sums of money, to which the Government has committed, to increase capacity within local authorities to deliver a significant, increased and accelerated social housing delivery programme. In the meantime, we have to deal with families and individuals. Unfortunately, for all sorts of reasons, we have seen a dramatic increase in the number of people entering homelessness although one encouraging indicator in recent months is the reduction in the numbers presenting as homeless. This is an encouraging sign but we are far from being out of the woods in terms of solving this issue. It is a huge priority for the Government and will continue to be thus into the future.

The hidden homelessness campaign is a legitimate one but the NGOs involved are not suggesting that people who are in overcrowded conditions on a temporary basis should be categorised as homeless. That is not what they are suggesting. Their campaign is about raising awareness of the extent of overcrowding in Ireland. This is also a driver for the need for more and more social housing and a more balanced and affordable rental market, which is what the State is working on right now.

Deputy Thomas P. Broughan: It is Government policies over the past eight years which have produced the homelessness problem and got us into this terrible crisis. The Government is relying on profit-driven private developers and landlords. In terms of Government projections out to 2021, up to 60% of units will become available through HAP. We have almost no Part V units, for example, in Dublin Bay North. The delivery of social housing is the key point.

The Government does not have a serious pipeline of new social homes and the Minister for Housing, Planning and Local Government has refused to create one for the people to whom I refer. In Dublin Bay North in the period between 2015 and 2017, delivery has been pathetic. Dublin City Council built fewer than 90 new homes throughout the city in 2015 and 2016. Only 81 Part V homes were delivered for the whole city in the 2015 to 2017 period. In the Howth and Malahide ward of Fingal, there was zero construction, new build acquisitions or Part V units in 2015 and 2016. The projections for 2018 are for only 333 direct build housing units for a city with a housing list of 20,000. Almost everything on the list is scheduled for completion in quarter 2 or 3 of 2019, after the general election. Some of the large sites that we have at Santry, Newtown, Belmayne, Belcamp and so on have been in the planning process for up to 20 years. We need a new delivery structure for an emergency social housing programme, either through a State company as proposed by the Nevin Economic Research Institute or a housing executive for the Dublin region.

The Government is failing and will be held to account for that. There will be far fewer current members on the Government benches after the general election because of housing.

The Tánaiste: I am happy to be held to account for my role in trying to fix the housing crisis.

Deputy Thomas P. Broughan: The Tánaiste ran out of the Department of Housing, Planning and Local Government.

(Interruptions).

The Tánaiste: In time, the policy changes we have made as a Government will be highly effective. I share Deputy Broughan's concerns about the number of people who are homeless today. That number is a reminder of the job that we need to do. I will not accept, however, the pretence offered by Deputy Broughan and others that we do not have a pipeline of delivery for social housing because that is simply not true. We must consider what has been delivered in recent years.

In 2016, adding local authority and approved housing body delivery of new builds together, the total was only 657 social housing units. Last year that figure jumped to just under 2,300 units. The figure for this year will be significantly higher again as will the figure for the following year. We are going to get to a point where we are delivering between 7,000 and 10,000 social houses per year. The funding is in place and the delivery pipeline exists now. The reason I am so critical of Deputy Broughan on this issue is that the information is available and published. It is possible now to see what each individual local authority is committing to this year.

Deputy Thomas P. Broughan: The figures do not add up.

The Tánaiste: If the Deputy took the time to look at that, perhaps his questions would be more accurate.

Deputy Róisín Shortall: I wish to raise the question of ensuring that our education system reflects the diversity of modern Ireland in the context of yesterday's debate on the Education (Admission to Schools) Bill. While I welcome the fact that this House voted to remove the baptism barrier as an important first step in improving access to education, I am disappointed that the Government and Fianna Fáil voted down a number of amendments that sought to take the teaching of religion and faith formation out of the school day. It is wrong that children are

segregated in the classroom and it is unfortunate that the Government and Fianna Fáil did not support those amendments.

The Minister, Deputy Bruton, announced on Monday that he plans to increase the provision of what he claims to be multidenominational and non-denominational schools. I have concerns about his decision to get the education and training boards, ETBs, to head up this process. The areas where these new schools will be located have been identified by the ETBs. Given that the ETBs will be bidding to become patrons of these schools, I think there is a definite conflict of interest here. My real concern about how the ETBs' view of multidenominational education is based on a view that has been expressed within the Department of Education and Skills regarding what multidenominational education means. I have been in correspondence with the Minister and the Secretary General of the Department. That correspondence has revealed the Department's frankly bizarre definition of what it understands to be multidenominational education. When the Secretary General was asked recently about the role of religion in schools, he stated that "[i]t is not unreasonable to expect in a multi denominational school that where the composition of the pupil body demands a Christian ethos to continue, that this is given expression in the life of the school." That is an extraordinary statement for the Secretary General of the Department of Education and Skills to make. It displays a complete misunderstanding of what multidenominational education is supposed to be. Surely the Tánaiste can see the conflict here. The idea that a State-run multidenominational school should adopt the ethos of the majority religion is fundamentally undermining of the core tenets of multidenominational education. Does the Government stand over the definition of multidenominational education that has been articulated by the Secretary General of the Department of Education and Skills?

The Tánaiste: There has been extensive consultation between the Government and the Opposition spokespeople on the legislation mentioned by the Deputy. I compliment the Minister, Deputy Bruton, on the work he has done to build consensus across the House on an appropriate way forward through Committee Stage, etc. It has not been straightforward. The approach that has been taken represents a fundamental change for the better in Irish education policy. It is important to recognise that as this legislation progresses and the debate on individual elements of the legislation continues. Of course people will have different opinions on the legislation, the core thrust of which should be welcomed and has been welcomed by most Members of this House.

The Deputy also asked about the role of the ETBs. It is important to say that the ETBs are locally based and have local representatives who are working with local childcare communities. We want to ensure appropriate and accurate surveys of parents are done. It makes sense as a practical approach to work with the ETB system to that end. I do not believe the ETBs will show any bias at all. The ETBs are managing the collection of data from surveys of parents. I think it is well capable of being trusted to do that. This initiative is designed to promote the transfer of patronage without closing schools and to ensure that process happens in a streamlined way that does not interrupt the education of children. I think that process needs to be supported from a practical point of view.

I am not sure it is possible or appropriate for me, on the floor of this House, to get into a definition of what is meant by multidenominational as an immediate response to a question that has been asked by a Deputy. I would need to know the context of that definition and the quote that has been provided by the Department. Perhaps the Deputy could provide that context. Then I could provide a more informed answer than I would if I gave an answer off the cuff today.

Deputy Róisín Shortall: It is regrettable that the Tánaiste has dodged the question completely here. I have raised this matter with the Minister for Education and Skills in parliamentary questions in recent weeks, but he has avoided the question entirely. I have read a quote in which the Secretary General of the Department of Education and Skills sets out his understanding of what multid denominational education is. Any fair reading of that quote would suggest that how the Secretary General sees multid denominational education is the exact opposite of what multid denominational education should be. Does the Government agree with the Secretary General's definition? If this is the view of the Secretary General of the Department of Education and Skills, something needs to be done about it. We cannot have the senior person of the Department dictating what the policy for the future of our schools is going to be if he has such an outdated, outmoded and ill-informed view of what multid denominational education is. Will the Tánaiste tell us that he agrees with the Secretary General's views, or disassociate himself from those views? It is an important question.

An Ceann Comhairle: Before I call the Tánaiste, it is probably not appropriate to ask the Tánaiste or any Minister to comment in the Chamber on a statement by a Secretary General. It appears to me that it might be more appropriate for the Oireachtas committee to invite the Secretary General to appear before it and engage in discussion there-----

Deputy Mattie McGrath: Hear, hear.

An Ceann Comhairle: -----as distinct from asking the Tánaiste to comment on the circumstances.

The Tánaiste: The Deputy can ask the question, but I am not going to give an answer that is not properly informed. I have not spoken to the Secretary General concerned and I am certainly not going to disassociate myself from him in the context of the positive work that the Department of Education and Skills has been doing in this tricky area. The Government supports diversity of educational patronage. Seeking new multid denominational or non-denominational patrons is part of what we are doing. Removing the right to use religion as a basis for selection when schools are facing choices in terms of future students is something we are addressing comprehensively in this legislation. Ensuring the right to opt out of religious programmes in schools is now going to be respected. We are going to put systems in place that can deliver on that. It is important to say that the previous initiative by the former Minister, Ruairí Quinn, which was welcome at the time, produced just ten new patronage schools across the country. We now have a new approach that is designed to accelerate the delivery of much more diversity of patronage of primary schools across the country. I think we can achieve that with the current approach that is being led by the Minister, Deputy Bruton.

Deputy Róisín Shortall: It needs to be an honest approach.

Questions on Promised Legislation

An Ceann Comhairle: We have 21 members offering at this point. We have 15 minutes available to us.

Deputy Stephen S. Donnelly: As the Tánaiste knows, we have a serious shortage of consultants across the country. According to the Irish Medical Organisation, there are 450 vacancies this month. The consultants' contract negotiations are still outstanding. They have not

been completed. My understanding is that 127 specialist registrars are now filling these posts. This is relevant to the health (miscellaneous provisions) Bill. A few weeks ago, Mr. Justice Peter Kelly described the practice of putting non-consultants into these posts as “scandalous”. The consultants involved in the pay dispute have access to private work. The State is disputing whether many of them have breached the rules in that regard and is pointing out that other public and civil servants do not have access to such private work. The reality is that 500 consultants are taking cases. It is estimated that it could cost up to €700 million. Does the Tánaiste have a plan to deal with this case and can he confirm that should there be payouts of several hundred million euro, they will not affect services?

The Tánaiste: The consultant contract negotiations are ongoing. It is difficult for me to predict outcomes.

Deputy Eoin Ó Broin: The shocking revelations in recent days in respect of the extent of illegal adoptions carried out by the St. Patrick’s Guild adoption society, run by the Sisters of Charity, have rightly caused much anger and angst. Successive Governments have known about this and have failed to act despite reams of evidence. The situation persists that there is no statutory basis upon which people can access information relating to their identities and health records. The Adoption (Information and Tracing) Bill 2016, which provides for a legal right of citizens to secure information about their adoptions and gives them statutory right to access their birth certificates, was mentioned yesterday. Sinn Féin supports the aims of the Bill but in its current form it has been subject to much criticism, including by the Adoption Rights Alliance. In the wake of the most recent controversy and even prior to it, there has been a commitment from all parties to progress the legislation. However, it needs to be done correctly. When will the Minister for Children and Youth Affairs, Deputy Katherine Zappone, meet the various stakeholders and spokespersons to iron out the serious concerns that were raised so that this important legislation can be progressed?

The Tánaiste: The Minister is seeking to progress the Adoption (Information and Tracing) Bill 2016, which will create for the first time a statutory right for adopted persons and persons who have been subject to incorrect birth registration, birth certificate information and certain other information. The intention is that the Bill would certainly be enacted by the end of the year. The Minister has invited various spokespersons on children to meet her on 13 June, the week after our non-sitting week, to discuss how we can progress this legislation. The Minister, Deputy Zappone, is very anxious to talk to other political parties so we can progress this quickly.

Deputy Joan Burton: I wish to raise the Adoption (Information and Tracing) Bill 2016. I have been speaking to a number of adopted people who, as is their human right, are looking for information about their birth including their birth certificates. They cannot get them because all the power lies with the adoption societies and their inheritor, Tusla. One woman in her 30s has thought long about this and wants to know about her birth. She is entitled to that under the UN and European conventions on human rights. Some four years ago, she filled in forms and made the necessary contacts with Tusla. I presume they have by now put her on a contact tracing register. However, she has heard absolutely nothing. I have been in contact with her for many years. She accepts that it is going to take time. When I was Tánaiste I pursued this matter in private with each Attorney General and each Minister for Children and Youth Affairs. The Bill has stalled. Is the Government going to remove the barrier to people tracing their information, as provided for in the proposed Bill?

The Tánaiste: My understanding is that the reason the Minister, Deputy Zappone, is so anxious to bring this Bill forward is to try to deal with the very issue Deputy Burton is raising. I am aware that the Deputy has raised this before. We sat in Cabinet together and the Deputy has been vocal on this issue for many years. That is why the Minister, Deputy Zappone, wants to work with all parties in the House to progress the legislation, which has been frustrated and delayed - not on the Government's end - for the last months. That is my understanding. It is to be hoped that following the meeting of 13 June we will quickly see some progress.

Deputy Paul Murphy: I raise the legislation for the provision of abortion and in particular the need for access for people in the North. That need has been highlighted by events in Belfast in the last few minutes, where the PSNI has intervened to confiscate abortion pills and a drone that was due to be used for the distribution of abortion pills by ROSA, for Reproductive rights, against Oppression, Sexism & Austerity, activists. Deputy Ruth Coppinger is present there. The authorities and established parties in the North have all opposed the extension of abortion rights. I say to them that repression will not work and will not stop women who need to access abortion services from accessing pills through services like Women on Web. Repression will not stop activists fighting for abortion rights. As was true of the South, it will not succeed in stopping a movement to achieve abortion rights.

An Ceann Comhairle: Does the Deputy have a question?

Deputy Paul Murphy: Yes, on the legislation for the provision of abortion.

The Tánaiste: The Minister, Deputy Harris, has been very clear that he wants to bring legislation forward as quickly as possible. That legislation will be consistent with what the Government committed to before we asked the people to vote on this issue. We hope to have a draft Bill published before we break up for the summer. In fact, we hope to have Second Stage concluded before then, so that the Oireachtas committee can deal with the detail of Committee Stage during the summer months.

On the issue of Northern Ireland, we have a very positive North-South relationship on health co-operation. I suspect that women in Northern Ireland will be able to travel freely South across the Border, where our laws will apply, just as many Irish women have been travelling to mainland Britain to have their healthcare needs met for decades. While many of us would like to see legislative change in a number of areas in Northern Ireland, we have to respect the decisions that the devolved Government has made there.

Deputy Mattie McGrath: Under the programme for Government, I want to raise supports for special needs education. The Minister for Education and Skills came to Clonmel two weeks ago and announced about 600 new special needs assistants, SNAs. On the same day, the teaching and SNA staff in St. Mary's CBS in Irishtown, Clonmel, were told that they were being cut drastically. That school caters for boys from first to sixth class and has two autism spectrum disorder, ASD, units. Its staff champion the cause of ASD units. Two SNAs are being cut, one with 12 years' experience and one with six years' experience. The school is expected to carry on with children in mainstream classes and in the units without those SNAs. The whole system is totally unfair. The SNAs have to wait every year to see if they will get their notice. They have no job security. The families have no security whose children are attending there and who are grateful for the work the SNAs do. I have raised the matter already and hope the Minister will look into it. It is a sweeping cut. It is the only school in Clonmel with two ASD units. Big announcements are no good; they want real assurance that they will be maintained.

Minister for Education and Skills (Deputy Richard Bruton): This year is the first time that we have made the allocation of SNAs known to the schools in mid-May. This has been welcomed by schools and by Fórsa, the union representing SNAs, as significant progress in giving greater certainty. We have provided 840 additional SNAs for this coming September, which will bring the figure for additional SNAs in the last three years close to 3,000. We are greatly expanding this.

Of course, in respect of individual schools, the allocation will reflect the children attending the school at the time. That is decided independently by the National Council for Special Education, NCSE. The school will have the opportunity to appeal if it is not satisfied with the allocation. Those appeals will be facilitated by the NCSE.

Deputy Eamon Ryan: It is a black day for the environment. This morning it was announced that in the Tánaiste's own Cork Harbour there is to be a 250,000 tonne incinerator. This is completely against modern European policy or any sort of circular economy. This afternoon we are hearing from the EPA that effectively we are going to have no emissions reductions by 2020. Everything this Government is doing is leading towards an emissions rise by 2030 rather than the dramatic cuts we need. Will the Tánaiste support the calls for a special Oireachtas committee to be set up that would take the Citizens' Assembly recommendations on climate change and bring in the Secretaries General from the relevant Departments? By the end of the year, we could see how we could raise ambition to turn around this damning indictment of what is happening in our country.

An Ceann Comhairle: A number of Deputies are offering on that case - Deputies Michael McGrath, Sherlock, Ó Laoghaire and Buckley.

Deputy Michael McGrath: This really was an appalling decision by An Bord Pleanála. It shows a complete disregard for the views of the local community and the inspector. I want to raise two issues in that context. One is the decision of the then Minister, Phil Hogan, in 2011 to abolish the incineration levy which the previous Minister, John Gormley, had introduced. Will the Government reconsider that issue?

The local group, the Cork Harbour Alliance for a Safe Environment, CHASE, has called for an investigation into two meetings which took place in March and July 2011 between Indaver, the company promoting this project, and the then Department of the Environment, Community and Local Government, for which it would appear there is no record, minutes or documentation. That issue needs to be investigated.

Deputy Sean Sherlock: I have to express my absolute disgust at this decision because it flies in the face of the democratic will of the people. Every public representative in County Cork gave evidence before the oral hearing. The people of Cork overwhelmingly did not want that incinerator to go ahead. There were countless numbers of deferrals. It is great that the Tánaiste, who is from the area, is here in the Chamber today. Will the Government give us some commitment that this decision will be fought on behalf of the people of Cork? It flies in the face of the Cork Lower Harbour philosophy of renewable and clean energy. We have been working for quite a number of years to clean up the industries in the area. This is an absolute kick in the teeth for the people of County Cork.

Deputy Donnchadh Ó Laoghaire: The people of Ringaskiddy and Cork Lower Harbour, as the Tánaiste knows, will be absolutely devastated by today's news. They have been fighting

against this incinerator for well over a decade. It is wrong that three attempts were allowed to get to this point. It has been suggested in the last while by the former Senator, Dan Boyle, and my colleague, Deputy Michael McGrath, that incineration is a technology which is increasingly going out of fashion and is out of line with modern technologies. There was previously a levy on incineration to discourage its use. Will the Government now consider reintroducing an incineration levy?

Deputy Pat Buckley: This decision is detrimental to the whole Cork Harbour area. We are trying to promote tourism. This will be an absolutely diabolical scenario for the whole area of Cork affecting tourism and health. We have a hidden natural gem in the Cork area that we need to promote. People who are vehemently against this incinerator have put up a strong fight. I urge everyone to pull together and keep on fighting. We need to keep a cleaner environment in County Cork and across the country and promote our natural resources, namely, tourism and health.

The Tánaiste: I happen to live two miles from the site in question which is closer than any other Member, although Deputy Michael McGrath is pretty close to it too. I have been involved in discussions and debates around this issue for over ten years. I believe the decision made by An Bord Pleanála is the wrong one. I am not saying that for the first time. Anybody who wants to look at my views on this issue can check the detailed 40-minute presentation I made to the oral hearing on this issue. What is frustrating is that we won the argument. The inspector who was managing that oral hearing recommended a refusal.

We also need to respect the independence of An Bord Pleanála, however. It is an independent planning appeals body. I do not know the basis for its decision not to follow the recommendation of the inspector and of the oral hearings process. However, that is the decision it has made. I do not agree with it but it is a planning decision.

The main basis of my concern is that it was counter to the Government's policy on the site concerned. The issue of incineration is a separate debate in terms of waste management and so forth. The site is the issue in this case. The State spent well over €15 million on the National Maritime College and €13 million on the Beaufort Research Laboratory across the road from the site. It has spent between €7 million and €10 million on Spike Island as a tourism project. The Government has committed €70 million to the reconditioning of Haulbowline Island, a large part of which will become a people's park. That was the basis of my objection to this site being chosen for this form of waste management and disposal. I am as disappointed and as frustrated as anybody to hear the outcome of An Bord Pleanála's deliberations. However, I need to respect its independence. It is important all Members respect it as an independent agent of the State.

An Ceann Comhairle: With the agreement of the House, we will take five more minutes on promised legislation because quite a number of Deputies are offering and I did not get the chance to call Deputy Shortall as leader of the Social Democrats. Is that agreed? Agreed.

Deputy Róisín Shortall: There is much concern among the women affected by the CervicalCheck controversy about the delay in the Government actually following through on commitments made several weeks ago concerning putting in place the kinds of services and supports they require, as well as the response to the handling of legal cases.

The other area of promised legislation where there is concern regards the promise to leg-

islate, on an urgent basis, for mandatory open disclosure. Is the Tánaiste in a place to tell us where we are with the promise to bring in that legislation? At what stage is it? When can we expect to see it? The general expectation is that the urgency of the matter would require that it would be in before the summer recess.

The Tánaiste: Following on from some of the questions that Deputy Donnelly raised earlier on the support packages promised by the Government, I received a note from the Department of Health. Up to 105 new medical cards have already been issued in this area. All supports in terms of home care packages and 14 counselling and physio appointments have started. The packages are under way in terms of the practical supports and implementations being put in place.

Many women have indicated that they want to consider their needs further and then revert to the HSE outlining what they require. That is understandable having outlined to them what is potentially on offer in terms of available supports. There will be a process of consideration and deliberation around that. It is very much under way.

I will come back to the Deputy with an exact date for the legislation in question. It is a priority and we are going to move it ahead as quickly as we can.

Deputy Carol Nolan: The programme for Government states:

Long durations in direct provision are acknowledged to have a negative impact on family life. [This Government is] committed to reforming the direct provision system, with particular focus on families and children.

Is the Tánaiste committed to supporting children who have become victims of such detention? Does he accept that a 14 year old who has spent 12 those years in Ireland under the asylum system is a de facto Irish resident? Will he agree the deportation of an entire family of two teenage brothers and their widowed mother, who are integrated into Irish society, back to the legal ownership of the mother's brother-in-law will have a negative impact on family life? Nonso and Victor Muojeke and their mother are one such family. Is the Tánaiste committed to stopping on humanitarian grounds the deportation from Offaly of the Muojeke family?

Minister for Justice and Equality (Deputy Charles Flanagan): As the case to which the Deputy refers is currently before the courts, I would be most reluctant to make any comment to the House on it. I am familiar with the situation of the case but it would be inappropriate of me to make a statement in the House at this point.

Deputy Imelda Munster: On the programme for Government's investment in social, regional and economic infrastructure, last year more than 100,000 people in Drogheda, south Louth and east Meath were left without water for eight days and forced to wait on water tankers coming from as far away as Kilkenny and Thurles. Following that, in September, Irish Water announced it had signed the contract to upgrade and replace the pipe which caused the problem. It even went so far as to say work would begin before the end of last year. It never delivered on this, however. That same pipe burst again last night. Once again, the people affected will be without water and do not know for how long.

Despite the mayhem that Irish Water created last year and all that people endured, the company could not even be bothered to prioritise that work. Irish Water needs to get its act together and needs to be instructed to get its act together. Fleadh Cheoil na hÉireann is coming in as

many weeks.

An Ceann Comhairle: Thank you, Deputy. We are out of time now.

Deputy Imelda Munster: The people of Louth, east Meath and Drogheda need to be assured. We have had enough of this chaos. We need to know this is the last time it will happen.

Minister for Housing, Planning and Local Government (Deputy Eoghan Murphy): I thank the Deputy for the question. Irish Water did not cause the mayhem last year, but the company did resolve and fix it.

I met the control group this morning. I was notified of this incident almost immediately it happened. Irish Water staff have been working through the night. They have now gotten down to the leak. It is 4 m down in the ground and 20 m from the location where the leak occurred previously. Thankfully, because of how Irish Water reacted last year, the company ordered a second piece of replacement pipe. Irish Water staff are now hoping to install it to help bring water back as quickly as possible.

Tankers have been deployed. The Army has been notified about the need to deploy additional tankers. We are aware of two festivals coming up that will need to be prioritised for water. At the moment, the priority is for the hospital and other areas. We want to ensure that those who will be without water are without it for as short a period as possible.

The replacement pipe is part of a longer term project that will be completed by the end of the year.

Deputy Imelda Munster: We heard that last year.

Deputy Eoghan Murphy: The Deputy did not hear that last year. That is not true. That is not what she heard last year.

Deputy Imelda Munster: It is.

Deputy Eoghan Murphy: The Deputy is misleading the Dáil to say that, because that is not what she heard last year. I was at those meetings. It is not what Deputy Munster heard.

The piece of replacement pipe is here. We will be ready to go with it in the coming weeks. It will take a number of months to fully replace the piece of pipe. We are talking about a very old and large piece of concrete asbestos pipe at a high-pressure point at the bottom of a hill. It needs to be replaced and it is priority work.

Deputy Imelda Munster: The Minister and Irish Water have had a year to do it.

Deputy Eoghan Murphy: It takes a year. We are talking about several metres in length and a pipe of significant size. The work started with the planning. It needs architectural permission as well because of where it is.

(Interruptions).

An Ceann Comhairle: Deputy Munster, please.

Deputy Eoghan Murphy: I call on Deputy Munster not to try to minimise the significance of what is trying to be achieved here by Irish Water. The company will put in a significant re-

31 May 2018

placement for this piece of pipe through the course of this year. However, until then Irish Water staff are working every hour of the day to get this particular break fixed. I will be updating the House later this evening on the matter.

Sitting suspended at 1 p.m. and resumed at 1.45 p.m.

Message from Select Committee

An Leas-Cheann Comhairle: The Select Committee on Finance, Public Expenditure and Reform, and Taoiseach has completed its consideration of the Markets in Financial Instruments Bill 2018 and made amendments thereto.

Fatal Road Traffic Collision in County Monaghan in 2011: Statements

Minister for Justice and Equality (Deputy Charles Flanagan): Shane O'Farrell's death was a tragedy and his loss has had a catastrophic impact on his family. Shane was just 23 years of age when he was killed while cycling in County Monaghan in 2011. He was taken from his family at a time when he held so much promise for the life he might have lived. I again offer my condolences and profound sympathy to Mrs. O'Farrell, Shane's sisters and their extended family and friends. I cannot imagine the scale of their grief and know that no words of mine can bring him back to his family.

In the course of the last seven years I have met members of Shane O'Farrell's family and I am very familiar with their tireless quest to understand the circumstances which led to his death. I state categorically that there are a number of matters surrounding the circumstances of his death which are of concern. It is a fact that the person who was responsible for the fatal accident had multiple previous convictions, including for theft, drugs and road traffic offences, for some of which he had received suspended sentences. It is also the case that at the time of the accident he was on bail in respect of a number of charges. Shane's mother, Lucia O'Farrell, has asked for a public inquiry.

In the years since Shane O'Farrell's death my predecessors have attempted to address the concerns of his family. They have availed of the mechanisms at their disposal to determine what actions might be taken. In 2014 my predecessor, Alan Shatter, referred the matter to the Garda Síochána Ombudsman Commission, GSOC. Members of the House will be aware that GSOC has statutory responsibility to deal with complaints concerning the conduct of members of An Garda Síochána. At the time of the then Minister's referral, GSOC was already investigating the case on foot of a complaint from the O'Farrell family and it merged the two into one investigation.

The following month, May 2014, the then Minister referred the case to the independent review mechanism, IRM. The IRM was established independently to review certain allegations of Garda misconduct or inadequacies in the investigation of certain allegations with a view to determining to what extent and in what manner further action might be required in each case. For clarity, I note that the independent review mechanism was not established to act as a commission of inquiry or investigation or designed to make findings. Its purpose was to examine allegations to see whether further action was needed by the then Minister and what that action

would be. Under the IRM, the allegations made by the O'Farrell family concerning the circumstances of the death of Shane and subsequent events were examined. Having considered this case, the recommendation made by the IRM was that no further ministerial action should be taken in this case. Counsel for the IRM pointed out that the appropriate forum for raising matters related to alleged Garda failings was GSOC which, as Members will be aware, was already investigating certain matters arising from the tragic death of Shane O'Farrell.

In December 2015, my immediate predecessor, the former Tánaiste, Deputy Frances Fitzgerald, issued a letter to Mrs. O'Farrell setting out the outcome and recommendation from the IRM review and the reasons for these. Before leaving the IRM, it is important that I make one further point as I know that the matter of bias or conflict of interest has been raised in relation to this particular case. One of the senior counsel on the IRM panel had represented the driver of the car which caused the death of Shane O'Farrell at his trial. Repeated assurances have been given that such conflicts of interest were catered for and I am advised categorically that this senior counsel had no involvement in the review of Mrs. O'Farrell's complaint.

The House will be aware that when it comes to a panel of expert lawyers, it is always possible that a conflict of interest may arise and it is, therefore, essential that appropriate procedures are in place. I am assured that the IRM panel took appropriate steps to ensure that nothing arose which might have in any manner detracted from the integrity of the mechanism. Arrangements were put in place to ensure that if there was any conflict, or potential conflict, the conflicted counsel not only would not be involved in the particular complaint, but also would not be aware of which counsel was undertaking the review.

Deputy John McGuinness: Could I ask the Minister is there a copy of this?

Deputy Sean Sherlock: Is there a copy of the speech?

Deputy Charles Flanagan: I understand it is being circulated. This is normal professional conduct and there were sufficient counsel on the panel to ensure the practicality of this. Whatever steps were necessary in this regard and in relation to this complaint were taken to ensure there was no conflict of interest. This has been explained to the family, to their solicitor and to this House in reply to a number of parliamentary questions.

As mentioned, a number of complaints were made to GSOC by the O'Farrell family and my predecessor, Mr. Alan Shatter, also referred certain matters relating to the case to GSOC. The investigation on the part of GSOC involved consideration of all complaints made to it, that is, a total of 56 complaints made by the family and matters referred to GSOC by the former Minister, Mr. Shatter. In April of this year, GSOC issued its first report on the case to me and provided a copy to the O'Farrell family. The first report considered the case from a criminal perspective. Each allegation was examined to determine if any conduct by the gardaí could constitute an offence.

The primary complaints considered by GSOC were alleged failures by the gardaí relating to the fact that the person who caused the accident had breached bail conditions in the months before the accident, alleged failure to check tax and other matters when the car which was involved in the collision with Shane O'Farrell's bicycle was stopped shortly before the collision, and alleged failure to bring charges against a person for withholding information about the accident and alleged failure to keep the O'Farrell family informed of certain matters.

GSOC found that there were no grounds for criminal proceedings against any garda. How-

ever, it identified conduct that may lead to disciplinary proceedings. It immediately began a report on the disciplinary issues that this case gives rise to under the Garda disciplinary code. The current GSOC investigation is examining an alleged failure to check tax and other matters related to the car and the owner of the car involved in the collision and an alleged failure to bring bail conditions to the attention of the court or to reactivate a suspended sentence when the person was charged with subsequent offences prior to the date of the collision.

This work is ongoing and, given the lengthy and detailed investigation to date, I expect that report to be completed without delay. The findings of GSOC's report on disciplinary matters may be quite serious and I urge colleagues in this House to be mindful of the importance of allowing GSOC to determine whether any gardaí may be guilty of a breach of discipline and to be careful not to interfere with that process. Indeed, I am sure Members of the House have read the statement issued by GSOC last night.

This statement clarifies that the investigation into complaints made to GSOC by the family of the late Shane O'Farrell is, in fact, ongoing. The report provided to the O'Farrell family was pursuant to section 103 of the Garda Síochána Act 2005 by way of an update at the completion of one phase of the investigative process.

GSOC is conscious that all parties, including gardaí under investigation, have rights and is not jeopardising the ongoing disciplinary investigation by naming persons who have the right to be heard and offer an explanation for the conduct under investigation. When the investigation is completed, a report will be forwarded to the Garda Commissioner under section 97 of the 2005 Act. It will be open then to the acting Garda Commissioner to consider what action, if any, he thinks appropriate under the Garda disciplinary regulations.

GSOC is the independent authority established by statute to investigate allegations of wrongdoing or failings by members of the Garda. Its independence is its guarantee to members of the public, and, indeed, to members of the Garda who are the subject of complaint, that any and all complaints will be investigated properly and thoroughly and with due regard to the rights of all those involved.

On the matter of its first report, my understanding is that GSOC did not immediately publish that report so as not to cause further undue distress to the O'Farrell family. It is important, however, that the report is published and that there is transparency in this case on matters which are concerning not just to the O'Farrell family but to many in this House and beyond. It is my understanding that GSOC intends to publish that report today.

The House may find it useful to know that the GSOC report made a number of more general recommendations which I would like to set out here. It stated that attendance in court for victims, especially in cases involving fatalities and serious assaults, can be particularly traumatic. This can be exacerbated by the fact that there is no clear listing system, especially for the District Court, available to the public. Furthermore, cases are often taken out of turn and new cases are added, which further extends the waiting time. GSOC has drawn attention to the inability to hear clearly in the courtroom which can obviously be frustrating.

With regard to victims, the report states that victims can miss all or part of court applications because they are not informed that a case is to be dealt with while they are outside the courtroom or engaged in consultation. It states that victims should be provided with appropriate information about a case and given it in a timely fashion. Finally, it states that better com-

munications between the courts, the Garda and Prison Service might prevent significant issues being overlooked or missed, such as bail conditions that may have been breached.

I thank GSOC for these findings. I have asked my officials to examine them to determine what action I, as Minister, may take to address these issues. On the question of a statutory inquiry into the circumstances of the tragic death of Shane O'Farrell, the House will be aware that the previous Taoiseach and Tánaiste, who met the O'Farrell family in the latter part of 2016, stressed that they would examine whether any further action was warranted once the GSOC investigation is completed.

I have almost concluded and I would ask the Leas-Cheann Comhairle to allow me a further 30 seconds.

An Leas-Cheann Comhairle: It is an important statement.

Deputy Charles Flanagan: While the criminal investigation has now concluded, there is still an investigation under way that could result in a recommendation for disciplinary action against one or more members of An Garda Síochána. That is a source of deep frustration and, indeed, upset for the O'Farrell family, but it remains the case that the GSOC disciplinary process must be completed before there is any decision on what further action can be taken. I strongly reiterate the commitment given to the O'Farrell family that once the GSOC investigation is completed, the question as to whether there remain issues that require further investigation will be fully and transparently considered.

At the heart of this is a tragedy and a family in pain. We should remember that this family is searching for answers and they deserve our sympathy and support. I extend, once again, my sincerest condolences to Mrs. Lucia O'Farrell and members of the O'Farrell family.

An Leas-Cheann Comhairle: In view of the importance of the statement, I allowed an extra minute.

Deputy Charles Flanagan: It was much appreciated.

An Leas-Cheann Comhairle: Other groups may require an extra minute.

Deputy Bríd Smith: Can we get a copy of the Minister's script?

An Leas-Cheann Comhairle: They are being run off. I call Deputy O'Callaghan, who, I understand, is sharing with Deputies Niamh Smyth and McGuinness.

Deputy Jim O'Callaghan: The death of Shane O'Farrell was a terrible tragedy not only for his loving family but, more especially, for himself. Shane, as we know, was a 23 year old graduate of law from University College Dublin. He had his whole life ahead of him and he was deprived of all the opportunities that he could have had. I reflect on my own life and what I was like as a 23 year old. As a graduate of law from UCD, I have had fulfilment and opportunities. Shane never had the chance to experience such fulfilment or opportunities.

Tragedies happen in families throughout this country but the reason the tragedy of Shane O'Farrell merits public discussion and debate in this House and public investigation is because it reveals a very significant inadequacy and inefficiency at the heart of the criminal justice system. It is important that we focus in on the central complaint of the O'Farrell family in respect of the criminal investigation and the Garda investigation into this matter.

31 May 2018

It is important to recall that Shane was killed on 2 August 2011. We know the person who was driving the car that collided with his bicycle on that occasion because the person subsequently pleaded guilty to failing to stop at the scene of the crime and report the collision. It should also be noted that the person was subsequently acquitted of the more serious charge of dangerous driving causing death. The real issue of public concern is that the individual accused of these crimes who clearly was driving the car when it collided with Shane's bicycle had a series of criminal offences to his name and if the criminal justice system had been operating efficiently, it is highly likely he would not have been on the road on 2 August 2011.

I move to 11 January 2011, some seven months before Shane's tragic death. On that occasion in Monaghan Circuit Court the accused individual was convicted of theft. The judge stated that if he was convicted of other theft or fraud offences, he was to be brought back before him and that he would be put in jail. Fast-forward to 9 May 2011, three months before Shane's death, in Ardee District Court the individual was convicted of theft. The big question that must be answered is why was he not then brought back before Judge O'Hagan in Monaghan Circuit Court where he would have received a prison sentence and been put in jail. Subsequently on 11 May 2011, in Dundalk District Court the individual was convicted of speeding. On 8 June 2011 in Carrickmacross District Court he was convicted of possession of heroin. On 14 July 2011 in Newry, north of the Border, he was convicted of theft. On 25 July 2011 in Monaghan District Court he was convicted for having no tax disc Court. All of these offences may not have been fraud offences, but they were other offences that meant he had breached his bail bond. The question at the heart of the O'Farrells complaints is why was the individual not brought back before the courts in order that the judge could have been informed and executed the sentence that was hanging over the individual of being put in jail. I do not know what would have happened on 2 August 2011 had the individual been in jail, but there is a strong likelihood that the collision with Shane O'Farrell would not have happened.

We now have GSOC's report which does not answer the question I have just put to the House. We are told by the Minister that the investigation is ongoing. The questions which disclose significant inefficiencies and failings in the criminal justice system merit further and proper investigation. The O'Farrell family have had to wait six years for GSOC's report and are now told that they will have to wait further time to get answers to their questions. I appeal to the Minister to establish a commission of investigation. It is important that we do not give the O'Farrell family false hope. Unfortunately, it is the case that no individual will be convicted for the wrongful death, manslaughter or murder of Shane. That will not happen, but, as a family, they are entitled to accountability. They are entitled to be told why it was that an individual who should have been brought back before the courts was not brought back before them and who was responsible.

Deputy Niamh Smyth: Almost seven years have passed since Shane O'Farrell was killed in an horrific hit and run accident in Carrickmacross, County Monaghan. Shane was a handsome, young, intelligent man, an only son, with four loving sisters and his whole life to live. I cannot begin to imagine what Lucia and the whole family have been through and continue to go through having lost a child. Having lost him in such circumstances is unthinkable. They must be commended for the courageous and dignified manner in which they are pursuing justice for him. They have been unrelenting in their quest for justice and in so doing are doing their utmost to honour his life.

The accused should not have been at liberty at the time to kill Shane, flee the scene, abandon

his car and hide it. If the justice system had been operating effectively, he would not have been driving on that day in August 2011 as he would have been in jail. He had been released on bail having committed numerous offences and breached all of the bail bonds, yet he had not been brought back before the courts for those breaches.

Three weeks before Shane's death the accused was convicted in Newry of theft. This should have led to his imprisonment in the Republic for breach of bail conditions. The car in which he was travelling had been pulled over by gardaí less than one hour before Shane was killed. The vehicle was being driven by an uninsured driver and it had no NCT certificate. The accused was well known to An Garda Síochána, Interpol and the PSNI. He had an extensive criminal record, with more than 40 previous convictions for a variety of offences.

The case reveals the shocking dysfunction at all levels of the criminal justice system. The O'Farrells were failed by the State on many levels. The beacon of hope for the family was GSOC's report. They have waited six long years for the report. They went over and above what could have been expected of anyone involved in this process, providing court orders from the State and other jurisdictions. They complied fully and engaged in the process. The fact that they had to wait six years for the investigation and report to be completed is a source of controversy in itself. It must be even more frustrating that when the report finally came to light, it did not provide the answers to which the O'Farrell family were entitled. Seven years after Shane's death it is clear that the only way the O'Farrells will get the answers they deserve and the only way we, as a nation, can learn lessons to ensure justice will be delivered and that the dysfunction with the criminal justice system will be rectified is through the establishment of an inquiry. It is true that nothing will bring Shane back, but how can his family possibly be expected to get closure without answers to their questions? How can we, as parliamentarians, stand by and let an injustice stand unchallenged, with no one being made accountable?

Deputy John McGuinness: I welcome Lucia O'Farrell and her husband and family to the Visitors Gallery. They are observing this debate and will continue to do so until such time as an inquiry is established. The report does not cover accurately the aspects of the event, the case and happenings before 2011. Some of the descriptions in the report are quite insulting and I am sure it causes the O'Farrell family further stress, anger and frustration. For example, in speaking about the individual who murdered Shane appearing at the Garda station, the report states he admitted it to gardaí. What it does not state is that he was in custody in the Garda station for 11 hours before he admitted what he had done. It was only on the presentation of the evidence by his wife that he admitted that he had been involved in the accident and had caused the death of Shane O'Farrell.

The other aspect of the report concerns GSOC. It stated the outcome was entered on the Garda PULSE system. The O'Farrell family were told that it had not been entered on the PULSE system. They named the garda in question - I will not name them - and said it had been an error. Who is telling the truth about what happened to Shane O'Farrell?

Let us look at the truth. The criminal who killed Shane O'Farrell had been in breach of multiple bail conditions. On the night he killed Shane the criminal had 42 convictions. He was known to Interpol, the PSNI and the Garda. When he was in the neighbouring jurisdiction, the PSNI had him. He had been caught for further offences. When the family asked the Garda if it was aware of this, it stated it had not been made aware of it by the PSNI. There is a letter from the PSNI confirming that it was in contact with the Garda and had explained the issues surrounding the individual who had murdered Shane O'Farrell. Someone is not telling the truth.

The other issue is that in 2014 GSOC was requested by Alan Shatter, using the powers conferred on him under section 102(5) of the Garda Síochána Act 2005, to carry out a public interest inquiry. He urged it to look beyond what it was dealing with in the context of the report. The report does not deal with all of the complaints made by the O'Farrell family. It only deals with a small number of them. It does not deal with the full extent of the 42 convictions outlined of the man who killed young Shane O'Farrell. He had never served time in custody before 2 August 2011, notwithstanding the fact that he had 42 previous convictions. He had seven convictions for possession of heroin and was the subject of inquiries regarding the abuse of alcohol. On the night in question the registration of the car was flagged on the Garda system. The gardaí knew the three individuals in the car. There is no doubt about that. They had a criminal record and despite the driver of the car being uninsured and the car having no national car test certificate, nothing was done about it. The gardaí knew all of this and within an hour he had killed Shane O'Farrell.

This issue is as much about the O'Farrell family. They are central to this. Deputy O'Callaghan said they deserve the transparency and accountability. The State deserves it. It is not just Shane O'Farrell, it is the system from the Director of Public Prosecutions, DPP, down to the courts that needs to be examined. Please do not make them wait another six years.

Deputy Mary Lou McDonald: I welcome Lucia and all the members of the O'Farrell family here today. Six years have passed since Lucia and Gemma O'Farrell submitted their first complaints to GSOC. They have waited all this time for a report that was to investigate in full the multitude of failings by the justice system before and after Shane was killed. We have read the GSOC report and are deeply concerned at its inadequacy. In 2015, former Minister for Justice and Equality, Alan Shatter, ordered GSOC to undertake a public interest inquiry into Shane's death to allow GSOC broaden its scope, yet there is no evidence in the report that it did so. There is little evidence or explanation to underpin its conclusions, there are statements that are simply erroneous and the absence of a summation that clearly details each complaint, finding and rationale for GSOC's conclusions is inexplicable and disgraceful.

Critically, GSOC has not addressed the failures of An Garda Síochána and the courts to act on the multiple breaches of bail documented in the report on foot of the family's complaints. Had the man who killed Shane been returned to court as ordered in January 2011, the O'Farrell family would be complete today and they would not be sitting in the Visitors Gallery here this afternoon. It is beyond extraordinary that GSOC, having made the decision that no criminal offence occurred, will only now investigate these complaints as disciplinary matters. Justice delayed is justice denied. It seems abundantly clear now that GSOC is playing for time and is playing games. It strikes me that in first instance it is the Minister's job to put a stop to that. It is clear that the investigation necessary to uncover the truth is beyond the capacity and competency of GSOC and that an independent public inquiry is now required.

The O'Farrells' complaints to GSOC also pertain to the DPP. While the DPP enjoys the independence of its office, it must be accountable for its decision to delay progressing additional charges against the perpetrator until after his trial. The complaints raised and validated by evidence uncovered by the O'Farrells and Lucia has been utterly meticulous. The idea that she missed something is frankly an absurdity, and all this extends beyond one family's grief. There is a catalogue of significant failings across the judicial system that cannot go unchallenged.

How are communities living within this divisional district to have confidence in An Garda Síochána or the DPP if we cannot get answers to the failures surrounding Shane's case? On 2

August Lucia and Jim O'Farrell and their beautiful daughters will mark the seventh anniversary of their beloved Shane's death. We cannot and we must not let another year pass without justice for Shane. The Minister offered sympathy and support to the family - rightly so - and we echo that sentiment, but they do not want our sympathy. They want the truth and they deserve, and we need, an independent public inquiry.

Deputy Donnchadh Ó Laoghaire: It is now almost seven years since Shane O'Farrell was killed at the side of the road in County Monaghan. It is fair to say there was a failure by many of the agencies of the law and it is not unfair to say that the justice system as a whole in the State categorically failed the family of Shane O'Farrell.

The man responsible should not have been at liberty. He was the subject of 40 convictions. This report is a farce. It backs away from the points of failure at every opportunity. That it took six years to complete its 28 pages is extraordinary. The issue publication date was 29 March 2017. It has been awaiting further action or publication for over a year. If there are further actions or investigations to be undertaken by GSOC, where are they? What has begun in that regard?

It is possible that the Minister may not have read the report. When he does read it in its entirety and in detail, he should be asking serious questions of GSOC. This is a grossly deficient report in several respects. It echoes the version of events given by An Garda Síochána practically uncritically. There is no desire, effort or initiative to go beyond the version of events given by An Garda Síochána. It is not an investigation. It is a summary of the version of events that has been given. There are numerous examples of that, the fact that on two occasions the person who killed Shane O'Farrell, Mr. Gridziuska, was arrested in the North and the report simply accepts that these were not recorded on the PULSE system as it occurred outside the jurisdiction. There is, however, documentary evidence to say that the PSNI contacted the Garda Síochána. It also uncritically accepts the fact that, even though the car was stopped a few hours before Shane was killed, because it was simply a drugs search, there was no need to check for insurance or anything like that. It accepts that as a matter of course. It does not seek to go any further. I am very concerned about GSOC if this is the standard of work that comes out of it after six years. The Minister can call this report many things but I do not think he can consider it an investigation.

A public inquiry is required, and not just because of the deficiencies of this report. It should not have been before GSOC anyway because the failures in this case go far beyond An Garda Síochána. They extend to the Courts Service and the DPP. It is clear that an inquiry is the only way of getting to the truth. It has been far too long already. We are now approaching the seventh anniversary of Shane's death. We cannot delay any further. The Taoiseach and his predecessor did not rule out a public inquiry. We cannot delay any further and must progress that.

Deputy Caoimhghín Ó Caoláin: On 2 August 2011, a young, intelligent, vibrant life was taken by a man who should not have been in a position to do so. He should not have been where he was. The hard fact of the matter is that the driver of the car that mowed down Shane O'Farrell should have been in custody, in prison. Shane's life was taken and the lives of his distraught parents and family will be forever broken. The driver was a bail bond breaker and a serial offender on both sides of the Border. The absence of real joined-up policing North-South made it possible for this man to avoid the proper application of the law in both jurisdictions. Inexplicably, however, the absence of proper application of the law by members of An Garda Síochána, even where all the salient information was not to hand, merits comprehensive ad-

dress. The recently published GSOC report fails the test. This is not about scapegoating garda A or garda B. It is about exposing and addressing the systemic failures of our policing and justice systems. It is about putting in place real guidelines and real standards for policing, and not just in this State.

We also need reform of penal policy and sentencing. A significant number of prisoners in our prison system have been placed there for not paying fines, many, I expect, because they are unable to do so. Our prisons are occupied beyond capacity. I suspect there may be some impact from that fact in this case. A man who over the preceding 19 months, up to his taking Shane's life, had committed at least 25 offences, including possession of drugs, aggravated burglary, theft, the handling of stolen goods and a list of road traffic offences, was allowed to go free time after time, bail bond after bail bond. Something is not working. Something is not right.

We cannot have Shane back. We cannot really comfort his grief-stricken family in their immense loss but we can and we must ensure that the full truth is established and that the flaws in our policing and justice systems are identified and corrected. A full public inquiry will not end the O'Farrell family's heartache but it could and it should end the wrongs that contributed to Shane's tragic death. A full public inquiry is a societal requirement and one that should be initiated by the Government without any further delay.

Deputy Sean Sherlock: I call on the Government to adhere to and accept the overwhelming desire of this House, and of the family of Shane, for an independent public inquiry into this matter. Until such time as we have a public inquiry, which is a political decision to make, I do not believe we can have absolute confidence that justice will be served in its entirety regarding the matter of the murder of this young man. This young man, as was said by his Mam, studied law and lived and believed in the law. The justice system and the agencies of the State have failed him utterly. That is set out in correspondence to the leader of my party, Deputy Brendan Howlin.

I note there is correspondence between Deputy Brendan Howlin and the Taoiseach dated 28 January of this year whereupon the Taoiseach, in his response to Deputy Howlin, states:

I am advised that GSOC officials met with the members of the O'Farrell family on 27 September 2017 and were given an update on the current position with regard to the investigation of their complaints. I am further advised that GSOC have been reviewing a number of matters raised by the family and that they hope to conclude their review and issue their report on the investigation shortly.

If we fast-forward to the Minister's contribution today on the GSOC investigation, it is important to quote from his speech where he states:

GSOC is conscious that all parties, including gardaí under investigation, have rights and are not jeopardising the ongoing disciplinary investigation by naming individuals who have the right to be heard and offer an explanation for the conduct under investigation. When the investigation is completed, a report will be forwarded to the Garda Commissioner under section 97 of the Garda Síochána Act. It will be open then for the Garda Commissioner to consider what action, if any, he thinks appropriate under the Garda disciplinary regulations.

To return to the Taoiseach's response to Deputy Howlin, and I am sure the same response was issued to other Members of this House, the Minister in his contribution today stated:

On the question of a statutory inquiry into the circumstances of Shane O'Farrell's tragic death, the House will be aware that the previous Taoiseach and Tánaiste, who met with the O'Farrell family in late 2016 have stressed that they will examine whether any further action was warranted once the GSOC investigation is completed. While the criminal investigation has now concluded, there is still an investigation under way that could result in a recommendation for disciplinary action against one or more gardaí.

My core point is that, notwithstanding the outcomes of any GSOC investigation or whether any disciplinary actions take place, there is still very much a need to ensure there is an independent public inquiry into this matter. If one refers to a submission to a plenary session of the British-Irish Parliamentary Assembly, entitled Submission to the assembly regarding the circumstances of the death of Mr. Shane O'Farrell, it best articulates the litany of injustices that were done to this young man. The perpetrator was permitted to be at liberty on 2 August 2011. At that time he was in breach of bail. He faced yet more unrelated charges. The Garda failed to raise the fact that the perpetrator was in breach of bail, had suspended sentences and had been sentenced to a custodial sentence which he did not serve. The submission claims that the family were misled about the facts of their son's death. There were claims that persons chose not to answer questions put to them by judges, thereby misleading the court. It goes to the heart of the justice system. It is about justice for Shane and his family but it is also about the systemic failures that continue to exist within the Irish system. Is it a geographical issue? Does it pertain to a particular geographical location? One would have to conclude that the answer to that question is not necessarily so. I believe it is systemic right across the system.

I do not want to give empty platitudes to the O'Farrell family other than I hope they will recognise the fact that this Parliament in the majority is asking for an independent public inquiry and we want justice to be done for Shane O'Farrell, a man who was on his bike. Think about it. He was going about his business on his bike. He was a man who studied the law. He was a citizen of this country and he deserves more than he got. We owe it to his memory, to his family, his Mam, Dad and sisters, to do justice and to do right by him. I do not believe it will tax the State too much to have this. We need a proper outcome in terms of ensuring that everything is gone through in this instance.

The Minister's stated he strongly reiterated "the commitment previously given to the O'Farrell family that once the GSOC investigation is completed, the question as to whether there remain issues that require further investigation will be fully and transparently considered". I hope the Government would move now, having heard the overwhelming views of the majority of this House, towards giving some indication that a public inquiry should be held, notwithstanding the outcomes of any GSOC hearings or findings. It still needs to happen regardless of the GSOC report.

An Leas-Cheann Comhairle: The next speaker is Deputy Gino Kenny who, I understand, is sharing with Deputy Bríd Smith.

Deputy Gino Kenny: Yes. I welcome Lucia and all her family who are in the Gallery. Today we should not be taking about Shane O'Farrell. Shane should have been getting on with his life, coming up to his 30th birthday, loving life and enjoying his career, but he met his end in a very violent way. Anybody who knows the circumstances before 2 August 2011 would know Shane should be alive today. We should not be talking about Shane O'Farrell: he should be living his life with his family.

One would have to be completely incompetent or complicit to accept as an accident the circumstances that led up to the events of the 2 August 2011. This was an accident waiting to happen because of gross negligence and missed opportunities in the conduct of the local police force and the judicial system, which at best were completely incompetent and at worst bankrupt.

The system completely failed Shane and the O'Farrell family, even to this day. There has been a catalogue of failures, a litany so obvious that Shane's family at least deserves a proper explanation. The explanation has not come in the whitewash of the GSOC report. The family has waited for six years to hear something they already knew. I put it to the Minister that the only way the family will get justice is through a public inquiry. We all know that it will not bring Shane back and that the person who killed him on that night probably cannot be prosecuted, but the family can get justice. If the family does not get justice then it is a travesty. The family seeks some sort of closure and that there is some sort of accountability around the person who did this and the system that backed it up. This is all the family looks for. It is a small thing in the grand scheme of things, but that is what the family looks for.

When we consider the GSOC report and all the failures of the system, anybody reading it - a lay person or a Deputy - would have serious questions on the role of the local police force and the collusion with the judicial system. Serious questions must be asked about particular people referred to in the report.

These are questions for the Minister and the Department of Justice and Equality to answer. The family asks that the Minister would stop prevaricating and give this family some sort of justice through a public inquiry. It will not bring Shane back, but in his memory justice should be done for the family.

Deputy Bríd Smith: I salute the family and in particular Lucia. Anyone who knows her is completely gobsmacked by her intelligence, decency, honesty, absolute determination and her deep love for her son. If the Minister has not yet met her, believe me when I say that she will not go away until this is brought to a conclusion.

This is a tragic case of the failure of the State and its agencies to protect one of its citizens. If the State fails to protect one of its citizens it fails to protect all. Shane O'Farrell was failed by the State because his killer was free to drive despite 18 breaches of bail conditions. The failure to protect has been worsened, and insult has been added to the injury, by the actions of State agencies even up to yesterday's intervention by the Taoiseach on the matter during Questions on Promised Legislation. The Taoiseach stated yesterday that the GSOC inquiry found that many of the 58 allegations made by the family were found to be incorrect. I put it to the Minister that the report did not say that at all. The Taoiseach's assertion is a real insult to the family after what they have been through.

The main concerns I have about Shane's case also reflect wider failures of the system that may also affect other cases of injustice. The catastrophic failures in this case were by the gardaí who come from the same division and area of the Sergeant Maurice McCabe case. They have a history, to say the least, of underperforming and a lack of transparency in dealing with system failures. That senior gardaí in the area acted incompetently is not up for debate.

It is a scandal that the GSOC investigation into the circumstances around Shane's death took five years. It is also a scandal that the report was not published for a further year. The Minister has said that GSOC did not immediately publish the report so as not to cause further undue

distress to the O'Farrell family. This is why the family have had to wait to see a report that was published one year ago. Will the Minister for Justice and Equality, Deputy Flanagan, please explain what he meant by "undue distress" and by holding on to the report for a further year? I do not understand how this makes sense. I know that the family also does not understand how it makes sense.

To make matters worse, within the five years of the GSOC investigation the family was consistently fobbed off with a routine answer that was "You cannot talk about that matter, it is with GSOC". When People Before Profit first came into the Dáil in 2016 Deputy Gino Kenny and I asked questions about the case and we were told that we could not talk about it because it was with GSOC. The previous Minister for Justice and Equality repeatedly said that the independent review mechanism had looked at the case. The independent review mechanism did not look at this case. I am struck by the number of times that the stock answer given to questions around Shane's murder was that the independent review mechanism had advised no further action be taken. That did not happen.

The body of two senior barristers that was instructed to look at 109 cases was told not to look at Shane's case because it was with GSOC. It is highly irregular that this has not come into the public arena until now. One of those very senior barristers represented Shane's murderer in court. I am aware, from speaking with her, that Lucia O'Farrell had offered to pay for better representation for her son. The Director of Public Prosecutions said no, there was a certain budget and the family must hire junior counsel. The court, however, awarded Shane's killer both junior and senior counsel. Lucia O'Farrell had offered to pay for better representation. Even at that level, the representation afforded to the killer and the person who was killed was entirely imbalanced. There is something very wrong here that needs to be examined. Shane was represented by a junior counsel and his killer was represented by more than one: a junior and a senior counsel. I would like the Minister to address this please.

The GSOC report is scant and poor. This is an understatement, especially after five years of work. We need a full public inquiry into Shane's death, into the failures of the gardaí to protect him, into the failures of the courts to get justice from his killer, into the failures of the prosecution services, into the failures in the review mechanism which did not review the case and into the failures of GSOC for this completely inadequate report.

I repeat the call to the Minister to establish a commission of investigation, to look for accountability, to look for real answers to the complaints that were made and to allow the family finally to grieve. The State has an ugly history of hiding the truth, be it the truth on mothers and babies, or adoptees through agencies. Please do not let history repeat itself again. Please do not drag the family through more banging and knocking on the doors of the State to get truth and justice for their son. If the Minister thinks that Lucia O'Farrell is going to go away, or that the issue is going to go away, he has not met her. We have witnessed the cross-party support in the House to demand a public inquiry. It is very encouraging to see everyone putting their shoulders to the wheel. We will maintain this unity until there is justice for the family.

Deputy Catherine Connolly: I add my voice to support the calls for a public inquiry into this. My son graduates this year from Trinity College Dublin having spent four years studying there. We look forward to celebrating my son's graduation. I cannot imagine having to deal with his death in the way the O'Farrell family has had to deal with Shane's.

Dealing with such a tragic death as Shane's is difficult enough but the way the State has

31 May 2018

since dealt with it is an indictment of the State. The Minister is a good man and I believe he will agree with us. It is now 2018 and almost seven years after Shane's death we have a GSOC report that, to avoid undue distress to the family, was not published until now. Surely this was a decision for the family to make. Rather than such a patriarchal attitude GSOC should have gone to the family with the report and advised the family that it would be upsetting.

The facts of the matter are startling. Shane O'Farrell was killed on the evening of 2 August 2011 while he cycled home. He was 23 years old and had just finished his master's degree at Trinity College Dublin. He was training for a triathlon that was to take place a few days later. He went out for a cycle and did not come home.

The driver of the car that took his life had approximately 40 previous convictions in three jurisdictions, including for aggravated burglary, theft and road traffic offences on both sides of the Border. I could use my few minutes discussing the number of times the driver appeared before a court on bail without anyone ever examining or enforcing those bail conditions, but the reality is that a young man's life was taken when he was hit from behind by a person who was driving without insurance, tax or an NCT and who was on bail at the time. More startling than that, the car was pulled over a few hours beforehand by a Garda drug squad and checked for drugs. A second man was driving the car. He had no insurance or tax, so the drivers were switched, apparently with the permission of the gardaí, and the car drove on.

The facts are too difficult for me to read, and I am removed from the situation. I cannot imagine what it is like for the O'Farrells, who drafted a file for all of us. One of my introductions to the Dáil in 2016 was meeting them, going through the file and feeling utterly helpless about letting them down and not knowing what to do because of the investigations that were ongoing.

The Minister talked about a tragedy, but I will talk about an indictment. Consider the general facts of bail. This and previous Governments have been on continuous notice that the bail system is not working. I worked as a barrister and am convinced of the necessity for bail, but there are major problems with its operation. As Mr. Paul Anthony McDermott has pointed out, every judge knows that there is nowhere in our prisons to put people because they are overcrowded. We know it as well. There is no one to monitor bail conditions. The Irish Penal Reform Trust has found monitoring to be extremely erratic, with one interviewee stating that, in 40% of his applications to revoke bail, the conditions were not being monitored properly. I read the O'Higgins report. I felt it was moderate and the judge went out of his way to avoid criticising the Garda. My colleague on the left mentioned a case in Cavan-Monaghan. Similar to that was the tragic murder of Sylvia Roche Kelly by someone who was out on bail and had previously assaulted a female taxi driver, an assault that was serious but was recorded as being minor. He went on to murder a woman in Limerick.

I do not want to take from the seriousness of the Shane O'Farrell case, only to highlight that these problems have been ongoing for a long time, which every Government knows. To discuss a GSOC report now, which is being published a year after it should have been and years after it should have been made public, and tell us that victims find going to court difficult and are ignored and that the listing system is wrong, is pathetic and unacceptable. I must add my voice to the calls for a public inquiry. It is needed.

Deputy Thomas P. Broughan: I welcome the brief opportunity to contribute on this critical matter. I would like to extend my deepest sympathies to Shane O'Farrell's family who are

reliving the horrible night of his tragic death and are still waiting for justice almost seven years later. Twenty-three year old Shane was cycling along the N2 between Castleblaney and Carrickmacross on 2 August 2011 when he was killed in a hit-and-run by a man who clearly should not have been on Irish roads. Zigimantas Gridziuska, the 39 year old Lithuanian driver, had 42 previous convictions, breached bail 18 times and been convicted of theft in Newry just three weeks before he killed Shane. I believe the Garda Síochána was informed of these matters. He should not have been on our roads on 2 August and, tragically, Shane should still be with us.

Shane's mother, Lucia, and family are bravely continuing to highlight ineptitude in the implementation of areas of road safety and traffic law and their grave dissatisfaction with GSOC's report into the investigation, a report that astonishingly took six years to produce and publish. However, the O'Farrells are not alone in this fight. As the Minister knows, I have worked closely with Ms Susan Gray and her colleagues in the Promoting Awareness Responsibility and Care, PARC, civil society group. PARC supports many families, including the O'Farrells, whose cases have been sent to GSOC for investigation. Many of those families have also been left bitterly disappointed at the outcome of a GSOC report and the lack of accountability among those involved in investigating road traffic collisions where their loved ones were tragically killed. We do not have a statutory and transparent system of investigating tragic road deaths and serious injuries, and this and previous Governments have done nothing to bring such a process about.

There are many problems with the level of safety on Irish roads, but I will highlight one in particular. On 18 May, I finally received a reply to a parliamentary question from the Road Safety Authority that reads: "[...] the number of drivers out of the 9,449 drivers disqualified in Court in 2017 that surrendered their licences to the RSA's NDLS was 1,289 [...]". An astonishing 8,160 disqualified drivers were still driving around in 2017. When I asked the Ministers for Justice and Equality and Transport, Tourism and Sport how the Garda knew that these people were disqualified, they gave me some disconcerting replies. In the North, the PSNI has hand-held devices on the roadside so that police can check the status of a driver's licence. I recently asked both Ministers why a similar system had not been introduced in the South.

The opaque way in which their Departments and the RSA answer my questions - indeed, the Department of Justice and Equality does not answer some of them at all - is disingenuous and indicates that there is something to hide, that there are serious inefficiencies and discrepancies, and that there is a lack of attention to the business of the Department of Justice and Equality. For example, we have been waiting almost three years for clarification on whether the 521 drivers who had been disqualified in court for dangerous driving causing death or serious injury between January 2013 and March 2015 had already been disqualified at the time of those collisions. In an astonishing reply on 21 December 2015, the Minister for Justice and Equality's colleague, the then Minister for Transport, Tourism and Sport, Deputy Donohoe, told me that it was not possible to ascertain whether people were disqualified at the time of a collision or conviction. By the time he left that Department, he had done nothing to bring any clarity to the matter. I have had to write to the Leas-Cheann Comhairle and the Ceann Comhairle about outstanding parliamentary questions to the Department of Justice and Equality. Why the secrecy? Why is there such a lack of joined-up thinking with supported fit-for-purpose IT systems for the implementation of basic road traffic legislation?

These are just some of the thoughts that occur to me during this discussion. I strongly support the request for a public inquiry and urgent establishment of a commission of investigation into the tragic death of Shane O'Farrell. I hope that such tragedies do not recur on our roads.

31 May 2018

This is a serious responsibility, and the Minister's Department needs to invigilate it more effectively.

Deputy Mattie McGrath: I am privileged to have the honour of contributing on this matter. I thank and welcome Lucia, her husband and her daughters to the House. She has been here many times. I salute the tenacity and endurance shown by her and her family in trying to get justice, not only for her son, Shane, but also for many other victims of heinous crimes.

People describe the incident in 2011 as an accident. I do not - I call it outright and wanton slaughter. That individual and his comrades were careering around in an uninsured and untaxed car without an NCT. Worse, gardaí had stopped them that night. I am not here to point the finger of blame at any individual garda and I do not know whether the gardaí did not bother to check or did not have the necessary equipment to find out. I have known of people with no tax whose cars were seized. That was proper order, but not having insurance is much worse.

The driver had a string of convictions. Following this, there was a calamity, although I will not say "of errors". There seems to have been a cover-up, with a lack of proper investigation and a lack of proper judicial process. That is going on. I said to this woman "God bless you that you are so brave and so strong to expose that not only for your own son and family but for countless other families that are going through this throughout the State." That is going on. There is something rotten in the Department of Justice and Equality. One would want to believe there is ineptitude but there is not. It is systemic. I can give case after case. I had one case myself which was appalling. No one bats an eyelid. We listened to the Garda Síochána at the conference recently and to an American expert. I happened to hear him on the radio. He gave testimony about the lack of basic equipment that An Garda Síochána has to defend themselves, not to mention to defend us. I salute every man and woman there. The vast majority, 99%, are doing their best in the face of adversity but there is no management structure. There is mismanagement at an appalling rate right up the line, a lack of respect and a lack of accountability. The word accountability is not in this House. No one is held accountable for anything.

The individual who was driving the car had multiple previous convictions in the North and South. The Police Service of Northern Ireland, PSNI, as Deputy McGuinness told the House, had informed the Garda Síochána in a letter. The Garda would have us believe it had no information. That is what people get every day and night that they go into a Garda station. Gardaí are overworked and the place is understaffed. I raised my own area in Clonmel with the Minister. It is pathetic that a town of that size has so few gardaí. People go to the counter and meet a recruit who does his or her best but there is no follow-up or follow-through anywhere in the country. Serious crimes are not properly investigated because gardaí do not have the resources or wherewithal and the Department of Justice and Equality will not deal with it. It beggars belief that this could continue to carry on with multiple families, such as Lucia and the O'Farrell family, who have been waiting since 2011. I have met her a number of times here. I salute her bravery and her strength of character to follow it up because it has to be changed. What will make it change? We talk about changing the HSE. I do not know if Ministers will not take responsibility and have it changed, such as free legal aid, which we raise every day. I am sure that individual in the court probably got free legal aid. I do not know the facts but he probably did. There were multiple charges involving bail. It is a farce. We raise it every day. Why are those individuals not tagged, with many crimes such as that? There is huge resistance to protecting the people, the ordinary citizens who pay their taxes and work. This man had gone to college and got his qualification. His family helped him. He loved to cycle. He went off to cycle. Who would have known that he would be mowed down by a vehicle like that? It is like

a runaway train coming at a person. It dragged him a long way along the road. It is slaughter, not an accident. It is murder, if nothing else. Up and down the country, there are cases like this.

I hope that Lucia and her family will not mind if I bring in another case because I raised it here yesterday. I have raised it countless times. It is the case of two young men, the year before, on 23 May 2010. It was a beautiful sunny day like today. They were out fishing off Helvick Head and their boat was overturned by a pleasure craft and the two drowned. Mr. John O'Brien left three young kids and Mr. Pat Esmonde left one, and grieving families. If John O'Brien's sister, Anne-Marie, had not continued the battle to try to get justice and answers, there would have been no investigation. The Marine Casualty Investigation Board was a joke. The Garda Síochána Ombudsman Commission, GSOC, investigated it too. The gardaí never made a public appeal for witnesses. When I went to Dungarvan Garda station after months of trying to get a meeting with the superintendent, we were treated with contempt, disrespect and insulted. The investigation was closed. Anne-Marie went out two years later and put up posters in the town of Dungarvan. It is a lovely scenic town. Witnesses came forward who saw untoward activity on the sea that day. They spent seven months waiting for gardaí to take a statement. There is a Garda review ongoing and we are told that she is ringing every week. It was to be finished last September, October, November, December, January, February, March or May. This morning, she was told there would be a meeting on 18 June. It is disgraceful. There is no justice. Two young men lost their lives and left their families behind. I believe a major cover-up is going on in Dungarvan Garda station relating to that incident. Two young men went to their deaths. The inquest was told they were swimming in the water and one of them could not even swim. These are the lies we are told, the cover-up. There was no investigation. I raised the Marine Casualty Investigation Board with the Minister, Deputy Ross. He came to meet Anne-Marie in her house. The board has no powers to go to and investigate the scene. It does in the UK. It takes control of the investigation if it happens on water and the police are in second place. They are on land. There was no investigation. There was no public appeal. It is shameful. I hate saying this but it would be better investigated if a farmer lost some animals. It is disgraceful.

The gardaí at senior level have so much to answer for but many of their interests are in going up the ladder, not serving the people or looking after their troops on the ground. We saw last week in the Garda Representative Association that they have no proper equipment to do anything. They cannot get stab vests, Tasers, spray-guns or anything else to protect themselves in the face of adversity. We talk about sending out recruits. I salute all the recruits that want to join and go in to serve the noble cause of a country, and the many before them. Senior management is such as we see in the tribunal, in the McCabe case. Senior management seem to save the system, preserve face and allow issues such as Shane O'Farrell's, those two gentlemen near Helvick Head and countless others, to happen. Families have to try to seek justice and spend their own time and money, up against the might of the State. The first thing that is wheeled out is legal people against them.

I appeal to the Minister to try to make some inroad into the Department of Justice and Equality, to have some reforms there, and have some kind of accountability. The Marine Casualty Investigation Board is not the Minister's but it is another quango that needs to be reformed and changed. GSOC recommended, in the case of Dungarvan, that in future, if there is any loss at sea, a public appeal has to be made. That is all. GSOC is toothless, useless and fruitless. I was there myself with a complaint. It was a waste of time. It is just covering the system too. We need a body with teeth and powers. We have quango after quango, but they are serving nothing, just themselves much of the time, and cost taxpayers a fortune, with no justice for or-

dinary citizens. They need to be held accountable, including GSOC and many other agencies. They are not fit for purpose. We need to have outside, independent investigators and accountability. The case in Monaghan is an appalling vista, as are the cases in Dungarvan and many others. The case near Helvick Head is disgusting and the disrespect that their families got from the superintendent there is disgusting. They are out of control and in an area of their own. We will have no investigation.

Two years later, as I said, the sister put up posters herself and got four or five people to come forward. She gave the names in to the Garda Síochána. It is work that the Garda should be doing. It took the Garda seven months to take a statement. One of the people had died. In a film of a comedy of errors, one could laugh at it, but it is serious. Human life was lost, including Shane O'Farrell, these two gentlemen and many others. There is no accountability or justice, or even half an effort of an investigation. It was just shut down and covered up because big people owned this big boat, had contacts and money and power. It stinks to high heaven. It stinks that the Minister's predecessor presided over this lack of investigation, accountability and a cabal running the Garda station in Dungarvan. It is a cabal, not the ordinary people on the ground, doing their best. The power got to their heads. They are unaccountable. They were left unaccountable by the Minister and previous Ministers. There is a merry-go-round in the courts, with bail and previous convictions involved. It is a big industry for barristers. The free legal aid is disgusting.

An Leas-Cheann Comhairle: That concludes statements on the fatal road traffic collision in County Monaghan. The statements today were of course about Shane O'Farrell.

Deputy Caoimhghín Ó Caoláin: Thank you.

An Leas-Cheann Comhairle: He died tragically in that accident on 2 August 2011. Cuirim fáilte roimh chlann Uí Fearghaíl atá anseo linn sa Ghailearaí. Go ndéanfadh Dia trócaire ar a anam uasal dílis.

Mental Health (Amendment) Bill 2017: From the Seanad

The Dáil went into Committee to consider amendments from the Seanad.

An Leas-Cheann Comhairle: Amendments Nos. 1 to 3, inclusive, and 5 to 8, inclusive, are related and may be discussed together.

Seanad amendment No. 1:

Section 1: In page 3, to delete lines 11 to 14 and substitute the following:

“Definition

1. In this Act “Principal Act” means the Mental Health Act 2001.”

Seanad amendment agreed to.

Seanad amendment No. 2:

Section 2: In page 3, lines 16 to 20, to delete all words from and including “by” in line 16 down to and including line 20 and substitute the following:

“by—

(a) the insertion of the following definitions:

(i) “ ‘Act of 2015’ means Assisted Decision-Making (Capacity) Act 2015;

(ii) ‘guiding principles’ shall be construed—

(a) in relation to a person, other than a child, in accordance with section 4,

(b) in relation to a child, in accordance with section 4A.”,

and

(b) the substitution of the following definition for the definition of ‘voluntary patient’:

“ ‘voluntary patient’ means a person who—

(a) has capacity (within the meaning of section 3 of the Act of 2015),

(b) has been admitted to an approved centre, and

(c) has given consent to his or her admission.”.”.

Seanad amendment agreed to.

Seanad amendment No. 3:

Section 3: In page 3, to delete lines 21 to 31, and in page 4, to delete lines 1 to 11 and substitute the following:

“Guiding Principles to apply in respect of adults

3. The Principal Act is amended by the substitution of the following section for section 4:

“4. (1) Where it is proposed to make a decision in respect of a person the subject of the decision under this Act, the person shall, so far as is reasonably practicable, be notified of the proposal and entitled to make representations in relation to it and before deciding the matter due consideration shall be given to any representations duly made under this section.

(2) The principles specified in subsections (3) to (11) (in this Act referred to as the ‘guiding principles’) shall apply in respect of the making of a decision.

(3) It shall be presumed that a person in respect of whom a decision is being made has capacity in respect of the matter concerned unless the contrary is shown in accordance with the provisions of the Act of 2015.

(4) A person shall not be considered as unable to make a decision in respect of the matter concerned unless all practicable steps have been taken, without success, to help him or her to do so.

(5) A person shall not be considered as unable to make a decision in respect of the matter concerned merely by reason of making, having made, or being likely to make, an

unwise decision.

(6) There shall be no decision taken in respect of a person unless it is necessary to do so having regard to the individual circumstances of that person.

(7) A decision taken in respect of a person shall—

(a) be made in a manner that minimises—

(i) the restriction of the person's rights, and

(ii) the restriction of the person's freedom of action,

(b) have due regard to the need to respect the right of the person to dignity, bodily integrity, privacy, autonomy,

(c) be proportionate to the significance and urgency of the matter the subject of the decision, and

(d) have due regard to the need to have access to health services that have as the aim of those services the delivery of the highest attainable standard of mental health as well as the person's right to his or her own understanding of his or her mental health.

(8) Notwithstanding the generality of subsection (1), in making a decision—

(a) the person in respect of whom the decision concerned is being made shall be permitted, encouraged and facilitated, in so far as is practicable, to participate, or to improve his or her ability to participate, as fully as possible, in the decision,

(b) effect shall be given, in so far as is practicable, to the person's past and present will and preferences, in so far as that will and those preferences are reasonably ascertainable, (c) account shall be taken of—

(i) the beliefs and values of the person (in particular those expressed in writing), in so far as those beliefs and values are reasonably ascertainable, and

(ii) any other factors which the person would be likely to consider if he or she were able to do so, in so far as those other factors are reasonably ascertainable,

(d) unless the person making the decision in respect of the person concerned reasonably considers that it is not appropriate or practicable to do so, he or she shall consider the views of any other person named by the person as a person to be consulted on the matter concerned or any similar matter,

(e) the person making the decision shall act at all times in good faith and for the benefit of the person in respect of whom the decision is being made, and

(f) the person making the decision shall consider all other circumstances of which he or she is aware and which it would be reasonable to regard as relevant to the making of the decision concerned.

(9) In making a decision, the person making the decision in respect of the person concerned may consider the views of—

- (a) any person engaged in caring for the person,
- (b) any person who has a *bona fide* interest in the welfare of the person, or
- (c) any other healthcare professionals.

(10) In the case of a decision in respect of a person who lacks capacity, regard shall be had to—

- (a) the likelihood of the recovery of the person's capacity in respect of the matter concerned, and
- (b) the urgency of making the decision prior to such recovery.

(11) In making a decision, the person making the decision—

- (a) shall not seek to obtain information that is not reasonably required for making a decision,
- (b) shall not use information for a purpose other than in relation to a decision, and
- (c) shall take reasonable steps to ensure that information—
 - (i) is kept secure from unauthorised access, use or disclosure, and
 - (ii) is safely disposed of when he or she believes it is no longer required.

(12) Section 4 shall not apply to a person who at the time of the decision is a child.

(13) In this section—

‘capacity’ has the same meaning as it has in section 3 of the Act of 2015;

‘decision’, means, in relation to a person, a decision under this Act concerning the care or treatment of the person (including a decision to make an admission order in relation to the person).”.”.

Seanad amendment agreed to.

Seanad amendment No. 4:

Section 4: In page 4, between lines 11 and 12, to insert the following:

“Amendment of section 15 of Principal Act

4. Section 15 of the Principal Act is amended by the substitution of the following subsection for subsection (3):

“(3) The period referred to in subsection (1) may be further extended by order made by the consultant psychiatrist concerned for a period not exceeding 6 months beginning on the expiration of the renewal order made by the psychiatrist under subsection (2) and thereafter may be further extended by order made by the psychiatrist for periods each of which does not exceed 6 months (each of which orders is also referred to in this Act as

‘a renewal order’).”.”.

Deputy Pat Buckley: I move:

“That the Committee do not agree with the Seanad in amendment No. 4 to the Mental Health (Amendment) Bill 2017.”

We welcome the Bill and what has happened in the meantime. It is all about progression. I hope the Bill will pass today. It is six months since we began to discuss the Bill. That is a long time legislatively speaking but it seems to be a lot longer politically. I hope the Minister of State will take on board his commitment to move ahead with the proposal on the Assisted Decision-Making (Capacity) Act as well. Let us try to work together for the betterment of everything. It is a major issue in the mental health area. When we can do things together, work as a team and do things right it benefits everyone.

Question, “That Seanad amendment No. 4 be not agreed”, put and declared carried.

Disagreement to Seanad amendment reported.

Seanad amendment No. 5:

Section 4: In page 4, to delete lines 12 to 28 and substitute the following:

“Guiding principles in respect of children

4. The Principal Act is amended by the insertion of the following section after section 4:

“4A. (1) In making a decision under this Act concerning the care or treatment of a child (including the making of a specific application under section 25(1) and a decision of the Court to make an order under section 25(6) authorising the detention of a child in an approved centre), the best interests of the child shall be the paramount consideration.

(2) Notwithstanding the generality of subsection (1), in making a decision under this Act concerning the care or treatment of a child (including the making of a specific application under section 25(1) and a decision of the Court to make an order under section 25(6) authorising the detention of a child in an approved centre), due regard shall also be given to the following principles (in this Act referred to as ‘guiding principles’), namely the need—

(a) for every child to have access to health services that have as the aim of those services, the delivery of the highest attainable standard of child mental health,

(b) in the case of a child who is capable of forming his or her own views, to consult, where practicable, the child at each stage of diagnosis and treatment and give due weight to—

(i) his or her views, and

(ii) his or her will or preferences, having regard to the age and maturity of that child,

- (c) in so far as is practicable, to provide care and treatment—
 - (i) in an age-appropriate environment, and
 - (ii) in close proximity to the child's home or family, as appropriate,
- (d) for the child to receive the least intrusive treatment possible in the least restrictive environment practicable, and
- (e) to respect the right of the child to dignity, bodily integrity, privacy and autonomy.”.”.

Seanad amendment agreed to.

Seanad amendment No. 6:

Section 5: In page 4, to delete lines 29 to 41.

Seanad amendment agreed to.

Seanad amendment No. 7:

Section 6: In page 5, to delete lines 1 to 11.

Seanad amendment agreed to.

Seanad amendment No. 8:

Title: In page 3, lines 5 to 7, to delete all words from and including “to” where it secondly occurs in line 5 down to and including “patients” in line 7 and substitute “to make further and better provision relating to the treatment of persons”.

Seanad amendment agreed to.

Seanad amendments reported.

Deputy James Browne: I thank the Minister of State, Deputy Jim Daly, and his departmental staff for their help and support on the Bill in the past year and a half. It is my first experience of bringing a Bill through the Oireachtas. It was a learning experience. There was significant support across the House for the Bill on each Stage. I also thank the Taoiseach, Deputy Varadkar, with whom I spoke personally on the issue last summer following his appointment.

I am grateful for the cross-party support I received. I will not name each group but every group came to me at various points and gave me support for the Bill when it was needed. I thank all the groups for that. I also thank Deputy Buckley for his intervention in recent weeks. The amendment he proposed was a good one and I hope the sentiment behind it will be supported by the Government in the near future.

I wish to say a sincere thanks to Mental Health Reform - Shari McDaid, Kate Mitchell and Ray Burke - for their guidance and support for the Bill from the very beginning. The Bill would not be here without their support.

I also wish to say a special thanks to Deputy Harty, who is the Chairman of the Joint Committee on Health. Most Bills die a death on Committee Stage but he took the Bill as his own,

got it into the committee and drove it through. I praise him in particular for his work.

I give special thanks to my party leader, Deputy Micheál Martin, who has placed mental health as a priority for Fianna Fáil, both in terms of having a Front Bench spokesperson and also in terms of giving the support for any legislation or policy that is required. He has ensured that mental health is front and centre. This is the first Fianna Fáil Bill that has started and finished in the term of this Dáil and that is due to his determination that mental health would be a priority.

I thank my party colleagues for their advice and support as well. I also thank Declan Ryan, my researcher, and Stephanie Byrne and Michael Dwyer in my office who have given enormous support and have also given me cover when I needed to concentrate on my work on the Bill in Dublin and could not be in my constituency.

Most important, I thank the service users and their families who face their daily challenges with such bravery. It is for them that we all fight to support mental health. It is telling that there is such broad support for mental health in terms of where we need to go and what we need to be doing. We all need to work a lot harder to ensure the implementation of the supports for mental health services in this country. The Bill is only a small step towards giving people the mental health care rights they deserve and the protections they need but it is a step in the right direction. It is an important step which amends the Mental Health Act 2001 by strengthening the rights and protections of voluntary and involuntary patients, both adults and children. I hope it will act as a catalyst to the provision of a comprehensive mental health reform Bill that is badly needed to implement all the recommendations from the expert review group.

Minister of State at the Department of Health (Deputy Jim Daly): Gabhaim buíochas as ucht an deis labhairt ar an ábhar tábhachtach seo. I congratulate Deputy James Browne on what he described as the first product of the new politics. The Fianna Fáil Party has brought through a Private Members' Bill from end to end. That is an historic achievement.

We are dealing with an important subject in mental health. I acknowledge the constructive and proactive approach Deputy Browne has brought to the Bill. He has been most sincere in his undertaking. As he rightly said - he has done it more eloquently than I can - this is for the service users and the betterment of the mental health service in this country. It is vital that we recognise that legislation plays a role in the betterment of conditions and treatment. There are many other aspects to how we can help them but legislation is a powerful and important tool. I commend Deputy Browne and thank him.

I also thank Deputy Pat Buckley and the Sinn Féin Party for withdrawing the amendment. I agree with and fully support the sentiment behind the amendment. I will sit down with Deputy Buckley, Deputy Browne and other interested spokespersons to look at how we will progress our response to the judgment we have to deal with. In no way was it the sentiment of the amendment that was problematic. It was 100% genuine on the part of Sinn Féin and I want to acknowledge that. I also want to acknowledge the party's generosity in withdrawing it because it would not have been in keeping with the spirit of this Bill. One of the privileges of being Minister of State with responsibility for mental health is that I get more co-operation from colleagues than any other Minister or Minister of State and experience very little division. That is not to say that I am not to be held to account for my actions or lack thereof, as Deputies may see it. There is a huge spirit of co-operation in the area of mental health and it is real privilege to act as Minister of State for that area. This Bill is another example of that spirit of co-operation and I am delighted that it is being passed without any division in the House. We owe that to the

people who will benefit from it. The generosity of the Sinn Féin Party is not to be underestimated and is much appreciated.

I wish to acknowledge the role of the Mental Health Reform coalition and thank it for the contribution it has made and continues to make to ensuring that the legislative programme is kept moving along. I also wish to acknowledge the role of the Oireachtas Joint Committee on Health. I thank my officials for the many hours of work they put into assisting us to get to this point today. I am both delighted and proud to have brought this Bill through the Houses. I congratulate Deputy James Browne and thank everyone for their co-operation.

Deputy Pat Buckley: Today is a great day, as I have said already. It is the last day of May, which is mental health month, and it is great to see Deputies from all parties and none working together for the benefit of the people of this country. It is great to knock heads together, have proper dialogue and come to mutual agreement for the benefit of our citizens. I thank Deputy James Browne, the Minister of State, Deputy Daly, and everyone who worked behind the scenes, including Sinn Féin staff and members of Mental Health Reform. Without the input of the latter, we would probably have struggled a little on certain issues. I would also like to thank Members of Seanad Éireann who worked on this as well as members of the Oireachtas Joint Committee on Health. An enormous effort was put into this Bill. Sometimes legislation can move through the Houses quite quickly and people think the process is simple but it is not. I wish to thank my party leader, Deputy Mary Lou McDonald, for putting her faith in me and all of my party colleagues. It is a great day when neither colour, class, creed, religion nor politics stands in the way of improvement.

An Leas-Cheann Comhairle: I thank Deputies and congratulate them on the passage of the Bill.

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

An Leas-Cheann Comhairle: I remind Members that we dealt with amendment No. 37 before adjourning the debate. We will now resume on amendment No. 38, which was discussed with amendment No. 25.

Deputy Clare Daly: I move amendment No. 38:

In page 13, to delete lines 39 and 40.

Amendment put:

<i>The Dáil divided: Tá, 54; Níl, 40; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Aylward, Bobby.</i>	<i>Bailey, Maria.</i>	
<i>Boyd Barrett, Richard.</i>	<i>Brophy, Colm.</i>	
<i>Brady, John.</i>	<i>Bruton, Richard.</i>	
<i>Brassil, John.</i>	<i>Burke, Peter.</i>	
<i>Broughan, Thomas P.</i>	<i>Byrne, Catherine.</i>	
<i>Browne, James.</i>	<i>Canney, Seán.</i>	
<i>Buckley, Pat.</i>	<i>Cannon, Ciarán.</i>	

31 May 2018

<i>Burton, Joan.</i>	<i>Carey, Joe.</i>	
<i>Byrne, Thomas.</i>	<i>Corcoran Kennedy, Marcella.</i>	
<i>Chambers, Lisa.</i>	<i>Coveney, Simon.</i>	
<i>Collins, Niall.</i>	<i>D'Arcy, Michael.</i>	
<i>Connolly, Catherine.</i>	<i>Daly, Jim.</i>	
<i>Cowen, Barry.</i>	<i>Deasy, John.</i>	
<i>Crowe, Seán.</i>	<i>Deering, Pat.</i>	
<i>Cullinane, David.</i>	<i>Doherty, Regina.</i>	
<i>Daly, Clare.</i>	<i>Durkan, Bernard J.</i>	
<i>Donnelly, Stephen S.</i>	<i>English, Damien.</i>	
<i>Ellis, Dessie.</i>	<i>Farrell, Alan.</i>	
<i>Harty, Michael.</i>	<i>Fitzgerald, Frances.</i>	
<i>Haughey, Seán.</i>	<i>Fitzpatrick, Peter.</i>	
<i>Kelleher, Billy.</i>	<i>Flanagan, Charles.</i>	
<i>Kenny, Gino.</i>	<i>Harris, Simon.</i>	
<i>Kenny, Martin.</i>	<i>Humphreys, Heather.</i>	
<i>Lahart, John.</i>	<i>Kehoe, Paul.</i>	
<i>Lawless, James.</i>	<i>Kyne, Seán.</i>	
<i>MacSharry, Marc.</i>	<i>Madigan, Josepha.</i>	
<i>McConalogue, Charlie.</i>	<i>McEntee, Helen.</i>	
<i>McDonald, Mary Lou.</i>	<i>McGrath, Finian.</i>	
<i>McGrath, Mattie.</i>	<i>McLoughlin, Tony.</i>	
<i>McGrath, Michael.</i>	<i>Mitchell O'Connor, Mary.</i>	
<i>McGuinness, John.</i>	<i>Moran, Kevin Boxer.</i>	
<i>Mitchell, Denise.</i>	<i>Murphy, Eoghan.</i>	
<i>Moynihan, Aindrias.</i>	<i>Naughten, Denis.</i>	
<i>Moynihan, Michael.</i>	<i>Naughton, Hildegarde.</i>	
<i>Munster, Imelda.</i>	<i>Neville, Tom.</i>	
<i>O'Brien, Jonathan.</i>	<i>O'Connell, Kate.</i>	
<i>O'Callaghan, Jim.</i>	<i>Phelan, John Paul.</i>	
<i>O'Reilly, Louise.</i>	<i>Rock, Noel.</i>	
<i>Ó Caoláin, Caoimhghín.</i>	<i>Ross, Shane.</i>	
<i>Ó Cuív, Éamon.</i>	<i>Stanton, David.</i>	
<i>Ó Laoghaire, Donnchadh.</i>		
<i>Ó Snodaigh, Aengus.</i>		
<i>Penrose, Willie.</i>		
<i>Ryan, Brendan.</i>		
<i>Ryan, Eamon.</i>		
<i>Scanlon, Eamon.</i>		
<i>Sherlock, Sean.</i>		
<i>Smith, Brendan.</i>		
<i>Smith, Bríd.</i>		

<i>Smyth, Niamh.</i>		
<i>Stanley, Brian.</i>		
<i>Tóibín, Peadar.</i>		
<i>Troy, Robert.</i>		
<i>Wallace, Mick.</i>		

Tellers: Tá, Deputies Clare Daly and Mick Wallace; Níl, Deputies Tony McLoughlin and Joe Carey.

Amendment declared carried.

Minister for Justice and Equality(Deputy Charles Flanagan): I move amendment No. 39:

In page 14, line 1, after “finance,” to insert “or administration, including public administration,”.

Amendment agreed to.

An Leas-Cheann Comhairle: As amendment No. 39 has been agreed to, amendment No. 40 cannot be moved.

Amendment No. 40 not moved.

Deputy Charles Flanagan: I move amendment No. 41:

In page 14, between lines 1 and 2, to insert the following:

“(g) board membership and corporate governance; and”.

Amendment put:

<i>The Dáil divided: Tá, 39; Níl, 48; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Bailey, Maria.</i>	<i>Aylward, Bobby.</i>	
<i>Brophy, Colm.</i>	<i>Boyd Barrett, Richard.</i>	
<i>Bruton, Richard.</i>	<i>Brady, John.</i>	
<i>Burke, Peter.</i>	<i>Brassil, John.</i>	
<i>Byrne, Catherine.</i>	<i>Broughan, Thomas P.</i>	
<i>Canney, Seán.</i>	<i>Browne, James.</i>	
<i>Cannon, Ciarán.</i>	<i>Buckley, Pat.</i>	
<i>Carey, Joe.</i>	<i>Burton, Joan.</i>	
<i>Corcoran Kennedy, Marcella.</i>	<i>Chambers, Lisa.</i>	
<i>D’Arcy, Michael.</i>	<i>Collins, Niall.</i>	
<i>Daly, Jim.</i>	<i>Connolly, Catherine.</i>	
<i>Deasy, John.</i>	<i>Cowen, Barry.</i>	
<i>Deering, Pat.</i>	<i>Crowe, Seán.</i>	
<i>Doherty, Regina.</i>	<i>Cullinane, David.</i>	

31 May 2018

<i>Durkan, Bernard J.</i>	<i>Daly, Clare.</i>	
<i>English, Damien.</i>	<i>Donnelly, Stephen S.</i>	
<i>Farrell, Alan.</i>	<i>Ellis, Dessie.</i>	
<i>Fitzgerald, Frances.</i>	<i>Gallagher, Pat The Cope.</i>	
<i>Fitzpatrick, Peter.</i>	<i>Harty, Michael.</i>	
<i>Flanagan, Charles.</i>	<i>Kenny, Gino.</i>	
<i>Harris, Simon.</i>	<i>Kenny, Martin.</i>	
<i>Humphreys, Heather.</i>	<i>Lahart, John.</i>	
<i>Kehoe, Paul.</i>	<i>MacSharry, Marc.</i>	
<i>Kyne, Seán.</i>	<i>McConalogue, Charlie.</i>	
<i>Madigan, Josepha.</i>	<i>McDonald, Mary Lou.</i>	
<i>McEntee, Helen.</i>	<i>McGrath, Mattie.</i>	
<i>McGrath, Finian.</i>	<i>McGuinness, John.</i>	
<i>McLoughlin, Tony.</i>	<i>Mitchell, Denise.</i>	
<i>Mitchell O'Connor, Mary.</i>	<i>Munster, Imelda.</i>	
<i>Moran, Kevin Boxer.</i>	<i>Murphy, Eugene.</i>	
<i>Murphy, Eoghan.</i>	<i>O'Brien, Jonathan.</i>	
<i>Naughten, Denis.</i>	<i>O'Callaghan, Jim.</i>	
<i>Naughton, Hildegard.</i>	<i>O'Reilly, Louise.</i>	
<i>Neville, Tom.</i>	<i>Ó Caoláin, Caoimhghín.</i>	
<i>O'Connell, Kate.</i>	<i>Ó Cuív, Éamon.</i>	
<i>Phelan, John Paul.</i>	<i>Ó Laoghaire, Donnchadh.</i>	
<i>Rock, Noel.</i>	<i>Ó Snodaigh, Aengus.</i>	
<i>Ross, Shane.</i>	<i>Penrose, Willie.</i>	
<i>Stanton, David.</i>	<i>Ryan, Brendan.</i>	
	<i>Ryan, Eamon.</i>	
	<i>Scanlon, Eamon.</i>	
	<i>Sherlock, Sean.</i>	
	<i>Smith, Bríd.</i>	
	<i>Smyth, Niamh.</i>	
	<i>Stanley, Brian.</i>	
	<i>Tóibín, Peadar.</i>	
	<i>Troy, Robert.</i>	
	<i>Wallace, Mick.</i>	

Tellers: Tá, Deputies Joe Carey and Tony McLoughlin; Níl, Deputies Clare Daly and Mick Wallace.

Amendment declared lost.

Deputy Charles Flanagan: I move amendment No. 42:

In page 14, to delete lines 3 to 8 and substitute the following:

“(8) The Irish Human Rights and Equality Commission shall nominate one of its members, being a lay person, to be the member of the Commission to whom *section*

Dáil Éireann

10(1)(g) refers and the person, so nominated, shall accordingly be appointed by the Minister to be the member so referred to.”.

Amendment agreed to.

Amendments Nos. 43 and 44 not moved.

Deputy Jim O’Callaghan: I move amendment No. 45:

In page 14, line 37, to delete “lay”.

Amendment put:

<i>The Dáil divided: Tá, 30; Níl, 58; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Stاون</i>
<i>Aylward, Bobby.</i>	<i>Bailey, Maria.</i>	
<i>Brassil, John.</i>	<i>Boyd Barrett, Richard.</i>	
<i>Broughan, Thomas P.</i>	<i>Brady, John.</i>	
<i>Browne, James.</i>	<i>Brophy, Colm.</i>	
<i>Burton, Joan.</i>	<i>Bruton, Richard.</i>	
<i>Byrne, Thomas.</i>	<i>Buckley, Pat.</i>	
<i>Chambers, Lisa.</i>	<i>Burke, Peter.</i>	
<i>Collins, Niall.</i>	<i>Byrne, Catherine.</i>	
<i>Connolly, Catherine.</i>	<i>Canney, Seán.</i>	
<i>Cowen, Barry.</i>	<i>Cannon, Ciarán.</i>	
<i>Daly, Clare.</i>	<i>Carey, Joe.</i>	
<i>Dooley, Timmy.</i>	<i>Corcoran Kennedy, Marcella.</i>	
<i>Gallagher, Pat The Cope.</i>	<i>Crowe, Seán.</i>	
<i>Kelleher, Billy.</i>	<i>Cullinane, David.</i>	
<i>Lahart, John.</i>	<i>D’Arcy, Michael.</i>	
<i>MacSharry, Marc.</i>	<i>Daly, Jim.</i>	
<i>McConalogue, Charlie.</i>	<i>Deasy, John.</i>	
<i>McGrath, Mattie.</i>	<i>Deering, Pat.</i>	
<i>McGuinness, John.</i>	<i>Doherty, Regina.</i>	
<i>Murphy, Eugene.</i>	<i>Durkan, Bernard J.</i>	
<i>O’Callaghan, Jim.</i>	<i>Ellis, Dessie.</i>	
<i>Ó Cuív, Éamon.</i>	<i>Farrell, Alan.</i>	
<i>Penrose, Willie.</i>	<i>Fitzgerald, Frances.</i>	
<i>Ryan, Brendan.</i>	<i>Fitzpatrick, Peter.</i>	
<i>Ryan, Eamon.</i>	<i>Flanagan, Charles.</i>	
<i>Scanlon, Eamon.</i>	<i>Harris, Simon.</i>	
<i>Sherlock, Sean.</i>	<i>Humphreys, Heather.</i>	
<i>Smyth, Niamh.</i>	<i>Kehoe, Paul.</i>	
<i>Troy, Robert.</i>	<i>Kenny, Gino.</i>	
<i>Wallace, Mick.</i>	<i>Kenny, Martin.</i>	

31 May 2018

	<i>Kyne, Seán.</i>	
	<i>Madigan, Josepha.</i>	
	<i>McDonald, Mary Lou.</i>	
	<i>McEntee, Helen.</i>	
	<i>McGrath, Finian.</i>	
	<i>McLoughlin, Tony.</i>	
	<i>Mitchell O'Connor, Mary.</i>	
	<i>Mitchell, Denise.</i>	
	<i>Moran, Kevin Boxer.</i>	
	<i>Munster, Imelda.</i>	
	<i>Murphy, Eoghan.</i>	
	<i>Naughten, Denis.</i>	
	<i>Naughton, Hildegarde.</i>	
	<i>Neville, Tom.</i>	
	<i>O'Brien, Jonathan.</i>	
	<i>O'Connell, Kate.</i>	
	<i>O'Reilly, Louise.</i>	
	<i>Ó Caoláin, Caoimhghín.</i>	
	<i>Ó Laoghaire, Donnchadh.</i>	
	<i>Ó Snodaigh, Aengus.</i>	
	<i>Phelan, John Paul.</i>	
	<i>Rock, Noel.</i>	
	<i>Ross, Shane.</i>	
	<i>Shortall, Róisín.</i>	
	<i>Smith, Bríd.</i>	
	<i>Stanley, Brian.</i>	
	<i>Stanton, David.</i>	
	<i>Tóibín, Peadar.</i>	

Tellers: Tá, Deputies Jim O'Callaghan and Mick Wallace; Níl, Deputies Tony McLoughlin and Joe Carey.

Amendment declared lost.

Deputy Charles Flanagan: I move amendment No. 46:

In page 15, line 4, to delete “7 members, 4 of whom shall be lay members” and substitute “9 members, 5 of whom shall be lay members”.

Amendment put and declared carried.

Amendments Nos. 47 and 48 not moved.

Deputy Charles Flanagan: I move amendment No. 49:

In page 15, line 15, to delete “7 members of the Commission” and substitute “9 members of the Commission”.

Amendment put and declared carried.

Amendment No. 50 not moved.

Deputy Mick Wallace: I move amendment No. 51:

In page 15, lines 15 to 17, to delete all words from and including “, the” in line 15 down to and including “determines” in line 17.

Amendment put:

<i>The Dáil divided: Tá, 26; Níl, 60; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Stاون</i>
<i>Aylward, Bobby.</i>	<i>Bailey, Maria.</i>	
<i>Brassil, John.</i>	<i>Boyd Barrett, Richard.</i>	
<i>Broughan, Thomas P.</i>	<i>Brady, John.</i>	
<i>Browne, James.</i>	<i>Brophy, Colm.</i>	
<i>Burton, Joan.</i>	<i>Bruton, Richard.</i>	
<i>Collins, Joan.</i>	<i>Buckley, Pat.</i>	
<i>Connolly, Catherine.</i>	<i>Burke, Peter.</i>	
<i>Cowen, Barry.</i>	<i>Byrne, Catherine.</i>	
<i>Daly, Clare.</i>	<i>Canney, Seán.</i>	
<i>Gallagher, Pat The Cope.</i>	<i>Cannon, Ciarán.</i>	
<i>Kelleher, Billy.</i>	<i>Carey, Joe.</i>	
<i>Lahart, John.</i>	<i>Corcoran Kennedy, Marcella.</i>	
<i>MacSharry, Marc.</i>	<i>Crowe, Seán.</i>	
<i>McConalogue, Charlie.</i>	<i>Cullinane, David.</i>	
<i>McGrath, Mattie.</i>	<i>D’Arcy, Michael.</i>	
<i>McGuinness, John.</i>	<i>Daly, Jim.</i>	
<i>Murphy, Eugene.</i>	<i>Deasy, John.</i>	
<i>O’Callaghan, Jim.</i>	<i>Deering, Pat.</i>	
<i>Penrose, Willie.</i>	<i>Doherty, Regina.</i>	
<i>Ryan, Brendan.</i>	<i>Doyle, Andrew.</i>	
<i>Ryan, Eamon.</i>	<i>Durkan, Bernard J.</i>	
<i>Scanlon, Eamon.</i>	<i>Ellis, Dessie.</i>	
<i>Sherlock, Sean.</i>	<i>English, Damien.</i>	
<i>Smyth, Niamh.</i>	<i>Farrell, Alan.</i>	
<i>Troy, Robert.</i>	<i>Fitzgerald, Frances.</i>	
<i>Wallace, Mick.</i>	<i>Fitzpatrick, Peter.</i>	
	<i>Flanagan, Charles.</i>	
	<i>Harris, Simon.</i>	
	<i>Humphreys, Heather.</i>	
	<i>Kehoe, Paul.</i>	
	<i>Kenny, Gino.</i>	

31 May 2018

	<i>Kenny, Martin.</i>	
	<i>Kyne, Seán.</i>	
	<i>McDonald, Mary Lou.</i>	
	<i>McEntee, Helen.</i>	
	<i>McGrath, Finian.</i>	
	<i>McLoughlin, Tony.</i>	
	<i>Madigan, Josepha.</i>	
	<i>Mitchell O'Connor, Mary.</i>	
	<i>Mitchell, Denise.</i>	
	<i>Moran, Kevin Boxer.</i>	
	<i>Munster, Imelda.</i>	
	<i>Murphy, Eoghan.</i>	
	<i>Naughten, Denis.</i>	
	<i>Naughton, Hildegarde.</i>	
	<i>Neville, Tom.</i>	
	<i>Ó Caoláin, Caoimhghín.</i>	
	<i>Ó Laoghaire, Donnchadh.</i>	
	<i>Ó Snodaigh, Aengus.</i>	
	<i>O'Brien, Jonathan.</i>	
	<i>O'Connell, Kate.</i>	
	<i>O'Reilly, Louise.</i>	
	<i>Phelan, John Paul.</i>	
	<i>Rock, Noel.</i>	
	<i>Ross, Shane.</i>	
	<i>Shortall, Róisín.</i>	
	<i>Smith, Bríd.</i>	
	<i>Stanley, Brian.</i>	
	<i>Stanton, David.</i>	
	<i>Tóibín, Peadar.</i>	

Tellers: Tá, Deputies Clare Daly and Mick Wallace; Níl, Deputies Tony McLoughlin and Joe Carey.

Amendment declared lost.

Deputy Mick Wallace: I move amendment No. 52:

In page 15, lines 23 to 25, to delete all words from and including “, the majority” in line 23 down to and including “determines” in line 25.

Amendment put:

<i>The Dáil divided: Tá, 8; Níl, 75; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Broughan, Thomas P.</i>	<i>Aylward, Bobby.</i>	
<i>Collins, Joan.</i>	<i>Bailey, Maria.</i>	

Dáil Éireann

<i>Connolly, Catherine.</i>	<i>Brady, John.</i>	
<i>Daly, Clare.</i>	<i>Brassil, John.</i>	
<i>McGrath, Mattie.</i>	<i>Brophy, Colm.</i>	
<i>Ryan, Eamon.</i>	<i>Bruton, Richard.</i>	
<i>Shortall, Róisín.</i>	<i>Buckley, Pat.</i>	
<i>Wallace, Mick.</i>	<i>Burke, Peter.</i>	
	<i>Burton, Joan.</i>	
	<i>Byrne, Catherine.</i>	
	<i>Canney, Seán.</i>	
	<i>Cannon, Ciarán.</i>	
	<i>Carey, Joe.</i>	
	<i>Chambers, Lisa.</i>	
	<i>Corcoran Kennedy, Marcella.</i>	
	<i>Cowen, Barry.</i>	
	<i>Crowe, Seán.</i>	
	<i>Cullinane, David.</i>	
	<i>D'Arcy, Michael.</i>	
	<i>Daly, Jim.</i>	
	<i>Deasy, John.</i>	
	<i>Deering, Pat.</i>	
	<i>Doherty, Regina.</i>	
	<i>Doyle, Andrew.</i>	
	<i>Durkan, Bernard J.</i>	
	<i>Ellis, Dessie.</i>	
	<i>English, Damien.</i>	
	<i>Farrell, Alan.</i>	
	<i>Fitzgerald, Frances.</i>	
	<i>Fitzpatrick, Peter.</i>	
	<i>Flanagan, Charles.</i>	
	<i>Gallagher, Pat The Cope.</i>	
	<i>Griffin, Brendan.</i>	
	<i>Humphreys, Heather.</i>	
	<i>Kehoe, Paul.</i>	
	<i>Kelleher, Billy.</i>	
	<i>Kenny, Martin.</i>	
	<i>Kyne, Seán.</i>	
	<i>Lahart, John.</i>	
	<i>MacSharry, Marc.</i>	
	<i>McConalogue, Charlie.</i>	
	<i>McDonald, Mary Lou.</i>	
	<i>McEntee, Helen.</i>	
	<i>McGrath, Finian.</i>	

31 May 2018

	<i>McGuinness, John.</i>	
	<i>McLoughlin, Tony.</i>	
	<i>Madigan, Josepha.</i>	
	<i>Mitchell O'Connor, Mary.</i>	
	<i>Mitchell, Denise.</i>	
	<i>Moran, Kevin Boxer.</i>	
	<i>Munster, Imelda.</i>	
	<i>Murphy, Eoghan.</i>	
	<i>Murphy, Eugene.</i>	
	<i>Naughten, Denis.</i>	
	<i>Naughton, Hildegarde.</i>	
	<i>Neville, Tom.</i>	
	<i>Ó Caoláin, Caoimhghín.</i>	
	<i>Ó Cuív, Éamon.</i>	
	<i>Ó Laoghaire, Donnchadh.</i>	
	<i>Ó Snodaigh, Aengus.</i>	
	<i>O'Brien, Jonathan.</i>	
	<i>O'Callaghan, Jim.</i>	
	<i>O'Connell, Kate.</i>	
	<i>Penrose, Willie.</i>	
	<i>Phelan, John Paul.</i>	
	<i>Rock, Noel.</i>	
	<i>Ross, Shane.</i>	
	<i>Ryan, Brendan.</i>	
	<i>Scanlon, Eamon.</i>	
	<i>Sherlock, Sean.</i>	
	<i>Smyth, Niamh.</i>	
	<i>Stanley, Brian.</i>	
	<i>Stanton, David.</i>	
	<i>Tóibín, Peadar.</i>	
	<i>Troy, Robert.</i>	

Tellers: Tá, Deputies Clare Daly and Mick Wallace; Níl, Deputies Tony McLoughlin and Joe Carey.

Amendment declared lost.

4 o'clock

Amendments Nos. 53 to 60, inclusive, not moved. **Deputy Charles Flanagan:** I move amendment No. 61:

In page 17, between lines 3 and 4, to insert the following:

“(e) being a member nominated by the Irish Human Rights and Equality Commission, ceases to be a member of the Irish Human Rights and Equality Commission.”.

Amendment agreed to.

Amendments Nos. 62 to 64, inclusive, not moved.

Deputy Charles Flanagan: I move amendment No. 65:

In page 19, between lines 34 and 35, to insert the following:

“Advances to Commission

23. (1) The Minister shall from time to time advance to the Commission out of moneys provided by the Oireachtas such amount or amounts as the Minister may, with the consent of the Minister for Public Expenditure and Reform, determine for the purposes of expenditure by the Commission in the performance of its functions.

(2) This section is in addition to any other provision made by this Act with regard to the provision of funding for a particular purpose.”.

This is largely a technical amendment.

Amendment agreed to.

Deputy Charles Flanagan: I move amendment No. 66:

In page 20, line 34, to delete “a relevant committee,”.

Amendment agreed to.

Deputy Charles Flanagan: I move amendment No. 67:

In page 21, line 6, to delete “person;” and substitute “person.”.

Amendment agreed to.

Deputy Charles Flanagan: I move amendment No. 68:

In page 21, to delete line 7.

Amendment agreed to.

Deputy Charles Flanagan: I move amendment No. 69:

In page 21, line 10, to delete “a relevant committee,”.

Amendment agreed to.

Deputy Charles Flanagan: I move amendment No. 70:

In page 21, to delete lines 25 to 28.

Amendment agreed to.

Deputy Charles Flanagan: I move amendment No. 71:

In page 21, line 31, after “and” where it firstly occurs to insert “its”.

Amendment agreed to.

Deputy Charles Flanagan: I move amendment No. 72:

In page 21, line 32, to delete “of each relevant committee”.

Amendment agreed to.

Deputy Donnchadh Ó Laoghaire: I move amendment No. 73:

In page 23, to delete line 37, and in page 24, to delete lines 1 to 11 and substitute the following:

“(3) Subsection (1) shall only apply to a legal academic who has qualified as a barrister or solicitor and subsequent subsections of this section, in so far as they relate to a person who is referred to in them as a ‘head of a faculty’ or ‘head of another faculty’, shall not be construed as enabling such a person to be the subject of such an appointment unless the person has qualified as a barrister or solicitor.”

This amendment relates to the requirement that a legal academic must have had continuous practice of four years to be considered for appointment. While it is important to ensure there is considerable legal experience involved, this requirement is too restrictive. While someone might have qualified, he or she might not have practiced in four continuous years. This raises a number of considerations. Generally, we should be more open to considering the appointment of legal academics, in particular, to some of the Superior Courts where the issues might be more technical or abstract and where academic experience would be beneficial. People with academic experience are considered in other jurisdictions for appointment. Provided that someone has qualified as a barrister or a solicitor and provided that he or she qualifies in every other respect and is a fit and proper person with good experience and knowledge of the law to serve in such a position, it makes sense that he or she should be considered for appointment. I also take into account the fact that the current provision might have implications for those who might have left practice for a period, for example, female barristers who have taken leave of absence at various points for family reasons. That is the general approach in other jurisdictions and it is one which makes sense and should be taken into account. For these reasons, I have brought forward the amendment.

Deputy Charles Flanagan: This is the reintroduction of a similar amendment tabled by the Deputy which we discussed at some length on Committee Stage. Having considered the matter fully, I am not in a position to accept the amendment. First, it would remove the eligibility requirement that candidates be either a solicitor or a barrister. Second, it would remove the requirement of practical experience. There are good and sound reasons that these have been in our legislation over the years. I am not in a position, therefore, to accept the amendment.

Deputy Jim O’Callaghan: The law, at present, for appointments to the superior courts is that a person must have been working in practice as a barrister or solicitor for 12 years. What is proposed in the legislation put forward by the Government in this section, which is an amendment to the 1961 Act, is that the qualifications would be changed so that legal academics would be available for appointment to the courts. I agree with much of what Deputy Ó Laoghaire said. In other jurisdictions, particularly in the United States, for instance, academics are appointed to the highest court in that land, the Supreme Court, on the basis of their academic qualifications.

My concern about the amendment put forward by Deputy Ó Laoghaire is that it would mean that a person could merely qualify as a barrister or solicitor and then be in a lecturing role for, say, 20 or 25 years without having ever practised in the courts. It would be very difficult for anyone who, for instance, worked in the law department in Trinity College or in NUI Galway who had never worked as a barrister or solicitor to find him or herself being appointed to, say, the Circuit Court or the High Court. It may be feasible for such persons to play the role of an appeal court judge because an appeal court judge does not deal with witnesses and mainly has to deal with issues of strict interpretation of law. My concern here, in respect of the Sinn Féin amendment, is that persons could be appointed who would not have practical experience of what is happening in a court. This is no criticism of them. It is merely a fact.

One of the most important functions that a judge has to fulfil in a primary court is knowing the rules of evidence. No matter how well versed a person is on the rules of evidence as an academic, he or she would be at a severe disadvantage if that person did not have an opportunity to experience the rules of evidence operating in a court of law. For that reason, although I welcome the fact that there will be individuals who can now be appointed from legal academia, it is important that they bring with them an element of practical experience in our courts.

It brings another relevant matter to mind. At present, it appears that barristers can only be appointed as judges if they are practising barristers in the Four Courts. Some former barristers have contacted me and said that seems unfair. These are barristers who have left the Four Courts, who are no longer members of the Law Library but who continue to work, for instance, as in-house counsel. They see themselves working in a similar position to solicitors in the same office but the solicitors are eligible for appointment to the court whereas they are not because they are no longer practising in the Law Library. That is something the Minister might look at in due course.

I want to let Deputy Ó Laoghaire know that, notwithstanding my general support for the principle, I will not be supporting the amendment.

Deputy Clare Daly: I think it is a good amendment. We must put it in the context of what we are trying to achieve here.

One of the fundamental aims is that we would have a more diverse Judiciary. We do not want a replication of what was there previously, albeit appointed in a different way. We want those appointed judges to have a knowledge of the law. In that sense, it is eminently sensible that those legal academics who are trained in the law and its relevance etc. would not necessarily have to practice as barristers or solicitors before they are appointed as judges. If we insist on appointing those who have the practical experience, we are insisting that those in the system who have adapted to the norms of court life would assume the position of judge. That will not shake up anything at all.

We all agree that anybody put forward for the office of judge should know, understand and uphold the law, but he or she should not necessarily only come from that narrow legal circle. Whereas I would have the height of respect for a few, if maybe not all, barristers and solicitors, it is not an absolute necessity that they would all be practising previously. To have qualified is necessary, thereby demonstrating a knowledge of the law.

It is quite a subtle amendment but it contributes quite positively to what we want to achieve, which is the appointment of persons who are not clones of those who are there but who may

have a broader world vision, who better reflect what life is like and who operate in dispensing justice in the public interest. It is a good one. I, certainly, will be supporting it. It is a positive measure for diversity.

Deputy Mick Wallace: In the interests of diversity, the amendment is good. I agree with it. I agree with the Minister that it is important to have experience but there are many different types of experience. The experience of life is every bit as valuable as any other. I imagine that where someone was appointed who did not have the experience of a barrister or solicitor, if he or she was considered good enough to be put forward, there would be good reason for doing so. I am sure he or she would be no gom, as it were. In the interests of diversity, I approve of it.

Deputy Donnchadh Ó Laoghaire: On foot of what Deputy O’Callaghan said, my understanding is that it would still be 12 years’ experience overall but that there must be four years’ continuous experience. That is the point I was making in reference to those who might have taken a leave of absence for maternity leave etc. It is restrictive enough. Not only is 12 years’ experience required but also, within that, four continuous years.

As I stated, there are considerations, especially in the superior courts, that can be quite theoretical and that might benefit from eminently qualified legal academics. Some, such as those who write the great constitutional law textbooks, would not be entitled to be appointed judges.

Unless Deputy O’Callaghan changes his position, I will press the amendment but not call a vote. I believe it is a correct amendment but I will not call a vote on it, if that is the position. In that context, I ask the Minister in a general sense that this matter could be given further consideration. Perhaps there is a middle ground to be found between the amendment I have put forward and the existing consideration so that there might be greater flexibility, albeit somewhat short of the greater discretion I have sought in my amendment.

Deputy Charles Flanagan: I acknowledge what Deputy Ó Laoghaire and others have said. I have given the matter consideration. It is one that requires further consideration, but I am not sure that the immediate result of any further reflection might give rise to the amendment being accepted now.

I note an important point that Deputy O’Callaghan makes with reference to the possibility of dispensing with the requirement to have the legal practical experience in respect of the appeal courts. It is a reasonable point but I am not sure the extent to which that change would be required immediately. It is something that we would look to in the medium term. I am not minded to change in the context of this legislation but it is something important we would keep under review. The reasonable comments of Deputies on the other side would play an important role in feeding into that review which may take place on this legislation once enacted.

Amendment put and declared lost.

Deputy Charles Flanagan: I move amendment No. 74:

In page 25, line 30, to delete “committee” and substitute “Commission”.

Amendment agreed to.

An Ceann Comhairle: Amendment No. 75 is in the names of the Minister and Deputy Clare Daly. Amendments Nos. 75 to 78, inclusive, 81 to 86, inclusive, 91 to 95, inclusive, and 97 and 99 are related. Amendment No. 82 is a physical alternative to amendment No. 81.

Amendment No. 86 is an alternative to amendment No. 85. Amendment No. 86 is consequential on amendment No. 13. Amendments Nos. 93 and 95 are consequential on amendment No. 8. Amendments Nos. 75 to 78, inclusive, 81 to 86, inclusive, and 91 to 95, inclusive, and 97 and 99, will be discussed together.

Deputy Charles Flanagan: I move amendment No. 75:

In page 27, between lines 11 and 12, to insert the following:

“Extent of application of *Chapters 1 and 2*

36. Nothing in this Chapter or *Chapter 2* shall be construed as being applicable to a judicial office to which *section 42* applies.”.

Amendment No. 75 introduces a new section. I share the amendment with Deputy Clare Daly. Its purpose is to reinstate what was previously section 39 of the Bill, as initiated. It is a general explanatory provision to the effect that Chapters 1 and 2 of Part 7 of the Bill do not apply to procedures in respect of certain senior judicial posts which are provided for separately in section 42 of Chapter 3. I do not anticipate that it will be controversial.

Amendment No. 76 is identical to the amendment in the name of Deputy Clare Daly. It is a drafting amendment which arises from a revised text of section 36, formerly section 39, which was amended on Committee Stage on the proposal of Deputy Clare Daly. Select committee members will recall that the word “publicly” was unnecessary and, accordingly, the amendments delete it.

Deputy Clare Daly and I share amendment No. 77 which is another drafting amendment and consequential on a series of amendments made on Committee Stage regarding the removal of the relevant committee structure.

Amendment No. 78 in my name is a reflection of a concern expressed at the select committee. While we did discuss these matters at it, I am advised that we need to state the order of preference will not limit the advice the Government might give to the President under the Constitution. There is no doubt that the list of three persons is the minimum to allow choice in the names the Government may nominate to the President for appointment. It also remains open to the Government, in accordance with the retaining of the constitutional prerogative, to nominate a person other than those who may be listed. In addition, the Bill deals with situations where it is not actually possible to recommend three persons.

There are a number of challenges. For example, on the matter of the order of merit, if the listing was seen to be in any way as a binding order of merit which confined the Government in the exercise of Executive discretion under Article 35 of the Constitution, we would have a constitutional difficulty. I have to reiterate at this stage that any ranking in order of merit of nominees for judicial office which would be submitted to the Government could interfere with and unlawfully fetter the Executive discretion of the Government under Article 35 of the Constitution. If there is any misconstruing or doubt or if there can be any potential misinterpretation that it, in effect, may be binding on the Government, we have a problem. To all intents and purposes, the Bill already reflects a significant narrowing of the discretion of the Government under the previous set of reforms dating back to 1995. It provides for three names to be recommended and five names where there are two vacancies, for example. The ranking of names in order of preference of the commission is a new element. On the basis that it is not binding,

which is the overall effect of my two amendments, the Government has decided to support the change to an order of preference. Overall, my conclusion is that in respect of the constitutional function of the Government in the matter, it must have an element of choice. It must have choice in the names it may nominate for transmission to the President for ultimate appointment.

Amendments Nos. 81 and 83 to section 39 simply follow on from what I have set out with regard to amendments Nos. 77 and 78 and apply to the order of preference. I am unable to accept amendment No. 82 in the name of Deputy Clare Daly which overlaps with amendment No. 81 in my name. The amendment recognises and incorporates into the text of section 39(2) the order of preference concept. Amendment No. 74 in my name expands on the text of section 39(2) to make it clear that the expression of preference on the part of the commission will make no distinction between several vacancies. It is important that we add to the text of section 39 to put beyond any doubt the very particular aspect of the order of preference in situations where there is more than one vacancy in the same court.

With regard to amendment No. 84, the provision of the Bill, as published, whereby the names of all eligible persons will be forwarded to the Government where none or fewer than three can be recommended, was deleted by amendment. It is linked to a further amendment passed on Committee Stage which directs the commission to rerun the invitations at three-monthly intervals where no names could be recommended. Amendment No. 84 in my name seeks to reverse these amendments and address the provisions of section 40 because I am unhappy with the state of affairs left in place as a result of the amendment made on Committee Stage. I ask Members to bear in mind that the original purpose was to deal with something that would be exceptional enough in featuring, that is, a situation where the commission could only recommend fewer than three, that is, one or two, and could not recommend any person. The general thrust of the provision is based on the corresponding provision in statute that provides for the work of the JAAB. I ask Members to ensure we will have an element of consistency and that they consider previous positions with a view to supporting the amendment.

With regard to amendment No. 85, the Bill was amended on Committee Stage to remove a requirement that records and results of any interview be forwarded by the commission to the Government in respect of recommended persons. This was a new provision and a change from the JAAB provisions. It was intended to reflect the strongly perceived need for the commission to conduct interviews and inform Ministers of the outcome. The effect of amendment No. 85 is to reinstate that provision on the grounds of inconsistency.

Deputy Clare Daly: There are a lot of things going. In half of them what the Government is trying to do is undo the changes brought forward at the select committee. Amendment No. 75 in our name and that of the Government does the same thing but for very different reasons. In the Government's case, it is being brought forward to preserve the special procedure involving the Chief Justice, the Attorney General and the chairperson, known as the senior judicial appointments committee, coming together to agree on who should be nominated for appointment as Chief Justice, the President of the Court of Appeal or the President of the High Court, whereas in our case it is to preserve an amendment we succeeded in having accepted on Committee Stage, namely, that it is the commission that will make the decisions on senior judicial appointments, albeit using a slightly different procedure than that used for other judicial appointments, rather than a conclave of the three individuals to which the Government seems to be wedded. Without amendment No. 75, the procedure for appointing senior judges would be very confused; therefore, it is necessary. We have to make the point that the Government is attempting in some of the amendments in this group to do away with our successful commit-

tee amendment which took senior judicial appointments out of the hand of the conclave, for example, in amendment No. 87 which is in a different group of amendments. That is why this batch is slightly confusing. Amendment No. 76 in our name and the Minister's is harmless enough. It proposes to delete the word "publicly". It arose because on Committee Stage we got the words "shall publicly" inserted. The "shall" was more important to us than the "publicly". We are happy enough with that.

We are also happy with our amendment and the Government's amendments Nos. 77 and 81. We are happy to withdraw our amendment No. 82 in deference to the Minister's amendment No. 81 which is better drafted than ours. On Committee Stage, despite fierce resistance from the Government, we succeeded in obliging the Government to rank its judicial nominees in order of preference and, while the Government expressed concern that it might not be constitutional, we are very glad the Minister has pulled back from that position and agrees that there is no constitutional impediment to the commission ranking nominees. The Bar Council of Ireland and the Judicial Appointments Review Council suggested this and if we did not allow the commission to rank applicants we would end up with a commission that would differ from the current system only in its make-up, the outcomes would inevitably be the same. That should not be what we are aiming for out of this process.

Amendments Nos. 78 and 83 are the Government's way of reassuring itself as to the constitutionality of the commission being empowered to rank the nominees it is putting forward. We do not think they are necessary. They are redundant, a bit of window dressing but we are not going to lose any sleep over it. We know that ranking does not limit the Government in who it can tell the President to appoint. In amendment No. 84 the Government is trying to re-gift itself the power to completely ignore the commission's advice in a circumstance where the commission cannot in good conscience recommend anybody for appointment. We are strenuously opposed to this. The amendment means that after the commission has been through the whole process of inviting applications, going through CVs, interviewing applicants, debating the applicants' merits, drawing up a short list and sending it to Government, the Government can say it could not be arsed and it is not going to nominate any of these people. The Government could appoint somebody whom the commission has actively rejected. It is a nonsense. It could appoint somebody who had not even applied. Under amendment No. 85 the Government will force the commission to gather up all the application documents that it has gone through painstakingly, send them to the Government only for it to do the very thing the Bill is intended to stop and appoint whoever it likes as a judge.

Amendments Nos. 84 and 85 are re-gifting the power to the Government, a change we succeeded in getting on Committee Stage, that where the commission could not in good conscience recommend anybody for appointment it should be asked to re-advertise every three months until it recommends at least one person. That is in the Bill now and the Government wants to get rid of it. On Committee Stage the Minister argued against our amendment saying vacancies have to be filled and all that sort of good stuff. In effect, what he is saying is that the commission does not think any of the applicants are qualified to fill a vacancy. Rather than allow the commission to go out and find someone good, the Government thinks it is better that it go ahead and appoint whoever it likes. This is serious and that is not good enough.

We are talking about circumstances in which the commission could not recommend anyone. That would be incredibly rare because the commission has the power to recommend three names for a vacancy but it does not have to. It could recommend one. We are talking about circumstances where it cannot recommend any, which would be exceptional. What is so wrong

if once in a lifetime it has to re-advertise a position? That is a better way of going about it.

Amendment No. 92 is our attempt to make it so that the Government can consider for appointment only people that the commission nominates. We went through this at length on Committee Stage and I am not going to rehash the arguments. I just want to briefly reiterate that the Bar Council argued in its 2014 submission on the reform of the judicial appointments process that only candidates recommended by the Judicial Appointments Advisory Board, JAAB, should be eligible for appointment. The Government is fettered in its choice in law with regard to judicial appointments. What we propose is no different from that. The Minister tried to say it was unconstitutional. I do not buy that. I would love to be a judge. I would like that more than anything else in the whole world but I cannot be appointed as a judge because I am not a barrister or solicitor. There are restrictions already in law as to who can be appointed. Our putting in a criterion to say a person can be appointed a judge only if he or she is recommended by the judicial appointments commission is no different from any other restriction in law and there are plenty of restrictions when it comes to appointing judges.

Deputy Jim O’Callaghan: I am delighted to hear that Deputy Daly has made herself available for judicial appointment. I hope the Minister will amend the legislation to make an exception for her. She would make an excellent judge.

This is the core of the legislation we are discussing. Sometimes in this House we discuss issues which are peripheral and probably are not the crux of the legislation. We have had days of debate about the make-up of the commission, whether there should be a lay majority or lay chair. They are important issues. I argued on them and there is a division in the House on them. The most important part of the legislation is what actually happens when individuals have been recommended by this commission or board for judicial appointment. The flaw in the whole process - this was something that people saw from the outset and that the judges put in a submission in respect of some years ago - is that under the JAAB legislation the board has to nominate approximately seven people for each position. There is a large number of people who can be nominated by JAAB, and that goes to Cabinet where there is huge discretion to choose the successful applicant. The judges argued in their submission that the number should be narrowed so that the body that has expertise would identify three individuals who could be recommended to Government. I do not know whether the judges argued that it should be ranked, and if they did, we agree with that.

There was also a recommendation made by the judges, with which I disagree, that when names were being given to the Cabinet an outstanding candidate could be identified. I thought that was an unwise proposal because this being Ireland there is no doubt that people would be able to identify who was nominated as an outstanding candidate. There would be two categories of judge, the “outstanding candidate” judges and the others. It makes no sense to go through this process unless at the end of it the advisory board or the commission we are establishing has the ability to rank individuals and to limit the number recommended to Government.

I am pleased the Government is prepared to accept that and recognises there has to be a ranking system, otherwise the whole process would be fairly pointless. The Constitution is very clear that judges in this country are nominated by Government and appointed by the President. Nowhere in the Constitution is there any reference to JAAB, or any expert commission. The fact that there is no reference in the Constitution to such statutory bodies does not mean we should not try to provide Government with expertise in respect of who are suitable and the most eligible people for appointment to judicial office.

If the Government does not like the three ranked individuals at the end of the process it can decide under the Constitution it is not going for any of them but it is going to appoint another individual. There has to be some explanation for that. On Committee Stage, and in legislation Fianna Fáil introduced, we suggested that there be a requirement for an explanation if the Government decides to go off the list. It has happened on only two occasions since 1995 and in the appointment of the JAAB. It is perfectly acceptable for the Government to do that.

Deputy Clare Daly raised an interesting point. She said that we set out eligibility for judges, that we say a person must have 12 years' experience and must be a solicitor or a practising barrister. She asked why then can we not go one step further and say that a person must be recommended by the Judicial Appointments Advisory Board. My view remains, however, that this would constitute an infringement of the Government's decision making whereby it can decide who it wants to appoint as a judge. Obviously, factors such as eligibility by way of age or by way of legal qualification are not for the purpose of fettering a Government's discretion when it comes to selecting an individual. They are just standard eligibility requirements that a person cannot become a judge unless he or she is a lawyer of certain years standing.

If we were to include another provision that a person has to be recommended by the judicial appointments commission, it would constitute the fettering of the Government's decision making process. I see them as being viewed differently, although it is an interesting point.

Another aspect of these amendments concerns the senior appointments. It surprises me when I hear the Government wants to put forward this proposal in respect of the senior appointments. I have been saying for a long time here that these are advisory bodies and they require expertise. The reason I say that having a lay majority is not appropriate is that expertise is required - this is not a regulatory body. The Government disagrees and says lay people should dominate and run it, but when it comes to senior appointments, it says that it does not want the lay people to dominate and that it only wants only one of them. It wants the Attorney General and one other judicial figure. Where is the Minister, Deputy Ross, when it comes to this cartel, as he would criticise it? I made a decision on this on Committee Stage. It is a borderline call. I am going to stick with the decision I made on Committee Stage.

It must be infuriating for the President of the Court of Appeal, about whom I read in one of today's newspaper. He said he requires judges for the Court of Appeal to operate. We have been discussing for months in this House the theory of how we should appoint judges and whether we should appoint them on the basis of the recommendations by a commission may up of lay people or non-lay people. It must be infuriating for him but it is more infuriating for the general public in that if a person is appearing before the Court of Appeal, he or she cannot get his or her case heard until 2020. Rather than messing around here trying to appease a colleague of the Minister about the process that will be put in place for the purpose of the theoretical appointment of judges, would he do his job and appoint some judges to the Court of Appeal? Three judges of the Court of Appeal are gone and I believe it is down to six. It cannot function properly. The reason there are delays in the system is that the Government refuses to nominate people for appointment.

Deputy Donnchadh Ó Laoghaire: A number of references were made to amendment No. 87, which is not part of this grouping, but some of the references may be relevant depending on how that amendment fares. I had my mind made up about amendment No. 87 and I will not be supporting it. It is not consistent with the philosophy underlining the Bill. I find it difficult to understand the logic behind it. I am speaking to the amendment because it is relevant, in par-

ticular, to the first amendment in this grouping, amendment No. 75, and obviously the meaning of that will change depending on what section, or version of it, it is referencing.

The debate has been very much about open and transparent appointments and so on. Much of the discussion has been about a lay majority, having a wide experience of backgrounds and a mixture of legal, lay people and expert lay people. In that context, I find it difficult to understand why that process would not be followed when it comes to the superior court appointments. If we are going to the trouble establishing a commission of this nature, I do not understand, given the limited number of appointments that the members of it will have to make, why we cannot consider that they would be trusted with those appointments. It is right and proper that the appointments would be made by the commission much the same as any other appointments. I will be opposing that amendment. I will support the first amendment on the basis of that because it is referencing it, but I would hope that the section will remain the same.

Amendment No. 97 deletes an amendment which relates to written reasons. That is another amendment I will oppose. I do not believe that the requirement to give a written reason is in any way unconstitutional, legally unsound or in any way interferes with the independence of the Judiciary. As long as the names recommended by the commission are not released, it does not interfere with the ultimate jurisdiction and the constitutional right of Government to select the candidate it wishes. I made the argument on Committee Stage that one would hope the Government would depart only rarely from the names recommended to it. The provision is there to provide that if a Government was to routinely depart from the commission's recommendation, it would explain it. Otherwise, it would undermine the body and the approach being taken. The philosophy here is that there is a constitutional restriction so we set up this body, which will come up with recommendations and, consequently, the Government will feel obliged to follow it because this process exists and it would be reluctant to depart from it. If there are not written reasons, there is less of an incentive to do that.

I would add that this is the process in England and Wales, for example, where the relevant judicial appointments commission selects candidates and submits their names to the relevant authority which in that case would be the Lord Chancellor, the Lord Chief Justice or the senior president of tribunals and so on. Invariably that figure, albeit within a different constitutional framework, accepts the recommendation and can only reject it on the basis that the person recommended is not suitable and reasons are provided in writing. I believe it would be a mistake to remove that requirement. I do not believe it causes any difficulty or that it would be beyond the capacity of Government, particularly with the proviso that the names would not necessarily be published but that the rationale would be provided in *Iris Oifigiúil*.

Deputy Mick Wallace: I am not sure if the Minister, Deputy Ross, in his crusade to radically shake-up the way we appoint judges, is aware that the Government seems to be determined to hang on to the ultimate power to appoint judges itself. If he votes in favour of amendments Nos. 84 and 85, he would be voting to leave the *status quo*, which he has crusaded to change, essentially intact. As Deputy O'Callaghan said at the committee, if the Government or anyone else was really interested in reforming judicial appointments, it would be pushing for a referendum on the issue, not window dressing by way of statute that gives the impression that there will be reform.

Furthermore, the Government is looking to get rid of the little bit of accountability we managed to insert into that process in committee with a Sinn Féin amendment to the effect that if the Government appoints someone the commission has not recommended or someone the com-

mission has rejected, it would have to publish a reasoned written explanation as to the reason in *Iris Oifigiúil*. Amendment No. 97 is the one that looks to do this and should be completely resisted. That provision is completely innocuous and there is no way on God's earth that there could be any constitutional issue with it.

The Government's amendment No. 99 wants to get rid of the obligation on the Minister, if he or she appoints someone not appointed by the commission, to lay before the Houses a written explanation of the reason.

In the UK, for example, the Lord Chancellor only receives one name. He can either accept it or reject it on suitability grounds but if he rejects it, it goes back to the commission. He is not pulling a name out of a hat.

There has been much talk about reducing political influence but the legislation we will be left with at the end of this process will not be as good as what we had previously. There will be more political interference as a result of this new Bill. As I said previously, I do not believe for a second that the Minister, Deputy Flanagan, agrees with this legislation.

Deputy Jim O'Callaghan: Hear, hear.

Deputy Mick Wallace: I do not believe this is the way Fine Gael would have approached this issue. This is the greatest load of baloney driven by the Minister, Deputy Ross, and it does not stack up. It is irrational and it is poor legislation. The price of keeping the Independent Alliance on board is too high. The matter is too important. The Minister, Deputy Flanagan, comes from a legal professional background. He cannot possibly believe that we are making progress here, that we are going in the right direction or that this is impressive. How can it be?

After the referendum that was held last week, Fine Gael looks a lot more progressive than Fianna Fáil, given that more than half of Fianna Fáil went for "No" and that more than three quarters of the population went for "Yes".

Deputy Jim O'Callaghan: That is irrelevant.

Deputy Mick Wallace: On this issue, however, Fianna Fáil is looking more progressive than Fine Gael. The Government can thank the Minister, Deputy Ross, for dragging it down into a deep, dark hole in this judicial area. By God, Fine Gael will not be thankful.

If there is to be any reform in how we appoint judges, how in God's name can we justify going through a lengthy and difficult process of setting up a commission, being really fussy about who goes on it, after huge work eventually coming up with three names, then say we will not have any of them, and then pick someone else? We are not getting an explanation for this. Can the Minister, Deputy Ross, stand over the amendments that bring this about? I do not understand how he can do this. I do not expect the Minister, Deputy Flanagan, to answer for him but I put it out there that the Minister, Deputy Ross, is standing on wet sand. This does not make any sense. It is not how things should be done in the House. No Members will be thankful or will take any pleasure from saying, "We told you so." We were in this House as this legislation went through, and it will be shame on us because we have made a bollocks of it.

Deputy Charles Flanagan: I certainly do not wish to have any responsibility for legislation that is passed through the House unless it is legally sound and constitutionally proofed. This strikes at the heart of the amendments under discussion.

We did not have a constitutional referendum to change the role of Government in the matter of the appointment of judges. That is retained. It was not part of any programme for Government commitment nor is it a Government policy. We are merely introducing changes within the current constitutional framework. My concern is the need to ensure, at every remove, that the Government retains the constitutional freedom to choose a person other than those who may be recommended. I cannot envisage circumstances where this might arise but it is nevertheless important that this constitutional preserve is maintained.

On amendments Nos. 97 and 99, I reiterate an important point about the requirement that a notice would at some stage include a reasoned explanation of a decision not to nominate a person. I gave this matter some consideration since we last discussed it. I have no doubt that a statement that a recommendation of the commission was not followed would undermine the credibility and the integrity of the appointee and the judicial system if it was known that a particular person was not recommended by the commission. This is a matter of great concern. We run too great a risk by leaving the Bill in its current form.

Deputy O'Callaghan referred to comments made by the President of the Court of Appeal. I agree with the Deputy. I take very seriously any point coming from the president of any court. I share Deputy O'Callaghan's concern on that matter and I will propose, at the earliest opportunity, that the Government acts accordingly so a situation is not allowed to develop where the Court of Appeal does not have enough judges. I take very seriously comments made in that regard in this House.

Deputy Jim O'Callaghan: The Minister is not a commentator on whether individuals are appointed to judicial office. The Minister decides to nominate people and the President appoints them. It is inexplicable, and no explanation has been provided, as to why judges have not been appointed of the Court of Appeal. I have a strong suspicion as to why it has not happened. It is a political reason to appease one Member of the Government. That is not satisfactory from the public interest perspective.

The Minister also said that it is very important for the Government to preserve its constitutional freedom to appoint whoever it wishes. I agree that the Government has that constitutional freedom, but one does not need to identify a constitutional freedom by putting it into a statute. Either the Government has that constitutional freedom or it does not. I believe it does, but mentioning it in legislation is of no benefit in determining whether the freedom exists.

Section 45 reads:

In the event that a person appointed to judicial office has not been recommended by the Commission under this Act, the notice of that appointment published in *Iris Oifigiúil* shall include a reasoned written explanation of the decision of the Government not to nominate a candidate recommended by the Commission.

Let us say that the Government has a list of three people and the Minister, Deputy Flanagan, becomes aware that one of the best lawyers in the State is available. The Minister considers this to be a fantastic opportunity. As the Minister for Justice and Equality I would grab that person if he or she were available for appointment and had not gone through the process. Then the Minister could put in the *Iris Oifigiúil* the reason individuals who were recommended were not appointed. They do not have to be identified. The Minister could say that it was decided to appoint a particular person because of his or her outstanding legal ability and because of other

characteristics.

Deputy Clare Daly: There are very serious amendments under consideration here and there are some attempts to row back on some of the important improvements made to the Bill on Committee Stage, which is regrettable. Other amendments are just a matter of tidying up, and we agree with a chunk of stuff. With the big ones, however, why go to all the trouble of setting up a commission, giving it the power, and then keeping the power with Government absolutely and to utterly disregard that?

The Government has put up weak arguments such as the unconstitutionality of it. Everybody accepts that the commission would make recommendations to the Government, the Commission would decide and then the President would appoint. The power to advise the President would still remain with Government. If the Minister says that our amendment, requiring that the Government be restricted in its options to “only” those people whom the judicial appointments commission recommends, is unconstitutional, then I put it to the Minister that so too are section 5 of the Court (Supplemental Provisions) Act 1961 and section 11 of the Court of Appeal Act 2014. I have not heard anything to the contrary in this regard. If the Government insists that our amendment No. 92 is unconstitutional, I would nearly be tempted to take a Supreme Court challenge on one or both of these issues on the basis that I would like to be a judge. If the Government is putting in restrictions on who can be a judge and with what qualifications, there is no impediment to the Members of the Oireachtas putting in other qualifications.

In order to give meaningful status to the commission, we debated at length who its members should be, what skill sets they should have, and what groups and diversities in society they should represent. We did all of that to reduce political interference, yet now we are coming up with a proposal that will allow the Government to do whatever it likes. Our amendments would be a better way of depoliticising the appointment process and providing broad expertise.

Deputy Mick Wallace: The Minister is trying to undo what we attempted to achieve on Committee Stage. That is contrary to the requirement for transparency. The programme for Government committed to reforming the judicial appointments process to ensure it was transparent, fair and credible, but this proposal breaks with that commitment. According to the 2010 Council of Europe recommendation, any body being set up was to ensure that the widest possible representation was engaged, procedures should be transparent, reasons for decisions should be made available to applicants on request, and steps should be taken to establish, where lacking, procedures for the selection, appointment and promotion of judges that were, using objective criteria, transparent. We are moving away from that. If the Minister has a defence, I would like to hear it.

Deputy Donnchadh Ó Laoghaire: I will make a few observations. I am open to considering amendment No. 92 further, but my sense is that it might be unconstitutional to restrict the Government to “only” the names provided to it. Given the next amendment that we will deal with, the approach being taken is to create an infrastructure in which, in terms of perception and practice, it is almost impossible - it is not constitutionally possible to make it impossible - to depart from the recommendations. As such, I am not in a position to support amendment No. 92.

Amendment No. 91 is an attempt to remove a provision that was made on foot of my own amendment. Deputy O’Callaghan made the case well. An appointment would not be undermined. The nature of the written notice would, to a large extent, outline the strengths of the

appointee in meeting the criteria rather than the deficiencies of anyone else. I imagine the Government would be hesitant to do that, which is why the provision is in the Bill, but it still allows for the final decision to rest with the Government. That is a reasonable position to take.

Perhaps I have not fully understood the significance of amendments Nos. 84 and 85 and their relationship with what we discussed on Committee Stage. I had been minded to support them. Having considered the points that have been made on this Stage and Committee Stage, though, it is not unreasonable to expect that the process could be restarted at three-month intervals in order to fill positions. That is a normal procedure in many other areas of life. As matters stand, I am inclined to oppose these two amendments.

Deputy Charles Flanagan: Deputy O’Callaghan referred to the Minister for Justice and Equality having observer or commentator status in the current situation, but let me assure him otherwise. I am conscious of my obligations in this regard and intend acting at the earliest opportunity, and will do so, on outstanding appointments. We are all agreed that we should progress this reforming legislation to the Upper House. Before doing so, however, it is important that we acknowledge the constitutional issues.

As to Deputy Clare Daly’s comments, this is not a matter of undoing the good work of, or unravelling the improved state of affairs after, Committee Stage. Rather, it is an attempt to deal with very serious constitutional concerns regarding the manner in which the ultimate appointments are made, not only in respect of Article 35 and the power that rests within Government, but also the associated issue of the manner in which the Government does its business with reference to the confidentiality of Cabinet affairs. I want this House to be conscious of these two concerns prior to deciding the amendments.

Amendment agreed to.

Deputy Charles Flanagan: I move amendment No. 76:

In page 27, line 14, to delete “publicly”.

Amendment agreed to.

Deputy Charles Flanagan: I move amendment No. 77:

In page 28, line 17, to delete “ranked in the order of the relevant committee’s preference” and substitute “ranked in the order of the Commission’s preference”.

Amendment agreed to.

Deputy Charles Flanagan: I move amendment No. 78:

In page 28, between lines 17 and 18, to insert the following:

“(3) Nothing in *subsection (2)* shall be construed as limiting the advice the Government may give to the President with respect to the appointment by the President, under Article 35 of the Constitution, of a person to be a judge.”.

Amendment agreed to.

Deputy Charles Flanagan: I move amendment No. 79:

In page 28, line 25, to delete “relevant committee has received from the Commission” and substitute “Commission has received”.

Amendment agreed to.

Deputy Charles Flanagan: I move amendment No. 80:

In page 28, line 29, to delete “relevant committee” and substitute “Commission”.

Amendment agreed to.

Deputy Charles Flanagan: I move amendment No. 81:

In page 28, line 31, after “number” where it secondly occurs to insert the following:

“ranked in the order of the Commission’s preference (and that expression of preference shall not make any distinction between the several vacancies concerned)”.

Amendment agreed to.

An Ceann Comhairle: Amendment No. 82 cannot be moved.

Amendment No. 82 not moved.

Deputy Charles Flanagan: I move amendment No. 83:

In page 28, between lines 33 and 34, to insert the following:

“(4) Nothing in *subsection (2)* shall be construed as limiting the advice the Government may give to the President with respect to the appointment by the President, under Article 35 of the Constitution, of a person to be a judge.”.

Amendment agreed to.

Deputy Charles Flanagan: I move amendment No. 84:

In page 29, to delete lines 10 to 19 and substitute the following:

“(3) In any case to which *subsection (1)* applies, the Commission shall cause its recommendation to the Minister to be accompanied by a statement of the name of each eligible person (other than a person the subject of its recommendation) who had made a relevant application.

(4) *Subsection (5)* applies where the Commission determines that it cannot, in accordance with this Act, recommend to the Minister the name of any person for the purposes of *section 38* or *39* (and the case is other than one in which there were no relevant applications whatsoever by eligible persons).

(5) Where this subsection applies, the Commission, on making the determination referred to in *subsection (4)*, shall inform the Minister of it and shall furnish to the Minister a statement of the name of every eligible person who had made a relevant application.”.

Amendment put:

<i>The Dáil divided: Tá, 37; Níl, 40; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Bailey, Maria.</i>	<i>Aylward, Bobby.</i>	
<i>Brophy, Colm.</i>	<i>Brady, John.</i>	
<i>Bruton, Richard.</i>	<i>Brassil, John.</i>	
<i>Burke, Peter.</i>	<i>Broughan, Thomas P.</i>	
<i>Byrne, Catherine.</i>	<i>Buckley, Pat.</i>	
<i>Canney, Seán.</i>	<i>Chambers, Lisa.</i>	
<i>Cannon, Ciarán.</i>	<i>Collins, Joan.</i>	
<i>Carey, Joe.</i>	<i>Collins, Niall.</i>	
<i>Corcoran Kennedy, Marcella.</i>	<i>Connolly, Catherine.</i>	
<i>D'Arcy, Michael.</i>	<i>Cullinane, David.</i>	
<i>Deasy, John.</i>	<i>Daly, Clare.</i>	
<i>Deering, Pat.</i>	<i>Ellis, Dessie.</i>	
<i>Doherty, Regina.</i>	<i>Gallagher, Pat The Cope.</i>	
<i>Doyle, Andrew.</i>	<i>Howlin, Brendan.</i>	
<i>Durkan, Bernard J.</i>	<i>Kenny, Martin.</i>	
<i>English, Damien.</i>	<i>Lahart, John.</i>	
<i>Farrell, Alan.</i>	<i>MacSharry, Marc.</i>	
<i>Flanagan, Charles.</i>	<i>Martin, Micheál.</i>	
<i>Griffin, Brendan.</i>	<i>McGrath, Michael.</i>	
<i>Harris, Simon.</i>	<i>McGuinness, John.</i>	
<i>Humphreys, Heather.</i>	<i>Mitchell, Denise.</i>	
<i>Kehoe, Paul.</i>	<i>Munster, Imelda.</i>	
<i>Kyne, Seán.</i>	<i>O'Brien, Jonathan.</i>	
<i>Madigan, Josepha.</i>	<i>O'Callaghan, Jim.</i>	
<i>McEntee, Helen.</i>	<i>O'Reilly, Louise.</i>	
<i>McGrath, Finian.</i>	<i>O'Rourke, Frank.</i>	
<i>McLoughlin, Tony.</i>	<i>Ó Caoláin, Caoimhghín.</i>	
<i>Mitchell O'Connor, Mary.</i>	<i>Ó Cuív, Éamon.</i>	
<i>Moran, Kevin Boxer.</i>	<i>Ó Laoghaire, Donnchadh.</i>	
<i>Murphy, Eoghan.</i>	<i>Ó Snodaigh, Aengus.</i>	
<i>Naughten, Denis.</i>	<i>Penrose, Willie.</i>	
<i>Naughton, Hildegarde.</i>	<i>Ryan, Brendan.</i>	
<i>O'Connell, Kate.</i>	<i>Ryan, Eamon.</i>	
<i>Phelan, John Paul.</i>	<i>Scanlon, Eamon.</i>	
<i>Rock, Noel.</i>	<i>Sherlock, Sean.</i>	
<i>Ross, Shane.</i>	<i>Smith, Brendan.</i>	
<i>Stanton, David.</i>	<i>Smyth, Niamh.</i>	
	<i>Stanley, Brian.</i>	
	<i>Tóibín, Peadar.</i>	
	<i>Wallace, Mick.</i>	

Tellers: Tá, Deputies Tony McLoughlin and Joe Carey; Níl, Deputies Clare Daly and Mick Wallace.

Amendment declared lost.

Deputy Charles Flanagan: I move amendment No. 85:

In page 29, to delete lines 20 to 23 and substitute the following:

“Particulars to be provided by Commission

41. (1) The Commission shall, in respect of each person whose name it has recommended to the Minister under *section 38* or *39*, provide to the Minister—

(a) particulars of the person’s education, professional qualifications, experience and character, and

(b) where applicable, the records and results of any interview or test held or conducted by the Commission in respect of the person.

(2) Where *section 40(5)* applies, the Commission shall cause the statement referred to in that provision to be accompanied by a statement, in respect of each person named in it, of each of the particulars referred to in *subsection (1)(a)* and each of the records and results (if any) referred to in *subsection (1)(b)*.”.

Amendment agreed to.

Amendment No. 86 not moved.

An Ceann Comhairle: Amendments Nos. 87 to 90, inclusive, will be discussed together.

Deputy Charles Flanagan: I move amendment No. 87:

In page 29, to delete lines 26 to 40, and in page 30, to delete lines 1 to 42 and substitute the following: “Appointment as Chief Justice, President of the Court of Appeal, and President of the High Court 42. (1) Where—

(a) the judicial office of Chief Justice, President of the Court of Appeal or President of the High Court stands vacant, or

(b) the Minister reasonably apprehends that any of those offices will stand vacant, the Minister shall request the Commission to seek expressions of interest on the part of eligible persons who wish to be considered for appointment to such office and to forward the names of all eligible persons expressing such interest to the Minister, together with particulars relating to the education, professional qualifications, experience and character of those persons.

(2) On *subsection (1)* being complied with, the Minister shall convene a meeting of the following persons—

(a) the Chief Justice or, in the case specified in *subsection (4)*, the person specified by that subsection to be the relevant person for the purposes of this paragraph,

(b) the chairperson, and

(c) subject to *subsection (10)*, the Attorney General, and those persons, so convened, shall be known as the Senior Judicial Appointments Advisory Committee (in this section referred to as the “Advisory Committee”) who shall consider the suitability of all of those persons whose names have been forwarded by the Commission under *subsection (1)* and, subject to *subsection (5)*, shall recommend, from among those persons, to the Government the names of 3 persons, ranked in the order of the Advisory Committee’s preference, for appointment to the judicial office referred to in *subsection (1)*.

(3) Nothing in *subsection (2)* shall be construed as limiting the advice the Government may give to the President with respect to the appointment by the President, under Article 35 of the Constitution, of a person to the judicial office concerned.

(4) Where the vacancy concerned (whether an actual or apprehended vacancy) is that of the judicial office of Chief Justice, the relevant person for the purposes of *subsection (2)(a)* is—

(a) subject to *paragraph (b)*, the President of the Court of Appeal, or

(b) if the President of the Court of Appeal has expressed, in relation to the foregoing judicial office, the interest referred to in *subsection (1)*, the next most senior judge available, that is to say whoever of the judges specified in paragraphs (c) to (k) of section 9 (substituted by section 28 of the Court of Appeal Act 2014) of the Courts of Justice Act 1924 ranks first in precedence (after the President of the Court of Appeal) in accordance with that section 9 and who is available to serve on the Advisory Committee (excepting for this purpose any such judge who, in relation to the foregoing judicial office, has expressed the interest referred to in *subsection (1)*).

(5) If the Advisory Committee, having considered the suitability of all of those persons whose names have been forwarded by the Commission under *subsection (1)*—

(a) decide that they cannot recommend to the Government the names of 3 persons for appointment to the judicial office referred to in *subsection (1)* but can recommend the names of a lesser number of persons for that purpose, then they shall recommend, under *subsection (2)*, to the Government the names of that lesser number of persons for appointment to the judicial office so referred to, or

(b) decide that they cannot recommend to the Government the names of any persons for appointment to the judicial office referred to in *subsection (1)*, then they shall inform the Government of that fact.

(6) The cases to which *subsection (5)* applies include a case in which the number of eligible persons who, in relation to the judicial office concerned, have expressed the interest referred to in *subsection (1)* is less than 3.

(7) In a case to which *subsection (5)(a)* applies, the Advisory Committee shall ensure its recommendation is accompanied by a statement of the name of each eligible person (other than a person the subject of their recommendation) who expressed, in relation to the judicial office concerned, the interest referred to in *subsection (1)*.

(8) On informing the Government, in a case to which *subsection (5)(b)* applies, of the

matter referred to in that provision, the Advisory Committee shall furnish to the Government a statement of the name of every eligible person who expressed, in relation to the judicial office concerned, the interest referred to in *subsection (1)*.

(9) Any decision of the Advisory Committee made under *subsection (2)* or *(5)* shall be a unanimous one.

(10) Where the Attorney General expresses, in relation to the judicial office concerned, the interest referred to in *subsection (1)*, then *subsection (2)*, and the other provisions of this section, shall apply and have effect as if *paragraph (c)* of *subsection (2)* were omitted.

(11) In this section “eligible person” means a person who the Commission is satisfied is qualified for appointment to the judicial office concerned by virtue of section 5 or 45A of the Act of 1961.”

Section 46 is being replaced by a new section 42 which removes from the Bill the role and functions of the senior judicial appointments advisory committee which, as Members will be aware, was composed of the Chief Justice, a lay chair and the Attorney General, in order that the function of recommending names for appointment as Chief Justice, President of the Court of Appeal and President of the High Court will fall back on the commission. In addition, for these appointments the new section mirrors the provisions of section 38 which relates to ranking in order of preference and section 40 which relates to the re-running of invitations when a name cannot be recommended.

I have reflected on this matter with some care since Committee Stage. I have concluded that it is not a viable option for me to accept that the commission as a whole which includes the specified three members can perform the task now conferred on it by section 42. My strong preference, therefore, is to reinstate the original section, as published, replacing the new section 42 with amendment No. 87 in my name. The reinstated section I propose is, however, adjusted by providing for the order of preference, in line with the approach adopted under section 38, but it will not allow for the re-running of invitations when a person cannot be recommended. Details of eligible persons who have expressed an interest will be furnished to the Government, these points being in line with my approach to recommendations generally under the Bill.

I see the role of the Chief Justice and that of the Presidents of the courts as meriting a two-stage process, whereby, in the first instance, the commission obtains expressions of interest and those eligible persons are then considered by a committee specially convened for the purpose. There will be judicial involvement, lay involvement and the involvement of the Attorney General. That will allow for the appropriate and complementary contributions in the making of recommendations to the Government. Recently, we had the very useful practical experience of using an arrangement adapting these provisions in respect of the positions of Chief Justice and the President of the Court of Appeal. Up to this, only the Government had a hand in such appointments. The experience of the new model demonstrates that the combination of the relevant expertise is an appropriate model to deal with what will be very infrequent appointments. I specifically invite the main Opposition spokesperson who has made public comment on both appointments to agree with me that this model is both appropriate and workable and has been seen to be both in the past 12 months. The amendment acknowledges what was a very positive experience and the intention is to put it on a statutory footing.

31 May 2018

I will briefly refer to amendment No. 88 in the name of Deputy Mick Wallace. The amendment seeks to move the section 42 “expression of interest” process to the commission proper. We have discussed that issue at some length. I will not accept the amendment because I am not convinced that it would be move the procedure into that of the mainstream commission.

Amendment No. 89 also in the name of Deputy Mick Wallace is consequential on amendment No. 88. It envisages that potential candidates for the most senior judicial positions would make a formal application under the commission process, as distinct from an expression of interest. As I have stated, the “expression of interest” procedure has worked and is working. Section 42 will prescribe it in full on a formal basis. I point out to the Deputy that, in respect of recent appointments, there is no greater example of endorsement than to say the proof of the pudding is in the eating, as it were. I think that is what we have seen. Therefore, I am not minded to depart from the “expression of interest” route.

On amendment No. 90, I appreciate what Deputy Mick Wallace is seeking to achieve, but I do not see the necessity for the amendment because there is nothing whatsoever to prevent the published statements to which he refers from referencing one or all three of the most senior judicial positions. In the circumstances, it would be overly prescriptive to take the route proposed by the Deputy, especially having regard to the provisions of section 49.

Deputy Jim O’Callaghan: I will accept the Minister’s invitation to speak. He is correct; I did comment publicly on the fact that a small grouping such as that proposed in the Bill had been used in making appointments to the Office of Chief Justice and the Office of President of the Court of Appeal. I welcome the appointments. I congratulate the Minister on making what are good appointments. However, what has to be said about the amendment being put forward by the Minister is that it illustrates the incoherence and inconsistency at the heart of the Government’s proposals in this area. We have spent weeks discussing the fact that when it comes to judicial appointments, what the Government wants is a commission or body with a lay majority. We know that this is at the insistence of the Minister for Transport, Tourism and Sport, Deputy Ross, but when it comes to the appointment of members of the Judiciary to certain senior positions, the Government does not want a lay majority. In fact, it expressly wants what the Minister for Transport, Tourism and Sport would refer to as a legal majority comprising the Chief Justice or a president of one of the courts, the Attorney General and one lay person, namely, the chairperson of the judicial appointments commission. At no stage has the Minister for Justice and Equality or anyone else in government given an explanation as to why it is deviating from stated policy in respect of this particular form of appointment. Why is it that when it comes to the offices of Chief Justice, President of the Court of Appeal and President of the High Court that this wonderful new commission proposed by the Government is not good enough and cannot be used? Instead, when it comes to those particular judicial appointments, the Government has decided to go back and rely upon a body with a lay minority, one which will comprise the Attorney General, a president of the court and one lay person. I have consistently stated my belief that having what is referred to as a lay majority is going to damage the administration of justice in this country. It is going to result in a lowering of the quality of people being nominated for judicial office. I am not prepared to bail out the Government’s inconsistency on this issue. No explanation has been given as to why, for these three offices, we should not rely on the judicial appointments commission. It is instructive that there is such an inconsistency at the heart of the Government’s proposals. It is for that reason, as well as the reasons I gave on Committee Stage, that I will not be supporting amendment No. 87.

The Minister is correct on one point, however. If we were just starting and if we had ratio-

nal, coherent legislation, I would have no objection to a separate process for appointments to senior office. What we have here, however, is completely irrational and inconsistent legislation. In respect of three offices, the Government is effectively stating that those roles are so serious that it cannot allow the mess that is the proposal from the Minister, Deputy Ross, to be involved in those appointments. The offices are so important that the Government cannot allow this commission to advise in respect of them. This is the Government's commission. The Minister for Justice and Equality has put it together and said it is suitable for the appointment of judges in this country. If it is suitable for the appointment of judges to the Supreme Court, the Court of Appeal and the High Court, then the Minister must explain why it is not suitable for the appointment of the most senior judges in the country. The Minister knows the reason for this. The commission that he is proposing is a nonsense and the objective of having a lay majority is going to damage the process. He is prepared to risk it when it comes to the appointment of judges to the superior courts but not when it comes to the appointment of the Chief Justice, the President of the Court of Appeal and President of the High Court. I am not going to bail the Minister out on this one.

Deputy Clare Daly: This illustrates once again the many problems with the Bill. Amendment No. 87 seeks to restore to the Bill the provision that the most senior judicial appointments, that of the Chief Justice, the President of the High Court and the President of the Court of Appeal are not made by the commission but by a tiny conclave of the Chief Justice, Attorney General and the chairperson of the commission at a meeting convened by the Minister. We discussed this on Committee Stage and I am not going to wear myself out making the same arguments again. The use of the word "convene" does not explicitly exclude the Minister from sitting in on a meeting of the most senior judicial appointments committee. We discussed this on Committee Stage and it is still vague. Convene means to bring together a group of people for a meeting or to meet for a meeting. Therefore, it is open to the Minister to sit in on the meeting, although he or she does not have to do so, such is the vagueness of the language. The use of the word "convene" means that we are possibly looking, not at a three person meeting but at a four person meeting, with the Minister in attendance. This represents a blurring of the lines between two properly separate stages of the judicial appointments process. Why does the Minister need to seek to interfere with the commission's work and its independence in convening the meeting, particularly if he or she is going to attend? That is a little ridiculous and goes against all of the Council of Europe's recommendations.

On Committee Stage our proposal that senior judicial appointments be made by the commission as a whole succeeded. That is logical. We have been through this big fanfare around this commission that is going to be an oversight body for judicial appointments and then we bin it all and elect a little super group to do the most important, senior appointments. It makes a mockery of the rest of the legislation. We won that argument on Committee Stage and succeeded in providing that the commission would deal with senior appointments and would follow the exact same procedure for such appointments as for all others. This includes ranking the names being put forward and being allowed to recommend fewer than three people if it cannot in good conscience recommend that number. We had also provided that the commission would be obliged to rerun the selection process in the unlikely event that it could not recommend anyone for appointment. That provision has not succeeded at this stage but that is generally the situation that applies in the Bill at the moment. The Minister said previously that with the commission as it is currently constituted, there might be a problem with lower ranking judges deliberating on who should fill the vacancies at higher ranks but I do not buy that argument at all. I do not see any legal impediment to this. I do not see a problem with it in theory either be-

cause if these are men and women who are noted for their judicious thinking and independence, which we are always told is the case and it is generally so, then they should be able to manage the job of recommending people to ranks above their own. If lay people can do it, I am quite sure that judges can do it too.

One of the key problems with amendment No. 87 is the presence of the Attorney General and potentially, of the Minister, at meetings of the senior appointments committee. The committee itself is problematic. It is a small committee and the fact that the commission is sidelined in these crucial appointments goes against the grain of the Bill. It seems mad to go to all of the trouble and expense of creating a judicial appointments commission and then not give it the most important job in the land when it comes to judicial appointments. It is a little bit crazy.

Given that we are a little bit ahead of ourselves today, perhaps the Minister, in the interests of transparency, will answer questions about the process used recently to select the President of the Court of Appeal, Mr. George Birmingham. The 1995 Act provides that JAAB has no role in any of these senior appointments, which are purely political, which goes against European best practice. Did an *ad hoc*, four person committee with no legislative basis make the recent appointment of a President of the Court of Appeal, as has been hinted at in the media? Who were the four people involved? I assume the committee comprised the Minister for Justice and Equality, the Taoiseach, the Minister for Transport, Tourism and Sport, Deputy Ross, and the Minister of State, Deputy Finian McGrath. How did that appointment come about? When one looks at that and at what the Government is trying to do with amendment No. 87, which is to undo the work we did on Committee Stage, one sees the hypocrisy behind the Government's stance on this.

Deputy Donnchadh Ó Laoghaire: I disagree with almost everything that Deputy O'Callaghan said except for the point about inconsistency. I do not see any reason to support the amendment but I do not agree with Deputy O'Callaghan that the commission creates problems in terms of the quality of the people that will be appointed. Some of the commentary around lay members of the commission is unhelpful and ignores the reality of the high threshold that the lay appointees will have to reach. These are people who will have significant experience in many areas of the administration of justice, law and various related areas and will have an interest in a variety of areas. It is right and proper that there be lay people on the commission and that there be a lay majority. This is something that exists in other jurisdictions and the sky has not fallen in by any manner or means. It is the case that there are lay chairpersons in several jurisdictions and I have no problem with that. I do not believe that it causes any of the difficulties to which Deputy O'Callaghan adverted. However, I agree with him that amendment No. 87 is inconsistent. I do not see the sense in establishing a commission of this nature, having gone through a lengthy legislative process and debated the arguments in support of such a commission, which included independence, transparency of process and a broad representation of society and then not allowing that commission to be involved in the appointment of people to the most senior judicial roles. I believe it is inconsistent. I find it difficult to understand how the Government has come to this conclusion. The Minister has made the point that some of the people in these positions will be on the commission. Surely there are other ways of dealing with that, for example, by requiring them to absent themselves. I do not believe the solution should involve confining the process to such a small group of people who, contrary to the spirit of everything else in the legislation, are not representative of the broad range of experiences and attitudes with regard to the law that exist across society as a whole. I do not believe I can support this amendment at present. The measures in the Bill as it stands make more sense. We

are going to significant lengths to establish a commission. I think we should trust it and allow it to do its job. That applies to the superior courts and the superior positions as well.

Deputy Mick Wallace: If having a lay majority is such an essential requirement in the process of selecting judges, the Minister might explain why a lay majority will not exist when the most important judges are being selected. It does not seem to stack up. Deputy O’Callaghan has made a relevant point in this context. If it is the case that the commission we are establishing, with the possible lay majority to which the Government seems to be so endeared, is not fit to be selecting senior judges, that is a serious contradiction. If the Minister and the Attorney General can be part of a three-person advisory committee - or, by the sounds of it, a four-person committee - the committee will be 50% political. If this is how the Government wants it to be, so much for getting independent lay individuals involved in a reformed system for selecting judges. The Minister should try to explain this contradiction. Why is it okay to set up this commission to pick the less significant judges while at the same time putting in place a little cabal to pick the senior fellows? The Minister might explain that to us.

Deputy Charles Flanagan: I will make two points by way of reply. For the benefit of Deputies Clare Daly and Mick Wallace, the role of the Minister will be to call the group together. Under no circumstances will the Minister sit on the committee, participate in it or be in a position to exercise any influence over it. The Minister will be at arm’s length from the deliberations of the committee. The role of the Minister will be to convene the three-person committee in order to facilitate the filling of the vacancy. If Deputy Wallace reads the amendment, he will see that it is a three-person committee rather than a four-person committee. Nobody other than the three named persons will have a role. Neither the Minister nor any other fourth party will have a role. This process has been in place for the past 12 months. It has not involved any engagement on the part of the Minister or any other political figure in the course of making a recommendation to the Government.

I would like to make my second point in response to the perception that what we are putting in place to deal with the appointment of the three most senior judicial figures - the Chief Justice, the president of the Court of Appeal and the president of the High Court - amounts to the creation of a two-tier system. To ensure these positions attract the most senior judicial figures for consideration, we have deemed it appropriate to provide for them to be filled by means of expressions of interest rather than by means of the more general application process that will lead to the appointment of other ordinary members of the courts.

Deputy Eamon Ryan: I feel compelled to contribute because it seems from what we have just heard that this Bill is getting worse. My concern all along was that our Judiciary would be insulted as an unintended, or maybe intended in some quarters, consequence of the process of this Bill. What I have just heard goes further, in the sense that we are demeaning politics now as well. Under the structure or process we are setting up, the idea is that the Minister of the day will be no more than a convening messenger boy or girl who would not possibly have a view or intervene. I think we are undermining our own importance. As representatives of the people, we are well qualified and well capable of being involved in a process like this. We have views and, if we are lucky to get ministerial office, we have powers. While I like the idea of having lay involvement and a process in which names are suggested to the political system, I do not think we should inadvertently demean - “demean” might be too strong a word for what the Minister has just said - our own role. At some point, we have to stand up for politics.

If we completely undermine this House by providing for it to be no more than a talking

Chamber, we will end up with no powers for ourselves. I do not think that would do our constitutional Republic any service. I like our Constitution. I like the balance that is struck in the testing relationship that exists between the Judiciary, the Executive and the Legislature here. We should not give up our right to have some role in the process. At the end of this long, convoluted and - it seems to me - incredibly distorted process, it should not be a mere box-ticking exercise that involves simply accepting what another committee has decided. We do and should have views and we should be willing to express them. For those reasons, I have to join others in opposing this amendment, which looks like it is going to fall. I do not agree with the Minister's suggestion that the Minister of the day should not have anything to say. I think the Minister of the day has every right to have an opinion. First of all, he or she might not necessarily get his or her view through the Cabinet. The Minister is not the only person with a say. The Cabinet should hold on to some powers. As politicians, we should hold on to some powers. We have a valuable role, which we should not throw away completely.

Deputy Jim O'Callaghan: I agree with Deputy Ryan. The approach that is being proposed undermines the political system and the legislative system. We have gone through the tortuous process of trying to put together a commission that will be responsible for advising the Government. At the same time, we are saying the commission should not have anything to do with certain appointments because they are too important. I did not hear anything from the Minister to explain why this inconsistency is being included in the legislation. It has not been explained why a separate process, not involving the proposed judicial appointments commission, needs to be put in place for these three judicial appointments.

I want to deal with the point made by Deputy Ó Laoghaire. He has said that many jurisdictions around the world have provided in these circumstances for a lay majority of people who are not judges or members of the legal profession. I ask him to identify those jurisdictions. I have no doubt that Deputy Ó Laoghaire is as aware as I am of the position in the North. The Northern Ireland criminal justice review, which followed from the Good Friday Agreement, adjudicated on the importance of how judges should be appointed in Northern Ireland. It proposed the establishment of what became the Northern Ireland Judicial Appointments Commission. I do not know whether Sinn Féin participated in the review, which decided that the chair of the appointments commission should be the Lord Chief Justice, who is the most senior judge in Northern Ireland. It also decided that there should be five judges on that appointments commission, as well as two members of the legal profession and five lay members. Not even our neighbouring jurisdiction above the Border has a lay majority, and neither is there a lay majority in England and Wales or in Scotland. I have not gone further afield. If Deputy Ó Laoghaire says there are other jurisdictions with a lay majority, I would like to hear about them, maybe not now but some other time.

Deputy Charles Flanagan: I would like to respond to Deputy Ryan. In recent months, we have had a considerable amount of debate in this House and at the committee. This is the first time I have heard a Member of the House actually argue for Ministers to have a greater level of influence. I remind Deputy Eamon Ryan of the current appointments board which was specifically designed to ensure there would not be the type of ministerial and, consequently, political involvement in which he now sees merit.

Deputy Eamon Ryan: I have always said it.

Deputy Charles Flanagan: While the Deputy says he is voting against the Government, his reasons for doing so are diametrically opposed to those of Deputies Mick Wallace and Clare

Daly. I find his contribution quite extraordinary. He wants more ministerial involvement in the process.

Deputy Jim O’Callaghan: Deputy Seán Barrett said the same.

Deputy Mick Wallace: He is a Shane Ross fan.

Deputy Charles Flanagan: I make the point in the context of the amendment in respect of the three most senior positions. We can contrast it with the situation across the public service. The Top Level Appointments Committee is charged with certain responsibilities in order to make the process attractive for individuals at the very highest level. That is important in this context. The senior appointments committee, in effect, is reflective of the broader commission in that there is involvement by three people: a judge, a layperson and the Attorney General. That provides us with the appropriate level of balance, which is reflected throughout the Bill.

Deputy Donnchadh Ó Laoghaire: On Deputy Jim O’Callaghan’s point, I think it would have preceded devolution in the areas of policing and justice in 2006; therefore, it would probably have been Westminster legislation. However, in Scotland I believe there is a 50:50 lay and legal-judicial balance. In England and Wales it is weighted equally between lay and judicial members, with two legal members. That is the argument Deputy Jim O’Callaghan made previously. I am sure I could find other jurisdictions. In Scotland the ratio is 50:50. I will try to find more examples for the Deputy’s colleagues in the Seanad to discuss.

I do not agree with Deputy Eamon Ryan at all, even though I will probably be voting with him on the amendment. I do not even understand the argument. The Minister is right. I have not heard any Deputy argue for greater involvement of discretion for the Cabinet, the Dáil or anyone else. That is not an argument being made by those who are opposing the amendment.

I take on board the Minister’s point about trying to make it more attractive. These are very particular and important appointments and I accept that there may be a slightly different requirement. I understand the distinction between expressions of interest and applications. For that reason, I will also be opposing the subsequent amendments proposed by Deputies Clare Daly and Mick Wallace and supporting leaving the section as it is. That is not the way to do it if we are serious about creating a process that will be transparent and independent.

We have set up a commission and gone to a lot of effort in debating it and its composition at length. I do not understand why the same commission, perhaps with some minor adjustments, could not make decisions on the most significant judicial appointments in the State. If a slightly adjusted process is required, we can come back to the issue in the Seanad. I do not see any basis for the amendment proposed by the Minister. It is far too tight and lacks transparency as a process.

Deputy Eamon Ryan: If I am the only person to say politicians should have some role, I will happily take that angle. From experience, Ministers do have something to offer. They are setting strategy and policy and want to take the country in a certain direction. Why would we abandon having any power at all? My understanding was that the final arbitration was at the Cabinet, that the Minister had a choice between a few names and that we were holding on to the vestiges of some political investment. What I have heard the Minister say, however, is that in the committee he is proposing, he will sit in but will not have anything to do and will not dare say anything. He will just be there to convene the meeting and listen to whatever the Attorney General, the layperson and the member of the Judiciary have to say. I think that is

31 May 2018

an unnecessary abdication of political authority. If the Minister will be there, he should speak and, as a representative of the people and the Dáil, his view should be heard. A future Minister could come from any party represented here. I would like to think I am speaking on behalf of every party and grouping. Are we to completely neuter future Ministers? If that is what the rest of the House thinks, fine, but I stand against it. I stand up for keeping some power for those in political office.

Amendment put:

<i>The Dáil divided: Tá, 38; Níl, 38; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Bailey, Maria.</i>	<i>Aylward, Bobby.</i>	
<i>Brophy, Colm.</i>	<i>Brady, John.</i>	
<i>Bruton, Richard.</i>	<i>Brassil, John.</i>	
<i>Burke, Peter.</i>	<i>Broughan, Thomas P.</i>	
<i>Byrne, Catherine.</i>	<i>Buckley, Pat.</i>	
<i>Canney, Seán.</i>	<i>Butler, Mary.</i>	
<i>Cannon, Ciarán.</i>	<i>Chambers, Lisa.</i>	
<i>Carey, Joe.</i>	<i>Collins, Joan.</i>	
<i>Corcoran Kennedy, Marcella.</i>	<i>Connolly, Catherine.</i>	
<i>D'Arcy, Michael.</i>	<i>Crowe, Seán.</i>	
<i>Daly, Jim.</i>	<i>Curran, John.</i>	
<i>Deasy, John.</i>	<i>Daly, Clare.</i>	
<i>Deering, Pat.</i>	<i>Ellis, Dessie.</i>	
<i>Doherty, Regina.</i>	<i>Howlin, Brendan.</i>	
<i>Doyle, Andrew.</i>	<i>Kenny, Martin.</i>	
<i>Durkan, Bernard J.</i>	<i>Lahart, John.</i>	
<i>English, Damien.</i>	<i>McDonald, Mary Lou.</i>	
<i>Farrell, Alan.</i>	<i>McGuinness, John.</i>	
<i>Flanagan, Charles.</i>	<i>Mitchell, Denise.</i>	
<i>Griffin, Brendan.</i>	<i>Munster, Imelda.</i>	
<i>Harris, Simon.</i>	<i>Murphy, Eugene.</i>	
<i>Humphreys, Heather.</i>	<i>O'Brien, Jonathan.</i>	
<i>Kehoe, Paul.</i>	<i>O'Callaghan, Jim.</i>	
<i>Kyne, Seán.</i>	<i>O'Reilly, Louise.</i>	
<i>Madigan, Josepha.</i>	<i>O'Rourke, Frank.</i>	
<i>McEntee, Helen.</i>	<i>Ó Broin, Eoin.</i>	
<i>McGrath, Finian.</i>	<i>Ó Caoláin, Caoimhghín.</i>	
<i>McLoughlin, Tony.</i>	<i>Ó Laoghaire, Donnchadh.</i>	
<i>Mitchell O'Connor, Mary.</i>	<i>Ó Snodaigh, Aengus.</i>	
<i>Moran, Kevin Boxer.</i>	<i>Penrose, Willie.</i>	
<i>Murphy, Eoghan.</i>	<i>Ryan, Brendan.</i>	
<i>Naughten, Denis.</i>	<i>Ryan, Eamon.</i>	

<i>Naughton, Hildegarde.</i>	<i>Scanlon, Eamon.</i>	
<i>O'Connell, Kate.</i>	<i>Sherlock, Sean.</i>	
<i>Phelan, John Paul.</i>	<i>Smith, Brendan.</i>	
<i>Rock, Noel.</i>	<i>Stanley, Brian.</i>	
<i>Ross, Shane.</i>	<i>Tóibín, Peadar.</i>	
<i>Stanton, David.</i>	<i>Wallace, Mick.</i>	

Tellers: Tá, Deputies Tony McLoughlin and Joe Carey; Níl, Deputies Jim O'Callaghan and John Lahart.

6 o'clock

An Leas-Cheann Comhairle: There is an equality of votes. Therefore, pursuant to Article 15.11.2° of the Constitution, I must exercise my casting vote. In accordance with precedent, I vote against the question in this case, the result of the vote now being: Tá, 38; Níl, 39.

Amendment declared lost.

An Leas-Cheann Comhairle: Amendment No. 88 has already been discussed with amendment No. 87.

Deputy Mick Wallace: I move amendment No. 88:

In page 29, to delete lines 28 to 40 and substitute the following:

“42. (1) Where—

(a) the judicial office of Chief Justice, President of the Court of Appeal or President of the High Court stands vacant, or

(b) the Minister reasonably apprehends that any of those offices will stand vacant,

the Minister shall request the Commission to seek applications on the part of eligible persons who wish to be considered for appointment to such office.

(2) Upon receiving the applications referred to in *subsection (1)* the Commission shall consider the suitability of all eligible candidates and recommend, based on merit, to the Government ranked in the order of the Commission's preference, the 2 most suitable candidates for appointment to the judicial office referred to in *subsection (1)*.

(3) The Commission may accept applications from eligible members of the Commission.”.

Amendment put and declared lost.

Deputy Mick Wallace: I move amendment No. 89:

In page 30, to delete lines 1 to 3 and substitute the following:

“(4) In deliberating or making a recommendation to the Government pursuant to this section, the eligible members of the Commission who have made an application referred to in *subsection (1)* shall not sit as members of the Commission.”.

31 May 2018

Amendment put and declared lost.

Deputy Mick Wallace: I move amendment No. 90:

In page 30, between lines 3 and 4, to insert the following:

“(5) In deliberating or making a recommendation to the Government pursuant to this section, the Commission shall have regard, in addition to the principles in *section 7*, to the objective criteria in the published statement in relation to this section.”.

Amendment put and declared lost.

Deputy Charles Flanagan: I move amendment No. 91:

In page 31, between lines 2 and 3, to insert the following:

“Statement of recommendation

43. The Commission shall, in respect of each person whose name it recommends to the Minister, provide to the Minister a statement setting out the reasons the Commission is of opinion that the person is suitable for appointment to the judicial office concerned.”.

Amendment agreed to.

Deputy Clare Daly: I move amendment No. 92:

In page 31, line 5, to delete “firstly” and substitute “only”.

Amendment put and declared lost.

Amendment No. 93 not moved.

Deputy Charles Flanagan: I move amendment No. 94:

In page 31, line 13, after “office” to insert the following:

“and a reference, in either subsection, to the particular function is a reference to the function of the Commission of selecting and recommending persons in relation to that judicial office”.

Amendment agreed to.

Amendment No. 95 not moved.

Deputy Charles Flanagan: I move amendment No. 96:

In page 31, line 21, to delete “relevant committee” and substitute “Commission”.

Amendment agreed to.

Deputy Charles Flanagan: I move amendment No. 97:

In page 31, to delete lines 25 to 30.

Amendment put:

<i>The Dáil divided: Tá, 38; Níl, 42; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Bailey, Maria.</i>	<i>Aylward, Bobby.</i>	
<i>Brophy, Colm.</i>	<i>Brady, John.</i>	
<i>Bruton, Richard.</i>	<i>Brassil, John.</i>	
<i>Burke, Peter.</i>	<i>Broughan, Thomas P.</i>	
<i>Byrne, Catherine.</i>	<i>Buckley, Pat.</i>	
<i>Canney, Seán.</i>	<i>Butler, Mary.</i>	
<i>Cannon, Ciarán.</i>	<i>Chambers, Lisa.</i>	
<i>Carey, Joe.</i>	<i>Collins, Joan.</i>	
<i>Corcoran Kennedy, Marcella.</i>	<i>Collins, Niall.</i>	
<i>D'Arcy, Michael.</i>	<i>Connolly, Catherine.</i>	
<i>Daly, Jim.</i>	<i>Crowe, Seán.</i>	
<i>Deasy, John.</i>	<i>Cullinane, David.</i>	
<i>Deering, Pat.</i>	<i>Curran, John.</i>	
<i>Doherty, Regina.</i>	<i>Daly, Clare.</i>	
<i>Doyle, Andrew.</i>	<i>Ellis, Dessie.</i>	
<i>Durkan, Bernard J.</i>	<i>Howlin, Brendan.</i>	
<i>English, Damien.</i>	<i>Kelleher, Billy.</i>	
<i>Farrell, Alan.</i>	<i>Kenny, Martin.</i>	
<i>Flanagan, Charles.</i>	<i>Lahart, John.</i>	
<i>Griffin, Brendan.</i>	<i>MacSharry, Marc.</i>	
<i>Harris, Simon.</i>	<i>McDonald, Mary Lou.</i>	
<i>Humphreys, Heather.</i>	<i>McGuinness, John.</i>	
<i>Kehoe, Paul.</i>	<i>Mitchell, Denise.</i>	
<i>Kyne, Seán.</i>	<i>Munster, Imelda.</i>	
<i>McEntee, Helen.</i>	<i>Ó Broin, Eoin.</i>	
<i>McGrath, Finian.</i>	<i>Ó Caoláin, Caoimhghín.</i>	
<i>McLoughlin, Tony.</i>	<i>Ó Laoghaire, Donnchadh.</i>	
<i>Madigan, Josepha.</i>	<i>Ó Snodaigh, Aengus.</i>	
<i>Mitchell O'Connor, Mary.</i>	<i>O'Brien, Jonathan.</i>	
<i>Moran, Kevin Boxer.</i>	<i>O'Callaghan, Jim.</i>	
<i>Murphy, Eoghan.</i>	<i>O'Reilly, Louise.</i>	
<i>Naughten, Denis.</i>	<i>O'Rourke, Frank.</i>	
<i>Naughton, Hildegard.</i>	<i>Penrose, Willie.</i>	
<i>O'Connell, Kate.</i>	<i>Ryan, Brendan.</i>	
<i>Phelan, John Paul.</i>	<i>Ryan, Eamon.</i>	
<i>Rock, Noel.</i>	<i>Scanlon, Eamon.</i>	
<i>Ross, Shane.</i>	<i>Sherlock, Sean.</i>	
<i>Stanton, David.</i>	<i>Smith, Brendan.</i>	
	<i>Smyth, Niamh.</i>	
	<i>Stanley, Brian.</i>	

31 May 2018

	<i>Tóibín, Peadar.</i>	
	<i>Wallace, Mick.</i>	

Tellers: Tá, Deputies Tony McLoughlin and Joe Carey; Níl, Deputies Jim O’Callaghan and John Lahart.

Amendment declared lost.

Deputy Charles Flanagan: I move amendment No. 98:

In page 32, line 5, to delete “relevant committee” and substitute “Commission”.

Amendment agreed to.

Deputy Charles Flanagan: I move amendment No. 99:

In page 32, to delete lines 9 to 15.

Amendment put:

<i>The Dáil divided: Tá, 38; Níl, 41; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Bailey, Maria.</i>	<i>Aylward, Bobby.</i>	
<i>Brophy, Colm.</i>	<i>Brady, John.</i>	
<i>Bruton, Richard.</i>	<i>Brassil, John.</i>	
<i>Burke, Peter.</i>	<i>Broughan, Thomas P.</i>	
<i>Byrne, Catherine.</i>	<i>Buckley, Pat.</i>	
<i>Canney, Seán.</i>	<i>Butler, Mary.</i>	
<i>Cannon, Ciarán.</i>	<i>Chambers, Lisa.</i>	
<i>Carey, Joe.</i>	<i>Collins, Joan.</i>	
<i>Corcoran Kennedy, Marcella.</i>	<i>Collins, Niall.</i>	
<i>D’Arcy, Michael.</i>	<i>Connolly, Catherine.</i>	
<i>Daly, Jim.</i>	<i>Crowe, Seán.</i>	
<i>Deasy, John.</i>	<i>Cullinane, David.</i>	
<i>Deering, Pat.</i>	<i>Curran, John.</i>	
<i>Doherty, Regina.</i>	<i>Daly, Clare.</i>	
<i>Doyle, Andrew.</i>	<i>Ellis, Dessie.</i>	
<i>Durkan, Bernard J.</i>	<i>Howlin, Brendan.</i>	
<i>English, Damien.</i>	<i>Kelleher, Billy.</i>	
<i>Farrell, Alan.</i>	<i>Kenny, Martin.</i>	
<i>Flanagan, Charles.</i>	<i>Lahart, John.</i>	
<i>Griffin, Brendan.</i>	<i>MacSharry, Marc.</i>	
<i>Harris, Simon.</i>	<i>McDonald, Mary Lou.</i>	
<i>Humphreys, Heather.</i>	<i>McGuinness, John.</i>	
<i>Kehoe, Paul.</i>	<i>Mitchell, Denise.</i>	

<i>Kyne, Seán.</i>	<i>Munster, Imelda.</i>	
<i>Madigan, Josepha.</i>	<i>O'Brien, Jonathan.</i>	
<i>McEntee, Helen.</i>	<i>O'Callaghan, Jim.</i>	
<i>McGrath, Finian.</i>	<i>O'Reilly, Louise.</i>	
<i>McLoughlin, Tony.</i>	<i>O'Rourke, Frank.</i>	
<i>Mitchell O'Connor, Mary.</i>	<i>Ó Broin, Eoin.</i>	
<i>Moran, Kevin Boxer.</i>	<i>Ó Caoláin, Caoimhghín.</i>	
<i>Murphy, Eoghan.</i>	<i>Ó Laoghaire, Donnchadh.</i>	
<i>Naughten, Denis.</i>	<i>Ó Snodaigh, Aengus.</i>	
<i>Naughton, Hildegarde.</i>	<i>Penrose, Willie.</i>	
<i>O'Connell, Kate.</i>	<i>Ryan, Brendan.</i>	
<i>Phelan, John Paul.</i>	<i>Ryan, Eamon.</i>	
<i>Rock, Noel.</i>	<i>Scanlon, Eamon.</i>	
<i>Ross, Shane.</i>	<i>Sherlock, Sean.</i>	
<i>Stanton, David.</i>	<i>Smith, Brendan.</i>	
	<i>Stanley, Brian.</i>	
	<i>Tóibín, Peadar.</i>	
	<i>Wallace, Mick.</i>	

Tellers: Tá, Deputies Tony McLoughlin and Joe Carey; Níl, Deputies Jim O'Callaghan and John Lahart.

Amendment declared lost.

Deputy Charles Flanagan: I move amendment No. 100:

In page 34, to delete lines 22 and 23 and substitute the following:

“(f) the objective that, consistent with the written statement most recently provided under *section 50(7)* to the Procedures Committee concerning the needs of the users of the courts in that regard, the membership of the judiciary should include persons with a proficiency in the Irish language,”.

Amendment agreed to.

Deputy Charles Flanagan: I move amendment No. 101:

In page 34, line 26, to delete “or a relevant committee”.

Amendment agreed to.

Deputy Charles Flanagan: I move amendment No. 102:

In page 35, between lines 15 and 16, to insert the following:

“(7) The Commission shall consult with the Courts Service for the purpose of keeping under review the needs of the users of the courts with respect to proceedings being conducted in the Irish language and shall, from time to time, provide a written statement to the Procedures Committee of matters that the Commission considers to be relevant to such needs of those users arising out of any such review and consulta-

tion.”.

Amendment agreed to.

Deputy Charles Flanagan: I move amendment No. 103:

In page 38, lines 11 and 12, to delete “a relevant committee of the Judicial Appointments Commission or”.

Amendment agreed to.

Deputy Charles Flanagan: I move amendment No. 104:

In page 39, line 19, to delete “relevant committee” and substitute “Commission”.

Amendment agreed to.

Deputy Mick Wallace: I move amendment No. 105:

In page 40, between lines 4 and 5, to insert the following:

“(4) In the performance of its functions under this Act, a relevant Committee shall be prohibited from any consideration of an applicant’s political affiliation.

(5) In the performance of its functions under this Act, the Government shall be prohibited from any consideration of an applicant’s political affiliation.

(6) An applicant for judicial office shall not have been a member of, or a representative of, or a donor to any political party in the State in the three years immediately preceding the date of application for judicial office.”.

Amendment put and declared lost.

Bill, as amended, received for final consideration.

Question put: That the Bill do now pass.

<i>The Dáil divided: Tá, 55; Níl, 49; Staon, 0.</i>		
<i>Tá</i>	<i>Níl</i>	<i>Staon</i>
<i>Bailey, Maria.</i>	<i>Aylward, Bobby.</i>	
<i>Barrett, Seán.</i>	<i>Brassil, John.</i>	
<i>Brady, John.</i>	<i>Broughan, Thomas P.</i>	
<i>Bruton, Richard.</i>	<i>Browne, James.</i>	
<i>Buckley, Pat.</i>	<i>Butler, Mary.</i>	
<i>Burke, Peter.</i>	<i>Byrne, Thomas.</i>	
<i>Byrne, Catherine.</i>	<i>Cahill, Jackie.</i>	
<i>Canney, Seán.</i>	<i>Casey, Pat.</i>	
<i>Cannon, Ciarán.</i>	<i>Cassells, Shane.</i>	
<i>Carey, Joe.</i>	<i>Chambers, Jack.</i>	
<i>Corcoran Kennedy, Marcella.</i>	<i>Chambers, Lisa.</i>	

Dáil Éireann

<i>Crowe, Seán.</i>	<i>Collins, Joan.</i>	
<i>Cullinane, David.</i>	<i>Collins, Niall.</i>	
<i>D'Arcy, Michael.</i>	<i>Connolly, Catherine.</i>	
<i>Daly, Jim.</i>	<i>Cowen, Barry.</i>	
<i>Deasy, John.</i>	<i>Curran, John.</i>	
<i>Deering, Pat.</i>	<i>Daly, Clare.</i>	
<i>Doherty, Regina.</i>	<i>Donnelly, Stephen S.</i>	
<i>Doyle, Andrew.</i>	<i>Dooley, Timmy.</i>	
<i>Durkan, Bernard J.</i>	<i>Fleming, Sean.</i>	
<i>Ellis, Dessie.</i>	<i>Haughey, Seán.</i>	
<i>English, Damien.</i>	<i>Howlin, Brendan.</i>	
<i>Farrell, Alan.</i>	<i>Kelleher, Billy.</i>	
<i>Flanagan, Charles.</i>	<i>Lahart, John.</i>	
<i>Griffin, Brendan.</i>	<i>Lawless, James.</i>	
<i>Harris, Simon.</i>	<i>MacSharry, Marc.</i>	
<i>Humphreys, Heather.</i>	<i>Martin, Micheál.</i>	
<i>Kehoe, Paul.</i>	<i>McConalogue, Charlie.</i>	
<i>Kenny, Martin.</i>	<i>McGrath, Michael.</i>	
<i>Kyne, Seán.</i>	<i>McGuinness, John.</i>	
<i>Madigan, Josepha.</i>	<i>Moynihan, Aindrias.</i>	
<i>McDonald, Mary Lou.</i>	<i>Moynihan, Michael.</i>	
<i>McEntee, Helen.</i>	<i>Murphy O'Mahony, Margaret.</i>	
<i>McGrath, Finian.</i>	<i>Murphy, Eugene.</i>	
<i>McLoughlin, Tony.</i>	<i>O'Brien, Darragh.</i>	
<i>Mitchell O'Connor, Mary.</i>	<i>O'Callaghan, Jim.</i>	
<i>Mitchell, Denise.</i>	<i>O'Loughlin, Fiona.</i>	
<i>Moran, Kevin Boxer.</i>	<i>O'Rourke, Frank.</i>	
<i>Munster, Imelda.</i>	<i>Ó Cuív, Éamon.</i>	
<i>Murphy, Eoghan.</i>	<i>Penrose, Willie.</i>	
<i>Naughten, Denis.</i>	<i>Rabbitte, Anne.</i>	
<i>Naughton, Hildegarde.</i>	<i>Ryan, Brendan.</i>	
<i>O'Brien, Jonathan.</i>	<i>Ryan, Eamon.</i>	
<i>O'Connell, Kate.</i>	<i>Scanlon, Eamon.</i>	
<i>O'Reilly, Louise.</i>	<i>Sherlock, Sean.</i>	
<i>Ó Broin, Eoin.</i>	<i>Smith, Brendan.</i>	
<i>Ó Caoláin, Caoimhghín.</i>	<i>Smyth, Niamh.</i>	
<i>Ó Laoghaire, Donnchadh.</i>	<i>Troy, Robert.</i>	
<i>Ó Snodaigh, Aengus.</i>	<i>Wallace, Mick.</i>	
<i>Phelan, John Paul.</i>		
<i>Rock, Noel.</i>		
<i>Ross, Shane.</i>		
<i>Stanley, Brian.</i>		

<i>Stanton, David.</i>		
<i>Tóibín, Peadar.</i>		

Tellers: Tá, Deputies Tony McLoughlin and Joe Carey; Níl, Deputies Jim O'Callaghan and John Lahart.

Question declared carried.

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 29A and the name of the Member in each case: (1) Deputy Caoimhghín Ó Caoláin - to discuss the decision of the European Court of Human Rights in the case of the hooded men; (2) Deputy Dessie Ellis - the rents charged to persons in receipt of the housing assistance payment; (3) Deputy Shane Cassells - the need for the development of a divisional Garda headquarters building in County Meath; (4) Deputy Fergus O'Dowd - water supply issues in counties Louth and Meath as a result of a burst water main; (5) Deputy John Brassil - funding for the acquisition of a site for a school building project (details supplied); (6) Deputy Anne Rabbitte - the role of county councils when national routes are being upgraded; (7) Deputy Barry Cowen - the status of an application for international protection status by persons (details supplied); (8) Deputy Fiona O'Loughlin - to discuss the withdrawal of Coca-Cola operations from Athy, County Kildare; (9) Deputy John Brady - compliance with flood risk guidelines in the Bray local area plan; (10) Deputy Mick Wallace - the need to hold NAMA to account; and (11) Deputy Mick Barry - the granting of permission for an incinerator at Ringaskiddy, County Cork.

The matters raised by Deputies Fergus O'Dowd, Caoimhghín Ó Caoláin, Shane Cassells and Mick Barry have been selected for discussion.

Topical Issue Debate

European Court of Human Rights Judgments

Deputy Caoimhghín Ó Caoláin: I thank the Minister of State for coming into the Chamber to take this most important matter.

Time is not on our side. On 9 August 1971 Operation Demetrius was introduced by the British army after being sought by the sitting unionist government. Nationalists and republicans from across the Six Counties were waking up to internment without trial. Over 350 men were taken in the first swoops. Many of these men and boys had no connection to republican politics or the republican movement. Fourteen of the men were specially selected by the British army, with approval from the British Government, the then unionist government and the RUC, to be experimented on using various torture techniques. They were taken without their families' knowledge to a secret location in the North, which has since been established as Ballykelly British army barracks. The men selected became known as the hooded men.

There were five torture techniques used during their illegal detention. They were forced to spread-eagle against a wall for prolonged periods, permanently hooded and exposed to a permanent loud hissing noise. They were also exposed to deprivation of sleep and deprivation of food and drink. They received prolonged and routine vicious beatings by their captors during their illegal detention. The effects of this torture included prolonged pain, physical and mental exhaustion, fear and paranoia, severe anxiety, depression, hallucinations, disorientation and loss of consciousness.

In 1976 the Irish Government took the British Government to the European Court of Human Rights, ECHR, which found the British Government guilty of torture. The British appealed and managed to have the judgment overturned in 1978 when the ECHR judged that the five techniques used to torture the 14 men amounted to “inhuman and degrading” treatment but not torture. The Irish Government brought a case back to the ECHR in 2014 following the uncovering of new evidence, the location of the torture chamber in Ballykelly and the declassification of documents related to the torture treatment employed. Earlier this year the ECHR rejected the Irish Government’s application to reverse the 1978 decision and classify the men’s treatment as torture. The Irish Government has until 20 June, which is less than three weeks away, to launch an appeal against this latest judgment. As we know, torture, as a technique against prisoners, is still employed in many settings across the globe. Has the Government decided to appeal this decision?

I have introduced this Topical Issue matter on behalf of the surviving hooded men: Liam Shannon, Jim Auld, Kevin Hannaway, Francis McGuigan, Joe Clarke, Brian Turley, P. J. McLean, Michael Donnelly, Patrick McNally and Davy Rodgers and in memory of those who have since passed without justice having been achieved. I pay my respects to them today and offer my sympathy and solidarity to the families of Seán McKenna, Micky Montgomery, Pat Shivers and Gerry McKerr. Go ndéana Dia trócaire ar a ainmeacha dílse.

Minister of State at the Department of Communications, Climate Action and Environment (Deputy Seán Kyne): I thank Deputy Ó Caoláin for putting down this important Topical Issue matter. I am taking this on behalf of the Tánaiste and Minister for Foreign Affairs and Trade, Deputy Coveney, who cannot be with us.

In 1971, the deep concern of the Irish Government and the Irish people led to Ireland bringing a case against the UK before the European Commission and Court of Human Rights alleging human rights violations arising from internment. A particular focus of the proceedings was the use of the so-called “five techniques”, as outlined by the Deputy, of interrogation suffered by 14 detainees, who became known as the hooded men. My thoughts tonight are with the men who suffered this treatment, and who have had to deal with the long-lasting effects, as well as all those who suffered during the period of internment.

While the Commission held that torture had occurred, in 1978 the court held that the treatment of the men amounted to “inhuman and degrading treatment” but not torture. The UK Government did not dispute this finding. The Irish Government has always considered that these men were subject to torture and jurisprudence since 1978 would suggest that the treatment endured by the men would be recognised internationally today as such.

In the interests of justice and international human rights, in 2014 the Government decided to request the European Court of Human Rights to revise its judgment. On the basis of the new material uncovered, it was contended that the ill-treatment suffered by the hooded men

should be recognised as torture. The court's judgment was delivered on 20 March of this year. As Deputies are well aware, the court refused the Government's application to revise the 1978 judgment and find that the men had suffered torture. The refusal was made on two grounds: first, the court did not believe the new documents contained a sufficient *prima facie* case that one of the witnesses had misled the Commission and the court about the long-term effects of the "five techniques" of interrogation; and, second, the court did not accept that, even if the witness had given misleading evidence, it might have had a decisive influence on the court's finding in the original judgment.

My colleague, the Tánaiste and Minister for Foreign Affairs and Trade, met the men recently to hear their experiences, and I know that he was deeply moved by what they told him on that day. The men have understandably been disappointed by the judgment as have many of their supporters. A further referral of the case to the Grand Chamber of the European Court of Human Rights is possible. However, there is no automatic right for referral and any application to have the application heard by the Grand Chamber would be considered by a panel of five judges.

I understand that many in Ireland and beyond would like to see this application for referral proceed. I want to stress that the Government is taking the time available to consider the ruling carefully and will not take this decision lightly. The Government's intensive focus since the judgment of the court on 20 March has been on legal considerations and to give this case the due weight and attention it deserves, including by seeking the advice of the Attorney General. We will consider this advice before any Cabinet decision on whether to move ahead with the application. When the Government has made a decision on whether to apply for a referral to the Grand Chamber of the European Court of Human Rights, that decision will be communicated to the men and their representatives and it will also be made public.

Deputy Caoimhghín Ó Caoláin: I am going to take the Minister of State's reply in the positive. A decision has not been made not to proceed, therefore the door remains ajar. It is very important that the right decision be taken in this case. An appeal is imperative for those surviving ten of the 14 who were subjected to this grievous torture all those years ago.

I have known a small number of them over my many years of service as a public elected representative and I am very aware of the great hurt and harm done to them in their personal lives as a result of what they went through. I can say without any question about one of the four who have passed, in this instance many years ago, Seán McKenna, that his early demise was directly attributable to all that he was subjected to. Like me, Seán was a native of County Monaghan and he and his family have always been held in the highest regard, not only by the broader republican family in our county but by all within the community of north Monaghan, whence he came.

It is very important for the men and their families but also for Ireland because, as the Minister of State rightly said, there is a universal acceptance on all our parts irrespective of our political differences, that what these men were subjected to was torture by any measure or reckoning. It is absolutely essential that we take this further step to explore the recognition on the part of the European Court of Human Rights that it was indeed torture that these men were subjected to, and not the milder reference to "inhuman and degrading treatment". I make a final appeal to the Minister of State and to all in the Government today to decide to lodge that appeal before 20 June.

Deputy Seán Kyne: The Government has taken this very seriously. In 2014 it requested the European Court of Human Rights to revise its judgment and the Tánaiste took it upon himself to meet those men who had survived and was very taken with their stories and the impact of what was done to them.

I know that the Deputy is eager and he has expressed his view that the Government should seek a referral to the Grand Chamber of the European Court of Human Rights as soon as possible. The Government has not ruled out making an application for referral but this decision will not be taken lightly. The Government has three months up to 20 June from the date of decision to apply for referral and it is using the time to consider things carefully before any Cabinet decision on whether to move ahead with an application.

The Tánaiste would like to assure the men whose treatment led Ireland to take the case in 1971 and all those who have campaigned with them in the decades since that the Government regards this with the utmost seriousness and that is why it will consider the judgment of 20 March very carefully before reaching a decision based on the information and advice we have.

Water Services

Deputy Fergus O'Dowd: Last night we got word that the water supply for Drogheda-east Meath had once again been disrupted with a significant burst main, one which had burst about a year ago. The concerns and worries that the people of the area had were communicated and Irish Water and the Minister for Housing, Planning and Local Government were very much aware of what needed to happen. Instead of having a tale of woe here today we have had good responses from Irish Water. It had failed miserably this time last year, the first time the main burst. It took it two or three days to get into action.

Its crisis management team was mobilised immediately, the Minister's office was fully aware of all actions and when I went out this morning at 7 a.m. there were approximately ten or 15 workers on site. There were large lorries and the earth had been dug out overnight. I understand that they worked under floodlights and that workers from Meath County Council, Louth County Council and Irish Water proved that they had 100% commitment to public service. I welcome the work done.

The crisis management team has worked because there is one in place. Communications with the public and public representatives are excellent. That is a huge improvement. It is what we need and what the public is entitled to.

I thank the Minister for attending to take this matter. I appreciate he has been very concerned, both last year and this year, about the significance of the problems that could arise as a result of a burst water main such as that one that occurred previously. Lessons have been learned from last year and what new lesson must we now learn? The first is that we will have a €12 million investment in improving the water supply for the Louth-east Meath area. I welcome that new pipes have been ordered to ensure we have a completely new fresh physical supply system in place and that those pipes are currently in Dublin Port. The part that needed to be replaced was available and on-site, and is ready to go. That is hugely positive. Can the Minister give me an assurance that the position is now 100% as best it can be, that the pipe has been fixed and the supply will return to normal? I await the Minister's reply and then I will comment further.

7 o'clock

31 May 2018

Minister for Housing, Planning and Local Government(Deputy Eoghan Murphy): I thank the Deputy for giving me this opportunity to update the House on the burst which occurred late yesterday evening on a pipeline from the Staleen water treatment plant which serves Drogheda and east Meath. The burst is close to the same location as the burst that happened last year.

Staff from Irish Water, the local authority and contractors have been mobilised. Repair crews have been on-site throughout the night working under lights in tough conditions, as referred to by the Deputy, going down to around 4 m in depth. As a result, a new pipe section has been installed and couplings fitted. Irish Water started to restore pressure in the repaired pipeline late this morning and we will soon know if the repair has been successful. I can update the House that it has been.

As a result of the pipe burst, Staleen water treatment plant has been working at around 40% capacity. The treated water reservoir serving Drogheda and most of east Meath has enough water to maintain a water supply to customers for the present. However, a water outage is impacting on some east Meath customers, including in the areas of Ratoath, Kilbride and Duleek, and it may through the evening and perhaps into the early morning as well.

Irish Water has implemented contingency arrangements as a result of this burst during the emergency works. For example, alternative water supplies, including nine tankers, bulk containers and bottled water, were mobilised. These are currently located in Ratoath and Kilbride and will be in place in Duleek shortly if they are not already.

Vulnerable customers have been contacted by Irish Water and it is working with them, arranging alternative water supplies as required. Our Lady of Lourdes Hospital has been prioritised, as have schools, crèches and nursing homes. In addition, I understand the organisers of a number of important events which are due to be held in the area were contacted by Irish Water in order that it could do everything it could to cater for them in the event that the fix was not successful. Irish Water asked people to conserve water until the restoration of a normal water supply could be confirmed. It mobilised its crisis management team with full contingency measures put in place to respond to whatever circumstances arose.

I visited Irish Water's control centre this morning and I was confident then, as I am now, that the problem was being dealt with cohesively and comprehensively and with the utmost seriousness. Irish Water has learned from the previous incident at this location last year. Specialist equipment is readily available and was utilised in the repair work. We hope to see a normal service being restored very quickly to all parts of the area that were affected last night and earlier today.

Irish Water has approved the budget and design for a new pipeline to replace the existing lines. The new pipeline has been procured and Irish Water is in the final stages of resolving all the contractual and regulatory issues. Construction of this pipeline is expected to commence within weeks, with the aim of completing the project by the end of the year.

I confirm the update I received as I was coming into the House. As of 6 p.m. the Staleen plant is up to full production once again. There is full pressure in the pipe and there are no reported issues. The situation will be monitored overnight by Irish Water and it will keep in close contact with me and my officials. There are still a few areas in Meath that may have reduced pressure or no supply currently but this will come back as the network replenishes itself

overnight.

Deputy Fergus O'Dowd: If I may, I would like to respond.

Acting Chairman (Deputy Bernard J. Durkan): Yes.

Deputy Fergus O'Dowd: I welcome the Minister's statement that things are back to normal. Thanks be to God for that. However, unfortunately, as we both know, there is nothing normal about this pipe and that is the reason it is being fully replaced. What issues, if any, must now be addressed by Irish Water? While I acknowledge the tremendous work that has been done, the contract is for an 18-month period. It was signed last September. Is there any way in which the rest of the process can be accelerated? In other words, rather than wait until the end of the year, can we shorten that timeline and make sure when the new pipes are installed there will be a seamless and continuous water supply for many years to come?

Deputy Eoghan Murphy: I thank the Deputy for his question. It is one I explored with officials earlier this morning as to whether we could accelerate some of the delivery of this pipeline. The Deputy and I both know the site very well. We know the type of pipe we are talking about. It is a very old asbestos concrete pipe which is particularly weak at the point of the bottom of the hill because of the severe pressure that is placed on it. Therefore, it has been prone to break, as we have seen. That repair fit has happened but, obviously, the long-term solution is to replace the whole pipeline.

Regarding the particular project that is being undertaken by the Irish Water, the pipe has been delivered and we have it for installation. A contract is in place with someone to install it. The design is done for the section that needs to be replaced. Agreement has been almost reached with every landowner. There is just one final piece to be resolved but I am assured it will be resolved very quickly. There is an application for consent that is needed in regard to some of the archaeological sites that are there. This is for the whole piece of pipe that is to be replaced. We are still on time to start that work in a matter of weeks and to have all of the pipeline replaced by the end of the year. I have asked officials if they can look at that particular section of the pipe at the bottom of the hill where the pressure is and try to expedite that piece of work. There could be another break - let us be honest about it.

Deputy Fergus O'Dowd: Yes.

Deputy Eoghan Murphy: It is an old pipe. We will try to accelerate that piece of the work and they are looking at that at the moment.

Deputy Fergus O'Dowd: I thank the Minister for that.

Acting Chairman (Deputy Bernard J. Durkan): We will wait for the Minister who is taking the next matter. Perhaps the Minister, Deputy Eoghan Murphy, is taking Deputy Mick Barry's Topical Issue matter.

Deputy Eoghan Murphy: No.

Deputy Fergus O'Dowd: The Topical Issue debate was due to start at 8 p.m. and I was late because it began sooner.

Deputy Eoghan Murphy: This business was brought forward because previous business finished sooner than expected.

31 May 2018

Acting Chairman (Deputy Bernard J. Durkan): Deputy Barry's issue concerns a proposed incinerator in Ringaskiddy.

Deputy Donnchadh Ó Laoghaire: All the Minister needs to know is that it is bad.

Deputy Eoghan Murphy: I live less than an kilometre from an incinerator and it is bigger than any I have ever seen.

Garda Divisional Headquarters

Acting Chairman (Deputy Bernard J. Durkan): The Minister of State, Deputy Stanton, is taking the Topical Issue matter on a Garda headquarters for County Meath; he is from County Cork but he will manage that.

Deputy Shane Cassells: I have raised the issue of Garda resources in Meath on several occasions with the Minister, Deputy Flanagan, in this Chamber but that was specifically to do with the personnel requirements for our county which still rank as the lowest in the country, a fact confirmed on Monday of this week when the chief superintendent confirmed that resources allocated to Kildare have relegated us to bottom position when it comes to the number of the gardaí *per capita* in the division.

The issue I specifically want to raise is the physical resources and the fact that there is no Garda divisional headquarters building for the force in County Meath. I believe County Meath is the only county in the country where there is no divisional headquarters. The net result of having no divisional headquarters building was laid out fairly firmly by our chief superintendent, Fergus Healy, and superintendent Mick Devine at a joint policing committee meeting with our members on Monday of this week.

I want to stress the following point, and it is a little like my exchanges with the Minister, Deputy Flanagan, in respect of personnel. I make the call for divisional headquarters in Meath on behalf of our chief superintendent, the head of our force in County Meath. He asks for these resources so that he can do his job, and he has stated openly at a recent meeting that this needs to happen.

The net result of not having a divisional headquarters has real impacts for him and his force because they are not able to conduct policing in Meath in a cohesive and strategic way, and I shall explain why. There are more than 100 members of the force crammed into an outdated district station in Navan. Key services are spread out all over the county away from the county town. The drugs unit is based in Slane. The scene of crime unit is located in a civilian building in Athlumney. The traffic corps is based in Dunshaughlin in the south of the county while the inspector in charge of it is based in Navan. The victims' office and the child protection office are in Athlumney. The key superintendent is based in a Garda station in Navan while the chief superintendent and other members are away in other civilian offices. There is no cohesiveness to the force whatsoever and this has a very real impact in the way policing is carried out in County Meath.

I have argued on several occasions in the Chamber over the last year for more gardaí for the county but if more are allocated there is nowhere in the main station in Navan to put them. In fact, there is nowhere to put the criminals because the building has only four cells. On a Sat-

urday night the four cells are full before midnight and it is like a taxi service bringing the lads around the county to find a room for the criminals. There is only one interview room in Navan station and as a result there is a queue outside to bring them in. Our plain-clothes detectives are located in prefabs to the rear of the station.

I appeal to the Minister to look at the situation and to engage positively with the force so that they can do the job that the Minister, the Department and I are so proud of. We expect gardaí to do a job and they should be properly resourced to do it. Currently they are not. I am here today to speak on their behalf.

I am aware of the role the Office of Public Works, OPW, plays in this process. During a Topical Issue debate on the matter on 17 October 2017, I asked the Minister, Deputy Flanagan, about this divisional headquarters. The Minister told me that he would approach the Minister of State with responsibility for the OPW, Deputy Boxer Moran, about the site and that he would come back to me. That has not happened. I too have mentioned the site to the Minister of State and there has been no word back from either office since last October. This site has been earmarked by the chief superintendent. It could accommodate such a building.

The Minister, Deputy Flanagan, informed me last October that he expected my area to benefit from the capital plan and the envelope of funding that had been put aside. Will the Minister of State, Deputy Stanton, indicate by how much Meath will benefit and will we get the divisional headquarters that County Meath requires? Meath is the only county in the State without a divisional headquarters.

Minister of State at the Department of Justice and Equality (Deputy David Stanton): I speak on behalf of the Minister for Justice and Equality, Deputy Flanagan, who cannot be here as he is on official business. He sends his apologies. He and I thank Deputy Cassells for raising this matter in the House.

The Deputy will be aware that the programme of replacement and refurbishment of Garda accommodation is progressed by the Garda authorities working in close co-operation with the Office of Public Works. The Minister for Justice and Equality has no direct role in these matters.

Significant efforts are being made by the Government to enhance the working environment generally for members of An Garda Síochána and major investment has been committed under the capital plan 2016-21 to upgrade Garda premises. The Garda station building and refurbishment programme 2016-21 is an ambitious five-year programme based on agreed Garda priorities that will benefit more than 30 locations around the State. It includes more than €60 million of Exchequer funding as part of Government's capital plan 2016-21 as well as a major public private partnership project. The programme is providing new stations and modernising older stations at key locations around the State, ensuring safe, modern working environments for members and staff of An Garda Síochána as well as fit-for-purpose facilities for visitors, victims and suspects.

The Minister for Justice and Equality has been informed by the Garda authorities that the divisional headquarters for the Meath division is based in Navan. The programme 2016-21 does not include the development of a new divisional headquarters for County Meath. Provision is made, however, under the programme for significant works at the existing divisional headquarters involving the complete demolition of the existing cell block as well as the construction of

a new cell block and overhead office accommodation at Navan Garda station. The Minister is further informed that An Garda Síochána is actively engaged with the OPW to progress these works.

The Minister confirms that the Government is committed to ensuring a strong and visible police presence throughout the State in order to maintain and strengthen community engagement, to provide reassurance to citizens and to deter crime. To achieve this, the Government has put in place a plan for an overall Garda workforce of 21,000 personnel by 2021, comprising 15,000 Garda members, 2,000 Garda Reserve members and 4,000 civilians. We are making real, tangible progress on achieving this goal.

The allocation and management of resources, including Garda personnel, is a matter for the Garda Commissioner. The Minister has been informed that the strength of the Meath division on 30 April 2018, the latest date for which information is readily available, was 312. He has been further informed that there are also 16 Garda Reserve members and 30 Garda civilian staff attached to the Meath division. When appropriate, the work of local gardaí is supported by a number of national units such as the National Bureau of Criminal Investigation, the armed support units, the Garda National Economic Crime Bureau and the Garda National Drugs and Organised Crime Bureau.

Deputy Shane Cassells: In his reply the Minister of State has said, “The Minister for Justice and Equality has been informed by the Garda authorities that the divisional headquarters for the Meath division is based in Navan”. There is no divisional headquarters in Navan. This is why I am here. The chief superintendent outlined this fact to the joint policing committee meeting on Monday. I am in the House constantly arguing on their behalf. It is really annoying that nobody in this building seems to listen to the force. It would be different if I was coming in here to attack the Ministers for a lack of resources by making political charges. This man has spoken publicly on Monday of this week that he cannot cohesively or effectively do the job he is expected to do with the current set up. I keep going back to this point.

The chief superintendent has called for more personnel and is now calling for a proper divisional headquarters. Meath is the only county in the State without a divisional headquarters. This is coming from the leader of a force that the Government is here to support. The chief superintendent feels so passionately about it that he is bringing all of the members of the joint policing committee, JPC, on a tour to Wexford to see what a proper divisional headquarters building looks like. He wants to clearly illustrate to the elected members, and to the civilian and community leaders on that JPC, how a force in another part of the State is well resourced to the tune of a €30 million building, and yet the Meath force is expected to work out of a multiple of prefabs dotted around the county.

In his reply this evening the Minister of State said that, “The Minister for Justice and Equality has been informed by the Garda authorities that the divisional headquarters for the Meath division is based in Navan”. I have read to the House where all the different units are located: the traffic corps is in Dunshaughlin, the drugs unit is in Slane and different units are based elsewhere. They are all over the county. There is no divisional headquarters. The Topical Issue speaks to the fact that there is none and we require a building for the force to be able to do its job.

At the meeting of the JPC on Monday we discussed the Meath divisional plan. The document cannot, however, be implemented properly if the men and women of the force are not

properly resourced. Will the Minister of State, Deputy Stanton, ask the Minister to make sure the force in Meath is properly resourced so it can meet the challenges of the job it is expected to do. There is no point in Garda authorities spinning a line to the Minister for Justice and Equality saying there is a divisional headquarters in Navan, when quite clearly there is not. If the Minister, Deputy Flanagan, and the Minister of State would like to come to Navan we can show them that no such building exists. This is why I am here tonight arguing the case.

Last October I was given a promise that the Minister, Deputy Flanagan, and the Minister of State, Deputy Boxer Moran, would revert to me on the examination of the site. It is not acceptable that not even a courtesy has been shown to come back to me since then with regard to the examination of the site as an option for building a divisional headquarters for County Meath.

Deputy David Stanton: On behalf of the Minister for Justice and Equality, Deputy Flanagan, I thank Deputy Cassells for raising the matter. I can sense his passion and how strongly he feels on the issue.

I assure the Deputy that significant efforts are being made to enhance the working environment generally for members of An Garda Síochána and unprecedented investment has been committed under the capital plan 2016-21 to upgrade Garda premises. The Garda station building and refurbishment programme is an ambitious five-year programme based on agreed Garda priorities that will benefit more than 30 locations around the State. It includes more than €60 million of Exchequer funding as part of Government's capital plan 2016-21 as well as a major public private partnership project. The programme is providing new stations and modernising older stations at key locations around the State, ensuring safe, modern working environments for members and staff of An Garda Síochána as well as fit-for-purpose facilities for visitors, victims and suspects. Although the programme does not include the development of a new divisional headquarters for County Meath provision is made under the programme for significant works at the existing divisional headquarters: the complete demolition of the existing cell block as well as the construction of a new cell block and overhead office accommodation at Navan Garda station. An Garda Síochána is actively engaged with the OPW to progress these works. When completed, these works will enhance the working conditions of all concerned. An Garda Síochána and the OPW are working closely together at the moment to bring this about.

Deputy Shane Cassells: Will the Minister of State comment on the status of the site?

Acting Chairman (Deputy Bernard J. Durkan): I thank the Deputy and the Minister of State. We shall move on.

Deputy Shane Cassells: It is not good enough.

Disposal of Hazardous Waste

Deputy Mick Barry: There is shock, disgust and rage in the communities of the lower harbour in Cork at the decision announced this morning by An Bord Pleanála to give the green light to a 240,000 tonne per year hazardous waste incinerator at Ringaskiddy. I got a text before coming to the Chamber from a resident of Cobh, one of the harbour communities, who told me that the phrase on people's lips was "Only money matters, not lives".

As the Minister knows, this was not the first or second application, but the third, by Indaver

for planning permission for this monstrosity. Over the past 17 years, the two previous applications were rejected. An oral hearing on the third application was held in 2016. The inspector, Mr. Derek Daly, recommended against granting planning permission and said that the environmental impact statement lacked robustness. He raised questions re health implications, the dioxin intake and the implications for air quality. He indicated his belief that planning permission would not have been compatible with tourism initiatives in the Cork lower harbour or with the National Maritime College of Ireland, which is situated there. He also raised questions as to the safety of air navigation at Haulbowline naval base should this project proceed.

A decision was expected in 2016, but it never came. A decision was expected last year, but it never came. A decision was deferred not once, twice or three times, but nine times. In fact, one report I heard today put that number at ten. The decision was delayed time and again for two years. The question that people are rightly asking is what the hell was going on behind the scenes while those deferrals were taking place. Will the Minister comment on that point? Is he aware of any major planning permission decision that has been deferred as often and for as long as this one? Can he offer an explanation as to why that might be the case?

Indaver is involved in for-profit waste disposal, with profitability predicated on a steady flow of waste to a facility. Indaver will have its facility for 30 years, so it must maximise the feed of waste to it. How does one square 240,000 tonnes of municipal waste and 24,000 tonnes of hazardous waste per year with a policy of reduce, reuse and recycle? The two point in opposite directions. If recycling facilities are successful, it undermines the incinerator. If recycling initiatives fail, it adds to the success of the incinerator. Does the Minister agree that this undermines recycling initiatives?

I wish to make a number of points about the campaign to stop this monstrosity, but I will save them for my supplementary contribution and await the Minister's reply to my questions.

Minister for Communications, Climate Action and Environment (Deputy Denis Naughten): It is important to point out that, as the Minister for Communications, Climate Action and Environment, I have no role or remit in the decision made by An Bord Pleanála today, nor do I have any role in planning policy or planning legislation. I am advised by the Department of Housing, Planning and Local Government that An Bord Pleanála is independent in discharging its functions under the Planning and Development Act 2000, as amended. Furthermore, section 30 of the Act provides that the Minister for Housing, Planning and Local Government shall not exercise any power or control in respect of any case with which the board is or may be concerned other than in specified circumstances that do not apply in this case.

My role as Minister for Communications, Climate Action and Environment in waste management is to provide a comprehensive legislative and policy framework through which the relevant regulatory bodies, such as local authorities and the Environmental Protection Agency, operate. Our national waste policy is predicated on and consistent with European Union waste policy, which has the waste hierarchy as its cornerstone. Under the waste hierarchy, the prevention, preparation for reuse, recycling and recovery of waste is preferred to the disposal or landfill of waste.

In Ireland, Deputies will be aware that waste management planning, including with regard to infrastructure provision, is the responsibility of local authorities under the Waste Management Act 1996, as amended. Furthermore, under section 60(3) of that Act, I am precluded from exercising any power or control in respect of the performance, in specific cases, by a local au-

thority of its statutory functions under the Act.

The local authority sector has met its waste planning obligations through the development and delivery of regional waste management plans by the three regional waste management offices. The most recent iteration of regional waste management plans sets out how waste generated will be managed over the period from 2015 to 2021, which is in line with national and EU waste management policy, and supports the development of up to 300,000 tonnes of additional thermal recovery capacity nationally, which includes waste to energy, out to 2030. This figure was determined to ensure in the first instance adequate and competitive treatment capacity in the market and, second, that the State's self-sufficiency requirements for the recovery of municipal waste are met. The plans also reflect the move away from landfilling because it is the least desirable method of managing waste. Furthermore, that level of thermal recovery capacity takes account of the requirement to achieve a recycling rate of municipal waste in excess of 60% by 2030, which is in line with one of the new EU recycling targets.

The three regional waste management plans have a headline target for the prevention and recycling of waste. Good waste management planning aims to maximise prevention and recycling and minimise the quantity of residual waste arising. It also recognises the need for sustainable infrastructure to deal with residual waste as we move away from the less sustainable practice of landfilling.

As the Deputy knows, the House had a protracted debate in or around this time last year on the issue of flat-rate bin charges. I made the point then that the objective was, first, to discourage the generation of waste and, second, the segregation of waste into brown and recycling bins. I am still determined to do that.

A question on levies was asked during Question Time. I am currently reviewing all levies. My priority is to encourage the prevention of waste or, where that is not possible, its recycling as opposed to other methods. We must ensure that it is only as a last resort that waste goes into one of our four landfills, a number that will have decreased to three by the end of this year.

Deputy Mick Barry: The Minister mentioned the question of levies, so I will ask a question about levies. Were I him, toxic incineration of this kind would be knocked on the head. A previous Minister, former Deputy John Gormley, introduced something that was not a ban on, but disincentive of, incineration, namely, the incineration levy. Another former Minister who is a member of the party that the current Minister, Deputy Naughten, is in coalition government with, the now European Commissioner Phil Hogan, had that levy removed. What is the Minister's opinion on the idea of reintroducing the levy? That is a direct question.

In my opening remarks, I asked the Minister a different direct question to which he did not reply. I would like him to reply when he concludes. I asked whether he was aware of any case in the history of planning at An Bord Pleanála where there had been nine or ten deferrals and delays over a period of two years on such a serious issue. Can he offer any explanation as to why that might be the case?

The immediate issue for the campaign in the harbour communities is to fund a judicial review. That seems to be what they are looking at. They are trying to raise €150,000 and the GoFundMe campaign, from what I have seen, is well under way. Another discussion is under way. It comes in the aftermath of the success of the anti-water charges campaign, and the idea that people power and civil disobedience is a powerful weapon in the hands of ordinary people, the

31 May 2018

idea of physically blocking the construction of this monstrosity. Nearly 20 years ago in Cobh, people power stopped the pylons and a discussion is beginning in communities tonight about whether people power might be necessary to block construction of this thing in Ringaskiddy. It would be a big step to take. It would need serious planning, organisation and discussion but it is a discussion that I believe is under way from now.

Deputy Denis Naughten: The Deputy has asked me two questions. I answered the first in my initial statement, that I do not have any role whatsoever in planning policy or legislation.

Deputy Mick Barry: It was not a question.

Deputy Denis Naughten: That is the answer. I have a role relating to levies. I am currently looking at reviewing the levies both with regard to putting material on the market in the first place and also landfill, export of waste and incineration. All of those levies are up for consideration, as are individual levies for consumers. We have been working on that for some time and we hope to make progress on that over the coming months.

Maternity Protection (Members of the Houses of the Oireachtas) Bill 2018: Second Stage [Private Members]

Deputy Anne Rabbitte: I move: “That the Bill be now read a Second Time.”

Deputy Niamh Smyth: This Bill seeks to provide maternity leave for female members of the Houses of the Oireachtas. In doing so, the Bill seeks to address a serious flaw in how the Oireachtas operates, by providing practical measures to ensure female participation in the political process. Bunreacht na hÉireann declares that “every citizen without distinction of sex” will be eligible for election to Dáil Éireann. The reality is that there are barriers to this, identified as far back as 2009 by the Joint Committee on Justice, Equality, Defence and Women’s Rights, as to the five “Cs” that were and continue to be barriers: cash, childcare, confidence, candidate selection and culture. A system that inhibits full participation by over half of the population cannot be said in any meaningful way to be a democratic State. We have taken small but important steps to confront some of these problems, not least by the introduction of gender quotas. However, quotas are not the panacea to the problem of women’s under-representation in politics. We hope that this Bill goes some way as part of the necessary response to some of the other challenges identified.

The case for greater female representation is clear. It would improve the quality of political decision making and would deliver more effective representation for female voters. This Bill seeks to provide a practical measure which will assist in ensuring that women can participate in shaping the collective decisions that bind us all. Countess Markievicz was the first female MP to be elected, in December 1918 while carrying out a prison sentence. Countess Markievicz was elected to the House of Commons as a representative for Dublin’s St. Patrick’s division. As an Irish republican, she chose not to take up her seat. She later served as the Minister for Labour in the First Dáil and was a founding member of Fianna Fáil in 1926. There was not another female Cabinet Minister until 1979, when former Fianna Fáil Deputy Máire Geoghegan-Quinn was appointed Minister for the Gaeltacht. Only 19 women have ever been appointed to Cabinet. Disappointingly, the number of women in the Cabinet was diluted by the current Taoiseach upon his appointment. The continued political gap also exists in boardrooms. Ireland’s female boardroom rate currently stands at approximately 16% and the National Women’s Council of

Ireland has called for quotas in the country to ensure a fairer female representation in business.

Fianna Fáil is proud of its efforts to expand female participation in politics. We have conducted systematic reviews and actions to boost numbers going for office and internal party positions. We are committed to addressing issues such as the gender pay gap, the five “C” barriers to female political participation in politics, and expanding boardroom membership for women. We need reforms and measures that nurture the role and contribution of women in politics and we believe that this Bill is another small step towards making that a reality.

Deputy Anne Rabbitte: I thank the Business Committee for affording time for the introduction of this crucial legislation, which is long overdue. I thank my party colleague, Deputy Niamh Smyth, and my parliamentary colleagues for supporting the changes that we have suggested for a long time. There is no doubt that Fianna Fáil takes pride in its effort to expand female participation in politics. As Deputy Smyth said, we are committed to addressing issues such as the gender pay gap and the five “C” barriers, but also female participation in boardrooms. I thank Kevin Dillon, Charlotte Simpson and the Bills Office for helping to produce this Bill. This Bill is not perfect but what I, my colleague, Deputy Smyth, and my party are saying is that we would like to see it come to committee. I am sure there are areas of it which need to be addressed. Since this Bill was first compiled, I see a gaping issue that needs to be addressed with regard to adoption. It says maternity but I think it also needs to be addressed with regard to adoption.

The Maternity Protection (Members of the Houses of the Oireachtas) Bill 2018 is essential to address many of the barriers preventing women from coming in through the front gate of Leinster House. Only 23% of our Deputies are women. The Fianna Fáil Bill takes clear action to get rid of one of the barriers to female participation. The Maternity Protection (Members of the Houses of the Oireachtas) Bill 2018 will help to ensure that female Deputies and Senators can take maternity leave in line with employees in companies and organisations across the country, and it removes the limbo which exists. We currently have a sick certificate if one needs to go out on maternity leave from the Oireachtas: one has to produce a sick certificate. This Bill is a democratic measure to make sure that both voices are heard in national decision-making. Last year, I brought forward the Maternity Protection (Local Government Members) Bill 2017. That was to amend the Local Government Act 2001 for all local government members to take full maternity leave. I thank the Houses of the Oireachtas and colleagues here for supporting it because the Bill has now moved to Committee Stage. I saw that the only way to eat this elephant is to take it one bite at a time. That is what we are doing. We are ensuring that there are no barriers to prevent women from participating in local and national government. It is 100 years since Countess Markievicz was first elected and we also think of Vótáil 100.

I will address some of the provisions in the Bill. It provides for maternity leave in respect of any female person:

- (a) elected to and currently a member of Dáil Éireann, and shall include the Cathaoirleach of Dáil Éireann, or
- (b) elected or appointed to and currently a member of Seanad Éireann.

Section 3 provides that a pregnant Member of the Houses of the Oireachtas will be entitled to maternity leave for a period not less than 18 weeks, with an additional six weeks provided, which still brings us up to the current standard for anybody who wishes to go on maternity leave

from employment here, which is 26 weeks. While I use the words “A pregnant member of the Houses of the Oireachtas”, when we get this to Committee Stage, I would like to see provision for any Members who wish to take adoption leave. The Bill also provides that one would have to give four weeks’ notice when acquiring maternity leave. That would be given to the cathaoirleach of either of the Houses of the Oireachtas. An additional eight consecutive weeks commencing immediately after maternity leave is under “Additional maternity leave” in section 5.

I am sure people are wondering about the expenses claimed for the work of a Member of the Oireachtas. It shall not be paid unless lawfully accrued during maternity leave. That is also a crucial part. It is trying to give equality to female participants. We want to give everybody the opportunity to be a Member of either House of the Oireachtas. One should not have to wait until one’s childbearing years are over until one enters Leinster House. That is a reason why I introduced the Maternity Protection (Local Government Members) Bill 2017. The difference between the Maternity Protection (Local Government Members) Bill and this Bill is that there was legislation covering the local government area which we could amend, namely, the Local Government Act 2001. In this case we are trying to create legislation to copper-fasten the opportunities for women and remove this limbo, because there is no such provision at present and we need to ensure we have it.

When my colleague, Deputy Niamh Smyth, was pregnant last year with her beautiful baby, the only way she could get time off was by producing a certificate to say she was sick. I could not believe it because that is unbelievable in this day and age.

It is important also to put on the record that while I thank the Business Committee for giving us the opportunity to discuss the Bill tonight, it is unfortunate that we get the graveyard shift.

Deputy David Stanton: I agree.

Deputy Anne Rabbitte: If we were serious about wanting to improve female participation and recognising our voices, in particular in the week that is in it when we hear of all the women on both sides of the referendum campaign who fought the good fight, yet at the end of the day here we are trying to bring women to the highest office and showing them all of the opportunities but we do it at 7.40 p.m. on a Thursday evening. We are lucky that is only 7.40 p.m., given that the Bill was not due to begin until 8.50 p.m. I am working on another item of legislation currently on sitting hours within the Houses of the Oireachtas. We must think about how we organise our working day. However, first, it is most important to address the barrier presented by the lack of maternity leave. It is hard to believe that county councillors cannot miss a meeting under the relevant statutory instrument. If they miss two meetings they could be struck off. That is the reason we introduced the Maternity Protection (Local Government Members) Bill 2017.

I do not say the Bill before us is perfect. It is open to much improvement and we would welcome improvement. I would like the Bill to go through to Committee Stage. That would be a step in the right direction. If nothing else it would be setting down a marker in order that female colleagues working here can be supported to go on maternity leave if they choose to do so. I would welcome the support of the Minister of State, Deputy Stanton, for the Bill.

Deputy Mary Butler: I compliment my colleagues, Deputies Rabbitte and Smyth, on introducing this extremely important legislation. It is difficult to comprehend that in 2018, any female Deputy or Senator who has a baby while she is a Member of the Oireachtas has no ma-

ternity leave options whatsoever.

The Maternity Protection (Members of the Houses of the Oireachtas) Bill 2018 seeks to address this serious anomaly that obviously applies to a different era in terms of how the Oireachtas operates by providing a practical measure to ensure female participation in the political process. This Bill provides for maternity leave in respect of any female person who is elected to and currently a member of Dáil Éireann and shall include the Cathaoirleach of Dáil Éireann or elected Members of Seanad Éireann.

The importance of maternity leave cannot be underestimated. I stand here today as a mother of three who when my first two children were born was self-employed and, as a result, my maternity leave was extremely short. My third baby was born 12 years ago when I was a PAYE worker. I was entitled to maternity leave and I found the difference unbelievable. There was no sense of guilt, only a feeling that I had 18 weeks to recover, bond and get the baby into a routine. The emotional bond mothers and fathers create during those first weeks after birth is indescribable. One's child is completely dependent on one.

Bunreacht na hÉireann declares that "every citizen without distinction of sex" will be eligible for election to Dáil Éireann. The reality is that there are barriers to that. They were identified as far back as 2009 as the five "Cs", to which my colleagues have just alluded, namely, cash, childcare, confidence, candidate selection and culture. A system that inhibits full participation by more than half of the population cannot be said to be a democratic state in any meaningful way. We have taken small but important steps to confront some of the problems, not least by the introduction of gender quotas. However quotas are not the panacea to the problem of women's under-representation in politics. We hope this Bill goes some way to contribute to the necessary response to some of the other challenges identified.

The case for greater female representation is clear: Greater female representation would improve the quality of political decision-making and would deliver more effective representation for women voters. This Bill seeks to provide a practical measure that will assist in ensuring that women can participate in shaping the collective decisions which bind us all. Politics is far from family-friendly and for anyone with a very young baby it can be extremely difficult. We need reforms that create an Oireachtas where the role and contribution of women is valued, one which will help women see politics as a viable career option. We must move towards discontinuing the practice of all-night debates, which in fairness are rare, and place the focus on more business-like hours. For Deputies who live two to three hours from Leinster House, as Deputies Smyth, Rabbitte and I do - concluding business at 11.15 p.m. does not include the option to return home. For example, on Tuesday of this week we commenced at 2 p.m. and concluded at 11.15 p.m. That is neither family-friendly nor child-friendly. There was no way any of us would then sit in a car and drive two and a half hours home. I know the rationale for the late sitting on Tuesday is to facilitate rural Deputies who must travel but I would much prefer to start at 10 a.m. on Tuesday and finish at 7 p.m. in the evening, which would give the opportunity to return home if one so wished.

This Bill seeks to provide a practical measure that would assist in ensuring that women can participate in shaping the collective decisions which bind us all. I welcome the Bill. I am a mother of three children and my youngest is 12 so, if enacted, the legislation would not affect me but I would like other female Members of the Dáil and Seanad to be able to avail of maternity leave in the event of becoming pregnant. They should not feel any sense of guilt for not being present and fulfilling their duties.

31 May 2018

Minister of State at the Department of Justice and Equality (Deputy David Stanton): I am very happy to join in the debate on the Maternity Protection (Members of the Houses of the Oireachtas) Bill 2018. I commend Deputy Rabbitte and Deputy Smyth on bringing it before the House. I also commend Deputy Butler on her contribution to the Bill.

As presented by the Deputies, the Bill provides for female Members of the Oireachtas to have an entitlement of 18 weeks of maternity leave and up to eight weeks of what is termed additional maternity leave. As a matter of interest, I note that the Maternity Protection Acts 1994 and 2004 provide for 26 weeks of maternity leave with an additional 16 weeks unpaid maternity leave.

In principle, I and my Government colleagues completely support the introduction of supports for Oireachtas Members who become parents, including adoptive parents. However, there are a number of fundamental issues that we need to tease out. I will set these out in synopsis, then I will elaborate on the wider context of Government policy to promote gender equality, after which I will return to the Bill.

In short, there are legal questions to be answered and the Government will seek guidance in that regard and there are also questions which I want to put to the Bill's sponsors and to the Houses of the Oireachtas Commission, which I understand is also doing some work in this area.

First, I invite the Bill's sponsors to clarify the core aims of the Bill, having regard to the fact that Oireachtas Members, as office holders, are automatically entitled to a salary as a matter of law, with limited exceptions, from the period they sign the roll until they are no longer a Member of either House of the Oireachtas, regardless of attendance. That is a given. Having regard to the constitutional concerns and the powers of the Oireachtas itself, I am also asking the Houses of the Oireachtas Commission and the associated reform committees to advise on possible provisions that could be made under existing Standing Orders to provide for maternity leave with particular reference to pairing arrangements and to identify the scope for amending these orders and the work, if any, under way to ensure a family-friendly work environment, as has been mentioned.

I know the Ceann Comhairle has a particular interest in this area as he was the original sponsor of a similar Bill in 2013. The Government will seek advice as to whether it is constitutional to legislate for Members of the Oireachtas to be absent from duty and how they might be remunerated during any such absence. We also need to define what absent from duty or leave means in the context of a Member of the Oireachtas. Can a Member on leave, for example, table parliamentary questions? How are constituents to be represented by a Member who is on leave?

Should we be advised that there is no constitutional impediment, the question could then arise as to whether the appropriate statutory framework lies in the Maternity Protection Acts 1994 to 2004 or the Oireachtas (Allowances to Members) Acts pursuant to the provisions of Article 15 of the Constitution or elsewhere. Article 15 states that the Oireachtas may make provision by law for the payment of allowances to the Members of each House thereof in respect of their duties as public representatives and for the grant to them of free travelling and any such facilities, if any, in connection with those duties as the Oireachtas may determine.

I do agree that we should discuss this matter and indeed the related matter of paternity leave, which the Government introduced recently. I am pleased to report there has been a good uptake of that. When we were introducing that measure, some male Members of these Houses who

were about to become fathers wanted to know if they could avail of paternity leave but that was not possible at the time.

All Members of the House will agree that we must do our utmost to support working mothers in the workplace in general. Last May the then Tánaiste and Minister for Justice and Equality, Deputy Frances Fitzgerald and I launched the National Strategy for Women and Girls 2017-2020. The strategy agreed by government has as its overall goal to change attitudes and practices in order to encourage and support the full participation of women and girls in education, employment and public life at all levels and to improve services for women and girls, with priority given to those experiencing, or at risk of experiencing, the poorest outcomes. I am also wholeheartedly supportive of the intention underpinning this Bill which is to encourage women into public life and to promote work-life balance in the workplace. I am sure this view is shared by all Members of the House.

The aforementioned national strategy includes a set of actions specifically aimed at supporting parents. The Government has also undertaken to publish proposals to expand paid leave in the first year of a child's life and to legislate for those proposals as soon as possible, as set out in the programme for Government. I also remind the House that over the past three budgets the Department of Children and Youth Affairs has secured an increase in the childcare budget by an unprecedented 80%, reflecting the Government's commitment to parents and children. The development of the affordable childcare scheme, which was announced in budget 2017, will also improve matters. This scheme will radically redesign how support is delivered to make high quality childcare more accessible and affordable for families in Ireland.

However, while the central intention of the legislation before us is sound, the Bill does not consider some important legal and procedural issues. One element of the Bill that we will need to consider is whether there are provisions possible under Standing Orders to provide for maternity leave with particular reference to pairing arrangements and to identify the scope for amending any such orders and the work, if any, under way to ensure a family friendly work environment. The Bill makes no provision for pairing arrangements during the Member's absence. Such pairing arrangements can be complex, particularly where the Member is not a member of a political party. However, the absence of a Member for up to 26 weeks could require some form of arrangement by the Oireachtas. As such, the Bill could potentially impact on the Standing Orders of the Oireachtas in respect of Members' attendance or absence. There are issues here that we must tease out. It is also important to note that the Bill potentially affords Members of the Oireachtas an entitlement to maternity leave that is normally reserved for employees. Members do not otherwise qualify for the various social welfare schemes in place to support workers when they are sick or on adoptive leave. Equally, Members are not covered by other workplace related legislation such as unfair dismissal legislation or legislation concerning the organisation of working time. The Deputies' Bill, while laudable, potentially categorises Members as employees rather than as officeholders but there is an important distinction to be made between the two.

The Bill does not propose any arrangements to address the parliamentary or constituency business that would arise during the Member's absence. It does not consider how constituency representations or concerns would be handled during that period. Does leave of absence mean complete leave from the job rather than just from Leinster House? Does it include leave from the constituency office and all that entails? Deputies know that constituency work constitutes a second job for many Members. Some people even say that we come to Leinster House for a rest, such are the demands on us at constituency level due, in part, to our multi-seat constitu-

ency parliamentary system. In this context, it would be important for the Bill to undergo a consultation process on Committee Stage to consider how business would be addressed and to consider the arrangements in place in other parliaments. The possibility of putting in place a system whereby a Member could choose a substitute during the period of absence might be one means of addressing this issue. To allow for substitution or an alternate might have constitutional implications, however. If an alternate system was put in place it might be possible to allow the alternate to replace a Member when vacancies arise through resignation or death. This could mean an end to by-elections, which would be a radical step. A list system could be devised similar to the system employed in the European Parliament. That could work here. Of course, the alternates would have to have the best interests of the Members at heart and be operating on their behalf. Perhaps, given the implications for electoral law, this is an issue that could be considered by the Citizens' Assembly. In the event of a Member taking maternity or paternity leave it would be reasonable to expect that extra support would be put in place during the absence of the Member. This could have cost implications for the Exchequer. If a Member is absent and there is no substitute, there is an increased workload in the constituency office. In those circumstances, someone may have to step in to take up that workload in the absence of the Member which would have cost implications.

In view of the concerns with the Bill and the issues which still need to be addressed, the Government is reserving the right to bring forward amendments, as appropriate. The issues arising will be conveyed to the Joint Oireachtas Committee on Justice and Equality in advance of Committee Stage and to the Bill's sponsors. The Government is not opposing the Bill. As I said, I welcome the debate which is both interesting and topical. Members of the Oireachtas are one of the few groups in the country that cannot avail of maternity or paternity leave. Some colleagues here have had babies recently and I congratulate them on what is a fantastic event. One particular colleague told me that she was in hospital, having just delivered her baby, when a constituent phoned her to raise an issue. She spoke of not being able to take any time off. These are issues that we must discuss and together we might come up with solutions. We must find out what happens in other parliaments too.

I thank the Deputies for bringing forward this Bill this evening and for facilitating a debate. Let us work together to see if there are ways that we can encourage more women to come into the Oireachtas. I have been in this House for 21 years at this stage, for my sins. Since the gender quotas were introduced in the area of candidate selection - one of the five "Cs" - there are more women in the Oireachtas and it is far better as a result. I would love to see the Members here reflecting the population at large, with a 50-50 split between men and women. That is what we should be aiming for and we have made some progress, which I hope will continue.

The national strategy for women and girls refers to advancing socioeconomic equality for women and girls, which is very important. It also refers to advancing the physical and mental health and well-being of women and girls and ensuring their visibility in society and their equal and active citizenship, as well as to advancing women in leadership at all levels. The Deputies mentioned corporate boards and we are actively working to increase the numbers of women on such boards. I hope to announce an initiative in that regard soon. The strategy also aims to combat violence against women and the Government has done a lot of work on that with domestic violence legislation but there is more to be done in that regard. The strategy also refers to embedding gender equality in all decision making which is important too. I commend the strategy, urge Members to read it and if they have any suggestions to improve or add to it, I ask them to bring them to our attention. I try to tell people about the strategy whenever I get

a chance because many are unaware of its existence. There are lots of good ideas in it. I chair a task force with representatives of various non-governmental organisations, NGOs, Departments and other agencies which is actively working on the objectives of the strategy.

I thank Deputies Niamh Smyth and Anne Rabbitte once again for bringing this important Bill before the House this evening. We need to progress these issues as best we can. I am not sure what is the answer with respect to the long hours. If a Member lives in south Kerry or north Donegal and the Dáil finishes at 6 p.m., he or she has a long night ahead with nothing to do. That is the other side of that issue. Members like myself, who have to travel long distances to get here prefer to work until 8 p.m or 9 p.m rather than having very little to do all evening. Dublin is a lovely city but I am from Cork.

Deputy Louise O'Reilly: I thank the Deputies for bringing forward this Bill for the provision of 18 weeks' maternity leave for Members of the Houses of the Oireachtas, with an additional eight weeks' leave, if required. As Deputy Rabbitte pointed out, the Bill is not perfect but it will benefit from the discussion that we will have on it. I also echo the sentiment expressed earlier. This is a women's issue and here we are having this debate late at night, which is regrettable. Maybe that was unavoidable. We will have to give the Government the benefit of the doubt for the moment and see how we get on with the passage of this legislation.

When I had my daughter 23 years ago, maternity leave was only ten weeks. Very shortly after my daughter was born, when she was only three weeks old, I went back to college. That was tough but it was not impossible. I benefitted from additional supports for my family because my husband worked full-time but cut back to part-time work to facilitate my return to college. It is tricky and anyone who has had a child knows that every pregnancy is different and every child is different. Some children sleep a lot while others hardly sleep at all. Therefore, the needs and the demands are specific.

The job we have does not lend itself very well to family-friendly working hours, unfortunately. I think we should focus on the supports that are available for Members and everybody who works in the Oireachtas complex. I am conscious that when we sit late or run over time as we frequently do, it has a massive effect on everyone who works here, including the people who work in the canteen, the ushers and our own staff who are busy working in our offices. We need to be cognisant of that when we are discussing this issue. We should always strive to be aware that our actions in this House have knock-on consequences for the people who work all around us. This place is well staffed. Members are extremely well served by the staff here. We should appreciate that every late sitting causes a dozen family crises for the people who provide services for us here.

Politics is an arduous and hectic business. We need to show more understanding to families in here. I think this Bill is a good place for us to start the conversation. I would like to draw attention to the problems with childcare in the Oireachtas. The people who provide the childcare do an absolutely fantastic job, but there is a waiting list because of a lack of facilities. As we all know, pregnancy and childbirth are very time-sensitive. When pregnancy or childbirth starts, it cannot be put off until there is a place available. It happens when it happens. We need to look at this issue in the round. I welcome this opportunity to start to have the conversation that we need to have as parliamentarians. We need to draw in all the people who work in the Oireachtas complex because these matters have knock-on effects on them. I commend the Deputies who have introduced this legislation. I look forward to the debate that I hope it sparks.

Deputy Donnchadh Ó Laoghaire: I support the Minister of State's remarks regarding Cork. If he intends to make the Dáil more family-friendly for Cork Deputies by moving the premises to Cork, I will be happy to support any such initiative to that effect. I thank Deputies Rabbitte and Smyth for giving us an opportunity to speak on this Bill and on this topic. We will be happy to support the passage of this Bill. We can discuss it further on Committee Stage when we are teasing out some of the detail.

We often hear the criticism that the Dáil is an old boys' club that does not properly reflect the realities of Irish society. While that has improved, there is still a great distance to travel. Politics, and consequently the Oireachtas, is at its best when it is representative of society as a whole. It should be representative of men and women of various classes and backgrounds. The representation of new Irish communities is an issue that certainly needs to be addressed in this institution. Despite the advances that have been made, significant disparities remain in the representation of men and women in this institution. Progress has been made in recent years on foot of the introduction of gender quotas. We are realising some of the benefits of this positive step. I think some of the changes to procedure in recent years have improved things as well. Other obstacles continue to exist. As Deputy O'Reilly has said, one of the simplest things that could be done in this institution would be to ensure proper childcare provision is made. I suppose that applies to all Deputies who have families. It would certainly remove an obstacle for many female Deputies.

It is important for us to send a message that we are serious about trying to change the workings of the Dáil. We need to ensure that in the future, there are no obstacles to greater female participation in the Dáil, especially among younger women. Our ultimate goal must be to seek to achieve a ratio of 50:50 or so, if that is what the electorate decides in future elections. There are difficulties and details that need to be ironed out. For example, an arrangement that is family-friendly for a Dublin Deputy might cause difficulties for a Deputy from west Mayo, west Donegal or west Cork. It is worth considering the question of leave in this context. It would also be worthwhile to explore the whole area of paternity leave. It should be considered as well, perhaps in a different way. Although issues with pairings could potentially arise, I do not think they are insurmountable. If the Oireachtas were to provide for this, it would send a very strong signal.

I acknowledge the leadership being shown by Deputies Rabbitte and Smyth, who have introduced legislation in this area previously. As I mentioned during that debate, my colleague, Councillor Danielle Twomey, who is from the Minister of State's parish, has raised this issue at Cork County Council level. When she was about to have a child as a sitting councillor, no provision was made for her to take maternity leave. I believe the council did its best to try to work with her. I know that is the case in many local authorities. I would like to acknowledge the initiative shown by Councillor Twomey and by the Deputies who have introduced this Bill, which sends an important message and would have important practical benefits. There are issues and details to be teased out, but they are surmountable and agreement can be reached on them.

Deputy John Brady: I thank the Deputies for introducing this important Bill, which sends a powerful message to women across the State, including the female Members of this House, and shows an intention to try to establish some level of equality in politics. The bubble in which we operate in this House, like politics in general at national and local levels, is a cold House for women. Unfortunately, many artificial man-made barriers are put in the way of women who want to get involved in politics. It is not enough to be seen to try to remove some of those bar-

riers - we need to actively move to remove them. This Bill is important for that reason. In this place, we often hear the mantra that we want women to get involved in politics, to run for office and to be elected, but we do not want them to get pregnant. We need to remove all of that.

I have a young family. I am blessed to live in Bray, County Wicklow, because it means that when I leave here, I can jump in a car or on the DART and be home within 30 minutes. Even though I am blessed to live so close to this place, I find it difficult to see how my wife would be able to do the job I do. I do not know how women with young families who live outside the Dublin and Wicklow areas are able to do the job they are elected to do. That is why this legislation is so important. It is a step in the right direction. Many other barriers need to be removed. Although initiatives like gender quotas are welcome, some political parties are still putting forward tokenistic candidates to meet those quotas, unfortunately. Certain political parties need to face up to this serious problem if they are sincere about creating equal opportunities for female participation in politics.

Unfortunately, the absence of maternity leave means we are presiding over discrimination. If we were to end that discrimination, which needs to end, it would send a powerful message to all the young women who want to get involved in politics. If we are sincere and genuine in the mantra coming out of here about wanting women to get involved in politics, we need to lead by example. That is why this legislation is so important. Sinn Féin will be supporting it and allowing it to move to Committee Stage. If it needs to be strengthened or amended at that point, we are willing to have that conversation. We are ready to discuss how to make this Bill as strong and powerful as it can be.

Deputy James Lawless: I commend my colleagues, Deputies Rabbitte and Niamh Smyth, on putting this legislation forward. Deputy Butler and the Sinn Féin Deputies have also contributed to a very interesting debate. As a parent, I am aware of the challenges this occupation, vocation or moment of madness places on us. It can be difficult to separate the formal responsibilities from the informal ones. We can talk about the operation of the House and the roles we have in the Chamber, legislation and so on. We all know, however, that it never really stops. One of the speakers talked about somebody coming out of the maternity ward with the phone ringing. That goes on as well.

When I first got into politics, in the 2009 local elections, I proudly attended the selection convention having been ratified. My wife and two small children were present. I heard an outgoing councillor who had served a number of years giving a speech reflecting back on his career. He was almost apologising to his family for what had gone on for the previous 20 or 30 years. He had missed occasions and various special events in the family's life. It was sobering for me to hear that as a person entering politics. My wife asked me afterwards if I was really sure I wanted to go down this road, but it is too late now.

There are challenges to us as parents but particularly to women. The indomitable Mary O'Rourke, another former Fianna Fáil female Minister, following on from the tradition of Countess Markievicz, told a story about how she had been in a Cabinet meeting when Charles J. Haughey was Taoiseach. The meeting had been convened on a Sunday. Every Member of the Cabinet wanted to get the meeting finished by lunchtime because they had better get home for the Sunday roast. Mary was saying she was the only one in the Cabinet who was going home to shop for and cook the roast as well. We hope that times have changed and that there is a bit more gender equality in the kitchen as well as in the Dáil. There are huge responsibilities and they very often do fall on the mother in those sorts of roles.

The quota system seems to be working in some regards. It is a leg up in any case to help people get started. We would like to see more female Deputies participating and being elected through that system. It seems to be off to a good start and to be making progress. Speaking in a gender neutral way, I mentioned privacy. We do not often get to talk about these issues. In terms of the privacy and the demands, even on mental health, it is a very onerous position that we hold in this House and in terms of the wider responsibilities that flow from it. It can be difficult to keep the whole show on the road so it is important that Members get space and time. Certainly at maternity time it is very important that they would be allowed that space.

It is a very positive, progressive step to allow the Member to step back and concentrate on their very important maternal duties during that time. In order for the House to go on and for their duties to be fulfilled, however, I suggest that we examine a substitute system. The Minister of State has spoken about it. There are good arguments for having parliamentary substitutes. There are obviously constituency commitments as well. It may be worth examining a parliamentary substitute system in respect of votes, legislation, amendments and committee participation. Across Europe and the world there are different models. Some European parliaments allow a temporary substitute to be appointed. It is a member state competency to determine electoral laws in this regard. That might make sense. The Member could also rest easy and would be a little more comfortable taking time out in the knowledge that somebody else was performing his or her role. Even in a situation of a tight vote being lost, as nearly happened an hour ago on a different Bill, it would seem very unfair if someone was taking rightful time off and that this would weigh heavily on him or her.

A political reform proposal for a delegate system was included in the Fianna Fáil manifesto of 2011 for when a Deputy becomes a Minister. Ministers take on additional responsibilities such as running a Department and engaging with civil society and multiple stakeholders at national and senior level in addition to their constituency responsibilities. We proposed that a Minister would cease being a Deputy for the duration of his or her office and that a substitute would come in instead. That proposal is in the same vein as the substitute proposed here. It could apply in other areas such as where somebody has a long-term illness or cannot attend for other reasons. It should be explored and I look forward to seeing where the debate goes.

My final point is not related to the provisions of the Bill. I have attended a few of these Thursday evening debates. They are a very good opportunity to air a particular issue. There tends to be a collaborative approach and tonight is no exception, perhaps because the official business is almost over. I propose that the Business Committee examines doubling up on these debates. Two hours are allocated but they often seem to finish within 40 or 50 minutes. There is a logjam of Private Members' Bills and motions that we are trying to get through. There is a lottery and I ring every week to see where my own Bills and motions are and if they have come out the far side. If we could double up on that, it would immediately double productivity, which would be a good result for the Oireachtas.

Minister of State at the Department of Justice and Equality (Deputy David Stanton): I thank the speakers who contributed to the discussion. We are all agreed that there is a palpable need to make our Parliament a more family-friendly working environment. There is an onus on us all as legislators and policymakers to put measures in place that will encourage more women into public life. I am here 21 years now. The previous election saw the highest number of women ever in the Dáil, as 35 women were elected to the Dáil in 2016. I can definitely say that the whole narrative here has improved dramatically since then. I have been saying that publicly and privately since the election. I have noticed it. I will not elaborate beyond that but

it is much broader.

I heard recently about a senior businessman who was anxious to ensure that he had strong representation of women on his board because he really needed to know what half his customers were thinking. That was an economic argument. The perspective of half the population was quite important to him in his business. I am trying to encourage corporates to have more women at board, senior management and decision-making levels.

The sponsors of the Bill have carried out a very valuable service by placing this on our agenda in the Oireachtas. I note what has been said about the alternative or substitute. The proposal is radical and may need a referendum but it is something that could work. Of course, the substitute would want to be somebody the Deputy could trust completely to operate in her best interest, not somebody who would be interested in giving her the elbow and taking over. In European Parliament elections they have the candidate but also a list of three or four people who might take over in the event of the candidate having to step aside for some reason.

The issue of by-elections is tangential to this. A substitute arrangement would allow us to dispense with by-elections which, when they occur, convulse the nation and do not achieve an awful lot because they often do not make a big difference to the numbers in the House. They are costly, at about €400,000 for each by-election. I note what Deputy Lawless said about other jurisdictions, where Ministers step aside from the Parliament to concentrate more on the ministerial work. I am only a Minister of State. I was supposed to be in different places this evening but I had to be here for votes. I had three important events to attend to represent the Parliament and the country but I could not. This happens quite a bit.

The Bill takes a certain approach and it starts the debate on this matter. However, I have several concerns about it which I have raised. I strongly support the principles underpinning the Bill, namely, encouraging more women to enter politics, making the Oireachtas more family friendly, as well as recognising the rights, entitlements and needs of women who are pregnant. The Government will not oppose the Bill but we need to widen the debate. We must not forget the other person in this, namely the child. The first year of a child's life is important. While my young lads are well reared and thinking of having families of their own, I remember when I was a young Deputy, being away from home three nights a week and missing all that. That is one of the regrets I have. One of my sons always refers to the lyrics, "And the cat's in the cradle and the silver spoon ... But we'll get together then, dad". Many Members miss out on that when they cannot get home.

The Bill uses employment legislation to regulate the rights of office holders. There is an urgent need for the Oireachtas to look at this issue and bring forward recommendations. It needs to examine how best to support women who are pregnant, including through setting out a framework preparing for Members on maternity leave and possibly looking at additional supports.

We must not forget paternity leave, which is also important. I will ask the Office of the Attorney General to advise on potential constitutional implications of intruding on the obligations of office holders.

We must not forget constituency work. Does leave mean complete leave? Leave should mean one is gone from a job completely for a period of time. One cannot be in the constituency office doing stuff and not here in the Oireachtas. Either one is gone or not.

31 May 2018

While I will recommend the Government does not oppose the Bill, I expect to bring forward amendments to deal with the issues I have identified. It starts the debate but it is a far wider one. I look forward to continuing discussions on the Bill once it has completed a consultation process on Committee Stage. I hope the Oireachtas justice committee, along with others, will carry out a proper legislative scrutiny of it. We should discuss the issue itself in a broader context to see what both Houses can do to move the principle forward.

Deputy Anne Rabbitte: I thank the Minister of State. As he realised from the beginning, I admitted it was not a perfect Bill. The most important point was the conversation and to get that work going in itself. I find that everything is rigid in the Dáil and it is hard to get a space for a conversation about broader issues which impact on so many more. It is quite crude to introduce a Private Members' Bill to have the conversation but I did not know how else to start it. The most encouraging point is that everybody, all parties and none, supports, welcomes and wants to work together on this proposal.

I hope the chairman of the Oireachtas justice committee - maybe Deputy Ó Laoghaire could have a word with him - would get it to scrutinise the Bill and make suggestions as to how we can progress it. Deputies Brady and O'Reilly made positive comments about the Bill which made sense. The Bill is about common sense. We set the law for everybody else but we discriminate against female Members. That does not wash with me. We need to start there and see how we can do it.

The Minister of State said there is a bigger conversation to be had regarding by-elections, how we do pairings and how to ensure that if one is out of the Chamber, one is not working in the constituency against one's other colleagues working here. These have to be set out. We could look at remote voting through an app whereby one would have to sign through the ICT unit, although it is difficult to log on in the constituency office because of the firewall and so on. However, everybody might want to vote remotely then and not show up here.

While the conversation and the input were very good, it is a pity we did not have more participants in the debate. It is a conversation that needs to go in the right direction. However, we are talking out the two sides of our mouths. We want more women in politics but if one gets elected there is no way one can have a family progression. We have no mechanism for supporting female Members other than producing the sick certificate. While one produces the sick certificate, one has to run in here for votes on a Thursday and if numbers are tight, one has to show up. I do not know how the system would operate if one were an Independent Member. Parties might be able to do pairings and accommodate Members but I do not how it could work for Independent Members.

It is important to acknowledge, as Deputy O'Reilly said, the good work the staff do here, including staying with us late at night. I have heard the Oireachtas crèche is full and it is quite difficult to get a child into it. It also has a set closing time at 7 p.m. What should Members do with the kids after it closes? Do we hide them under the desks? We have to come up with solutions and provide support.

I thank the Minister of State for his positive comments on the Bill. I am not of a legal mind myself but I am well-intentioned. I would welcome any support the other side of the House can give us as to how best to underpin and bring on this legislation.

Deputy Niamh Smyth: I thank the Minister of State for being positive and complimen-

tary about the Bill and I am delighted the Government will not oppose it. As Deputy Rabbitte said, it is the start of the conversation. At least we are talking about it now. I am delighted the Minister of State feels female participation in the Dáil adds to the atmosphere of the place and the debates. Women make up more than 50% of the population. We have gender quotas for ETBs and various boards. It is only right and proper that quotas would make the difference in politics. It may be something we can look forward to in local elections. When I was on Cavan County Council, there was one female member per party. We all start out on local authorities and all politics is local. If we are serious about getting women involved at that level, we need to consider gender quotas.

These proposals are not about getting time off. I remember doing an interview on a radio station about these proposals. The journalist asked why would we elect women for them to go off on maternity leave and be off for months. It is not about that. It is about human resources, HR, asking for a sick certificate and not acknowledging that somebody has the basic human right to have a baby. It is a precious and momentous time for people. To be asked for a sick certificate is quite insulting. I know HR does not mean that but it is one of those factual points that we do not recognise. The Bill is about recognising women in politics and what it entails. The reality on the ground is that Members will be in their constituencies. We are talking about being able to be close to our families and close to the new baby. Women in politics can still do a certain amount of work. In my case, I was off for two weeks and then I was back at work here and in my constituency. It applies to all of us. It is not beyond the realm of possibilities that a woman politician would be on maternity leave, but we all know she would still be doing the work and still picking up the telephone.

If we can recognise that as legislators, I do not believe the public would be in any way angry or annoyed about it, especially given that 51% of the population are women. It would represent encouragement. It would be a fantastic signal from the Parliament to acknowledge that women do not have to be in the autumn of their years to become politicians. They do not have to have done everything else or perhaps have tried politics in their spare time. They need not have their families reared and gone to college before doing this work. It is possible to juggle all of it together. That is the wonderful thing about men and women, especially in politics. On a positive note, we are jugglers. We are people who think outside the box. We are creative thinkers. We are well able to handle doing more than one thing at any one time. The Bill is about that and it is important to say that.

I am unsure what the answer to the question of the crèche is but we should bear in mind that the crèche does not really work for elected members. That is because of how we speak and debate late into the night. That is no bad thing either and I take the point of the Minister of State in that regard. I am from Cavan. It is doable for me to go home at night but it is not really practical and I can get far more work done here.

The point is that the Bill will start the conversation. We do not claim to have all the answers. It was good to see other politicians from other parties in the Chamber tonight. It is unfortunate that we did not have at least one representative from each political party or grouping, although some were represented. I am delighted that the Minister of State and Deputy Lawless as well as other male Deputies took part in the debate. I am glad that it has not been only a female discussion. That is important. One thing I have learned from my discussions is that we need the men to believe in this. It cannot simply be a question of women talking among themselves. We know this but we need the men to believe it and to buy into it. That is what will make it happen, whether it is gender quotas or increasing the number of female politicians. That is all

31 May 2018

important. If we can get the support of men for this, we can make a major difference and the next general election can illustrate the value in these measures from the Oireachtas. The Bill can make it possible and make it a reality, along with quotas and the introduction of a family-friendly environment. I thank Deputies for being here tonight.

Acting Chairman (Deputy Bernard J. Durkan): Deputy Mary Butler's time has been eroded.

Deputy Mary Butler: That is fine.

Question put and agreed to.

Maternity Protection (Members of the Houses of the Oireachtas) Bill 2018: Referral to Select Committee [Private Members]

Deputy Anne Rabbitte: I move:

That the Bill be referred to the Select Committee on Justice and Equality pursuant to Standing Orders 84A(3)(a) and 141.

Question put and agreed to.

The Dáil adjourned at 8.35 p.m. until 2 p.m. on Tuesday, 12 June 2018.