

DÁIL ÉIREANN

AN COMHCHOISTE UM CHULTÚR, OIDHREACHT AGUS GAELTACHT

JOINT COMMITTEE ON CULTURE, HERITAGE AND THE GAELTACHT

Dé Máirt, 5 Nollaig 2017

Tuesday, 5 December 2017

Tháinig an Comhchoiste le chéile ag 11 a.m.

The Joint Committee met at 11 a.m.

Comhaltaí a bhí i láthair/Members present:

Teachtaí Dála/Deputies	Seanadóirí/Senators
Michael Collins,	Fintan Warfield.
Danny Healy-Rae,	
Éamon Ó Cuív.	

I láthair/In attendance: Deputies Catherine Martin and Eamon Ryan and Senators Alice-Mary Higgins and Grace O'Sullivan.

Teachta/Deputy Peadar Tóibín sa Chathaoir /in the Chair.

Business of Joint Committee

Chairman: Níl leithscéal faighte againn ó aon duine ach amháin an Teachta Niamh Smyth. Comhairlím do chomhaltaí a nguthán póca a mhúchadh ionas nach gcuirfeadh siad isteach ar an gcóras fuaime agus ar chraolacháin an chruinnithe. Mar atá comhaontaithe ag an gCoiste um Nós Imeachta maidir le gcoistí gan pháipéar, tá na cáipéisí go léir a mbaineann leis an gcruinniú curtha i mbunachar na gcáipéisí do na comhaltaí. In accordance with the procedures for a paperless committee, as agreed by the Committee on Procedure, the documentation for the meeting has been circulated to members beforehand. Molaim go leanfaimid ar aghaidh i seisiún príobháideach.

The joint committee went into private session at 11.30 a.m. and resumed in public session at 11.32 a.m.

The Arts Council: Statement

Chairman: Further to the meeting of the joint committee on 23 November, I welcome the representatives from the Arts Council, Ms Orlaith McBride, Mr. Martin O’Sullivan and Ms Sheila Pratschke. I invite Ms McBride to make a statement.

Ms Orlaith McBride: On 23 November, representatives of the Arts Council were invited to appear before this committee to discuss sexual harassment in the arts and culture sector, with a particular focus on the policies, provisions, structures and procedures in place and required to address the issue. At the start of the meeting the Cathaoirleach, Deputy Tóibín, reminded all present to respect parliamentary practice and not criticise or make charges against any person by name or in such a way as to make such persons identifiable.

During the course of our appearance, a series of questions were put to me personally by Senator Warfield. These questions raised the issue of a friendship with a named third party which the Senator indicated might give rise to a conflict of interest. The Chairman intervened to disallow the questions. However, even though the questions were quite rightly disallowed, the fact that the issues were raised by Senator Warfield means the inference remains on the record. As the Arts Council is in receipt of State funding, the issue of integrity and conflict of interest is a serious one. The council has both a statutory and non-statutory framework in place to deal with conflicts of interest that may arise.

The Arts Act 2003, the Arts Council’s governance framework and the council’s staff code of conduct all provide that where a conflict of interest arises, that conflict must be disclosed and the conflicted party shall take no part in the council’s deliberations or seek to influence it in the decision-making process. At all times, whether as a council member or as director of the Arts Council, I adhered fully to these provisions and my statutory obligations. The association between me and the third party named was no different from the association I had with other members of the arts community in Ireland and did not give rise to a conflict of interest.

I thank the committee for affording me the opportunity to appear before it today for the purposes of making a statement in response to the inference raised by the Senator and to read this response into the official record of the committee concerning this matter.

Chairman: I thank the representatives of the Arts Council for this. Cuirfimid an cruinniú

ar fionraí ar feadh cúpla nóiméad agus ansan leanfaimid ar aghaidh leis an gcuid eile dár ngnó.

Sitting suspended at 11.35 a.m. and resumed at 11.38 a.m.

Heritage Bill 2016: Discussion (Resumed)

Chairman: Inniu táimid ag déanamh plé ar an mBille Oidhreachta 2016, the Heritage Bill 2016. To assist us in this matter I welcome from the Irish Cattle and Sheep Farmers Association, Mr. Patrick Kent, president, Mr. Eddie Punch, general secretary, and Mr. Seamus Sherlock, rural development chairman; from the Hedge Laying Association of Ireland, Mr. Neil Foulkes and Mr. Val Swan; from BirdWatch Ireland, Dr. Alex Copland and Ms Oonagh Duggan; and from the Inland Waterways Association of Ireland, Mr. John Dolan, president, Mr. Alan Kelly, vice president, and Ms Kay Baxter, honorary secretary. An invitation was also sent to the Irish Creamery Milk Suppliers Association, but unfortunately it had not been received. Its president, Mr. John Enright, expressed a desire for his association to present to the committee and regretted that it was unable to send someone to address today's meeting.

By virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to this committee. If they are directed by the committee to cease giving evidence in relation to a particular matter and they continue to so do, they are entitled thereafter only to a qualified privilege in respect of their evidence. Witnesses are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any persons or entity by name or in such a way as to make him, her or it identifiable. The opening statement and any other documents the witnesses have submitted to the committee may be published on the committee's website after the meeting. Members are reminded of a long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or any official by name or in such a way as to make him or her identifiable.

I apologise for the late start, but we found it difficult to have a quorum this morning on time. I know that the delegates have travelled a good distance to make their presentations. Chun tús a chur leis an chomhrá tugaimid cuireadh anois don Irish Cattle and Sheep Farmers Association á ráiteas a dhéanamh.

Mr. Patrick Kent: I thank the Chairman and committee members for the invitation to speak about the Heritage Bill. The ICSA strongly supports the Bill and is anxious to see it implemented. In particular, it supports the extension of burning and hedge cutting dates on a pilot basis. We believe being able to control vegetation on hills needs the added flexibility of being able to cut in the month of March. Likewise, we believe flexibility to cut hedges in the month of August is essential. We have adopted that view owing to the effects of climate change. We have experienced ever more difficulties because of prolonged milder but wetter weather conditions, all of which means that we cannot get essential work done because of the current restrictions.

Let us not be under any illusion. It is essential to control vegetation on hilly ground. It is also essential to ensure hills are not overrun by scrub such as gorse and heather. It would be ideal to have a programme of rotational burning, which is where the current restrictions cause problems. If farmers can be reasonably confident that they will get a chance to burn some ground every year, a rotation with restricted burning can work very well.

It is important to point out that hill farmers are under pressure to keep land in good agricultural condition. The review of the land parcel identification system, LPIS, in 2013 showed how vulnerable farmers were in terms of land eligibility. It is unacceptable that they must pay a penalty for a failure to comply with one set of rules when another set are too rigid and unworkable. The reality is that burning in the winter months is seldom feasible and short days and weather patterns mean that engaging in such work in the month of February rarely works. It must be understood the land about which we are talking is unsuitable for topping or the use of other types of mechanical control. Also, the best outcome for wildlife in the long term is achieved by livestock grazing in an extensive manner.

It is important to note that there is a code of practice on controlled burning which we fully advocate. Similarly, we support the allowing of hedge cutting in the month of August. One must understand hedge cutting is done mainly by contractors who have invested in expensive machinery to do the job as efficiently as possible. The window of opportunity under the current regime is very narrow. In practice, we try to get all of the work done in a period of approximately three months from September to early December. As we have seen this year, for much of the period we have been beset by heavy rainfall and poor ground conditions.

Hedge cutting is critical for road safety. Unlike many countries in Europe, all sorts of vehicle access public roads on which visibility is dependent on having well maintained hedges. The ICSA believes hedges should be dealt with in the month of August. This work should not be done along public roads in November or December when daylight hours are short and visibility is often poor. Driving conditions are often made worse by inclement weather. For health and safety reasons, having hedge cutting vehicles on the roads at this time of year is far from best practice.

It is important that we ensure landowners can trim hedges regularly in order to maintain them as an effective barrier for livestock. The rural environment protection, REP, scheme helped to transform the landscape of the countryside as it provided the impetus for many farmers to renovate hedges that had been neglected for many years. Many new hedgerows have since been planted under the agri-environment options scheme, AEOS, and the green low-carbon agri-environment scheme, GLAS. As part of GLAS, 7,500 farmers have planted 1,200 km of new hedgerows, while a further 3,300 km have been rejuvenated by coppicing and hedge laying. This demonstrates that farmers are keen to maintain diverse landscapes on which relatively small fields are divided by hedges in contrast to the huge open plains in other countries. We must be sensible. No farmer wants to have a hedge that is out of control and full of holes. Farmers who make a huge effort and financial investment in planting or rejuvenating hedges make a commitment to having a diverse landscape that is wildlife friendly. If we make the maintenance of hedges too challenging by imposing unduly harsh limitations on hedge cutting, we will have created a perverse disincentive to engage in more hedgerow planting and we will have a more bland open countryside only fenced by wire. If we at least get roadside hedge cutting out of the way in the month of August, it will be easier to have internal hedges cut in the months of September and October.

We must have regard for health and safety as we continuously hear about the trauma caused by farm accidents. It is beyond debate that farmers and contractors are under too much pressure to get the work done in too short a timeframe. Operators who rush to get it done before the weather breaks are much more likely to make mistakes and be involved in accidents. As I mentioned, trying to access a public road is lethal if there is no or poor visibility. Neatly trimmed hedges are a critical piece of infrastructure when it comes to road safety.

I am not one for dismissing the environmental lobby. Farmers are to the forefront in ensuring good environmental management. However, we believe the concerns expressed about bird life are overstated. We also believe that unless we have viable farmers, there will not be good environmental management. We strongly commend the Bill to the committee. It is a pilot project, but it is the way to go. The legislation has been a long time in gestation and it is now time to put it into practice. If there is credible evidence that the change has caused trends to worsen, the Minister can change the provision in the future. However, we must be pragmatic about the problems that impact severely on farmers and road users.

Chairman: Leanfaimid ar aghaidh leis an Hedge Laying Association of Ireland.

Mr. Neil Foulkes: I represent the Hedge Laying Association of Ireland, HLAI. I thank the Chairman and committee members for the invitation to present our case on the potential changes to the Wildlife Act as proposed in the Heritage Bill 2016. The HLAI is a voluntary group, the principal aim of which is to encourage and facilitate the conservation, protection and appropriate management of hedgerows. My submission relates primarily to sections 7(2) and 8 of the Bill.

The Heritage Bill amends the Wildlife Act, the principal purpose of which is to conserve wildlife. In that context, the biodiversity and nature of this country are under threat. Some 28% of breeding bird species are in decline, with many pollinator species at risk. Some 31% of habitats are in decline, with less than one third of hedgerows surveyed in county hedgerow surveys considered to be in favourable condition. The proposers and supporters of the Bill do not even suggest the proposed changes will improve the level of wildlife protection. There is nothing positive in the Bill for the protection of hedgerows and the wildlife that depends on them. On the contrary, the level of wildlife protection will be diminished. Cutting a hedgerow in the period from March to August impinges negatively on its overall value to wildlife. Any suggestion a hedge can be cut without impacting on wildlife is not credible. It is simply a question of the degree and nature of the impact.

The HLAI fully recognises that in both Irish and European law matters of public health and safety are the over-riding public interest and take precedence over wildlife conservation. Having said that, we must acknowledge that a negative impact on wildlife is an inescapable consequence. Morally and legally, we are obliged to limit the consequences to no more than what is absolutely necessary. The birds directive provides a framework for the safeguarding of wild birds within the context of public health and safety. We contend that the structure of the Heritage Bill does not adequately reflect these provisions.

In examining the Bill we need to be conscious not only of the spirit and intent but also the letter of the law. We believe the Bill is internally inconsistent. Section 7(2) grants a partial regulated exemption from the provisions of section 40 of the Wildlife Act for a trial period of two years.

Deputy Éamon Ó Cuív: Nonsense.

Mr. Neil Foulkes: Section 8 grants a permanent and complete unregulated exemption for essentially the same purpose, which is very confusing. The proposed changes are inconsistent with the provisions of European Law that protect wild birds which permit the granting of a derogation but limit action to what is strictly necessary and which must enable the Commission to supervise them. Section 7(2) does not refer specifically to safety, even though that has been much stated as the intention. Section 8, the provisions of which will not be subject to oversight

or monitoring, blurs the lines of the closed period and is not subject to the two-year pilot period.

The Minister's working group stated it would be important to engage with the European Commission on the proposed changes, but no formal consultation has taken place. Section 70 of the Roads Act provides for dealing with safety issues caused by vegetation along public roads. The Wildlife Act is just a subset of its provisions. If the section 70 mechanism does not work - it is clear from the debate that there are failings - will a proper exercise be carried out to determine how and where there is failure? The Department of Transport, Tourism and Sport has not evaluated the extent, scale or causes of road safety issues due to roadside vegetation. We firmly believe that if one does not diagnose the problem, one is unlikely to find the cure.

Tipperary County Council has an ongoing project which is relevant to this matter. I have acquired, under access to information on the environment, AIE, regulations, completed questionnaires completed by 27 roads engineers on the project. An evaluation of the responses points to much wider issues than those dealt with in the Bill. The proposed changes permit but do not compel landowners to cut hedges. Roads engineers whom we have consulted indicate that the main problem presented by roadside hedgerows is not landowners who want to cut their hedges and cannot do so but by landowners who should cut their hedges and do not do so. If a hedge presents a safety issue and the landowner chooses not to act, the Bill will be of no assistance.

We must view roadside hedgerows as assets to be managed, not problems to be dealt with. We fully agree that roadside vegetation creates some road safety problems. However, it also offers some road safety benefits, as was acknowledged by 80% of the roads engineers who responded to the survey.

The Roads Act gives the National Roads Authority the power to serve notice on a landowner to preserve trees, hedges and shrubs on his or her land to ensure road safety. Dealing with safety issues is about the assessment of risk. We cannot avoid risk. Irrespective of roadside vegetation, there are risks involved in travelling on public roads. Risk is a subjective evaluation and there is no formula for calculating it. Under the Roads Act, the ultimate authority in assessing risk is, as the name suggests, the National Roads Authority which is in the best position to make an objective assessment of safety issues.

We have concerns about the scientific validity of the proposed two-year pilot scheme. The first working group submission to the Minister acknowledged the lack of scientific data to underpin the changes and stated significant time and resources would be required over a number of years to put them in place. Issues with definitions, references and the language used in section 40 of the Wildlife Act have not been addressed in the Bill and they lead to issues with interpretation of the law.

While the HLAI recognises the intent of sections 7(2) and 8, we consider that the Bill needs to be restructured to provide for the legally required safeguards that give the maximum degree of protection for wildlife within the scope of dealing with public health and safety issues. The HLAI does not consider that any of the justifications presented for cutting hedges during the closed period, other than public health and safety, would be valid in an Act intended to conserve wildlife. If farming systems cannot operate without the need to impinge on wildlife during the breeding and rearing season, any claim that they are sustainable becomes highly questionable.

Section 40 of the Wildlife Act is part of Ireland's general system of protection for wild birds under the birds directive. However, a number of the key exemptions from section 40 are not consistent with the directive. I can elaborate on these exemptions, if necessary. To align

the Wildlife Act with the birds directive significant amendments will be required. I wonder whether it would be better to remove sections 7 and 8 from the Bill, with a view to having a comprehensive revision of section 40 of the Wildlife Act.

The HLAI is not comfortable opposing the farming organisations on the Bill as we view farmers as strong allies in our work. The farmer is caught between a rock and a hard place, but we cannot allow nature to be collateral damage. We need to address wider issues. Interaction is required between stakeholders and the relevant Departments and a proper and full review of section 70 of the Roads Act is needed to examine all of the issues that affect road safety.

I will hand over to Mr. Swan.

Mr. Val Swan: Until I retired five years ago, I worked as the deputy regional manager in the north eastern region of the National Parks and Wildlife Service. My duties included the implementation and enforcement of the Wildlife Acts and the birds and habitats directives in counties Kildare, Laois, Offaly, Dublin, Meath and Louth. I was familiar with section 40 of the Wildlife Act and prepared many case files for prosecutions. They were primarily hedge cutting cases detected by conservation rangers. Hedge cutting cases were not pursued if it was deemed that public health and safety issues were involved. In most cases, the roadside hedges were being cut solely for aesthetic purposes.

I recently heard the then Minister for Culture, Heritage and the Gaeltacht, Deputy Heather Humphries, state in a radio interview that the proposed change would only involve one year's growth. This would offer little protection to nesting birds as most bird nests are found within or just inside one year's growth. The introduction of section 8 is worrying from an enforcement point of view as it gives discretion to landowners or occupiers to decide on public health and safety issues in respect of road hedges in the bird nesting season. It does not provide for any ministerial oversight and there is no obligation on landowners to justify their actions, as is the case with local authority roads engineers.

The proposal to allow the burning of vegetation in the month March is anathema to all conservationists because leverets will be born in March, mallards will have young, grouse will have established breeding territories, hen harriers will be returning to their upland breeding territories and curlews will be returning to their breeding territories. Burning more land vegetation can have catastrophic consequences for these species. With hedge cutting in the month of August, this measure will not be compatible with our obligations under Article 5 of the birds directive. It is not possible to make regulations allowing the burning of vegetation in the month of March and cutting hedges in the month of August which could ensure protection of fauna or flora, particularly birds in their period of breeding and rearing.

Ms Oonagh Duggan: BirdWatch Ireland is grateful to the Cathaoirleach and members for giving it the opportunity to give evidence to the joint committee on the potential impacts of the proposed legislative changes contained in the Heritage Bill. I will speak first, after which my colleague, Dr. Alex Copland, will make a contribution.

BirdWatch Ireland is the largest independent nature conservation organisation in Ireland. Established in 1968, we have more than 15,000 members and supporters and a local network of 30 branches nationwide. We are member supported and science based. The primary objective of the organisation is research and the protection of wild birds and their habitats in Ireland through the efforts of our staff, members and volunteers alike. We have branches or staff in every county, working locally and nationally to address conservation issues and protect birds

and other biodiversity. We work with a range of rural stakeholders, including State agencies, farmer representative bodies, local community groups and other environmental organisations. Many of our staff and supporters live in rural areas and care passionately about the landscape and the protection of wildlife.

When the consultation exercise on section 40 of the Wildlife Act was launched in late 2014, BirdWatch Ireland welcomed the emphasis placed in the public consultation texts on the protection of biodiversity, particularly the statements “that any changes must be in line with Ireland’s obligations to protect and enhance our habitats, birds and other species and not to increase the threat to them” and that “this will be an overriding consideration in any proposals for change”. Unfortunately, these statements appear to have been misleading, at best, with little evidence of biodiversity protection forming the basis of consideration of the proposed changes in the Heritage Bill.

In this submission BirdWatch Ireland seeks to address a number of issues that have arisen through the consultation on section 40 of the Wildlife Act and in the subsequent proposals contained in the Heritage Bill. The provisions included in the Bill about which we are most concerned are sections 7 and 8 which will allow roadside hedge cutting in the month of August and the burning of vegetation on hills and mountains in the month of March. We will present scientific evidence which demonstrates the need to retain the existing dates for the closed seasons in the Wildlife Act. We call on all stakeholders who are concerned about the legislation, including farm organisations and hedge cutting contractors, to discuss the issues and agree on solutions that would be in compliance with the law.

With regard to the legal requirement on the State to protect its wild bird populations, the existing dates set for the burning of vegetation and the cutting of hedgerows are the six months starting from 1 September to the last day of February. These dates were set in 1976 and amended in 2000 by the Oireachtas to provide for the protection of birds at their most vulnerable time, namely, during the breeding and rearing season. Under European Union law, specifically the birds directive, and Irish law, specifically the Birds and Natural Habitats Regulations 2011, all wild birds are protected. Article 5 of the birds directive requires member states to establish a general system for the protection of wild birds. This law also prohibits the deliberate destruction of or damage to bird nests and eggs and prohibits the deliberate significant disturbance of birds, particularly during the period of breeding and rearing. Article 8 of the directive states member states shall prohibit the use of all large-scale or non-selective means which result in the killing or capture of birds or are capable of causing the local disappearance of a species. Article 9 allows for a derogation from these terms only for specific reasons including public health and safety, but strict tests must be passed first and alternative options must also be exhausted.

Sections 7 and 8 of the Heritage Bill propose to change the dates set as the period of protection for wild birds to carry out breeding and rearing of chicks in both upland and hedgerow habitats. This undermines the system of protection for birds in Ireland and is in breach of the birds directive.

It is our view therefore that the proposed changes to the Wildlife Act contained in the Heritage Bill should be discarded and a forum established with those stakeholders to set out a path to both protect our wild birds, ensure farming continues in the uplands and ensure road safety concerns are met. Yesterday the Commissioner, Phil Hogan, spoke at the FoodWise 2025 conference in Croke Park and warned Ireland of its failure to reduce greenhouse gas emissions. Burning in the uplands is destructive to our upland peatland habitats. We need to address these concerns.

Dr. Alex Copland: I will present some information on the science and the data on dates for bird nesting seasons.

Bird nesting dates are established through observing bird breeding activity. Ireland does not have its own monitoring scheme for this purpose and therefore we rely on data from the UK and specifically from the British Trust for Ornithology's Nest Record Scheme, NRS. Although this scheme includes Ireland, less than 1% of records within that database relate to Irish records. We presented data in our submission to the Minister in the Public Consultation on the Review of Section 40 of the Wildlife Act. The data used are from records from the period 2000 to 2009, and contain approximately 35,000 to 45,000 records per annum. It is worth stressing that this was the only scientific data provided as part of the consultation.

The Heritage Bill makes no distinction about the burning of vegetation for land management which is primarily a consideration in upland habitats. That said, other valuable lowland habitats, particularly scrub, may also be subject to burning being used as a management tool. BirdWatch Ireland wishes to again emphasise the need for better engagement between stakeholders in the uplands in regard to optimal land management strategies. This could include drafting upland management plans on a site-by-site basis, as well as streamlining legislative requirements for undertaking vegetation management in sensitive and internationally important habitats and landscapes.

A background to the ecology of our upland birds is included in BirdWatch Ireland's written submission. Although few of our upland birds have eggs laid in March, it is important to note that so-called "first egg dates" do not represent the start of the nesting season since before birds begin laying eggs they set out territories, they have to find a mate and nests have to be constructed. Studies in Scotland suggest that territory establishment for curlew takes between 40 and 60 days in advance of egg laying. The curlew, which starts to nest in mid-April would need the territories to be available in late February or early March.

These data underline the importance of protecting nesting habitat for upland species from late February or early March. Burning during the March period may displace curlew and other priority species from their territories, and with few alternative habitats available to them, risk complete failure of nesting during that particular year. The reason for flagging curlew in particular is because it is not only red listed in Ireland but on the global red list of species threatened with extinction.

Some of the policy drivers for the burning of vegetation have been mentioned. There is clearly a conflict between the need to manage and control vegetation, such as old heather and encroaching scrub, to maintain land for agriculture, and the value that these habitats offer wildlife. In many cases, as acknowledged by the statement from the Irish Cattle and Sheep Farmers Association, this management is often undertaken for land to maintain land eligibility for EU-funded schemes. That is an issue for the reform of the Common Agricultural Policy through the methods available to it.

Yesterday, in a statement, the Minister said that there would be a consultation on the next CAP starting in the new year. That might be a better time to discuss the opportunities for land eligibility. Where land is being cleared to open it up for agriculture rather than for farming subsidies, the removal of the encroaching scrub would be required. From the perspective of trying to carry out controlled burns, research in the UK has demonstrated that management fires should be set in winter or early spring before the soils start to warm up. The later in spring or summer that burning takes place the drier and more flammable vegetation will be. If the ob-

jective is to carry out a limited controlled burn then having highly flammable vegetation is not helpful. The chances of causing wildfires substantially increase in spring and summer during dry periods. This also increases deep soil heating and the catastrophic burning of peat becomes more likely to occur. Legalising burning of vegetation in March will substantially increase the likelihood that wildfires will continue to occur. In 2017, according to the Forest Service, 432 illegal fires occurred in our uplands and hills in May. How will legalising burning in March stop these fires in May? In Northern Ireland, where there is a later burning date, there are still issues with wild fires. Allowing burning in March does not address the issue.

On land management, Teagasc observes that the wild fires and burning of vegetation is not good for farming. Burning in March would promote the growth of the very scrub species which burning is supposed to control. Bracken, which is deep rooted, can survive fire and will spread after a fire. Gorse regenerates prolifically from a seedbank after a fire and ideally, should be kept under control by grazing. In the case of heather, burning should be controlled, irregular and in patches. Burning is only recommended when followed with sustainable levels of live-stock grazing

The Forestry Service's own Forestry Standards Manual also states that "[T]he burning of gorse will not give long-term control, and may actually contribute to the further development of the species following burning and subsequent planting. Attempts at burning large areas of gorse may easily give rise to wildfire conditions and damage to land, habitats and other resources. Ideally, gorse should be treated by flailing". In regard to upland management, regarding heather research in Scotland states that "Regeneration was more prolific after burning in autumn than in spring, contrary to the traditionally held belief". From both an environmental, farming and a health and safety perspective, the best time to burn is between September and November. Burning is also no substitute for sustainable grazing with traditional, upland cattle and sheep breeds.

I will briefly discuss hedge cutting. Hedgerows are widely accepted as one of the most biodiversity-rich habitats in an intensively-farmed landscape. They are essential habitats in a range of ecosystems, and provide valuable services to agricultural activities, such as habitats for pollinators and the predators of pest species, prevention of soil erosion and interception of water flows, and they sequester carbon. They are a quintessential feature of Irish rural landscapes, providing shelter to stock and crops, as well as nesting and feeding opportunities for many farmland birds. Appropriate management benefits biodiversity, farmers and road users.

With regard to data presented in common and widespread hedgerow species and their nesting season, the yellowhammer, the species with the latest fledging dates, is worthy of special mention. It is red-listed due to both short-term and long-term population declines and has also experienced a substantial range contraction over recent years. In 2017, using funding from the Heritage Council, BirdWatch Ireland undertook recording of yellowhammer breeding activity using local volunteers in two sample counties, Kildare and Meath. The results show that in Ireland yellowhammers are nesting throughout August. The current legislation permits hedges to be cut from 1 September, at which time data suggests that some 5% of yellowhammers may still have chicks in the nest. In yellowhammer areas, which could be defined on a county-by-county basis - we have very good regional data for the occurrence of yellowhammer in Ireland - hedgerow cutting should not be permitted until at least mid-September when nesting for this red-listed species has finished. Allowing the cutting of hedgerows in August could be devastating for this particular red-listed bird.

Throughout the debate on changing section 40 of the Wildlife Act, and the proposals con-

tained within the Heritage Bill, BirdWatch Ireland and other environmental bodies have always advocated that cutting in the closed season should continue to be permitted for health and safety. However, it has to be accepted that the Wildlife Act is not about road safety, which is covered by other legislation. There is an issue with landowners who should cut their hedgerows but do not, and this legislation will not compel them to do so. Furthermore, we have sought to improve legislation for this to happen. Indeed, the Heritage Bill makes the current exemption of cutting hedgerows in the closed season more uncertain which, in turn, could make roads more dangerous. The management of roadside hedgerows has to be considered on a case-by-case basis. Specifying within the Heritage Bill that cutting can take place in August leaves uncertainty about cutting hedges in other months particularly May, June and July when cutting of certain hedges may be required. The existing exceptions for hedge cutting for health and safety already contained in the Wildlife Act allow cutting throughout the closed season, and it is important that this can continue. The process through which this can be facilitated needs to be improved, but the Wildlife Act is not the mechanism for this. However, this pilot applies to all 26 counties and can be renewed, on approval, on a three-yearly basis.

No methodology for a study of the impact of the changes has been produced and there is no mechanism specified for the collection of data or comparison of results or even clarity on what is to be established by this pilot. Furthermore, despite the consultation on section 40 being concluded in January 2015, no baseline data on likely impacts of the proposed changes have been collected, despite the passage of three bird breeding seasons.

The Heritage Bill proposes changing the dates now, with collection of data to see if there are any impacts over the two-year pilot period. If the globally red-listed curlew have been wiped out from the uplands after the completion of this pilot, or yellowhammer populations have collapsed further in our lowland hedgerow landscapes, what then?

Mr. John Dolan: We thank the committee for its invitation to discuss Part 2 of the Bill, which deals with the canals and the Barrow navigation.

The Inland Waterways Association of Ireland, IWAI, is a voluntary body with 23 branches across the island of Ireland representing over 3,000 waterways enthusiasts. The IWAI was founded in 1954 in response to plans to build low bridges over the Shannon. The successful campaign ensured this navigation could be developed into the major domestic and international tourism and recreational attraction that it is today. In the 1960s the IWAI campaigned to prevent the Grand Canal in Dublin from being turned into sewerage infrastructure, and now over 50 years later it is campaigning again to save the canals and Barrow in terms of their navigation potential.

The IWAI is involved in restoration on the Boyne and Lagan navigations, the Ulster Canal, Ram's Island and Lough Corrib. We have a strategic alliance project with the RNLi on Lough Ree. We hold over 200 events annually that foster strong relationships with waterways communities each year. In 2018 we will jointly host the World Canals Conference in Athlone with Waterways Ireland.

The IWAI regrettably advises that the proposed Heritage Bill as it pertains to the canals does not put user requirements, local communities or tourism at the centre of the regulations. It is viewed as disproportionate and heavy handed legislation that will enable similarly onerous by-laws. An important aspect here is to understand that the canals and Barrow navigation are different from other Irish waterways in two key areas. Unlike the other navigations, there are no private mooring provisions or service providers on the canals. Waterways Ireland is a

monopoly. Secondly, the canals are not wide open expanses of water offering easy and multiple navigation options. They are effectively linear waterways with issues and challenges such as low water levels, weed issues, obstructions underwater, manually operated locks, etc. Larger boats, including the traditional vessels the canals were built for, can have to travel for over a day to find an area wide enough to turn around in. Thus, travel on the canals tend to involve lengthy tours of duty, so to speak, rather than short cruises from a home-base marina. This travel is typically done on weekends and over a period of weeks and months. The green and silver route promoted by IWAI Dublin demonstrates this very well, promoting travel through Dublin via the Royal and Grand Canal and the Barrow and River Shannon, although this struggles due to the fact that a bridge that blocks the canal navigation in Dublin is only raised a couple of times each year. The proposals in the Heritage Bill are not compatible with current boating practices on the canals. They more reflective of boating practices on open waterways.

Why do boaters travel the canals? The Royal and Grand canals and Barrow navigation waterways are a magnificent marriage of nature with early engineering feats. They link the north, south, east and west of all the navigations across Ireland, including the Shannon, the Erne, the Liffey, the Suir and the Nore, all accessible by boat through the canals and Barrow. They have the potential to attract domestic and international boating visitors who will relish the tranquil opportunity of slow tourism, cruising at walking pace as people move faster than the canal boats on the system, while experiencing the associated industrial heritage, wooded valleys, peat lands, small villages and towns that have interdependence with the canals and our capital city. There is also unfortunately the adventure in between where boaters at some locations can be targeted by antisocial behaviour or delayed for hours trying to remove obstructions from the canal or from the propellers on the boat. It's not all plain sailing.

The main IWAI areas of concern relate to the new complicated licensing, rather than the simple permitting system that has operated for decades, which is customer friendly, easy to use and understand and fit for purpose. It is concerned that there be adequate provisions so that boats of dimensions for which the canals were built to accommodate are protected and can continue to use the canals into the future; and appropriate charging structures that match the provision of services available. It is also concerned about the fixed payment notices and fines with no independent appeal mechanism other than the courts which will discourage use of the canals and are not in place on any other inland waterways; the proposed provision and powers of authorised officers; and the legislation that will facilitate the introduction of a completely different set of rules, charges, regulations and fines that are not in place on the adjoining waterways. The result will be that canal users will simply move to these waterways which will be a further blow to an already fragile future of navigations on the canals.

In 2012, Waterways Ireland, the navigation authority, which has no corporate governance structure, attempted to introduce new by-laws without any public pre-consultation. The IWAI and over 2,000 individuals from waterway communities and international waterways organisations responded within the 21-day consultation period expressing huge concerns. One of these concerns identified by the IWAI was that the proposed by-laws lacked legal authority. This was subsequently accepted by the Minister, Deputy Humphreys, based on advice of the Attorney General. Subsequently the canal aspect of this Heritage Bill was introduced in January 2016, again without any pre-consultations or any notice to the IWAI or canal communities. At high-level meetings between Waterways Ireland and the IWAI it has been made clear that Waterways Ireland wishes to immediately reintroduce the proposed 2012 by-laws and increase charges to the maximum level to attract private marina operators onto the canal. This approach of putting the cart before the horse will finish the canals, as due to their linear nature they do not represent

an attractive private investment opportunity compared to other, more expansive waterways. Why try to enforce excessive charges and licence agreements on only one group of customers for use of a struggling piece of infrastructure, rather than improve the service, improve the product, restore confidence in the product, increase the boats using it and entice private investment that way?

We have included in our submission a copy of the proposed Waterways Ireland annual canal permit licence agreement. This runs to nine pages, requires four different signatures, witnesses and seals of office and is we believe an onerous and disproportionate burden on our citizens at a time when the political agenda is all about administrative burden reduction. This should remain a simple permit that is the equivalent of a road tax certificate. Instead it is a complex legal document which will require boat owners to seek legal advice. Licences are not in place on any other waterway, nor in use in private marinas or local authority marinas where annual mooring is provided. The IWAI is not against contributing to the canals financially. We have, over the past two years, sought to engage with Waterways Ireland regarding new permitting and charges in advance of any updating of by-laws. The IWAI offered agreement to a new increased pricing structure proposed by Waterways Ireland if it was based on a simple permitting system without complex licences. Our offer was rejected and we were told the matter was exhausted. We still await a reply as to what protection and advantages the new and highly legalistic licence system gives Waterways Ireland compared to the traditional, user-friendly permit system where one agrees to abide by published terms and conditions. Regardless of the size of any increase in charges to boaters, the income received by Waterways Ireland from these licence charges will be very, very small compared to its annual budget. It will represent 0.25% of its income.

The canals and Barrow navigation are an important part of our social infrastructure, just like the Phoenix Park, other national parks or St. Stephen's Green. None of these are expected to pay their way. Citizens and visitors avail of them freely, as do all recreational users of the canals, except for boaters. Of the over two dozen different user groups on the canals only the social boaters are being targeted with complicated licensing agreements and charges. The IWAI accepts that there are issues arising in less than a handful of places primarily due to location, and these do need addressing. The three navigations in question total 336 km. The length of waterway affected by the few areas with concerns is a couple of kilometres; less than 1%. It is important that legislation for by-laws that will be detrimental to 99% is not introduced to address issues arising in fewer than 1% of the waterways. The legislation should enable by-laws to vary from location to location on the canals. Some may view aspects of Part 2 of the Bill on their own as reasonable but they impose a significant burden and risk collectively with no evidence presented as to what risk analysis has been done in relation to these proposals or why only one user group is being targeted for payment.

The canal built initially for boats have many different users today. The proposed greenways alongside will be great but a key attraction of the canals is the boats that use them, both modern and heritage canal boats and barges. They act as a magnet to visitors who love to walk alongside and admire them and chat to the crews. Irish boaters, local communities and visitors have helped to keep these navigations active and open. It is time now to expose and develop them for national and international tourism with appropriate promotion, management and community engagement. They can be a vibrant recreational resource for the 21st century linking slow tourism with invaluable industrial, archaeological and environmental legacies. They can be a world-class branded waterways route, similar to the lakes of Killarney, the Norfolk Broads, the Four Counties Ring in England and the lakes of Canada.

Some 61 different amendments were tabled on the Heritage Bill 2016 during the Committee Stage debate in Seanad Éireann by numerous party and Independent Senators. This committee has an ideal opportunity for new partnership politics to be demonstrated by proposing an amendment for the withdrawal of Part 2, the section of the Bill entitled Canals, from the Bill to facilitate the introduction of a fit for purpose, dedicated canal Act with proper pre-legislative consultation. Over regulation and higher charges are not the answer to developing these waterways. They deserve proper legislation that will put user requirements, local communities and tourism at the centre of the regulations.

It would be ironic if this Heritage Bill, rather than protecting the future of the Grand and Royal Canals and Barrow navigation, enables legislation for by-laws that end up creating waterways with no boats on them. The IWAI thanks members for their attention.

Chairman: I might start off with a few questions. It seems that in the past 40 years that enormous damage has been done to the wildlife of this State in that a large number of species have been reduced in range and in number and there have been significant changes to the natural habitat of those species. It seems also during that period that major difficulties have arisen in farming. Farmers are becoming a rare species in the State also. There is only half the number of farmers now that there was 100 years ago. Cattle farmers are earning on average €12,500 a year, which is an incredibly low figure. It also seems that this Bill does not necessarily go anywhere in alleviating some of those difficulties and solving some of the problems that have been mentioned.

We had people in with us last week who mentioned that there was only one official application for a licence for controlled burning in the whole State, while 70 other fires were lit, not necessarily by farmers in the State. It seems that the Bill we are arguing about is irrelevant to the real lives of many people within the country, both farmers and conservationists. Much more has to be done in working that. It has been mentioned that rotational burning could be useful for farmers and I would like the conservationists to answer a question on whether rotational burning could be done in a manner which will achieve conservation objectives and the needs of the farmers.

With regard to the hedges, one of the issues is the broadening of the time span in which hedges can be cut. I live in a small lane in the countryside and half the hedges have not been cut at this stage. There does not seem to be a pressure coming from the farmers on the ground to have the hedges cut in the general sense as it is nearly January before some of them are cutting their hedges.

Do members and witnesses find it striking that the Road Safety Authority did not have an input in the Bill and that the Minister did not meet with the authority, which is the body tasked with road safety in the State and yet it did not have a role in identifying a solution to some of the road safety issues there? We have a mechanism to deal with hedges as they affect visibility on the roads, not just during the window of opportunity but at any time of the year. If there is a problem with road safety surely the logic would be to make the section 70 provision far more useful and easy to access in situations where the hedges have an impact on road safety.

I thank the IWAI for its contribution on the canals and waterways because there were practical amendments that we can consider to arrive at some of the solutions that the IWAI mentioned. It seems onerous that the people who are key to the canals are being forced into a rigmarole of making an application. Do the witnesses think that Waterways Ireland plays a positive role in the management of the canals? I am from Navan and the Navan-Drogheda Canal is not under

Waterways Ireland. Would it be useful to have that type of canal brought under the remit of Waterways Ireland? Would it get more funding and would it be fixed? I will ask Dr. Copland from BirdWatch Ireland to address some of those questions.

Dr. Alex Copland: On the question of rotational burning, it can have benefits for wildlife. It is a case of when and how it is done and perhaps more importantly, what is being burned. If one is burning heather, rotational burning of heather can be beneficial for biodiversity. There is no two ways about it. There are lots of studies that have shown the benefits in Scotland and in parts of Ireland. Indeed, the one controlled burning that took place in Ireland was for red grouse management in Boleynbrack. It comes down to the timing of when one does that burning.

Chairman: Has Dr. Copland ever met the Irish Farmers Association, identifying the needs of each body and the intersection that meets the needs of both bodies?

Ms Oonagh Duggan: BirdWatch Ireland met the Wicklow Uplands Council last year to discuss this. We all agreed that farming in the uplands was becoming as red listed as the birds in the uplands and that we needed to sit down and talk about the issues in detail. There was divergence in terms of the timing of when this should be done. I cannot speak for the Wicklow Uplands Council but proper resources and proper policy to help both farming in the uplands and wildlife in the uplands is what is needed. That can only be achieved by sitting around the table and talking about it, with the support of the Departments in question.

Chairman: Has the Department ever created such a forum?

Ms Oonagh Duggan: No. We have asked for it on numerous occasions, however.

Chairman: Will one of the witnesses address the questions with regard to section 70 and the road safety aspects?

Mr. Eddie Punch: The issue is that farmers have found that when there are particular mechanisms, they are extremely bureaucratic and are not working in an overall sense.

Farmers in Ireland are very committed to hedgerow maintenance. As we pointed out earlier, the number of hedgerows that have been planted by farmers under the GLAS scheme and previously under the AEOS scheme is a testament to the fact that farmers want hedgerows as part of a diverse farming landscape. In fact it is fair to say that Irish farmers are streets ahead of their colleagues in many European countries. One can see that if one travels throughout other countries. We have a much more intricate pattern, a mosaic of hedgerows which is far in excess of what one would see in some of the other European countries. If we want this commitment of farmers to having more hedgerows rather than fewer, hedgerows have to work for farmers as well. That is why we are fully supportive of the laying of hedgerows. It is great work but it is time consuming and hard and it is expensive if one has to pay somebody to do it because it takes a while. In addition, once it has been done the hedge will have to be maintained. Farmers do not cut all their hedges every year. There is no one asking for that. In fact, it is much better to cut on a rotational basis, perhaps once every three years or so. Many hedges do not get cut every year but that is good practice.

My association has much common ground with BirdWatch Ireland. Information on what happens in Britain, for example, is not strictly comparable with what happens here. The weather patterns are not strictly the same. The rainfall patterns in the west of Ireland are different from those in Leinster and, by extension, much different from those in Yorkshire and elsewhere in the United Kingdom. It is debatable, therefore, whether the comparisons are valid. In any

event, the hedge-cutting restriction periods in the United Kingdom, including Northern Ireland, are not the same as here.

Chairman: May I interrupt? The question was on section 70. Mr. Punch mentioned it is very bureaucratic. Rather than just park it because it is very bureaucratic, what could be done to make it less so?

Mr. Eddie Punch: We want clarity so a farmer will know that hedge cutting can be done in August without having to obtain permission and that kind of thing. The issue is that when it rains continuously for most of the autumn period, as occurred this year, much of the ground on which one must travel to cut hedges is simply too wet and soft to travel on. If we can get some of the hedge-cutting done in August, it will reduce the pressure on contractors. Most of the work is done by contractors. Cutting in August would make it more straightforward to get the work done in a timely fashion. Most of the contractors have several different contracting operations. If they take off the hedge cutting machine in order to spread slurry, typically after 15 January, that is the end of hedge cutting for them. Getting the work done is very much dependent on the availability of contractors. Farmers do not do the work on their own. This is about trying to ensure contractors have a reasonable period in which to do the work that needs to be done in any given county. When one is relying on contractors to get this kind of work done, it does not fit in easily with applications for exemptions. If the process is not straightforward, as we need it to be, the work does not get done.

Chairman: Would Mr. Dolan like to respond on behalf of the Inland Waterways Association of Ireland?

Mr. John Dolan: The association believes it is important to have a navigations regulator. It respects the needs and rights of Waterways Ireland to regulate the waterways. We work and engage with Waterways Ireland on a partnership basis in a number of areas. I mentioned earlier the World Canals Conference, which is to be held here in 2018. We have a special interest group that developed digital charts for all the waterways in Ireland. We have shared data with Waterways Ireland in this regard. We engage in other events and avail of opportunities with Waterways Ireland with respect to volunteering to clean up the waterways around the country. It would be nice if there were a greater stakeholder opportunity in developing the by-laws. I hope that can come out of this process.

Chairman: By coming under Waterways Ireland, is there a material benefit to a canal?

Mr. John Dolan: The Boyne navigation is owned by An Taisce and the OPW. The IWAI Boyne navigation branch has been working on a voluntary basis on that canal for a couple of years. It has rewatered a couple of miles of it and refurbished a number of lock gates, including the sea lock, opening the waterway to the sea.

It is always a matter of resources. There is no point in changing the player in any one event unless that player can bring the resources to the table. Waterways Ireland's resources have been cut over the years. It currently struggles with respect to the waterways and maintaining its desired level of service. If it were taking authority of another canal or navigation, it would be critical for it to have the resources.

Chairman: Maybe the Hedge Laying Association of Ireland would like to comment.

Mr. Neil Foulkes: On section 70, which is specifically what the Chairman asked about, I have acquired some information from Tipperary County Council. As part of a project initi-

ated by the council, it sent a questionnaire to the road engineers in all 31 local authorities. Twenty-seven local authorities responded. Some of the responses from the road engineers are interesting. With regard to availability and difficulties in getting landowners to fulfil duties, the availability of machinery and competent operators was not an issue for road engineers. Let us consider the argument that we need to cut roadside hedges in August so machinery will be available to get into the fields in September and onwards. There are periods from September to February when the ground is not trafficable. Surely that is the time when the machinery operators should be out on the roads cutting. If it is a question of resource availability, taking nesting birds into account, one should avail of opportunities between infield and roadside operations depending on weather conditions at the time. Therefore, the argument does not seem to hold water.

With regard to how section 70 works, based on the responses of the road engineers to the local authorities there is a great disparity between how various local authorities implement the section. There are even differences between municipal districts within local authority areas. There needs to be a review of section 70 because it is being implemented in different ways by different local authorities.

I can give various statistics on why road engineers believe there are difficulties in getting roadside hedges cut. One concerns inspection, monitoring and enforcement costs. Some 67% of authorities indicated a problem in that regard. Sixty-seven percent of them said they could not enforce section 70 because they could not identify the landowners in order to have them enforce their duties. Sixty-three percent said a lack of landowner awareness was an issue. I have a few quotations-----

Chairman: May I stop Mr. Foulkes? He will get a chance to contribute again.

Deputy Eamon Ryan: I was very interested in BirdWatch Ireland's presentation with regard to the curlew, with which we are all so familiar. I was disappointed to hear it is threatened here and globally. I understood we have a migratory species of curlew and our own indigenous species. Could I have some details on this? What are the numbers? What is the underlying cause of the decline? Could I have similar statistics on the yellowhammer, just to have specific details? Could I have numbers and BirdWatch Ireland's reason it is now on the red list?

I have a brief comment to make to the Irish Cattle Breeding Federation. What was said yesterday by Commissioner Hogan at the Food Wise Conference is really significant because there is an increasing realisation that Irish agriculture and environmental interests will have to come together and that the future funding of Irish agriculture will require a lower-emissions, biodiversity-rich form of land and water management that will require a complete transformation of our whole land use strategy. It will result in considerable potential for Irish farming if the protection of biodiversity is taken into account. We have to get the contractors to work around the birds' timetable; we cannot talk to the yellowhammer and ask it to change its fledging time. This is an important philosophical and material issue. Should contractors bend to nature or should nature get chopped off? Surely Irish agricultural interests will sit down with the environmental movement and start realising that future CAP payments will depend on us getting this right. Farmers will prosper better by working with nature and the environmental movements rather than doing things on the basis of contractors' availability.

Chairman: BirdWatch Ireland would like to respond.

Dr. Alex Copland: I thank Deputy Ryan. The curlew breeding population in Ireland is ap-

proximately 120 pairs. Thousands come to Ireland for the winter, as it is much milder here so the population from the UK and Scandinavia migrates down to Ireland to spend the winter here. The breeding population is what we are particularly concerned about in Ireland. There has been a decline in the last 25 years of 86%. In terms of range contraction, nearly three quarters of the range has gone. The main drivers for curlew are the drainage of agricultural land and the fragmentation of its habitat. The curlew is a species that likes damp, peaty, rushy pasture and uplands. Curlews avoid areas of trees. They like open moorland and landscapes. Afforestation and fragmentation of habitats are huge issues.

The yellowhammer is still probably quite numerous. I estimate the population to be between approximately 25,000 and 30,000 pairs in Ireland. Compared to the curlew that is very common but yellowhammers have declined by 90% in the past 25 years. Their range contraction has also been enormous. Yellowhammers are still common and widespread but they are not as common and widespread as they were. Forty years ago they would have been in every townland and parish in Ireland. Now they are concentrated very much in the south east which is the tillage and cereal growing area on which they are dependent. They are seed-eating birds and they are found in cereal growing areas. They nest in hedgerows. They are particularly vulnerable to agricultural management and intensification. The reason for their decline in range has simply been the loss of small-scale tillage, particularly in the west where 40 years ago nearly all the farms would have had an acre of oats or potatoes to feed a cow or pony but that is no longer the case. As a result we have seen them contract into the core area where one still has commercial cereal growing. I do not think we will ever see a return of yellowhammers to the whole of the country but we need to try to hold on to what we have, where we have it. The population is still declining significantly even in the south-east stronghold. The population is declining even when hedge cutting in August is not allowed so my worry is that if one allows hedge cutting during August, one could absolutely decimate the population. It is already on the red list and is declining. We should be taking action to help protect and conserve it and not put it at more risk.

Mr. Eddie Punch: In an overall philosophical way we agree that there is a need for a Common Agricultural Policy which creates balance between environmental and agricultural interests. That said, farmers have to be able to make a living as well. We would like to see farmers being able to benefit from renewable energy opportunities. This country has been very slow to help farmers to do that. Moreover, Europe also needs to have a coherent renewable energy policy. Unfortunately, it has been characterised by flip-flopping on policy and not knowing where it stands, for example, on biofuels. In Ireland, for example, the renewable electricity support scheme should support farmers to benefit from, for example, rooftop solar panels. We see there is potential in anaerobic digestion to create a win-win scenario in terms of water quality, emissions from slurry spreading and providing an economic benefit to farmers for the production of renewable heat and electricity. A lot of things could be done.

We need to get the balance right between dairy, livestock production and tillage. It is fair to say that the decline of some bird species can be linked with the poor performance of tillage in recent years and the fact that a lot of the regions where we traditionally had tillage have declined significantly. We have lost about 17% of the tillage area. That is part of the issue. If we want to have the right mix we need to have a balance between the sectors but we need to work on the basis that farmers can only play their part in environmental benefits if they are making money out of farming and agriculture. If farmers cannot make a living then one will not have the environmental benefits provided.

Deputy Eamon Ryan: I fully support Mr. Punch's proposal on renewable energy. In our

own time in government we provided a payment for self-generation to encourage exactly that and I would like to see it restored.

The central point seems to be that where the Common Agricultural Policy is going is in rewarding farmers further than GLAS or anything we have seen to date for protecting and encouraging biodiversity. Water management and soil carbon storage should also be part of that. The burning of uplands diminishes all three. We heard today about the potential loss of peatland uplands from burning and the loss of biodiversity from same. There may also be an effect on run-off water and flood management. In terms of CAP reform, we want to pay farmers for those services but how can we do that when at the same time we are introducing legislation that is anathema to biodiversity protection as well as carbon storage? We agree with what has been said about renewable energy but the payments from a new CAP system which will begin early next year must be based on an approach taken arm-in-arm with BirdWatch Ireland and the natural heritage bodies in order for us to be able to get the payment farmers should be getting for the services they render.

Chairman: Would anyone like to respond?

Dr. Alex Copland: We agree. Farming biodiversity would not be there without farmers. We need farmers in the uplands to preserve and maintain those habitats. The Common Agricultural Policy needs substantial reform in order to make sure it is delivering adequately for farmers, food production and citizens as well as for biodiversity and the environment, but the Heritage Bill does not address any of those issues. The responsibility of the Heritage Bill is not to tackle issues with the farming structures in Ireland. We could talk about young farmers and the need for generational renewal or eligibility for payments but that has nothing to do with the Heritage Bill. I agree that these changes should happen. They need to happen but again in the context of the debate about the Heritage Bill they have to be viewed separately. I do not see how the Heritage Bill can address those issues.

Senator Alice-Mary Higgins: There is a relevance between the Common Agricultural Policy and the Heritage Bill in terms of the choices that will have to be made by the farming community and the lobby groups. There are opportunities now with the reform of the Common Agricultural Policy to address some of the contradictions which exist and have been spoken about. There have been contradictions in respect of one set of regulations pressing towards making sure that land is in an agriculturally fit state and the other set of regulations rightly looking to preserve biodiversity. I hope that within the Common Agricultural Policy we will now have that space. It seems there is potential for it to be more responsive to ensure we can address those contradictions. However, targets are going to be set and the fines will be more rigorous and higher and Ireland will face significant liabilities if we do not address our climate targets and potentially even sooner than that if we do not address our biodiversity targets. While Ireland has a wonderful network of hedgerows, which was spoken about by the ICSFA and others, we do not have a large reserve of forest such as other countries might have. When we talk about our carbon sinks we argue in the CAP negotiations about our hedgerows as our natural reserved areas. That is what we have. It is a unique asset but it is also the case that this country might not have assets which other countries have going into the CAP negotiations. The hedgerows will play a key role in those talks.

I wish to focus on one issue. I do not intend to speak for long as I am conscious other committee members wish to speak. I want to refer to one important issue around section 70 and perhaps it could be addressed. The issue about which I am particularly concerned is that the Bill, following the end of the debate on it in the Seanad, introduced a very unusual provision,

which suggests that landowners would directly interpret section 70 of the Act, whereas previously it would have been interpreted pursuant to section 70 with respect to the decisions in terms of road safety. It is my understanding that it would be more normal and appropriate, as was previously the case, that notices under section 70 would be served by local authorities. We have sought, and I would encourage those in the Dáil to do so, to widen section 70 in order that more people would be able to ask the local authority to issue them. I would be happy for any of the witnesses to answer my question in this respect. Mr. Foulkes spoke about section 70. If we have people interpreting road safety individually and we have heard that 63% of landowners do not feel able to interpret it, we are opening up potentially further problems in terms of where liability lies. If a hedgerow is a cause of concern for road safety, would this provision potentially diminish the power of the local authority to get that hedgerow cut? Could we be facing increasing dangers on the roads? If there are accidents caused either by the presence or lack of presence of hedge cutting and, for example, low winter sun is a concern, where will the liability lie? I would mention those new concerns. It would be beneficial if we were to close that loophole which opened up at the end of the debate on the Bill in the Seanad. While we may discuss other aspects in great detail, that particular loophole concerning where the decision-making in respect of road safety lies is a very important one.

One of the witnesses was correct in what he said in that it is strange that we are talking about one-year growth because rotational cutting would surely be better practice. Perhaps that is an issue to be raised with the Minister. With regard to alternatives, it was cited under the birds directive that all alternatives should be sought. There have been alternative schemes in Clare and elsewhere that have been examined. I refer to other ways of addressing the concerns of landowners and concerns regarding the environment.

My last point relates to a concern about a pilot scheme. If we have self-interpretation of road safety and hedge cutting, which does not need to be reported and is not in any way charted by local authorities, it is hard to see how we could have a pilot scheme because we are almost having two processes happening at once - a complete change in how section 70 operates without having a debate on that and the other provisions that have been put forward in the Bill. The witnesses might address the question of a pilot scheme and if it is plausible in that regard.

Chairman: Would Mr. Foulkes like to take the first question?

Mr. Neil Foulkes: Regarding the liability question, it is beyond my ability to answer that. That will be a matter for the courts but it is certainly a question that needs to be asked and it is also a question, with respect to the changes in this Bill, that has not been asked up to this point. In terms of alternatives, as the Senator said, Clare County Council has a community hedge-cutting scheme. Such a scheme is due to be introduced in County Cork. There is one in County Leitrim and I am working with Leitrim County Council in connection with it. I believe Roscommon and Mayo are considering introducing one. The basic emphasis of those alternatives is to do what the overall alternative is. If we manage as much of the hedgerows as we can during the appropriate six months, the open season for cutting, that reduces the need for cutting during the closed period. It does not eliminate it entirely because there could be a need to cut vegetative growth again during the summer months in certain circumstances particularly on narrow rural roads. Those alternatives to try to get the necessary work done at the appropriate time will mitigate the need for cutting during the closed period where it can be damaging.

In terms of a pilot scheme, I totally agree with the Senator. It is very confusing as to whether we are regulating to do something in the month of August. There seems to be a general provision created by section 8. My personal view is that if section 8 was amended to allow a land-

owner to know that they were clear to cut under notice served by a local authority under section 70, that would clear up any of the issues. It would show that a landowner was not acting on their own decision-making. They would be acting on the basis of a decision made by a roads authority engineer. That would go some way to clarifying the liability aspect.

Senator Alice-Mary Higgins: I wish to add a sentence directed to the ICSFA and Bird-Watch Ireland. Reference was made to the diversity and mix in farming. The witnesses might touch on horticulture and where that fits in especially in terms of the role of pollination in respect of horticulture.

Dr. Alex Copland: I thank the Senator for her question. She mentioned the value of hedges in the Common Agricultural Policy. Hedges provide very much for biodiversity, for carbon sequestration and for the management and interception of water flow in regulation of water, which is hugely important. One point that strikes me is that Ireland, through Food Wise 2025 and its Origin Green programme, is promoting itself as being a sustainable agricultural economy and leading the way. I was very surprised yesterday to hear just how poorly Ireland is performing regarding its emissions and that it is one of the worst-performing countries in Europe.

Deputy Éamon Ó Cuív: I am surprised about this. This is a joint committee and the Senator has already discussed this issue. We are here for the purpose of having a preliminary discussion on the Heritage Act, not on environmental warming. I would love to discuss it and I could do so all day. There is total inaction on eliminating petrol cars and having electric cars in their place, but that is not the purpose of this meeting.

Chairman: Point taken. The Deputy has made his point. I ask that members stick as close to the purpose of the meeting as possible. I remind them that we have to vacate this room at 1.30 p.m.

Deputy Éamon Ó Cuív: Many of the committee members have-----

Chairman: Only one committee member has indicated a wish to speak.

Senator Alice-Mary Higgins: I would be very happy to waive answers to my questions to allow the committee members in.

Chairman: I have not had an indication from Deputy Ó Cuív.

Deputy Éamon Ó Cuív: The Chairman has an indication from me now.

Chairman: We might just focus on-----

Senator Alice-Mary Higgins: The Chairman should focus on the committee members and I am happy to waive the answers to my questions.

Chairman: Only two committee members have indicated to me, and now four committee members have indicated. I will call Teachta Collins first.

Deputy Michael Collins: The witnesses from the ICSFA, the Hedge Laying Association of Ireland, the Inland Waterways Association of Ireland and BirdWatch Ireland are all very welcome. As a Deputy, I represent a rural constituency in south-west Cork. A witness from the Hedge Laying Association of Ireland said that it cares passionately about the wildlife. I am a farmer and I also care passionately about the wildlife. I grew up on a family farm. I worked with my aunt on a daily basis and she used to leave the doors and the windows open so that

the birds could come in and feed. We should remember that the hills were still being burned at that time and the birds used to come in. They were alive and able to come in. I am engaged in organic farming, therefore, I am coming at this issue from an environmental perspective. There are two words missing from all the discussion that has taken place last week and this week. They are the words “common sense”, which are two very important words.

The average income for ordinary farmers has dropped and they find it very difficult to manage. Of all the organisations represented here, I must pay tribute to the ICSFA. Everybody will say I am doing that because I am a farmer but that is not the reason and I have proof of that. The small farmers in particular in west Cork, Kerry and parts of the west were severely fined for having gorse on their land. Some farmers are facing fines of anything from €5,000 up to €25,000. We got some help from the IFA and the ICSFA stood strong behind us. I mean no disrespect to any of the other witnesses present but none of their organisations ever stood behind us and that was the time to stand behind us. We had public meetings throughout the west. I attended them on different nights. We are bringing a case against the Department of Agriculture, Food and the Marine to put the matter straight and to protect farmers and the wildlife. There is nothing nicer than having some gorse on one's land, but the Department of Agriculture, Food and the Marine has fined farmers for having it on their land and has put the gun to their heads. I was at those meetings most nights and Mr. Seamus Sherlock, seated behind Mr. Eddie Punch, can prove that. Whether it was in Mayo, Kerry, or west Cork, we had to raise money to take a case to protect the environment. I never saw any of the other representatives here at a public meeting shouting or roaring or giving us some support. It would have been great at the time to have received some support. There is no point in shouting now because the damage is done.

Chairman: We made a special request that we would focus on the Bill.

Deputy Michael Collins: Yes, and this is about the Bill. It is about burning gorse on the land. It has forced farmers in some cases to try controlled burning, but they cannot do controlled burning if the season is not there to do it. Calendar farming does not work. Anyone who tells farmers they can do this or that at certain times is no farmer and simply does not understand. Calendar farming does not work. We would like to think that it could, but we have a wet climate. Unfortunately, now there is illegal burning and out-of-control burning. As I said at the meeting last week, I met representatives of the Department of Agriculture, Food and the Marine, the ICMSA and others last week. I remember leaving the office and the last words I said were that they would be the cause of an inferno in this country and that rural Ireland would be put on fire. That is what happened last year. There was extraordinary loss to wildlife and so much more. No one was listening. We got little support at the time. We are bringing a case which is to be heard in the courts. We were fighting for the protection of wildlife at the time and we needed help.

There are two types of hedge cutting or verge cutting or whatever one wishes to call it. There is roadside verge cutting and there is farm verge cutting. The two should be separated because we are talking about the need to verge-cut on health and safety grounds. That is ridiculous.

Verge-cutting should take place in June or July. This Bill does not go nearly far enough. The people of rural Ireland want their verges cut once per year. It is done on the roadside for safety. We should forget about saying that people can cut around a bad bend. It is continuous. It is a matter of roads meeting each other and people trying to sieve their way through. It is damaging cars. Rented cars are being taken back scratched and torn. People are losing deposits because of these things. Holiday makers who come here say it is crazy and that the roads are

closed. I took a call in Goleen, where I live, from a man in Limerick. He said he could barely get to his home place in July when he came back on holidays. He asked our community to cut the verges. We could not do that because we were not allowed. I had little or no answer for him because it was a continuous road. We got a grant aid from the local authority, Cork County Council, recently. There are many good environmentalists in my community council, but when the forms were put on the table those people grabbed them. The verges were cut because we were nearly meeting each other on the road.

There may be an argument for such a proposal inside the farm, but no one should be talking about health and safety on the roadside, because all narrow roads in rural Ireland need to have their verges cut. The local authority cut them 30, 40 or 50 years ago. Council workers cut them with scythes. They kept them nice and clean. Once a year at least every roadway got cut back.

The funny thing is that I never hear anything from the representative groups about motorways. The verges are being cut there all the time. I travel to and from Dublin. The silence is deafening from the action groups. That should be stopped. There is no bother cutting the verges on the motorway from Cork to Dublin on a weekly basis throughout the summer. We can see three or four tractors in different sections cutting away. We often hear that there is one law for the rich and one for the poor. That is certainly the way it works in this country. They can cut them where it suits, but they will not cut them where it is needed.

The Inland Waterways Association of Ireland put a strong case. The issue of clearing rivers is brought up often. The issue is linked with the remarks of the representatives of the Inland Waterways Association of Ireland. There are serious issues. People need to clean their rivers to stop their homes from being flooded. That is being prevented for various reasons. I have a place in Ballylickey in west Cork, where six houses get flooded on a regular basis. Home owners are terrified if there is a flood on the way. The river was cleaned in 1966 but it has not been cleaned since. Until about five years ago it was not a problem, but it has become a major problem now. We cannot put a machine in there because there is a pearl mussel in the water. The pearl mussel is taking precedence over the family homes where young people and elderly people are terrified. The local authority was throwing sandbags during the last storm. People rang me on the Sunday evening to say there would be flooding on the Monday and they were terrified in their homes. The two words missing from all this are “common sense”. Ms Duggan said everyone should be sitting around the table and I think she is right. That is something to be done down the road. We stand very much on our own in rural Ireland. I proved that with the case of the Department of Agriculture, Food and the Marine issuing fines to farmers and pushing us to the limit.

Chairman: We have five people left who want to come in with questions. We only have 25 minutes left. The Senators are here since the beginning at 11 a.m., half an hour before the committee started. I suggest we take all the questions together and then allow for all the questions to be answered together. Is that agreed? Agreed.

Deputy Éamon Ó Cuív: It is important to note that there were hours and hours of this in the Seanad. Teachtaí Dála are the only people who can take part in the next phase of this operation, Committee Stage of the Bill. That will involve any Teachta Dála who wishes to take part. It is important to focus on that because I suggested that this consultation take place before the Bill came in. It will probably be the last round. Obviously, if we make amendments they will have to go back to the Seanad. This will be the last full out-of-face look at the Bill.

I am keen to deal with the burning issue first. The burning issue is different from the hedge

cutting in that the technology for burning hills has been there since the earth was created and since uplands came about. It is interesting to note that Ó Raifteirí's poem about Eanach Dhúin refers to "Loscadh sléibhe agus scalladh cléibhe ar an áit ar éagadar". That is exactly burning of the hills. It is the same term as the term we used to report what happened last summer. This has been happening, naturally in some cases and on purpose in others, and has been a hill management technique for a long time. What we know is that even though it has been happening, the birds survived until recent times. In fact, the big decline happened in recent times. Farmers doing this in a controlled fashion are in line with sustainable ecology.

I remember when destocking took place. We warned that the hills would get woody. That would bring all the problems all the deputations alluded to, but that have nothing to do with this Bill, that is, illegal burning, accidental or deliberate, in April, May and June - in the dry seasons. The places became too woody and the least thing could set them off. When they are set off, as we saw last year, it can cover acres of land.

The question we have to consider when looking at this Bill is whether controlled burning in March would cause far less damage and reduce the risk more significantly than stopping burning altogether. Any talk of burning most of our hills in January or February is a non-starter because of the weather. They should be allowed go up of their own accord or otherwise but not by the landowner later on when the seasons get dry. They become dry at that stage. That could be caused by as simple a thing as someone leaving a bottle behind on a mountain and the sun getting to it and setting it off like a tinder box.

In looking at the provision, I will be considering where the best management tool lies. It is relevant not only for the use of land but also in terms of the ecology, the environment and the natural habitats. I am told where I live that the biggest threat to the curlew, the crotach glórach that Pearse referred to in his poem, is a little mammal called the mink which is in the wild. Perhaps we need a programme to deal with mink. This is a particular problem on islands and lakes where mink swim in areas where foxes cannot. The big difference is that we know what was sustainable in the past. If we could return to that, the issue would be dealt with.

The original proposal in the Bill was to allow hedge cutting in August on every side of a field. Fianna Fáil took that on board at that stage. Farming organisations lobbied us to go back on part of that and we will listen to every side of the argument. We thought that was unnecessary and was in the interests of contractors rather than wildlife. We said cutting should be limited to roadsides. In most cases section 70 of the Wildlife Act is not practical. The most interesting contribution today came from Mr. Swan who said that in a former day job, discretion was used when farmers cut 100 yards in each direction having left fields in which they were cutting silage. There is no question that that involved breaking the law because no local authority sanctioned the practice, but prosecutions did not happen. I like his honesty because that is happening throughout the country. People think that rural roads allow two cars to pass, but many are like a railway line with one track on which only one car at a time can travel. The reality is that people cut back the bushes on such roads in June, July and August. If they did not do so, the danger would be overwhelming. Allowing such activity in August is reasonable.

I would love to see scientific evidence that nature is so stupid that it keeps reproducing in vulnerable parts of roadside hedges and birds keep building nests. The birds in my area use man-made objects to nest under roofs and eaves. They seem to be savvy about what to do and not to do. I am not convinced that they are always nesting in roadside hedges. I am not an expert. A lot of nature seems to adapt fairly quickly. I wish to make clear that these are the issues we will be considering. We restricted the Bill hugely.

I have prepared an amendment to delete section 8 because it is not what I believe in. I promised to do so on Second Stage. I want to test whether my reading of the Bill is the correct or incorrect reading. I understand that if section 8 was not in the Bill, the particular section would not be operable during the relevant month. All it does is return things to the *status quo*. I understand it allows section 70 cutting to take place on the order of a local authority, but does not change in any way the requirement for a local authority to permit a person to do the cutting. Rather, it allows a local authority to give permission. As I said, we will test that on Committee Stage. The Minister will be here. If I am satisfied that the Chairman is right and she is wrong, we will delete the section or amend it on Report Stage. If I am satisfied, having listened to the Minister, that the advice of the Attorney General is as I have read it, namely, that it only restores the *status quo*, I will withdraw my amendment. I want to be clear about my approach. To be sure, I have prepared an amendment.

Chairman: Deputies have ten minutes to ask questions and get answers. So far, they have used all of that time to ask questions and have left no time whatsoever to get answers. There are 15 minutes remaining and four Deputies have yet to speak. If we use all the time to speak, we will not get any answers. I ask people to leave some of their ten minute allocation to allow the guests who have travelled here today to answer their questions.

Deputy Éamon Ó Cuív: The answers will be given in the Committee Stage debate. People can sit in the Gallery and listen.

Deputy Danny Healy-Rae: I welcome the ICSFA, the Inland Waterways Association of Ireland, BirdWatch Ireland and the Hedge Laying Association of Ireland. I want to talk about roadside hedge cutting. Many people in rural Ireland, including me, believe that roadside hedges should be cut all year round for the safety of road users. There is no problem with restrictions inside ditches. The countryside is available for birds. As Deputy Ó Cuív said, birds are not so foolish as to make their nests on the roadside where the winds and lorries would blow their feathers off.

At the current time, no local authority does anything until 1 September in respect of road hedges. It takes them two or three weeks, or the entire month of September, to send out letters to landowners and nothing happens. By the time farmers receive letters, growth has stopped. In other words, no hedge is cut as it grows in the summertime. It is unfair that people who are walking and cycling and those operating school buses and transporting lorryloads of hay and products to farmers are being prevented from travelling. The mirrors on lorries and buses are being broken at a cost of €1,200 for each one. School buses are refusing to do school runs because of what is happening. The roads are very narrow and there is room for only one vehicle. As Deputy Collins said, they are being scratched, torn and destroyed, which is not fair.

Will people be asked to stay in the middle of roads because of an insect or something else? All we are asking for is fair play for the people who are using our public roads. They are entitled to that, and I make no apologies for that to anyone here for asking that roadside hedges be cut all year around. It is only fair play. We will support the birds, bees and everything else. We must remind people that ground nesting birds are being affected by grey crows, magpies, mink, badgers, pine martens and rats. There is no discussion about doing anything about them. Who is taking pheasant eggs? They are being taken by other vermin. Nothing is being done about that. We have been told that time is scarce. How can landowners cut hedges when they are not allowed to do so between February and September? We are asking for another month, but people are not agreeing to that. I ask that roadside hedges be cut all year around because that is what we are entitled to.

Why does the burning season in Northern Ireland not expire until 15 April? We are in the same country. Later burning provides a better chance for ground recovery. We cannot burn it any earlier because of weather conditions. If the green grass is allowed to grow up towards the end of March and early April, the fire will be ever so light. The grass will grow and it will be there when it is needed in May and early June. If one burns earlier, the fire goes too strong and the grass does not recover until much later, when the grass is not needed as much by the sheep and cattle because they will be down in the lowlands where there is plenty of grass at that time. Then it must be burnt again the following year because the growth will be too strong. When it goes too strong, the cattle or sheep will not eat it. There is only one way of getting rid of it. A lawnmower cannot be used because the ground is too rough and it cannot be cut with a forage harvester. A few years back the farmers were told they had to destock because the ground was being overgrazed. They were paid premiums to destock and, as a result, farmers in the uplands do not have as much stock now as they had. If the powers that be and the environmentalists left the farmers alone, they would be the best custodians of the land because they know how to mind and preserve it. They hand it from farmer to son as they have been doing for centuries.

Mr. Copland said it might be all right to burn the uplands if it was for farming but not if it was only for payments. I regret that he said that because the payments farmers get in the post are not gifts. They are compensation for the payments they should be getting for their produce. No farmer anywhere wants anything for nothing. I know most of them on my side of the country and they work hard for what they get. However, if the price being paid for their produce is reduced because of European regulations, they are entitled to those payments. They are compensation, they are not gifts. I want to remind everyone present who is not a farmer of that.

Chairman: We will have no time for answers to questions.

Deputy Danny Healy-Rae: What the farmers get is compensation and we make no apologies for saying that. It is compensation, not a gift.

Senator Grace O'Sullivan: I would like to ask Mr. Dolan for confirmation on something and to thank him for his presentation. On the pre-legislative consultation with the Department, did he say that it happened or did not happen?

Mr. Joe Dolan: It did not happen, no.

Senator Grace O'Sullivan: It did not happen. Was the ICSFA involved in pre-legislative consultation with the Minister and the Department?

Mr. Eddie Punch: We did have a meeting with the Minister, Deputy Heather Humphreys.

Senator Grace O'Sullivan: That was prior to the Bill being-----

Mr. Eddie Punch: No. It was subsequent.

Senator Grace O'Sullivan: Were BirdWatch Ireland or the Hedge Laying Association of Ireland involved in any such consultation? They were not. I just wanted to clarify that because of the importance of consultation and, as Ms Duggan mentioned, the importance of having fora in order that stakeholders can get a positive process under way so that we do not have to have people getting frustrated here in the meeting.

The report on national biodiversity indicators was launched yesterday. It said, "91% of Ireland's habitats designated under EU law are of 'inadequate' or 'bad' status", and:

10% of Ireland's 31,500 species have had their conservation status assessed. Of those, 3% are now extinct, 15% are assessed as under threat of extinction and 9% as near threatened.

We have a problem with biodiversity. I want to put on the record that when we talk about the uplands and the hedgerows, we are not just talking about birds. We are talking about a range of species. We have the pollinators. We have spoken with the Irish Cattle Breeding Federation about the importance of the hedgerows for pollination and about the services pollinators provide to the farming community. In addition to pollinators, hedgerows are important for bats. That is something which has not been discussed. When we talk about biodiversity with regard to the legislation, we should really look at the broad range of it.

I thank Deputy Ó Cuív and Fianna Fáil. In the process of discussing the legislation in the Seanad, it was great to see that parties are open to looking at change. I just wanted to make the point that biodiversity is about more than just the birds.

Senator Fintan Warfield: I will waive my questions on burning and hedgerows and will instead discuss the canals, if that is okay. I will ask Mr. Dolan for additional briefing on his statement. It says, "Waterways Ireland wish to immediately reintroduce the proposed 2012 by-laws and increase charges to the maximum level to attract private marina operators onto the canal". Will Mr. Dolan brief the committee a tiny bit further on that? The canals section of the Bill was obviously a substitute for what was promised, namely, a dedicated canals Bill. My understanding is that was what was promised. He need not be exhaustive but will Mr. Dolan tell us what a workable, dedicated canals Bill, which would be progressive for users, residents, business and tourism, might look like? I was going to ask him about the impact of the appeals process but I think he has dealt with that in his contribution.

Deputy Catherine Martin: On the curlew and the yellowhammer, which were mentioned before, some speakers have mentioned existing threats to these birds which are at risk of global extinction. As I am not an expert in this field, perhaps Mr. Copland will confirm that March is a month of nesting, is it not? Is that when they establish territories and so on? Will Mr. Copland confirm whether this Bill will decimate these species? I am thinking of my children. If there are only 120 pairs in Ireland and this Bill then comes in, what happens to the yellowhammer and the curlew for the next generation of children? Will they ever get to see curlews or yellowhammers?

On the pilot project to which Mr. Copland referred, how exactly will that work if there are no baseline data? How can we have a pilot project if we do not know where we are starting from? How will we know what damage is done? We talk about common sense. I would have thought data would be needed to work out the results of the pilot. Surely there must be comparisons. I would have thought that.

As a follow-on from my colleague, Senator Grace O'Sullivan, on the issue of consultation, does anyone know if the Attorney General has been asked to review the legislation in light of the amendments made in the Seanad? Do we know if the Attorney General is satisfied that the provisions of the Bill, particularly those contained in section 8, would be in compliance with the strategic environmental assessment directive and the habitats directive?

Chairman: Gabhaim buíochas leis na baill as sin. There were a lot of questions there. I would like if the witnesses could each go through the questions as best they can in a succinct fashion. We will start with the Irish Cattle and Sheep Farmers Association.

Mr. Patrick Kent: On the issue of the pilot, it was only relatively recently that legislation on the timing of hedge cutting was introduced. Hedge cutting would have been done at a farmer's convenience in the past, during winter months as well as summer months. It was done on the basis of necessity. We probably need something stronger than a pilot project. We need this extension to get those hills burnt and so on and so forth. I compliment the three Deputies on their common-sense approach to tackling the issue. Each of those men is from a rural area and is familiar with what is happening in rural Ireland on the hills and the mountains, along the by-ways and all the rest. It is people like them who should be making the laws and the legislation. Farmers do not work nine to five.

Deputy Catherine Martin: I am from the stony grey soil of Monaghan. I was born and bred in rural Ireland.

Mr. Patrick Kent: They do not work nine to five. They work 80 or 100 hours a week when it is required. They adjust to the seasons and do the work as it is needed. Being restricted by date systems, like with slurry spreading, has not worked. Farmers have been told to spread slurry when conditions were not suitable just because it was a specific date. It has not worked. As with the hedge cutting, there needs to be flexibility. Just because the date is fixed, every hedge cutter in the country will not go out and work those few weeks extra. It would allow them the flexibility to do the work in an appropriate manner at a time that suits and to suit their workload. By spreading the hedge cutting it would allow the birds to adapt and there would be less blanket hedge cutting and so on. Flexibility and common sense are needed. I compliment the three gentlemen here on their common sense. That is why they have been elected.

There has been a big focus on emissions, hot air, gasses and global warming but nothing at all is being mentioned about sequestration and the fact that the pastures of Ireland are sequestering far more carbon due to specific animals.

Deputy Eamon Ryan: We should not burn it then.

Mr. Patrick Kent: We need recognition of that in the CAP reform. It appears to be the only game in town on reducing the CO₂ levels in the atmosphere of 420 parts per million. If we can get it down by 2° or 2%-----

Chairman: We need to focus on the actual Bill itself.

Mr. Patrick Kent: Yes, but it was addressed and thrown in there, and I am answering in that regard.

Chairman: It was and it was cut down too.

Mr. Patrick Kent: We certainly need flexibility. I compliment the people who have spoken about common sense.

Chairman: Would a representative of the Inland Waterways Association of Ireland like to respond to some of the questions?

Mr. John Dolan: We were never promised a stand-alone Bill. We campaigned for it and sought meetings with the Minister, but we never obtained one. We did have a meeting with the Department while the Bill was in the Seanad. A stand-alone canals Bill would allow time for stakeholder consultation. It would allow time for engagement with the communities along the canals and with those who use the canals to see where the potential lies for developing the

canals. Some of those communities, especially in rural areas, have been hard hit economically. We could not afford to build these canals now and we cannot afford to lose them through poor legislation and by-laws either.

It is appropriate that a canals Bill such as that would look at the needs of the requirements in respect of bigger cities, towns, villages and residential areas. There is no one-size-fits-all recommendation. With respect to the committee, it has been said to us by many people within the Houses and by the public that the percentage of discussion on the canals that has been achieved indicates that this is not the right Bill in which to deal with the canals issue. It does not mention canals in its Title and it struggles to get at the forefront of the agenda in the discussion on any legislation as it goes forward.

To sum it up, the simplest thing to say is that if a tyre is deflated, we do not reinvent the wheel. We do the best we can to inflate it and bring the tyre pressure back up to a performance level. This is what is needed with the canals. We do not need to reinvent the wheel with a whole new set of legislation and by-laws, especially with regard to licensing agreements. For something that should be as simple as taxing a car, a person has to fill out a nine page document, get four signatures, two witnesses and a seal of office. It is crazy. A fit-for-process, user-friendly and stand-alone canals Bill is required, with the legislation and canal by-laws that would come out of this.

Chairman: Go raibh maith agat. Would BirdWatch Ireland like to contribute?

Dr. Alex Copland: With regard to roadside verge cutting happening every year, in some cases the verges might need to be cut several times a year, particularly where they are closed right in over the road. Near where I am located there are certainly roadside hedges that could probably do with being cut two or three times during the summer season alone to keep the vegetation back off the roads. I reiterate that where vegetation needs to be cut back to maintain access and health and safety on the roads, we are not opposed to that or objecting to that in any way, shape or form. It is already allowed in the Wildlife (Amendment) Act. We have said that by having a provision in the Heritage Bill to allow it happen in August means there is no clarity at the moment. On the management of hedges at roadsides, we have no problem at all with cutting during the closed season if that is needed to maintain the access and or health and safety. There is no problem there at all.

Burning did not drive bird declines. There have been a huge number of different impacts in the uplands such as overstocking damaging habitats and the drainage of land. While burning did not drive the decline, we are at a stage where there are only 120 pairs of curlew. We really need to do everything we possibly can to protect what we have left. We are looking at how to help the few individuals and the few sites that remain. By burning in these areas, those spaces will be removed for these species and their range becomes restricted.

Deputy Éamon Ó Cuív: Perhaps Dr. Copland would send this information on to me.

Dr. Alex Copland: I believe the information is available from the National Parks and Wildlife Service. I would not have it.

Deputy Éamon Ó Cuív: Does the witness have a list of the sites?

Dr. Alex Copland: I will endeavour to get it for the Deputy. Birds do nest in hedges. This is not up for debate. They are there, I am afraid, and----

Deputy Éamon Ó Cuív: I want to know-----

Chairman: I am sorry to interrupt the Deputy but we are already-----

Deputy Éamon Ó Cuív: It is important. There were three questions we had and that is two-----

Chairman: I will ask Dr. Copland to proceed please.

Deputy Éamon Ó Cuív: Are they likely to-----

Chairman: I will suspend the meeting.

Deputy Éamon Ó Cuív: Are they likely to nest in hedges where lorries or vehicles come along and shake the-----

Chairman: This meeting is now in private session.

The joint committee went into private session at 1.36 p.m. and resumed in public session at 1.38 p.m.

Deputy Éamon Ó Cuív: We want to consider this seriously.

Chairman: We cannot start the meeting again until-----

Deputy Éamon Ó Cuív: When the lorry keeps going down the road and whacks off the bushes all the time, are the birds likely to nest in those branches?

Chairman: I would ask Dr. Copland not to answer this question.

Deputy Éamon Ó Cuív: Will the witness address that question?

Chairman: An Teachta Ó Cuív, will you desist from asking the questions? Let us continue in public session and finish this meeting. Deputy Ó Cuív was half an hour late to the start of this meeting and-----

Deputy Éamon Ó Cuív: I was not.

Chairman: -----this is one of the reasons we are having such difficulty getting the meeting done in time. We are now here and looking to give this time to the guests. It is the guests who have come, and most of the people who asked questions on this side of the table today used up the full ten minutes of the time to ask the questions. We need to give that time to the guests to answer the questions. I am going to resume the meeting if Deputy Ó Cuív will please desist from that.

Deputy Éamon Ó Cuív: In reply to the issue of being late, time and again since this committee was formed I have spoken up about the unsuitability of early morning meetings on the days that Deputies travel to Dublin. This affects those Deputies who live in the parts of the State that are, in large part the subject of this Bill.

Chairman: That is fine for a discussion among ourselves.

Deputy Éamon Ó Cuív: The Chairman is the one who raised it.

Chairman: The Deputy is eating up the guests' time.

Deputy Éamon Ó Cuív: The Chairman had put the meeting into private session. There should be no one here except ourselves.

Chairman: The Deputy is eating up the time. Teachta Ó Cuív-----

Deputy Éamon Ó Cuív: Are we in private session?

Deputy Danny Healy-Rae: And because Dublin traffic is clogged, it took me as long to get from Kildare to the Dáil as it took me to get from Kilgarvan to Kildare.

Chairman: That is a discussion for ourselves.

Deputy Danny Healy-Rae: Keep at it. Keep bringing them in to Dublin and keep an empty rural Ireland.

Chairman: The committee is in public session. Will Dr. Copland please continue with his answers?

Dr. Alex Copland: Deputy Healy-Rae referred to the predation of ground nesting birds by a range of species. Foxes could be added to that list also. Predation is an issue we must tackle for some of these species but it is not driving the decline. It is simply the case that these species are now so rare, they are vulnerable to any loss of habitat and any loss of nesting success. Predation has become part of the problem. It does not drive the decline but it certainly is now an element we have to tackle because the populations are so scarce.

Deputy Danny Healy-Rae: The hills could be burned. The hills in those places were being burned before-----

Chairman: We will have to suspend the meeting again if Deputy Healy-Rae interrupts.

Deputy Danny Healy-Rae: -----and all the birds that the witness is talking about were there at that time.

Chairman: I apologise to Dr. Copland.

Dr. Alex Copland: I must offer a clarification. I spoke of the need that farmers have to make the land eligible for payments through EU regulation, which is outside the debate of the Heritage Bill. I acknowledge that this is a huge issue and it must be tackled through CAP reform. It needs to happen in instances where there are-----

Deputy Danny Healy-Rae: Is the witness saying the farmers should not get the payments as compensation for not being paid properly?

Dr. Alex Copland: No.

Chairman: The meeting is suspended.

The joint committee went into private session at 1.39 p.m. and resumed in public session at 1.40 p.m.

Dr. Alex Copland: I will conclude on Deputy Catherine Martin's comments. Yes, we could lose the curlew completely. If we have declining species and we are not doing something for it, then it is a risk. We do need to address the issues and take all reasonable steps to tackle the issues. There are a huge number of issues that are now impacting on the curlew. They include

predation, destocking and habitat damage but there are many other issues in the area of forestry development in the uplands and the draining of agricultural land. There is a huge number of issues affecting them, so we must use every resource at our disposal to try to protect them to make sure they continue. Yellowhammers are not quite there yet but they are on the red list and are doing very badly. The last species to become extinct in Ireland was the corn bunting, which is very closely related to the yellowhammer. Extinction can and does happen.

There is no baseline against which to compare. Three years of bird nesting seasons have come and gone since the start of this consultation and data have not yet been collected, despite requests. We collected some with funding from the Heritage Council this year, but it was only a very small amount of data in a couple of counties. We need to have a good system of data collection on which to base the policy rather than to bring in legislation and then see what happens.

Ms Oonagh Duggan: In response to Deputy Catherine Martin's question about how this legislation complies with the birds directive and whether the Attorney General had been informed, we understand from the National Parks and Wildlife Service that there was some communication between the Department and the Attorney General. We have seen no documentation to that end to indicate that the Attorney General is satisfied. We know from information under the access to information on the environment legislation that we received from NPWS that there were significant concerns among its staff about compliance with the birds directive. I am not sure if that has been resolved.

The curlew is not the only species that is going to be impacted. BirdWatch Ireland's submission, sent in at the start of 2015, lists other species, such as meadow pipit, wheatear, stonechat, skylark, snipe, golden plover and hen harrier. We are not just talking about one species where we have some idea of locations. There are other species that are more widespread and not mapped that will also be impacted by burning in the uplands in that time.

Mr. Neil Foulkes: To respond to Deputies Danny Healy-Rae and Michael Collins, we were very clear at the outset. If there is a need to cut roadside hedges or verges during the bird nesting season for genuine reasons of public health and safety we have no objection. It is the mechanism of protection and the way that mechanism works. We are totally in agreement with the principle.

To respond to Deputy Ó Cuív, we welcome what Fianna Fáil did for this Bill during its passage through the Seanad. We have corresponded briefly on this and have different interpretations of section 8. Mr. Val Swan agrees with my interpretation, as someone who has been involved in the enforcement end of things. I welcome the Deputy's statement that this will be looked at and resolved on Committee Stage. Instead of "pursuant to section 70", I believe that if the words "pursuant to a notice served under section 70" were added we would all be in agreement. It is a very minor change but it would make all the difference from our perspective.

Chairman: We are closed for questions.

Mr. Neil Foulkes: On the question of whether the Attorney General was consulted, having looked in great detail at the birds directive and section 8 of the Heritage Bill, I would find it very difficult to believe that the Attorney General's office has had a look at that and decided that it complies with the directive.

Deputy Michael Collins: My question was not answered. Farmers are being fined in rural Ireland for having gorse on their land. When it was time for BirdWatch Ireland and the hedge

growing group to stand by the farmers, where were they?

Deputy Danny Healy-Rae: Is Mr. Foulkes aware of the damage that seagulls, grey crows, magpies, mink, badgers, pine martens and rats are doing to ground nesting birds, and is that being tackled at all? I do not hear anything about it.

Deputy Éamon Ó Cuív: Have the organisations heard that Europe is going to fine Ireland and Irish farmers very considerably for assigning ineligible land to the land parcel identification system? A significant fine is on the way because the EU wants to declare the land we have under that system ineligible, which is going to have a huge impact on farmers, particularly upland farmers. I hear from the rumour mill that this is on the way.

Chairman: There are three separate questions. The last question is probably for the Cattle and Sheep Farmers' Association.

Mr. Eddie Punch: We have heard some talk but we have not seen any specific detail on it. It is true to say that land eligibility is the most contentious issue around all this. Deputies alluded to the fact that what happened to farmers in 2013 left a very significant scar. Farmers were told they must keep land in good agricultural condition and in good environmental condition. The two things are impossible to achieve because of the rigidity of the regulations around it.

Dr. Alex Copland: I do not have the statement here, but at the time that issue arose we made a joint statement with the Irish Cattle and Sheep Farmers' Association and, I believe, the National Association of Regional Game Councils, the Irish Natural Forestry Foundation and the West Cork Development Partnership on that and spoke to the Commission, the European Parliament and the Department of Agriculture, Food and the Marine about the eligibility concerns that had been raised at the time. I cannot remember the exact details of it but I know we prepared a joint submission and did some advocacy work on that.

Chairman: This is a very important issue for both sides of the fence, and it is clear that if we had more time we would ask more questions and would try to get more information about it. We have one island, and whether one is from a city or a countryside area the fact of the matter is that we are all stakeholders in this particular island. It is true that farmers are being hammered in this country. At the moment there are only 44,000 farms that are considered to be economically viable. That has to change radically. My view is that this needs to be done in partnership, and both sides of this debate should sit in partnership. I do not believe this Bill is going to achieve either side's ultimate aims, but we thank the witnesses very much for their presentations and participation today.

The joint committee went into private session at 1.47 p.m. and adjourned at 1.57 p.m. until 1.30 p.m. on Wednesday, 17 January 2018.