

DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

[illegible]

SEANAD ÉIREANN

Dé Céadaoin, 22 Deireadh Fómhair 2008.
Wednesday, 22 October 2008.

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Paidir.
Prayer.

Business of Seanad.

An Cathaoirleach: I have notice from Senator Jerry Buttimer that, on the motion for the Adjournment of the House today, he proposes to raise the following matter:

The need for the Minister for Health and Children to make a statement on the proposed transfer of cancer services from South Infirmar-y-Victoria Hospital to Cork University Hospital.

I regard the matter raised by the Senator as suitable for discussion on the Adjournment and it will be taken at the conclusion of business.

Order of Business.

Senator Donie Cassidy: The Order of Business is No. 1, the Harbours (Amendment) Bill 2008 — Committee Stage, which will be taken on the conclusion of the Order of Business; and No. 2 the Broadband Infrastructure Bill 2008, to be taken not earlier than 5 p.m. and to conclude not later than 7 p.m. The business of the House will be interrupted between 1.30 p.m. and 3 p.m.

Senator Frances Fitzgerald: Yesterday, we saw an ungracious climbdown by the Government on the decision to withdraw medical cards from those aged over 70. Reflecting on the way the Government has handled this and the various U-turns it has made, what strikes me and what is most disturbing is the lack of ideology or guiding principles in the Government's decisions. No attempt has been made to protect the elderly, the weak and the vulnerable or to invest in and protect our children. It was quite the opposite in this budget and it highlights the lack of guiding principles behind the Government's decisions in the budget.

There are no guiding principles in the Government. We suspected this all along but it has come into clear relief since the budget. The Government lacks principle and ideology. Over the past two weeks, the Government has been acting like a liquidator, liquidating various assets without thinking about what it wants to protect, keep and value in society. This week, we saw it with the elderly. The concern is who it will be next week. How will the cuts play out? I want the Leader to comment on a number of matters.

I also want to highlight the area of children and education where we see 32 cutbacks will be made. These will hurt and challenge teachers and make it difficult to provide basic frontline teaching services to children. It is also going to affect back to education, literacy and adult

[Senator Frances Fitzgerald.]

educations services. There is a complete lack of ideology in our approach to children in the classroom.

There are several problems regarding yesterday's decision on the elderly and the medical card. It does not restore the principle of universality to free medical care. It does not provide any assurance that the ground rules will not be changed next year. In fact, the Minister for Health and Children has taken it upon herself that she can now change the criteria. She is changing the rule that one can hold on to the medical card for three years. Legislation is to be introduced in this area. When will it be examined in the Seanad? This will create a two-tier, even a four-tier, system for the elderly.

The Government has had little to say on the hassle and burden of means tests. Means tests around the world have proved to be extremely difficult to administer. It has been proven everywhere that the very people who need a service often end up not getting it because of the means test. Fiscal policy would have been much a better way to go.

It is disgraceful that many elderly people have been driven to protest outside the Dáil today. I want it debated today in the Seanad. I propose an amendment to the Order of Business that we take No. 24 item 25. If it cannot be taken today, at least we should have some opportunity to discuss in detail what the whole country is talking about and is in every newspaper.

Senator Joe O'Toole: Yesterday, I made the point that these issues are being discussed everywhere, including the Dáil, yet we seem to be silencing ourselves on them. It does not make any sense. Members have views on both sides of the House which they should be allowed articulate. I support the call from Senator Frances Fitzgerald that we need to discuss these issues and open the debate to allow Members say what they have to say. There is no point in people burying themselves in parliamentary party meetings. This is the place where points must be made. Even for the sake of the Government side, surely its Members have views they want to articulate and put on the record.

Serious difficulties are being faced by people. Last week, I called for the exclusion of the minimum wage bracket from the 1% income levy. Despite the fact that Members on the opposite side of the House did not agree with those of us on this side, I am glad at least somebody in the Government heard this call from various people. I welcome this important decision.

I do not believe the figure given yesterday that only 20,000 over-70s will be outside the medical card eligibility net. From checking the figures for retired public servants, without even checking those from the private sector, I am convinced the figure is way above 20,000. It must be remembered on retirement many people receive lump sums, gratuities and interest on those which all add up. The true figures need to be established.

Special educational needs assistants will be cut back. The Education for Persons with Special Educational Needs Act, welcomed by all sides of this House, will not be implemented and class sizes will increase. These affect ordinary people, whether they are elderly, in the education service or on low wages.

Senator Frances Fitzgerald: Hear, hear.

Senator Joe O'Toole: The so-called higher paid, those pensioners who earn €35,000 a year, will now have to pay for a medical card. The Government should stop using that terminology, describing these people as higher paid. It is disgraceful and only adds to people's feelings on the matter. They are angered, traumatised and incredulous by what they see happening.

The Government needs to reassess where it is going with this budget or else reconsider its position. It must restore confidence in its ability to govern, which is under question. It needs to listen and deal with the issues and if necessary introduce a mini-budget to deal with the unimplementable issues. When the Director of Public Prosecutions says he is not sure he will be able to perform his duty in implementing justice, then we have a serious problem. It is not just Members on this side of the House who are concerned.

Senator David Norris: Hear, hear.

Senator Alex White: I second Senator Frances Fitzgerald's amendment to the Order of Business. We need to have a debate on the medical card for the over-70s issue today. Senator Joe O'Toole is correct that everyone in the country is talking about these issues while we seem to be the only body that is not, apart from the opportunity to raise it on the Order of Business. We should amend the Order of Business to allow a debate with the Minister for Health and Children on this issue today.

There is nothing short of chaos in the entire budgetary process. Senator O'Toole is correct about people's lack of confidence in the Government. Yesterday I made the point, which a Member on the opposite side queried, that people do not believe what they are being told. That is a very serious matter for a government. It is one thing to disagree with a government but another not to believe it. There is a credibility gap with the figures behind yesterday's reversal and many other issues. The Government needs to engage seriously with the people, giving them the information and clarity they require and deserve.

Over the summer holidays, the Supreme Court brought in a serious judgment which involved criticism of the Legislature in respect of the health insurance scheme and BUPA. I am very critical of the ideology espoused by the Minister for Health and Children regarding the health services. This is one area, however, in which I agree with her. I support her position in the BUPA case in which she argued to the Supreme Court that the important principle of risk equalisation was a fundamental prerequisite for the effective operation of community rating. In other words, it is to share the cost of health care across the board and to charge younger and healthier people a disproportionate cost for health insurance to support those who are older and more in need of services.

It is a very noble communitarian principle which I would extend. The entire community, in particular those well able to pay more for health services, should be called upon to pay their fair share for a truly universal system of health care.

Senator David Norris: Hear, hear.

Senator Mary M. White: Hear, hear.

Senator Alex White: The communitarian ideals the Minister argued in the Supreme Court in the BUPA case should be extended across the board. For once and for all, let us face up to the need to have a proper health service with the same minimum standard of health care for all citizens, irrespective of income.

The risk equalisation scheme was interrupted in 2005 and has not yet come into place. When will the legislation be introduced for dealing with the effects of the Supreme Court judgment in the BUPA case? Will the Leader invite the Minister for Health and Children to debate the risk equalisation issue and allow us an opportunity to consider the wider question of universal health care which arises from this case?

Senator Terry Leyden: Will the Leader invite the Minister for Transport to the House to debate transport aspects of the budget, particularly the €10 and €2 airport departure charge? This would give us an opportunity to forensically examine the budget on issues such as this. Last week, we made a case for the medical card for the over-70s and the Government has responded positively.

Senator Jerry Buttimer: The Senator supported the budget measure last week.

Senator Terry Leyden: In this measure, a plane with a capacity below 20 passengers will be exempt from the charge. Such planes should be paying €20 per passenger when flying from an airport; small private jets should be doubly charged and not exempted. Dublin Airport has now a major advantage over Shannon——

An Cathaoirleach: Does the Senator have a question for the Leader? I do not want a debate on the matter.

Senator Terry Leyden: I am trying to elaborate on why I want the Minister for Transport to be invited the House. One can fly from Dublin to England and be exempt from the €10 charge but not from Knock, Shannon or Cork to England. That gives another advantage to Dublin Airport. Our job on this side of the House is to forensically examine the budget to ensure no other situation arises similar to that which arose last week. I suggest to the Leader that the matter to which I refer must be amended in the Finance Bill. It is being introduced in March 2009. We have the opportunity now. First, all the Irish airports should be treated equally. There should be no difference in the charge, whether one departs from Shannon, Knock, Cork, Waterford or Dublin. They all should be on an equal footing.

Senator Joe O'Toole: Table a motion.

Senator Frances Fitzgerald: A discussion document.

Senator Terry Leyden: Second, all private jets should be charged double the rate——

Senator Joe O'Toole: Hear, hear.

Senator Frances Fitzgerald: It is easier to means test the elderly than to means test the owners of the private jets.

Senator Terry Leyden: ——and those who are non-resident here should pay for coming back here for their weekends.

Senator Frances Fitzgerald: They can means test the elderly but they cannot means test the owners of the private jets.

Senator Terry Leyden: They should be paying for returning to the country as well. We have an opportunity.

An Cathaoirleach: Senator Leyden's point is made.

Senator Terry Leyden: We had those changed last week.

Senator Frances Fitzgerald: They can means test the elderly but they cannot means test the owners of the private jets.

Senator Terry Leyden: Read my speech on Thursday last.

An Cathaoirleach: Senator Leyden, your point is made.

Senator Terry Leyden: Read my speech on Thursday last.

An Cathaoirleach: I call Senator Buttimer.

Senator Frances Fitzgerald: They cannot means test owners of private jets, apparently.

Senator Jerry Buttimer: Senator Leyden has made the case for the new name of Fianna Fáil, which should be the flip-flop party. Yet again, he has underlined the double-speak of Fianna Fáil.

An Cathaoirleach: A question to the Leader.

Senator Jerry Buttimer: I am coming to that.

Senator Terry Leyden: The Senator's party has no credibility on the issue of people over 70.

Senator Frances Fitzgerald: That is outrageous.

A Senator: That is a disgrace.

An Cathaoirleach: Senator Leyden should not interrupt.

Senator Fidelma Healy Eames: The convenient side of Fianna Fáil. Talking out of political convenience.

An Cathaoirleach: No interruptions, please.

Senator Terry Leyden: Senator Buttimer constantly interrupts everybody in this House.

An Cathaoirleach: Senator Buttimer without interruption, please.

Senator Terry Leyden: But he never honours that, a Chathaoirligh.

An Cathaoirleach: Please, I am asking Senator Leyden——

Senator Terry Leyden: If Senator Buttimer honours it, I will honour it.

An Cathaoirleach: I make that decision and if people are not going to honour it, there is lots of room outside for them.

Senator Terry Leyden: I can show the Cathaoirleach ten interruptions on one sheet.

An Cathaoirleach: Senator Buttimer, without interruption.

Senator Jerry Buttimer: I understand why some Senators on the Government side are upset because they will not be there for long more.

An Cathaoirleach: That is not relevant to the Order of Business. The Senator should ask questions of the Leader on the Order of Business.

(Interruptions).

Senator Ivor Callely: Senator Buttimer is a long time on that side.

Senator Jerry Buttimer: Like Senator Fitzgerald, I ask the Leader to hold the debate today on No. 24, motion 25, today. In so doing, I ask him whether he and the Members on the Government side defend the savage attack on the elderly. If we are serious about politics, then today is a day when we should have a debate about the fact that over the past seven days, elderly people have made sacrifices in taking medication and in attending general practitioners because of fear and confusion.

Senator Kieran Phelan: A speech.

Senator Jerry Buttimer: We were accused in this House of playing politics. We have not played politics with it.

Senator Terry Leyden: Ask Deputy Reilly.

An Cathaoirleach: Members, please.

Senator Jerry Buttimer: Has this Government forgotten the old idea to which we all aspire of respect for our elders? Have we abandoned the constitutional claim to protect and cherish our young people? Will the Leader stand over the 32 cuts in education that will worsen class sizes and lead to a denigration of the provision of education for all our young people?

Senator Mary M. White: I thank the Cathaoirleach for arranging to take on the Adjournment last night the motion on Irish prisoners abroad.

An Cathaoirleach: Yesterday's business is over and done with.

Senator Mary M. White: I thank the Minister for Foreign Affairs, Deputy Martin, for coming to the House himself and bringing Members up to date on the tremendous work and how many of the recommendations have been implemented.

Senator Ivor Callely: Hear, hear.

An Cathaoirleach: Questions to the Leader, please.

Senator Mary M. White: It is a great result on a matter I raised a year ago and I am most appreciative.

I call on the Minister for Health and Children, Deputy Harney, to come to the House for a debate and an open discussion on the issue of the quality of life for older people in our country. Yesterday morning I attended the meeting in Westland Row church. One had to be there to really experience the atmosphere. It is no good telling people there were so many present. I thought approximately 1,800 people were present. Judging by the people's faces, most of the women were ex-public servants or civil servants. Many of the women who spoke stated that they had had to give up their jobs when they got married. They stayed at home and minded their families because they had had to give up their jobs. They did not have an income of their own and they felt they were being thrown aside by the Government.

Senator Fidelma Healy Eames: By Fianna Fáil.

Senator Mary M. White: I feel personally responsible as a spokesperson for the Government in the Seanad on older people. I want to hear what the Minister has to say about her vision for older people so as to regain their confidence.

Sitting in the church yesterday morning felt like when the candlelight masses were held on Wednesday mornings in Leipzig and big cities in the former East Germany calling for the wall

to be brought down, the emotion was so high. No one can criticise what happened or was said there unless he or she was sitting there.

Senator Alex White: Hear, hear.

Senator Fidelma Healy Eames: Hear, hear.

Senator David Norris: I agree with every single word uttered by Senator Mary White. I was present at the church. It was an astonishing spectacle. I have never experienced anything like it. It was the risen people.

It is extraordinary that Fianna Fáil, which was always the party *par excellence* in terms of being in touch with the grass roots, seems to have lost its antenna. It did not listen to the people on this issue and now the people will not listen to it. When the Minister of State, Deputy John Moloney, went to the microphone a palpable wave of anger travelled down the body of the church and walloped off him, as it were. His face went parchment white. The microphone was taken from him and he was told, “Shame on you; shame on you.” It was an extraordinary spectacle and very dangerous.

As we head into an economic storm, the one thing we need is a sure hand on the tiller and firm Government that has moral authority and the support of all the people, including the different parties. By political cack-handedness, regrettably, the Government has lost it. Its targets were wrong. It is not that the Government does not have an ideology. It is that too much ideology has leaked in from the Progressive Democrats. Competition is all we heard about.

We hear, for example, Members on the Government side of the House raise the issue of universality. They are against it but are for it when their Government puts a 1% tax on everyone, which is the most shameful measure I have ever come across in my life. I will say what they are doing because I have tried to say it and I was stopped.

An Cathaoirleach: Questions to the Leader, please.

Senator David Norris: When will the Minister come to the House to address with Members matters such as the scrapping of the Combat Poverty Agency when poverty is being created all around us? The Government has halved the budget for the Equality Tribunal and is proceeding with its decentralisation to Portlaoine. This is all in advance of a report it has commissioned about efficiency and value for money. Before it gets the report, it will implement its decisions regarding the Competition Authority, the Equality Authority, the Combat Poverty Agency and the Data Protection Commissioner.

What has the Government not hit? We have heard from Senator O’Toole that prosecutions of criminals may not be able to proceed efficiently. What is the Government doing to the Competition Authority that stuck its nose into certain negotiations? When that authority was set up, the Government did not even provide for competition for its own executives until the Seanad inserted that for it.

An Cathaoirleach: The point is made.

Senator David Norris: The authority failed in its duty because it neglected a deadline by which it could deal properly with a major multinational but it was able to crucify the members of Irish Equity on the sum of €7,500 when it would not allow the organisation to engage in collective bargaining. It was deemed a cartel——

An Cathaoirleach: The Senator has made his point.

Senator David Norris: —and that is a disgrace. On universality, we on this side of the House were asked whether we had ever seen millionaires in accident and emergency departments, etc. I can tell this House honestly that I have seen the equivalent, as have we all. I have seen very wealthy people taking every handout, grant and free gift from the taxpayer and using them as pocket money.

An Cathaoirleach: The point is made.

Senator David Norris: That is why I am in favour of means tests, but if the Government has means tests to exclude the rich, it must have proper and decent ones to save the poor who are being betrayed by the Government.

An Cathaoirleach: The Senator has made his point. I call Senator Daly.

Senator Mark Daly: I support my colleague, Senator Leyden, with regard to the proposed levy and the 300 km limit which puts Kerry and the west coast at a huge disadvantage.

Senator Joe O'Toole: The Government does not care about down there. Look at Valentia, Shannon and Dingle. It does not care.

An Cathaoirleach: Senator Daly, without interruption.

Senator Mark Daly: I take Senator O'Toole's point but I believe the Minister will listen.

Senator Jerry Buttimer: He has not listened up to now.

Senator Mark Daly: There should be equality for Cork Airport as well, Senator Buttimer, and for all airports on the west coast. Obviously, using Dublin Airport as the focal point for the mileage is inequitable to people on the west coast. I ask the Leader to invite the Minister to the House to discuss this matter.

Senator Eugene Regan: I note that Members on the Government side of the House are quite smug this morning. The revolt in Fianna Fáil over the medical card for those over 70 has ended.

An Cathaoirleach: A question for the Leader, please.

Senator Eugene Regan: Yes, but I wish to explain the question. The revolt has ended on the Government benches but has——

An Cathaoirleach: The Senator is not entitled to make a speech on the Order of Business.

Senator Eugene Regan: A Chathaoirligh, I believe I am allowed to formulate my question in the manner I consider appropriate. The question is whether the revolt of the elderly has ended and whether the Government's policy of divide and conquer has succeeded. We will find out today whether the solidarity of the elderly will hold. The Government has solved a problem within its ranks but not necessarily the problem that has been created by the injustice done. Only 5% of those over 70 will be affected. That is just a statistic but it represents 20,000 people who may be asked by the Health Service Executive, following its spot checks and harassment, to return their medical cards. When that happens, will those Members be so smug?

The question that arises from this event is how the Taoiseach could get it so wrong. According to an article in *The Irish Times* which correctly analyses the situation, there have been five sets of eligibility criteria for medical cards for those over 70 in just one week. The Taoiseach

has apologised. He also said that the Government foresaw this, however, so the upset and harassment caused to the elderly was premeditated.

The country is in a deep economic recession. We have a problem in our relations with the rest of Europe and there is the issue of what type of society we are creating. Will it be a fair and just society or will we pick off the weakest in the management of the economy as it pulls out of recession? There must be a serious question about the qualifications and capability of the Taoiseach, the Minister for Finance and the Tánaiste to manage the economy, resolve the issues in our relations with Europe and create a just society. Does the Leader agree with the demand that 20,000 people hand back their medical cards?

Senator Geraldine Feeney: I support the call of Opposition Members for a debate on medical cards for those over 70. Senator Buttimer is getting ready to say something but Senator, for once what I will say to you——

An Cathaoirleach: The Senator must direct her remarks to the Leader through the Chair and not mind who is on the other side.

Senator Geraldine Feeney: I agree with Senator Buttimer that there was fear and confusion; there is no doubt about that. However, at 10 a.m. yesterday, that fear and confusion was lifted.

Senator Jerry Buttimer: It was not in the church.

Senator Geraldine Feeney: I disagree with Senator Buttimer's comment that Fine Gael is not playing politics with this. I believe it is by not informing the electorate of what was introduced at 10 a.m. yesterday when the Taoiseach spoke on national radio. Fine Gael is playing politics by bussing its supporters to Dublin today——

Senator Frances Fitzgerald: Do not be ridiculous.

Senator Geraldine Feeney: I believe that is what Fine Gael is doing.

Senator Joe O'Reilly: That is not true.

Senator Dominic Hannigan: Fianna Fáil will not make the same mistake again.

Senator Nicky McFadden: That is outrageous.

An Cathaoirleach: Senator Feeney should direct questions to the Leader on the Order of Business.

Senator Paudie Coffey: That is a new low.

Senator Geraldine Feeney: I usually respect what most colleagues in this House say and I am usually of the same opinion. Senator Alex White and Senator Norris spoke about what happened in St. Andrew's Church yesterday. I was not there but I watched the news last night and was horrified at the behaviour of a small percentage of those over 70. What example does that offer? What I saw was rudeness and bad manners.

Senator Jerry Buttimer: It was the whole body of the people. I was there.

Senator Geraldine Feeney: A Chathaoirligh, I am entitled——

Senator Jerry Buttimer: It was the whole body of the people, not just a percentage.

Senator Paudie Coffey: The Senator is in denial now.

Senator Jerry Buttimer: The Senator is out of touch, like the Government.

Senator Geraldine Feeney: That small group did not represent the people I represent in this House. I have received phone calls to tell me that. What would have happened if it had been a younger age group? The whole country would have been up in arms if that number of people had been allowed into a Catholic church to behave in such a manner.

Senator Paudie Coffey: The Senator is attacking our elderly.

Senator Geraldine Feeney: I am not attacking the elderly; I am 100% with the elderly.

Senator Alex White: Keep it going.

Senator Geraldine Feeney: I am talking about a small group. I am as entitled as anyone else to air my opinion in this House.

An Cathaoirleach: Yes, but we are dealing with the Order of Business——

Senator Geraldine Feeney: I did not interrupt——

An Cathaoirleach: ——and questions should be put to the Leader on the Order of Business.

Senator Geraldine Feeney: I will put my question to the Leader. However, I will preface it by pointing out that there was no need for such rudeness and bad manners yesterday. When we have that debate I will make the point that my party, Fianna Fáil, is the natural party for the majority of the elderly in this country.

Senator Joe O'Toole: Try saying that outside the gate today.

Senator Jerry Buttimer: They will be outside at 12.30 today. I will bring the Senator out.

Senator Geraldine Feeney: The Opposition can sneer and laugh as much as it wishes. However, the reason it is in the political wilderness is evident. It does not know how to communicate with or accommodate the elderly.

An Cathaoirleach: That is not relevant.

Senator Geraldine Feeney: We do.

Senator Frances Fitzgerald: Not any more.

An Cathaoirleach: The Senator's comments about the Opposition are not relevant.

Senator Geraldine Feeney: That is the reason my party has been the leading party in Government for so long in this country.

An Cathaoirleach: That is not relevant, Senator. I call Senator Healy Eames.

Senator Geraldine Feeney: Senator Regan need not worry. We know how to deal with the issues.

Senator Alex White: Is that the best you can do? That is pretty pathetic.

Senator Fidelma Healy Eames: In solidarity with the public, I wish to express my outright opposition to the attack on our children's education in primary and secondary schools in last week's budget. This is the most important area in which the country should be investing. Last week I sought an urgent debate with the Minister for Education and Science, Deputy Batt O'Keeffe, to discuss the education cuts and their effects on our children's learning outcomes. We have now received the details of these savage cuts and I wish to know when they will be addressed. Let me outline the detail of these cuts. As a nation we are facing——

An Cathaoirleach: If the Leader agrees to invite the Minister, the Senator can discuss it then.

Senator Fidelma Healy Eames: I need a few moments now. I have been seeking this time.

An Cathaoirleach: I cannot give the Senator moments.

Senator Fidelma Healy Eames: As a nation we are facing——

An Cathaoirleach: Senator, you have requested that the Leader invite the Minister for Education and Science to the House. You have made that point well. You should not——

Senator Fidelma Healy Eames: I need to explain my rationale. I deserve the time to formulate my reason. As a nation, we are facing the loss of more than 1,000 teachers in primary schools alone. These posts are not just lost to the teachers but also to our children. In Galway city, Mervue national school is losing seven teachers.

An Cathaoirleach: Senator, that is not relevant.

Senator Fidelma Healy Eames: Claddagh national school is losing four teachers.

An Cathaoirleach: Schools throughout the country may be affected.

Senator Fidelma Healy Eames: I need to explain why——

An Cathaoirleach: Senator, you have made your request. I ask you to resume your seat.

Senator Fidelma Healy Eames: A Chathaoirligh, you can throw me out if you choose——

An Cathaoirleach: No.

Senator Fidelma Healy Eames: ——but I need time to stand up against the attack on our children's education and their futures.

An Cathaoirleach: The Senator said today that she would be thrown out of the House. She predicted it.

Senator Fidelma Healy Eames: It is not fair that we are reaching a point where our children will have less teacher contact time.

An Cathaoirleach: I will adjourn the House if the Senator does not resume her seat.

Senator Fidelma Healy Eames: It is worth adjourning the House over this attack.

An Cathaoirleach: The Senator will have ample time when the Minister comes to the House.

Senator Fidelma Healy Eames: I have not had this addressed. It is urgent.

An Cathaoirleach: The Senator will get ample time.

Senator Fidelma Healy Eames: We are losing 1,000 posts to our children.

An Cathaoirleach: The point was raised yesterday by several other Senators.

Senator Fidelma Healy Eames: I have not had a chance to elaborate on this.

An Cathaoirleach: Senator——

Senator Fidelma Healy Eames: It is too serious.

An Cathaoirleach: Did the Senator not contribute on the debate on the budget? All Members had an opportunity to do so last week.

Senator Fidelma Healy Eames: It is only in the past week that the cuts are coming through.

An Cathaoirleach: No, all such announcements were in the budget.

Senator Fidelma Healy Eames: I beg the Cathaoirleach's indulgence.

An Cathaoirleach: No. I must be fair to all Members.

Senator Fidelma Healy Eames: I am the spokesperson for education.

An Cathaoirleach: Yesterday on the Order of Business, I could not allow time to eight or nine Senators because others overran theirs.

Senator Fidelma Healy Eames: I was one of them.

An Cathaoirleach: It is the very same this morning and a number of Senator Healy Eames's fellow Senators will be unable to contribute. The Senator has made the point very well to the Leader. If the Leader allows the debate, Senator Healy Eames will have whatever time is allowed in which to make a contribution on this matter. I ask her to resume her seat. She has made a strong point.

Senator Fidelma Healy Eames: I am looking for a total of one minute——

An Cathaoirleach: No.

Senator Fidelma Healy Eames: ——to talk about the attack on our children's education and——

An Cathaoirleach: The Senator has done so already.

Senator Fidelma Healy Eames: ——and the attack on our futures.

An Cathaoirleach: The Senator should respect the Chair.

Senator Fidelma Healy Eames: I do but am asking the Chairman for decent time.

An Cathaoirleach: She has made her point very well and I want to call the next speaker.

Senator Fidelma Healy Eames: I totally respect the Chairman but have not been given a chance to articulate the facts.

An Cathaoirleach: The Senator may do so during the debate when it is allowed.

Senator Fidelma Healy Eames: The Chairman does not realise there are worried teachers, parents and children.

An Cathaoirleach: I ask the Senator to resume her seat. I call the next speaker.

Senator Fidelma Healy Eames: I need an answer today on when we are to have this debate.

An Cathaoirleach: The Senator should give the Leader the opportunity to reply later. I call Senator Hanafin.

Senator John Hanafin: I ask the Leader for a debate on fair and progressive taxation. In doing so, I welcome the changes made in the budget, particularly the change to the 1% income levy and the change to the medical card scheme. Any couple over 70 earning €73,000 per annum would have earned over €100,000 per annum during their working lives and this is why I would like a debate specifically on fair and progressive taxation. Hiding behind the mask of universality will not suffice in this case. It is not unreasonable in difficult times that those who can well afford to pay be asked to do so.

In the United States the example of “Joe the Plumber” is used. Here they use——

Senator Maurice Cummins: Paddy the plasterer.

Senator John Hanafin: ——the example of the Galway tent.

An Cathaoirleach: Senator Hanafin without interruption. There should be no smart remarks from the floor, from any side.

Senator John Hanafin: I was going to say the example of the Galway tent is used. I am sure the senior Members who used to visit the Galway tent would like to thank the Labour Party for supporting the retention of their medical cards. The Labour Party members are the people who have, for expediency, given up on the principle of fair and progressive taxation.

Senator Alex White: The Senator does not even understand our position. That is nonsense.

Senator John Hanafin: The only party representing all the people is Fianna Fáil. Those on the left have been left by Labour but Fianna Fáil will be there for them.

Senator Alex White: On the right.

An Cathaoirleach: I call Senator Coffey. I apologise for not being able to call him yesterday.

Senator Paudie Coffey: I support the calls by Senators Leyden and Daly urging support for regional airports. It amuses me to note, however, that they raise local and regional issues in the House but boast that they will deal with matters of national concern through their parliamentary party. This is parish-pump politics of the highest order.

Let me speak on behalf of the groups most dependent on the State for their support, namely, the children and elderly. This budget was called, before the present banking turmoil affected the country, to deal with the huge deficits in our public finances. Even so, it will not deal with the deficits coming down the line. I have often heard lectures in this House on how well the economy has been managed by the Government.

I remind the House that the wastage of public finances over the years has led to the suffering of the children and elderly. Some €52 million was wasted on electronic voting. It cannot be stated enough that the Government dismissed any opposition to the project. Some €160 million was wasted on PPARS, there was a €37 million overspend on the Kilkenny flood relief scheme

[Senator Paudie Coffey.]

and €99.5 million was spent on Campus Stadium Ireland. Considerable sums of public money have gone down the drain. Who are suffering only the ordinary people?

This was one of the most mean-spirited and soft-option budgets ever. It was given a standing ovation by Members on the Government side. It was an attack on the children and the elderly and it is a disgrace. It has caused fear, confusion and concern in every community and the Government Senators should be ashamed of themselves. They are a disgrace and I tell them this to their faces across this House. The Government has lost all its personal touch and its connection with human nature and values, as demonstrated in the budget.

I call for a debate on the educational needs of our children. I was in a classroom yesterday morning with 36 junior infants. The class above had 34 senior infants, which is a disgrace. The measures introduced in the budget will increase these class sizes even further. We need positive, proactive investment in our future. What better approach than to invest in our children and protect our elderly?

Senator Brendan Ryan: Last week's budget introduced a 1% levy on all income. The Government rowed back on it to some extent yesterday by exempting those earning the minimum wage. I still have some concerns about it and am not sure whether it was raised in the House before — I do not believe it was raised today. I refer to the knock-on effect of the 1% levy. Many local authorities apply a bin tax waiver for individuals and families who are liable to no tax of any kind. Unfortunately there are some privatised systems around the country under which it is not applied, but that is a separate issue. I ask the Leader to urge the Minister for the Environment, Heritage and Local Government and the Minister for Finance to ensure no family entitled to a waiver before the introduction of the 1% levy will become ineligible for it as a consequence of its introduction. All Senators would agree that families who have been hurt by the 1% levy should not be hurt further through the loss of entitlement to a bin tax waiver.

Senator Ivana Bacik: I ask the Leader for a debate on universal access to public services. There has been much talk on universality in the wake of last week's budget because the Government is clearly set on attacking the principle of universal access to public services and introducing a means test for a range of benefits. In saying this, I include the signal by the Minister for Finance, Deputy Brian Lenihan, last week that he would be reviewing the universal payment of child benefit. There is immense fear and confusion, particularly among the elderly but also among other sectors, who fear all kinds of other benefits could well be subject to a means test and no longer granted on a universal basis.

There was another way to ensure the rich would pay more and that was simply to tax them more. However, the Government did not do so and instead took the dishonest step of imposing a levy, which is a very crude instrument. A simple levy of 1% applies to those earning up to €100,000 and a levy of 2% applies to those earning over that amount. This does not tax the rich sufficiently. Doing so would be a fairer way to raise revenue rather than withdrawing public benefits. We need a debate on universality to determine the Government's true ideology and what it really believes about universal access to public services.

We have seen U-turns in respect of various measures in the budget. There appears to be one in respect of the Civil Partnership Bill. We saw the heads and were promised the Bill itself would be published this September. What has happened to it? Are we to see yet another U-turn by the Government?

Senator Joe O'Reilly: One of the good things to have emerged from the sorry debacle over recent days is the recognition yesterday that we cannot and should not carry out a range of new means tests. I have been saying this for a long time. While I put it to the Leader previously,

I put it to him again that he should explore, with the Government, the removal of the means test for the non-contributory old age pension. The cost of administering that test is greater than any savings accrued, it is another source of terror for our old people and it is inequitable and wrong, given that most non-contributory old age pensioners are women who had to leave the workplace as a result of the marriage ban and very small farmers who did not have PRSI contributions.

The potential of the carer's allowance — this must be examined perhaps by way of a pilot scheme — to keep people out of institutional care has not yet been explored. I put it to the Leader that if the Government were to consider increasing the amount of the carer's allowance, perhaps by way of a pilot scheme in a limited area, but, more particularly, removing the means test, many people would opt to become carers in the current economic climate. That would keep people out of institutional care and save the State enormous amounts of money. I appeal to the Leader to consider that.

The Leader should provide clarity for this House on an issue raised earlier. I put it to him that the 5% figure of people who have an income of more than €35,000 could not possibly be right. Anecdotal evidence and that from our own range of friends would indicate that is not the case. The figure is more likely to be 15% to 20%. The 5% figure is wrong. It is a public relations spin. I ask the Leader to seek clarification on that for the sake of transparency.

Senator Dominic Hannigan: A clear example of how out of touch some members of the Government parties are is Senator Feeney's comments earlier about the Opposition busing supporters to Dublin.

Senator Geraldine Feeney: That is what they did.

Senator Dominic Hannigan: We could not have stopped them if we tried. There was a level of anger out there that has——

An Cathaoirleach: Questions to the Leader, not to other Senators.

Senator Geraldine Feeney: The majority of them were Dublin people.

Senator Dominic Hannigan: ——never been seen before.

Senator Geraldine Feeney: They had no distance to travel.

Senator Dominic Hannigan: We must recognise that there are some people in the Senator's party who see this clearly. I could not disagree with a word of what Senator Mary White said earlier. Obviously she has a clear idea of what is going on outside this House but Senator White and others in her party should consider their position. You do not have to support the Government on this issue.

Senators: Hear, hear.

Senator Dominic Hannigan: You can move to our benches.

An Cathaoirleach: The Senator should speak through the Chair.

Senator Geraldine Feeney: A fate worse than death.

Senator Nicky McFadden: I did not expect to be called; I thank the Cathaoirleach for his indulgence. I concur with the call from my colleague, Senator Healy-Eames, that we would have an urgent debate on education. I had calls from the principal of the local secondary school

[Senator Nicky McFadden.]

in Athlone yesterday and his main concern is in regard to teacher substitution. Come next January, when people are suffering from influenza and so on, there could be up to six teachers absent without certification. He does not know what he is to do. He said that the only option will be to send children home. I ask the Leader to ask the Minister to come into the House as a matter of urgency to allow us discuss that very serious issue. These are our children and we cannot allow them to be sent home because there is nobody available to teach them.

Senator Shane Ross: Like Senator McFadden I had expected not to be called. I had rather hoped not to be called and to be called first tomorrow but I will accept my lot. I support the calls that have been made for a debate on education. That is a crying need and the issue that will erupt in the next week but we cannot get the Minister for Education and Science in here because the Minister is in China, and it is the wrong place for him to be. It is extraordinary that when an issue as important as this one has broken and should have been anticipated, the Minister for Education and Science is at the other side of the world with the Taoiseach. We cannot have him here today, tomorrow or any other time because for some reason he is in China on some mission which he has no right to be on. That mission is organised by Enterprise Ireland, which is one of the great oxymorons of the public service, but why is the Tánaiste not out there? That is the Tánaiste's Department. Apparently, the Tánaiste is in charge here, which does not fill me with a great deal of confidence, but the Minister for Education and Science is in China. In the meantime, this morning the Minister for Agriculture, Fisheries and Food came out as the kind of all-purpose spokesman for the Government on issues that have nothing to do with agriculture. This Government appears to be at sea. It has lost its nerve, and that is one of the reasons the people have lost a certain amount of confidence in it.

Senators: Hear, hear.

An Cathaoirleach: Questions to the Leader.

Senator Shane Ross: The wrong people are talking about the wrong issues while the Taoiseach and the Minister who should be here are on the other side of the world.

Senator Terry Leyden: They are out seeking jobs.

Senator Shane Ross: There is major confusion, and I ask the Leader to address this, that investment has got nothing to do with education but with pounds, shillings and pence. The Government has taken a view that education funding can be cut in the same way as public finances in other areas, in other words, taxation.

Senator Frances Fitzgerald: Balance sheet.

Senator Shane Ross: We urgently need a debate on education, which does not address just the issue of how much can be saved but the long-term vision.

Senator Fidelma Healy Eames: Hear, hear.

Senator Shane Ross: I ask the Leader to give us a commitment that when the Minister, Deputy O'Keeffe, has stopped giving interviews about education — about which he is not in touch — from the other side of the world, he will come in here either tomorrow — there is time for him to get back here, where he should be — or early next week for a debate on education

Senator Paul Coghlan: Like Senator Coffey, I, too, agree with Senators Leyden and Daly on the extra unfair imposition on passengers travelling from Kerry international airport and other western seaboard airports to near airports in Britain. It is blatant discrimination——

Senator Terry Leyden: Absolutely.

Senator Paul Coghlan: ——and I ask that we restore the level playing pitch for our citizens regardless of the area in which they reside, which is the least we can expect. I ask the Leader to arrange for the line Minister to come into the House for a debate and to explain the rationale on that.

Senator Michael McCarthy: On the medical card issue, it is my understanding that the Government will now have to repeal the Health Act to give effect to the most recent changes. If that is the case, can we get an assurance from the Minister for Health and Children, through the Leader, that the Minister will not interfere with those income limits next year? It is not certain whether those limits will stand next year and if the current economic crisis is not resolved by then, it is likely that the Government can change limits to suit it. On the medical cards disaster, how much of the €100 million will be saved as a result of this 11th hour U-turn?

We have seen an excellent display of organised protest from the representatives of those aged over 70 and those in that category who will apply for the card in the near future. It is disrespectful and demeaning for anybody to suggest they were not capable of organising the transport themselves.

Senator Alex White: Hear, hear.

Senator Donie Cassidy: I want to send our best wishes to our former Taoiseach, Deputy Bertie Ahern, who suffered an accident yesterday. I was sorry to hear that and I look forward to seeing him in the House later this evening.

Senators Fitzgerald, Alex White, O'Toole, Buttimer, Mary White, Norris, Regan, Phelan, Healy-Eames, Hanafin, Coghlan, Ryan, Bacik, O'Reilly, Hannigan, Ross and McCarthy expressed strong views on the budget, and particularly the medical card aspect of it. The facts are that the Government had decided, and made an announcement yesterday morning, that regarding the new income threshold for medical cards, persons aged over 70, whose gross weekly income is €700 per week or €36,500 or less per year for a single person or €1,400 per week or €73,000 per annum for a couple, will continue to have a full medical card. In addition, those with incomes above the threshold experiencing difficulty in meeting their medical needs will be eligible to apply for a medical card under the Health Service Executive discretionary medical card scheme. As I informed the House yesterday, I understand there are approximately 70,000 people in that discretionary medical card scheme and I complimented the general practitioners, our public representatives and members of the HSE who understood the circumstances which credited the discretionary medical card being given to those in need but who were caught a little above the threshold.

Tomorrow in the House we will have statements on health promotion priorities. This will be a wide-ranging debate on health issues. I want to inform the House that I have passed on the request made to me by many Members yesterday, particularly the leaders of the groups and the leader of the Opposition, Senator Fitzgerald, to have the Minister, Deputy Harney, present in the House at the earliest opportunity. I am awaiting a response from the Minister in respect of the matter.

[Senator Donie Cassidy.]

I also announced to the House yesterday that I welcome the fact that the 1% income levy will not be applied in respect of those on the minimum wage. These people comprise approximately one third of the workforce and earn €17,500 or less per annum.

I do not know the position in most other local authority areas but the local authority of which Senator Glynn and I were previously members introduced a scheme under which anyone in possession of a medical card is automatically entitled to a waiver in respect of refuse charges. If this is not the position in their areas, perhaps Members might discuss the matter with their local authority representatives. When the scheme was introduced in Westmeath it was extremely successful. Local authority members in each electoral area have their fingers on the pulse.

Senator Jerry Buttimer: Is this the Order of Business?

Senator Donie Cassidy: Regardless of whether Senators or Deputies like it, local authority members are the most well-informed public representatives of the lot. Councillors are most representative of people of all political persuasions at local level.

Senator Jerry Buttimer: That is two quotas the Leader has gained.

Senator Donie Cassidy: I will ensure that the Minister comes before the House at the earliest opportunity in order that Members may express their views and decide which party has best catered for the needs of the underprivileged since the foundation of the State.

Senator Terry Leyden: We would win that competition.

Senator Jerry Buttimer: The Senator's party is not catering for them now.

An Cathaoirleach: The Leader, without interruption.

Senator Donie Cassidy: I will endeavour to arrange a debate on education. However, I was surprised by the comments of Senator Ross who is the representative of the financial institutions and an expert on banking. I thought he would understand that every trade mission worth its salt——

Senator Shane Ross: I certainly do not represent any financial institutions. If the Leader——

Senator Donie Cassidy: I did not say that.

(Interruptions).

Senator Shane Ross: Are we obliged to take the remainder of what the Leader says as seriously as we must take that comment?

Senator Donie Cassidy: What I meant to say is that the Senator is an expert in banking.

Senator Jerry Buttimer: The Leader is flip-flopping again.

Senator Donie Cassidy: His background is entirely as an expert in financial matters. During our lifetimes, many of us have placed our trust in the Senator in that regard.

Senator Shane Ross: I do not trust myself.

(Interruptions).

An Cathaoirleach: The Leader to reply, without interruption, to the questions raised.

Senator Donie Cassidy: I respect the Senator as having those qualities. On every trade mission worth its salt to China, India, Abu Dhabi, Dubai, Riyadh, Toronto and various parts of America — which I visited as Chairman of an Oireachtas committee — the Taoiseach has been always accompanied by the Minister for Education and Science. Why has that been the case?

Senator Joe O'Toole: I bet the Leader would not tell people in those places that the Minister for Education and Science is cutting back on education spending.

Senator Donie Cassidy: Senator O'Toole should allow me to give the House the benefit of my experience.

Senator Jerry Buttimer: And wisdom.

Senator Donie Cassidy: Ireland is a young country and is admired by the world for the standard of education people here receive.

(Interruptions).

Senator Fidelma Healy Eames: Wait until they get the most recent news.

Senator Donie Cassidy: Some 50% of the population is under 35 years of age. We have a major asset at our disposal in the context of attracting investment. Successive Ministers for Education and Science of all political hues who have represented the country on trade missions have done us a fantastic service. I have served as a Member of this House for longer than Senator O'Toole——

Senator Joe O'Toole: Not when one takes the Leader's break in service into account.

Senator Donie Cassidy: ——but not quite as long as Senator Ross. There is five glorious weeks in the difference. What one learned in those five weeks is immeasurable and the House can benefit from it.

Senators Leyden, Daly, Coffey and Coghlan requested that the Minister for Transport come before the House to discuss the creation of a level playing field in respect of the proposed €10 and €2 airport departure charges. I have no difficulty in arranging a debate on this matter and after the Order of Business I will request the Minister's office to indicate a date on which he might attend.

Senator Coffey is a strong voice for the people in his area and I have always respected him as such. There is no good reason the storage of the electronic voting machines should cost the State anything. Why are they not placed in the control of the Army and deposited in high-security areas?

Senator Maurice Cummins: Why are they not put in the bin and a line drawn under the matter?

Senator Frances Fitzgerald: That cannot be done because contracts were signed in respect of them.

Senator Jerry Buttimer: Contracts were signed and the bill must be paid.

Senator Donie Cassidy: Senators were given an opportunity to make their contributions. I did not interrupt anyone. I am making a meaningful suggestion.

Senator Paudie Coffey: The machines are obsolete.

Senator Donie Cassidy: The State is paying for the storage of these machines. I suggest that they be placed under the supervision of the Army because there would then be no cost to the State.

Senator Maurice Cummins: The Leader should tell the Minister that.

Senator Donie Cassidy: A presidential election will take place in the United States of America in two weeks' time and such machines will be used there.

Senator Maurice Cummins: Look how wrong the Americans got it on a previous occasion.

Senator Donie Cassidy: Irish people require confidentiality in respect of their votes and until the technology to ensure this becomes available, the machines should be left in the care of the Army in order that there will be no cost to the State.

Senator Maurice Cummins: They should be blown up.

Senator Donie Cassidy: Senator O'Reilly referred to non-contributory old age pensions. The number of people on such pensions is decreasing and, as the Senator correctly pointed out, most of those in this category are women who, in the 1960s, were not allowed to remain in the workforce when they got married. I will pass the Senator's strong views on to the Minister. I fully support the Senator in this regard. When we considered this matter approximately three to four years ago, the number of people in receipt of these pensions was 26,000. I am sure this figure has decreased to below 20,000.

Senator O'Reilly also made a proposal for a pilot scheme in respect of carer's allowance and referred to ensuring that patients remain outside long-term institutions. The Senator's suggestion is good and I will communicate his views to the relevant Minister.

I already referred to the issue of investment for the future in replying to the comments made by Senator Ross.

Senator Terry Leyden: I inquired about airport charges.

Senator Donie Cassidy: I already covered that and agreed to have a debate on the matter.

Senator Alex White: What is the position regarding legislation relating to the risk equalisation scheme?

Senator Ivana Bacik: I also inquired about legislation on civil partnerships.

Senator Donie Cassidy: I have a list of legislation to be dealt with during the current session. Report Stage of the Charities Bill will be taken in the Dáil later this month and the legislation should be before the Seanad in early November. The Finance Bill will be published in December. It is hoped that it will be introduced here on the final working Friday before Christmas and that Committee and Remaining Stages will be taken on the following Monday. The Social Welfare Bill will also be published in December. The Nursing Homes Support Scheme Bill is currently before the Dáil and it is hoped that all Stages will be completed by Christmas. The legislation is expected to be taken in the Seanad in the next session. The cluster munitions legislation, which was the subject of a query on a previous Order of Business and which has not yet been published, must be dealt with by 3 December 2008. I assure the House that the Civil Partnership Bill will go ahead.

Senator Ivana Bacik: When?

Senator Alex White: What is the position regarding legislation on risk equalisation?

Senator Donie Cassidy: I understand it will be dealt with in the next session.

Senator Ivana Bacik: What about the Civil Partnership Bill?

Senator Donie Cassidy: It is going ahead.

Senator Ivana Bacik: In the next session?

Senator Donie Cassidy: Yes.

An Cathaoirleach: Senator Fitzgerald has proposed an amendment to the Order of Business: “That statements on the Government’s decision to withdraw the automatic entitlement to medical cards for citizens aged over 70 years be taken today.” Is the amendment being pressed?

Senator Frances Fitzgerald: Yes.

Amendment put.

The Seanad divided: Tá, 20; Níl, 27.

Tá

Bacik, Ivana.
Burke, Paddy.
Buttimer, Jerry.
Coffey, Paudie.
Coughlan, Paul.
Cummins, Maurice.
Doherty, Pearse.
Fitzgerald, Frances.
Hannigan, Dominic.
Healy Eames, Fidelma.

McCarthy, Michael.
McFadden, Nicky.
Norris, David.
O'Reilly, Joe.
O'Toole, Joe.
Prendergast, Phil.
Regan, Eugene.
Ross, Shane.
Ryan, Brendan.
White, Alex.

Níl

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callely, Ivor.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.
Hanafin, John.
Keaveney, Cecilia.
Leyden, Terry.

MacSharry, Marc.
McDonald, Lisa.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Donovan, Denis.
O'Malley, Fiona.
O'Sullivan, Ned.
Ormonde, Ann.
Phelan, Kieran.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Tellers: Tá, Senators Paudie Coffey and Maurice Cummins; Níl, Senators Fiona O'Malley and Diarmuid Wilson.

Amendment declared lost.

Order of Business agreed to.

Harbours (Amendment) Bill 2008: Committee Stage.

Sections 1 and 2 agreed to.

SECTION 3.

Senator Maurice Cummins: I move amendment No. 1:

In page 5, between lines 29 and 30, to insert the following:

“(iv) county and city development plans and relevant local area plans.”.

This sensible amendment calls on the Minister to have regard to county and city development plans and relevant local area plans when he or she is deciding whether to make an order under this section of the Bill. Widespread consultation takes place when development plans and local area plans are being drawn up. It is important that the Minister would have regard to such plans. I ask the Minister of State to accept this amendment.

Minister of State at the Department of Transport (Deputy Noel Ahern): The principles and policies to which the Minister shall have regard are listed in the Bill. When the Minister is making his or her decision, he or she may consider applications for planning which have been submitted, planning permissions which have been granted under the Planning and Development Acts and environmental impact assessments which have been carried out. Any such applications, permissions or assessments would have regard to the relevant county and city development plan. I do not think it is necessary to include the reference suggested by Senator Cummins. If planning permission has been granted in an area, the relevant plan will already have been consulted as part of that framework. I do not think it is necessary to accept the amendment.

Senator Maurice Cummins: I beg to differ. The Minister of State mentioned environmental impact assessments and planning permissions, but my amendment calls on the relevant Minister to have specific regard to county and city development plans and local area plans. If such a reference is not included in the Bill, there will be no obligation on the Minister to consider the plans, which have been drawn up on foot of consultation with local representatives and local people, when he or she is making a decision under this section. I do not agree with the Minister of State's assertion that there is no need for this amendment to be made. The reference I have proposed should be included in the Bill.

Senator Denis O'Donovan: There is some merit in what my colleague on the other side of the House has said. I am interested in the extent to which the remit of the new coastal zone management authority will apply to bays and harbours. Kenmare Bay is one of the special areas of conservation around our coast. I understand that it is proposed to zone much of Bantry Bay in such a manner, which would limit the scope for development in the area. I am concerned that the exclusion of any reference to local area plans, county development plans and regional plans would be dangerous, as Senator Cummins has said. The Minister of State might argue that this legislation has to take account of the various plans and coastal zone management strategies. While I am subject to his decision on this matter, I remind him that it could have serious repercussions.

My own local bay, Bantry Bay, is the subject of amendments later in this debate. It is an unusual bay. It has been described as the second finest bay in the world. The biggest oil tankers that were ever built were able to navigate within Bantry Bay as they travelled towards the terminal at Whiddy Island. When super tankers move through Bantry Bay's fine shipping lane, there is more than 85 feet of water below them. That shows how safe a channel it is. Before

the French invasion of 1796, the entire British fleet was able to seek shelter and anchor in Bantry Bay. That gives one an idea of the expanse of the bay.

When we think about a port, we think about the pier and landing areas in the inner harbour. That is important in the context of this section, about which my colleague, Senator Cummins, is kind enough to let me talk. There is an intrinsic variety of issues in this regard. It is important, from a social perspective, that the people of Whiddy Island are able to get to and from the island. That is important on every island. The former Gulf Oil terminal on the island, which is now owned by ConocoPhillips, is a commercial shipping area that is used regularly. It creates employment and revenue for what is now and is hoped will be the Bantry Harbour Board authority. Going further along the line we have the beautiful Garnish Island, close to Glengarriff, which is one of the greatest gems among our tourist attractions and attracts nearly 200,000 visitors per year. Occasionally an ocean liner comes into Bantry, although not as often as I would like, to let its passengers off to enjoy the beauty of west Cork, Kerry and further. This is in the scope of this amendment as we discuss coastal zone management and local area plans.

12 o'clock Bantry Bay has a big mariculture industry and I would argue it is the capital of mariculture in Ireland. We have four or five seafood factories that have won awards. Bantry Bay Seafoods exports all over the world, we have Shellfish de la Mer in Castletownbere, Fastnet Irish Seafood and a thriving rope mussel industry throughout the bay. Licensing of the mussel lines is a serious issue. Licensing areas of sea for setting out the lines is the same as licensing areas of land. We have had discussions on how mussel line and salmon net farmers must have cognisance of shipping and sailing lanes and respect other people's rights, but the bay is large so that can be achieved. This is relevant here. At last week's meeting of the Joint Committee on Agriculture, Fisheries and Food I spoke on the 70 month delay for the application for an aquaculture licence. This applies not just to Bantry Bay but to Roaring Water Bay, Kenmare Bay, Killala or in Donegal the Foyle or the Swilly, or anywhere. Along with many of my colleagues, Deputies and Senators, I asked why there is such a delay.

Going beyond the remit of Senator Cummins's amendment, the question is how it will affect aquaculture. We have problems with a contracting economy. Unfortunately, we are losing jobs. Back in 1985, when I was a councillor and much younger, we had a proposal that we would reach a mussel production target of 30,000 tonnes. We have reached only 10,000 tonnes. We have stagnated. In the same year Chile produced no mussels and did not know what mussels were about. Now Chile produces 300,000 tonnes. The Chilean aquaculture industry is centred around Puerto Montt, which is approximately 300 miles south of Santiago and has its own airport. Chile saw the light in the last 20 years and now employs 40,000 people in aquaculture.

We are failing to expand our aquaculture industry. There is great potential. People are harvesting the mussels and using the sea beds. The potential is broader than mussels and includes salmon and scallops. The Minister may not be aware that the biggest abalone factory in the northern hemisphere — which includes not just Ireland or the UK but North America, Canada, the Russian Federation and all of Asia — is on the shores of Bantry Bay, out near Cahermore, Lehanmore and the peninsula. Abalone is a wonderful seafood product. The Chinese and Indians love it and Europeans are getting fond of it. I visited the factory and it is a wonderful achievement. With respect, Government agencies such as BIM are fully on board on this issue.

An Leas-Chathaoirleach: Senator O'Donovan is going outside the scope of the amendment.

Senator Denis O'Donovan: We are discussing licensing and I beg the Leas-Chathaoirleach's indulgence to wade with me a little further into deeper waters because the issue all comes back to licensing. I should have adverted to the introduction by my colleague, Senator Cummins. I

[Senator Denis O'Donovan.]

grew up with this and have seen the difficulty of licensing and coastal zone management. If we want to discuss the wider area of planning permissions in rural Ireland, of which my colleague Senator McCarthy will be well aware, coastal zone management affects not just the sea and how we develop it, but the land too. A planning application was once refused because the development would be seen from Garnish Island. There are major issues here.

To go beyond that there is the question of where we go in the future. There is an aquaculture and mariculture licensing authority but there are so many layers that I am worried that unintentionally we might have a problem with the development and expansion of mariculture, not alone in Bantry Bay but throughout the area, wherever licensing is required. I am very concerned that without the appropriate amendment proposed by Senator Cummins, we might lose the run of ourselves and have unintentional consequences in future. I might ask the Minister to elaborate on this later. I have serious worries about that. I must apologise for being, as we say in West Cork, beagánín leadránach, but I have a great interest in this area. There is some merit in what my good friend and colleague Senator Cummins has proposed.

Deputy Noel Ahern: We are discussing ports and port companies, not smaller harbours around the country such as Bantry Bay. This section amends the power of a Minister to alter the limits of a company's harbour. It sets out the principles and policies to which the Minister should adhere when extending the harbour limits. Previously this was done by ministerial order and there have been a few court cases about this sort of issue, not specifically referring to harbour limits or ports but to the sort of judgements given under the Cityview Press action and the McCreevy court rulings. It is decided that this is being put into legislation and the principles by which the Minister should consider a request are being amplified here. The guiding principles that are being put in for the first time would outline what has to be considered. If Senator Cummins likes, I will consider his amendment further before the next Stage but I do not think it is necessary to accept it and I cannot make any commitment. We are putting many principles and guidelines in place for the Minister to consider this in the future. However we are discussing port areas, not the smaller places. I do not know whether the amendment does any harm but I do not know if it is necessary.

Senator Maurice Cummins: I am pleased the Minister will examine it and that is all I will ask him to do. Perhaps it could be resubmitted on Report Stage. It is necessary. If the Minister does not have regard to these plans, it will be a negation of local democracy. I am glad the Minister has agreed to examine it although I realise he has not given any commitment. We will raise it again on Report Stage.

Senator Michael McCarthy: May I comment on the Minister's graciousness in saying he will consider it? He has failed to address the issues raised regarding the Chilean mussel industry.

Senator Denis O'Donovan: I am glad to hear what the Minister has said, but I am also confused. This is what I have been talking about. I could expand on what Senator Cummins has said. I will not discuss Chile, but I could discuss France and Spain which have done equally well and have generated a lot of employment in the mussel sector. I could quote facts and figures all day.

Senator Cummins spoke about the parameters and limits of ports. There is an unintended consequence here which is connected to section 18, which I will not go into right now. It has been suggested that Cork Port should take over Bantry. In that context, people want to know the extent of such a takeover. As it stands, Bantry Harbour board covers approximately 95% of Bantry Bay. The small area that is excluded is in the inner harbour of Bere Island which has a separate authority. If one were just discussing the inner harbour, one could argue that it

concerns a railway pier, the existing pier and the very valuable foreshore which was once owned by Bantry House and was bought out by the harbour board. It might also concern parts of Whiddy Island. However, we are not clear whether it concerns, for example, the 20 trawlers which come trawling down the bay when the herring or sprat is in, or in pursuit of the very valuable prawns. The mussel industry has moved to a place called Gort na Cille where I was born and raised. Would that area be affected?

Bantry Bay extends inland for 23 miles and has an average width of eight miles, which is a phenomenal size. At the centre, its channel is 60 fathoms deep, a fathom being six feet or approximately two metres. Where are the controls over that area? It has been suggested that the rules would apply only to the inner harbour with a limit of Rabbit Island on one side and the bank between Whiddy Island and the mainland on the other side. I am quite certain, however, that the rules will not just apply to that area. The issue is much broader than it first appears, which is why I am glad the Minister of State has agreed to revisit it.

I do not wish to be in anyway derogatory towards the Minister of State who has a grá for west Cork. However, somebody in an office somewhere has decided that it would be a nice thing to organise a shotgun wedding between Bantry and Cork Port without thinking of the possible consequences. This relates to the issue of planning, to which Senator Cummins referred. Area plans and coastal zone management plans are important issues. There was an office in Bantry that was dedicated to dealing with the coastal zone management of the peninsulas, including Sheep's Head, Mizen Head, Bantry Bay, Bere Island and so forth, although I am not sure it is still operational.

There are proposals here which might have unintended consequences. We all have seen the unintended consequences in recent days of a very simple proposal that was made a week ago. Had the Cabinet members and others involved seen the future, the matter would have been dealt with very differently. I am concerned that we could have a fiasco on our hands with regard to Bantry Bay. I do not wish to be overly parochial as I am aware there are other areas of the country that might be affected, and indeed Fenit has already been mentioned in that regard.

I am glad the Minister of State has agreed to re-examine this issue, although he has not made any firm promises. I am seeking clarity and an assurance that the issues I have raised, including fish farming, salmon cages off Gearhies, the mussel industry, the abalone industry, scallop and clam farming are taken into account. We must not kill the goose that laid the golden egg. This Bill raises issues of enormous concern, not just the question of the shotgun wedding that is being proposed. I am concerned that someone will ask me in the future if I was asleep when this Bill was going through the Seanad and how come I did not realise the consequences of the proposals. I am not saying the proposals are malignant in their content, but I am not convinced they are benign either.

Deputy Noel Ahern: I have already said we will look at the matter again although having read my notes in more detail, I may have been rash in saying that. However, I have said it so I will stick by my promise.

This is about providing for the principles and policies that a Minister shall have regard to when making an order to extend a company's harbour limits. I have a feeling that the amendment which Senator Cummins addressed and the matters raised by Senator O'Donovan are not related. The amendment tabled by Senator Paschal Donohoe probably relates to Dublin Bay, Drogheda Harbour or the Bremore harbour area, whereas Senator O'Donovan is talking about a different issue entirely.

[Deputy Noel Ahern.]

Section 3 outlines that the Minister, in deciding whether to make an order under this section, shall have regard to various issues. This legislation is much more advanced than that currently in place. It specifically details the principles and policies to which the Minister must commit. Section 9(3)(c)(i) as inserted by section 3 refers to: “leases made under section 2, licences granted under section 3, approvals under section 10 or consents given under section 13 of the Foreshore Act 1933”. This deals with much of what Senator O’Donovan raised, including mariculture and so forth. Coastal zone management and foreshore licences are matters for the Department of Agriculture, Fisheries and Food, although it has been suggested that some responsibility for coastal zone management will be transferred to the Department of the Environment, Heritage and Local Government. The aforementioned paragraph provides for taking into account foreshore licences or consents granted under those licences. Much of that which concerns Senator O’Donovan is covered specifically in the new section 9(3)(c)(i) as inserted by the Bill.

The original amendment may have been set in an entirely different context, that of Dublin-Drogheda or perhaps Waterford. While I do not think the amendment is strictly necessary, I will look at the matter again before Report Stage. I stress again that Senator O’Donovan’s concerns are adequately dealt with by the Bill.

Senator Denis O’Donovan: While I do not doubt the Minister of State’s sincerity when he says the issue of licensing is amply covered in the Bill, I have grave doubts whether that is the case. While I do not want to be parochial in talking about Bantry Bay, Dunmanus Bay, the Sheep’s Head, Bere Island and other areas I represent, my concerns stem from the fact that a week ago in this House, Senators expressed their concerns that there is a 17-month delay in issuing aquaculture licences for whatever location, be it Bantry, Lough Swilly or wherever. If there is currently a 17-month delay, what will happen when this Bill is enacted? While I recognise the issues come under the remit of different Departments with some degree of overlap, I am not convinced the provisions in this Bill will allay my fears regarding the area I represent.

The sea fishing industry as we have known it is contracting and there are less fish in the sea. However, there are enormous possibilities for development of aquaculture and mariculture. I would be failing the people I represent, not only this generation but future generations, if we are stymied because of over-zoning, over-management or plans like the SACs which are sometimes done without thought. We had a rumble in Cromane where they can no longer harvest mussels. It is another matter, but it is the same principle. That is why I am worried and concerned, and I ask the Minister of State to take these concerns on board, because the people in Cromane in Kerry can no longer harvest mussels — we do it with suspended ropes and they have a ground harvesting system — and the industry has been stifled. A small industry in a small part of Kerry has been destroyed. I do not doubt the authenticity of the Minister of State, but I have grave concerns about moving forward with the development of areas such as aquaculture and mariculture.

I will be blunt. I am being asked to accept that a port company in Cork — a commercial company with a different remit and agenda — will take over Bantry Bay and Harbour entirely. If that is the case, the issues Senator Cummins has raised concerning licences, coastal area management, coastal zone management and county council plans and developments are relevant. We have a wonderful asset. Bantry Bay is the second finest bay in the world. It is one of the finest in Europe. We are giving control of this asset to someone else.

Let us take another angle, that of zoning, planning and over-regulation. People in the mussel industry are depending on tides and so on at certain times of the year. They pick spat, which are the mussel seeds from the rocks. These are collected by small farmers who make a few bob

doing this. Traditionally the spat, in my grandfather's time, was used for manuring land, in the same manner as seaweed. We have a new proposal which believes this was something historic. The spat was a foundation stone and the seed that acts as a catalyst for the mussel industry. They are put into stocking which are suspended out at sea, and because we have a very rich bay with wonderful vitamins in the water, they can grow and expand, and eventually they are harvested and sold. We have created an industry out of it.

I am passionate about this because this never happened in Bantry Bay when I was a young fellow. We had Whiddy Oil, which was thriving, and Gulf Oil which created many jobs in the area. The biggest single disaster was the Betelgeuse disaster at Whiddy terminal on the 8th January 1979 when 50 people lost their lives. I knew many of the people who died on that occasion. Arising from that, we formed an action committee and the locals asked if they could do something. They set up a mussel industry, which now comprises of two factories in the bay and employees 300 to 400 people, directly or indirectly. I am concerned that some of this legislation may adversely affect what we have created. I do not want people to say to me in five years time, "We sent Senator O'Donovan from west Cork; he was blind and did not avert what was happening here".

I understand what the Minister of State is saying, but it was confirmed at a committee last week — I am not a Member of the Joint Committee on Agriculture, Fisheries and Food, but I attended the meeting — that it now takes 17 months to process an agricultural licence. I do not know why it takes so long. There must be some reason. Are they being delayed until such time as Bantry Harbour Board and Bantry Bay are taken over by another company or organisation, after which the fishing industry will be forgotten? As a representative of coastal communities I cannot allow that to happen.

I am sorry for digressing but this is a very serious issue. There are unintended, if genuine, consequences of what is being planned. Senator Cummins has made some valid points. I am worried that there will be unforeseen consequences if this legislation is passed. There are many wheels within wheels. We are up against Cork County Council, the Department of the Environment, Heritage and Local Government and the Department of Agriculture, Fisheries and Food. This Bill is under the remit of another Department, the Department of Transport.

The mussel man who sets out from Bantry on a foggy morning at 7 a.m. with his oilskins, wellingtons and sandwich box is asking if he will be finished because we will make a *faux pas* here. I know the Minister of State wants to reflect on this and I am sure he will. He has read some of his official notes and I am not saying they are wrong. I have deep-felt concerns, and I will outline them if I have to on Report Stage. I asked my Party Whip to defer Second Stage as I was attending a family wedding, and I was not given that courtesy. I have deeply-felt views on this, and as the day goes on my feelings will become deeper and my contributions will lengthen. I will not lie down easily on this issue.

Senator Michael McCarthy: There is no full Department of the Marine. It is unfair to expect the Minister of State to pioneer the legislation through the House, notwithstanding his vast ministerial experience. There are a plethora of Departments now dealing with marine matters. What used to be the Department of the Marine has been dismantled. It is now spread across the Departments of Communication, Energy and Natural Resources, Transport, Arts, Sport and Tourism and Agriculture, Fisheries and Food. It was unclear until September of last year whether or not Tánaiste and Minister for Enterprise, Trade and Employment, Deputy Mary Coughlan, who was then Minister for Agriculture, Fisheries and Food, would take responsibility for fisheries.

We are dealing with a marine issue. I am not the spokesperson on transport for the Labour Party, I am the Labour Party spokesperson on the marine. This issue is a marine matter. What

[Senator Michael McCarthy.]

happened to the mussel industry in Coromane during the summer was a debacle. The ban has now been lifted. I spent most of the summer trying to get information from the Minister for the Environment, Heritage and Local Government, Deputy John Gormley, who tic-tacked back with the Minister for Agriculture, Fisheries and Food on the issue. There was no sole Minister with political responsibility for the matter. An Einstein in a Department somewhere in Dublin decided to introduce a ban on mussel fishing in Cromane.

I made the point at length on that occasion that aquaculture and special areas of conservation could coexist. I may as well have been talking to myself. That ban has been lifted and we still have not found out the name of the genius who mooted the ban in the first instance. This is not fair on the Minister of State as he is a Minister of State at the Department of Transport. Who is responsible for this mess?

I will make a number of points on this legislation that directly affect Bantry Bay and the Bantry Bay Harbour Board. Where was the courtesy and common decency? There was no consultation with the local people on the Bill. There was a commitment given to meet them to discuss their concerns. Have we learnt anything in recent times? We have preached at length about consultation and communication in the North and other significant political areas of the country, and yet in an area as critical as this, a commitment is given to group of people in Bantry and is never followed through. That is discourteous.

It is also difficult to expect the Minister of State, Deputy Noel Ahern, who is not attached to the Department that should be dealing with this at junior ministerial level, to deal with this. It is unfair to him.

Deputy Noel Ahern: We should take what the Senators have said section by section and amendment by amendment.

Section 3, with which we are dealing, states this is necessary to take account of the court rulings in the Cityview Press and the Mulcreavy cases with regard to the power of a Minister to alter the limits of a company's harbour. This is what we are discussing. As I stated, the section outlines the principles and policies to which a Minister shall have regard when he or she extends a harbour's limits and boundary.

I understand the point being made and a 17 or 70 month delay occurring in obtaining licences sounds serious but it is not relevant to our Department. SACs were mentioned and the designation of such would be taken into account in any planning applications as would the preparation of EIAs. Most of what Senator O'Donovan referred to is covered under the clause about foreshore licences. I do not mind re-examining it and my previous remarks were in connection with what I saw as the original amendment, which considers it from a different aspect.

I understand what Senators O'Donovan and McCarthy stated and their concerns are covered. With regard to their wider concerns, I am not an expert on fisheries and that is being modest. I will not state how much or how little I know but I am not as knowledgeable as either of the Senators from that part of the world. They may be correct in many respects but with regard to what we are doing here, any fears they have are adequately covered. I stated we would examine it to see whether the amendment would strengthen it.

I do not know whether this amendment would be of much use with regard to the issues raised by Senators O'Donovan and McCarthy. I am not sure what is stated in the Cork county development plan with regard to mariculture or whether it is included. The Senators might comment on that and we will re-examine it with regard to the various matters raised.

An Leas-Cheann Comhairle: The Chair has given a good degree of latitude on this amendment.

Senator Denis O'Donovan: A small number of amendments have been tabled and most are grouped. It is not the case that we will be here for the next six months.

I have concerns and I will read three or four brief paragraphs from a letter from the legal advisor of the Bantry Bay Harbour Board, Mr. Rory O'Callaghan.

An Leas-Cheann Comhairle: Is this to do with the amendment or the section?

Senator Denis O'Donovan: It is to do with both. It concerns controls, regulations and laws.

An important point was raised with regard to Cork County Council. I am subject to correction but I believe that approximately 12 years ago, a report made a number of recommendations with regard to Bantry harbour and one was that Cork County Council would take it over. At the time, I was a member of Bantry Bay Harbour Authority and we objected to being taken over by Cork Port Authority. A majority went for corporatisation by which the harbour would be independent and a minority, including myself, stated that in the event of anything happening we would prefer to be taken over by Cork County Council.

Lengthy talks took place and the assistant county manager for west Cork, Ms Theresa White, and her officials have established a liaison group with Bantry Town Council and the harbour with regard to the future of the harbour. We will remain concerned with regard to future licensing. The letter refers to Bantry Bay Harbour Authority being established in 1976 and this was because of the Whiddy Island disaster. I presume the reference to CPO capacities is to compulsory purchase order capacities and this also concerns me.

The letter from Mr. O'Callaghan states:

This Bill is currently going through the Seanad and the Harbour Authority have adopted a position whereby they are opposing the enabling provision in the Bill which proposes to amalgamate Bantry Harbour Authority with the Port of Cork. In that regard Bantry Bay Harbour Authority was established pursuant to the Harbours Act, 1976 and is a Port regulated and governed by the provisions of the Harbours Act, 1946. In contrast, the Port of Cork is a semi-State body governed by the provisions of the 1996 Harbours' Act.

The intent behind the proposed enactment of the 2008 Bill is to streamline the existing functions of the corporate ports, extending the limits of some of the ports, transfer certain provisions concerning CPO capacities from the Minister to An Bord Pleanála and provide for other "tidying up" provisions to enable the existing port companies to more efficiently conduct their business, raise loans, preparation of annual reports etc.

The letter, which is addressed to another member of the legal profession, continues to state that Mr. Callaghan's clients, Bantry Bay Harbour Commissioners, "are presently adopting a stance whereby they are opposing this Bill and, while they are seeking to exert as much political influence in this regard as they can, they also wish to explore their legal options and have requested me to inquire from you as to whether you are in a position to take a brief from them" with regard to the harbour authority taking a case against the State and prevent the State from doing what is proposed in the Bill.

There are other implications but my point is on regulation and whether Cork County Council will include this in its area plan or county development plan. This letter shows it is envisaged. My learned colleagues in the legal profession have pointed out to me that the Bill will transfer compulsory purchase order powers to An Bord Pleanála. What does this mean? It is of concern.

[Senator Denis O'Donovan.]

Not being parochial about Bantry Bay, this raises a broad issue. Does it mean that in the future we will have to deal with more than the Department of the Environment, Heritage and Local Government on environmental issues including coastal zone management and Cork County Council on local planning? As Deputy Michael McCarthy pointed out, Bantry Bay has a tourism aspect and he also correctly pointed out that the fishing industry will be affected.

The Department of Transport is proceeding with the enactment of this legislation. However, another four or five Departments either do not care or have not been properly consulted because if there would be a greater convergence of ideas and a more simplistic approach. I have a great fear of An Bord Pleanála. I spent the best part of 20 years as a councillor and I had war with An Bord Pleanála.

An Leas-Chathaoirleach: That comes up in a separate section.

Senator Denis O'Donovan: It does but it is raised here with regard to control and zoning. I am extremely concerned that An Bord Pleanála, when it hears about Bantry Bay, will want to close the ditch west of Dunmanway — Senator McCarthy will be left alone — and provide a safari park for people to visit. Forget about fishermen and traditional rights——

Senator Michael McCarthy: A safari park for the Dublin 4 brigade.

Senator Denis O'Donovan: It is grand for the people who can come in to the bay with their big yachts because they do not have to live there. We have to survive there. I appreciate the Minister of State has said he will reconsider this and I am sure he will return on Report Stage and tell us not alone were Senators Cummins and McCarthy correct but I was also following which we will have a plethora of Government amendments to reflect the points we made today.

An Leas-Chathaoirleach: Does the Minister of State have anything further to add?

Deputy Noel Ahern: No.

Amendment, by leave, withdrawn.

Section 3 agreed to.

Sections 4 to 6, inclusive, agreed to.

SECTION 7.

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

Senator Maurice Cummins: This is getting to the point made by Senator O'Donovan a few moments ago with regard to transferring powers to An Bord Pleanála. The Minister is responsible for policy and in view of this the proposal to transfer powers to An Bord Pleanála is outrageous. It is a negation of responsibility. At least if the Minister is responsible we in the Oireachtas can hold him or her accountable and we have some type of transparency as opposed to if we hand power over to an anonymous body such as An Bord Pleanála.

We have all had our problems with An Bord Pleanála through the years. It would be a retrograde step to hand over these powers to the board. The Minister or the local authority should retain the responsibilities in this regard. I am opposed to the handing over these responsibilities to An Bord Pleanála.

Senator Michael McCarthy: I agree with Senator Maurice Cummins in his opposition to section 7, which deals with the proposed transfer of certain ministerial functions to An Bord Pleanála, a proposal which should concern us all.

The explanatory memorandum states:

This amendment to the Planning and Development Act 2000 provides for the transfer of functions from the Minister for Transport to An Bord Pleanála in the context of the compulsory acquisition of land by port companies. This transfer is similar in nature to that effected by the Planning and Development (Strategic Infrastructure) Act 2006 with regard to the compulsory acquisition of land by Aer Rianta (now the Dublin Airport Authority).

We all began our political careers in local authorities. I sat on Cork County Council for the Skibbereen electoral area while Senator Denis O'Donovan was a member for the Bantry electoral area. A Leas-Chathaoirigh, you began your political career as a member of Mayo County Council. With the abolition of the dual mandate, we are no longer local authority members but as Senators, Deputies or MEPs, we are still public representatives. We have been put into this position by those in our communities entitled to vote on the electoral register — that was before the then Minister for the Environment, Heritage and Local Government, Deputy Dick Roche, messed it up. Our communities rightly look to us for assistance with planning applications.

Every day, as members of local authorities, we would have dealt with general planning applications and issues regarding one-off rural housing. The planning system, for all its faults, does on occasion turn up the result we seek. Throughout the planning process, there are various stages at which people can make observations concerning an application. A public representative has access to engineers and planners who provide two major reports on any planning application. Senator Denis O'Donovan already referred to the assistant county manager in west Cork who is a model of public service and listens and engages with local authority members.

I have never found that same level of co-operation and service with An Bord Pleanála. It frightens me that we are expanding its role in this Bill. It is an organisation that is almost secretive. Members have always complained in debates on rural planning issues about the role of An Taisce but I cannot identify any people attached to An Bord Pleanála. Any decision referred to it is dealt with in a closed-shop fashion. It is extremely difficult to speak to its members or get an insight into its decisions. Any of its decisions are published on its website meaning public representatives only have the same access as everyone else. We cannot get into the board's insight or thinking.

Regarding strategic infrastructure, the inspector from An Bord Pleanála gave eight reasons why the proposed hazardous waste incinerator to be located in Cork's lower harbour should not proceed. However, An Bord Pleanála ignored the advice of its own inspector and granted planning permission. I am not convinced An Bord Pleanála should be left to its own devices. Some element of local democracy needs to be injected into the organisation.

I am vehemently opposed to section 7. Senator Denis O'Donovan rightly pointed out that in years to come it will be asked were these points raised when the Bill was going through the Seanad. I am glad the record of the House will reflect the concerns and reservations of Members from all sides.

I accept the Minister of State at the Department of Transport, Deputy Noel Ahern, is operating under instruction and to tight parameters. When he was Minister of State at the Department of the Environment, Heritage and Local Government, we had many frank and robust exchanges on the planning process in the House. Will he examine section 7 and understand it from the perspective of local authority members and the people? Local authority

[Senator Michael McCarthy.]

members are entitled to some reward from participating in local government elections. It is not good enough that we can give this kind of power to An Bord Pleanála. It is in our gift to stop this going through.

Senator Denis O'Donovan: I have grave reservations as to what might occur if these provisions are accepted. Recently, the Cork Port Authority, with the support of Cork Chamber of Commerce and Cork County Council, proposed to build a major transshipment container facility in Cork Harbour. Such a facility would be welcome in the south. The proposal was referred to An Bord Pleanála which rejected it, in essence, claiming the plans were overambitious.

In my travels I have met with people from Hong Kong and South America who never could understand why the south, adjacent to the greatest shipping lanes in the world, did not have a greater capacity for dealing with container shipments. I recall when the Whiddy Island oil facility closed down in Bantry, it was suggested it be developed as a container port but nothing came of it. The movement of goods across the world by sea is on the increase, not only from North and South America but from the developing Chinese economy.

The first opportunity to develop a port for major capacity in the south was recently shot down by An Bord Pleanála. At a time when the economy is contracting, we must grasp these commercial nettles and be proactive in developing our ports and harbours. In case I am accused of having something personal against An Bord Pleanála — maybe I have — a grave mistake was made in the 1970s when certain planning powers were taken away from the Minister. Some claimed these powers were politically abused and as a result An Bord Pleanála was established. As a public representative active in politics for 23 years, I have no sympathy for An Bord Pleanála. Whenever I hear an application is with it, a shiver goes down my spine because the result usually ends up the wrong way around.

Section 7 concerns compulsory purchase orders. Those also raise serious issues. CPOs can be like using a sledge-hammer to crack a nut. It is proposed in the Bill that the power to deal with such matters would be taken from the Minister and given to An Bord Pleanála. I have serious concerns about this. Frankly, my concerns would not be as deep as those on other sections of the Bill. However, I would have grave worries and I am glad that Senator Cummins has raised this.

Perhaps the Minister of State in his response would outline the precise position. The Bill is vague on it. One would want to be a mathematician and one of the top officials behind the scenes in the Bills Office preparing Bills to understand section 7. The section contains a plethora of sections and subsections, etc.

If I am correct — the Minister of State can enlighten me further — we are throwing away the baby with the bath water because every power possible is being given to An Bord Pleanála. In this regard the section refers at length to the Planning and Development Act 2000 and to transfer of certain ministerial functions under the Harbour Act 1996. I refer in particular to subsection (2), paragraphs (c), (d), (e), (f) and (g).

My concern here relates to the powers of the Minister. I have difficulties with Ministers, sometimes even with my own Ministers although not with the Minister of State, Deputy Noel Ahern, who is a gentleman.

Senator Michael McCarthy: Tell us who?

Senator Denis O'Donovan: Do not goad me now.

Acting Chairman (Senator Cecilia Keaveney): That would not be in order.

Senator Denis O'Donovan: I have strong concerns that we are taking from the Minister certain powers to give to An Bord Pleanála. We are all being told about political responsibility, transparency, etc., and another part the Bill provides that members of local authorities cannot be on boards, but in some instances political responsibility can be good.

Senator Maurice Cummins: Yes.

Senator Denis O'Donovan: Here we are transferring this power to An Bord Pleanála and I do not think it is properly thought out. Again, I must be parochial. I think of the problems coming down the track for Bantry Bay where some fellow will make an application only to withdraw it.

Recently, we had a nice situation on the shores of Whiddy Island where young fellows who admirably returned to the island and a few local fishermen were involved in scallop and other farming in the coastal area trying to make a few bob. They find it almost impossible to get an aquaculture licence. The Department of fisheries, and particularly BIM, is supporting them financially stating this is a good idea and it will give them 30% or 40% grants to help the venture get off the ground. The other side of the coin, as I mentioned earlier and as I am sure the Minister of State will not be aware as it relates to another Department, is the 70 month delay in applying for aquaculture licences, a crazy delay of nearly seven years. An Bord Pleanála is putting its hand into the pie as well. God help the guy who wants to start up in that line of business. It involves the local authorities, the Department dealing with the marine — it keeps changing Department — which is now the Department of Agriculture, Food and Fisheries and the Department of Transport. It is now proposed to include a role for An Bord Pleanála.

It is like baking a Christmas cake. I have a funny feeling there are a lot of ingredients here — the cherries, the raisins and all the other bits and pieces. The Acting Chairman would probably be more familiar with baking Christmas cakes than I, but I am worried we will get the mix wrong and that the fruit will sink.

Senator Paddy Burke: The temperature might not be correct.

Senator Denis O'Donovan: I am thinking about the old days of the bastable, to be good to my mother, when it would be made over the fire with the sods of turf on top and if the fruit sank, we would have no Christmas because there would be tears, etc. I am worried that in this respect we are adding an ingredient that will ensure that the fruit will sink and we will have a result we never anticipated. Senator Cummins is correct to bring this to our attention.

Let us stand back and reconsider this. On other issues we see already that An Bord Pleanála is overloaded with the result that people are left waiting four, six or 12 months when an appeal is submitted on a simple rural planning application, for instance, in parts of Waterford or west Cork. County Mayo has no problems with planning, of course. It is now proposed to transfer great autonomy to this body when it is already overworked, overloaded, understaffed, underpaid and so on.

With all due respect, most of the members of An Bord Pleanála know nothing about coastal zone management, the fishing industry and know less about what is appropriate for areas. They could take out their book and state what should happen. However, very few of them will go down, tog off, put on their rubber boots and oil skins and spend two or three days out hauling mussel lines on a trawler or hauling a few lobster pots or whatever.

I do not know from where this thinking comes. It is difficult for me to express such serious reservations on a Bill produced by my own Government. I am concerned that An Bord Pleanála cannot cope with its current workload, never mind deal with these issues.

[Senator Denis O'Donovan.]

A typical example, which I reiterate, is what happened in Cork port where a huge container development was planned for the south. All our strategic plans have made clear this is needed. It could be in Waterford or Cork — it does not matter. It is needed because in the shipment of containers, having regard to our geographic position in the western point of Europe, we are probably availing of 0.01% of the opportunities that are available in the line of jobs, shipping, etc. They are passing us by and going to Rotterdam and several English ports.

If I am correct, the first application for a port company, made under the Planning and Development Act 2000, was shot down. It was the first acid test for An Bord Pleanála but instead of stating that the applicant was too ambitious, that the scale and size of the application should be reduced and that there was a need to go back to the drawing board, Cork County Council was not given any say. Legislation enacted a few years ago transferred this power, which should be with the Department of Transport, to An Bord Pleanála. Guidelines were sought from the board but in its first acid test it indicated it has no interest in marine matters. It shot down the proposal in Cork.

Cork City Council, Cork County Council, Cork Chamber of Commerce, Cork Port Company were all in favour of the proposal. They conducted considerable research and spent a deal of time in seeing how they could develop Cork port into what it should be, and I welcome that. As the Minister of State will be aware, I do not welcome the possible shotgun marriage with Bantry Harbour, but I welcome the development in Cork which is good for the area. However, in the first serious test of the capacity of An Bord Pleanála to deal with such matters, it has shot down this proposal by Cork. What angers me more about An Bord Pleanála's interference in this is that it has put this project back five years with the result that the financial statue of the country and the capacity to develop and expand has diminished.

In the past year or two the economy has contracted. Next year and the following year could be worse. Hopefully, it will not be too bad. Yet, An Bord Pleanála rejected a proposal through which we could now be creating jobs in expanding this port and bringing more commerce and industry into Cork for the southern region. Why was it not possible for the board to come back, as a local authority would, stating that it would give the planning applicant a three months' extension or it should go back to the drawing board and resubmit its proposal? Instead, it declared the matter was at an end. There may be other planning reasons, which I have not fully studied, but this episode crystallises my worry about An Bord Pleanála interfering with rural Ireland and with this Department. The idea of the Minister and the Department handing over such powers to An Bord Pleanála makes me sweat with worry.

Senator Paddy Burke: I join Senator Cummins in opposing this section. It is outrageous that the Department of Transport would give away the power to make compulsory purchase orders to An Bord Pleanála, a board in which I have little confidence. Let us be fair and frank about this. A compulsory purchase order is, as Senator O'Donovan said, a sledge-hammer tool. The former Minister for the Marine and Natural Resources, Deputy Fahey, gave Shell the power to make compulsory purchase orders to acquire land in north Mayo. If that power had been left to the local authority, there might not have been as many controversies in recent years and matters might have been easier for Shell. The power to make compulsory purchase orders was an unbelievable power to give to a company. Consider the powers being given to An Bord Pleanála in the Bill. The board is given compulsory purchase order powers with regard to "land, easements, rights over land (including wayleaves and public rights of way), rights over land or water or other such functions as may be necessary". That is a huge power.

Under this legislation, the control of many harbours and piers will be vested in port authorities. Will the compulsory purchase order power be given to An Bord Pleanála only in those

cases? Other harbours and piers are still under the control of local authorities. Local authorities have compulsory purchase order powers but will An Bord Pleanála now have compulsory purchase order powers for all the harbours and piers throughout the country? It is not clear from the legislation before us. As Senator O'Donovan mentioned, there are many figures and amendments to sections included in this section, and one would have to be a genius to figure out what is actually contained in it. Senator Cummins and I oppose it. I am sceptical about giving compulsory purchase order power to An Bord Pleanála.

Why could that power not be vested in the local authorities? Local authorities have done a wonderful job over many decades in using the power of compulsory purchase, be it for road widening, harbours, piers, housing and many other functions. I would have far more confidence in the local authorities. The local authority is an accountable body through its elected members. An Bord Pleanála is not accountable to anybody. If one asks the Minister about An Bord Pleanála, he will say he has no power over it. It is an unelected body that is unaccountable. The Minister is going down a dangerous road with this provision and I support Senator Cummins in opposing it.

Deputy Noel Ahern: First, there are no new powers in this Bill. It simply transfers powers previously held by the Minister to An Bord Pleanála. Let us be honest about this. In this House and in the Dáil there is much talk about the necessity to have appeals boards. People assert that a Minister or local authority should not make the final decision and call for the establishment of appeals boards. The appeals board for many issues nowadays is An Bord Pleanála. I was a member of a council for many years as a public representative. To be honest, one hates An Bord Pleanála one week and the next week one loves it. It depends on the decision. Somebody must make a decision. Many times one is horrified by An Bord Pleanála because it appears to go against what one wants but on other occasions it can save one from one's local authority. I felt that way many times. Even when I was on the local authority——

Senator Paddy Burke: The cases are few and far between.

Deputy Noel Ahern: ——I often thought the local authority was off the wall. Everybody can have his or her opinion but, as in government and other areas, somebody must make the final decision. That is how it is. It is God, so to speak, in that it makes the decision and the rest of us will love it or hate it as a result.

The Senator referred to the decision made about Cork port. Personally, I might regard that decision as strange, given my background, particularly the reference to it not being rail linked and so forth. I spent years working in CIE when it was Government policy or CIE policy to close down railways. I might have found that decision——

Senator Maurice Cummins: There are rail links in Waterford.

Deputy Noel Ahern: Yes, Waterford still has its links. I might have considered it a strange decision but there was another side to it. It was not the case that all the people in Cork wanted that decision. The port of Cork might have wanted it but there were very vociferous residents' groups with legal support who were ready to die in the ditches if it was given approval.

Senator Denis O'Donovan: They object to everything.

Deputy Noel Ahern: The Senator has the luxury of being from west Cork and its beautiful countryside; he does not represent Cork South Central. It is fair to point out that no matter what way that decision went, there would have been a body of people frothing from the mouth and very unhappy. That is the way it goes; these matters are not perfect.

[Deputy Noel Ahern.]

The Bill gives to An Bord Pleanála the functions that were previously held by the Minister with regard to compulsory purchase orders by port companies. From the point of view of the Department of Transport, that decision is consistent with existing legislation in regard to the compulsory purchase of land by the Dublin Airport Authority. My constituency on the north side is more urban but I received complaints over a number of years about how Dublin Airport or Aer Rianta compulsorily purchased land for runway extensions and so forth when the local authority was involved, so everybody was not necessarily happy just because An Bord Pleanála was off the scene. However, in recent years the powers that existed under the Air Navigation and Transport Act have been given to An Bord Pleanála to adjudicate on those compulsory purchase orders. Members referred to the compulsory purchase order powers of local authorities. Many local authority compulsory purchase order functions in respect of a number of roads Acts, water supplies Acts and housing Acts have been also transferred to An Bord Pleanála in recent years.

An Bord Pleanála is the appeals body for a number of areas and over time it is acquiring and building up a body of expertise and experience relating to the planning aspects of major infrastructural development. The view in the Department is that it is a logical step, given that we extended the powers of An Bord Pleanála to deal with compulsory purchase orders for the airport, to extend that same system to ports. It is a consistent decision and is in line with best practice. It simply gives An Bord Pleanála the power held previously by the Minister. I heard Senator O'Donovan's analogy about baking a cake, but An Bord Pleanála is the expert body. It is building up expertise and is the independent appeals board. As I stated, depending on one's point of view, it may get a decision right one week and wrong the next. If the Minister had the decision-making power, people would be giving out anyway.

It was stated this measure was a sledge-hammer proviso. I accept that doing business by compulsory purchase order is not necessarily the first approach of local authorities or others. Only one such compulsory purchase order was made since the enactment of the Harbours Act 1996. The powers the Minister has and which we are transferring to An Bord Pleanála allow for full public consultation prior to any decision on an application. The opportunity will exist to lodge an objection and there will be a full appeals process.

The power in question concerns only ports and not harbour authorities. From the Department's point of view, it is a very consistent decision. We are transferring powers to An Bord Pleanála, as we did with airports. It is a consistent, logical decision in accordance with best practice. Compulsory purchase orders are not used very often — it is better to negotiate and do business in another manner — but can be made on the odd occasion when deemed necessary. It is easy to complain about the body that must make decisions in this area, but it must be remembered An Bord Pleanála is building up expertise and is the independent appeals board. From our point of view, the proposal before the House is logical.

Senator Maurice Cummins: I respect the view of the Minister of State but cannot agree with him. Handing over these powers to An Bord Pleanála is a negation of democracy. If the Minister has responsibility for decisions, the elected representatives of the people can debate them in the Houses. Handing over the powers to a body that made dubious decisions in the past according to many local authorities is not the approach we should be taking. The Minister should accept the responsibilities he has and not transfer them to An Bord Pleanála.

This matter was raised by quite a number of Senators on Second Stage, especially Senator Ellis. There was strong support from the other side of the House for the view that the responsibilities should not be transferred. I hope Members on the Government side will vote in accordance with what they were saying on Second Stage. Senator O'Donovan was not

present at the beginning of Second Stage for the reasons he outlined. We are sticking to our guns in opposing this section and if we must put it to a vote, we will do so.

Senator Denis O'Donovan: I acknowledge the Minister of State is saying the provision affects only ports. This is what we are here to debate. Indirectly or directly, it will affect the ports in Cork, Bantry and Fenit, on which my good friend Senator Ned O'Sullivan spoke on Second Stage. He has grave concerns for many reasons because a shotgun marriage is being proposed in respect of Fenit port and the Shannon Foynes Port Company. The proposal will affect Sligo, Drogheda and other ports.

Irrespective of whether we like, An Bord Pleanála is the appeals body regarding many issues. This will not change my political life in that I am practical and pragmatic. Coming from rural Ireland, I have had long-term differences with An Bord Pleanála. The Minister may be right that, in respect of major developments in Dublin and Cork cities, he was sometimes saved by decisions of the board. However, in my 19 years as a member of a local authority, An Bord Pleanála had a very jaundiced view of rural Ireland and particularly planning associated with rural areas. One in 100 planning applications was accepted, and this was sometimes for spurious reasons.

I argued this point with An Bord Pleanála with regard the Sheep's Head peninsula, which adjoins Bantry Bay. The two most recent censuses show a population decline of almost 30% in my home village, Kilcrohane. Schools are closing. Mention was made of class sizes and in this respect it is almost a joke to refer to Rosnacaheragh-Ahakista school, which has 13 children and two teachers, and Kilcrohane school, which has 29 children and two teachers. This is not a big issue but it is ironic that the Minister for Community, Rural and Gaeltacht Affairs, Deputy Ó Cuív, is investing money to help CLÁR areas while An Bord Pleanála is not letting anyone build in them because the children might go to school, thus saving the schools, and because the football team might be supported. That is why I have a jaundiced view of An Bord Pleanála. In my political life, the decisions of An Bord Pleanála that reflected my viewpoint were as scarce as teeth in a duck.

With due respect to the Minister of State, An Bord Pleanála will not be an appeals body but — excuse the pun — the port of first call. While I accept those who opposed the plan for the Port of Cork, who may be articulate and well-heeled, may have some rights, I believe we either have a port or we do not. An Bord Pleanála, in its first test, shot down the proposal. In that instance, the 48 members of Cork County Council, which had jurisdiction, had no input into the planning decision.

The Planning and Development Act 2000 was to fast-track planning decisions. I spoke on this previously as a Member of the Seanad. Instead of proposing to continue to operate through the local authority and deal with material contraventions and with awful councillors, which I probably was from time to time, it was proposed that major infrastructural proposals would be dealt with directly by An Bord Pleanála. It was proposed that the local authority stage be skipped, which was undemocratic.

While I accept that many of the decisions will affect only ports, which could include those in Sligo, Bantry, Cork, Dundalk and Fenit, which is famous in more ways than one, An Bord Pleanála, as a consequence of the Planning and Development Act 2000, will not be dealing solely with appeals. The Minister of State should correct me if I am wrong but I believe that, on decisions on ports, foreshore rights, riparian rights and land acquisitions, An Bord Pleanála will be the port of first call and the normal planning process with which we grew up, involving decisions by county councillors, planners and engineers, in addition to material contraventions and rare section 4 motions, will be leapfrogged. We did not always get it right but we did so in 80% or 90% of cases. On a critical issue An Bord Pleanála was put to the forefront instead of

[Senator Denis O'Donovan.]

the local authority. I may be wrong on that but I believe I am correct because this was a critical case involving the development of Cork port.

I emphasise that, to the best of my knowledge, the Cork Chamber of Commerce, the city manager, and the city councillors, although perhaps not unanimously, were agreed that something had to be done. The venue for first decision was An Bord Pleanála and it shot down the proposal. I heard the debate on it. I cannot say I am an expert on it but if that is the case, why is there not a mechanism in place whereby An Bord Pleanála can decide that there is a problem, put back the issue for two months and have public consultation with elected members and so on? I am concerned that it is being given a substantial power in this Bill. I fear that it examines the academic and technical planning reasons and not, as I mentioned in respect of Sheep's Head peninsula and the other planning applications, the socio-economic problems going forward in a country whose economy is in decline. We are talking about the construction of a fairly substantial container port shipment. I have seen similar projects in Rosario, Hong Kong and other countries where there has been major port development. We are missing the boat here.

An Bord Pleanála should consider what we are doing in regard to development in Ireland. I am not talking about mariculture or otherwise because the day will come when we might have another 150,000 people out of work and marching on the streets and we will ask why we allowed An Bord Pleanála let this happen, which would have created 50 or 60 jobs. I am not talking about destroying the infrastructure but Cork port is either a commercial port or it is not. An Bord Pleanála seems to be saying it is but it will not let it expand or develop. I do not like those decisions.

Acting Chairman: Does the Aire have anything to add to that?

Deputy Noel Ahern: I do not necessarily like the role of standing up for An Bord Pleanála but I am sure in all those decisions in the Senator's constituency or any other constituency it takes into account the decision of the local authority and the development plan of the area. I presume the development plan would take account of many of the other issues about which the Senator spoke.

It is the case that in recent years we have expanded the role of An Bord Pleanála, particularly in the strategic infrastructure legislation passed about two years ago. What was done in Cork was done to streamline the process and to ensure applications would not be a year with the local authority awaiting a decision and then perhaps another year with An Bord Pleanála. It was designed to speed up the process and to ensure there was a thorough examination of applications without the same argument being put forward several times or, in some cases, people bringing a case to court where the argument would be made all over again.

Under the strategic infrastructure legislation, An Bord Pleanála is now the determining body in respect of planning approvals for major infrastructural developments at commercial ports. The Senator is right to say that in this case it is not the appeals board. It is the first adjudicator, so to speak, but under the strategic infrastructure legislation, where it is deciding on major developments sent to it, it is common sense that it would also be the determining body with regard to adjudicating on applications for compulsory purchase order. It would not make sense to put that through a longer process. They are intertwined. If it is deciding on the major development, why can it not decide on the CPO?

For good or for bad, this has been the trend for a number of years. What the Department of Transport is putting in this Bill is logical and is in conformity with best practice as done in other legislation such as that dealing with the airports. While several Members lauded what the local authorities do, many of the powers of the local authority on CPOs have been given

to An Bord Pleanála in recent years and it is now deemed to be the experts. The power about which we speak has been rarely used in the past 12 years — by the local authority or whoever. It is used only as a last resort when required. This is a logical, consistent measure. We are applying the same best practice to CPOs on ports as we apply to airports. That is why we are inserting what I believe is a good measure in the Bill.

Acting Chairman: Is section 7 agreed?

Senator Maurice Cummins: No.

Senator Denis O'Donovan: Before the Senator takes the issue a step further I want to make a few brief comments. I accept what the Minister said but I want to record that I supported the strategic infrastructure legislation. The Minister said the power has been used rarely in the past few years for long, drawn out CPOs. I chaired a committee on the Constitution that examined the area of property rights and so on but we could have thousands of CPOs were it not for the fact that the Irish Farmers Association negotiated with the National Roads Authority — I am using this as an example — in regard to the building of a motorway or dual carriageway from here to Cork. There was also one being built to the west and one to Limerick. There would have been ructions, CPOs and legal wrangling if that were not the case. The IFA negotiated a good deal on behalf of the farmers but it is a different matter when it involves CPOs around port areas because different groups and rights are involved. I can see a major problem arising in the Bantry Bay area with inshore fishermen who have rights going back almost to the Magna Carta.

The continuous transfer of projects like this to the point of first adjudication, as the Minister called it, namely, An Bord Pleanála, is fundamentally wrong. I say that because numerous local authority and ministerial powers have now been handed over to An Bord Pleanála. I have an axe to grind with the Minister of State, particularly with regard to planning in rural Ireland. I am talking about cases where the local authority and the local engineers approved an application because an individual needs to live in a remote area with, say, his or her elderly aunt or uncle. I must differ with him on that because in most instances where the council granted planning permission, An Bord Pleanála rubbed all our noses in it and refused permission. Nine out of ten would be appropriate but that is rural Ireland. *Sín scéal eile*. It is a different day, but I have reservations on the matter.

We are handing over many powers to An Bord Pleanála. The Minister of State may not be in a position to respond to this point but with all the extra obligations and duties now being given to An Bord Pleanála, as the first adjudicators in issues like this, does it have the necessary powers and resources? The Minister says it has the expertise. Perhaps it does; I do not doubt that although I have my misgivings, but does it have the extra powers and resources to deal with this entire situation?

I agree in principle with the strategic infrastructure legislation. However, on the provision of the metro line from the centre of Dublin to Dublin Airport, for example, if we take that to its logical conclusion, approximately 20,000 householders will have to be consulted because under the law, technically speaking, one owns everything above and below one's house. We recommended that, under our Constitution, the State should control any area below ten metres, or 30 feet, and fast-track this project because it would not be possible to deal with every householder. There is much merit in the strategic infrastructure legislation but does An Bord Pleanála have the staffing levels to cope with all these additional powers because these issues take time? For example, an appeal in respect of an application for planning permission in a rural area in Kerry, west Cork, Mayo or Waterford currently takes four months to process. In

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many cases, the planning authorities — they have the right to do so — write to those making appeals and inform them that such appeals could take up to eight months.

Acting Chairman: As it is 1.30 p.m., and according to an order of the Seanad today, we must suspend the sitting until 3 p.m.

Senator Paul Coghlan: The Senator will have a fresh wind by then.

Senator Denis O'Donovan: I am just starting.

Sitting suspended at 1.30 p.m. and resumed at 3 p.m.

Senator Denis O'Donovan: I do not wish to labour the point as we cannot develop it much further. We have had a lengthy debate on section 7, which is opposed by Senator Cummins and others. I urge the Minister to reflect on what has been proposed in the section, if not now, before Report Stage. I refer in particular to section 7(2)(b) concerning two wide-ranging issues. I am somewhat concerned that we may be giving more power to An Bord Pleanála than is appropriate. The measures would affect Bantry Harbour, my home area, Fenit in Kerry, Sligo and other ports. Section 7(2)(b)(2) states:

“The transfer of the functions of the Minister for Transport [The Minister is giving away those powers.] in relation to the compulsory acquisition of land in accordance with subsection (1) shall include the transfer of all necessary ancillary powers in relation to the substrata of land, easements, rights over land (including wayleaves and public rights of way), rights over land or water or other such functions as may be necessary in order to ensure that the Board can fully carry out its functions in relation to the enactments referred to in subsection (1).”.

Will the Minister of State clarify what is meant by “substrata”. Do we mean the high-water mark or the ebb tide? For instance, in my area of the Port of Cork approximately 60% of the foreshore rights of Bantry Bay are owned by the former Lord Bantry, now vested in Bantry House. Recently, the harbour board in Bantry purchased a quarter mile of those rights in good faith and at market value in order that developments could take place within the inner harbour. What is the impact of the compulsory powers *vis-à-vis* the rights of the former Earl of Bantry in that regard? What is the situation? A lot of mariculture and aquaculture activities take place in relatively shallow water, for example, scallop culture. Like my colleagues, I have concerns about the potential impact of the section. It is not unreasonable for the House to request the Minister of State to outline in more specific detail the exact powers that are being given to An Bord Pleanála.

I do not wish to return to the example of the Cork port authority and what happened there but I have concerns because of previous local experience regarding the rights of authorities. I refer to the dredging of the inner harbour in Bantry, which is potentially possible. When the Taoiseach was Minister for Finance he provided approximately €4 million through the Department for the project but that money has still not been spent and many investigations are ongoing in that regard. What impact would the proposed change have on such developments?

I do not wish to labour the point but I have genuine concerns. I am sure my colleagues who spoke previously have the same fears. Senator Ned O'Sullivan spoke on Second Stage about the developments regarding Fenit and the possible consequences for huge development in Foynes in the Shannon Estuary region. There are also implications for Sligo. In the not too distant past it was proposed that Sligo Port would relocate. The Minister of State is aware of the major concerns about the relocation of Dublin Port to Balbriggan. Similarly, there are concerns about the control and development of the ports of Drogheda and Dundalk. Other

ports about which there is concern include Rosslare Harbour, which is probably one of the most popular ports in Ireland, Waterford Port and New Ross. Perhaps I am being unfair to An Bord Pleanála but I have worries about it. Local authorities can have more local knowledge on which to base decisions and a greater bird's eye view of what is happening in ports. I have grave concerns. The proposed legislation in section 7 is all-encompassing. It is a very broad omnibus provision.

Recently, a proposal was made, in co-operation with Cork County Council, to run some sewage pipes along the foreshore within the inner harbour in Bantry. However, it could not be done without the consent of the harbour board and Bantry House. Fortunately, Bantry Harbour board had bought the rights in that area. Outflow pipes were put in place to bring raw sewage to a place where it could be purified. I suppose it should have been done many years ago. The foreshore was a big issue in that instance, as it is with every move that is made. I appreciate it does not have an impact in places like Baltimore and Kinsale. At one stage, we had to wait two or three years for a foreshore licence to be granted so that progress could be made with a proposal relating to the inner harbour in Bantry.

Will foreshore licences remain within the remit of the Department that is responsible for marine and fisheries matters? Are they within the remit of the Minister of State, Deputy Noel Ahern? I recently heard that certain functions and powers with regard to foreshore rights, or some other rights, have been delegated to the Sea-Fisheries Protection Authority, which is now based in Clonakilty. Perhaps I could be enlightened in that regard. These matters cause concern when we try to make quick progress with foreshore projects. My colleague, Senator McCarthy, will confirm that it took a long time for the local authority to issue foreshore licences in respect of sewerage jobs in Baltimore and Schull. When I was prodding this along, just as one uses a prodder when one is loading cattle onto a truck, I was told there were problems with staffing. I had to contact the Office of the Attorney General and the Office of the Chief State Solicitor. There are worries in this regard. Where do we draw the line? What powers are to be given to An Bord Pleanála? I am not sure if the Minister of State can allay my fears today. Can he get more information on the matter in advance of Report Stage, which I understand will not take place until February 2009?

Senator Michael McCarthy: I support Senator Cummins in opposing this section. My comments are on the record. I thought we had moved on to the next section, but we have not.

Deputy Noel Ahern: We had a reasonable discussion on this matter before lunch. As I said then, no new powers are being created in this section. The existing powers are being transferred from the Minister to An Bord Pleanála. The powers in question are clearly laid down in the Harbours Act 1996. We are not creating any new powers. Section 16 of the 1996 Act provides that a port company may “acquire compulsorily any land” in accordance with paragraphs 1 to 6 of the Fourth Schedule. The legislation in question sets out the process for such an acquisition and specifies the powers in question. It requires full public consultation to be undertaken and provides for objections to be made. We are not creating any new powers. We are simply transferring responsibility for the existing process, which is provided for in the 1996 Act, from the Minister to An Bord Pleanála. From the point of view of the Department of Transport, that is a fully logical and consistent approach. The same thing has been done in respect of airports. It seems logical to treat ports the same as airports.

The foreshore issue that was raised this morning is being considered by the Department of Agriculture, Fisheries and Food. The transfer of the power to initiate a compulsory purchase will not have any impact on the Bantry Bay proposals, which are under discussion. The powers relate solely to the compulsory purchase of land for State commercial port companies. The powers that currently are exercised are listed in the Fourth Schedule to the 1996 Act which

[Deputy Noel Ahern.]

sets out the process I have mentioned. They can be used at any time but have been used just once in the 12 years in which they have been in existence. We are not creating any new powers. We are simply transferring the power to administer the existing rules, regulations, conditions and processes from the Minister to An Bord Pleanála. I am not inclined to agree with the point being made by the Senators. I do not see any need to refer back to them.

Question put.

The Committee divided: Tá, 27; Níl, 15.

Tá

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
de Búrca, Déirdre.
Ellis, John.
Feeney, Geraldine.
Hanafin, John.
Keaveney, Cecilia.
Leyden, Terry.
MacSharry, Marc.

McDonald, Lisa.
Mullen, Rónán.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Malley, Fiona.
O'Sullivan, Ned.
Ormonde, Ann.
Phelan, Kieran.
Ross, Shane.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Níl

Buttimer, Jerry.
Coffey, Paudie.
Cummins, Maurice.
Fitzgerald, Frances.
Hannigan, Dominic.
McCarthy, Michael.
McFadden, Nicky.
Norris, David.

O'Reilly, Joe.
O'Toole, Joe.
Prendergast, Phil.
Quinn, Feargal.
Regan, Eugene.
Ryan, Brendan.
White, Alex.

Tellers: Tá, Senators de Búrca and Wilson; Níl, Senators Cummins and McCarthy.

Question declared carried.

SECTION 8.

Question proposed: "That section 8 stand part of the Bill."

Senator Michael McCarthy: We oppose this section very clearly because it envisages the scrapping of local authority directors and reducing board membership such that the community representative will be also abolished. This is an assault on local democracy. That is the thinking that surrounds this motion to oppose this section. In the Minister's previous role as Minister of State at the Department of the Environment, Heritage and Local Government he was intrinsically involved with local authorities. He came from a local authority and his family members were on local authorities.

He is someone who understands the basic tenets of local democracy. What is wrong with members of local authorities serving on these boards? Surely they bring an element of local democracy to the proceedings and they may also bring a level of expertise. People depend on local government to ensure their views are expressed, through their councillors. If this Bill

proposes to bring an end to that process, then I am fundamentally opposed to it. I know that some Members on the Government side feel the same way but they must be loyal to their Minister and party. However, I urge the Minister of State to consider this amendment carefully. He has been very obliging in the past and is someone who deals with legislation with an open mind. I appeal to his better judgment and ask him to look favourably on my request to accept this amendment.

Senator Maurice Cummins: I raised this matter during the Second Stage debate on the Bill because I believe this provision is a retrograde step. I served on the board of a port company in Waterford, where there were three local authority members — one from Waterford County Council, one from Waterford City Council and the third from Kilkenny, where the actual port is located. The local authority members were people who had expertise in the area.

I worked in Waterford port for more than twenty years and served on the board of Waterford harbour commissioners from 1979 and that is why my local authority appointed me to the board of Waterford port. There are many other people like me around the country. I do not understand why local authority members are being precluded from serving on such boards. People should be appointed on the basis of ability. There are many local authority members who are well qualified and have the necessary experience to make a valuable contribution to the boards of port companies.

I agree with the proposal to reduce from 12 to eight or nine the number of serving members but why make the local authority members the scapegoats? The Bill refers to the fact that the Minister “may” appoint one member of a local authority to the boards of port companies, but does not place an obligation on him or her to do so. As has been already stated, this is an attack on local democracy.

I urge the Minister of State to examine the attendance records of the boards of port companies. I would bet my bottom dollar that councillors have a better attendance record and are making a more significant contribution than some of the other so-called experts serving on the boards.

I fully support Senator McCarthy on this issue. A number of speakers on the Government side of the House expressed their concerns on this matter during the Second Stage debate. There appears to be a common thread running through all types of legislation coming before the House lately whereby local authority members are precluded from serving on various boards and bodies. Such members were elected by the people to represent them locally but the legislation is suggesting that they are not good enough to represent the people on boards of companies such as port companies. Ports are the heart and soul of areas like Waterford city and to preclude local representatives from port company boards would be a retrograde step.

I urge the Minister of State to rethink this matter. The idea of excluding local authority members is obviously coming from officials who are dealing with the entire legislative programme. Some people might ask why local authority members should be on the boards of port companies but if the Minister of State examines the record of such members, he will be pleasantly surprised to find that they are the ones who make valid contributions and who are in attendance more than any other members. Their good attendance is not due to them receiving expenses, lest anyone should make that suggestion, but because they have an interest in port affairs in their local communities.

This provision should be revisited. Going from a situation where there are three local authority members on the boards to the possibility of only one being appointed is not good enough.

Senator Denis O'Donovan: I must say a few words in support of Senator McCarthy's amendment. While I accept that Deputies and Senators should not serve on the boards of port com-

[Senator Denis O'Donovan.]

panies, I must agree with the previous speakers that many local authority members have served well on such boards.

Most harbour boards are made up in the same manner and the situation at Bantry port company is replicated throughout the country. The Chambers of Commerce of Ireland appoints two members to Bantry port company. The town council also appoints two members as does the county council, which is very democratic. That option is being taken away under the terms of this Bill. The trade union movement nominates one member of the board. The Irish Ports Association, which is a national body, also appoints two members to the board. Members of that association include skippers of tug boats, able seamen and pilots who navigate ships in and out of bays.

I took part in a “Questions and Answers” programme some time ago where the issue of port company boards was raised. During that discussion, I was accused of political cronyism by an eminent journalist who shall remain nameless. At that time, the Minister of the day had the right to nominate three people to the boards port companies, one of whom had to be from the trade union movement. The trade union appointee in Bantry has worked very well on the board and that applies to other ports as well. There is a perception that there is political interference in these boards, with no regard for whether that is actually true.

I served as a member of Bantry harbour board and was proud to do so. I rarely, if ever, missed a meeting. At the time, members of the board got £40 for attending monthly meetings, some of which started at 7.30 p.m. and went on until midnight. Members decided, even though the harbour was making money, to forego the £40 payment as a gesture of goodwill. Accusations of political cronyism do not stand up because out of the 11 members of the board, only two could be appointed by the Minister.

The Bill proposes to reduce the numbers serving on boards of port authorities. In Cork, for example, the board will be reduced to eight members. If Bantry harbour board is subsumed into the Cork port company, will it have one member on the reduced board of that company? Who will that member be? The same question applies to Fenit. My colleague, Senator Ned O'Sullivan spoke at length about Fenit on Second Stage. While I do not want to dwell on Kerry, would Fenit have one or more members on the board of the new Foynes Shannon region company? Let us return to the area of corporate governance.

My colleagues will be aware of the important role LEADER plays in rural Ireland. It is funded by Europe to a certain degree, and by the Department of Agriculture, Fisheries and Food, and is supported by the Department head by the Minister for Community, Rural and Gaeltacht Affairs, Deputy Éamon Ó Cuív. In west Cork we have amalgamated the West Cork Community Partnership with LEADER, it was a successful marriage that took some time. There was a 12 month courtship period, but they decided to get engaged and now they are married. There are 17 members on the new board. I am subject to correction, but seven or eight members serving west Cork until 2012 or 2013, are county councillors or town councillors. They have a budget of €270 million for LEADER projects which has a wonderful opportunity to promote rural Ireland. I have no problem with that.

Some of the councillors represent two islands. One councillor who is a member of the islands' committee — there are seven inhabited islands off the west Cork coast — is on the new board. I am proud of the fact that the Bantry Port Authority union representative is a man from Whiddy Island. It is great to see a fellow from the island involved in the union and able to get onto the board of the local port authority. Who will be excluded as a results of savings made by the contracting of the new port companies? I have been told that Bantry will be lumped in with Cork, and people in Bantry, the Sheep's Head and Adrigole — which has the largest

stone quarry in Ireland and exports million of tonnes of stone each year to Wales — will be disenfranchised.

Will Cork City Council and county council have a member on the new port board? Cork Port Company is viable and a substantial commercial entity in its own right. Will we come to the stage where no member of Cork County Council or the city council will have any say in that? The same applies to Waterford Port. I am deeply concerned about that. The same applies to Baltimore, which is a small harbour. They ensure fishermen have a say. The composition of boards is important, even if it meets with the approval of someone in an ivory tower office. We have a corporate governance situation of aligning ports. I will be in this Chamber for the rest of the day and the rest of next week, and I will be unconvinced that a shotgun marriage between Bantry Port and harbour is unique. The notion that local authority members cannot be on port boards is not only a retrograde step but makes no sense.

Most councillors work very hard and get little thanks for it. There are two county councillors, and others from the urban council and the Chamber of Commerce in Bantry, who give of their wisdom and time to these meetings. Some people wonder what is happening on Bantry Harbour Board. It is amazing what happens there for the betterment of the harbour. In Bantry Harbour, we are able to discuss — I am not currently a member — issues like contamination in the inner harbour. Where did the mercury come from? Another Department is doing site investigations that will succeed in dredging going ahead. There were mines in Bantry 100 or 200 years ago. Where would mercury come from? I had a notion it might have come from Bantry Hospital but a senior medic said the amount of mercury from thermometers was small. Mercury is a lethal poison. People are asking how they can deal with it. It is being dealt with by TNT, adhesives put on boats to stop them fouling up. It may only be 3%, but traces have been found.

The former Tánaiste, John Wilson, when he was Minister for the Marine, provided £100,000 to conduct hydrographic surveys of the inner harbour in Bantry and the contamination showed up. If, as is envisaged in this Bill, Cork Harbour takes over Bantry Harbour, we will have one or more member who may not have knowledge of the sea or be an elected member. To whom are they accountable? How can we get rid of the contamination? It is a very serious issue. Mercury appeared in Castletownbere and it cost nearly €2 million to get rid of it.

There are approximately 3 metres of silt and gravel in the inner harbour in Bantry that need to be dredged. Three or four inches of the contaminated area is skimmed off, rolled into cement balls or blocked and exported to a dump in Holland or Germany. It cannot be taken out and dumped because it would kill all the mussels and scallops, and even people as mercury is one of the most lethal of poisons. It is a very expensive process. There are science and experts involved, but the role local authority members played in highlighting these issues was important. The previous section mentioned An Bord Pleanála. Would it, in all its wisdom, have picked up on that? I do not think so.

I will not ramble on——

Senator Michael McCarthy: Please do not.

Senator Denis O'Donovan: The existing composition of the boards, such as in Bantry, is not costing the Department one cent. We are a profit making organisation. This year the hope is to make a profit of approximately €250,000. There is a harbour master under the guidance of Cork and a full-time secretary. They are paid and spend money on various projects. Where will we end up after all this? It is something I would like the Minister of State to consider. Please do not try to undo what has been done.

If one takes the LEADER model, which is supported across Departments, and has been set up and will be in place for the next six years, many of the people involved are councillors or

[Senator Denis O'Donovan.]

town councillors. They will not do a bad job. They are elected by the people, they are responsible to the people and have to face them in votes. There is no evidence anywhere that putting a county councillor, a town councillor or an urban councillor on boards might contaminate the boards. We have never had allegations of corruption in port authorities. I am concerned about these marriages. I have not come to the relevant section yet and I have a long story to tell on it. A marriage was also supposed to take place between the ports in Waterford, Rosslare and New Ross. The shotgun was fired but as far as I know they did not get married and they are still independent. We will have a great deal to say when we come to part of the Bill relevant to this matter.

Reducing the number on a board from 11 to eight might be of some merit if each board member in Bantry, Dingle, Fenit or Sligo received €10,000 per year and having 11 members meant payments of €110,000 along with ancillary costs. To my knowledge the 11 members of the Bantry board receive nothing apart from one small exception, and I am not being flippant in mentioning it, in that they are provided with drums of fine fresh drinking water at meetings. Apart from that they receive nothing, not even tea or biscuits. They cost nothing. I ask the Minister of State to think again and not to jump over the cliff and have a knee-jerk reaction because of corporate governance that works in one Department but not in another.

Town and county councillors are becoming more irrelevant. We cannot move this way or that. We are being shackled and must go in straight lines. However, my part of the world in west Cork has many corners and bends and mountains to climb. What is proposed here might be the norm in corporate governance and it might be suggested that it should be done everywhere. However, whoever will be here in 20 years time — I will not and I hope to be above and alongside Himself if he has a spare seat for me — will be undoing what we are doing and will be thinking the fellows representing the people at the start of the century went mad. They will be right.

Deputy Noel Ahern: I need the guidance of the Leas-Chathaoirleach as we are debating the wrong section. This section does not remove local authority members from the boards. It reduces the number of directors from 12 to eight. The other issue concerns section 11.

Senator Denis O'Donovan: It is a horse of a different colour but we can move on.

Senator Michael McCarthy: Will the Minister of State reply to this section?

Deputy Noel Ahern: I will speak in general terms. Senator O'Donovan is correct as the matter arises in section 11. Sections 8 and 11 refer to State commercial port companies and not regional harbour boards and are concerned with reducing the number of board members from 12 to eight in port companies. The port companies are the only State commercial bodies with such statutory representation at present. The 1996 Act provides for port company boards to consist of 12 directors. The 2001 performance audit and the 2003 high-level review of State commercial ports recommended a reduction in the number of directors on port company boards. Having 12 members is considered excessive, even for the largest of port companies. In some of the smaller port companies, this number is more than the total number of employees.

Senator Maurice Cummins: Not in commercial ports surely.

Deputy Noel Ahern: We are discussing commercial ports and it is true in the case of some of the smaller ones.

Senator Maurice Cummins: Do some of the smaller ports have less than 12 employees?

Deputy Noel Ahern: Some of them do not have many more than that. Dublin, Waterford and Cork are large but there is a big difference between Dublin and New Ross. The general view behind the recommendations to decrease the number was that it would lead to a more focused board.

With regard to the other issue raised concerning local authority members, the two major reports on this matter, the statutory performance audit of port companies in 2001 and the 2003 high-level review of State commercial ports, concluded the practice of statutory local authority representation on port company boards should stop. The rationale for their continued representation is not as clear as it was prior to the 1996 Act when the boards had a different form. The boards had the same purpose then but the board members were from various walks of life.

Since the introduction of the 1996 Act and with the evolution of the commercial State port companies the industry has changed. It has opened up and we have seen a major organisational and cultural change within the ports. While substantial valuable inputs have been made, the rationale for local authority representation on the boards is not as compelling as it used to be. Local authorities do not nominate directors to the boards of other State companies such as the airports.

Senator Maurice Cummins: They were removed from them.

Deputy Noel Ahern: No, we are discussing local authority members and not working directors.

Senator Michael McCarthy: We are discussing user representatives.

Deputy Noel Ahern: No, we are discussing local authority members. There are no local authority members on Dublin Airport Authority, Cork Airport Authority or Shannon Airport Authority. The ports are the only commercial State bodies which have local authority members as of right. We are bringing the ports into line with other commercial State bodies. Local authorities do not nominate directors to the boards of other commercial State companies such as the airports.

To ensure smaller and more focused boards which are more commercial, it is proposed to repeal the provision allowing for the nomination or election of three local authority directors to each board. It is felt this will be a good measure and will help the port companies to be seen to operate on a fully commercial basis. The Minister for Transport, Deputy Noel Dempsey, has stated it is his intention to continue to appoint a local authority member from among his statutory appointees to port companies.

Senator Maurice Cummins: It is not definite.

Deputy Noel Ahern: It is a commitment he has given and that I am giving.

Senator Michael McCarthy: For the sake of clarity, I never mentioned local authority members. I have pointed out that section 8 envisages scrapping local authority directors and reducing board membership such that the user representative will be abolished. I stated I would oppose it because it was an assault on democracy. I accept the Minister of State has been listening to us speak on this amendment for almost 35 minutes and I understand how others may have made the point on local authority members and how the impression could be created that it is what we were discussing in principle, but it was not.

Section 8 amends the Harbours Act 1996 to provide that the articles of association of a port company shall state the number of directors shall not be more than eight. The current limit is 12. The case made for reducing membership can be made correctly again in section 11 as it

[Senator Michael McCarthy.]

deals with the same principle. The Minister of State said that 12 members is considered excessive. Who says 12 members is excessive? Was it board members, the chairman, the user representative, the people in the area or the commercial users of the port? If another element of the answer to this question exists, I do not know what it is. Did somebody in the Department decide that 12 is excessive? Does that person share the same mentality as the Einstein who thought that mussel farming should be obliterated in Cromane, the same Einstein who would not identify himself or herself when it was proved this was wrong and the ban was lifted? Who said it was excessive? For what reason do they believe 12 local authority members to be excessive? Did they take soundings from the commercial ports, the Minister or the port chairmen? What was the line of thinking behind section 8 reducing a port company's board from 12 to eight members? To clarify my earlier statement, I said it was the local authority directors and the user representatives. Removing them is an assault on local democracy.

An Leas-Chathaoirleach: Before I call on Senator Maurice Cummins, I wish to welcome Councillor Winston Bennett and his group from County Cavan to the Visitors Gallery.

Senator Maurice Cummins: I was chairman of the Waterford Harbour Commissioners when it had 26 representatives on its board. The Harbours Act 1996 reduced that membership to 12 members, correctly because it was to become a commercial body. Of the 12, three were local authority members, one each from Waterford City Council, Waterford County Council and Kilkenny County Council. The Minister of State claimed the Minister for Transport, Deputy Noel Dempsey, has given a commitment that he will appoint one member from a local authority to these commercial boards. It is not covered in the legislation, however. It states the Minister "may" and not "shall" appoint a local authority member.

While I might be somewhat parochial in referring to Waterford Port, if the Minister does appoint a local authority member to the port company's board, will he or she be from Waterford City Council, Waterford County Council or Kilkenny County Council? Local authority members are the best for attending port board meetings. Their contributions are as good as any of the other so-called experts on the board appointed by Ministers. Who better to represent the people than elected local representatives?

I do not know from where these high-powered reports from 2001 and 2003 come with the suggestion that the membership of boards should be reduced from 12 to eight members. The ones who will suffer in such a reduction will be local authority members. It is local authority members who ensure transparency and ask pertinent questions. They ask the awkward questions which need to be asked on many occasions on the harbour boards. That is the reason officials and so-called experts want local authority members removed.

It is a negation of democracy to exclude local authority members from various boards, as has happened in many other Bills going through this House. It must be the same crowd of experts compiling these reports for every Department recommending local authority members to be excluded from various boards. The workers' representatives on these boards will also be reduced. Who better to represent the workers than the actual workers and their local representatives? I would be very surprised if every Member on the Government side of the House will row in behind the Government Whip on this section. This is an attack on local representatives who have a vote in Seanad elections. It would be like turkeys voting for Christmas if Members voted against local authority members being represented on these boards.

4 o'clock

Senator Michael McCarthy: Hear, hear.

Senator Maurice Cummins: There has been much debate about fairness recently with the medical cards for those over 70 and so on. There is no fairness in a section that will exclude local authority members. I am calling for fair play for local authority members. Will the Minister change the term “may” to “shall” for a start and return to having three local authority members on a port company’s board?

Senator Denis O’Donovan: This section proposes to reduce the number of directors in a port company from 12 to eight. If the Bantry Harbour Commissioners are to be scrapped and its control transferred to the Cork Port Authority, then contracting the number of directors to eight will only make matters worse. Behind the scenes, we have been told that the Bantry Harbour Commissioners would be fortunate to get one director on the Cork Port company board. That will create difficulties for Bantry, leaving the 11 harbour commissioners, eight men and three women, marooned on a rock in a very big ebbing tide with only one director in a diminished set-up on the Cork Port board. They should be expanding the number of directors instead. What happens when the Cork Port authority swallows up Kinsale, Baltimore and Youghal harbours?

Senator Ned O’Sullivan spoke on Second Stage about the amalgamation of Tralee and Fenit Harbour with Shannon-Foynes Port Company. That was a marriage of convenience. By and large there was prior consultation, a courtship so to speak, and the marriage took place. I hate this notion of shotgun weddings. Section 8 will also affect the provisions in section 11.

Deputy Noel Ahern: I apologise if I took Senator Michael McCarthy up wrongly but the debate did wander into section 11.

Senator Michael McCarthy: I accept that.

Deputy Noel Ahern: I did answer his question as to who recommended this. It was recommended in the 2001 performance audit of port companies and the 2003 high level review of State commercial ports.

Senator Maurice Cummins: Were there were local authority members on those boards making those recommendations?

Deputy Noel Ahern: There may not have been but the reports did feed into the 2005 ports policy document. There has been much consultation on these matters.

Senator Michael McCarthy: There have been 30 reports on Seanad reform, none of which has been implemented.

An Leas-Chathaoirleach: The Minister of State without interruption.

Deputy Noel Ahern: What I am trying to say is there has been a long process. I am only a couple of months in the Department but there has been a long process. This has been signalled for seven or eight years. It was recommended in various reports. It fed into the 2005 ports policy document.

Senator Maurice Cummins: It is not necessarily right.

Deputy Noel Ahern: This has come a long way and no one has cried halt. There has been consultation along the way and people have not stopped it. The Senators are raising an objection at the last minute.

[Deputy Noel Ahern.]

The issue of port users was raised. The high level review believed such people could have a conflict of interest and it was recommended that they should not be members of the boards. I accept that before 1996, as Senator Cummins stated, people were on committees representing different interests. A port user, who might have direct knowledge and management and industry experience and could make a useful contribution, can still be made a board member but not of the port where he or she is a significant user.

Senator Maurice Cummins: Rightly so.

Deputy Noel Ahern: That was one of the items that emerged. Removing local authority members from the boards was another issue, as was the worker director.

The ten ports are now focused commercial bodies and 12 people is too many to have on their boards. The recommendation of different professional people, which has been put into the ports policy document approved by Government in 2005, is that the size the boards should be reduced from 12 to eight.

Senator Michael McCarthy: We are not raising objections at the last minute. Who were the authors of that report? What is their expertise? How many local authorities were consulted? I presume if these reviews looked at all the issues, they would have taken on board all the points of local authority members throughout the country. I would be surprised if there were any support among local authority constituencies for this move.

The Minister of State is new to the Department, but I do not accept this is the last minute. This is Committee Stage of a Bill. We have already raised the issues on Second Stage and it is not the last minute.

Senator Maurice Cummins: Perhaps we should suggest that members of these board be elected rather than selected. Then we would see how many of the experts will want to go on to the board if they must put their names before the people, which we and local authority members must do every five years.

It is a dreadful attack on local authority members. It is an attack on the public who put members on the boards to represent their wishes. The quality of representative from local authorities is as good as if not better than most of those representatives selected, mainly by the Minister. Why should local authority members be singled out as the ones to go rather than others? I do not care what and how often the expert bodies report. Their reports are wrong.

Senator McCarthy suggested local authorities were not consulted by these so-called experts, and he is correct. Local authorities were not asked for an opinion. Why would these so-called experts ask? They might get a sensible response for which they would not be looking that they should have local authority membership on these boards?

Reports can be tilted any way one wants. They will get the answer they want to get. In this case, democracy certainly does not come into it. The membership of those consultative committees will have no interest in local authority members or, indeed, local authorities.

Senator Denis O'Donovan: Perhaps this is a weasel question to the Minister of State and if he does not have an answer, he might respond to me on Report Stage. We should be allowed know the composition of the new eight-person boards. Will the trade union movement have a representative? The Minister may appoint one. What will be this new eight-person line-up? Has the Minister of State any idea who they will be?

I note we are excluding local authority members, which I think is a mistake. I already mentioned the Leader model set-up, which is a good one and which is the way to go. There are 17 members on that new set-up, including representatives from the islands, various organisations such as those of fishermen and farmers, the ICA and other groups. It is a good model and it will not cost the State a great deal.

We in this country are suffering. I am not saying what the Minister of State is doing is unique as it applies across other Departments. One cannot appoint a local authority member to any board. I think we are suffering a knock-on effect of what happened in the tribunals, especially the planning tribunal. With all due respect, I must put my hands up. There were problems in the greater Dublin area. The three Senators present represent different parts of Ireland and, thankfully, the same contamination did not apply to planning in every other local authority in Ireland. There is this feeling that mistakes were made — no doubt there were serious mistakes, people suffered and the inquiry is still ongoing — but we must not take a knee-jerk reaction to something very wrong which happened in a particular area over a particular period and which I believe will never happen again. Local authority members are suffering because of this.

The Minister of State mentioned the statutory audit of port companies, etc. There are probably at least four reports. The Bantry Bay Harbour Commissioners were set up by the Harbours Act 1976 and since then, there have been four or five reports, long before 2000, on the future of Bantry.

A matter puzzling me may not be related directly but I think it is linked to what has been said about local authority members. Why did the Port of Cork Company, which is in existence for a long time and to which I wish good luck, not come in to take over when there was in an awful mess in Bantry Bay? Bantry Bay was bogged down with three major oil pollution incidents. The second or third biggest oil pollution incident in the world happened in Bantry Bay in 1974 when millions of gallons were released. That is the reason the Bantry Bay Harbour Commissioners were set up by Government. There were problems in Bantry Bay and harbour and no one had come in to clean up the mess. Cork Port did not rush in to spend the €100 million, €200 million or whatever it cost. The Bantry Bay Harbour Commissioners were set up because we had to clean up our own mess and we were given the autonomy to do it. Now that things are going nicely in the harbour, the mess has been cleaned up — the ecological damage to the flora and fauna of the general area was such that it took months and years for some of it to recover — and there is no more pollution of the bay, it suits someone at a particular level to have the harbour under the control of Cork Port. To add to this, we are excluding local authority members from port company boards.

Whether we are dealing with section 8 or section 11, it is a horse of the same colour. While I would have to refrain from expressing some of my thoughts, I believe it is not wrong to have a town, borough or city councillor on one of these boards. The cost to the Exchequer is frivolous. I wonder at all this talk of transparency when what is really happening is the diminution of democracy. That is a serious worry. Perhaps the Minister will respond on those points. If there are three or four months until Report Stage, perhaps he will take that opportunity to review this issue.

An Leas-Chathaoirleach: There are a number of councillors in the Visitors Gallery from County Cavan, including Councillors Kettle and Smith.

Senator Denis O'Donovan: Thank God they have no ports.

Deputy Noel Ahern: I have listened to the Members' comments. The 2005 ports policy statement which accepted these recommendations on reducing the size of port boards and removing users and local authority members from those boards was widely circulated at the time. It was

[Deputy Noel Ahern.]

certainly sent to the port companies and was discussed by their boards, on which there are local authority members. They had a direct opportunity to respond. That was as recent as three years ago.

This change will not be implemented the day after the Bill is passed. Everybody will serve out their time, so to speak, at a minimum.

Senator Maurice Cummins: Will the Minister clarify his comments? He said that local authority members were there when these reports were being compiled. Did these consultants speak to local authorities about representation on these boards?

Deputy Noel Ahern: I do not have a specific answer about to whom exactly they talked. There were two reports previously and the last one I mentioned is the 2005 ports policy document issued by the Government. That was discussed at each port board and local authority members of those boards were present. The original reports were the 2001 performance audit report, which was produced by Jonathan Packer and Associates and the high level review in 2003 was carried out by consulting firm Grant Farrell Sparks——

Senator Michael McCarthy: Councillor Grant Farrell Sparks, no doubt.

Deputy Noel Ahern: Was he Brendan? That name has connotations with the Senator's party but I do not know whether——

Senator Michael McCarthy: And the previous consultant was also a councillor.

Senator Denis O'Donovan: I am not sure if they were bright sparks.

Deputy Noel Ahern: ——it was him or his cousin but Grant Farrell Sparks and Raymond Burke Consulting did the report.

Senator Michael McCarthy: Who is Raymond Burke?

Deputy Noel Ahern: Not the Senator, and not the other fellow either.

There was widespread consultation and discussion with a broad spectrum of people in the port sector at that time. The Senator asked about the composition of the eight new directors. The chief executive officer of each company will be a member of the board, there will be a worker director and six ministerial appointees, one of whom will be a local authority member.

With regard to some of the Senator's comments, I do not know if this view has come from tribunals or elsewhere but we appear to go through decades or periods of life where certain things are fashionable. All these professional reports noted that commercial ports are being treated differently from other State commercial companies. There are no local authority members on the boards of other commercial companies, semi-State bodies or the airport bodies. The ports are the only commercial State companies that have local authority members on their boards.

Senator Maurice Cummins: That is probably the reason they are doing so well.

Deputy Noel Ahern: The trend, therefore, has been to align them with what is deemed to be current best practice. We appear to be at the beginning of another wave of life now where we are questioning the value of agencies and considering amalgamating some of them. It may well be that in 20 years the public representative will again be king, all decisions will be made by Ministers and there will be public representatives on all boards. Perhaps these things are like

clothes fashions and go around in circles. However, these recommendations have come through a series of consultancy reports and are now part of Government policy.

Where a number of local authorities have an interest in a particular port company, it is intended that the Minister will rotate the local authority directorship as appropriate. The mechanism by which that will be done has not been finalised but, in a case such as Waterford port, if historically there was a member from each authority, it would be reasonable to have a mechanism whereby that directorship would be rotated, provided the involvement of all three local authorities was equal. It might be different if one local authority had a peripheral involvement historically. However, if an authority had a recognised role, it would be common sense to try to rotate that directorship or at least give the authorities some recognition for their traditional role.

Question put.

The Committee divided: Tá, 29; Níl, 19.

Tá

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callely, Ivor.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
de Búrca, Déirdre.
Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.
Hanafin, John.
Keaveney, Cecilia.
Leyden, Terry.

MacSharry, Marc.
McDonald, Lisa.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Donovan, Denis.
O'Malley, Fiona.
O'Sullivan, Ned.
Ormonde, Ann.
Phelan, Kieran.
Quinn, Feargal.
Ross, Shane.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Níl

Burke, Paddy.
Buttimer, Jerry.
Coffey, Paudie.
Coghlan, Paul.
Cummins, Maurice.
Fitzgerald, Frances.
Hannigan, Dominic.
Healy Eames, Fidelma.
McCarthy, Michael.
McFadden, Nicky.

Mullen, Rónán.
Norris, David.
O'Reilly, Joe.
O'Toole, Joe.
Phelan, John Paul.
Prendergast, Phil.
Regan, Eugene.
Ryan, Brendan.
White, Alex.

Tellers: Tá, Senators Déirdre de Búrca and Diarmuid Wilson; Níl, Senators Maurice Cummins and Michael McCarthy.

Question declared carried.

SECTION 9.

Senator Maurice Cummins: I move amendment No. 2:

In page 10, line 4, after “the” where it secondly occurs to insert “written”.

This amendment seeks to insert the word “written” before the word “consent”. It is a reasonable request and I hope the Minister of State will accept the amendment.

Senator Michael McCarthy: I second the amendment.

Senator Denis O'Donovan: On section 9——

An Leas-Chathaoirleach: We are on amendment No. 2, section 9.

Senator Denis O'Donovan: Yes, on the power to borrow and written consent. Am I on the wrong section?

Senator Michael McCarthy: It is amendment No. 2, section 9.

An Leas-Chathaoirleach: Page 10, line 4.

Senator Denis O'Donovan: Is that in regard to the power to borrow? I will pass on that one.

An Leas-Chathaoirleach: Does the Senator wish to speak on the section?

Senator Denis O'Donovan: Yes.

Deputy Noel Ahern: In some respects the amendment might seem like common sense but it is not normal wording. The wording as drafted is the standard drafting style and if it were changed it would be at variance with other similar references throughout the original principal Act. Generally, that is the normal language used in legislation that goes through the Parliamentary Counsel's office and therefore to insert the word "written" would be superfluous. All approvals of that kind are done in written form. In matters such as that described in the Act, the implication is that such consent would be given only in written form. Such is the nature of the interaction between relevant Departments. That is the way things happen. Two Ministers or Departments would not just approve something verbally. All business is done like that and that is the standard language in legislation.

Senator Maurice Cummins: We realise that most of it is done in writing but we are proposing the insertion to emphasise that it should be done. It does not make any difference whether it has been done previously in other Bills. It is a fair request to ask the Minister to insert the term "written consent". If it is what happens, why not insert it?

Deputy Noel Ahern: To be fair, that seems to be common sense in one respect but this is the consistent way that wording is used. If "written" is inserted once, some court of law might rule that a line in a particular Bill refers to "written" while in another Bill it does not. There is a standard way for the Parliamentary Counsel to draft that. This is the normal language used. The word "written" is not normally included. From a common sense point of view, I agree with the Senator but it could lead to confusion because it is not the normal language and, as such, it is superfluous. I accept the Senator's point but I am told it could lead to problems from the point of view of the Parliamentary Counsel.

Senator Denis O'Donovan: The question of interpretation has interested me since my time in the legal profession studying law many years ago and it sometimes baffles me, whether it is written or otherwise. I understand Senator Cummins's point and the directions of the Minister of State. There is an old Latin maxim, *inclusio unius, exclusio alterius*- by including one we exclude the other. It would be a belt and braces measure if we accepted the wording in Senator Cummins's amendment. It is not offensive and it would support the Latin maxim that goes back to the time before Caesar.

Deputy Noel Ahern: Senator O'Donovan is blinding me with these Latinisms.

Senator Denis O'Donovan: It is difficult to blind the Minister.

Deputy Noel Ahern: Faced with that sort of knowledge, perhaps I will refer back to the Senator on Report Stage.

An Leas-Chathaoirleach: Is amendment No. 2 being pressed?

Senator Maurice Cummins: No. The Minister of State will come back to the issue on Report Stage. I withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed: "That section 9 stand part of the Bill."

Senator Denis O'Donovan: I will be brief. On the power of borrowing and providing more flexibility to port companies, we are talking about the big commercial port companies. What is the merit of this section? Does it envisage that port companies would borrow, possibly beyond what they can afford to repay, particularly in these difficult times of contracting economies, recessions etc.? For example, if Shannon Foynes Port Company, Waterford, Cork and possibly Dublin ports have to borrow, am I correct in saying they have to get prior consent or are those big corporate ports so strong that they are a separate legal entity and do not have to get consent, be it written or verbal, or go through any procedures? I am somewhat concerned in that regard.

I realise I am looking ahead somewhat but section 18 envisages the demise of Bantry port. When I was a member of Bantry port there was a proposal to borrow some money in a plan that was presented to the Department. I believe it was approved, even though the project did not go ahead. Does the same apply in this case? In other words, do the bigger ports, such as Cork, that are doing very well and have huge commercial plans to develop and expand have to get prior consent from the Minister at every turn or only when it involves major borrowings? If Cork port wanted to borrow €1 billion to expand its proposed development — the figure would be much larger in the case of Dublin port — would it be necessary for it to get written consent or is it envisaged that the existing arrangement would be continued? Is this a new proposal to the effect that the Department is giving more flexibility? I wonder is it giving more or less flexibility. The Minister of State might expand on that question, if not today, on Report Stage.

Senator Maurice Cummins: I welcome the provisions in section 9. Greater flexibility must be provided to port companies to borrow funds to finance projects. This is an important section and its provisions would be welcomed by the port companies as it would give them greater flexibility where borrowings and investments are concerned. I presume they would need ministerial consent for larger amounts than those mentioned in the section, but in general I welcome the greater flexibility being given to the commercial companies.

Deputy Noel Ahern: This proposal will amend section 23 of the original 1996 Act and it allows for greater flexibility in respect of the amount of money port companies may borrow. To answer the question, the consent of the Minister for Finance and the Minister for Transport will still be required for any borrowings undertaken by port companies but the Bill allows port companies to borrow up to the value of €200 million or 50% of the value of the company's fixed assets, depending on which figure is the greater. The Department is aware that a number of port companies have proposals regarding the provision of significant additional capacity at their ports. The development and successful completion of some projects may require signifi-

[Deputy Noel Ahern.]

cant borrowings, which will be the subject of ministerial approval, on the part of these companies.

The Ports Policy Statement 2005 makes clear that the provision of adequate and efficient capacity into the future is a crucial strategic objective of the Government. It notes that significant shortfalls in port infrastructure could result in serious damage to the economy. However, it is considered crucial that some flexibility be provided in the governing legislation in order to facilitate, as far as is possible, the timely provision of sea port capacity. Some port companies have borrowed a greater percentage, relative to their fixed assets, than others. The section provides increased limits and introduces principles and policies which must be considered when those limits are being increased.

Question put and agreed to.

NEW SECTION.

Government amendment No. 3:

In page 10, before section 10, to insert the following new section:

“10.—Section 28 of the Principal Act is amended—

(a) in subsection (1), with effect from 6 months after the passing of this Act, by substituting “not later than 4 months after the end of each accounting year of the company” for “not later than 6 months after the end of each accounting year of the company”, and

(b) in subsection (4)—

(i) with effect from 6 months after the passing of this Act, by substituting “not later than 4 months after the end of each accounting year of the company” for “not later than 6 months after the end of each accounting year of the company”, and

(ii) by substituting “adhered to,” for “adhered to.” in paragraph (e) and by inserting the following after that paragraph:

“(f) a statement—

(i) of the average number of employees that are expected to be employed during the accounting year under contracts of service following that to which the accounts relate, or

(ii) that more than 30 of its current full time employees are likely to continue to be so employed full time under contracts of service during the accounting year following that to which the accounts relate,

as determined in accordance with section 30(1)(a)(ii).”.

Deputy Noel Ahern: The Department wishes to bring the legislative provision for submitting companies’ annual reports in line with the guidelines set out in the Government’s code of practice for the governance of State bodies. The amendment came about on foot of a recommendation contained in a draft report prepared by the Department’s internal audit section. Ports are currently obliged to submit their annual reports, etc., six months after the end of each accounting period. The amendment reduces the time limit in this regard to four months.

Senator Maurice Cummins: I welcome the amendment. The reduction to four months will be beneficial to everyone in that reports and financial accounts will become available at an earlier date.

Senator Denis O'Donovan: There is no doubt there is huge merit in any commercial port company being obliged to submit a report to the Minister within a reasonable period. It is envisaged that, if the legislation is passed, there will be a major contraction in the number of commercial ports to perhaps six or seven. Will the reports to which the amendment refers be laid before both Houses for scrutiny and will they be made available to the relevant all-party Oireachtas committee? Will they be made available to other Ministers or Departments?

I am interested in keeping an eagle eye on developments at a number of ports, particularly because seafaring and fishing are in my blood. I have no difficulty with the amendment. The four-month period within which port companies will be obliged to report to the Minister is reasonable. Will matters stop there? The Minister probably has the power to analyse or react to such reports. However, Members of the Dáil and Seanad may not have the opportunity, through the all-party Oireachtas committee dealing with the relevant Department, to scrutinise and consider them. Perhaps the Minister of State will clarify the position as to what is intended.

Deputy Noel Ahern: The amendment inserts a new subsection under which a company's annual report to the Minister shall include a statement regarding employee numbers. This is designed to reflect the changes introduced in section 11 in respect of the calculation of the number of employees in each port company for the purposes of determining the election of worker directors. That is a new requirement and the relevant information will have to be included in annual reports, which will have to be submitted within four rather than six months.

Annual reports are presented to the Minister. The custom and practice is that they are also published by each port company. I understand that these reports are probably available in the Oireachtas Library.

Senator Denis O'Donovan: Are they published in the *Iris Oifigiúil*?

Deputy Noel Ahern: They are probably listed as having been published.

Senator Maurice Cummins: The reports of the companies are available in the Oireachtas Library.

Deputy Noel Ahern: The relevant Oireachtas committee can consider such reports. However, it is not the case that the companies send them to the Oireachtas Library out of the goodness of their hearts; it is a requirement that they must be laid before the Houses. I understand the committee is considering examining these reports and inviting representatives of the different boards to come before it to discuss them. The requirement to provide information regarding the number of employees of a port company is designed to avoid the type of confusion that arose in the past in respect of whether such a company had 29 or 31 employees on the relevant due date.

Senator Maurice Cummins: Will it be the number of employees directly employed by a port company? Some companies may have subsidiaries or there may be individuals, such as stevedores or whomever, involved in contract work. Will the latter be included in the figures or will it just be direct employees of a port company? This issue is particularly relevant in the context of voting strength and representation.

Senator Denis O'Donovan: Senator Cummins touched on an extremely important issue. If he is not in a position to do so now, perhaps the Minister of State will indicate on Report Stage whether part-time employees will be included in this regard. I am aware from what happens in Kinsale that the work of stevedores is extremely seasonal in nature. Two or three ships might

[Senator Denis O'Donovan.]

enter the port in the same week and people might be obliged to work day and night to unload their cargoes. However, there might be very little activity for three or four weeks. I know Kinsale is not one of the big commercial ports. Does the measure relate to full-time employees? For a number of reasons port activities can be seasonal. Some people who are employed as ship pilots in Bantry Bay work on-call. They might have four ships one week and then three weeks without a ship for whatever reason. Adverse weather conditions can lead to the virtual closure of ports for some time.

An Leas-Chathaoirleach: As it is 5 p.m. we must adjourn the debate.

Senator Denis O'Donovan: Time flies.

Progress reported; Committee to sit again.

Broadband Infrastructure Bill 2008: Order for Second Stage.

Bill entitled an Act to ensure the provision of high quality and affordable broadband nationwide by setting given quality and uptake targets; to place duties upon the Minister as to the achievement of those targets; to specify reporting procedures to be taken if targets are not met; to establish a Broadband Network and Commission to facilitate the objectives of the Act; to reform certain regulations relating to the provision of broadband; and to provide for matters connected therewith.

Senator Shane Ross: I move: "That Second Stage be taken today."

Question put and agreed to.

Broadband Infrastructure Bill 2008: Second Stage.

Senator Shane Ross: I move: "That the Bill be now read a Second Time."

I introduce this Bill with some enthusiasm and also with a great deal of exasperation. Approximately two years ago I raised the issue of broadband in this House and it was greeted with some astonishment and a certain amount of diffidence by Members. Approximately a year ago I reintroduced the matter in a Private Members' motion, and we got promises of a vague type that something would be done about progressing broadband. I had hoped that by this time we might have made enough progress so that broadband would be speeded up and available — or there would be a hope of it being available, accessible and have penetrated every household in the country. It is with great disappointment that I report to the Minister and his predecessors that very little has happened in the intervening year, as with the two years before that. We have gone a couple of notches up the OECD average. We have made a great deal of fuss about the fact that we now have 1 million subscribers, as though that were some kind of achievement, but as a nation we are still lagging far behind. It is my contention that we are falling way behind our targets, our intentions and what we had hoped to achieve.

The Bill is a simple one and I see no reason why the Minister would be unable to accept it. The main purpose of it is to give targets to the Minister and the Government for broadband access and penetration. The reason for that is very simple. Broadband has been the subject of great lip service by successive Ministers but absolutely no delivery. What the Bill hopes to achieve is accountability from the Minister on either why he has not met the targets or what is happening if he has. It seems the Government is particularly reluctant to do that.

I will spell out a couple of the targets that are not completely out of line with the Minister's own ambitions, which would mean that the Bill should be acceptable to him. The aim is to

have broadband access into every household and business at a speed of five megabits per second by 31 December 2009, at a speed of 20 megabits per second by 31 December 2012, and to have broadband penetration at the rate of 30% by 31 December 2009 and at 60% by 31 December 2012. Those are not unreasonable targets. From reading the Government's consultation paper, those targets are not completely out of line with its ambitions. If the Minister is going to object to the Bill it must be due to the accountability clause because it ties the Government into targets that it perhaps cannot meet. The targets are reasonable. They make the Minister accountable and they are ones that will bring us way above the average of our European competitors, and the OECD average.

I know these are hard times and I accept the Minister is subject to budget constraints. I hope we do not hear the Minister pleading we do not have the money to introduce broadband. I doubt if he would do that. However, the budget has introduced cuts for IT. That is quite serious and worrying. There appear to be provisions in the national development plan for broadband to be rolled out by 2013. Can we have assurances that they will be kept and that no cuts will apply to them, and an explanation of the €400 million cut in the budget for IT? I am fearful — as are many others — that this infrastructural necessity is on the back-burner. I am more than fearful, I am sure that is what is happening, although we have not been told that.

Our real problem is that we did not do this ten years ago. We missed the boat during the boom years. Nothing stood out more obviously as a subject for infrastructural investment than broadband. That was an investment we could have made in the future. I will not go into all the money wasted, but while money was being spent on favoured projects elsewhere, broadband was neglected. It is not just me who is saying that. The Minister will be more than aware of the discontent felt by multinationals — he has been lobbied by them — and by small business about the matter. Small businesses in Ireland, especially in rural areas, are discontented by the fact they cannot get broadband.

The chief executive of at least one prominent multinational has been very outspoken about the problems of broadband in this country. The real problem is that if we are found out, if the message goes out and the IDA does not manage somehow to dissemble it — that we are Third World in terms of broadband — then foreign direct investment in this country will be reduced. Foreign direct investment is the second pillar of the Celtic tiger. It is vital and gives employment to in excess of 100,000 people. If we lose the confidence of those who contribute to foreign direct investment that second pillar will be gone. We all know what is the first pillar. I am speaking in general terms. I ask Senators not to tell me that I have left out this, that and the other. The construction sector has fallen over a cliff. The multinationals are still here, thank God, to support the economy. If they lose confidence in the Irish economy, God knows where we will be. We desperately need broadband if we want to prevent those involved with the multinationals from thinking that our economy is not particularly advanced, infrastructurally. Some of them have already reached that conclusion about our roads and airports. Broadband seems to be the subject of more internal discontent than discontent among those who are investing from the outside. I appeal to the Minister to accept this Bill, which stems from the need to invest in broadband infrastructure, for the sake of the long-term future of the economy.

I read the consultation paper on next generation broadband, which was produced by the Department of Communications, Energy and Natural Resources, with great interest. I wish to express my disappointment with it. The Minister has shown great ingenuity by holding various forums over the last year. In April or May of this year, international experts were invited to address one such forum. They came in for a day, at a cost of approximately €20,000, before flying home again. They recommended that certain action be taken, but we already knew that they were necessary. We did not need the forum. There is some waffle in the Minister's consultation paper about the need for further public and private forums. People were invited to give

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their opinions at another forum that was held a few weeks ago. I apologise because I was unable to attend the forum at the last minute. I do not intend to go to any more forums because they are a waste of time. We have had enough. They are being used to conceal the fact that no action is being taken in this area.

The consultation paper the Minister produced, which is full of the same sort of attitude, states:

The Minister will shortly publish a spectrum policy paper for consultation and later this year will produce an action plan on ICT development which will set out a coherent and cohesive strategy to make Ireland a leading global player in this area. Comments received on this paper will be an important input into this wider policy document.

What is going on here? Why are we talking about policy papers, comments on policy papers, coherent and cohesive strategies and then more comments? All we need is to get broadband into every household in this country. We do not need any more policy papers or strategies. The time for that is over. The time for that was ten years ago, before the Minister came in to office. I accept he is facing political difficulties in this regard. I appreciate that he is using much of his political clout in the energy sector. He probably does not have that much political capital left to push the broadband agenda. It is rather like education in the sense that its value cannot be measured in pounds, shillings and pence. It has to be measured in terms of its long-term benefit to industry and the economy as a whole.

The Minister needs to tackle certain other areas as a matter of urgency. He needs to deal with Eircom, which is the dominant player in this field. He needs to give the House a breakdown of the €435 million fund that is mentioned in the consultation paper. We do not know what that fund will be used for.

The Government's enterprise agency, Forfás, recently published a report on the ambitions set out in the consultation paper. It was a damning report, considering it was published by a State agency that is funded by the Government. The most disturbing aspect of it was the suggestion that Ireland's current rates of progress in promoting broadband indicates that it will catch not up with its comparator nations by 2012. The report cast doubt on figures that indicate that we can live up to the ambitions which have been spelt out in every official paper. It is depressing to hear such a suggestion from Forfás. The report states specifically that Government intervention is absolutely necessary, which contradicts the suggestion in other quarters that such intervention should not be necessary. When an independent report contradicts the Government's figures — the basic thesis of what the Government is saying — it is clear that we are in trouble. I will be interested to hear what the Minister says in his reply. My own reading of the Government's behaviour in this regard is that it is engaging in procrastination. We will continue in that manner at our peril.

Senator Joe O'Toole: I thank Senator Ross for asking me to second the Broadband Infrastructure Bill 2008, which is a fine piece of work. In welcoming the Minister, Deputy Eamon Ryan, to the House, I ask him to consider the essential aims of the Bill, which are to establish targets and put in place structures to measure those targets.

This morning, as I listened to the comments made by the Minister for Education and Science during his visit to China, I wondered how honest he was being with the Chinese people. As a representative of western democracy, did he tell his hosts that schools in Ireland cannot get broadband? Did he mention the cutbacks in education? Did he mention that over the last ten years, Ireland has dropped down the European information technology league table?

I have used information technology for many years. I would like mention an experience I had today in that regard. I phoned Eircom to cancel one of my telephone lines. I never thought it would come to that, but I have finally given up. Even though I live just 15 miles from the centre of Dublin, I have accepted that I will never get broadband via the copper wire from Eircom. I used a dial-up service until recently. I have managed to overcome my broadband problems at home. As somebody who avails of various IT structures to do everything, I use broadband all the time. Believe it or not, I now have a full broadband service at home for the first time.

This issue crosses some of the Minister's departmental responsibilities. I have a full satellite broadband service, without a need for a telephone line. If I like, I can use the satellite facility to get full television reception and unlimited free local and national telephone calls to fixed lines in Ireland. Such a system would help the Minister to overcome many of his difficulties. It would solve the problem in the Black Valley, for example. It would deal with many other issues.

Section 3 of Senator Ross's Bill deals with the need to provide access to broadband. We have now reached a point at which that can be done. Two parties are affected by access issues — the final end user of the service in his or her house and the party providing the service at the point where it comes from. It is now possible for any house in any place in Ireland, unless it is underground, to receive satellite broadband. If we are to implement Senator Ross's legislation, all we need to do is help people to get the necessary set-top box or decoder. It is that easy. We should ensure that we do what is needed.

At least 15 years have passed since I contributed to a debate in this House on the proliferation of telephone masts throughout Ireland. I am sure the Minister participated in that debate in another place. At that time, I asked why our mobile telephone service was not being delivered via satellite. That was over 15 years ago. I am asking the same question now. Why are telephone, television and broadband services not provided via satellite, which is the easiest way to do it? I ask the Minister to consider supporting those who want houses, schools and other places to access broadband services in this manner. It meets many of the requirements and targets of Senator Ross's Bill in an easy way. Not only can people get unlimited broadband under this system, but they can also get a new local telephone number at no extra cost. These issues need to be examined.

The State could save a great deal of money by adopting the approach I am advocating. I may have written to the Minister on this issue today. Many people have satellite reception to receive RTE, TG4 and TV3. In Ireland, Sky is the only satellite supplier of RTE. I did not have enough information when the Broadcasting Bill was coming through the House and it is the same issue here. Many in this House pay Sky up to €60 or €70 per month. Sky rebroadcasts RTE as well as many other channels. We pay VAT on that, and since Sky is based in the UK, that VAT goes to the British Government. More than €100 million in VAT payments goes out of this country every year, apart from the fact that the company is unregulated because it is UK-based. I want the Minister to try to release the grip Sky has on the satellite rebroadcasting of RTE. It is anti-competitive, and I am writing to the Minister on that. It is certainly losing us money and there is no gain in the situation.

I was delighted that in his Bill, Senator Ross takes the opportunity to establish two new quangos. I welcome that because there are times when quangos can do a worthwhile job. The Bill contains specific aims and targets of which I approve. I want to qualify one point which I have raised many times. Section 14 contains an exclusion of Members of Parliament from one of the boards. There is a very good reason for this in that the board is established through one of the joint committees of Parliament. That is a classic example of where there would be a conflict of interest. It is quite in order to do that in this situation. I discussed with Senator Ross

[Senator Joe O'Toole.]

that we would bring forward one amendment on Committee Stage to add the word “school” to “household and business” in section 3, with which I am sure the Minister would have no disagreement.

Here is an attempt to facilitate what the Minister is trying to achieve. He can disagree with none of Senator Ross's objectives and targets. I ask the Minister to do the decent thing. If he has difficulties with our Bill, he should take it on board and bring forward all the changes he wants to make to it. Senator Ross has indicated he would be open to whatever level of amendment needs to be implemented. It is important we put ourselves on the line here and that people line up and say this can and will be done. We have given the Minister a solution that meets targets and is implementable. I have given examples such as the satellite provision that would create money for the State, and I could give many more examples. How many times in the past two weeks has the Minister heard anybody in the Dáil or the Seanad propose a way the State can gain at least €100 million in VAT annually, as well as providing better reception and stopping nasty letters coming from the Black Valley where they cannot get telephone, television or any other reception? This deals with all those issues. I am proud and privileged to second Senator Ross's Bill and I ask the Minister to take it on board and implement the proposals in it.

Minister for Communications, Energy and Natural Resources (Deputy Eamon Ryan): I welcome the opportunity to discuss this Broadband Infrastructure Bill as initiated by Senator Ross. I commend him on allowing us the opportunity to discuss a crucial infrastructure for the future of our country. I regret that I cannot accept the Bill or support it. While I very much agree with the ambitions set out in the legislation and the ambition that Ireland sets itself to have the very best and most modern broadband infrastructure, I cannot agree with the means suggested. I will set out in simple detail, if I can in the time allotted, why that is the case.

I will take Senator O'Toole's comment that we are looking at the development of two new quangos, that is quasi-autonomous non-governmental organisations.

Senator Joe O'Toole: That was a joke between Senator Ross and me.

Deputy Eamon Ryan: It grabbed me that Senator Ross proposed such a mechanism.

Senator Shane Ross: The board would not be approved by a Minister. We would not let the Minister get his political hands on it.

Deputy Eamon Ryan: The alternative would be to return to the days of the Department of Post and Telegraphs where the Minister would have a direct hand in who does and does not get a telephone. While there have been many developments in recent years I would question, I am not sure we should return to the days to the Department of Post and Telegraphs to deliver vital infrastructure, especially one where there are so many different technologies.

Senator Shane Ross: The Minister has only 15 minutes.

Deputy Eamon Ryan: That is the central point of my 15 minutes: the fundamental difference between the Government's approach to the development of this broadband infrastructure and that set out by the Senator, which I understand but with which I cannot agree. We have a liberalised telecommunications market and regardless of whether one agrees with that policy, it has been set in train for ten to 15 years. Other countries that have succeeded in developing broadband infrastructure quickly have done so through competition. Broadband has tended to be delivered more quickly where there has been competition between different platform pro-

viders, between a cable company and a fixed line company or mobile companies which are now coming in. We have seen that in Ireland. Our failure to develop the infrastructure was due to a lack of investment and competition between the main companies. That is why we lagged behind, especially in the early part of this decade. The failure to invest, particularly by the fixed line and cable companies, from 2002 to 2004 was a fatal error on the part of those companies and did real damage to the State in terms of the infrastructure we want.

All the evidence shows that the competitive environment now is better than it was then. The ownership of those companies and the nature of the market and the technology have changed. There is a genuine choice for the customer between a wireless, fixed line, satellite or cable operator. The direction the Senator is looking for us to take, to dismantle that liberalised market and bring it back into centralised State control to deliver a single technological solution, or what the Minister considers to be the best technological solution, will not necessarily give the best return to the public.

Another fundamental development in the Bill is setting out the targets we would achieve. We must be careful when talking about targets, although not in the level of ambition we might wish to have. My general ambition is that we have to have a supply of broadband which is ahead of demand. I do not want to see a restriction in availability of broadband or speeds restricting existing demand. We should aim for faster and ubiquitous broadband availability. However I would be careful about some of the targets Senator Ross sets in such a fast-changing area.

To give an example of how one must sometimes be careful around the statistics in this area, I will pick up one of the threads of the Bill. The definition of the broadband penetration rate is set out as the number of subscribers per 100,000 members of the population, the common statistical analysis used in the OECD and EU reports within which we are compared internationally. I will give some background information on how one must be careful with the reality behind statistics. We have a population of 4.339 million and the latest figures for the end of quarter two of 2008 show we had 1.054 million subscribers. On that basis there is a subscriber rate of roughly 24.3 per 100. I apologise for going into these figures but it is important to explain the reality behind some of these statistics and the care that must be taken with them. We have 1.5 million houses and 300,000 business premises. If we put broadband into every house and business tomorrow, we would have a subscription rate of 41 per 100. This Bill sets a target of 60 per 100. Sometimes one must be slightly careful with how one uses targets and about what real value one is measuring.

If at that point, every single house had broadband, it would be difficult to go beyond that and achieve the target of 60%. It does not even give one something that is an accurate reflection of where one might want to go. We must be very careful with definitions in this area. We must recognise certain characteristics such as the larger household size in this country and the failure to include mobile broadband in certain statistical analyses. We must be very careful with our use of figures. While I agree with the overall intent of the Independent Senators, that is, to provide faster and more ubiquitous access, the measurement of that is something about which we must be both consistent and careful.

A further concern regarding the Bill, which I hope will be viewed as constructive criticism, is that it would breach EU State aid rules. Irrespective of whether we like it, these are the rules and regulations that govern how the State can interfere in markets. It is clear in the decisions that have been made across the European Union, in a number of different countries, that such a provision, where the State effectively takes over the role of determining how the market operates, would breach the State aid rules and would not be possible, on a legal basis. That is

[Deputy Eamon Ryan.]

not the deal clincher but it is a reality which must be taken into account when considering any legislation.

The explanatory memorandum in the Bill makes reference to Korea and Denmark and it is useful and appropriate for us to compare ourselves with other jurisdictions. I went to Korea this year to participate in the forum on the future of the Internet, an OECD event which takes place every ten years. Korea has a very extensive network of 100 Mb broadband connectivity, through a fibre optic and cable network into people's homes. It is much easier to do that in Korea than in Ireland. I have never seen a city like Seoul in terms of its apartment density — the whole city would fit into a suburb of Dublin, effectively. Wires hung outside from one window to the next, giving people broadband connectivity.

While it may be true to say that in Korea there is 100 Mb broadband connectivity to every home, it does not necessarily mean they have the applications or the benefits from that. Nor does it mean they have the economic strivers from it. These are some of the reasons we would be investing and we will invest in the development of our broadband future.

Senator Joe O'Toole: It is the first step.

Deputy Eamon Ryan: It is an important step, yes. One of the problems I encountered at the conference was that my mobile telephone did not work.

Senator Joe O'Toole: Mine does not work in north Dublin.

Deputy Eamon Ryan: I could not connect my mobile telephone to the network. I could not run Skype on the network. I could not send a single 5 Mb video file from the convention centre.

While it is useful to analyse and use international comparisons to determine what is happening in other countries and learn from them, we must remember that we have our own unique characteristics. We do not have the high density apartment schemes they have in Korea, which means we will have to come up with a different solution. We may have a competitive advantage by being more flexible and innovative than countries like Korea and Japan because we must be thus to get broadband to our population.

Denmark and the United Kingdom are examples of countries where investment by different platform operators is what is driving the high speeds and the innovative approach. It is investment by the Danish grid company — which is similar to the ESB here — in broadband which underlies development there. The investment here by the ESB in the back haul network to carry broadband has similarly paid dividends.

It is interesting that in the UK, a review by their top-level analysts on the future of broadband and next generation networks came to the clear conclusion this June that the right approach was not for the State to take a controlling interest in the development of broadband, contrary to the proposal as set out by Senator Ross here. I cite these examples of what other countries are doing to illustrate that the clear lesson to be learned is that broadband development tends to work best when there is strong competition between players that are well regulated by an independent regulatory body. The best results come from an evolutionary approach where one technological improvement on a platform drives through competition for another platform provider to improve its service and bring down its price. That is what is happening in Ireland at the present time.

In the past year and a half we have roughly doubled the number of broadband subscribers, which was the fastest rate of growth in the OECD. We have been particularly strong and fast growing in the mobile broadband sector, in the application of wireless hotspots and mobile

broadband itself. We are also starting to see prices come down and speeds increase. In recent months operators have been increasing their standard packages from 2 Mb to 10 Mb or even 20 Mb. New companies are building fibre optic networks which are providing 50 Mb connectivity to the home. It is starting to happen and companies are starting to deliver.

Deputy Ross asked about the scale of investment. Certainly the State will invest where it can but the most important thing is to leverage and recognise that the private sector has the most important role to play. The telecommunications industry federation estimates that those platform providers competing against each other are now investing some €700 million per year in providing the next generation broadband network. Investment is occurring and it is our crucial role to drive that and push companies to invest further, to drive competition but not necessarily to pay the money ourselves. Why spend taxpayers' money on the development of broadband when we can get commercial interests to do it?

I stand by the fora that we organised. I found the one-day forum attended by leading experts such as the former adviser to Mr. Al Gore on the development of the Internet, CEOs of significant American and Japanese companies investing in this area, as well as former regulators to be excellent. It was absolutely right to bring together people with real expertise in this area, particularly as they had no vested interest in the economic issues of this country. Typically, those who are involved in the area here have a vested interest. That international forum brought together people with real expertise but no vested interest to express their views on where we should go from here.

I also believe we were absolutely right to hold a public forum here and to hold an on-line, social networking style forum in the consultation process on our next generation broadband paper. It is right for us to try to bring about the change that we want to see and to take on some of the open, democratic consultative processes that exist on the Internet and to apply them to our own policy analysis. I absolutely stand by those fora, which were hugely valuable and beneficial in terms of the consultative and policy processes, leading to action.

There were some 150 participants in the forum, including user groups, people from an on-line network, computer companies and digital media application companies, public policy experts interested in rural divides and social exclusion, telecommunications companies and broadcasting companies. Bringing them all together into a room was a very useful way of trying to get a common understanding of what is the best way forward and the key actions we need to take. Having spent the day at the forum, which was one of the most useful days I have spent in Government, I got a clear sense of support for key actions the Government is now taking.

One of the reasons I will not be supporting the Bill before us is that we are in the process of delivering change and do not want to stop that in order to start again on a whole new process. The establishment of a one-stop-shop so that platform providers, on an equal access basis, can have access to ducting which we may run alongside State infrastructure, new and old — along roadways, canals, gas pipelines, availing of whatever State infrastructure we have to make sure we have the back haul network into which operators can tap — is probably one of the most crucial, beneficial interventions the State can make and one to which I am committed to bringing forward in the next year.

We will bring forward very specific proposals on how we can ensure new buildings are fit for the broadband Internet future. We will reduce the cost of retrofitting buildings by designing the correct connection into houses from the outset.

Senator Joe O'Toole: We are living in a wireless age now.

Deputy Eamon Ryan: I am certain that, for Ireland, the key development in the broadband area will be access to high-speed broadband in our schools. This will enable us to activate our

[Deputy Eamon Ryan.]

children's imaginations and their ability to learn from the Internet. It will give children the tools to go to any part of the world to find help with their lessons and enable teachers to deliver an education system which is fit for the 21st century. We will be engaged in the process of providing such broadband access to our schools, to allow teachers and pupils to avail of the Internet and open up their schools and classrooms to the world. That is specific project delivery in which we are engaged.

Senator Ross was critical of the spectrum policy analysis paper, but in our spectrum management we have some of the best practice in the world. We have, through our regulator and some of our academic institutions who are involved in the policy analysis in this area, delivered some innovative and new approaches to the allocation of spectrum, to encourage foreign direct investment. It is working. Let us not talk ourselves into a different reality. We have 200 of the leading ICT companies in the world here. We have 600 of our own software companies here. We saw Facebook arriving two weeks ago, on the back of Google, Ebay and other companies. It is still happening and we are still succeeding.

I recently visited the Digital Hub. It does not have enough accommodation and the numbers in terms of employment growth is ahead of projections. The spend on the National Digital Research Centre to encourage further connection between basic research and commercial activity is working. One area, more than anywhere else, where we have a competitive advantage over any other country is our spectrum. The fact that we do not have a large military reduces the military application given over to spectrum. That is a competitive advantage. The fact that we are an island means that we do not have conflicting issues with neighbouring spectrum management systems and is also an advantage. The fact that we have a flexible Government, which can work with the regulator and seek to be as flexible and innovative as possible in spectrum allocation, is a crucial economic advantage for the coming decade, because the allocation of spectrum will be one of the key infrastructural assets companies will be looking at.

We are engaged in trying to finalise the selection of a candidate to deliver the national broadband scheme, where we will provide the type of coverage Senator O'Toole is looking for, and which is ubiquitous cover across the country. It is a specific and significant intervention by the State to support, through a competitive dialogue process, a particular provider to cover areas that were not previously covered. These arise from the policy paper on which we are working. That is what my Department is trying to deliver and is delivering. That will give Ireland the possibility of having some of the best infrastructure, which is what we should be aiming for in a world where digitally traded service will be the economic future for a country like Ireland.

Senator Joe O'Reilly: I welcome the Minister. I congratulate Senator Ross and his colleagues on the Bill and welcome the Bill as an important part of our ongoing dialogue. I have the impression from the Minister that the Bill will not be accepted. It is a pity he does not accept it and amend it in ways he sees fit.

It is important to kick-start the process of having targets set by Government. Sections 3 and 4 of the Bill establish targets. The Minister may reasonably question some bases for those targets, but the concept and principle of having ambitious targets is good and should be accepted. It is regrettable that the backdrop to this discussion is that there was a reduction in the budget of 25% in the IT and telecommunications infrastructure funding. That is at variance with the Government's stated plan on the 3rd July, which said, "To make this a reality, investment of €435 million has been earmarked under the NDP for 2007 to 2013". That may happen but there is no indication in the budget that it will.

Senator Ross made the point that there are areas of expenditure, in education and broadband, that are above the process of cuts because they are vital to any future economic regeneration when better prevailing economic winds are blowing. If we are to regenerate our economy, education and broadband are central pillars and it is regrettable that these cutbacks were announced in the budget.

With regard to the concept of the network board, I am conscious of the issue of quangos and not setting up new, unnecessary structures. I recognise and welcome Senator Ross's point that the Bill provides for a membership of six and not more than 10. If we are to have a network board, it must be lean and — to use popular jargon — wash its own face and not be another expensive monolith. We need to be careful about that. In asking the Government to reconsider and accept the Bill, there is a need to consider any amendments that would make that as lean as possible. We do not want to increase expenditure on a plethora of quangos. If it is to be a productive and useful contribution to the rolling out of broadband, then fair enough.

It is hardly necessary to state the advantage of having top-class broadband infrastructure. It is imperative for foreign investment, it is an important educational tool and is important for business. It is vital if people are to work at home and locate in isolated areas. It is wonderful to see people setting up their own businesses in an isolated area or a place not that is not traditionally highly populated. It is vital to have the broadband network to achieve that.

We have not been sufficiently proactive in bringing on the new generation of broadband, which is the Internet with much larger capacity to achieve more. That is necessary for video conferencing and other aspects of modern industry and communication. We should be more proactive in this area. It is important to be ambitious about our broadband roll-out for regional and economic development, and inward investment. We cannot work on the negative, pessimistic or Jeremiah assumption that we will never have good days again. We must prepare for a time when the economy will recover and be ready with the infrastructure and educational investment, and that is why what is happening in education will come into focus next week. It is verging on tragedy and farce. Broadband is a vital element of our economic regeneration in the future.

The question of availability is very important. In Leitrim, half the people have no availability where they live. It is not a question of accepting or paying for the broadband; they do not have it. In Roscommon, surveys by local authorities show two-thirds of people have no availability. I beg the indulgence of the Cathaoirleach to welcome the members the County Council of Cavan today. They comprise an important delegation of citizens from Lavy in Cavan. They are very aware and anxious that representations be made to the Minister that in Cavan, while there is good coverage with wireless broadband——

An Cathaoirleach: The Senator is canvassing.

Senator Joe O'Reilly: ——the prices are prohibitive. In areas with hollows, because of the topography of Cavan, one does not get the proper signals and broadband. That is particularly difficult in Drumland, and areas with hollows. Be that as it may, the cost is prohibitive. This is a huge issue. It is not less than €30; in many instances it is over €40. It is very expensive for an ordinary family, who need it for their children going to school, apart from any ambition to set up a home industry or be in touch with modernity. They need it for their children. As the Minister said, it is a learning tool. It is prohibitively expensive and that must be addressed. That is why we do not have a higher penetration of broadband. The cost is underestimated as a factor.

We need Government subsidisation to make broadband cheaper. I welcome the Minister's remarks on 3rd July that at the end of the year it will be a requirement in all modern buildings

[Senator Joe O'Reilly.]

to have ducting. I would like to see progress on that. The infrastructure should go into all State and private buildings. The failure to compel the developers of large private housing estates and offices to include the necessary infrastructure during recent years was a missed opportunity.

I have a map which shows areas of the country in which we do not have broadband. They are marked in green and are of significant size. In the areas in which we have broadband coverage cost is a major issue. I submit to the Minister that we need to examine cost and adult education because cost and lack of competence are major issues as are penetration and availability.

My party will support the Bill. We would table amendments on Committee Stage to obtain clarification from Senator Ross on the network board. We have no difficulty with the targets or the principle of the Bill. I welcome it as a pro-active step to put ourselves in a position with regard to broadband which is proper for the 21st century.

Senator Jim Walsh: Cuirim fáilte roimh an Aire go dtí an Teach anocht chun an ábhar tábhachtach seo a phlé.

I compliment Senator Ross and his independent colleagues on bringing forward a Private Members' Bill. Members bringing forward Bills has been a feature of the House in recent years. It is opportune that a Bill has been tabled on this subject as it allows us to discuss an important infrastructural issue pertaining to the future development of the economy.

The island is too small for rail to be a very effective means of transportation other than for the movement of large tonnage and we are dependent on goods vehicles. Therefore, we invested in roads to get people from A to B as speedily as possible and to increase competitiveness in our economy and business. It is fair to state that while roads are the artery of the business and economic life of the country, broadband is the artery for the knowledge society. It is important that we maintain a strong focus on it and that we constantly review the progress being made.

Since he took office, the Minister has shown that he has a good grasp of this issue. We have had one or two debates on the topic during the past 12 months. The Minister has identified a policy to pursue and we have seen the benefits of the policies pursued in recent years in the increase in the take-up and provision of broadband. The figures are reasonably impressive.

Everybody acknowledges that we were slower to start that we would have liked to have been. It might have been better to have actively rolled out broadband prior to the IPO in Eircom although I concur with the general thrust of policy that injecting and ensuring competition in the area is one of the best catalysts to get us where we want to be. The Minister stated the cornerstone of his policy is to increase competition in the sector.

According to the statistics we are still lagging behind the OECD average. I tried to extrapolate the figures with regard to mobile broadband subscribers, the number of which has risen considerably and is approaching 250,000. The OECD figures do not include the mobile figures and as a consequence when we make comparisons it is important that we do so on a like with like basis. If I am correct in my assessment, broadband penetration here in the final quarter of last year was at approximately 19.2% of the population as against an average of 20% for OECD countries.

Our intention should be to be ahead of the OECD average and to be one of the leading countries in Europe. A number of years ago, we took great pride in surpassing the United States as the largest exporter of computer software in the world. We built a great deal of our economy and growth potential in this sector. Therefore, it is imperative that we have the infrastructure to assist and facilitate increasing growth and adapt to changes in the area.

Senator O'Toole made the point, which was emphasised by the Minister, that mobile telephony and wireless broadband offer significant potential particularly in areas where it will not be possible to extend the fixed network. It is interesting that emphasis is being laid on this during the consultation process arising from which we will set ambitious targets. We hope to have widespread universal access to broadband by 2010.

A great deal of focus is placed on this at local level, particularly by local authorities. In County Wexford, broadband is readily available in Wexford town and its surrounding areas. However, New Ross, Enniscorthy and Gorey are awaiting broadband. I spoke to senior officials in those areas and they are happy it is in progress and that the national development plan will ensure that broadband is extended to those areas in the course of the development plan.

Senator Ross raised the matter of the risk of us losing foreign direct investment because large corporate companies might not have access to broadband. My information is that every corporate company seeking broadband has ready access to it. Large industry is not suffering from a lack of connection, which would be a retrograde step. As the Senator pointed out, we depended on foreign direct investment for much of growth we saw in the past and I am sure will see more in the future.

We should keep this area under review. I note the proposal for two additional quangos and I do not believe they are necessary. The Oireachtas Joint Committee on Communications, Energy and Natural Resources, of which I am a member as is Senator Joe O'Toole, is an ideal forum for the Minister to attend periodically along with his officials to assess our progress and establish whether any lacunae exist which need to be addressed. Senator Quinn has also attended meetings of the committee. We need to work effectively within the structures which exist and I have every confidence in the Minister's grasp of his brief, particularly with regard to broadband.

While we should keep our attention on this matter because it is important for our future economic wellbeing, this Bill is not necessary. I will not go into the details as to why because the Cathaoirleach will not allow me to do so.

An Cathaoirleach: The Senator's time is up.

Senator Phil Prendergast: I welcome the Minister for Communications, Energy and Natural Resources, Deputy Eamon Ryan, to the House and thank Senator Shane Ross for doing the Minister's job by introducing this Bill.

Despite the small improvements to broadband services, there are still large parts of the country without access to broadband. I encountered much frustration about this when canvassing during the previous general election. Many people get frustrated when they see television advertisements for broadband services abroad at competitive prices, which leads to some uncomplimentary comments about the Irish provision of services. Ireland is the worst country in Europe for broadband delivery.

The targets set out in the Bill seem reasonable but I am concerned the aim to achieve 100% broadband access nationwide would include satellite and wireless providers that provide a service adequate for most domestic users. These two platforms, however, are generally regarded as not being as reliable for businesses as a copper wire based service. A high bit rate fast DSL service delivered to existing copper wire telephone lines would be admirable.

Members have proposed the establishment of another agency to co-ordinate broadband roll-out. In the current economic climate, such a proposal could be a problem and it already is the Minister's and ComReg's job. The proposal to create a national broadband network could be used to take the heat off the Minister when the targets contained in the Bill might not be met.

Senator Dan Boyle: I welcome the publication of and debate on this Bill from Senator Shane Ross and his colleagues on the Independent benches. It identifies the key infrastructure we need to get right, especially if we are to meet the much talked about aspiration of becoming a knowledge-based economy, which I admit is a long way towards being met.

Most of the criticisms made by Senator Shane Ross are quite valid. We must accept there were many missed opportunities over the past decade to ensure a better broadband network was put in place. There were missed opportunities with policy decisions on national infrastructure projects, such as roads and public transport, with which the roll-out of a broadband network could have been linked and the decision to privatise the State telecommunications company which has been involved in most of the network. Those mistakes have been made and the question must be where we go from here.

The Minister for Communications, Energy and Natural Resources is sufficiently energised in pointing his Department in the right direction in fulfilling this policy goal. He has enough commitment and knowledge of the subject to ensure the goals are met. It is not facetious to say that he knows in computing terms the plural of “mouse” is “mouses”. He is the one Cabinet member with a knowledge of how particular technology choices in this area work.

That said, more information is needed in this debate. The use of statistics is not always helpful. Legislation of some sort is needed and I would like the Minister to give a commitment in the near future towards how we will legislate specifically for this area. We also need some standard as to how fast broadband should be and what size files can be downloaded. Some statistics that have been presented claim broadband speeds are quite slow but that depends on the technology platform being used. Statistics should also be made available on how broadband is used in different sectors. The general statistics presented so far in this debate simply show the percentage of people who use broadband. They do not inform us how many households have access, what the breakdown is in industry or how many schools have access.

One function for an overseeing agency would be to ensure broadband penetration is reached critically in each of those sectors. The Minister has indicated his personal priority as regards broadband in schools. I am confident there will be significant advances in this area. It must be recognised better broadband access for households has other implications such as encouraging home working and preventing unnecessary commuter transport.

The difference between technology platforms is an area I believe could be more tightly regulated. Will the majority of broadband service be delivered through cable or some other platform such as satellite? The Minister indicated that because the greater increase in broadband services is through mobile platforms, this seems to be policy direction. I am not sure that should be the case. There are still opportunities to have a cable-based system that will carry as much of the broadband network as possible while having the mobile broadband as an add-on.

The Minister is open to debate on the issue while at the same time progressing policy goals in this area. I would like to see Senator Shane Ross, who has taken an interest in this area, engage in further goading of the Minister, the Department and the Government on broadband services. I know the Minister has stated he will not accept this Bill but there is still a need for the Minister to explain what he intends to do in regulation and legislation, if necessary, in this area.

I am favourably disposed to the Bill’s general intent. Much detail has gone into it. I would quibble with some of its proposed administrative infrastructure such as the establishment of new quangos. There needs to be a more coherent and cohesive broadband policy overseen by an identifiable State arm which does not clash with EU competition rules. This is something which many Members and the public would welcome. While it is likely the Bill will not be supported by the House majority, the debate is helping to progress this policy goal. I am

confident the Minister and his officials will take necessary cognisance of it and make the necessary policy refinements to give more confidence to Senator Shane Ross and others who are pushing for better action in this area. I also hope we will correct the mistakes of the lost opportunities of the past ten years.

Senator Feargal Quinn: I was disappointed to hear the Minister for Communications, Energy and Natural Resources, Deputy Eamon Ryan, say he was unlikely to accept the Bill. I congratulate Senator Shane Ross on introducing it. I, too, have introduced two Private Members' Bills to the House. While they were not voted down, I achieved what I set out to do. The Minister at the time said he agreed with what my passports Bill contained and subsequently introduced a similar Bill the following year. In more recent times, on the Human Body Organs and Human Tissue Bill, the Minister stated somewhat similarly that he would introduce his own Bill to do exactly the same. While I would much prefer to see the Minister accept this Bill, as long as he takes action to achieve what Senator Ross is trying to achieve, we will have achieved something like it. There is a future in it.

I was elected to this House in 1993. In 1995, I returned from a visit to Singapore so enthused about the opportunity I saw for Ireland to become the hub of the information technology sector in Europe, if only we were to invest in IT and such technologies as broadband, which I do not think we understood as such. Unfortunately, we did not do so. Singapore did it. They achieved a great deal with what they did in Asia. I believe we could have achieved it here as well.

High-speed Internet is essential for economic growth. Those are the very words Senator Ross used. However, many parts of the country, especially rural areas and my own home, have little or no access to broadband services. My home is in County Dublin but apparently I am just on the wrong side of a hill. Earlier this year, the Minister, Deputy Eamon Ryan, pledged Ireland's broadband speeds would equal or exceed those of EU countries. However, the new EU broadband performance index shows that Ireland is still lagging significantly behind the EU average in terms of broadband capability. Ireland is ranked ninth from bottom. This is the country which 13 years ago I wanted to see become the hub in Europe.

In addition, we are lagging in terms of broadband speeds and other areas such as price and level of usage. When it comes to broadband connection speeds and capacity, Ireland ranks only 33rd in the world according to an international study conducted by Oxford University. Researchers at the university looked at the capability of broadband connections in 42 countries to find out if they are equipped for services like high-definition video and other enhanced content offerings. While Sweden and the Netherlands had the best-performing broadband connections in Europe, tellingly, they were still found to be behind the required standard for next generation services. The report revealed that Japan is the only country equipped to handle the roll-out of these services.

Broadband is linked strongly to innovation, which we must cultivate in Ireland. The United States is the leader in terms of high-tech start-ups and technology innovation and as a developer of talent. Ireland has done well in this area and is now ranked 15th by the Economist Intelligence Unit in terms of our information technology environment. However, we must consider the new competition. Three new countries — Sweden, Denmark and Taiwan — moved into the top five this year, displacing others such as Japan and South Korea. IT industry environments exist in Europe and Asia, including in emerging markets, and they are also becoming more competitive.

Broadband in Ireland is often too expensive, too slow and unreliable. We must address these shortcomings. While technology spending may be decreasing in many parts of the world, we need still to be investing in this area, to be seen as an innovation-friendly culture and to be ready for when the upturn in the economy comes, which I hope will be reasonably soon. We

[Senator Feargal Quinn.]

need to invest in broadband and perhaps we need to encourage more outside investment to build our broadband coverage to compete with countries such as Denmark and Holland which have 100% coverage. That is what Senator Ross is trying to achieve and I hope, whether his Bill is accepted or not, that he will achieve it in some form.

There are now an estimated 3 billion mobile phones in the world creating a vast potential user base for the mobile Internet. Many people will seek to use their mobiles to access the Internet. We in Ireland are in danger of being left behind in this area unless we address our broadband shortcomings. This year China overtook America as the country with the largest number of Internet users. It has more than 250 million. In addition, China also has 600 million mobile phone subscribers, more than any other country, so the potential for the mobile Internet is considerable. I visited China recently. In cities like Shanghai, children are carrying phones with touchable colour screen and TV functions. None of us may particularly welcome that, but one sees the youngsters with them.

Minister of State at the Department of Communications, Energy and Natural Resources (Deputy Seán Power): Did the Senator bring back a few?

Senator Feargal Quinn: The Chinese are so far advanced. It is a much bigger country, but consider the fact that they were so far behind us.

It is now thought that developing countries may be poised to leapfrog the industrialised world in the era of the mobile web. The number of mobile phones that can access the Internet is growing at a phenomenal rate. This is especially true in the developing world. In China, for instance, more than 73 million people or 29% of all Internet users in the country use mobile phones to go on-line. The fastest growth overall is in developing countries such as Indonesia, India, Russia and South Africa.

Mobile phones in developing countries are now used to access services to which we do not have access in Ireland or even in Europe. *The Economist* reports that one example of this is M-PESA, a mobile payment service which I learned about only last week at a Gorta conference in Dublin. It is a mobile payment service introduced last year by Safaricom Kenya, a mobile operator. It allows subscribers to withdraw and deposit money via Safaricom's sales agents and send funds to each other by text message. The service is now used by around a quarter of Safaricom's estimated 10 million customers. Casual workers can be paid quickly by phone, taxi drivers can be paid without having to carry cash around, and money can be sent to family and friends in emergencies. Safaricom's parent company, Vodafone, has also introduced M-PESA in Tanzania and Afghanistan and plans to offer it in India. The reason I learned about it from Gorta last week is that the agency sends help by this method to shops in Kenya and is able to help on that basis. Similar services are popular elsewhere.

We should be encouraging more people to work from home and the high-speed Internet access of broadband makes that possible. Perhaps we even need to consider so-called green tax incentives. I am afraid even to mention a tax of any sort, but I refer to an incentive. If a person need not commute to work five days a week, it reduces his or her car emissions and results in less traffic on the roads. It also links into other social benefits such as a parent being able to spend more time with his or her children and, perhaps on that basis, having lower or no child care costs. The avenue of encouraging people to work from home is ripe for exploration and broadband is essential for that to happen.

This Bill is worthy of support. The Minister should accept it but, if not, he should certainly take steps to ensure the objective of this Bill is achieved during the coming year.

Senator John Carty: I welcome the Minister of State, Deputy Seán Power, and thank my colleague, Senator Ross, for bringing forward this opportunity to discuss broadband in Ireland today. There are many good parts to the Bill and there are weaknesses in it.

The Government has done quite an amount over recent years to implement broadband policies and to bring it to as many subscribers as possible. However, there are shortcomings. Senator Ross in his speech stated that more money could have been invested in the area ten years ago. I would go along with that, but at that time broadband was not high on the people's agenda. In the past four or five years broadband has become a major aspect of business. Indeed, in my part of the world in the west where in certain areas there is very poor supply, the demand for broadband is growing all the time.

In the past two years Eircom's share of the broadband market has dropped by 12% owing to healthy competition. The Government policy of metropolitan area networks and the group broadband scheme would have assisted the stimulation of competition. This is no harm because Eircom did not provide the service it was supposed to. The company failed the people and the business community badly in that it only wanted to provide broadband where there was a strong demand and did not want to provide it to the parts of the country where demand was weaker. Only for the other companies being in place, broadband would not have been available in many places.

There are more residential subscriptions in the higher speed category than in the lower speed category. Advances in technology and growing demand will continue to result in higher speeds. OECD broadband indicators define broadband as starting at 256 kbps, which is well below 2 mbps. This definition boosts figures for countries with lower speeds, leaving countries such as Ireland with higher speeds at a disadvantage. Representations have been made to the EU and will be reflected in future broadband performance indicators, a new measurement recently devised by the European Commission.

The Government only intervenes where there is a market failure. Currently, there is a lack of broadband availability in rural areas relative to the main urban centres. For that reason the Government has implemented various intervention policies and different companies have taken up the issue. Other parts of the Government's policy are being finalised at present. I come from the west and in parts the broadband service is very poor. The figures for the west are very low. The Mid-West Regional Authority stresses the need to bridge the digital divide in Ireland and, more specifically, in rural areas such as the west. The director of that authority said that people in rural areas are often unaware of the digital services available from the Government and the benefits of the Internet in general.

There are people in quite remote parts of County Mayo who are trying to operate small businesses. Their markets can be in America, England and other countries. They depend on broadband but the service is not sufficient to meet their needs. I ask the Minister to examine this. We were promised some time ago that the service would be improved but so far no great improvement has taken place. The people are annoyed about it, especially as some of them have come from other countries to settle in Mayo. The countries they left had a good service but where they live now does not. The Government is trying to provide Reach services such as motor taxation and Revenue services on-line. People are encouraged to use those websites but they are being discriminated against by the communications companies.

For those reasons, broadband accessibility in rural areas must be made a priority. In more remote rural areas people cannot get broadband even where satellite and other technologies are available. The installation fees for those areas are also quite high. People who operate small businesses, often from their own homes, find it difficult to get broadband while the price is also prohibitive.

[Senator John Carty.]

I am delighted to have had the opportunity to bring these points to the Minister's attention. I urge the Minister to improve the service. Cities and bigger towns have a good service but the Minister should take the situation of people in rural areas into consideration and ensure money is diverted to improve their service.

Senator Paudie Coffey: Like other speakers, I compliment Senator Ross on bringing this Bill before the House. Indeed, he has regularly advocated in the House, be it on the Order of Business or in other ways, the development and use of broadband in this country. I support him in that effort. The Senator's Bill is quite detailed. Its most striking feature is the fact that it sets clear targets and clear levels of accountability for the delivery of adequate, next generation broadband for this country. In a way it is a pity that an Independent Senator must bring a Bill such as this before the House when there is a Minister who could do so with the full support of the Department and its civil servants.

The wheels are turning too slowly in the delivery of broadband or, in technical terms, the bytes are travelling too slowly and, in many cases, are not reaching their targets. This is a country that prides itself on having a good technology base, a well-educated workforce and on being an advanced economy. Shamefully, however, it lags far behind others with regard to broadband technology. That is evident in the level and quality of broadband in the cities, towns and villages throughout the country. If I can get broadband on my mobile phone, it does not mean I have the communications and technology infrastructure I require. I will say more about that shortly.

The understanding of broadband and the use of the term must be clarified as well. In many of the surveys carried out throughout the country by local authorities, regional authorities and others, the service providers are asked if they are providing broadband to which they reply "Yes". When individuals are asked if they can get broadband, they also reply "Yes". However, that broadband cannot be compared to what we call next generation broadband. That is the nub of the issue and it is what Senator Ross is dealing with in this Bill. His concern is quality and quantity with this technology, and I support him in that regard.

I listened with amusement to Senator Boyle when he said a survey of usage should be carried out. That is crazy. It is obvious that if we had adequate availability, we could conduct a proper survey of usage. Many people cannot use broadband because they cannot access it. That is the hard fact. In Northern Ireland there are penetration levels of high quality broadband of more than 90%; I am not sure if the level is 98% but it is definitely near that figure. In the Twenty-six Counties, it is far below the European average. That is shameful.

When discussing broadband we must examine key headings. I have already mentioned quality. The others are availability, penetration, speed and price. A huge mistake was made when the Eircom network was sold without any cognisance of or emphasis on access to those networks at a later stage by the State. A huge opportunity was lost. The Government had no access to the ducting, which is a simple pipe in the ground, when it made an attempt to install its own networks. It is a disgrace that this opportunity was lost and this must be highlighted.

In fairness, there was good investment in the metropolitan area networks or MANs that were rolled out by the regional authorities. Unfortunately, while millions were spent on installing MANs, there are huge problems with them. The main problem is the connectivity costs to those MANs. They preclude people from connecting to the broadband networks so the networks are not being used as they should. As a result, there is no return for the investment costs of installing the networks.

Penetration is another area that must be addressed. Penetration levels in Ireland are low. Senator Carty mentioned the mid-west but I am from the south east. Penetration levels in the south east are far lower than the European average. That is not good enough. Many rural areas depend on wireless broadband. It is better than nothing but if the terrain is mountainous or hilly, it does not work. If even trees are in the way, it will not work. It is not dependable in a modern society. We must have hard wired, hard connected, next generation broadband.

Speed is another important issue. I will not deal with it in further detail as I have already expressed my views on it. One point must be made, however. Speed is the area in which Ireland's performance is worst. The latest OECD figures, dated October 2007, place us 33rd out of 35 OECD countries in terms of average advertised download speeds, ahead only of Mexico and Turkey. This is a crazy statistic for a country that prides itself on education and technology. It is just not good enough.

Forfás found in December 2007 that the highest speed widely available to businesses at that time was 6 megabits per second and that our broadband cost four to five times more than considerably faster broadband in France, Germany and Hungary. How do we expect our businesses to compete if this is the level of service available in Ireland? We need to be more ambitious. In this Bill, Senator Ross, who is being ambitious, is producing a clear roadmap setting down levels of accountability and outlining how we can achieve our aspirations in this field. Time will pass and we will lose our place in the world economy if we are not competitive and do not have access to vital communications services.

Failure to be ambitious about broadband infrastructure in terms of next generation access will be disastrous for Ireland because we will be left further behind our economic competitors. Services that become commonplace in other countries will not be available here. A number of high-tech multinationals have already criticised Government policy in this area. Without high-speed broadband, businesses are less likely to expand and invest in Ireland.

I support this Bill and commend Senator Ross on introducing it. It is a signal to the Government that it should do its job and deliver vital broadband infrastructure. Broadband is as important as electricity and the transport networks. It is probably more important if we want to be competitive economically.

Senator Ivor Callely: I congratulate our colleague, Senator Ross, on bringing the Bill before the House. As he indicated when he introduced it, it is relatively short and simple and should be welcomed. I very much welcome the broad outline of the Bill in the explanatory memorandum, with which nobody could disagree. It is one to which every Member would sign up. Senator Ross and the rest of the Members were somewhat disappointed by the view expressed by the Minister for Communications, Energy and Natural Resources, Deputy Eamon Ryan, who indicated he is not accepting the Bill. One had hoped he would indicate when he would be in a position to set out the parameters of legislation reflecting the Bill before us. Pragmatic and realistic targets for access and penetration of broadband are very worthy of acknowledgement in light of the need for infrastructure and necessary investment. Anybody with responsibility cannot simply accept a proposal without being satisfied such targets could be met.

I certainly agree there is a need for more action and proactive measures in developing broadband and meeting market needs. We all accept we have lagged behind over the past decade. Private sector investment will continue to be required to roll out broadband infrastructure. The consultative paper envisages that private sector investment will be primarily responsible for the roll-out of next generation infrastructure. I acknowledge that Government incentives and initiatives are in place but we left the roll-out largely to the private sector in recent years and have been lagging behind. This is a concern.

[Senator Ivor Callely.]

It must be emphasised that broadband infrastructure will become a more vital component in ensuring our competitiveness. The failure to emphasise the role of broadband sufficiently is such that Ireland's broadband take-up is lagging behind that of some other European states. Broadband penetration in Ireland, excluding mobile broadband, is only about 20%. Accounting for mobile subscribers, there are approximately 1 million broadband subscribers in total.

As we know, the main responsibility for supplying and selling broadband rests with the service providers which operate in a fully liberalised market, as the Minister outlined. Investment in broadband infrastructure is driven by such service providers. One can understand why, in the present market, they would invest in and target densely populated areas rather than less populated ones.

I welcome the Government's commitment to and investment in connectivity, especially in high-level international connectivity. This was witnessed in respect of the investment in the Global Crossing system and in Project Kelvin, which not only provides connectivity but also affords us high-speed fibre access across the Atlantic, thus linking us to the global digital economy. The Government has implemented various intervention policies in respect of the metropolitan area networks, the group broadband scheme and the national broadband scheme. I welcome these along with the consultative paper on next generation broadband which charts the way for universal access to broadband and identifies key conduits for investment and connection.

In the past, we lacked access, mainly because of our policy direction. It is now all the more important to ensure access given that economic circumstances are as difficult as they are and are likely to remain so for some time. No Senator underestimates the scale of the challenge faced by our economy. Given the current global economic trend and the financial crisis, which is unparalleled in our history, it is all the more important that we seize every opportunity to advance as best we can. The job of Members of the Oireachtas is to help plot the correct course and design the comprehensive action programme for economic recovery as quickly as possible. We would all sign up to this and we have a solid base.

A great opportunity presents itself in the knowledge economy. There is endless scope for Ireland in this period of innovation and development of telecommunications technologies and digital applications. That developments in this area are likely to continue rapidly for the foreseeable future affords Ireland an opportunity to compete in the global marketplace provided we have the required infrastructure in place. We have all the required ingredients. We have a modern economy of a nice size and with a young, well-educated population who are probably more clued in to developments in the digital age than many of their European colleagues.

I listened with interest to Senator Ross's introduction to the Bill. I commend him on highlighting the importance of setting targets and measuring the progress of our success in achieving them. I do not wish to put my good friend and colleague, the Minister of State, Deputy Seán Power, or his officials on the spot but the opportunity that prevails regarding this cycle of events in the world of telecommunications, digital systems, fibre-optic cables and all that goes with it, and what is likely to advance at an even greater rate in the coming period, is a tremendous challenge for us. Because we accept we have been at fault in the past, it should be all the more important that we put the appropriate measures, targets and acid testing in place as we progress in the period ahead.

Senator Nicky McFadden: I welcome the Minister of State to the House. I commend Senator Ross on bringing forward this Bill. It is worth pointing out the obvious that every Member of this House would like to see Ireland at the top of the OECD league for broadband rates. However, there are huge differences between us in the urgency and delivery of that happening.

The importance of broadband access is something my party has been pointing out for a long time. Broadband is not a luxury. It is a necessity and in a globalised world and an economy like ours, it is important that the Minister seizes the initiative to deliver on that. In these harsh economic times, however, the Government can still redeem itself and show it is committed to enterprise, innovation and investment, and indeed small business and people who want to have the option to work from home. Nobody can deny the link between a prosperous, strong, pro-business economy in the 21st century and the existence of high speed, next generation broadband infrastructure.

Ireland's raw materials are its people, and a highly skilled, educated workforce is vital to attract investment. So too is the infrastructure to allow such investment prosper, something we lack in the area of broadband. It is too important an issue for us to be lazy and renege on it. It cannot be put on the back-burner any longer. That is why I commend Senator Ross on putting this Bill before the House. It is borne out of frustration at the length of time it has taken for the Government to deliver on broadband. The national economy depends on it, as do all the rural and urban areas throughout Ireland. Every street and town in the country needs access to high-speed broadband at an affordable rate but we are four to five times more expensive than Germany. That excludes many people from access to broadband.

I thought the Minister's comments were merely excuses when he spoke about the grid becoming gridlocked, so to speak, and that there would be too many people, which would be a negative development. That is rubbish. In my constituency of Longford-Westmeath, broadband is vital to securing investment and ensuring we get high tech or research development based companies into our counties.

The Government should be focusing on upskilling workers, attracting foreign direct investment and selling our economy as a knowledge-based centre. That is not the case, however. It is important that the Minister ensures rural areas are not left behind, further adding to the inequality in terms of employment and opportunities. I hope he will listen to this debate and treat it with the urgency it deserves.

For a long time my colleague, Deputy Simon Coveney, has been calling on the Minister, Deputy Ryan, to take action. Senator Walsh spoke glowingly about how innovative the Minister is, and I accept that, but I cannot understand the reason he is delaying in this area. While the Minister did not accept Senator Ross's Bill, there is no talk of a date for his legislation. I question that and ask the Minister of State to get an answer for us on that.

The only way to ensure negotiations are opened up with all broadband service providers is to ensure a monopoly is not created. Will that happen? I do not know. It is one thing to be able to access broadband in a particular area but it is important to be able to afford it, especially in Longford-Westmeath.

The Fine Gael plan for a fibre-optic nation released this year sets out a cohesive strategy for ensuring Ireland is not left at a disadvantage. We must ensure that happens, and I ask that the Minister would take on board the broad thrust of these proposals.

Rural areas deserve the same opportunity to pitch for business, big and small. All Members in this House agree that small business is the way forward for our economy. The two and three jobs in a company are a way we can save our economy and it is in all their interests, therefore, that we have the necessary infrastructure to ensure people can work locally and in small towns and villages throughout our country.

I sincerely welcome Senator Ross's Bill. It is time we took action. It is a shocking statistic that Ireland is 33rd out of the 35 OECD countries in terms of broadband performance. Athlone is a gateway town but with the gateway innovation fund being dropped, I do not hold out very

[Senator Nicky McFadden.]

much hope for us getting the necessary infrastructure for broadband in the spatial strategy. However, I live in hope.

We have an extremely successful college in the town — Athlone Institute of Technology. We have an innovation centre that is second to none. Students graduate from that college every year with excellent skills. I ask that we be able to keep those graduates locally and have them working from the local area by providing the necessary infrastructure, namely, broadband. I do not believe that will happen, although I hope it will.

I welcome the aspiration in the Bill to set up a broadband commission to monitor progress. We all know from recent experience the necessity of having accountability and transparency, and that the Minister would appear before the joint committee twice a year. The thrust of Senator Ross's Bill is that we would have a progressive report on what is happening. That is the only way forward. It seems this is going on *ad infinitum* without any concrete proposals.

We need to attract business, develop an entrepreneurial spirit and give people the right tools to develop business from home. We talked about carbon footprint and families being able to have a quality of life, but the only way people can have a quality of life is if they have the necessary broadband facilities to be able to work from home.

I commend Senator Ross on bringing forward this Bill. I support him and thank him for putting this issue on the agenda and highlighting the delays and disappointments of the Government in its delivery of broadband throughout our rural areas.

Senator Paddy Burke: I welcome the Minister of State to the House. I welcome also the opportunity to contribute to the debate on this Bill. There is no need for me to go over the ground covered in excellent speeches on broadband by various Members of the Seanad. It is not the first time that Members of this House have raised the issue of broadband. Senator Ross has raised it on numerous occasions in recent years but we appear to be in the same position we were in a number of years ago.

There is no need for me to make the case regarding the value of broadband to this country, particularly to the remote areas. While the cities have a reasonable level of service, the rural areas have little or no service, something that was pointed out by various Members. I live three miles from Castlebar, which is one of the hub towns and which does not have a broadband service. I know what it is like to try to access the Internet which breaks down every ten minutes or so, just when one has found the information one is seeking. Such problems are not uncommon among small businesses in rural areas. This is one of the challenges they face and we must ask how they can compete on the world stage when they are such a disadvantage.

I am disappointed by the Minister's indication that he will not accept the Bill. The explanatory memorandum to it is written in plain English and sets out how the legislation is structured. The Bill contains clear guidelines in respect of the powers laid down and the targets that should be achieved within a given period. I compliment Senator Ross who spent a great deal of time and invested much effort in bringing this Bill forward.

The Bill is a revelation because it sets down clear targets. There is an unusual aspect to it in the context of the way the proposed board would be structured and how it and the Minister would be accountable to the Houses of the Oireachtas and the relevant joint committee thereof. Even if only for that aspect, we should take the opportunity to see how the Bill might work in principle. During the 15 years I have been a Member of the House, I have not come across a Bill which stipulates that a board be constituted in the way outlined, that each member thereof must obtain two thirds majority support of the members of the relevant Oireachtas joint com-

mittee and that said board would be accountable right down the line. Such a development would be great.

The Minister, Deputy Ryan, considers matters in an innovative way. However, I am disappointed that he will not be accepting the Bill. I admire the principle behind the legislation and it is my opinion that we should measure other Bills against it. I again compliment Senator Ross on this excellent legislation which I am happy to support. I would be interested in seeing how matters might develop in the future if it were accepted. There is much other legislation which could be brought forward in the same vein as that introduced by Senator Ross. I hope the Senator will push this matter all the way to a vote. This and the Lower House have debated the issue of broadband for many years. Senator Ross has brought forward a fantastic Bill and it should be accepted.

Senator Shane Ross: I thank Senators Burke, Coffey, O'Toole, O'Reilly, Quinn, Prendergast, McFadden, Boyle, Carty, Walsh and Callely for contributing to the debate.

I was disappointed by the Minister's response to the Bill, which was deliberately tailored in such a way as to give him an opportunity to accept it. The Bill was structured so that there would not be much in it to which he could object and so that he might add to or subtract from it if he objected to any of its contents. I was disappointed by his initial response — echoed by almost everyone on the Government side of the House — to the effect that the principle behind the Bill is something with which he cannot disagree. The Minister then proceeded to pick holes in some of the detail. I have no problem with his doing so or with him changing any of that detail. The Bill was merely meant to kick-start the process.

Senator Nicky McFadden: Hear, hear.

Senator Shane Ross: The Minister knows that full well. When I heard his objections, I came to the conclusion that there is a reluctance to tackle this problem with any great speed.

Senator Joe O'Toole: Hear, hear. Absolutely.

Senator Shane Ross: The Minister stated that he does not agree with some of the targets. He did not really identify those targets. That is fine. Let him alter the targets. I have no difficulty in that regard. Let us just set the targets and get on with it. The Bill is not a panacea and I am not claiming that the targets are all perfect. Forfás indicated that it believes the Minister's targets would not be met. There appears to be a great reluctance on the Minister's part to set any targets at all.

As Senator McFadden stated, it is disappointing that the Minister did not make a declaration of intent or outline a timetable in respect of his programme. That programme is extraordinarily aspirational in nature. It contains many policy ambitions but there are no dates supplied. That is not good enough. As Members, particularly those on the Government side, acknowledged, we have missed an opportunity. However, we have been presented with a further opportunity to allow us to catch up but we are not taking it.

The Minister proceeded to state that the Bill is somehow contrary to EU rules. I cannot work out what he was talking about. Stating that something is contrary to EU rules is the final excuse of the political desperado. The Minister did not provide a convincing reason in this regard and muttered something about State aid rules. The Bill will not contravene those rules. Investing in roads or infrastructure does not contravene them. The Bill is not designed to give anyone an unfair competitive advantage; its purpose is to provide people with an infrastructural service.

[Senator Shane Ross.]

The excuses provided, which were not echoed by Members on the Government side, were fairly unconvincing and basically mask a reluctance to pursue this issue, probably because funding for it does not exist. The reality is that the Minister probably does not have a Bill of his own and is intent on voting this one down because he has neither the clout nor the money. This matter is no longer — not that it ever was — a priority for Government. That is a road we take at our peril.

Members on all sides rightly alluded to the abyss into which the economy is plunging at present. We do not know where it is going and no one is aware of how bad matters are. However, the position will be much worse if we do not arrive at a long-term vision regarding where Ireland will be in ten to 15 years' time. That is not apparent this evening and neither was it apparent when the budget was introduced. Broadband has been placed on the back-burner because it may cost a certain amount of money to put in place and because the IT cuts to which Senator O'Reilly referred are more sinister than we have been led to believe. The IT budget is to be reduced by approximately €400 million, which is a substantial sum of money.

I congratulate the Members on the Government side of the House who picked up on the issue of quangos. It was a fair political point to ask why I propose the creation of two new quangos. I included them as part of the tailoring of the Bill to suit Senators on the Government benches.

Senator Joe O'Toole: That is a great escape.

Deputy Seán Power: We could not reverse last week's policy decision.

Senator Shane Ross: I knew that if I had not included it, the Members on the Government side would not have been happy. There are 800 quangos which they are not prepared to touch. It is a bit bloody rich for Senators on the Government side to state that they are not enamoured of the quangos the Bill proposes to create. I am pleased with the acknowledgement from those Members who actually read the Bill. I accept their criticism. Let us take the quangos out if that is what Members on the Government benches want.

However, these are a different type of body in charge. I suspect it would be difficult for the Government at the moment to accept this type of quango because it is not the norm. It does not suit the Members opposite as there is not room on this quango for the normal party political patronage. The Members on the Government benches must have seen that.

Deputy Seán Power: Senator Ross was going great for a while.

Senator Shane Ross: What it requires is that they do not put cronies on the board but people who have to be passed by a two thirds majority of a joint committee of the Houses. They would not get their pals through. I do not blame them for not liking it. That new type of quango could be a model for other quangos. The Members on the Government benches will hate it because their cronies will not be appointed any more as only people of ability can be appointed. Appointees will have to know about the subject and be scrutinised and approved by a joint committee of the Houses by a two thirds majority. The Government will not be able to ram it through the way it normally does. It will have to appoint people who know what they are talking about. That will make a difference to the Members on the Government side. No wonder they do not like the quango.

In addition, the Minister would have to report to the joint committee every six months. As Senator Walsh acknowledged, that is a very useful exercise. It is important that we should be accountable for that sort of expenditure and responsible for the bodies we have set up, and that they should report from time to time. I make no apology for putting that type of board in place, because somebody has to be in control. Somebody must appoint a chief executive. Somebody must have a hold on a semi-State body such as this.

I almost feel we reversed our positions. The Minister, Deputy Ryan, suggested there is too much State ownership and State interference in my Bill. I make no apology for that. The State has a role — even if the Greens do not think that is the case — in this type of infrastructure because private enterprise will not take on the kind of public service role that is necessary in areas of infrastructure. The State must take on that role and take the lead. It must spend money to ensure that is possible. It must spend money to encourage business and on organisations such as IDA Ireland. There is nothing to be ashamed of in that regard.

In summary, I am disappointed. The Government is hiding the fact it is not prepared to fast-track broadband. That is a very foolish and short-term decision.

Question put.

The Seanad divided: Tá, 22; Níl, 27.

Tá

Bacik, Ivana.
Bradford, Paul.
Burke, Paddy.
Buttimer, Jerry.
Coffey, Paudie.
Coghlan, Paul.
Cummins, Maurice.
Doherty, Pearse.
Donohoe, Paschal.
Fitzgerald, Frances.
Hannigan, Dominic.

Healy Eames, Fidelma.
McFadden, Nicky.
Mullen, Rónán.
Norris, David.
O'Reilly, Joe.
O'Toole, Joe.
Phelan, John Paul.
Prendergast, Phil.
Ross, Shane.
Ryan, Brendan.
White, Alex.

Níl

Boyle, Dan.
Brady, Martin.
Butler, Larry.
Callely, Ivor.
Carty, John.
Cassidy, Donie.
Corrigan, Maria.
Daly, Mark.
de Búrca, Déirdre.
Ellis, John.
Feeney, Geraldine.
Glynn, Camillus.
Hanafin, John.
Leyden, Terry.

MacSharry, Marc.
McDonald, Lisa.
Ó Domhnaill, Brian.
Ó Murchú, Labhrás.
O'Brien, Francis.
O'Donovan, Denis.
O'Malley, Fiona.
O'Sullivan, Ned.
Ormonde, Ann.
Phelan, Kieran.
Walsh, Jim.
White, Mary M.
Wilson, Diarmuid.

Tellers: Tá, Senators Joe O'Toole and Shane Ross; Níl, Senators Déirdre de Búrca and Diarmuid Wilson.

Question declared lost.

An Cathaoirleach: When is it proposed to sit again?

Senator Donie Cassidy: At 10.30 a.m. tomorrow.

Adjournment Matter.

Cancer Care Services.

Senator Jerry Buttimer: Ar an gcéad dul síos, cuirim fáilte roimh an Aire Stáit. I thank the Chair for allowing me to raise this important matter. I refer to the transfer of the breast cancer treatment unit from South Infirmary-Victoria University Hospital to Cork University Hospital. The Minister of State, Deputy Moloney, is aware that South Infirmary-Victoria University Hospital is an absolute centre of excellence. The impending loss of the cancer treatment unit from the hospital is unacceptable, especially in so far as it will affect women with breast cancer. It would be a mistake to transfer the breast cancer unit from South Infirmary-Victoria University Hospital to Cork University Hospital.

It is proposed to amend the national cancer strategy to allow hospitals in Dublin to maintain their existing cancer services. The hospitals in question will work together to deliver the best possible patient-centred care. I suggest forcibly that Cork should receive the same type of provision. Cork should be no different from Dublin. We are supposed to be building synergies, creating centres of excellence and putting patients first. It has been decided to proceed with two centres of excellence in Dublin, at the Mater Hospital and St. Vincent's Hospital. The hospitals will operate as a single combined centre, sharing their resources and experience, in the interests of delivering the best possible breast cancer care service to women. The same approach should apply to cancer services in Cork, without exception.

We all remember the great announcements which were made by the Minister, Deputy Harney. She promulgated from the four corners of Ireland that BreastCheck was in Cork. We all welcomed the investment that was made in BreastCheck in Cork. Money was invested in facilities to create a centre of excellence. I invite the Minister of State, Deputy Moloney, to visit South Infirmary-Victoria University Hospital, if he has not already been there. The staff of the hospital are wonderful. It is clear from the hospital's detection rates that they provide excellent care. Some 210 cancers are detected at the hospital every year. That figure is growing every year. The corresponding number for Cork University Hospital is 141.

What is Professor Keane doing? It is convenient to blame the HSE, the Minister and the Minister of State. What is the cancer strategy supposed to achieve? We have already established the excellent centre I have mentioned. It makes no sense to proceed in this manner at a time of fiscal rectitude. Why are we telling the people of Cork that we will close one centre and transfer it lock, stock and barrel to Cork University Hospital? The hospital is already at straining point and, in my opinion, having lived in that area all my life, can no longer cope.

In this economic climate it makes no sense to waste valuable resources to make this transition. In Cork we have established a renowned centre of excellence. To close it is regressive and makes no sense economically, socially or medically. If we transfer it, what will happen to the BreastCheck unit we have established? Will it be lost? Will it move to Cork University Hospital? What are we saying to the women of Cork and the dedicated staff?

I hope in the Minister's reply we have an open-door policy. Despite what the HSE said and the reports in the media, I do not believe the management and staff of the South Infirmary Victoria University Hospital have bought into this. Newspaper reports and other information I have suggest they have not. At his 11th hour we could have a combined strategy in Cork, like we have in Dublin. It works well in Dublin and will work well in Cork. We have a centre of excellence there that requires to be maintained.

Minister of State at the Department of Health and Children (Deputy John Moloney): I apologise on behalf of the Minister for Health and Children, who is in the Dáil for the Private Members' debate. I welcome the opportunity to set out the position on the restructuring of cancer services, with particular reference to the issues the Senator raised on breast cancer services in the South Infirmary-Victoria University Hospital, Cork. I might also take the opportunity to deal with some of the issues raised regarding the cancer strategy.

In September 2007 the Government endorsed the establishment by the Health Service Executive, HSE, of a national cancer control programme, NCCP, to manage, organise and deliver cancer services. The objective of the programme is to improve survival rates for patients diagnosed with cancer. This involves significant realignment of services to move from the present fragmented system of care to one which is consistent with the best international standards. The HSE has designated four managed cancer control networks, aligned with the four HSE administrative regions, and the eight cancer centres selected nationally. The designated cancer centre in the southern hospitals network is Cork University Hospital.

The implementation of the national quality assurance standards for symptomatic breast disease will ensure that every woman who develops breast cancer has an equal opportunity to be managed in a centre which is capable of delivering the best possible results. To comply with the standards, the HSE has already directed 17 hospitals, including Mercy University Hospital in Cork, to cease breast cancer services. Further staged reductions in the number of hospitals providing symptomatic breast disease services will occur over the coming months in line with the transfer of services to the eight designated cancer centres nationally. In June 2007 there were 33 hospitals providing breast cancer services. By the end of this year just ten hospitals will provide breast cancer services and before the end of 2009 breast cancer services will be delivered in only the eight designated hospitals plus an outreach service in Letterkenny.

In the southern region this will involve the transfer of diagnostic and surgical symptomatic breast care services from Kerry General Hospital and South Infirmary-Victoria University Hospital to Cork University Hospital. Arrangements have been finalised for the transfer of services from Kerry General Hospital and outpatient clinic appointments are being made for Kerry patients at Cork University Hospital. The relocation of the South Infirmary symptomatic breast service to Cork University Hospital will create a critical mass of specialists of all oncology disciplines on a single geographic site.

The national cancer control programme believes the best interests of the women of Cork and of the southern region will be served by this consolidation and is confident that the consolidated service will meet the national standards for symptomatic breast care as approved by the Health Information and Quality Authority, HIQA. A high-level planning group has been established to facilitate engagement and working arrangements between South Infirmary-Victoria University Hospital, Mercy University Hospital, Cork University Hospital, Southern Hospitals Group and the national cancer control programme. The terms of reference of the high level planning group were agreed at the first meeting of the group which was held earlier today. The scope of work and key elements of the work programme were also discussed.

A parallel programme of work on identification of services suitable for reconfiguration and relocation is being carried out by the hospitals concerned under the office of the network manager, HSE south. A senior manager has been seconded to the office of the hospital network manager to work on this. These are complex and challenging programmes. Work on the development of these programmes is expected to further advance in the coming weeks and progress will be reported to key stakeholders.

The roll-out of BreastCheck, the national breast screening programme, will also significantly reduce the number of symptomatic breast cancer presentations. The Minister for Health and

[Deputy John Moloney.]

Children officially opened the new clinical static screening unit for the southern region last December and more than 4,000 women from the Cork area have been already screened.

The Government is committed to providing symptomatic breast disease services in eight centres nationally. Roll-out of the national breast screening programme and a quality assured symptomatic breast disease service will ensure that women will have the best chance for early detection and treatment of breast cancer. The developments I outlined will ensure a comprehensive service is available to all patients with breast cancer in the southern region.

Senator Jerry Buttimer: I thank the Minister of State for his reply. Have we completely ruled out the Dublin model of the combined centre? What will happen with the BreastCheck located on the South Infirmary-Victoria Hospital campus? Has that been clarified? Will that move across to CUH?

Deputy John Moloney: I regret I cannot answer that but I will have the Minister's officials contact Senator Buttimer tomorrow.

Senator Jerry Buttimer: Will the Minister of State ask the Minister for Health and Children to also examine the combined model?

Deputy John Moloney: I will, and I will ensure somebody from the Minister's office contacts Senator Buttimer in the next few days.

The Seanad adjourned at 7.30 p.m. until 10.30 a.m. on Thursday, 23 October 2008.