



# SEANAD ÉIREANN

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*Dé hAoine, 2 Iúil 2010.*  
*Friday, 2 July 2010.*

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Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

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*Paidir.*

*Prayer.*

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## **Business of Seanad**

**An Cathaoirleach:** I have received notice from Senator Cecilia Keaveney that, on the motion for the Adjournment of the House today, she proposes to raise the following matter:

The need for the Minister for Health and Children to clarify the efforts being made to promote stroke prevention information and awareness.

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, Adoption Bill 2009 [*Seanad Bill amended by the Dáil*] — Report and Final Stages, to be taken at the conclusion of the Order of Business; No. 2, Health (Amendment) Bill 2010 — Second and Subsequent Stages, to be taken at the conclusion No. 1 and conclude not later than 2 p.m., with the contributions of spokespersons not to exceed ten minutes and those of all other Senators not to exceed seven minutes, on which Senators may share time, by agreement of the House, with the Minister to be called upon to reply to the debate on Second Stage not later than 1.50 p.m., to be followed by Committee and Remaining Stages; and No. 3, motion for earlier signature, to be taken at the conclusion of No. 2; No. 4, Wildlife (Amendment) Bill 2010 — Committee and Remaining Stages, to be taken at the conclusion of No. 3.

**Senator Frances Fitzgerald:** I note the historic legislation on equality passed in the Dáil last night, the Civil Partnership Bill. I welcome the all-party agreement evident during the course of the debate and the fine work done on the Bill. I congratulate the Minister for Justice and Law Reform and all involved for the manner with which they dealt with the legislation. Will the Leader outline how the legislation will be dealt with next week in the House, given that the Dáil will break for its summer recess next week?

In her annual report, published yesterday, the Ombudsman, Ms Emily O'Reilly, makes what can only be described as a stinging attack on the Health Service Executive and the way in which it does its business. She speaks about a culture of secrecy, legalism and difficulties in accessing information. She describes case after case of the appalling treatment of individuals at the hands of the HSE. Senators on all sides of the House have raised these issues before. I propose an

[Senator Frances Fitzgerald.]

amendment to the Order of Business that we have a discussion on the serious implications of the Ombudsman's report for the future management of the health service. I want the Minister for Health and Children in the House to respond to the report and outline her intentions to deal with this condemnation of the HSE for how it does its business and its impact on individuals.

On the Order of Business yesterday Senator Mary White asked why the Cabinet was not responding on mental health issues. The cross-party group on mental health hosted a meeting this week to examine the impact of the recession on mental health, including the huge increase in demand for services and the difficulties in accessing them because 700 front-line jobs have been lost in mental health services this year. Today the Independent Monitoring Group on Mental Health published its third annual report in which it agrees with Senator Mary White that the Government is not responding in meeting the needs of the mental health sector, that the programme A Vision for Change is not being implemented and that funding has been cut back. This is different from what the Minister of State, Deputy Moloney, tells us when he is in the House. We must start talking about the facts, not fiction, with regard to mental health. Therefore, I repeat my call for a debate on mental health issues before the end of term. Will the Leader indicate if he can fit in a debate, even a short one, in order that we can focus on the issues raised by the monitoring group today?

**Senator Joe O'Toole:** I raise an issue which has concerned me all week, that is, the protest taking place outside the gates. I have been organising street protests all my life, but there are rules. It is unacceptable for any group to harangue, harass and threaten not only Members but also visitors to the Houses. Yesterday I saw a Member and her family being harassed and threatened by the people involved. I ask the Leader to bring this to the attention of the Superintendent. I realise that both he and the Garda have a difficult job to do, but those involved should understand that while in a democracy people should be encouraged to protest, there are rules, just as there are for everything else.

**Senator Eugene Regan:** Hear, hear.

**Senator Joe O'Toole:** We must consider where we are going.

I welcome the points made by Senator Fitzgerald on the Civil Partnership Bill. It is important that it has been passed by the Dáil and I look forward to it being brought before us next week. However, the bishops have a right to express their view. As a public representative, I welcome the views of any group, whether it be bishops or penitents, what they have to say and defend their right to express their view. We should engage and deal with them. However, the members of the group outside the gates seem to be urban guerrillas working in support of the same point of view. They are completely vicious, aggressive, nasty and totally preoccupied by the sexual habits in bed of gay people and various other issues that have been raised time and again. This is unacceptable. There is not an iota of humanity or Christianity among them.

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

**Senator Joe O'Toole:** We should be brave enough to say this and I am prepared to say it to their faces. If I had had a microphone yesterday, I would have gone out and challenged them.

**Senator Paul Coghlan:** I told some of them my views yesterday.

**Senator Joe O'Toole:** The Catholic hierarchy should recognise that, despite what they had said, the Bill was passed without a vote. This shows they are more in tune with the homophobic so-called Christians outside the gates than with the public representatives of the people. That

should be a concern for everyone. It would be worthwhile to move them away from the gates, sit them down and read to them the Sermon on the Mount or God's two great commandments, the second of which is to love thy neighbour. A lot of work remains to be done and we should outline our position clearly. While it is acceptable for people to protest, make their views known and put pressure on us, their behaviour is not acceptable. That is what politics is about. I do not mind when it happens to us, but it is simply not on when it happens to visitors and family members.

**Senator Phil Prendergast:** I second the proposed amendment to the Order of Business. I refer to the comments of the Ombudsman, Ms Emily O'Reilly, on the culture of secrecy and legalism within the HSE. They confirm that the HSE is a bureaucratic and inefficient body which appears to make up the rules as it goes along. Some 718 complaints about HSE incidents were made last year. However, this represents the number of complainants only. We can be sure far more people are affected than the number suggests, which shows how inefficient the HSE is. The Minister for Health and Children, Deputy Harney, was in the House for a debate on the HSE, but answered no questions. We were given to understand that she would come back in because the debate was to be rolled over. Members on the other side of the House engaged in the most outrageous tactics to prevent her answering questions. They used up their time in such a way that she did not have to answer questions. When will the debate resume? We were assured this would happen within two weeks. I have a genuine interest in hearing the Minister's answers. She must address urgently the moratorium on staff recruitment in the delivery of front-line services, as a disproportionate number of nurses and midwives are affected. They go to work each day concerned that they could lose their licences because they are trying to do the work of staff who are not being replaced. The ones losing out are the patients, as well as the nurse or midwife who loses his or her licence. The consequences are serious. The Minister must examine how the moratorium is affecting the delivery of front-line services. If there is no replacement of staff, others must try to carry the additional workload. This is not acceptable. The Minister should come to the House to answer these questions.

**Senator Dan Boyle:** I welcome the passage of the Civil Partnership Bill in the Dáil last night without a division. I look forward to the debate on it in this House. It is significant legislation because it recognises rights which have not been extended to date. I trust that when we conduct the debate, this will be the central principle that will inform it.

A debate on the Ombudsman's report would be useful. There is legislation before the Dáil which will be brought before the Seanad to extend the powers of the Ombudsman. That might present an opportunity to hold such a debate in the near future.

Senator O'Toole referred to the conduct of the protestors outside the gates of Leinster House. I support his comments. The issue is important. Sadly, there are individuals, members of groups campaigning against particular legislation or on a specific social issue, who choose to turn against individual Members in a very aggressive manner. Perhaps there is a need for protocols which should be made known to such individuals and others outside the gates of Leinster House.

That said, for the next two weeks we have a full programme of legislation, including legislation which does not deal with animal rights.

**Senator Joe O'Toole:** That is a welcome relief.

**Senator Dan Boyle:** We will see the passage of the Planning and Development (Amendment) Bill, the Civil Partnership Bill, the European Financial Stability Facility Bill and the legislation

[Senator Dan Boyle.]

dealing with the windfall levy. When we finish in several weeks time, we will be able to say that in this session of the Seanad was marked by progress on several pieces of vital legislation.

**Senator Paul Coghlan:** I support strongly the comments made by Senator Fitzgerald on the Ombudsman and the HSE. The Ombudsman's report is an official, damning indictment of that body which is dysfunctional in so many ways.

I refer to the comments made by Senator O'Toole. During the years I have always found it is possible to engage in a happy discourse with most people in front of the gates of Leinster House. However, there is no doubt there is truth in Senator O'Toole's remarks. The people outside the gates in recent days, whatever their agenda is, are nasty and vicious, bullies and dictators. I tried to talk to them about respecting democracy and, by God, I cannot repeat in the House what was said to me. In my 12 years in the House I have never experienced such viciousness in the way they sought to target Members individually. It was mostly aimed at Deputies yesterday. As other Senators have stated, some protocols should be put in place. They were the nastiest and most insulting personal attacks Members have ever experienced. We are all used to peaceful protests and uphold the right of citizens to protest peacefully.

**Senator Eugene Regan:** Hear, hear.

**Senator Paul Coghlan:** However, what we witnessed yesterday in front of Parliament buildings was not acceptable. I ask the Leader to bring this to the attention of whoever should be dealing with it and add my voice to others who have suggested that we look at how we can arrange for more peaceful protests to take place.

I refer to the Central Bank Reform Bill, about which I asked the Leader yesterday. As we are aware, the Dáil will rise next Thursday. When will Second Stage of the Bill be taken and on which subsequent days will Committee and Remaining Stages be taken? When the Dáil is in recess, how will we deal with this and other legislation? I have no doubt suitable amendments will be proposed. I wish to hear from the Leader on this important matter for the House.

**Senator Cecilia Keaveney:** A few months ago I referred to the fact that when one moved to this jurisdiction from another, some mobile phones companies sent a message welcoming one to Ireland. We managed to get this changed and now the message simply refers to roaming charges. I indicated that I would try to have an all-Ireland mobile phone package made available. I welcome the European intervention, which maintains the downward reduction in rates for receiving and making calls and the maximum cap on downloading information while abroad. I raised on the Adjournment earlier this week the prospect of the North-South Ministerial Council taking on the issue of introducing all-Ireland packages so that if one buys 200 minutes and 200 text messages or 400 minutes and 400 text messages, it will not matter where on the island one uses them. We should pursue this issue and continue to question the Minister about progress on it.

We have focused on the diminishing role rather than the enhancing role alcohol can play in society over the years. I agree with Senator Fitzgerald on the need to maintain a focus on mental health. During the next session, we should focus on this issue. I am interested in asking the Minister of State with responsibility of mental health the progress on the professional recognition of music therapy because it not only has a role in mental health, but also in regard to autism, Alzheimer's disease and many other aspects of health.

**Senator Phil Prendergast:** Hear, hear.

**Senator Cecilia Keaveney:** We could pick a few topics and be seen by the end of the year to have driven something. We aspired to do that with the alcohol issue but I am not sure how successful we were. We could, however, focus on mental health issues for the next session.

**Senator Feargal Quinn:** A shopkeeper often when deciding on prices discovers that when putting the price of a product up, he makes less profit but by reducing it on occasion he makes more profit. On that basis, the most nonsensical tax we ever introduced was the levy on airlines.

**Senator Phil Prendergast:** Hear, hear.

**Senator Feargal Quinn:** Ryanair is by far our largest carrier and it is also one of the largest in Europe. It is a price sensitive airline. In other words, people travel with the company if the price comes down but if it goes up, they do not. Our tourism industry has been decimated through steps we have taken to make it more expensive to travel to Ireland. That does not make sense.

**Senator Paul Coghlan:** Hear, hear.

**Senator Feargal Quinn:** The Dutch have abolished a similar levy for that reason. Yesterday, figures were published that showed the passenger numbers for Irish airlines had dropped by 18% as they had in Britain while numbers for Sweden, Finland and Germany have increased by 7% or 8% and Turkey by 24%, although there may be a different reason for that. I mention this as we seem to have scored an own goal. Surely we must be able to say to a Minister that there are times when a tax introduced has been a mistake and he or she must go back to do something about it.

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

**Senator Feargal Quinn:** The tax is affecting tourists, bed and breakfasts, hotels and campsites. The entire country is being affected by it and that should be recognised.

*The Irish Times* published an article today by Dr. Chris Luke, a consultant at Cork University Hospital. He apparently wrote to the newspaper five years ago to highlight the model used by Australia, South African and America under which young doctors are bonded to hospitals for a period. We do not do that. The Government has decided on a different system, which is leading to a shortage of doctors. At the same time, the VHI has pointed out that health care costs will increase by 7% annually for the next ten years. We can take steps to address this and one was highlighted in Dr. Luke's article.

**Senator Ivor Callely:** I support the comments regarding the Ombudsman's report. Emily O'Reilly is a courageous person and she is acting in the best public interest. What she has said about the HSE is deeply worrying. I have put on record on many occasions my views on the agency but she referred to the culture of excessive secrecy and legalism in the HSE. She further stated, "A body such as the HSE, there to protect and represent the public interest, sometimes seeks to protect its own interest first...It is very wrong". Nobody would disagree with her comments in that regard. We all have personal experiences of the difficulties associated with dealing with the HSE. I very much agree with Senator Prendergast's comments on this and other matters relating to the executive, such as the embargo on the recruitment of staff and the impact on service provision, particularly by those on the front line and first responders.

Can we get some clarification on the position regarding the HSE? Can the Leader invite the Minister in at the appropriate time? We need to know the impact on service. A mechanism is in place. A service plan is provided by the HSE and money is provided by the Department for its implementation. We need to know what is happening, the impact of the staff embargo and

[Senator Ivor Callely.]

the financial allocation impact on service provision. We are not getting a handle on this. Will the Leader try to ensure we get a handle on this?

We are debating the financial crisis, stag hunting, wildlife and so on. I refer to an important issue raised yesterday by One Family, the one-parent family charity that supports lone parents.

**An Cathaoirleach:** The Senator has gone over his time.

**Senator Ivor Callely:** It issued its annual report yesterday.

**An Cathaoirleach:** I call Senator Buttimer.

**Senator Ivor Callely:** The charity issued a serious warning on the effects of recession——

**An Cathaoirleach:** My hands are tied with contributions limited to two minutes. The Senator has gone way over.

**Senator Ivor Callely:** The charity issued a warning on the impact of the recession on couples and it is worth reading.

**Senator Jerry Buttimer:** Will the Leader facilitate a debate before the recess on democracy and what it means?

I would like to clarify for Senator O'Toole that bishops are sinners as well, not penitents. I fully agree with his comments earlier and I applaud him for his courage. Yesterday was a tremendous day for Ireland with the passing of the Civil Partnership Bill 2009. I pay tribute to the Fianna Fáil Party and the Green Party, in particular, without whom it would not have happened. I also applaud Senator Boyle for his courage because this issue is part of what he stands for. We might have our battles but I admire his work as well. Yesterday was a great day for Ireland and it behoves all of us when the Bill comes before us to respect each other, as democrats, and that we do not make false, pious comments about conscience and what is best for people. It is time that we, as a mature democracy, discussed human rights, the rights of all our citizens and ensured all our citizens are treated equally and properly. Senator O'Toole is correct in this regard.

It behoves the Leader, the Cathaoirleach and all those involved in the administration of the House to ensure urban and rural guerillas are not allowed to demonstrate the type of rudeness and irresponsible behaviour they did in recent days outside the House.

**Senator Fiona O'Malley:** The Senator is a hypocrite.

**Senator Jerry Buttimer:** I am as entitled as the Senator to my view.

**Senator Fiona O'Malley:** I admire the neck of a Senator who interrupts constantly. He has the gall to make that statement.

**An Cathaoirleach:** No interruptions please. This is the Order of Business and questions should be put to the Leader.

**Senator Fiona O'Malley:** I hope the Senator does not adhere to his usual high standards. I hope he is turning over a new leaf. I look forward to seeing a demonstration of it.

**An Cathaoirleach:** Senator O'Malley should not interrupt.

**Senator Maurice Cummins:** Those are terrible interruptions.

**Senator Jerry Buttimer:** Senator O'Malley always thinks she is right when she is not.

**An Cathaoirleach:** The Senator should not comment on any other Member across the floor.

**Senator Jerry Buttimer:** It is a pity she would not learn to listen as well rather than displaying arrogance all the time.

**Senator Fiona O'Malley:** What a hypocrite.

**An Cathaoirleach:** Senator Buttimer has made his point.

**Senator Jerry Buttimer:** If Senator O'Malley had been on time for the Order of Business, she would have heard that Senator O'Toole was referring to the protest outside the gate.

**Senator Mark Dearey:** Will the Leader plead with the Minister of State with responsibility for children, Deputy Barry Andrews, and the Minister for Justice, Equality and Law Reform regarding the fate of approximately 70 so-called aged out minors? These are young people who came to Ireland, often trafficked, and have reached the age of 18 years. They are being moved from the facilities they currently occupy, utterly inadequate as they are, to adult direct provision centres around the country. They are all currently in Dublin. They are extremely vulnerable and most of them are in education in the city.

Crosscare, the social care service providing services for them, has identified them as people who require stability and after-care, to which young people in HSE care who are Irish and reach 18 years of age are entitled. These young people ought to be entitled to it too. They will experience trauma if moved to direct provision centres in Sligo, Galway, Donegal and so forth. The deadline is 13 July. I ask that these vulnerable young people be dealt with according to their need, not according to the system's need. They should be allowed to complete their education in Dublin, where many of them have integrated into schools, football clubs and so forth, and given the opportunity to remain in direct provision in Dublin. They should also be afforded the after-care services they are entitled to after reaching 18 years of age and moving from HSE to Department of Justice and Law Reform care. This is an urgent request given the deadline and I would appreciate it if the Leader would plead their case.

I welcome the passing of the Civil Partnership Bill by the Dáil yesterday and the spirit in which it happened. I hope we will replicate it here. The only moral issue here is the morality of denying people their civil rights. That is the only basis on which this discussion ought to happen.

**Senator Rónán Mullen:** By way of a response and in the courteous spirit that I hope will mark our exchanges on the Civil Partnership Bill when it comes before the Seanad, the difficulty with what Senator Dearey says is — who defines civil rights? It is interesting to note that there is nothing in the international human rights instruments that requires a member state to——

**An Cathaoirleach:** A question for the Leader, Senator. We do not want a Second Stage speech.

**Senator Rónán Mullen:** Would the Leader agree that there is nothing in the international human rights instruments that requires a member state to legislate for same sex marriage or for civil partnership? The moral question is whether we will acknowledge the right of people to have a different ethical position. They should not be targeted by the law if they wish to live that ethical position. As things stand, Senator Dearey's party supports banging people up in prison and fining them if they dare to differ from the prevailing consensus around civil partnership. That is unjust.

[Senator Rónán Mullen.]

I rose to speak on the issue of carers. It is troubling that, according to the Carers Association, there could be 28,000 children who might be carers in our society. Mr. Enda Egan of the Carers Association appeared before the Oireachtas Committee on Community, Rural and Gaeltacht Affairs. It is time we had the long-promised debate on carers. There is a major issue with carer payments being refused. The particularly troubling problem is that people coming off carer's benefit are being denied the carer's allowance. In addition, there is a long delay before they discover that. It is taking up to four months to assess people and, if they are refused, it takes a further four months to appeal the decision. Carers should be at the top of our agenda. It is also worrying that these allowances are being refused on the ground of the health of the person being cared for, even though the doctor has signed off on the application. We will discuss State-funded benefits going to certain categories, and good luck to them, in the context of civil partnership, because that is a sexy cause, but where is the care for the carers? Where is the care for the people who are not as vocal and, perhaps, not as well connected in politically correct circles?

**Senator Paschal Mooney:** I congratulate the new Fine Gael front bench and wish it well. My particular interest is that two of the members of the Fine Gael Party who represent Leitrim, Deputy John Perry from Sligo-North Leitrim and Deputy Frank Feighan from Roscommon-South Leitrim, have been elevated to the front bench and I wish them well in their role.

**An Cathaoirleach:** That is not relevant to the Order of Business in the Seanad.

**Senator Fidelma Healy Eames:** It is very relevant.

**Senator Paschal Mooney:** I feel compelled to defend the integrity, commitment and passion the Minister of State, Deputy John Moloney, brings to disability issues here. I attended a meeting yesterday with colleagues at which he outlined his plans for the coming months and responded to the controversy over respite care. Deputy John Cregan referred to one of the front-line cutbacks in a respite home in Limerick where the Brothers of Charity received €30 million and were asked to cut that budget by €150,000. To everybody's astonishment, Deputy Cregan revealed that the first cut these Christian people made was to shut down the canteen and send a letter to the relevant parents advising them that their special needs children should now bring a packed lunch. I do not see the compassion in that or how a Government can be criticised, when an order charged with the relevant responsibility, decides that the first thing it will go for is the most vulnerable. That is happening across the country. Whatever the political agenda is, it is despicable. The question that arose time and again, from all sides of the House, was why the administrators are not being cut first. Why is it always the front-line services?

As the parent of a special needs child, I value the respite care provided across the country. It is essential for the well-being of the families concerned that they get that respite. What the people who are charged with this responsibility are doing is despicable. A sum of €1.6 billion is being spent on disability issues here and more than 600 organisations are working with the Minister of State, Deputy Moloney. He has initiated a cost-benefit review which will report in September. It is already showing there is duplication and wasteful use of public funds. I look forward to the results of that review. I ask the Leader to invite the Minister of State, Deputy Moloney, to the House at the earliest opportunity in the new session to give us the benefit of his expertise in this area.

**Senator Fidelma Healy Eames:** The joke is that while the recession might be technically over people are still hurting financially and personally. There are two examples that should be addressed. First is the high cost of food in our supermarkets, the low cost of alcohol and how

that is contributing to the high cost of food. It is an absolute scandal that alcohol could be more important than food in this society. Will the Leader put this to the Minister for Enterprise, Trade and Innovation? The Minister must address it. The benefit in the high cost of food is not going to the farmer or the producer. We cannot let alcohol be more important.

The second issue is the scandalous and scathing report of the Ombudsman, Ms Emily O'Reilly, on the HSE. The rotten culture of secrecy still continues, as does the need for private payments to patients due to the HSE's failure of care. This is a culture of secrecy at management level, not at care level as I know so many of the good care givers. The Minister, Deputy Harney, must come to the House to address this report. Does she accept the report and does she believe it? Will she condemn the failures of the HSE, which she set up to provide a world class health service but which is failing our people daily? She must come to the House and give her view as Minister for Health and Children and the State's first servant on health matters.

**Senator Donie Cassidy:** Senators Fitzgerald, O'Toole, Prendergast, Boyle, Buttimer and Mullen congratulated the Minister for Justice and Law Reform on the role he played in the passing of the Civil Partnership Bill by the Dáil. I agree with Senator O'Toole that the bishops have a right to make their views known. Yesterday we showed the world that Ireland is a very mature democracy in terms of how the Dáil conducted its affairs and passed the Bill. It is a human rights issue and we all support human rights.

Senators Fitzgerald, Prendergast, Boyle, Coghlan, Callely and Healy-Eames called for a debate on the Ombudsman's report on the HSE. The Minister will be in the House before the summer recess to continue the debate on the health portfolio and the HSE. This is an ideal opportunity for colleagues to bring the report to the Minister's attention, and I am confident she will be forthcoming in her views on the report when she is in the House in the coming days. The work the Ombudsman, Emily O'Reilly, is carrying out in the interests and the name of Ireland is exemplary and we fully support her. As the Deputy Leader said, there will be a Bill giving additional powers to the position of the Ombudsman in terms of her work and we will fully support that also.

Senators Fitzgerald, Keaveney and Mooney called for a debate on mental health and spoke about the difficulties being experienced in that area. The commitment of the Minister of State, Deputy John Moloney, to mental health has been a shining example of what a Minister of State can do with a portfolio. He got an allocation of €43 million in the budget in difficult times and as Senator Mooney said, €1.6 billion is being spent on services in this area. I have no difficulty in discussing that issue, particularly Senator Keaveney's point about music therapy uplifting the spirits of individuals who are depressed and everything to do with that. I have no difficulty having a debate on that. We have had five debates with the Minister of State, Deputy Moloney, present and I have no difficulty having a debate on an ongoing basis with the Minister updating the House on his total commitment to transform the portfolio of mental health and help those who have been left behind over many years.

Senators O'Toole, Boyle and Coghlan raised the issue of rules of protest at the gates of Parliament, especially in regard to family members, and visitors in general, visiting these Houses. I will pass on the colleagues' views to the Superintendent after the Order of Business. It is a healthy democracy where the general public can come here and engage in peaceful demonstrations. However, strong believers must be reminded of the protocols and rules in that regard and that should be done in the capable way we all know the Superintendent can do it.

Senator Coghlan raised the issue of the timeframe of the Central Bank reform Bill. I will meet the leaders after the Order of Business to discuss the remaining times we propose to deal with Bills. This Bill will come before the House before the summer recess. I take the Senator's point that he wishes to have the Bill debated before the Dáil goes into recess also.

[Senator Donie Cassidy.]

Senator Keaveney raised the issue of roaming telephone charges and welcomed the European intervention which continues to reduce European telephone rates. I wholeheartedly welcome that. I fully support the Senator's call and will keep it in mind when we have future debates on communications.

Senator Quinn called for a debate on the effect on tourism of a levy on airlines. I have no difficulty in having such a debate take place. The Senator also raised the need for something to be done about the shortage of doctors. In the roll-over debate on health the Minister will be able to discuss that issue with Senator Quinn and other colleagues when she comes into the House in the coming days.

Senator Buttimer called for a debate on democracy. I gave a commitment on that in the House yesterday and I have no difficulty in the House discussing that after the summer recess.

Senator Dearey outlined to the House the very serious position of the care of 70 young men on reaching adulthood at 18 years of age and the serious concerns of Crosscare about their future. I will do everything I possibly can to contact the offices of the Minister of State, Deputy Barry Andrews, and the Minister for Justice, Equality and Law Reform, Deputy Dermot Ahern, in that regard because as Senator Dearey said, these young men are moving from the care of the Health Service Executive to the care of the Department of Justice, Equality and Law Reform. I agree fully with everything Senator Dearey said and will pass on his views to both Ministers after the Order of Business.

Senator Mullen called for a debate on carers. I have already given Senator Corrigan a commitment on that. There will be a debate on carers in the House before the summer recess. When we consider that there are 161,000 carers who give a great service, I have no difficulty in the House debating this issue. As so many colleagues are interested in making contributions I intend to roll over that debate also.

Senator Healy Eames raised the issue of the price of food. We have all seen the EUROSTAT prices announced this week. They may have been eight to ten months behind but I understand prices are reduced by 8.6% in this area. As I said on the Order of Business the other day, in the past ten months sterling has become stronger than the euro by about 5%. All of these issues are moving in the right direction but food is an essential requirement of the human being to survive and I will be supportive of the Senator's call in terms of doing something about that issue.

**An Cathaoirleach:** Senator Fitzgerald moved the following amendment to the Order of Business: "That a debate on the Ombudsman's report on the Health Service Executive be taken today". Is the amendment being pressed?

**Senator Maurice Cummins:** Yes.

Amendment put:

The Seanad divided: Tá, 17; Níl, 24.

Tá

Bacik, Ivana.  
Burke, Paddy.  
Buttimer, Jerry.  
Cannon, Ciaran.  
Coghlan, Paul.  
Cummins, Maurice.  
Fitzgerald, Frances.  
Healy Eames, Fidelma.  
McCarthy, Michael.

McFadden, Nicky.  
Mullen, Rónán.  
O'Toole, Joe.  
Phelan, John Paul.  
Prendergast, Phil.  
Quinn, Feargal.  
Regan, Eugene.  
Ross, Shane.

Nil

Boyle, Dan.  
Brady, Martin.  
Butler, Larry.  
Callely, Ivor.  
Carroll, James.  
Cassidy, Donie.  
Corrigan, Maria.  
Dearey, Mark.  
Ellis, John.  
Feeney, Geraldine.  
Glynn, Camillus.  
Hanafin, John.

Keaveney, Cecilia.  
Leyden, Terry.  
MacSharry, Marc.  
McDonald, Lisa.  
Mooney, Paschal.  
Ó Brolcháin, Niall.  
Ó Murchú, Labhrás.  
O'Malley, Fiona.  
O'Sullivan, Ned.  
Walsh, Jim.  
White, Mary M.  
Wilson, Diarmuid.

Tellers: Tá, Senators Jerry Buttimer and Maurice Cummins; Níl, Senators Niall Ó Brolcháin and Diarmuid Wilson.

Amendment declared lost

Order of Business agreed to.

### **Adoption Bill 2009 [Seanad Bill Amended by the Dáil]: Report and Final Stages**

**An Leas-Chathaoirleach:** This is a Seanad Bill which has been amended by the Dáil. In accordance with Standing Order 113, it is deemed to have passed its First, Second and Third Stages in the Seanad and is placed on the Order Paper for Report Stage. On the question “That the Bill be received for final consideration”, the Minister may explain the purpose of the amendments made by the Dáil. This is looked upon as the report of the Dáil amendments to the Seanad. The only matters, therefore, which may be discussed are the amendments made by the Dáil. For Senators’ convenience, I have arranged for the printing and circulation of the amendments. Senators may speak only once on Report Stage.

Question proposed: “That the Bill be received for final consideration.”

**Minister of State at the Department of Health and Children (Deputy Barry Andrews):** The objective of ratifying the Hague Convention on the protection of children and co-operation in respect of inter-country adoption, is at the core of this legislation. The Bill provides for the State to enter into discussions with states which are not party to the Hague Convention for the purposes of making bilateral agreements on inter-country adoptions. Equally, the standards applying to inter-country adoptions under a bilateral agreement will accord with the Hague Convention standards.

I regard inter-country adoption as a valuable form of alternative care for children and I want to protect those children’s interests and to ensure that high standards in the adoption process are upheld. This is one of the Government’s main objectives in this legislation.

The first group of amendments, Nos. 1, 5 and 6, deals with the provision of counselling for mothers or guardians prior to their placing a child for adoption. This is an important issue which was initially raised by Senator Fitzgerald and supported by a number of other Senators on Committee and Report Stages in the Seanad. The decision to place a child for adoption is a difficult decision and one with far-reaching consequences for all involved. In view of this, I brought forward amendments in the Dáil to provide that the accredited body shall provide information and counselling to the birth mother or guardian before the child is placed for adoption.

**An Leas-Chathaoirleach:** If no Senators are offering we will move on to the second group of amendments which concern amendments Nos. 2, 3, 4, 21 and 23.

**Deputy Barry Andrews:** The second group of amendments relates to providing clarification around the issue of what constitutes the making of arrangements for adoption in the context of section 5 and provides clarification relating to contravening provisions of the Act.

**Senator Jerry Buttimer:** On a point of order, is it possible to have a copy of the Minister of State's script?

**An Leas-Chathaoirleach:** There is no obligation on the Minister of State to circulate his script. This is Report Stage.

**Senator Jerry Buttimer:** I appreciate that but just to assist the progress——

**An Leas-Chathaoirleach:** If no Senators are offering on the second group of amendments we will move on to the third group of amendments, Nos. 7, 8, 9 and 10, clarification regarding certain applicants.

**Deputy Barry Andrews:** The third group of amendments have been made to re-format section 33 and to ensure consistency with the definition of inter-country adoption in section 3 and consistency with Article 23 of the Hague Convention which provides that an adoption certified by the competent authority of the state of adoption as having been made in accordance with the convention, shall be recognised by operation of law in the other contracting states. Amendment No. 8 ensures that an adopted person or a person who has an interest in the matter who wishes to have particulars of an adoption entered into the register of inter-country adoptions as provided for under section 90(3) and who is married, does not require the consent of his or her spouse to have the adoption recognised. In other words, only adoptive parents require each others consent to adoption.

The amendment to section 33(4), amendment No. 9 in this case, provides that if the person applying for recognition of an inter-country adoption effected outside the State is the adopted person or a person with an interest in the matter, as referred to in paragraphs (b) and (c) of section 90(3), that person does not have to meet the minimum age requirement of 21 years. The age limit of 21 years in this subsection is only relevant in the context of the adoptive parents at the time of the making of the adoption order or the recognition of inter-country adoption.

Amendment No. 10 deletes the reference to inter-country adoptions in section 33(5) as that sub-provision only applies to adoption orders made by the authority.

**Senator Maurice Cummins:** Will the Minister of State clarify the position with regard to Vietnamese adoptions. If Vietnam signs the Hague Convention will this open the way for families to adopt from Vietnam again? This needs clarification.

**An Leas-Chathaoirleach:** Is the Senator's question relevant to this group of amendments?

**Senator Maurice Cummins:** I refer to inter-country adoptions.

**Deputy Barry Andrews:** I am happy to provide a short clarification.

**Senator Jerry Buttimer:** On the matter raised by Senator Cummins, I refer to the Minister of State's remarks. Given the movement from the 1991 Act to today and with regard to inter-country agreements which have permitted hundreds of children who were placed in orphanages in Vietnam to be adopted and given homes and in the case of this country, to be given the best

opportunities, the Minister of State has refused to meet the Helping Hands organisation in Cork and he has refused to meet a cross-party delegation of Oireachtas Members from Cork. If we are to facilitate and assist people, is it not the case that a crucial element of the bilateral agreement was the establishment, at the insistence of Ireland and Vietnam, of a not for profit licensed facilitator? In the case of Vietnam, the facilitator was and remains the Helping Hands Adoption Mediation Agency. However, the Minister of State has refused to meet this group and the cross-party delegation from Cork. His office replied to a letter from Deputy Kathleen Lynch on behalf of the delegation stating that the Minister of State's diary was too busy in the coming months to meet the delegation. I am concerned that we have created a situation with regard to the Helping Hands Adoption Mediation Agency which is unfair and which is wrong. The agency has published an independent audit of its work. I have no difficulty with the Minister of State making decisions but I have a difficulty when a decision is unfair or wrong. I do not believe for one second that this agency has done anything illegal. Up to the present day, Helping Hands continues to assist. What the Minister of State has not addressed this morning or during the Bill's passage through the other House, is the fact that we now have no due regard in this process.

As Senator Cummins said, there are hundreds of families affected. I attended a funeral last Monday and I met a cousin in tears, in limbo, because of the process. This is a consequence of Government's failure to enter into negotiations and given statements made by the Minister of State, a refusal to enter into negotiations with the Government of Vietnam. We have allowed this to lapse since May last year. I am concerned that we have gone down the wrong road.

I understand the Minister of State's stand with regard to the Adoption Bill but the regulation of affairs between two sovereign nations, Ireland and Vietnam, can be independently achieved when both nations agree on how they will conduct international adoptions between the two countries. This is an example of progressive and beneficial thinking. Everybody wants to get the best possible standards and bearing in mind that at all times the welfare of the infant child — in Vietnam or wherever — must be at the core. The children must be protected to the highest possible standard.

I am disappointed with the response we have received today and I ask the Minister of State to reconsider it.

**Senator Fidelma Healy Eames:** I welcome the Minister of State. Can the Minister of State tell us where are the files on the 20 couples in abeyance for more than one year? Those dossiers were in Vietnam before 1 May 2009 when the Ireland-Vietnam bilateral agreement closed. They are waiting and they are afraid to speak out. If they speak out as a group, they are afraid it will mitigate against them. They do not know whether they are coming or going. It is great news that it looks like Vietnam will open next January. Does the Minister of State think this is the case? However, that will not affect the 20 couples. Will the 20 couples be sorted out prior to January 2011 or are they also relying on that date? For the bulk of families in Ireland, the 300 involved in Helping Hands Adoption Mediation Agency referred to by Senator Buttimer, they are waiting for the period after January 2011. What is the Office of the Minister for Children and Youth Affairs doing? I am not trying to cut the Minister of State. I was in this situation as an adoptive parent but I never had the State working against me. The State was always on my side. Besides the fact they had difficulty conceiving and had to wait up to seven years to get through the assessment, the most difficult thing for these couples is that the State is dragging its heels. I asked the Minister of State to clarify this point.

I received a letter from Helping Hands Adoption Mediation Agency, stating it is completely vindicated after being silenced for ages. What will be the status of Helping Hands Adoption Mediation Agency in respect of the Irish Government after the enactment of this Bill?

**Senator Ciaran Cannon:** I congratulate the Minister of State on moving Ireland to the position where it is ready to give effect to the Hague Convention on intercountry adoption. It is a positive step forward and I congratulate him on it. I echo the sentiments of my colleagues who have spoken on the heartbreak suffered by many prospective families. Parents have endured an emotional rollercoaster over the past years and months, particularly the 20 sets of parents to whom Senator Healy Eames referred. They have been on a particularly difficult emotional rollercoaster. At one point, through no fault of the Minister of State, some of the parents received calls from the Minister of State's delegation in Vietnam to say this issue had been resolved. I received a call that evening from one set of parents who were overjoyed at the news and were preparing their home to receive a child on whom they were ready to lavish care, affection and love.

It looks like Vietnam is moving towards giving effect to the Hague Convention. Does the Minister of State have pertinent information on this? If so, will Helping Hands Adoption Mediation Agency remain the agency that processes intercountry adoptions? The Minister of State launched an inquiry into the operation of Helping Hands Adoption Mediation Agency last October. Information I have, which the Minister of State can rebut or confirm, is that the inquiry was given no terms of reference and no end date by which it had to produce a result. In that vacuum, Helping Hands Adoption Mediation Agency commissioned a world-class accountancy firm, Grant Thornton, to carry out a forensic examination of its operation. The latter inquiry proves there is no evidence whatsoever of impropriety on the part of Helping Hands Adoption Mediation Agency. I ask the Minister of State to do everything in his power to take these 20 sets of parents off the emotional rollercoaster and give them some security and real hope that within the next couple of months the children they have been waiting for will finally come to live with them in order to form the family unit they have been waiting so long to form.

**Deputy Barry Andrews:** Let us be honest, if we are going to support the introduction of higher standards, we must support the consequences of the higher standards. Some of those consequences can be uncomfortable and under previous adoption arrangements we failed to regulate mediation agencies. There were no regulations whatsoever and we wish to do so now. This will be a better scenario for everyone. I did not initiate an investigation into Helping Hands Adoption Mediation Agency. The Adoption Board is making inquiries arising from comments in the ISS report, with the support of UNICEF, which found that Helping Hands Adoption Mediation Agency claimed it had elicited some money for changing foreign currency but that the opposite should have been the case. In other words, there should have been reductions rather than increases in fees charged to prospective adoptive parents. I do not like to refer to this as an investigation because it is not of that nature but the inquiries are ongoing. Grant Thornton has carried out an audit commissioned by Helping Hands Adoption Mediation Agency and, without casting any aspersions on Grant Thornton, which is an outstanding firm with a good track record, self-auditing has its limitations. Very often, companies coming to court with rival sets of accountancy firms presenting views on each company's behalf.

**Senator Maurice Cummins:** The banks are very good at that.

**Deputy Barry Andrews:** That is the point I am trying to make. We need to be careful about saying Helping Hands Adoption Mediation Agency is completely vindicated by the report it commissioned. It is difficult to stand over that. It is not a case of vindication. Let us be clear about what went on and what ISS had to say. The Adoption Board, which is an independent organisation with important functions, is carrying out that inquiry. We want to improve matters

and move things on and the consequences of this can be uncomfortable and difficult for people involved.

If we learned anything from our adoption history, where we sent thousands of children out of this country because of the stigma associated with births outside marriage, this is an opportunity to learn those lessons. Many people have tried to come back here to trace their history and have had positive experiences. All studies on intercountry adoption have been very positive. Much of the credit for this goes to the assessment process, which is overly long but is very fair in its substance. It allows parents to come to terms with what they might expect when adopting from abroad.

I saw the information about Vietnam in the newspaper last Sunday and I am delighted. When I went to Vietnam it was clear to me that the fact that Ireland, Sweden and the US had closed intercountry adoption to Vietnam was having an effect. Certain changes seem to be afoot as a consequence. When the ISS recommended that countries suspend adoptions until Vietnam adopted the Hague Convention, we took the advice. It seems to have had positive effects. One cannot say it was definitely the reason that Vietnam seems to be much closer to compliance with the Hague Convention than before. As soon as Vietnam is compliant with the Hague Convention and as soon as Ireland is compliant with the Hague Convention — the last country in Europe to do so — we will be able to resume adoptions from Vietnam.

**Senator Maurice Cummins:** How soon?

**Deputy Barry Andrews:** It will take place as soon as we receive compliance from Vietnam in respect of the Hague Convention and I am not sure when this will happen.

**Senator Maurice Cummins:** And compliance on our part.

**Deputy Barry Andrews:** Yes, that will happen as soon as we get this Bill passed, subject to the normal convention rules whereby one must lodge the instruments of ratification with the Hague Convention. Three months after that, the convention becomes active in this country. This will happen in October or November.

The final question concerns the 20 sets of prospective parents involved. We have been considering the subject this week and I have been in discussion with various Departments. It is extremely frustrating. Senator Cannon made reference to my trip to Vietnam this time last year. I refer to the concession made by the Vietnamese to process applications in these 20 cases who had not secured a referral by then but whose files were with the Department of Intercountry Adoption in Hanoi. It was made on the understanding that we were proceeding with a bilateral agreement at the time. However, as Members are aware, discussions on the bilateral agreement collapsed because of the International Social Service, ISS, report to be presented the following August. We were then left in a highly complex situation where the State was on notice that there were serious shortcomings in Vietnam. As the State pulled out of the bilateral agreement, whatever would be constructed for the aforementioned 20 cases would be complex and require an input from various Departments, including my Department, the Department of Foreign Affairs and the Office of the Attorney General. The matter is under active consideration and a lot of time has been devoted to it in the course of this week. That is all I will say about the matter at this point. It is not in abeyance.

**Senator Ciaran Cannon:** I seek clarification——

**An Leas-Chathaoirleach:** I remind Members that they can only speak once on Report Stage.

**Senator Fidelma Healy Eames:** This is important.

**Senator Ciaran Cannon:** I seek clarification on one aspect, if that is possible. Is the Minister of State saying efforts are ongoing?

**Deputy Barry Andrews:** Absolutely.

**Senator Ciaran Cannon:** Is the process continuing outside the Hague Convention process?

**Deputy Barry Andrews:** Yes.

**An Leas-Chathaoirleach:** Senator, I cannot allow questions.

**Senator Fidelma Healy Eames:** What timeline does the Minister of State envisage in respect of the aforementioned 20 couples?

**An Leas-Chathaoirleach:** Senator, I must operate within the terms of Standing Orders.

**Senator Fidelma Healy Eames:** Does the Minister of State perceive this to be dependent on——

**An Leas-Chathaoirleach:** The Senator may only speak once.

**Deputy Barry Andrews:** In response to Senator Healy Eames, I have never outlined a timeline. I acknowledge this is highly frustrating for those involved, but there is only certainty in respect of those who do not wish to proceed. However, if they wish me to continue making efforts, no guarantees can be given in respect of a timeline. I must consistently maintain this position. While it is very tough for the people concerned, we continue to consider the matter actively. The process is independent of the Hague Convention process.

**An Leas-Chathaoirleach:** The fourth group, amendments Nos. 11 to 13, inclusive, pertains to clarification regarding domestic adoptions effected outside the State.

**Deputy Barry Andrews:** The next group of amendments provides further clarification of provisions in the Bill. Amendment No. 11 deletes the phrase “effective outside the State” because, in the case of domestic adoptions effected outside the State, section 34 is not applicable. Following this amendment, section 34 applies to the recognition of intercountry adoptions or the making of an adoption order. The suitability of applicants for adoption in a domestic adoption effected outside the State — section 3(1)(b) defines an intercountry adoption outside the State — is a matter for the jurisdiction in which the adoption was made. The adoption authority would not seek to question the suitability of adoptive parents who had effected a domestic adoption in another jurisdiction. The amendment will ensure also an adopted person or a person with an interest in the matter under section 90 will not be obliged to meet the eligibility criteria for prospective adoptive parents set out in section 34, that is, the section only applies to adoptive parents’ eligibility and their suitability.

Amendment No. 12 ensures persons appointed by the HSE who are not employees of the HSE will have knowledge and experience related to the purpose of the committee. The HSE has a statutory responsibility to appoint the membership of adoption committees and is required to ensure the adoption committees are fit for purpose.

The purpose of amendment No. 13 to section 57 is to make it clear that, in the case of an adoption referred to in paragraph (b) of the definition of intercountry adoption effected outside the State, parents must be habitually resident in the state in which the adoption is effected at the time the adoption order is made. This requirement for habitual residence in the state in which the adoption takes place is for foreign domestic adoptions. Where the adoptive parents

are living in another jurisdiction and adopt in that jurisdiction, they may apply to the adoption authority for recognition of the adoption.

**Senator Fidelma Healy Eames:** I will take the opportunity to raise with the Minister of State the issue of the files that continue to be held up with regard to Russian adoptions. I ask him to address the failure of the HSE to complete the post-placement records of children placed in Ireland and the manner in which this is preventing further adoptions from Russia to Ireland.

**Senator Maria Corrigan:** If the Minister of State intends to address this matter, my understanding is that it is not simply an issue in which the HSE has not completed post-placement reports. Is it not also an issue that when the HSE completes such post-placement reports, it forwards them to the parents involved and that thereafter it is their responsibility to forward them to the Russian Embassy? If, for some reason, parents choose not to forward such reports to the Russian Embassy or the Russian authorities, what is the position then? What steps can be taken by the Government to assist in this regard? Obviously, this has implications for the many Irish families who await approval to proceed with adoptions. The Minister of State should also clarify whether the Government has made contact with the Russian department of education and children to clarify the position on outstanding post-placement reports. Does he envisage a timeframe for the recommencement for these procedures for the children concerned?

**Deputy Barry Andrews:** When an adoption from Russia is effected, the applicants sign an affidavit undertaking to provide post-placement reports for a period after the adoption, usually four years approximately. However, what happens is — this is a normal human experience — that, although the reports come in promptly for the first six months, as time passes and normality resumes in a family's life, people forget to furnish them. Efforts are made by the Adoption Board and the HSE, although they are not required to do so in law, to elicit such reports because, naturally, the Russians get annoyed when such reports are not forthcoming. Senator Corrigan is correct that it is the parents who give that undertaking and sign an affidavit. The State cannot oblige them to do so because of the nature of adoption in this country. It severs all ties with the natural parents and the family with a newly adopted child is in the same category as a married family and can exclude inquiries made by a third party about the health or well-being of children, unless a child protection issue arises and this situation cannot be so described. Consequently, it requires the grace and favour of the parents to keep the process going.

**Senator Fidelma Healy Eames:** Indeed.

**Deputy Barry Andrews:** The Russians were being frustrated by a number of countries, including Ireland, and blacklisted them. However, I am aware that certain adoptions have taken place from Russia in recent months. In any case, I have met officials from the Russian Embassy to clarify what the Government can and must do to keep the door open with Russia, as many have adopted very happily from that country, including relatives of mine. However, because Russia is not a Hague Convention country, we must consider a bilateral agreement with it. This possibility is being actively considered. It formed part of the discussion I had with Russian Embassy officials. The Government is progressing the matter as much as possible within the constitutional limits of what it can do.

**Senator Fidelma Healy Eames:** What can be done to force individual couples who may be holding up the process to comply?

**Deputy Barry Andrews:** Nothing. They have signed an affidavit——

**Senator Fidelma Healy Eames:** Can we not appeal to them on moral grounds?

**Deputy Barry Andrews:** —and their obligation is to the Russian authorities.

**Senator Fidelma Healy Eames:** They are preventing other Irish couples from adopting.

**Deputy Barry Andrews:** I know. As for the exertion of moral pressure, most of them comply once they realise the consequences of not so doing. I do not attach blame to anyone.

**Senator Fidelma Healy Eames:** Are such couples written to?

**Deputy Barry Andrews:** Yes. As I stated, both the HSE and the Adoption Board get in touch with them in an effort to obtain the information from them. In one or two cases a social worker may be on leave, but this is not common enough to justify blacklisting a country. While there are the natural and administrative blockages one would normally expect, one should not allow them to have the country blacklisted.

**An Leas-Chathaoirleach:** The fifth group, amendments Nos. 16, 26 and 27, pertains to transitional arrangements.

**Deputy Barry Andrews:** This group relates to the making of transitional arrangements when the Bill is enacted. The amendments are to sections 63 and 175 of the Bill. I am satisfied that my amendments address some of the issues raised by Senators, in so far as is possible, with regard to difficulties encountered with transitional arrangements. Section 63, originally drafted, provided that a foreign adoption, as described in the Adoption Act 1991, would, if it was in process immediately before the establishment date, proceed under the new legislation as though it had been commenced under the new legislation. Representations were made to me on behalf of prospective adoptive parents who considered themselves to be disadvantaged by this provision, in so far as the new legislation would only allow for adoption from a country that was party to the Hague Convention or from a country with which Ireland had a bilateral agreement. Many prospective adoptive parents affected by this provision had commenced adoption proceedings some years ago and anticipated adopting a child from Vietnam, Russia or other non-Hague Convention countries which would be excluded by the new legislation until such time as a bilateral agreement had been reached or the Hague Convention had been signed by the country in question.

In an effort to address the Senators' concerns, I have introduced a number of amendments to the Bill which provide for prospective adoptive parents to proceed with adoptions from non-Hague Convention or non-bilateral agreement countries if, immediately before the establishment date, they were at that stage in the adoption process where they had been issued with a declaration of eligibility and suitability.

The amendment further requires that the Adoption Authority would have to be satisfied that the adoption meets all the standards of the Hague Convention.

**An Leas-Chathaoirleach:** The sixth group of amendments are technical and drafting amendments. That is the subject matter of amendments Nos. 14, 15, 17, 18, 19, 20, 22, 24 and 25.

**Deputy Barry Andrews:** The next group deals with the amendments outlined. They are technical, drafting amendments to update references in the Bill, including references to the Minister for Social Protection, the Minister for Justice and Law Reform and the Department of Justice and Law Reform.

Amendments 14 and 15 delete the reference to affiliation order, which is a term used in the 1952 Act but which we used in the Bill as a generic term. The amendments update the wording

of the provision and provides that any orders or agreements to make payment for the benefit of the child in place cease to have effect from the time of the making of the adoption order but without prejudice to the recovery of any arrears due.

Amendments 17 and 24 are included on the advice of the Parliamentary Counsel. To remove possible legal uncertainty amendment 25 inserts a new section 161 to bring the general administration records of the authority under the provisions of the Freedom of Information Act in accordance with Government policy in this area. The new provision, by amending section 46 of the Freedom of Information Act also has the effect of excluding from the Freedom of Information Act any records of the authority relating to or arising from the making of an adoption order or the recognition of an inter-country adoption effected outside the State.

Question put and agreed to.

Question proposed: "That the Bill do now pass."

**Senator Ciaran Cannon:** I thank the Minister of State for coming to the House to explain the most recent amendments that were made to the Bill in the Dáil. He is aware of the importance of using every resource available to him to resolve the issue for the 20 families who are left in abeyance, in effect, in limbo. That should be one of his major concerns in the coming weeks. I genuinely believe he is doing all that he can. I wish him well in resolving the problem.

**Senator Feargal Quinn:** I congratulate the Minister of State on his grasp of and interest in the topic. I have not been involved in the debate on this occasion. I thank him for coming back to us with those amendments, which have improved the Bill. As Senator Cannon has said, the Minister of State should not forget those 20 families who are still in limbo.

**Senator Maria Corrigan:** I thank the Minister of State and his officials. The legislation has profound implications for the families. I thank him for the empathic way in which he approached the Bill, which will move us on to a better and safer place. There will be challenges ahead, especially with the countries with whom we have a previous relationship that are not yet signatories to the Hague Convention. I wish him well.

**Senator Fidelma Healy Eames:** The legislative process has continued for a year and three or four months. We have soldiered into the Chamber at various Stages of the Bill. I am delighted this country will be formally compliant with the Hague Convention on the enactment of the Bill. As a prospective adoptive parent in the mid-1990s I was assessed according to the terms of the Hague Convention. To be fair to the former health board, it was using those criteria at that point. I accept there is a difference in that now the position has been formalised which makes a big change in terms of foreign adoption and the various arrangements we make with different countries.

I urge the Minister of State to use the highest levels of diplomacy to ensure that Irish families can continue to adopt from Russia. It might be necessary to force couples here to become compliant. I use the word "force" in the gentlest way possible, because I know what it is like. The Minister of State used the word "normality". When normality returns to a family that has adopted from abroad they just get on with rearing their children and they forget to some extent about their obligation to the birth country and how that can affect families in future here. We need the Minister of State to pursue a bilateral agreement with Russia for the sake of this country since it is not seeking compliance with the Hague Convention at the moment. Mexico is also an excellent provider of children so that is an important country to keep in contact with, as is Vietnam. I accept what the Minister of State said about Vietnam today.

[Senator Fidelma Healy Eames.]

My main disappointment is that there is no grandfather clause in the Bill, regardless of the recommendations of the Law Reform Commission. Without that clause children will be denied the opportunity to grow up with a sibling from their country of origin and culture. I adopted one of my children from abroad. I am aware that it is a source of great comfort to many families that sometimes a child from the same birth family becomes available for adoption, or from the same country. Without the inclusion of a grandfather clause, Irish families cannot now adopt such a child if he or she becomes available. That is a great mistake. It did not affect me personally, but we cannot just talk about what affects us personally. We are working on everyone's behalf. I hope we can address the matter in the future.

Given the Minister of State's overall brief of child protection, he could have spent all of his time on the Adoption Bill which was so chaotic especially given the situation in Vietnam and Russia. As he indicated, it is not over yet. I urge him to continue his work and not to give up. We need him to succeed.

**Minister of State at the Department of Health and Children (Barry Andrews):** This has been a long road for the Adoption Bill given that the heads of the Bill were produced in 1998. There has been much consultation and many people have had an input. I thank all the prospective adoptive parents, the adopted persons, and people who gave up children for adoption for their input. The Bill is a testament to their efforts, interests and experiences. We have tried to capture the best standards possible in legislation. Work remains to be done, in particular in the area of tracing. We propose to do that as soon as we have completed the Bill. As Members are aware, the Bill was first published in the Seanad, which provided its unique perspective in ensuring the Bill had a good start in January 2009. That is an indication of how long it can take for a Bill to go from publication to enactment.

I thank my officials, in particular Dolores Moran and Moira Griffin who are present and Liz Canavan who did a significant amount of work on the Bill. I also thank the Adoption Board which was most helpful in ensuring that the Bill would become law as quickly as possible.

The issues raised by Senators are very sensitive and emotive and they require considerable sensitivity in the way they are dealt with. It is difficult to displace emotion and to deal with matters in strictly legal terms. It is important that one does not completely close one's eyes to the emotional part and that one allows it to inform the formation of policy. It is also important to strike the right balance.

As soon as the Bill is enacted and we move into the new regime, I aim to have all the parts in place. It would be wonderful if Vietnam was ready to open up again. There are many perfectly adoptable children and suitable prospective adoptive parents. Creating a match in a safe environment is what this is all about. However, inter-country adoption is of its nature imperfect and we cannot control the jurisdiction from which one adopts. However, we will make the greatest efforts possible. I referred earlier to the ISS report which outlined some of the shortcomings in Vietnam and in receiving countries such as Ireland which gave valuable advice. I mentioned that it made reference to currency fluctuations in regard to Helping Hands but I am now informed it was not in the ISS report. I want to clarify that so nobody will feel confusion or unfairly treated.

We must remember our objective is to ensure that the views of the very motivated, well-intentioned people who want us to find a legislative framework that operates in the best interest of children are reflected in the legislation. We have come as close to doing so as we can. I thank Senators and the Deputies in the other House for all their assistance.

Question put and agreed to.

## Health Amendment Bill 2010: Second Stage

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

**Minister of State at the Department of Health and Children (Barry Andrews):** Senators are familiar with the reasons for and the purpose of the Health (Amendment) Bill. They share my view that the work of the independent review group on child deaths is of great importance and urgency. The Bill is necessary so the review group can complete its task. Accordingly, I ask for Senators’ support.

I acknowledge that taking all Stages today is not ideal but the matter is urgent. Should this House pass the Bill, it is envisaged that there will be a motion for earlier signature by the President so it can come in to operation quickly. This will ensure the work of the group can then proceed as expeditiously as possible.

It is important to point out that the Bill is quite short, and its substantive provisions are focused on achieving particular and clear objectives. The aims of the Bill can be summarised as strengthening the legislative base for the provision of information by the Health Service Executive to the Minister for Health and Children to enhance the Minister’s ability to fulfil her role and functions, including political accountability to the Oireachtas, and creating a “safe channel of communication” for sensitive information from the HSE to the Minister.

The Bill achieves its objective in three ways. First, it places a duty on the executive to provide information on its own initiative and without delay to the Minister. Second, it gives the Minister power to require, in the public interest, detailed information and documents from the executive free of legal prohibition and to use such information and documents as necessary for the performance of her functions. Third, it allows persons appointed by the Minister to undertake reviews etc. similarly to use such information and documents.

Senators will be aware the legislation covers the entire remit of the HSE. This is to make certain that a situation similar to the one encountered by the review group could not arise again, for example, in a review or inquiry relating to the care of the elderly.

I will elaborate on the provisions but will first provide some context. All children deserve a good childhood and how we care for them, especially those who are disadvantaged, vulnerable or at risk, characterises us as a society. A caring society strives to do the best it can for all its children. In doing so, it must be willing to acknowledge problems and learn lessons so necessary and desirable improvements can be made.

Within Government, I bear a particular responsibility to protect and advance the rights and welfare of children. This is especially so where, for whatever reason, vulnerable children become known to the child protection services or are placed in care.

The death of any child is a tragedy and a deeply upsetting time for the family. Where such a death occurs while the child is in the care of the State, there is an onus on the State to act. Such a death is a tragedy and it is deeply upsetting for social workers who act *in loco parentis*. The circumstances surrounding the death must be comprehensively examined, not just out of respect to the young person concerned and his or her family but also to prevent, wherever possible, similar tragic occurrences and to improve our overall care and protection arrangements.

The House will be aware that I established the independent review group on child deaths on 8 March 2010. The group is comprised of Ms Norah Gibbons and Mr. Geoffrey Shannon. The group was asked by me to examine existing information on deaths of children in care and firstly to validate the categorisation of children who died from natural and non-natural causes.

[Barry Andrews.]

With regard to those children who died from non-natural causes the group has been asked to examine existing reviews and reports prepared by the HSE or others on its behalf and, based upon this information, to provide on an anonymised basis key summary information regarding each child and the circumstances leading up to its death.

The review will focus, in particular, on the relevant involvement of State services with the child and his or her family and examine the strengths and weaknesses of such involvement. The group is to make recommendations on how child protection services can be strengthened in so far as learning can be identified from their examination of reports and other information. I consider this review to be very necessary. It is imperative that the group be in a position to discharge fully its remit.

To date, the group has been furnished with some preliminary information by the HSE regarding the deaths of children in care over the past ten years, young adults up to 21 years who were in the care of the HSE in the period immediately prior to their 18th birthday or were in receipt of aftercare services under section 45 of the Child Care Act 1991, and children known to the child protection system. However, in order to complete its task the review group needs access to individual case files. This has not proven possible to date in light of legal concerns identified by the HSE relating to the provision of information to the group.

The legal concerns identified related to the *in camera* rule which in child care proceedings is concerned primarily with the protection of the identity and privacy of the individual child; section 31 of the Child Care Act 1991 which imposes a prohibition, which can be lifted with the approval of the courts, on the publication or broadcasting of matters that might lead the public to identify a particular child who has been the subject of proceedings under certain parts of that Act; the Data Protection Acts 1988 and 2003 which regulate the collection, use and disclosure of personal information, manual or electronic, relating to living identifiable individuals and categorise health information as sensitive and therefore deserving of additional protection; and the issue of consent to the disclosure of personal or confidential information including, as appropriate, the consent of surviving relatives.

When these difficulties came to light in late May, the Government considered the options available to address them and concluded that the best way was to introduce legislation. The Office of the Attorney General has worked very closely with the Department of Health and Children in preparing the Bill to ensure the legislation meets its policy objectives.

The point is sometimes made that the legal problems and delays encountered with the release of files to the independent review group could have been avoided if the review had been carried out by the HSE itself or under its auspices. While the delay is very much regretted, I have no regrets about establishing an external independent review. I chose people for the group who were eminent in the child protection field and respected by their peers for their expertise, professionalism, commitment and independence.

Events since I established the group demonstrate very clearly that only an independent and transparent review process offers any possibility of rebuilding public trust in our child care system. We now have, for the first time, national data from the HSE to indicate how many children died while in State care or where they had been in contact with the care system. We need the review group to examine this information more closely to establish the facts.

The Bill contains two sections. Section 1 is the substantive provision and section 2 sets out the Short Title and collective citation. Section 1 inserts a new Part, Part 7A, which pertains to the furnishing of information and documents, into the Health Act 2004. This explains the numbering of the provisions in the Bill, sections 40A to 40F of the Health Act 2004. The 2004 Act is the one that established the HSE.

Throughout the relevant sections, there is reference to the Minister's functions under the Health Act 2004 and other enactments and it may be helpful, therefore, if I outline briefly the nature of the Minister's functions.

The Minister is concerned with policy making, but that is only part of the picture. The Minister's functions also include monitoring the performance of the HSE and holding it to account for the performance of its functions. This is clear from the Health Act 2004. For example, Part 7 of that Act deals with the accountability of the HSE to the Minister. Section 10 of the Act provides that the Minister can issue general directions to the executive for any purpose relating to that Act or any other enactment and concerning any matter referred to in the 2004 Act as she may specify. The section also provides that the Minister can issue specific directions requiring reports on any matter relating to accountability or the performance of the executive's functions.

More generally, in so far as any issues arise in regard to the powers and functions of the Minister, it is important to examine the Health Acts 1947 to 2009. The Health Act 1970 is fundamental legislation providing for the availability of health services in the State. In that regard, the Minister has functions regarding the provision and maintenance of hospitals, the acquisition of land for voluntary bodies, the administration of the Central Mental Hospital, full eligibility, inpatient and outpatient services, the provision of ambulances, home nursing and home help services, medical and midwifery care for mothers and, generally, in regard to making regulations applicable to the HSE and the extent to which the HSE shall make services available under the 1970 Act.

Another example is that under the Health Act 1947, the Minister has the function of making regulations on the prevention of the spread of infectious diseases.

Section 40A provides a definition of "document" to ensure it is wide-ranging enough for the purposes of the Bill. A "document" means a book, record or other written or printed material, a photograph, any information kept in a mechanical or electronic device and any audio or video recording.

The intention of section 40B on the duty of the executive to furnish information is to ensure that the Minister is appropriately briefed in a timely manner by the HSE on all matters of which she needs to be aware. The Minister requires a range of accurate, timely and quality information to discharge her functions to formulate policy and assess the performance of the health system as well as to ensure she can provide appropriate political accountability to the Oireachtas. Provisions are already in place under the Health Act 2004 that require the HSE to provide information and allow the Minister to issue directions requiring said provision. However, in preparing the Bill, the opportunity was taken to strengthen the existing situation by placing a proactive duty on the HSE. The section is modelled on section 41 of the Garda Síochána Act 2005, which similarly places a duty on the Garda Commissioner to keep the Minister for Justice, Equality and Law Reform informed of significant developments.

Section 40B requires the executive to monitor and keep under review occurrences and developments concerning matters relating to its objects and functions. The HSE must inform the Minister of any occurrence or development that, in its opinion, the Minister is likely to consider significant for the performance of her functions. It must similarly inform the Minister of any other occurrence or development that falls within a class of occurrences or developments of public interest or concern that has been specified in writing by the Minister. For example, this could relate to matters affecting public confidence in the HSE, patient safety or public health. This power to specify will ensure the Minister can be kept fully informed of important issues relevant to the public interest or concern.

[Barry Andrews.]

There is also provision for the issue of guidelines by the Minister on how the information under this section is to be provided by the HSE. The guidelines apply to the information that the HSE believes should be forwarded to the Minister and to the areas the Minister specifies. Where guidelines have been made, the executive must comply with them. The Minister may issue different guidelines in respect of different types of occurrence or development. The reason for the guidelines is to ensure the HSE knows what to provide and how it should be provided. However, there is deliberately no requirement to make guidelines. The Minister has discretion in this and it may be that guidelines will not be made for a few months after the provision is up and running so that they can be better framed against a background of experience.

It was considered useful to place an explicit duty on the HSE in this regard. At times, there have been difficulties in obtaining information from the executive. It is a large organisation and the explicit duty in the Bill aims to increase the awareness of all staff in the organisation of the Minister's political accountability for the health services. Section 40B is intended to stimulate a culture change that should see the HSE becoming more proactive in keeping the Minister informed of important issues relevant to her accountability role and other functions.

It will be noted that section 40B provides that the executive must provide applicable information "without delay". Given the requirement to monitor and keep under review occurrences and developments concerning matters relating to its objects and functions, there should be no reason for the HSE being tardy in informing the Minister of relevant occurrences and developments. However, if the Minister had any reason to suppose that the HSE was being slow in providing information under the section, the Minister could invoke section 40C and require it to provide the information within such period as she may specify.

Section 40C on the requirement to furnish information and documents and section 40D, under which the Minister may share information and documents in certain circumstances, are the sections most relevant to the work of the independent review group. The purpose of section 40C is to require the executive to provide information or documents to the Minister. It provides that the Minister can, where she considers it necessary in the public interest and for the performance of her functions, require the executive to provide her with any information or document within its procurement, possession or control that she specifies. The section lifts existing legal prohibitions in any enactment or rule of law that would prevent the provision of the information and documents concerned in areas such as consent requirements, non-disclosure or confidentiality provisions and *in camera* rules. This requirement must be complied with by the executive within the time specified by the Minister and in any event without delay.

While it is envisaged that any requirement issued by the Minister will be in writing, that does not need to be the case. This could occur where the Minister is briefed orally on an issue by the executive and determines in the public interest that particular sensitive information or documents must be provided without delay. As Senators will appreciate, the key consideration in some cases will be speed. The Bill only lifts the *in camera* rule for the purpose of allowing information to flow from the HSE to the Minister, which means that the rule continues to be of full force and effect on the Minister in terms of publications, and so on. The requirement to satisfy the public interest test is a further safeguard. This is why we see this provision as creating a safe channel of communication for sensitive information to pass from the HSE to the Minister. The information or documents required under this section may or may not include in every case information and-or documents that would need to rely on the legal exemptions. However, in every case, there must a public interest dimension to the requirement and the extent to which that must be applicable is related to the sensitivity of the information involved.

While sections 40B and 40C are independent of each other, it may well be that, following on from information provided under section 40B by the executive, the Minister may consider it appropriate or necessary to require further information or documents under section 40C. For example, this could arise where the HSE provides information on a matter under section 40B, but indicates that it is constrained in providing further details due to privacy issues. Consequently, while section 40C is critical for the work of the independent review group, its application goes much further. Section 40C will enable the Minister for Health and Children to require from the HSE in the public interest any information or document she needs for the purposes of performing her functions. While it should not be necessary to use this power frequently, it will help to ensure the Minister has the information and documents she needs for her role and functions.

In the same way, section 40D is about ensuring that, where the Minister has appointed a person or persons to examine or inquire into a matter and she considers the information or documents received under section 40B or 40C are relevant to the examination or inquiry, she can give access to that material to the persons concerned. This will enable them to use the information and documents in line with the terms of reference of their appointment.

As Senators will note, section 40D does not give the persons appointed by the Minister the power that the Minister has under section 40C to require information or documents directly from the executive. This is because the relationship in the Health Act 2004 is between the Minister and the HSE and, therefore, it is appropriate that the power to require information or documents under section 40C should be specific to the Minister. Where there are difficulties in investigations and reviews, as in the review of child deaths, the Minister can require the information and documents from the executive and arrange for their use by any review or investigation team appointed by her. However, the review group on child deaths is free to request any information it wishes from the HSE. Where there is a legal difficulty, it can advise of that and the Minister will be able to require the HSE to provide the information or documents directly to the review group. When such information is provided to the group, it can use the information and documents in the same way as the Minister can without any need to revert to the Minister for approval. Accordingly, there is no question of anyone being able to tell the review group how to use the files or otherwise dictate how it does its work.

Section 40E provides that the Minister may use information and documents provided under the Bill as she requires for the performance of her functions. Taken with section 40C, this acts as a safeguard to ensure that the Minister can only request and use information and documents under this Bill for the performance of her functions. Section 40E also addresses the issue of publication of such information and documents and provides that the current legal position is unchanged, namely, that nothing in the Bill permits publication, in whole or in part, of information or documents received if such publication would not otherwise be lawful. This is in keeping with the general objective of the Bill, which is about correctly balancing the public interest with the individual's legal and constitutional rights, including the right to privacy. The purpose of the Bill has never been about publication. Rather, it is about providing a safe channel of communication between the HSE and the Minister. This is what the Bill achieves. However, I am aware that differing views exist on whether the Bill should have taken another course on publication. For this reason, it might be useful to set out legal and policy considerations relevant to the publication of reports.

Many legal issues arise in considering whether a report can be published, such as the constitutional right to privacy, the right to fair procedures, the right to a fair hearing and, in some cases, the right to cross-examine witnesses. The law on defamation must also be considered. A further issue that can arise is whether publication would result in contempt of court and, in particular, that aspect of the law known as the *sub judice* rule. Several policy elements would

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also be relevant to any consideration of amending the current law on publication. Where a Minister decides to launch a review or inquiry into a particular matter, he or she has usually considered his or her options of establishing a statutory inquiry or a tribunal. This option may be decided against for various reasons, perhaps because it might take too long and get caught up in formalities and is usually quite costly. Where a non-statutory review or inquiry is established, such as the independent review group, the review or inquiry team is usually given a relatively short period, depending on the issue under scrutiny, to conduct its review, which may sometimes be paper-based, and report to the Minister.

In the child care area, the rights of children currently in care and the public interest in maintaining the integrity of the child care system, which requires the co-operation of family members and members of the public to report incidents of concern, would weigh heavily against mandatory publication of all reports identifying the individual involved. It seems to me that in relation to children currently in care, it is extremely important that they do not feel that everything they tell their social worker and is placed on their file could be published. If the situation was otherwise, children in care would have a concern about their privacy and about the nature of their relationship with their social worker. It could deter young people from seeking help and, as a result, the integrity of the system could be greatly compromised.

Similarly, in terms of family members and members of the public who make disclosures to social workers, which are essential to the proper working of the system, they may be discouraged from doing so if it is felt that a report into the child's case file which identified "informants" might be published. I believe it is best that each report can continue to be assessed on its merits as presented to the Minister. To quote Norah Gibbons at the time of her appointment to the review group:

Children and families have a right to have their privacy maintained and it is crucial that this is honoured. They must be able to trust that their family details will not be exposed in public in such a way that violates their privacy.

I very much agree with that view for the reasons I have outlined.

Further, where a review or inquiry is launched with the express intention on the part of the commissioning Minister to publish a report that will identify persons, it is reasonable to expect that anyone likely to be affected by the events under scrutiny, especially anyone who expects he or she might be criticised or blamed, either directly or by implication, will be very concerned to protect his or her legal position and rights. This may see him or her engaging legal advisors and or displaying a reluctance to co-operate with any review.

By their nature and objectives, all inquiries are different. However, where the principal objective is to learn from the experiences of the past and to use that learning to change the way things are done it seems the course we have adopted with the Bill is the right one.

Section 40F makes it clear that nothing in the Bill limits or otherwise restricts the power of the Minister under the Health Act 2004 or any other enactment to issue directions to or require information from the executive. Similarly, nothing in the Bill affects, except to the extent required by the legislation, the functions of the executive or the Minister. This means the Bill does not affect the operational independence of the executive as set out in the Health Act 2004. As there is no commencement provision in the Bill, it will become law on being signed by the President.

On the matter of sanctions for possible non-compliance by the HSE, the Bill does not provide for sanctions because the Health Act 2004 already does so. Specifically, section 14 provides that the Minister may remove the board if it does not comply with a direction or requirement

imposed on it by statute or if she is satisfied the board's functions are not being performed in an effective manner. In the latter instance, she may appoint a person to conduct a review into the matter and the board must co-operate with the review. However, post-enactment, when the Minister writes to the HSE she will make it clear that she expects a positive and constructive attitude to the Bill.

In the course of preparing this legislation, officials from my office met with the Ombudsman for Children, the Data Protection Commissioner and senior officials from the Ombudsman's office. As always, those discussions were constructive and helpful.

The Data Protection Commissioner was concerned that any release of sensitive personal information should be consistent with data protection principles and in particular that any disclosure of such information without consent should have a necessary public interest dimension. I share the commissioner's view. Indeed, my objective throughout the Bill is to have a proportionate response to balance correctly the public interest and respect the individual's legal and constitutional rights, including the right to privacy. That is why there is an express public interest criterion in section 40C.

Both the Ombudsman and Ombudsman for Children raised issues about the consistency of application of the *in camera* rule by the HSE in releasing information to them for the performance of their functions and the general operation of the rule. The Ombudsman has stated that the *in camera* rule is complex and wide-ranging and that some modification would be helpful. The Ombudsman for Children has called for the rule to be flexible enough to allow reasonable access to information, where such access would serve the public interest, while ensuring that adequate safeguards are in place to respect the rights of children and the privacy of the parties. She has also called for legislation to clarify the law with regard to the sharing of information in the best interests of the child. The matters raised by the Ombudsman and Ombudsman for Children are important and it is appropriate they receive the time and attention they deserve. That would not have been possible given the timeframe within which this Bill had to be prepared. Moreover, the *in camera* rule has implications beyond the health sector.

However, Senators will be aware that the third report of the Joint Committee on the Constitutional Amendment on Children noted there is a lack of access to source information relating to cases under the Child Care Act 1991. These cases are heard in the District Court where judgments are rarely written and there is no facility for recording such judgments. The committee commented that it did not have access to any records that could assist in ascertaining how these cases are decided in normal situations and recommended that facilities are established to enable reporting of District Court cases on the same basis as is available in general family law cases. In that scenario, reporters are permitted to sit in and take notes of family law cases, so a general picture of how they are determined can be presented to interested bodies and persons. This information can be disseminated without putting in jeopardy the anonymity and privacy of the parties involved.

I agree with the committee that a similar arrangement could be put in place for District Court cases and, in particular, cases under the Child Care Act 1991. I intend to examine this matter further to see how it can be progressed.

Senators will also have read in the press the comments of the Ombudsman for Children on the Bill. By way of background, I should explain that given the important role the Ombudsman for Children plays in the child care area I arranged for her to have a copy of the draft Bill and my officials offered her a briefing in advance of publication. I received her detailed comments two weeks ago and they have been considered carefully in my office. As her paper makes clear, she acknowledges that some of the issues she raised were never intended to be addressed in the Bill. However, the Ombudsman for Children made certain points relevant to the Bill and

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the independent review group that I should like to address directly. She queried the independence of the review group in the sense that it is the Minister rather than the review group which sources information and documents from the HSE.

The Ombudsman for Children also raised the matter of publication including the fact that it is the Minister of State with responsibility for children and youth affairs who publishes any report from the independent review group. Again, as I said earlier, the decision was taken from the beginning not to interfere or amend the present law on the publication of reports. Moreover, the Minister of State with responsibility for children and youth affairs has public and political accountability for children's services. Consequently, it is reasonable that it is the Minister of State who should publish any report commissioned by him and undertaken on his behalf. I have already given a commitment that the report of the independent review group will be published.

I have also read the comments of the Ombudsman for Children in respect of the perceived lack of institutional independence of the death review panel, established by the HSE. It is important to put the establishment of this panel in context. The death review mechanism precisely follows the HIQA guidance for the Health Service Executive in the review of serious incidents including deaths of children in care. That guidance, according to HIQA, is intended to create:

a standard, unified, independent and transparent system for the review of serious incidents including deaths of children in care in Ireland. The guidance outlines the purpose of national review, the national review panel and team and the review process. The guidance also addresses the timing of review, benchmarks for individual reviews, publication and external reporting and monitoring of the review process.

The process that will guide future reviews of child deaths was not drafted by me but by HIQA, following my request last July for such guidance to be produced. I believe that the HIQA guidance is effective in setting a transparent and accountable death review mechanism for the future. As regards the independence of the process, I place my faith in HIQA and the approach that body has recommended. I also point to the fact the guidance provides that in the event that HIQA or the Minister believe that a review process has not been completed satisfactorily, HIQA can carry out a statutory investigation under the Health Act 2007. Section 9.10 of the guidance reads:

The Authority may decide, or be requested by the Minister, to conduct a review or investigation under the Health Act 2007, if the review process has not been completed satisfactorily or the findings are indicative of wider concerns. The findings of this review will be published by the Authority.

The guidance also states:

Social Services Inspectorate/HIQA will monitor all reports to ensure that the review process is in compliance with this guidance.

Though a system or process should not be dependent on the composition of its membership to assert its independence, it is important to look at the names that comprise the review panel. Few will doubt the independence and rigour that the respective individuals will bring to the process and I thank them for their willingness to co-operate.

The policy decision was taken at an early stage that the Health (Amendment) Bill should deal only with the relationship between the Minister and the HSE. The sole focus and purpose

of the Bill is to cover the provision of information and documents by the operational arm of the health service, the HSE, to the person who has political and other accountability for the health service, namely, the Minister for Health and Children, in a way that is necessary for the Minister to fulfil her role and functions. However, I want to take the opportunity today to make it clear that the present Bill in no way affects the current rules applicable to the HSE in supplying information to statutory bodies and persons. They remain unchanged and the Minister expects the executive to co-operate fully and consistently with such bodies in the performance of their functions.

It is recognised that this legislation will involve, in some instances, the disclosure to the Minister of very sensitive personal information by the HSE. However, it is the view of the Government that the measures in the Bill are balanced and essential if the democratic imperative of ministerial accountability to the Oireachtas for the health system is to be met and public confidence in the Health Service Executive is to be improved. More immediately, of course, the Bill is necessary for the work of the independent review group.

I want to conclude by making a point I have made before, namely, that I am committed to learning from shortcomings that are identified through reviews and reports into our services in order to make improvements for children and families into the future. This Bill is an important element in that process. I commend it to the House and look forward to the debate.

**Senator Ciaran Cannon:** The tragic deaths of children in the care of the Health Service Executive may not have been in vain if the veil of secrecy and self-interest at the heart of the HSE since its inception is finally lifted. That the Government feels obliged to put in place the Health (Amendment) Bill 2010, however, is a monument to its failure to create a national health executive that is democratically accountable and over which Ministers have a capacity to exercise any degree of oversight.

Through the creation of the HSE, which in itself was a reasonably laudable concept, the Government succeeded in removing all parliamentary accountability for the running of the health services. It created an executive with no legal obligations to report to the Government on major issues of concern in an acceptable timescale. The stark and sad reality is the HSE has become an obsessively secretive organisation which prioritises self-protection over the protection of children.

It is worthwhile to briefly recap on the sequence of events that led to the introduction of this legislation, if only to highlight the drip-feed of information from the HSE and its deliberate attempts to conceal the real truth about the suffering of children in its care.

On 5 March 2009, the Minister of State at the Department of Health and Children, Deputy John Moloney, stated there was a total of 21 deaths of children in the care of the HSE in the past ten years. On 4 March 2010, the Minister of State with responsibility for children and youth affairs, Deputy Barry Andrews, stated 23 children had died. On 28 May, the HSE stated the figure was 37 children. On 4 June, it then confirmed a further 151 children and young people known to the social services or who had been previously in care died in State care. In total, 188 young people who were in care or in contact with social services have died in the past ten years. Finally on 8 June this year, the Minister of State, Deputy Barry Andrews, indicated that number could rise.

What confidence can one have in a Government and a health executive that took more than a year to produce an accurate figure on deaths of children in its care? One can only glean from this litany of incompetence on the HSE's part that every iota of information had to be dragged from it. The story does not end there.

[Senator Ciaran Cannon.]

In recent days we learned HSE managers were planning not to publish highly critical reports into the deaths of Tracey Fay and David Foley, two of the children who died in State care. The reports published earlier this year disclosed a litany of failures by social work and child protection services, including inexcusable delays in providing essential services, chaotic case management and systemic failures. However, despite recent assertions by HSE officials that there was no deliberate suppression of reports, newly released internal documents, however, paint a much different picture.

We have learned that a letter from a senior HSE manager to the Minister of State, Deputy Barry Andrews, in April 2009 stated there were no plans to publish the reports into David Foley's and Tracey Fay's deaths. These findings are disturbing but not surprising. The HSE's reluctance to publish these reports is part of a wider culture of excessive secrecy and unwillingness to confront failure at a senior level within the service. We can now only conclude the only reason the reports were eventually published was due to political and media pressure.

Since her appointment in 2003, time and time again, we have seen the immense value of an independent and committed Ombudsman for Children. While Ms Logan has welcomed the publication of this legislation, she does have some serious reservations about it. If the Minister of State, Deputy Barry Andrews, is serious about reform of the HSE, and I believe he is, he should take on board her suggestions.

For example, she recommended a government-appointed independent review group — similar to the one set up recently by the Minister of State — should be empowered to directly source information and documents from the HSE. However, under this Bill the Minister will determine what information is relevant and who has the power to demand it. The Ombudsman for Children described this provision as regrettable, suggesting it may weaken public confidence in any report as a result of the independent group's work. A properly constituted statutory inquiry should have its own means of compelling documents and information rather than relying on the power of the Minister to do so.

Furthermore, the independent review group is not authorised by this Bill to publish any report it may issue. A properly constituted independent inquiry should be able to publish its own report rather than the Minister doing so. The Bill also does not address the issue of documentation or information derived from *in camera* proceedings which the independent group believes, following careful consideration, should be published in the public interest. The use of such information or documentation in a report by an independent group should be possible without the necessity for a court application. The Bill, however, does not allow the Minister or the independent group to do this.

The Ombudsman for Children concluded her observations:

While this legislation addresses a specific problem that has arisen and is welcome to ensure co-operation in that context, it will do little to address the wider culture of co-operation required from public bodies in the context of children's rights address.

Earlier this year, in a debate about the proposed children's referendum I remarked there was an ethical obligation on us as law-makers to put the interests of our children at the heart of our Constitution. When our children's ombudsman tells us we still have a culture of non-co-operation in our public bodies with children's rights, we simply cannot allow any further delay in the holding of this badly needed referendum.

The valuable work done by the Joint Committee on the Constitutional Referendum on Children cannot be left indefinitely on the shelf. If the Minister of State, Deputy Barry Andrews,

wants to look back with some degree of pride and satisfaction on his time in this ministry he needs to make this referendum an absolute priority.

**Senator Mary M. White:** I welcome the Minister of State and his officials from the Department of Health and Children. I compliment them on the excellent review contained in his speech which gave the reasons this important and urgent legislation has been introduced.

The Bill is necessary so that the child death review group can complete its task. The Minister of State accepts taking all Stages today is not ideal but because the matter is so urgent it is necessary to bring the legislation into operation quickly. This will ensure the work of the group can be expedited as quickly as possible.

Some weeks ago I visited the site of the Letterfrack industrial school to absorb what had happened to the children there under State care. Much cosmetic work has been done around the old building. Looking at it today, it is very difficult to imagine what happened there until one goes to the graveyard where children are buried. It sends a shiver down my spine now to think about the neglect of thousands of children who were psychologically, physically and sexually abused while under State care. As the Minister of State said, we must learn from the past and move fast so as not to allow it to be repeated.

The children in the industrial and reform schools all came from poor backgrounds. There is no doubt the system treated them as if they had no feelings or emotions like the rest of us. There was a cold bureaucratic and class-conscious attitude to these children. There was a lack of feeling on the part of the bureaucracy to these children in care as if they had no ambitions or dreams and no feelings of sadness or hurt. As the Minister of State noted in his speech, we should not blame the individuals in the bureaucracy who work but who are not 100% engaged in the responsibilities. However, there is an inability for a person doing his or her job to take responsibility and for it to be acknowledged when he or she does a good job. I have worked there twice in my lifetime. One gets on in a bureaucracy because one obeys the rules and tows the line. It is not the same if one is out in business and trying to survive there. Those who break the rules and do something different get along in such cases. I believe those who work in the public sector, whether the HSE or any Department, have a great deal of ability to be entrepreneurial and passionate about the work they do on a day-to-day basis. It breaks my heart as spokesperson on children's affairs in the Seanad for Fianna Fáil to know the lives of thousands of children have been ruined forever.

As a younger person, I was always very impressed by people in the Department of Education and Skills and the senior civil servants. They showed a lot of brainpower to get those jobs over the years. However, when I reflect on it now, I am not impressed and I will never again be impressed because of the coldness shown to these children. Those involved had no empathy when they visited these institutions. I refer to the judges who spoke in such an authoritarian way and with such class distinction as well. This attitude was shown because these children were poor and the same applied to children in care. The view was taken that they did not seem to deserve what every other child deserved. I realise the Minister of State has a passion for progressing this issue and seeks to create transparency. I wish the Minister of State and his executives from the Department the best of luck and I congratulate him on the Bill. It is worthy and it is my pleasure to be here to support it and to bring it into being as quickly as possible.

**Minister of State at the Department of Health and Children (Deputy Barry Andrews):** I thank the two Senators who have kindly contributed to the debate. Senator Mary White has drawn on her interesting visit to Letterfrack. This frames the discussion we have held in the past 12 months, what we have discovered about the failures of the past and, in many ways, it

[Deputy Barry Andrews.]

informs my thinking about how we deal with children in care today. If we repeat the mistakes of the past then we are completely derelict in our professional duty.

The Bill and the independent review group deal with transparency but not simply for its own sake. It has a specific purpose, that is, to try to ensure that good practice in the area of social work is properly supported, recognised and acknowledged. We will find that in many of the cases of unnatural deaths, social workers did everything they could. It will be found that in many cases the causes of the tragedy were external to the HSE. In this way, we will learn what we are not doing correctly. There are likely to be situations from which we will learn something and I suspect this will have much to do with how the HSE interacts with other agencies and where we have fallen down in such circumstances.

I look forward sincerely to the outcome of the independent review group and its views and I believe it will also serve the purpose of restoring some confidence in the HSE. At the moment that confidence is not of the highest regard in spite of the fact that almost anyone who has any experience of the HSE in a personal level has a very positive experience. There is a strange disconnect in this regard with a greater than 90% satisfaction among those who have interaction with the HSE but so little public confidence. Why is this the case? We must admit honestly that there will always be media interest and, therefore, try to ensure there is a degree of transparency, not only to restore public confidence, but to inspire and support a culture of good practice where it is found and highlight and underline bad practice. This is essential to improve professional standards.

I agree with the views expressed by Senator Cannon on the constitutional referendum. This is not for any reason of personal or professional satisfaction, although that may be the case. Rather it is something we must do and it is timely we should do it. It is 17 years since Catherine McGuinness first called for a referendum following the Kilkenny incest case. Since the Joint Committee on the Constitutional Amendment on Children reported last February we have worked on an ongoing basis to try to match what was intended by the committee with the appropriate constitutional wording and to try to eliminate unintended consequences which can, inevitably, occur.

It is very important for this legislation to get through quickly because we went through a very bad period during the past six or eight weeks. Senator Cannon provided a timeline which excluded several important issues. He is correct to state that we started with a figure of 20 and ended up with 37. That is absolutely not satisfactory and the Senator is correct to say as much. The Government recognises there is a deficit in this area and that previously a different standard applied whereby review reports were not put in the public domain in a timely and publishable form and, therefore, a doubt will always hang over what went on. Once we move to the new national standard for all future cases and once we complete our review of cases in the past, we will be in a far stronger position to say we have a child protection system that is fit for purpose and that the reviews of serious incidents and deaths are as good as anywhere in the world.

Question put and agreed to.

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

**Senator Diarmuid Wilson:** Now.

**Health (Amendment) Bill 2010: Committee and Remaining Stages**

## SECTION 1

**An Cathaoirleach:** Amendments Nos. 1 and 4 are related and may be discussed together by agreement.

**Senator Ciaran Cannon:** I move amendment No. 1:

In page 4, line 20, after “functions” to insert the following:

“including political accountability to the Oireachtas”.

Only this morning, we have become aware of the details of the Ombudsman for Children’s annual report and her damning description of a HSE which operates in a parallel universe, suffers from excessive secrecy and presides over a system that has something rotten within it. From reading the explanatory memorandum of the Bill, one would have trusted some of these problems would be addressed and that real, political accountability would be restored to the system. The term “political accountability to the Oireachtas” is used in the explanatory memorandum but cannot be found in the Bill. There appears to be some disconnect between what the explanatory memorandum sets out and intends for the Bill and what the Bill actually contains. The Bill only addresses part of the problem in that there will be a requirement on the HSE to keep Ministers and Government informed of how service delivery is being affected. However, where there are problems in the context of political accountability the Minister should be accountable to the Dáil to inform it of such information. We seek to amend this section to insert a reference to political accountability. Where the Bill states “the Minister may where he or she considers it in the public interest to do so for the performance of his or her functions”, we wish to add the phrase from the explanatory memorandum “including political accountability to the Oireachtas”.

The Bill must do more than simply provide a channel of communication between the Minister and the HSE, which has until now been either closed or defective. That channel must be open to the extent that the Minister can account to both Houses of the Oireachtas for the running of health and children’s services.

**Deputy Barry Andrews:** Political accountability is one of the core functions of the Minister in his or her relationship with the Oireachtas and, therefore, the intention of the amendment is captured by these functions and it is not necessary to make an amendment.

*1 o’clock* While in its original draft, the Bill referred to the child deaths review group, the new section provides for the HSE to be proactive in furnishing the Minister with information considered to be important for the discharge of his or her functions and this new power will increase the accountability of the executive to the Oireachtas. It probably should have been included in the 2004 Act but we have learned from experience. It is timely to ensure that the HSE is under this proactive obligation and that the Minister will have the opportunity to set down guidelines as he or she thinks fit to ensure the executive provides the information to the Minister so that the Minister can be accountable to the Oireachtas. It is all about trying to address the issue, which has been commented on widely by Deputies, Senators and councillors throughout the country.

The Bill was drafted carefully by the Attorney General’s office and I acknowledge the speed with which his staff turned it around and the care and attention and many drafts they made. They are satisfied that political accountability is fully captured by the functions outlined in the section. That it is mentioned in the explanatory memorandum proves the point but one cannot

[Deputy Barry Andrews.]

argue that because something is in the explanatory memorandum it should automatically be in the legislation.

Amendment, by leave, withdrawn.

**An Cathaoirleach:** Amendments Nos. 2 and 3 are related and will be discussed together.

**Senator Ciaran Cannon:** I move amendment No. 2:

In page 5, between lines 35 and 36, to insert the following:

“40E.—Where the Minister has appointed a person or persons to examine or inquire into any matter and the person or persons so appointed consider that any information or document may be relevant to that examination or inquiry the Health Service Executive where it is in possession of said information or document or has access to it shall upon request furnish that information or document to the person or persons who requested that information or document.”.

The Minister recently established the two-member independent review group and while the amendments might seem pedantic, they simply seek to ensure that at no point in the future could somebody working against the interests of the State or children in care invoke the word “person” to prevent any member of such a review group gaining access to information or, having gained access to it, be prevented from disseminating it to others. It might be pedantic but we do not want hostages to fortune this early in the process. I hope the Minister of State will see fit to make the amendments.

**Deputy Barry Andrews:** This matter was also raised in the Dáil. The Attorney General was firm that the Interpretation Act 2005 permits the understanding of plural when a word is given as singular. It is a pedantic point but he is convinced that “person” is satisfactory to capture the Senator’s intention.

Amendment, by leave, withdrawn.

Amendments Nos. 3 and 4 not moved.

**Senator Ciaran Cannon:** I move amendment No. 5:

In page 5, to delete lines 41 to 45 and substitute the following:

“(2) Where a document has been furnished under Section 40B or 40C, nothing in this part is to be taken to permit publication in whole or in part of the document if such publication would not otherwise be lawful save that there shall be no inhibition on the publication of information relevant to any matter subject to examination or inquiry by a person or persons appointed to examine or inquire into any matter by the Minister.”.

I referred earlier to the veil of secrecy within the HSE and I have concerns that the section has the potential to offer once again the option of a legally-based veil of secrecy that is beloved of some officials within the executive. I refer again to the Ombudsman’s report where she states she was led on an “Alice-in-Wonderland trip around the legal system” as the HSE effectively tried to prevent a report being published. The amendment sets out to allow any person or persons appointed by the Minister to carry out an inquiry to allow them the option of publishing any information relevant to that inquiry. This is a reasonable amendment and if

accepted, it would give a strong indication that the Minister of State is serious about an open and transparent inquiry process. If the persons appointed by the Minister believe it is in the public interest to publish any information, they should be allowed to do so.

**Deputy Barry Andrews:** There was no intention to amend the law on publication. The same principles that apply prior to the enactment of this legislation regarding the ability of the HSE to publish will still apply to the Minister. The Bill is about creating a safe channel of communication to get the files from the executive to the Minister, who, in turn, can furnish them to persons appointed to investigate an issue. There was never any intention to address the publication issue and if there had been, it would have taken significant effort and consultation. There are specific legal grounds limiting publication in this area. With regard to child law, the UN Convention on the Rights of the Child is clear that when we consider the best interests of the child, his or her privacy and the fact he or she was in care must be respected.

However, the problem then we are faced with is how to balance the public interest in having this information in the public domain against those privacy rights. Being able to publish something is a challenge because that balance is not easily achieved. If one wants to hold a non-statutory inquiry that is quick and not costly to avoid tribunals and lawyers, that is a difficult balance to achieve. There was never any intention to amend the law on publication because it would have been complex and I am not sure there is a great deal of merit in the arguments to do so. However, it is crucial for public consideration of the child care system that we produce timely and publishable reports. That will not be easy and that is why the independent review panel under the chairmanship of Dr. Helen Buckley has been set up. Its members are independent, professional and the panel has been set up so that we can get this information into the public domain. I am not willing to accept the amendment for that reason.

Amendment, by leave, withdrawn.

Section 1 agreed to.

#### NEW SECTION.

**An Cathaoirleach:** Amendments Nos. 6 and 7 are related and will be discussed together.

**Senator Ciaran Cannon:** I move amendment No. 6:

In page 5, before section 2, to insert the following new section:

“2.—The Independent Review Group on Child Deaths established by the Minister for Children may interview any person the group believes could be of assistance to them in the examination and inquiry they are to undertake into Child Deaths and require any person they wish to interview to attend at such interview and to fully cooperate with them with regard to the examination and inquiry they are conducting.”.

Those carrying out an inquiry should have the power to compel people to appear before them to ensure the inquiry functions effectively and efficiently. Any of us who has worked in the public service — I did for 14 years — will be well aware of the mountain of documentation that can accumulate over several years on minor matters. The manner in which paperwork accumulates is always extraordinary. However, the information required to carry out a meaningful and complete inquiry may not often be found within the dusty pages of thousands of files and much could be learned from an interview process. For example, if during an inquiry, the review group reaches a dead end during its examination of files and it is obvious to those

[Senator Ciaran Cannon.]

carrying out the inquiry that the only method of continuing this trail of investigation is to interview staff members, it should have the power to do so. Without that power, the inquiry has to be rendered weak and ineffective.

**Deputy Barry Andrews:** Amendment No. 7 seeks to amend the Commissions of Investigation Act 2004 while amendment No. 6 appears to seek to give the independent review group power conferred by section 16 of that Act in regard to compelling witnesses. This Bill is not concerned with that Act. There are 51 closely interrelated sections in that Act concerned with establishing and operating a specific structure for carrying out an inquiry in a particular way. Section 16, for example, has to be seen in the context of the scheme of that Act. If amendment No. 6 were accepted, the question of penalties for non-compliance and the issue of relevant legal rights and legal rule would have to be fully explored, as it is in the 2004 Act. However, the independent review group on child deaths is not an inquisitorial inquiry. It is being asked to examine existing information, including reviews and reports completed by the HSE or others on behalf of the HSE and the issue of formal interviews should not, therefore, arise. It is expected that staff in the HSE and persons providing services on its behalf would assist with providing any necessary clarification on information or documents provided. Furthermore, the Bill does not set out the procedures for holding inquiries and, as stated previously, is quite limited and specific in its remit.

The policy objectives of this Bill are very focused. The purpose is to address a particular situation, namely, the provision of information by the HSE to the Minister and to allow for the use of that information by persons appointed by the Minister to undertake reviews and inquiries. That is what the Bill achieves. Accordingly, I will not accept the amendments.

**Senator Ciaran Cannon:** If we have learned anything from the Ombudsman's report published yesterday it is that co-operation from the HSE officials mentioned by the Minister might not be forthcoming. The Ombudsman said she was led on an *Alice in Wonderland*-like trail around the system to try to get information to which she is entitled. She remarked that there is something rotten within the system. To deny the inquiry the power to compel people to appear before it and to ask them questions pertinent to the inquiry renders it toothless. On that basis, we will press the amendment.

**Deputy Barry Andrews:** The Senator has the right to do as he wishes. The difficulty with this is that if one compels attendance and creates an inquisitorial situation, a person will present his evidence and, naturally, that evidence will most likely be adverse to somebody else. That person would then have to be asked about his position. Inevitably, lawyers will become involved and whatever is found by the review group will have to be put to the two people for their review and feedback. Let us bear in mind that we are dealing with 188 cases here. With compellability of witnesses it would take years, at least, for the review group to report. My intention is to have timely reporting. If one uses a statutory type of inquiry, which is inquisitorial and compels witnesses, one goes down a cul-de-sac if one's primary aim is timely reporting, as we have learned from the tribunals.

The review group is free to invite people to meet it, if considered necessary, but it is not the principal focus of the work. In my experience, in previous inquiries of a non-inquisitorial and non-statutory nature there has been no resistance on the part of HSE staff to co-operate.

Amendment put:

The Seanad divided: Tá, 19; Níl, 22.

Tá

Bacik, Ivana.  
Burke, Paddy.  
Buttimer, Jerry.  
Cannon, Ciaran.  
Coffey, Paudie.  
Cummins, Maurice.  
Fitzgerald, Frances.  
Healy Eames, Fidelma.  
McCarthy, Michael.  
McFadden, Nicky.

Mullen, Rónán.  
O'Reilly, Joe.  
O'Toole, Joe.  
Phelan, John Paul.  
Prendergast, Phil.  
Quinn, Feargal.  
Regan, Eugene.  
Ross, Shane.  
Ryan, Brendan.

Níl

Boyle, Dan.  
Brady, Martin.  
Carroll, James.  
Cassidy, Donie.  
Corrigan, Maria.  
Dearey, Mark.  
Ellis, John.  
Feeney, Geraldine.  
Glynn, Camillus.  
Hanafin, John.  
Keaveney, Cecilia.

Leyden, Terry.  
MacSharry, Marc.  
McDonald, Lisa.  
Mooney, Paschal.  
Ó Brolcháin, Niall.  
Ó Domhnaill, Brian.  
Ó Murchú, Labhrás.  
O'Malley, Fiona.  
Walsh, Jim.  
White, Mary M.  
Wilson, Diarmuid.

Tellers: Tá, Senators Ciaran Cannon and Maurice Cummins; Níl, Senators Niall Ó Brolcháin and Diarmuid Wilson

Amendment declared lost

Amendment No. 7 not moved.

**Acting Chairman (Senator Fiona O'Malley:** Amendment No. 8 in the name of Senator Cannon has been ruled out of order.

**Senator Ciaran Cannon:** On what basis?

**Acting Chairman (Senator Fiona O'Malley:** It is beyond the scope of the Bill because it has to do with issues of freedom of information. The Bill deals particularly with the Health Service Executive. It would not be appropriate to accept something outside the scope of the Bill. I understand the Senator received a written communication to that effect.

**Senator Ciaran Cannon:** When?

**Acting Chairman (Senator Fiona O'Malley:** It should be with the Senator today. He should have been notified. Is he happy with the decision to rule the amendment out of order?

**Senator Ciaran Cannon:** No, but I would like to coment briefly on it.

**Acting Chairman (Senator Fiona O'Malley:** As the amendment has been ruled out of order because it involves the introduction of a charge, the Senator cannot comment on it.

**Senator Ciaran Cannon:** I respect the ruling of the Chair.

Amendment No. 8 not moved.

Section 2 agreed to.

**Acting Chairman (Senator Fiona O'Malley):** Amendment No. 9 to the Title has been ruled out of order because it is outside the scope of the Bill.

Amendments Nos. 9 and 10 not moved.

Title agreed to.

Bill reported without amendment.

Question proposed: "That the Bill do not pass."

**Minister of State at the Department of Health and Children (Deputy Barry Andrews):** I thank Senators for their contributions. It is clear from Senator Cannon's contribution and the amendments tabled by him, as well as the debate in the Dáil and the Seanad, that all Deputies and Senators share our desire to have the Bill passed as quickly as possible. I thank, in particular, the Office of the Attorney General for the speed and efficiency with which it turned around the Bill within the very short time available.

I thank the officials involved, particularly Mr. Peter Lennon and Ms Amanda Younge, also Mr. Denis O'Sullivan and Ms Frances Spillane, and, indeed, others who contributed significantly. I thank the Whip's office for affording us the time and thank all of the Senators who contributed.

Question put and agreed to.

#### **Health (Amendment) Bill 2010: Motion for Earlier Signature**

**Senator Maria Corrigan:** I move:

That, pursuant to subsection 2° of section 2 of Article 25 of the Constitution, Seanad Éireann concurs with the Government in a request to the President to sign the Health (Amendment) Bill 2010 on a date which is earlier than the fifth day after the date on which the Bill shall have been presented to her.

Question put and agreed to.

#### **Business of Seanad**

**Senator Maria Corrigan:** I propose that with the agreement of the House we suspend the sitting for ten minutes while we await the Minister.

**Acting Chairman (Senator Fiona O'Malley):** Is that agreed? Agreed.

*Sitting suspended at 1.30 p.m. and resumed at 1.40 p.m.*

#### **Business of Seanad.**

**Senator Donie Cassidy:** I propose a suspension of the sitting until 2 p.m.

**Acting Chairman (Senator Fiona O'Malley):** Is that agreed? Agreed.

*Sitting suspended at 1.45 p.m. and resumed at 2 p.m.*

**Business of Seanad**

**Senator Camillus Glynn:** I propose that, with the agreement of the House, we suspend the sitting until 2.15 p.m.

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

*Sitting suspended at 2 p.m. and resumed at 2.15 p.m.*

**Wildlife (Amendment) Bill 2010: Committee Stage**

Question, “That section 1 stand part of the Bill”, put and declared carried.

Question, “That section 2 stand part of the Bill”, put and declared carried.

**SECTION 3**

Question proposed: “That section 3 stand part of the Bill”.

**Senator Paudie Coffey:** I welcome the belated arrival of the Minister for the Environment, Heritage and Local Government.

**Minister for the Environment, Heritage and Local Government (John Gormley):** I was detained in the other House.

**Senator Paudie Coffey:** I understand that, as I was watching the Minister performing there. I also understand that he was coursing through the halls of Leinster House to reach this Chamber to follow through. He has been very busy with his animal welfare legislation in recent days.

**Deputy John Gormley:** Yes. I also have been busy with the Planning and Development (Amendment) Bill and the Civil Partnership Bill.

**Senator Paudie Coffey:** That is correct——

**An Cathaoirleach:** On section 3, please.

**Senator Paudie Coffey:** —— but the animal welfare legislation is high on the Minister’s priorities and he has been busy in this regard. Obviously, the Minister has been late out of the traps in respect of much of this legislation. I understand the Dog Breeding Establishments Bill was held up for two or three months while Government Deputies and Senators wrestled with their consciences and much has been heard on that as well. As has been discussed at length on Second Stage here, as well as in the other House, Fine Gael opposes this Bill because it considers it to be the thin end of the wedge, to use a phrase that has been repeated so often. While the Minister may dismiss this as much as he wishes, can he put on the record of the House today a reassurance——

**Deputy John Gormley:** Yes, I can.

**Senator Paudie Coffey:** Can the Minister reassure the House——

**Deputy John Gormley:** Yes, absolutely.

**Senator Paudie Coffey:** —— that in his tenure as the Minister for the Environment, Heritage and Local Government, he will not bring forth any legislation that will affect the hunting of foxes, coursing or any other shooting or hunting pursuits that are traditional in Ireland? Can

[Senator Paudie Coffey.]

he give a categorical assurance today that this will be an end to it? Serious concern exists in this regard and while I will not engage in a slugging match, because that does not achieve anything, the Minister and others have made allegations against the RISE! campaign. I have made clear in this Chamber that it was a properly organised lobby that engaged with all the stakeholders in rural Ireland, including those involved in the Ward Union Hunt, fox hunting, shooting, beagle hunting or whatever. The campaign engaged with those stakeholders, which is as it should be. All stakeholders should engage in a debate when new legislation is proposed that will have obvious consequences and impacts on their activities. This is all the RISE! campaign did and I do not see anything wrong with it. Consequently, that group should not be criticised for so doing.

As for the section under discussion, it proposes a prohibition on hunting deer with dogs. There is a contradiction in this Bill. I have heard the Minister and others speaking on radio and elsewhere to the effect that this is not only an animal welfare issue but a safety issue. This would be fine, were it not for a contradiction whereby the Bill allows for the hunting of deer with dogs by people on foot. I also consider that activity to be fine and the Minister allows for it. A deer being hunted by deer stalkers and which goes out on to the road is still a safety issue. One is not improving safety, *per se*, by introducing the legislation. In sport there are many safety implications for those directly involved and spectators and the public. A most unfortunate incident occurred in Donegal during a car rally. I do not use that example to attack the Minister. The response was not to ban the sport but to increase the safety regulations and monitoring. That is one example but I could give many others. If, as the Minister outlined previously, there are genuine concerns about safety, surely he could consider ways to enhance the safety and regulation of the Ward Union Hunt? Great strides have been made in that area in recent years and the hunt is subject to licence. The Minister has the power to ensure the enforcement of safety regulations.

I will not go over the entire animal welfare debate but the Minister has used the example of a deer jumping a ditch into a school yard. That is the one example we hear about all the time but not many other examples are given. If the Minister wishes to provide other examples, I would welcome that, but I do not believe there are many others. As is the case with car rallying, the one or two high profile cases constantly appear in the media. That is because the Minister is trying to put a spin on the issue to secure support for his position. We must take a fair and reasoned approach.

The Ward Union Hunt has been a responsible organisation in carrying out its pursuits and activities. It has always complied with regulations and the licensing conditions put on it. Much of its resources and those of the State were used to ensure it carried out its activities in a proper way. This seems to be an attempt by the Minister's party, which is a niche party that has high priorities and different policies, to get the legislation through. The Minister will hold up this legislation as a trophy to his members because that is how the party operates.

I am disappointed with the Fianna Fáil members who support this Bill. The people that elected Fianna Fáil to be the largest party in the local authorities, although they are not any longer, and who elected them to be the largest party in the Dáil and in the Seanad are the people on whom it is turning its back. Fianna Fáil members know I am being reasonable when I say this and moreover they are getting that sense from those who were lobbying them and the councillors and so on who have been in touch with them. Local authorities, including Fianna Fáil councillors, around the country are passing resolutions opposing the animal welfare legislation, yet when it comes to the national Parliament the party's representatives are doing the opposite.

I note that the Minister makes provision for deerstalkers to hunt on foot. Deerstalkers were concerned up to a very late stage on the Bill. Will the Minister outline the process of consultation with them? I accept they have been facilitated and that they will be allowed to continue their pursuit but I wonder why they were not consulted at an earlier stage given the implications the Bill would have had prior to the Minister bringing forward an amendment.

We oppose the section because we oppose the Bill. I do not wish to engage in a slagging match with the Minister but I am interested in hearing his views on the points I have raised.

**Senator Mark Dearey:** I support the section because I support the Bill. I note Senator Coffey has employed a slightly more nuanced position with the reference to car rallying and health and safety. However, that gets away from the core focus which is animal welfare. I put on record the other day an account of a stag hunt in County Down on which the BBC reported in 2005.

**Senator Paudie Coffey:** That is a different jurisdiction.

**Senator Mark Dearey:** The journalist presented a clear-eyed and vivid account of the animal welfare issues, the fact that the quarry of the stag was predicated on the stag running until exhausted and terrified. For me, animal welfare is the core issue. Nothing can distract from that. When there are adequate alternatives to pursuing live quarry, for instance, a drag hunt that in essence retains the activity, the exercise, the relationship between the horse and rider, access to the countryside and a range of other positive benefits that come from equine and country pursuits in general, I do not see why that option cannot be viewed by rational people as a decent alternative.

I took the trouble in recent days to look at various hunt websites in the United Kingdom in particular and in Northern Ireland to see whether the banning of hunting with packs of dogs following the 2004 Act closed down or compromised the economic value of the presence of a hunt in an area. I could find no such evidence. On the contrary, I found evidence of thriving hunt clubs not pursuing live animals but involved in a range of activities, including drag hunting and other diversification that is the lifeblood of any business. We must look at hunting in business terms too. Diversifying with the changing times is a critical element in any business model. It is one the Ward Union Hunt could usefully employ in this instance. I do not accept the notion therefore that this is the death knell of the Ward Union Hunt or that it will, necessarily, lead to the kind of job losses that have been spoken about. The evidence is contrary to that. With a bit of imagination and acceptance that this is an animal welfare issue with which we need to deal and that there is life beyond it, there is plenty of scope for the hunt to continue to thrive in a way that does not terrify and potentially injure or kill live quarry.

**Senator Maurice Cummins:** I have a simple question to ask before the Minister replies. I raised the point on Second Stage. Approximately 80 or 90 deer are killed in the Phoenix Park and in Muckross in the Killarney National Park every year. I would classify that as an animal welfare issue as well. Is it the intention of the Minister that in addition to dogs and everything else that he would ban vehicles in the Phoenix Park and the Killarney National Park because 100 more deer are killed per year on the roads in the national parks than were killed over many years in the Ward Union Hunt? The Minister should consider that to be an animal welfare issue as well.

**Senator Feargal Quinn:** The Minister is welcome. I have one point to make on the Bill, which is the point made by Senator Coffey. I declare an interest, as I did on Second Stage, in that I was a member of the Ward Union Hunt for many years. I am probably the only Member in that category. I found the members of the Ward Union Hunt to be very interested in animal

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welfare. They looked after the animals very well, both the hounds and the stags which they took out regularly. My one point is the same as that raised by Senator Coffey, whether it is possible that this is the thin end of the wedge.

One of the other sports in which I took pleasure was fishing. It seems to me that if animal welfare is a concern then one would have to include fishing. These are the types of steps about which people are concerned. Whatever about the Ward Union Hunt and the hunting of stags and deer, if we believe animal welfare is a concern then many other practices could be regarded as unacceptable. I wonder whether enough consideration was given to the fact that sometimes those who live in a city do not understand rural activities. Is it possible that we might have considered that each of those decisions could have been made at county council level? In other words, before one could hunt in counties Meath or Dublin, one would have to obtain permission to do so in those counties. It is quite likely that a decision in this regard would have enabled those who live in the country to make decisions about the country and those who live in the city to make decisions about the city.

With regard to animal welfare topics, one will find very often that those who live closer to the animals are very much aware of the need to look after them well. On that basis, the concerns that most Senators, including Senator Coffey, are expressing refer to the thin end of the wedge. Can the Minister assure us this is as far as he sees legislation in this area going?

**Senator Paudie Coffey:** I concur with most of what Senator Quinn said. I respect Senator Dearey's view, which he made quite cogently. We all need to respect each other's views. However, one could apply Senator Dearey's words on the Ward Union Hunt to fox hunting and coursing. This is the reason for our concern over the thin end of the wedge.

As we all know, the Green Party's stated policy is against fox hunting and coursing. This emphasises our concern. As an Opposition party that does not agree with the Green Party's point of view, Fine Gael is quite entitled to express its opinion as forcefully as it can without entering into a slagging match. Let us base our remarks on reasonable argument.

Senator Quinn made some very good points on how country people, be they farmers or chicken ranchers, feel about their animals. Animal husbandry is accorded very high priority by country people. One need only look at how farmers rear cattle, sheep and even deer. They look after them, they walk the fields and know them intimately. They know if an animal is sick just by looking at it. The Ward Union Hunt applies the same standard of husbandry to the rearing of the deer it hunts.

I have never hunted. I was never on horseback hunting but can understand why people would like to do so. I understand the hunters in the Ward Union Hunt rarely see the deer because it is so far ahead. It may be highly excited and scared, as any animal would be in the open countryside. Wildlife itself is very cruel. If a fox catches a rabbit in a field, the rabbit is scared and is literally torn asunder. However, we do not interfere with that; it is nature taking its course.

To return to the basic argument many of us have tried to make, based on ancient times and legend, man, as the priority being and species, has a basic instinct to hunt. We are trying to interfere with nature to a large degree. We can go into this debate as deeply as we want but we must realise that country people really understand what I am saying because they have been born and reared in this ethos and with this understanding. City people do not have the same understanding of the matter.

I am not trying to create an urban-rural divide in the debate but contend there must be understanding, and that nature itself is cruel. The Ward Union Hunt, however, is not cruel. Its

animal husbandry is of the highest level, and it has conservation schemes in place for the deer it rears and hunts.

What will happen to the deer the Ward Union Hunt has in stock if this legislation is passed? Will they be put on show somewhere? Will they put into a zoo? The Green Party opposes zoos also.

**Deputy John Gormley:** That is ridiculous.

**Senator Paudie Coffey:** It does oppose zoos.

**Senator Niall Ó Brolcháin:** The Senator should read our policies.

**Senator Maurice Cummins:** I read out the Green Party's policy.

**Senator Paudie Coffey:** It opposes circuses; let us be honest about that.

Zoos are probably the places where young children are educated most about animals and where they see them at first hand.

**Senator Mark Dearey:** I was there a month ago with my daughter.

**Senator Paudie Coffey:** I am only making my point and am entitled to do so.

**Senator Niall Ó Brolcháin:** The Senator is not allowed to misrepresent our party.

**An Cathaoirleach:** Senators will have an opportunity to speak without interruption.

**Senator Niall Ó Brolcháin:** Senator Coffey had two opportunities.

**An Cathaoirleach:** I am entitled to call any Member more than once and I expressed that clearly. The Chair is entitled to call a speaker a number of times on Committee Stage.

**Senator Niall Ó Brolcháin:** I accept the Cathaoirleach's point.

**Senator Paudie Coffey:** I thank the Senator and the Cathaoirleach.

This debate can be reasonable. Let us hear from both sides. I am putting the case clearly that what the Ward Union Hunt does is not a matter of animal welfare. While the deer is scared, the objective of the hunt is not to kill it. It is very rare that an animal is killed and, if it is, it is by accident in most cases. I still have not heard of such cases other than the high-profile case that has been in the media.

Senator Dearey has outlined what he picked up on the website based on events in County Down, Britain and other jurisdictions but we have not heard of examples in this State, except for the one high profile example, of where the Ward Union Hunt has been out of bounds or out of order.

With proper regulation and monitoring and with the co-operation of the Ward Union Hunt and all interested stakeholders, the Ward Union Hunt could continue to hunt in a very organised and fair fashion in the best interest of animal welfare and with a view to protecting the rural heritage that has always existed. I am interested in hearing the Minister's points on the matters I have raised.

**Senator Niall Ó Brolcháin:** As a member of the Green Party, which was referred to in this debate, I believe it is unfortunate that our policy is constantly misrepresented. It is unfortunate that the items in the programme for Government are constantly misrepresented.

[Senator Niall Ó Brolcháin.]

I keep hearing about the thin end of wedge when in fact this is the thick end of the wedge. Anybody who has read the programme for Government will realise that this Bill, the Dog Breeding Establishments Bill and the fur farming Bill are the three Bills on animal welfare therein. There are no others.

With regard to fishing, Senator Quinn should note the Green Party's issue concerns hunting with hounds specifically. I certainly have never come across hunting fish with hounds. Nobody is suggesting the Green Party is against fishing. It is not in our policy and will not be, nor are we debating it because we are not interested in opposing fishing on the banks of our rivers. It has nothing to do with this Bill.

Senator Coffey is wrong in respect of there being one high profile incident. He obviously did not hear "Liveline" some days ago.

**Senator Paudie Coffey:** We are legislating according to "Liveline" now.

**Senator Niall Ó Brolcháin:** Many people outlined on the radio show incidents that happened in north County Dublin, which is now a suburban area. It is 150 years since the British army officers, not Cú Chulainn, formed the Ward Union Hunt. The hunt is not an Irish tradition.

**Senator Paudie Coffey:** Hunting is.

**Senator Niall Ó Brolcháin:** Senator Coffey says hunting is a great Irish tradition. While hunting is an Irish tradition, I was amused and amazed at the various views of Senators this morning on the raucous behaviour of people outside the gates of Leinster House. The Senators were acting in a very patrician and civilised manner in saying raucous behaviour outside the gates was unacceptable. I totally agree. The reality is that we are now living in a civilised society. Senators are not going out with spears trying to catch their dinner. We have a nice canteen downstairs and a farming industry.

**Senator Paudie Coffey:** The deer is on your plate.

**Senator Niall Ó Brolcháin:** Fortunately we live in a more civilised society than people did in the time of Cú Chulainn. If Cú Chulainn, who was probably a great man, were to come in here, the gae bolga and other weapons he used would not be acceptable in this Chamber. We have moved on a bit since those days.

**Senator Paudie Coffey:** The Senator is missing the point.

**Senator Niall Ó Brolcháin:** To say everybody in rural areas is out hunting for his dinner is a misrepresentation of rural Ireland. I grew up in rural Ireland and really did not see guys out with spears wearing whatever they wore in hunts in days of old. We have moved on and we are a civilised society.

There is no question but that cruelty to animals is an important issue for the Green Party. I have been looking for Fine Gael's policy on animal welfare but cannot find it. Where is it? The Fine Gael Senators are very quick to criticise us.

If we are to have decent debates in this Chamber, it is incumbent on all parties to think about the very serious and real measures that are being introduced and which have the backing of the people rather than just criticising.

**Senator Paudie Coffey:** They have the backing of the Irish people all right.

**Senator Maurice Cummins:** We have a bigger mandate than the Green Party.

**Senator Niall Ó Brolcháin:** It has nothing to do with the mandate of the Green Party.

**Senator Paudie Coffey:** Two per cent is quite a mandate.

**Senator Niall Ó Brolcháin:** It concerns the fact that public opinion has shown consistently that the hunt is opposed by the majority of the people.

**Senator John Paul Phelan:** Is this the public opinion poll that showed support for the Government? It is three years old.

**Senator Niall Ó Brolcháin:** In light of public opinion, it is only right and proper that the Minister has progressed this legislation. Fine Gael does not seem to be listening to the public but to a small group of well funded protestors. We are not sure from where the money is coming in some cases. A figure of €100,000 was mentioned for the RISE! campaign.

**Senator Paudie Coffey:** That is not true.

**Senator Niall Ó Brolcháin:** I would like to know from where it is getting all of its funding.

**Senator Paudie Coffey:** Why does the Senator not ask it?

**Senator Niall Ó Brolcháin:** I did, but I have not received an answer.

**An Leas-Chathaoirleach:** Senator Ó Brolcháin to continue without interruption.

**Senator Paudie Coffey:** He should meet RISE! and ask it.

**Senator Niall Ó Brolcháin:** Let us find out. We could go all over the place in this debate——

**Senator John Paul Phelan:** We surely have.

**Senator Niall Ó Brolcháin:** ——but the reality is that the measure being introduced by the Minister is a simple one. I assure Senator Quinn that this is not the thin edge of the wedge in respect of fishing. I am sure the Minister will say likewise. There are three items in the programme for Government. This is an important one, but the matter has been blown out of all proportion. Some parties opposite are doing the people a disservice in spending so much time on this issue when they should be spending time on economic matters.

**Senator Paudie Coffey:** The Government orders business.

**Senator Paschal Mooney:** I primarily seek assurance from the Minister in the light of the ongoing debate in the Houses and nationally. I come from Drumshanbo, County Leitrim and live in what is known as the Leitrim lakeland region where outdoor pursuits have been engaged in for generations. We have relied heavily on pursuits such as gaming — many of my friends and neighbours are members of gun clubs — and coarse fishing.

I am sure the Minister, for whom I have the height of respect, will agree that in politics perception is everything. On this basis, while it may seem to seem that this is a given, will he take the opportunity to highlight the fact that the Green Party's agenda in government is not to introduce legislation that will adversely affect outdoor pursuits? Not for one moment have I believed he is set on this agenda, but repeating this is important. Elements of this legislation are unpalatable to my colleagues in the parliamentary party, but we are loyal to our coalition

[Senator Paschal Mooney.]

partners. The safety of some Members who went through the lobbies in the Lower House was under threat and their families were being intimidated.

**Senator Niall Ó Brolcháin:** Atrocious.

**Senator Paschal Mooney:** They are living in the heart of the area in question, but they believe in a higher duty. They were elected under the banner of the Fianna Fáil Party, took the party Whip and accepted what the Taoiseach, the leader of our party, had negotiated in good faith last autumn with his Cabinet colleagues in the renewed programme for Government. We can be accused of a lot, but we can never be accused of being disloyal or dishonourable in our dealings with any parliamentary party with which we have entered government.

**Senator John Paul Phelan:** Ask the Progressive Democrats.

**Senator Paschal Mooney:** Like many of those living near me, I am concerned. I have heard the same argument made on the other side of the House. When Senator Coffey and others enter government, they will face similar situations and wrestle with their consciences on issues agreed with their coalition partners. They will not like it, but they will have their day.

**Senator Paudie Coffey:** We will be well able for it.

**Senator Diarmuid Wilson:** It is ten years away.

**An Leas-Chathaoirleach:** Senator Mooney to continue without interruption.

**Senator Paschal Mooney:** The people involved in RISE! have not been the most helpful, certainly from a Fianna Fáil perspective, in raising the temperature across the country, but they are decent and honourable.

**Senator Paudie Coffey:** I am not sure about that.

**Senator Paschal Mooney:** Many around the country who engage in outdoor activities such as gaming and fishing are not members of RISE! or associated with it in any way. However, they and people within my party have a great deal of sympathy for the organisation. I am sure the same could be said of people in Fine Gael and other parties.

This is an important opportunity for the Green Party and, in particular, the Minister who is guiding the legislation through the House and which we are supporting as part of the programme for Government. We will honour our commitments in this House, as we did in the Lower House because more important issues must be addressed before the end of our term in office in 2012. Among other priorities, an economic challenge lies ahead——

**Senator Paudie Coffey:** Hear, hear.

**Senator Paschal Mooney:** ——but this is a priority for the Green Party. As such, it included it in the programme for Government. In a spirit of compromise, which is what coalition government is about, we accept the Green Party's policy in this respect. In turn, it is accepting elements of our agenda. We are partners in government and nothing that will be stated on this side of the House will sunder that relationship before our mandate runs out.

**Senator Paudie Coffey:** The Fianna Fáil Whip has lost one Deputy already.

**Senator Paschal Mooney:** I ask the Minister to reassure the good, honourable and decent people of rural Ireland that just because he represents the leafy suburbs of Dublin 4 he is not

in any way out of touch or lacking in empathy, sympathy and understanding of the importance of outdoor suits among the majority.

**Senator John Paul Phelan:** He must not have been to County Leitrim.

**An Leas-Chathaoirleach:** Has Senator Wilson indicated?

**Senator Diarmuid Wilson:** No.

**Senator John Paul Phelan:** He is a heckler.

**Senator Niall Ó Brolcháin:** Fine Gael has its own.

**Senator John Paul Phelan:** I seek the Chair's protection from Senator Wilson.

Senator Mooney struck the nail on the head when he referred to this as being one of the Green Party's priorities in government. While I like Senator Ó Brolcháin, he is deluded on this issue. He keeps peddling the line that we should not be having this debate and that it is the Opposition's fault that we are spending so much time in discussing the issue. The Government orders business in this and the Lower House. The Green Party, as Senator Mooney outlined, wants to ensure this legislation is pushed through. That is the reason we are having this debate. Senator Mooney should spend more time speaking to people in rural Ireland if he believes they view the Minister, with all due respect to him, as having the interests of rural Ireland at heart. He should speak to councillors in County Leitrim about the planning and development Bill recently passed by the Lower House. They will tell a different story about the Minister's interest in protecting rural Ireland and its communities.

The proposed ban on stag hunting is the thin edge of the wedge because the Minister has already stated as much, given his comment on returning in the autumn with another animal welfare Bill. There will be further animal welfare legislation.

**Deputy John Gormley:** On fur farming.

**Senator Niall Ó Brolcháin:** It is included in the programme for Government.

**Senator John Paul Phelan:** Senator Quinn was right to raise the question, since the Minister has committed to making further changes. Obviously, the Government will introduce something else. It is committed to doing so, although I do not know what exactly it will do.

I am not hung up on the issue of stag hunting *per se*, but I am opposed to the idea of a small group inflicting their personal views on everyone else in respect of a traditional activity that has been carried on for many years in rural Ireland.

**Senator Niall Ó Brolcháin:** The Senator is discussing Fine Gael.

**Senator John Paul Phelan:** Even on its worst day, Fine Gael never represented less than one quarter of the population.

**Senator Niall Ó Brolcháin:** That is not true.

**Senator John Paul Phelan:** This legislation does not even have the entire support of the Green Party, only that of an internal clique. The genesis was not the renewed programme for Government but the NAMA legislation which the Green Party needed to pass at a specially convened conference. To get that legislation through, a former Green Party councillor went on the national airwaves to explain that certain animal welfare provisions would need to be included in the programme for Government. As Fianna Fáil needed to look after its friends in

[Senator John Paul Phelan.]

Anglo Irish Bank and seek other financial solutions, it allowed the Green Party its trophy legislation on stag hunting. That is the bare-faced——

**Senator Niall Ó Brolcháin:** The Senator is telling fairy stories.

**Senator Mark Dearey:** Absolute fantasy.

**Senator John Paul Phelan:** That is the politics of the situation.

**Senator Niall Ó Brolcháin:** The Senator is good with fairy stories.

**Senator John Paul Phelan:** No, I will leave Cúchulainn and the Fianna to Senator Ó Brolcháin.

**An Leas-Chathaoirleach:** Senator Phelan to continue without interruption. We are dealing with section 3. This discussion is not relevant to the Bill.

**Senator John Paul Phelan:** Section 3 is the core of the Bill. It deals with the ban on——

**An Leas-Chathaoirleach:** The Senator should speak to the section.

**Senator John Paul Phelan:** I am dealing with section 3 and the root from which it comes is the decision of Members of the Government to have a cosy relationship between themselves. One part of the Government wants to help their developer friends, while the other wants to consolidate the most extreme element of support it has. My problem is that the people in the Green Party who propose legislation on animal rights have a far-reaching agenda when it comes to other activities in rural Ireland. I am not just talking about fox hunting, fishing, coursing or any of the blood sports, but rather about farming, agricultural practices. I am talking about people who do not want dairy farming, as we know it, to continue.

**Senator Niall Ó Brolcháin:** What?

**Senator John Paul Phelan:** I am talking about a member of the Green Party. She was at its conference in Waterford when the RISE! protest was taking place outside.

**An Leas-Chathaoirleach:** We need to stick to section 3.

**Senator Niall Ó Brolcháin:** This is getting into the realms of fantasy.

**Senator John Paul Phelan:** I am on section 3.

**Senator Niall Ó Brolcháin:** Will we get the GAA as well?

**Senator John Paul Phelan:** I have nothing to do with the GAA at all.

**Senator Niall Ó Brolcháin:** What is the Senator against? Is he against motherhood?

**Senator John Paul Phelan:** No, the Green Party is against the people of rural Ireland.

**An Leas-Chathaoirleach:** Senator Phelan, without interruption, and stick to section 3.

**Senator Niall Ó Brolcháin:** This is ridiculous, a Chathaoirligh, please.

**Senator John Paul Phelan:** I am finished, so if Senator Ó Brolcháin wishes to speak again, he will get his opportunity, I am sure.

**Senator Camillus Glynn:** Like Senator Mooney, I am a countryman living in a town, I know many decent people who have been and are involved in the RISE! campaign, and I have spoken to quite a number of them. I support this section, and the Bill, for the reasons stated by my colleague, Senator Mooney. There is a great deal of misinformation about this, no question, and this is mischievous to a large extent. This is in the programme for Government. Whether people like it or not, coalition is about partnership and an agreed agenda.

I am disappointed that Senator Phelan has referred to developers. I have always been a strong supporter of private enterprise, and I do not apologise to anybody for that. We are very pleased to have entrepreneurs in this Chamber such as Senator Quinn, who had the capacity and guts to take a chance in business and make it work. Where would we be without people such as that? Long may we have them.

**Senator John Paul Phelan:** Nobody is challenging that. Hear, hear to developers from the Green Party.

**An Leas-Chathaoirleach:** Senator Glynn, please, without interruption.

**Senator Camillus Glynn:** Do not draw red herrings across the trail. It had nothing to do with this —

**Senator Niall Ó Brolcháin:** I like Senator Quinn's stores. They are great stores.

**Senator Camillus Glynn:** Whether they like me saying it or not, people are being purely political. As Senator Mooney said, it is in the programme for Government. The Green Party as a participant party in Government is entitled to have legislation, as it sees fit. Being in Government is not about doing everything that one likes to do. People in business such as Senator Quinn and others in this Chamber have to take imperative managerial decisions, which they may not like doing, all the time, in the interests of good practice and good business.

**Senator John Paul Phelan:** Is this on section 3?

**Senator Camillus Glynn:** Yes, and whatever my views, I support it and this Bill, for the reasons stated. We have many issues to deal with. Our fish stocks are being decimated by mink.

**Senator John Paul Phelan:** Is this section 3?

**Senator Camillus Glynn:** I am talking about the whole concept of wildlife——

**An Leas-Chathaoirleach:** I do not believe any part of the debate has been on section 3.

**Senator Camillus Glynn:** Some people on the far side of the House never got as far as using the verb, so they make no sense.

**An Leas-Chathaoirleach:** There will be no "Second Stage" speeches.

**Senator Camillus Glynn:** I will be support this section and the Bill for the reasons eloquently stated by Senator Mooney.

**Senator Martin Brady:** I listened earlier to Senator Coffee and he made a few points on which I will elaborate. I respect the Minister and I take the point that we are in partnership. Whether the partnership is government or business, people have to work together. That is given. The place is in bits economically, there is high unemployment and here we are talking about stag hunting. I have asked whether a stag was ever ill treated or if cruelty was ever involved, and the answer I got was "No". There are more important issues we should consider.

[Senator Martin Brady.]

In my constituency and throughout Dublin, as the Minister is aware — and we should concentrate on this rather than on the activities of rural people — there are hundreds of donkeys, ponies, dogs and cats that have to be put down week by week, since cruelty is widespread. Some dead animals are dumped in fields along roads, and nothing is being done about this. That is a valid point to make.

Could one say that greyhound racing is cruelty, or horse racing? The public perception, as I know from speaking to people, is to the effect, “Where is this going to end?”. I am involved in setting up a fishing club at the moment. Is fishing going to be banned? Would that be regarded as cruelty? Senator Glynn, I believe, alluded to the largescale netting of fish throughout the country, destroying our tourism, and not a thing is being done about it. Stag hunting is not doing harm to anybody, and no one has been killed as a result. No child has been killed or injured despite the exaggeration as regards a stag running into a schoolyard, which was held to be a disaster. It was no such thing. I would like the Minister to confirm whether there is anything else in the pipeline in relation to country pursuits that are to be banned. That is the fear of the general public, and mine.

I know it is part of the programme for Government and there is a perception — although I cannot verify it — that this is being done to placate and satisfy a number of people within the Green Party who are not really representative of the general public.

**An Leas-Chathaoirleach:** The Minister might like to reply to the “Second Stage” debates.

**Deputy John Gormley:** It was a “Second Stage” debate, with enormous latitude being given and that is the Leas-Cheann Comhairle’s choice. When people talk about wanting to get on to the main issues, however, I do not know why we stray and talk at length in a Second Stage manner, when we are supposed to address specific amendments.

There are major issues to be discussed. As far as I am concerned this is relatively minor legislation which can be got through very quickly. The Green Party is not making a big issue of this but rather Members of the Opposition who see this as a wonderful opportunity to have a go at the Green Party. People in the Labour Party, who are not here this afternoon, have done a complete U-turn because they see this as an opportunity, so it is blatant opportunism.

I have been asked by several speakers to clarify the position. I do not know why they are doing this because they know the position only too well. When people talk about “perception”, why do they feed into that by even asking the question? Why do they do that when they know only too well that this is a small item of legislation dealing with one particular hunt, in County Meath? It has nothing to do with shooting, angling or anything else.

I grew up on the banks of the Shannon. When I was a kid I fished for perch, bream and eels, and as regards course fishing, I even caught a few pike in my time. Forget about this because there are very many people in my party who are involved in shooting and angling.

What I am trying to do as Minister for the Environment, Heritage and Local Government and as a Green Party Member is to protect our habitats, ensure clean waters so fish can thrive and protect dwindling eel stocks.

However, politics enters into all of this. Senator Coffey can have his field day because no ~~matter~~ what I say here today he will still go to the public meeting in his constituency and put it out that this Bill is the thin end of the wedge.

**Senator Paudie Coffey:** It is the Minister’s policy to ban all field sports.

**An Leas-Chathaoirleach:** The Minister without interruption.

**Deputy John Gormley:** There we go again.

**Senator Paudie Coffey:** Is the Minister denying his policy?

**Deputy John Gormley:** I have just stated what the Bill is about and we have this and Senator Coffey's colleague's claims about zoos.

**An Leas-Chathaoirleach:** Senator Coffey, allow the Minister without interruption.

**Deputy John Gormley:** Senator Coffey is smiling across there and saying this is great sport. Grand, but it is not the truth.

**Senator Paudie Coffey:** It is in the Green Party's policy documents.

**Senator Niall Ó Brolcháin:** Can Senator Coffey show it to us?

**Deputy John Gormley:** Reflecting on this in recent days, I have concluded the power of propaganda is amazing.

**Senator Paschal Mooney:** It always starts with the big lie.

**Deputy John Gormley:** One does not tell a porky, one tells the whopper — the big lie. One only has to go back to recent history to know who were the most successful propagandists.

**Senator Niall Ó Brolcháin:** Goebbels.

**Deputy John Gormley:** Propaganda is a type of hypnotism.

**Senator Paudie Coffey:** The Minister is at it himself.

**Deputy John Gormley:** I have seen it out there because they are immersed in this idea. The thing about hypnotism is that one must want to be hypnotised and want to believe it. People want to believe this nonsense. One can pick on the small parties and claim it is all their fault, which is too convenient by far.

It is slightly disillusioning when one thinks politics should be about rational debate on specific policies, not about the irrational. We talk about the human and animal species. Unfortunately, human beings are not always given to rational thought. Sometimes they want to believe in the propaganda put out by the other side.

**Senator Paudie Coffey:** What about the propaganda put out by the Minister's side? There are those on the Government side saying what we are saying.

**An Leas-Chathaoirleach:** Senator Coffey should allow the Minister to continue without interruption.

**Deputy John Gormley:** Senator Coffey used an analogy of a motor rally in County Donegal. If a Minister had to give a licence for that rally and a serious accident occurred on it, I have no doubt the Minister would be held responsible, have to answer questions in the Dáil on it and calls would be made by the Opposition for his resignation.

Similarly with the Ward Union Hunt, which is licensed by the Minister for the Environment, Heritage and Local Government, there are real difficulties around the issue of accidents. Senator Coffey referred to two incidents involving safety. As Senator Ó Brolcháin said, many more people in the area will recount incidents in which a stag came over a hedge into oncoming traffic and it was a close call.

**Senator Paudie Coffey:** They do that naturally anyway.

**Deputy John Gormley:** The point is that it is not a licensed activity. The area covered by the Ward Union Hunt used to be in the heart of the countryside but is now a built-up area. It was over-zoned and, if Senators wish, I can go into all of the planning issues involved. I must also say the planning Bill referred to by Senator Coffey was progressive. He then brought in extraneous matters such as Anglo Irish Bank. I remind him it was his party and the Labour Party that appointed Mr. Lar Bradshaw of Anglo Irish Bank to the board of the Dublin Docklands Development Authority. The Greens had nothing to do with that.

**Senator Paudie Coffey:** The Minister should not even go there about the Dublin Docklands Development Authority.

**Senator Maurice Cummins:** The Minister should not start digging another hole.

**Senator Paudie Coffey:** The Minister better put the shovel away and stop digging.

**An Leas-Chathaoirleach:** Can we continue with the Wildlife (Amendment) Bill?

**Deputy John Gormley:** Now that I have answered these questions, I will turn to section 3, the prohibition of deer hunting with dogs.

Section 3(1) redefines “deer” for the purposes of the legislation so that the term includes any deer which is not a wild animal. This expanded definition of deer has been incorporated into the Bill to ensure there is no argument and that the hunting of captive bred deer might not require a licence under the wildlife Acts. It must be remembered the deer used in the Ward Union Hunt is a domesticated animal. Would the Senators opposite like to see their pets hunted in that way? I do not believe they would.

**Senator John Paul Phelan:** No one spoke about someone’s pets being hunted.

**Senator Paudie Coffey:** The Minister is using propaganda now.

**Senator John Paul Phelan:** What nonsense? Who is hunting pets? These are not pets we are talking about.

**Senator Niall Ó Brolcháin:** The Ward Union Hunt.

**Deputy John Gormley:** The Attorney General’s advice in September 2007 was to the effect that section 26(1) of the Wildlife Act applied to all deer whether wild or domesticated. This advice was similar to the previous advice given by the Attorney General in February 1999.

**Senator Maurice Cummins:** Did the Minister listen to the Attorney General’s advice on the Poolbeg incinerator?

**An Leas-Chathaoirleach:** The Minister without interruption.

**Deputy John Gormley:** In section 3(3) I have included a provision to ensure licensed deer stalkers may continue to use dogs where appropriate.

**Senator Paudie Coffey:** That is a last resort.

**Deputy John Gormley:** It is not unusual for a deer stalker to bring a dog out while hunting deer. In cases where several hunters were stalking deer on a property and each had a dog or if they were bringing two dogs for training purposes, it could be construed they were somehow

breaking the law based on the original wording. It was never my intention that the Bill should place any restriction on lawful deer stalking.

Accordingly, the provision provides that it would not be an offence for people on foot stalking deer and with a deer licence under section 29 of the Wildlife Act or with permission under section 32 to have two or more dogs. More than 4,000 such licences were issued by my Department in the 2009-2010 season. The open season for most deer species extends from 1 September to the end of February. However, there is a 12-month hunting season for Muntjac deer as they are considered an invasive species which can cause much damage if allowed to spread.

Again, this gives the lie to this idea that we will stop shooting. I have given out more licences than any other previous Minister. I understand the necessity of doing this because of the number of deer causing destruction to habitat. I already said this in the Dáil. However, it will not be told out there because it is convenient to say the Greens want to stop all of this. That is arrant nonsense.

Section 42 permissions are issued outside of the open season and offer a facility whereby a person can obtain permission on a case-by-case basis to take action against a protected species including deer which can include the scaring, capturing or killing of the said species where serious damage is being caused to agricultural crops, forestry, and so on. There may be occasion when it may be necessary to bring dogs to assist moving deer. I am satisfied the provisions in section 3 will address the concerns of licensed deer hunters.

**An Leas-Chathaoirleach:** We have spent considerable time on this section. I call on Senator Cummins.

**Senator Maurice Cummins:** Thank you, a Leas-Chathaoirligh. I thought you were going to stop me from coming in on this.

**An Leas-Chathaoirleach:** I would not dare but we have had many Second Stage speeches on this section. We need to stick to the section.

**Senator Maurice Cummins:** I do not intend to make speeches. I just want to quote the Green Party's welfare policy:

The Green Party does not promote or support the live export of animals; campaigns for an end to the intensive rearing of cattle, sheep and poultry; campaigns for an end of the use of wild animals in circuses. When in government the Green party will introduce an end to bloodsports with heavy penalties——

**Senator Larry Butler:** On a point of order, that is totally irrelevant to the Bill. The Leas-Chathaoirleach should rule the Senator out of order.

**An Leas-Chathaoirleach:** That is not a point of order. I am trying to establish where Senator Cummins is coming from. Has this something to do with section 3?

**Senator Maurice Cummins:** It certainly has and it refers to several items which have been raised on this section to date whereby people are making incorrect assertions and comments.

**Deputy John Gormley:** The Senator is doing so.

**Senator Maurice Cummins:** Allow me to continue to quote. The Minister should read his own propaganda. I am giving it back to him and he does not like it.

**Deputy John Gormley:** That is because it is not true.

**Senator Maurice Cummins:** As I stated last night, the Minister can give it but he cannot take it.

**An Leas-Chathaoirleach:** Is this relevant to section 3?

**Senator Maurice Cummins:** I will continue because I have only two lines left. It is not worth listening to the Green Party anyway which has only 2% of the vote. The party claims it will introduce an end to blood sports with heavy penalties for organisations and participants. It does not promote or support traditional zoos in the longer term and will continue to work towards a completion——

**An Leas-Chathaoirleach:** That has nothing to do with section 3, Senator Cummins.

**Senator Maurice Cummins:** It answers some of the spurious comments made on the other side.

**An Leas-Chathaoirleach:** The debate has moved away from section 3.

**Senator John Paul Phelan:** I wish to ask a question.

**An Leas-Chathaoirleach:** Is it on section 3?

**Senator John Paul Phelan:** What is coming in the next wildlife Bill which the Minister proposes to introduce?

**An Leas-Chathaoirleach:** That has nothing to do with section 3.

**Deputy John Gormley:** I am happy to answer that because there should be clarification. Senator Cummins is reading from a document which is 20 years old. If the Senator wishes to do so, that is fine.

**Senator Maurice Cummins:** No.

**Deputy John Gormley:** Yes, it is.

**Senator Maurice Cummins:** The Minister has quoted the Attorney General from years ago.

**An Leas-Chathaoirleach:** The Minister to continue without interruption.

**Deputy John Gormley:** As it happens, I am Leader of the party.

**Senator Maurice Cummins:** At present.

**Deputy John Gormley:** It is fair to say I would know what is in that document. The Senator is completely wrong.

**Senator Maurice Cummins:** I am only reading from it. Is the Minister suggesting the document from which I am reading is wrong?

**An Leas-Chathaoirleach:** Senator Cummins, please. The Minister to continue without interruption.

**Deputy John Gormley:** I wish to answer Senator John Paul Phelan, who put a question. The animal welfare legislation to be introduced in the autumn will deal with animal welfare legislation dating back some time. It is a consolidation measure. One revision relates to the question of fur farming. In essence, that is what is contained in the legislation.

**Senator John Paul Phelan:** Is that the only new measure?

**Deputy John Gormley:** There will be higher penalties and it will address standards. It is not worth commenting further.

Question put:

The Committee divided: Tá, 26; Níl, 16.

Tá

Boyle, Dan.  
Brady, Martin.  
Butler, Larry.  
Callely, Ivor.  
Carroll, James.  
Cassidy, Donie.  
Corrigan, Maria.  
Dearey, Mark.  
Ellis, John.  
Feeney, Geraldine.  
Glynn, Camillus.  
Hanafin, John.  
Keaveney, Cecilia.

Leyden, Terry.  
MacSharry, Marc.  
McDonald, Lisa.  
Mooney, Paschal.  
Mullen, Rónán.  
Norris, David.  
Ó Brolcháin, Niall.  
Ó Domhnaill, Brian.  
Ó Murchú, Labhrás.  
O'Malley, Fiona.  
Ross, Shane.  
Walsh, Jim.  
Wilson, Diarmuid.

Níl

Burke, Paddy.  
Buttimer, Jerry.  
Cannon, Ciaran.  
Coffey, Paudie.  
Cummins, Maurice.  
Fitzgerald, Frances.  
Healy Eames, Fidelma.  
McCarthy, Michael.

McFadden, Nicky.  
O'Reilly, Joe.  
O'Toole, Joe.  
Phelan, John Paul.  
Prendergast, Phil.  
Quinn, Feargal.  
Regan, Eugene.  
Ryan, Brendan.

Tellers: Tá, Senators Niall Ó Brolcháin and Diarmuid Wilson; Níl, Senators Paudie Coffey and Maurice Cummins.

Question declared carried

#### SECTION 4

Question proposed: "That section 4 stand part of the Bill."

**Senator Paudie Coffey:** There has not been much debate on this section which deals with the licensing of firearms and those who carry legally held shotguns. This is a serious matter.

**Deputy John Gormley:** Why would the Senator oppose this section?

**Senator Paudie Coffey:** Let me have my say.

**Senator Maurice Cummins:** Can Senator Coffey speak?

**Senator Dan Boyle:** We know he can speak, but we——

**An Cathaoirleach:** Senator Coffey is in possession and no one else should interrupt.

**Senator Paudie Coffey:** When the firearms regime was amended in the Criminal Justice Act 2006 and the Criminal Justice (Miscellaneous Provisions) Act 2009, there was an omission in

[Senator Paudie Coffey.]

dealing with the law relating to the granting of licences under the wildlife Acts. The Minister will acknowledge that is the reason for the inclusion of this section. Separate from the criminal justice legislation dealing with firearms, section 29 of the Wildlife Act provided that, where an applicant made a declaration to a Garda superintendent that he or she would use the firearms to hunt exempted animals under the wildlife Acts, the superintendent was obliged to endorse the firearms certificate. This constituted a concurrent licensing regime for firearms. The criminal justice Acts amended the form of licences available and set out a new licensing regime. Licences would be granted by a superintendent and issued for three years instead of one, as is the case under the wildlife Acts.

The amendments had an effect in two ways. People who thought they had a licence to hunt birds during the last hunting season were acting legally because of a lacuna in law, about which the Government was made aware. They understood the licence and certificate were legal, but they were acting illegally in carrying a firearm. They were exposed because of this. The State did not inform them about the new regime and allowed them to continue under a misapprehension, despite having been warned there was this anomaly. In addition, the new licensing system is totally inconsistent, with each Garda superintendent effectively acting as an individual licensing authority. The effect of this is complete inconsistency in the issuing of licences for sporting purposes.

Will the Minister explain how this happened? Law abiding, hunting people understood they had certified legally held firearms but they were, in fact, not legal. This exposed them to the law. I understand a number of cases could come before the courts in this regard, which could result in serious exposure for the taxpayer. This lacuna or anomaly in the law dates back to the Criminal Justice Act following the shooting of Shane Geoghegan. That was rushed legislation to legislate for the possession of firearms. However, that rushed legislation led to this omission and seriously exposed people who were carrying firearms to hunt game. This could have serious repercussions for the State and the taxpayer, due to the costs that could accrue in future court cases. Will the Minister give his view on that?

**Senator Dan Boyle:** I wish to express my amazement that this section is being opposed. We have an opportunity on Committee Stage to discuss each section and to put down——

**Senator Paddy Burke:** We did not say we are opposing it.

**Senator Dan Boyle:** According to the Order Paper it is being opposed. Every section is opposed.

**Senator Paudie Coffey:** We oppose the Bill. We will vote on that shortly.

**An Cathaoirleach:** We are discussing section 4.

**Senator Dan Boyle:** A Chathaoirligh, this is my first contribution and I am speaking on section 4.

**Senator Nicky McFadden:** Speak to the section.

**An Cathaoirleach:** My point is that any Member is entitled to put down amendments to a section. That is their right. I want no interruption while the Senator is speaking.

**Senator Dan Boyle:** I do not question the right of anybody to put down amendments but I question their sanity in making such an argument. That is the point of Committee Stage. The Members are saying they oppose a section that corrects an anomaly which they say exists.

**Senator Paudie Coffey:** You created it.

**An Cathaoirleach:** Please, no interruptions.

**Senator Dan Boyle:** This is opposition for the sake of opposition.

**Senator Paudie Coffey:** It will cost a fortune for the taxpayer. It is poor legislation.

**Senator Dan Boyle:** This is at the heart of why Fine Gael is so badly suffering. If you believe——

**Senator Paudie Coffey:** If the Senator says we are suffering, the Green Party is dead on the bed.

**Senator Dan Boyle:** ——there is an anomaly, have it corrected.

**Senator Paudie Coffey:** If we are suffering, I do not know where you are.

**An Cathaoirleach:** Senator Boyle without interruption.

**Senator Dan Boyle:** If there is an anomaly to be corrected, it is corrected by the section in the Bill. It is that simple. It is legislation for dummies. If the Members wish to make a cod of the legislative process——

**Senator Paudie Coffey:** The Government made a mess of it, and it is trying to correct it now and at a huge cost to the taxpayer.

**An Cathaoirleach:** Senator Coffey, I want no interruptions. You will have an opportunity to intervene again if you wish.

**Senator Dan Boyle:** We have had a Committee Stage debate that has been characterised by half truths, mistruths and utter lies. When I point out a truth and certainty that the Opposition is opposing a section that corrects an anomaly which it says should not exist, it is up in arms about it. I do not pardon the pun.

**Senator Paudie Coffey:** The Senator should relax. He is hyperventilating.

**Senator Dan Boyle:** That is the reality.

**Senator Maurice Cummins:** The Senator should not let himself get exercised by this Bill.

**Senator Dan Boyle:** It is legislative nonsense.

**Senator Paudie Coffey:** The Senator will take off in a minute.

**Senator Dan Boyle:** Members can look at the transcript of the Second Stage and Committee Stage debate, as well as whatever Report Stage debate there will be——

**Senator Maurice Cummins:** The Senator interrupted and heckled everybody who spoke.

**Senator Dan Boyle:** ——and look at the number and length of the contributions. They will then see who has made this debate go on for an unnecessary length and who has made an unnecessary issue of this Bill. The finger will be pointed at Senator Coffey's party.

**Senator Paudie Coffey:** We will deal with it. We will deal with the Senator's party too at the next election.

**Senator Maurice Cummins:** When we are at 2% we will worry.

**Senator Paudie Coffey:** We will put you out of business.

**An Cathaoirleach:** Members, please, no interruptions.

**Senator Dan Boyle:** I will conclude. I look forward to this point being argued further and having a vote on opposing a section that must be included to correct the anomaly.

**Senator Maurice Cummins:** We are not voting. We have more things to discuss.

**Senator Dan Boyle:** That is the role the Opposition is playing. We are grateful as a Government for having such a circus voice that is called on to oppose.

**Senator Paudie Coffey:** You have been whipped in over the last few days.

**Senator Frances Fitzgerald:** The Senator's party is at 2% in the polls.

**An Cathaoirleach:** I call Senator Mooney on section 4.

**Senator Paschal Mooney:** I welcome the amendments that were passed in the Dáil and I look forward to the Minister explaining this amendment for slow learners. The questions raised by the Senator regarding what he referred to as anomalies that might have some continuing cost for the taxpayer are plainly nonsense. I will explain some of the background and I hope the Minister will confirm and expand on it. Under the original legislation one received a paper certificate. This was endorsed on the reverse side, which gave one the right not only to hold the firearm or shotgun but also the right to hunt. Following changes last year, that piece of paper became a piece of plastic and it was impossible to put an endorsement on the back of a piece of plastic. I also understand, and the Minister will clarify this, that these changes took place under the Department of Justice, Equality and Law Reform.

I agree with the Senator that the lacuna he referred to is unacceptable on the face of it. There was a hiatus between the changes in the certificate's form and the introduction of the amending legislation. It meant that from last August some 100,000 people who hold firearm certificates that gave them the right to hunt were technically illegal. I do not believe any prosecutions have been taken since last August, and I cannot see any other reason that the Senator would suggest there is a financial imposition on the taxpayer. I will be interested to hear how he came to that conclusion. I am sure the Minister will clarify the matter.

The amending legislation has been passed by the Dáil and is part of the Bill before us. The regional game councils of Ireland, which were involved in this debate, welcome this legislation and the amendment, even though it is late in the day. They have no difficulty with the wording or the message contained in the amendment. Like Senator Boyle, I await with great interest the justification the Opposition will offer the House as to why it will oppose this enlightened amendment and section, which corrects a legal anomaly. It is now in a holding pattern that can continue up to 2015, even though the amendment states the licences can stand until 2012. Again, the Minister will clarify this.

If the new regime has not been put in place and new legislation is not introduced by August 2012, and I am confident that it will be, anybody who takes out a licence in July 2012 will continue to have the right to bear arms and to hunt for a further three years. There is a significant amount of time available to the Minister. Having corrected the legal anomaly, I am sure he will give an indication to the House, which I would welcome, of when he hopes to bring forward the amending legislation to ensure the new regime is permanent.

**Senator Paudie Coffey:** I will clarify why I raised this important matter. Can the Minister confirm if it is true that leave for judicial review has been granted against the Minister for this error in law? How many judicial review applications have been lodged with the Department

with regard to this matter? It is a matter of concern that we have passed laws which contain lacunae and anomalies that could give rise to serious exposure for the taxpayer in the courts and which have also exposed those who carry licensed firearms.

It is extraordinary that Senator Boyle can get so exercised and hyperventilate over what he considers to be a minor Bill.

**Senator Dan Boyle:** It is the hypocrisy I do not like.

**Senator Paudie Coffey:** It is a pity we did not get the same passion from the Senator——

**Senator Dan Boyle:** It is hypocrisy.

**An Cathaoirleach:** No interruptions, please.

**Senator Paudie Coffey:** ——on behalf of the old age pensioners, those on social welfare, the education cuts and all the other cuts he supported in Government. The Senator has not shown the same passion about that.

**Senator Dan Boyle:** Lies, damned lies and hypocrisy.

**Senator Paudie Coffey:** The Senator will take his medicine now.

**Deputy John Gormley:** I wish to express my utter astonishment that Fine Gael would oppose this section. I do not understand why it would wish to do so. The section makes sense and irons out an anomaly.

**Senator Paudie Coffey:** We are highlighting the Minister's errors.

**Deputy John Gormley:** I will try to answer the Senator's questions. I informed Senators during my Second Stage contribution on Wednesday that this provision addresses the issue that has arisen with regard to licences to shoot game during the open seasons. The Wildlife Act requires a hunter to have a licence to hunt certain birds such as wild fowl and hares, and I made provision that this would be obtained as an endorsement on the hunter's firearms certificate. Both the hunting licence and the firearms certificate were issued, as the Senator said, by the Garda Síochána in the form of a shotgun licence with the appropriate endorsement for hunting. However, when new computerised procedures were introduced in 2009 for issuing a three year firearms certificate, the facility for issuing the endorsement as a wildlife hunting licence was omitted. As a result, new firearms certificates do not provide for a hunting licence attachment and therefore do not meet the legal requirements of the existing Wildlife Acts. That is the factual position. Therefore, hunters who have the new firearms certificates would not be able to hunt legally. When this oversight was identified I understand it was not practicable to recall the certificates issued nor to change the licensing process in train. The Garda Síochána only started issuing the new licences last August and therefore the number of hunters affected in the 2009-10 season was very few. That is important to state.

My provision in this legislation provides for the amendment of section 29 of the Wildlife Act by the insertion of a new subsection (5)(a) to ensure that a firearms certificate issued for a shotgun between 1 August 2009 and 1 August 2012 will be deemed to be a hunting licence for game species such as wild fowl and hares. I should point out that this new amendment does not give hunters unrestricted permission to hunt protected birds and hares on a year-round basis. The hunting season for game birds under the open season is restricted for most wild fowl to a period from 1 September to the end of January, while the open season for hares is from the end of September to the end of February.

[Deputy John Gormley.]

As I mentioned on Second Stage, arrangements will be made in the interim between my Department and the Department of Justice, Equality and Law Reform to revert to a position where the hunting licence is endorsed on the firearm certificate.

The Senator asked about judicial review. I understand that is on hold pending the passage of this Bill. It is important we understand that this is an anomaly that must be ironed out. It is encouraging that the Game Council of Ireland is supportive of this Minister trying to do his best for hunters throughout Ireland.

**Senator Paudie Coffey:** I can see the Minister is trying to do his best for hunters in one element but he is not doing his best in many other aspects of this legislation and many other laws he is bringing forward.

The Minister has not answered my question on the judicial review. Is it true that leave for judicial review has been granted against the Minister? He said it was on hold but I understand the Minister might be aware that over 100 applications for judicial review have been granted. Is that true? If it is true it has implications and we would like to hear about it.

**Deputy John Gormley:** I think I answered the question. Everything is on hold until we pass this Bill, so let us pass the Bill quickly.

**Senator Paudie Coffey:** Are there applications before the Minister?

**Senator Maurice Cummins:** He will not answer.

**Senator Paudie Coffey:** The Minister will not answer.

Question put and agreed to.

Question, "That section 5 stand part of the Bill" put and declared carried.

Question, "That section 6 stand part of the Bill" put and declared carried.

Question, "That section 7 stand part of the Bill" put and declared carried.

Question, "That section 8 stand part of the Bill" put and declared carried.

Question, "That section 9 stand part of the Bill" put and declared carried.

Title agreed to.

Bill reported without amendments.

**Senator Paudie Coffey:** A Chathaoirligh, we have tabled an amendment for Report Stage and we ask that time be taken to consider that.

**An Cathaoirleach:** I ask the acting leader to suspend the sitting until 4.14 p.m.

**Senator Maurice Cummins:** Why not leave it till later? Why not deal with it next Tuesday, Wednesday or Thursday?

**An Cathaoirleach:** It was agreed that all Stages would be taken today.

**Senator Paschal Mooney:** I propose that the House be suspended for 30 minutes following which we will take Report Stage.

Question put: "That Report Stage be taken at 4.15 p.m."

Question put:

The Seanad divided: Tá, 28; Níl, 13.

Tá

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

MacSharry, Marc.  
McDonald, Lisa.  
Mooney, Paschal.  
Mullen, Rónán.  
Norris, David.  
Ó Brolcháin, Niall.  
Ó Domhnaill, Brian.  
Ó Murchú, Labhrás.  
O'Malley, Fiona.  
O'Toole, Joe.  
Ross, Shane.  
Walsh, Jim.  
White, Mary M.  
Wilson, Diarmuid.

Níl

Burke, Paddy.  
Buttimer, Jerry.  
Cannon, Ciaran.  
Coffey, Paudie.  
Cummins, Maurice.  
Fitzgerald, Frances.  
Healy Eames, Fidelma.

McFadden, Nicky.  
O'Reilly, Joe.  
Phelan, John Paul.  
Prendergast, Phil.  
Quinn, Feargal.  
Regan, Eugene.

Tellers: Tá, Senators Niall Ó Brolcháin and Diarmuid Wilson; Níl, Senators Paudie Coffey and Maurice Cummins.

Question declared carried

*Sitting suspended at 4 p.m. and resumed at 4.15 p.m.*

**An Cathaoirleach:** I call on the Acting Leader to move the suspension of the House until 4.30 p.m.

**Senator Camillus Glynn:** I propose the suspension of the House until 4.30 p.m.

*Sitting suspended at 4.15 p.m. and resumed at 4.30 p.m.*

### **Wildlife (Amendment) Bill 2010: Report and Final Stages**

**An Cathaoirleach:** I remind Senators that a Senator may speak only once on Report Stage, except the proposer of an amendment, who may reply to the discussion on the amendment. Also, each amendment on Report Stage must be seconded.

**Senator Paudie Coffey:** I move amendment No. 1:

In page 3, between lines 22 and 23, to insert the following:

“(c) that the Licensing Authority for this Act be the relevant Local Authority.”.

I acknowledge that the thrust of this amendment was raised by Senator Quinn on Committee Stage and on previous occasions by Senator O'Toole. There should be consideration given to the licensing of hunts, in this case the Ward Union Hunt, by the relevant local authority. It is always good to listen to apolitical, independent, objective views. We have tabled an amendment

[Senator Paudie Coffey.]

in that light. It is an important opportunity to empower local authorities in respect of this Act. It is worth considering giving local authorities an active role in the jurisdiction for administration and licensing. This could be examined in respect of other licensing arrangements. We are always looking for ways to empower local authorities and make them more relevant. This is an opportunity to do so.

**Senator Feargal Quinn:** I second the amendment. We heard much about subsidiarity during the debate on the Lisbon treaty referendum. This was explained to us as the idea that decisions should be made and laws should be passed as close to the citizen as possible. Is there a need to pass laws in Brussels or could it be done nationally or locally? This amendment arises from this question.

There is misunderstanding about many things that take place in rural life. There is misunderstanding by those who live in the city. They are not steeped in the involvement of rural life and it is very easy to understand someone sitting in Leinster House passing laws to define what should happen in the country. The ideal answer is subsidiarity, to have decisions made close to where they will affect the citizens. In this case, this means the decision on the Ward Union Hunt would be taken by the local authority in County Meath or Fingal County Council in north County Dublin. It may be that the local authority will decide not to grant permission for a stag hunt in the area. On the other hand, if it decides to do so, that is where the decision should be made. This amendment is worthy of consideration on this basis. Senator O'Toole mentioned the value of this in respect of the Dog Breeding Establishments Bill. I support the amendment, which is worthy of consideration, and should take precedence over the other options.

**Senator Mark Dearey:** I would be surprised if either local authority was willing to take on the exposure created by being the grantor of the licence. Many local authorities are routinely unable to approve activities because of our over-zealous application of public liability. An interesting article by Frank McDonald was published yesterday on the impact this has in localised situations and how it affects civic amenities. Serious accidents and incidents do happen and I note that a few minutes ago, an unfortunate lady had to be taken away by Dublin Fire Brigade from this Chamber. Should a serious accident take place the idea that a local authority, which already was in straitened financial circumstances, would be in a position to grant such a licence appears highly dubious. For this reason I will not support and do not in any sense approve of this amendment.

**Senator Maurice Cummins:** I support this amendment, which I consider to be highly fair. As for local authorities taking on such responsibilities, everyone advocates giving more responsibilities and powers to local authorities. This is an ideal——

**Senator Mark Dearey:** Yes, but not risks.

**An Cathaoirleach:** No interruption, please.

**Senator Maurice Cummins:** I thank the Cathaoirleach because on Second Stage, every speaker endured interruptions from the other side. Senator Dearey should simply look at the record.

**An Cathaoirleach:** No interruptions, please.

**Senator Mark Dearey:** I was merely laughing aloud.

**An Cathaoirleach:** Senator Cummins, without interruption.

**Senator Maurice Cummins:** I refer to the policy as set out in 2005.

I am sure local authorities would be quite willing to take on the responsibility and risk regarding this matter. I refer to the people in whose jurisdiction the hunt will take place. Their peers and the people who they represent should be those who decide what is best for them in their own local authority areas. The amendment tabled by Members on this side of the House is an eminently sensible proposal. While it certainly will not receive support from Green Party Members, I hope Fianna Fáil Members will consider giving support and greater power back to their local authority members by adopting the amendment.

**Senator Joe O'Reilly:** This amendment is inspired. I congratulate genuinely and in a non-patronising way my colleague, Senator Coffey, who conceived this excellent amendment, which in many ways resolves the entire issue, with Senators Quinn and O'Toole. It is reasonable to take the entire debate back to people at local level and that such a decision be made ultimately by local people who should determine what happens in their communities on the basis of what is right for their people. The stated ambition of all political parties represented in this House is to devolve power, responsibility and decision-making to local communities and people. The ambition is that power should bubble upward, rather than the reverse, and that this model of administration, rather than its hierarchical opposite, should obtain.

I believe this amendment contains genius to the extent that it removes the debate and puts it where it should be, which is at local community level to be decided by local people. Such decisions should be made at county level or, as Senator Quinn noted in the case of the Ward Union Hunt, both Fingal and Meath county councils would come into play. However, each local authority, through its elected representatives who now are answerable to the people on a five-yearly basis should make a decision that would reflect what was right and culturally correct for that community, what was sensitive to the norms there and what was correct from the tourism perspective. I honestly believe that herein lies the solution to the entire issue and that this is the way to make progress in future.

Unless one merely wishes to pay lip-service to the concept of subsidiarity, local government reform and the empowerment of local people, one must begin somewhere and this would be a reasonable way to begin. It has become the case that to an increasing extent, local government bodies, including my own, are being asked to collect local revenues and development charges etc. As this becomes increasingly common, one cannot reasonably make progress without also passing on power to the local authorities. In that sense, this is a highly worthwhile amendment and it should be supported. There is a great intellectual dishonesty and elitism, almost amounting to a form of snobbery, in the converse. The belief that local people in County Meath are incapable of deciding what should happen within their own community shows a dreadful attitude towards them.

**Minister for the Environment, Heritage and Local Government (John Gormley):** The essence and definition of subsidiarity is that it constitutes decision-making at the lowest effective level. The emphasis must be on the word "effective". From my perspective, the expertise on these matters lies in the National Parks and Wildlife Service, which understands how wildlife works and understands the protection of habitats. In case I do not get the opportunity later, I wish to thank my officials for their hard work on this legislation. They were the very people who monitored and reported back on the Ward Union Hunt for years and I am grateful to them for that.

It is interesting that people suggest giving back powers and I am an advocate of so doing. At present, I am trying to grapple with this particular issue in the context of the forthcoming White Paper. However, I reiterate that the emphasis must be on so doing at the most effective level. In respect of planning, for example, when one is talking about local area plans or regional planning guidelines, I have discovered divergences among the various local authorities that consider such issues. In a specific example, Carlow, Laois and Kilkenny county councils operate

[John Gormley.]

side by side but we have discovered they have contradictory views. Sometimes one needs oversight and this constitutes an example of where such oversight is required.

As for community participation in such decision-making, which constitutes a further devolution of power, I suggest to Members that were they to conduct an opinion poll or plebiscite in County Meath, they may be astounded. Certainly, the data I have show that approximately 60% of the people in the Meath area want this hunt to be discontinued. Is one to listen to these voices? Moreover, this is not simply the result of one poll, as successive polls have shown this finding. In addition, when speaking of local councils, Councillor Shane Cassells from the Fianna Fáil Party has been a strong advocate on this issue and has stated that the hunt should be discontinued. Had one listened to those people who spoke recently on radio about the various incidents that have occurred, one would have learned they all stated that the hunt should be discontinued. I have a file in my office containing the representations made to my office when the Kildalkey incident occurred in which person after person requested me to ban this hunt. Not only members of the public but public representatives stated this was no longer compatible. While they acknowledged this was very much a rural pursuit, it was taking place in an area that now has become increasingly built up. Consequently, one must consider all those issues, that is, the expertise that is required and the fact this is a highly specialised subject.

Furthermore, what probably is the most important issue in this regard is that this particular hunt unquestionably contains many influential people. I have never seen a better conducted public relations or propaganda campaign. It was well funded and has been able to put enormous pressure on individuals. The campaign decided to do so by issuing misleading statements, engendering fear and by total scaremongering. We know some of the people involved, for example, the Bailey brothers — developers with plenty of money. At one time they had a hotline to Government Buildings. Is the Opposition now siding with people like that? Those are the people——

**Senator Paudie Coffey:** That is a fudge.

**Senator Maurice Cummins:** The Minister is talking about the people he is in government with.

**Deputy John Gormley:** ——who have great influence.

**Senator Paudie Coffey:** The Galway tent.

**An Cathaoirleach:** No interruptions please. The Minister should be allowed to speak without interruption.

**Senator Maurice Cummins:** The Minister is digging again.

**Deputy John Gormley:** They could pick up the telephone and say they wanted this or that done. Those days are over. They cannot do it anymore.

**Senator Joe O'Toole:** That is why we want to keep it local.

**An Cathaoirleach:** No interruption.

**Deputy John Gormley:** If one can imagine the influence they have at central level it would be an absolute cakewalk for them at local level.

**Senator Maurice Cummins:** It is no wonder the Green Party has only three councillors.

**Deputy John Gormley:** We must be in a position to withstand that type of pressure.

**Senator Maurice Cummins:** It is no wonder the Green Party has only three councillors.

**Deputy John Gormley:** I can withstand that type of pressure, which is why we are introducing the legislation.

**Senator Paudie Coffey:** The Minister will be a martyr.

**Senator Maurice Cummins:** Why did the Minister's party go into government with the people who were involved with the Bailey brothers?

**An Cathaoirleach:** I call Senator Coffey. No other Member should speak.

**Senator Paudie Coffey:** Is it possible for Senator O'Toole to make a response?

**An Cathaoirleach:** I am unable to allow any speaker who did not speak when the amendment was moved.

**Senator Joe O'Toole:** On a point of order, can I respond on behalf of Senator Coffey?

**An Cathaoirleach:** No. It is my understanding that the person who moved the amendment and spoke first is the only person who can speak again.

**Senator Paudie Coffey:** The Minister's desire must be to be seen as a martyr to the cause. That is the way he is portraying himself this evening. He will be a martyr but I do not know how long he will be Minister. The sentiments expressed by him do not indicate much confidence in local authorities. That is evident across various sectors. I am concerned about that and I have debated the issue with the Minister on many occasions on various Bills. Every time he speaks he seems to undermine local authorities and their reason for existence. He seems to have a vendetta against local authorities or a serious level of suspicion at any rate. He should stop that approach and respect local democracy more.

*5 o'clock*

The Minister said that if the licensing authority were to transfer to local authorities that it would need to be effective. Local authorities are effective in many respects, for example, waste management, housing, sewerage and water. The Department of the Environment, Heritage and Local Government and the Department of Justice, Equality and Law Reform were ineffective in terms of the firearms certificate in the Bill. Central Government is not without fault or problems either.

**Deputy John Gormley:** Senator Coffey opposed it.

**Senator Paudie Coffey:** I did not oppose it. The Minister should look at the record.

**Senator Maurice Cummins:** The Minister should look at the record.

**Deputy John Gormley:** I signed the order for it.

**Senator Maurice Cummins:** The Minister should look at the record.

**Senator Paudie Coffey:** Local authorities already have veterinary departments. They already have dog wardens in whom the Minister has placed so much faith in terms of the Dog Breeding Establishments Bill. The Minister is being contradictory in his stance on this amendment. He is saying on the one hand that local authorities are effective in terms of ensuring animal welfare in dog breeding establishments, with which we do not argue, but on the other hand he has said local authorities would not be effective or would not have the role or responsibilities to manage effectively a licence for a hunt. What the Minister is saying is not good enough. He is not sending out a good signal as far as democracy is concerned. His approach is to take a dictatorial stance which is evident in many areas of Green-led legislation that is now being supported by Fianna Fáil. Whether the decisions made by local representatives are right or wrong they will

[Senator Paudie Coffey.]

be held accountable for them every five years. If, as a councillor, I vote one way or another on the issue of a licence for a hunt I can be held accountable for that when I knock on the doors of people who may or may not support the particular cause. What better democracy do we want?

The Minister should put it to the test and see what would be the outcome if local authorities had this responsibility. He has argued that they would not want the responsibility. I hold the opposite view. We should try to empower local authorities and give them more reasons for existence. We should give them the power of jurisdiction in their own areas. Deciding on whether to allow a hunt in the area is one good way in which we could do that. Some local authorities might oppose hunting. If that is the case we would have to accept the decision. The Minister should allow local people and their representatives to make the decision.

I regret what the Minister has said which undermines local authorities. He has consistently undermined elected local authority members and attacked councillors in various parties in recent months.

**Senator Joe O'Reilly:** Hear, hear.

**Senator Paudie Coffey:** That is most unfair. The Minister is on the record in that regard. He is now making another attack on local government by saying local authorities might not reach effective levels of management. As Minister for the Environment, Heritage and Local Government the Minister does not inspire confidence in local government. He should examine his position and be more proactive in terms of encouraging and supporting local authorities and the democratically elected members. Subsidiarity my eye. The Minister does not recognise it.

Amendment put:

The Seanad divided: Tá, 14; Níl, 26.

Tá

Burke, Paddy.  
Buttimer, Jerry.  
Cannon, Ciaran.  
Coffey, Paudie.  
Cummins, Maurice.  
Fitzgerald, Frances.  
Healy Eames, Fidelma.

McFadden, Nicky.  
O'Reilly, Joe.  
O'Toole, Joe.  
Phelan, John Paul.  
Prendergast, Phil.  
Quinn, Feargal.  
Regan, Eugene.

Níl

Boyle, Dan.  
Brady, Martin.  
Butler, Larry.  
Callely, Ivor.  
Carroll, James.  
Cassidy, Donie.  
Corrigan, Maria.  
Dearey, Mark.  
Ellis, John.  
Feeney, Geraldine.  
Glynn, Camillus.  
Hanafin, John.  
Keaveney, Cecilia.

Leyden, Terry.  
McDonald, Lisa.  
Mooney, Paschal.  
Mullen, Rónán.  
Norris, David.  
Ó Brolcháin, Niall.  
Ó Domhnaill, Brian.  
Ó Murchú, Labhrás.  
O'Malley, Fiona.  
Ross, Shane.  
Walsh, Jim.  
White, Mary M.  
Wilson, Diarmuid.

Tellers: Tá, Senators Paudie Coffey and Maurice Cummins; Níl, Senators Niall Ó Brolcháin and Diarmuid Wilson.

Amendment declared lost

Bill received for final consideration.

Question put: "That the Bill do now pass."

The Seanad divided: Tá, 25; Níl, 16.

Tá

Boyle, Dan.  
Brady, Martin.  
Callely, Ivor.  
Carroll, James.  
Cassidy, Donie.  
Corrigan, Maria.  
Dearey, Mark.  
Ellis, John.  
Feeney, Geraldine.  
Glynn, Camillus.  
Hanafin, John.  
Keaveney, Cecilia.  
Leyden, Terry.

McDonald, Lisa.  
Mooney, Paschal.  
Mullen, Rónán.  
Norris, David.  
Ó Brolcháin, Niall.  
Ó Domhnaill, Brian.  
Ó Murchú, Labhrás.  
O'Malley, Fiona.  
Ross, Shane.  
Walsh, Jim.  
White, Mary M.  
Wilson, Diarmuid.

Níl

Burke, Paddy.  
Buttimer, Jerry.  
Cannon, Ciaran.  
Coffey, Paudie.  
Cummins, Maurice.  
Fitzgerald, Frances.  
Healy Eames, Fidelma.  
McCarthy, Michael.

McFadden, Nicky.  
O'Reilly, Joe.  
O'Toole, Joe.  
Phelan, John Paul.  
Prendergast, Phil.  
Quinn, Feargal.  
Regan, Eugene.  
Ryan, Brendan.

Tellers: Tá, Senators Niall Ó Brolcháin and Diarmuid Wilson; Níl, Senators Paudie Coffey and Maurice Cummins.

Question declared carried

**An Cathaoirleach:** When is it proposed to sit again?

**Senator Donie Cassidy:** At 12 noon on Tuesday, 6 July 2010.

### **Adjournment Matter.**

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#### **Health Services**

**Senator Cecilia Keaveney:** I thank the Minister, Deputy Gormley, for being here. He might not be the appropriate Minister, but I appreciate his presence.

I am raising the issue around the efforts being made to promote stroke prevention information and awareness, bearing in mind that a couple of years ago the stage was reached wherein heart attacks might be prevented through the raising of awareness. I am told we are more or less at the same level of awareness today, as regards stroke prevention.

Around 10,000 people will have a stroke in Ireland this year. That is approximately one every 45 minutes. One in every five persons will have a stroke at some time in his or her life.

[Senator Cecilia Keaveney.]

Stroke is the third biggest killer in Ireland claiming over 2,000 lives every year. It has a higher death toll than breast, prostate and bowel cancer combined. Stroke is also the biggest cause of acquired disability and around 30,000 people are living with disabilities as a result of stroke.

Publication of the national cardiovascular health policy 2010-19 in May means historical progress in policy terms. It is recognised as a blueprint for the delivery of truly world class services in Ireland. However, there is no additional funding available for this preventative intervention. Implementing the report could eliminate avoidable death and disability from stroke in this country. Delivery of a comprehensive stroke service cannot be achieved without funding. The costs involved are small and much of the outlay will be recouped as a result of reduced numbers of stroke patients, shorter hospital stays and substantially lower nursing home costs due to lower levels of dependency.

The State is currently spending at least €500 million on stroke services every year. Eliminating avoidable death and disability does not have to cost more than this. Research commissioned by the Irish Heart Foundation, which is currently being conducted by the ESRI, is expected to show that following a relatively small initial investment, the development of world class stroke services in Ireland would be at least cost neutral and would possibly save the taxpayer money.

Stroke services are woefully inadequate in large parts of the country and in some places non-existent. For example, it is agreed that the death rate from stroke could be cut by 25% if all patients had access to stroke units. However, just 11 acute hospitals have any type of stroke unit. Thrombolysis is a clot busting drug that can have near-miraculous effects in preventing death and disability from stroke. The HSE says if services were better 20% of patients could benefit from such treatment. However, according to HSE figures, in the 12 month period to the end of April 2009, around 2% of acute stroke patients were thrombolysed. In large parts of the country it is either completely unavailable or only available to people who have a stroke from 9 a.m. to 5 p.m., Monday to Friday.

In the acute setting just one in four patients were recorded as having received rehabilitation according to IHF research. Stroke patients should be entitled to a minimum of 45 minutes of required rehabilitation five to seven days a week for as long as required. The reality is that no service is available to the vast majority of patients. Indeed even music therapy that can play a role in the issue of speech recovery, fails to gain professional recognition in this jurisdiction. We know what has to be done but funding needs to be available for vital improvements.

We spend around half a billion euro a year on what are perceived to be grossly inadequate stroke services. Improvements will carry some upfront costs in areas such as stroke unit and thrombolysis provision, development of rehabilitation services etc. If there can be no new funding for stroke, there should be a reallocation of resources from the HSE's €15 billion annual budget to develop a proper service for the country's third biggest killer disease. By substantially reducing death and disability from stroke, substantial savings could make improvements cost neutral, freeing up hospital beds for patients with other less treatable diseases or conditions. In particular savings would accrue from reductions in the cost of institutional care, the length of hospital stay and the rate of readmission.

In a more general sense, given predictions of a 40% increase by 2020 in heart attack, stroke and other chronic conditions we urgently need to adapt our services and strategies to meet the changing face of cardiovascular disease, because although deaths may be falling, the prevalence of it is rising.

People of all ages need to be made aware of the risk factors for stroke and cardiovascular disease. They are very prevalent among the Irish population. Some 60% of adults over 45 years have high blood pressure, 80% have high cholesterol, 29% of all Irish adults are smokers, surprisingly a rise since the smoking ban was introduced, and 61% of adults and about 20% of children and teens are overweight or obese.

Effective awareness campaigns are needed in stroke prevention as are stroke clinics. I am told that stroke is as preventable now as heart attacks a decade or more ago. Can we afford not to review our spend and do the frontloading to stop the major trauma that is left in the wake of stroke for patients and their families?

**Minister for the Environment, Heritage and Local Government (Deputy John Gormley):** I thank Senator Keaveney for raising this matter which I am taking on behalf of my colleague, Deputy Mary Harney, the Minister for Health and Children.

Stroke is one of the leading causes of death in most developed countries. In Ireland it is estimated there are more than 10,000 acute strokes per year. We know stroke is a medical emergency. I am told that between 1 million and 2 million brain cells can be lost every minute a stroke goes untreated. There are now about 30,000 people and their families living with the effects of residual disability from stroke. There have been advances in recent years in investigation, treatment and rehabilitation after an acute stroke. Four out of ten patients now return home after an incident, while one in ten remains heavily dependent in long-term institutional care. However, the risk of recurrence is high, ranging from one third to one half of those who survive strokes.

Thankfully, mortality rates from stroke have fallen considerably in recent decades. However, with longer life expectancy after stroke and an aging population, it will continue to pose challenges for individuals, families, communities and the health service for years to come. It is impossible to talk about strokes without considering cardiovascular health as a whole. Ireland's first cardiovascular health strategy, Building Healthier Hearts, unveiled in 1999, was among the first national strategies to be launched internationally. The Government took a strategic approach to the development of cardiovascular services. Since the launch of Building Healthier Hearts, more than €60 million in additional annual funding has been allocated to its implementation. This annual funding has supported a wide range of new services and initiatives. The national audit of stroke care, published in April 2008, provided the country's first overview of stroke services in hospital and the community. The audit, which was commissioned by the Irish Heart Foundation with the support of the Department of Health and Children, highlighted a number of areas where clinical care and the organisation of stroke services should be developed and improved. Work has commenced on addressing some of the issues identified in the stroke audit. By the end of 2009 stroke units had been set up in 12 hospitals providing multidisciplinary care, including thrombolysis. Progress has clearly been made but more needs to be done. Other initiatives worth noting include the training of emergency medical technicians and fast tracking of patients with suspected stroke. This initiative is already in some areas and there are plans to extend it further. Comprehensive guidelines for the acute hospital care of patients with stroke are in development by the council on stroke of the Irish Heart Foundation with the intention of agreeing and disseminating guidelines appropriate to Ireland.

Since the publication of Building Healthy Hearts in 1999, there have been many changes. The health service structures, Ireland and lifestyles have changed while technology has developed.

It was clear we needed to plan for the future taking into account these changes. It was for these reasons the Minister for Health and Children, Deputy Mary Harney, established the cardiovascular policy group in September 2007 to develop a new policy framework for the prevention, detection and treatment of cardiovascular disease, including stroke.

The policy group considered the stroke audit findings and addressed the issues raised including prevention in the primary care setting, rapid access to diagnostic services, the configuration of stroke services which includes stroke units, the provision of thrombolysis, as well as models for rehabilitation and discharge planning.

The policy report, Changing Cardiovascular Health: National Cardiovascular Health Policy 2010-19, was launched by the Minister on 10 June last. It addressed the spectrum of cardio-

[Deputy John Gormley.]

vascular disease including prevention and management and how these are integrated to reduce the burden of these conditions. The Minister was anxious a tangible implementation plan would be developed to give effect to the policy and that the HSE will focus on what can and should realistically be achieved in the current economic climate.

The implementation plan, currently under development by the HSE, will specify the networks for cardiovascular disease, the local and regional or comprehensive centres that comprise networks, pre-hospital emergency care, stroke units and the clinical leadership to give effect to these. It is expected this work will be completed by October this year.

Everyone in the health care sector has a role to play, for example, involving primary care in developing multidisciplinary rapid assessment TIA clinics for mini-stroke to prevent these from progressing into full stroke cases. The policy identifies the need for primary care teams to support patients with or in danger of developing cardiovascular disease including stroke and involves new ways of preventing and treating patients with the disease.

Primary care teams are ideally placed to prevent strokes through the detection and management of raised blood pressure and through the provision of anti-thrombotic therapy for those with atrial fibrillation.

While public information and awareness campaigns come within the HSE's remit, I acknowledge the role played by the Irish Heart Foundation as a leading provider of information on stroke awareness. Through a variety of campaigns and services, the foundation endeavours to reach all high risk groups and educate them on the importance of healthy lifestyle behaviours in helping to prevent stroke and cardiovascular disease.

Earlier this year, the Irish Heart Foundation launched its FAST campaign to raise awareness of the warning signs of stroke and the need for emergency treatment in hospital for anyone who suspects they have had a stroke. The FAST acronym refers to the main symptoms of stroke — Facial weakness, Arm weakness and Speech problems, along with the warning that it is Time to call 999.

The Government will continue to support efforts to create greater awareness around the preventive measures and positive lifestyle behaviours needed to allow people live healthier lives. The new cardiovascular and stroke policy has been launched in a challenging economic climate with little prospect of additional resources. Much, however, can be done to advance the policy. The Department of Health and Children and the HSE will continue to work in tandem with the Irish Heart Foundation and others to improve public understanding of stroke.

**Senator Cecilia Keaveney:** A small investment in this area could give large yields in prevention. There are many rapid response units dealing with heart attack prevention courses. Maybe the Department, along with the Irish Heart Foundation, could consider integrating a course in stroke prevention awareness.

The Seanad adjourned at 5.35 p.m. until 12 noon on Tuesday, 6 July 2010.