



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**SEANAD ÉIREANN**

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

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## SEANAD ÉIREANN

*Dé Céadaoin, 10 Deireadh Fómhair 2012*

*Wednesday, 10 October 2012*

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

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*Machnamh agus Paidir.  
Reflection and Prayer.*

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### **Business of Seanad**

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

The need for the Minister for Health to outline the reason it took 48 minutes to get an ambulance to an injured jogger in Letterkenny last week when the person was only 1.5 km from Letterkenny General Hospital.

I have also received notice from Senator Denis O'Donovan of the following matter:

The need for the Minister for Transport, Tourism and Sport to intervene in the collapse of the Pilot Training College, Waterford, to ensure the trainees who have paid their fees have their training completed.

I have also received notice from Senator Mark Daly of the following matter:

The need for the Minister for Justice and Equality to clarify, in light of the programme for Government in which both parties undertook to legislate for upward-only rent reviews for existing leases, what the Government has done to date on this promise and the future plans the Government has in this regard.

I regard the matters raised by the Senators as suitable for discussion on the Adjournment and they will be taken at the conclusion of business.

### **Order of Business**

**Senator Maurice Cummins:** The Order of Business is No. 1, Houses of the Oireachtas Commission (Amendment) Bill 2012 - Order for Second Stage and Second Stage, to be taken

on the conclusion of the Order of Business and to conclude not later than 1.45 p.m., with the contributions of group spokespersons not to exceed ten minutes and those of all other Senators not to exceed six minutes and the Minister to be called on to reply to the debate not later than 1.35 p.m.; No. 2, Health Service Executive (Governance) Bill 2012 - Committee Stage, to be taken at 2.30 p.m. and to be adjourned not later than 5 p.m., if not previously concluded; and No. 18, Private Members' business, motion No. 9, to be taken on the conclusion of No. 2. and the time allocated to this debate shall not exceed two hours. There will be a sos between 1.45 p.m. and 2.30 p.m.

**Senator Marc MacSharry:** I appreciate the Ministers with responsibility for health will be in the House for much of the day, between the Committee Stage debate on the Health Service Executive (Governance) Bill and the Private Members' motion this evening. However, in light of events yesterday it is of vital importance that in the first instance, the Minister for Health, Deputy Reilly, be here himself and at the very least, he uses this opportunity to provide clarity in respect of the situation that unfolded at yesterday's meeting of the Committee of Public Accounts. In my opinion and that of my colleagues, the manner in which two people, whose cumulative salaries are close to €400,000 per annum, tried to manipulate a process in advance of a Committee of Public Accounts hearing to give information they chose to give but not information that was sought was an affront to the Oireachtas, the political system and ultimately the people of Ireland. During their opening statement, their demeanour and attitude was such as to give the impression that they run the health service and would let the committee members know what the witnesses wanted them to know, when they wanted the members to know it. This behaviour is unacceptable and in the interests of the integrity of this House and the Oireachtas, it is imperative that the Leader uses his good offices to prevail upon the Minister to make a statement on this matter to prevail upon the two individuals concerned, who between them earn nearly €500,000 per year, to apologise to the people of Ireland for the flippant and disrespectful manner in which they addressed the most important and historic committee of the Houses of the Oireachtas yesterday.

Members have learned that as of the end of August, the overrun in respect of the Health Service Executive, HSE, was €329 million. One month later, it was €45 million more. Last April, it was advised in these Houses, in media interests and by the former chief executive officer of the HSE, Cathal Magee, that unchecked, this would head for €500 million. How right he was, as we are on course for an overrun of €500 million. Nothing has been seen in respect of the so-called collection of moneys from the insurance companies. Similarly, no cumulative savings in spending on drugs will have been achieved by the end of the year. No thanks to the Committee of Public Accounts or the two people in receipt of €500,000 per year, one learned yesterday from RTE, the national broadcaster, and not those who supposedly run the health service, that Tallaght Hospital is to get an overdraft of €12 million. One did not hear this information from the aforementioned individuals at the Committee of Public Accounts meeting yesterday and neither did they reveal that this overdraft facility was secured with a letter of comfort from the HSE. What about Sligo Regional Hospital, which has an overrun? What about Beaumont or the many other hospitals that have substantial overruns? Who will finance them? The deficit is growing at €45 million per month. The Minister is in absolute denial and continues with his headless chicken approach to the management of the finances of the HSE. We were told some months ago that the new dream team in health would have it all under control but their opening shot to the arms of democracy was that they would tell us what was going on and how things would be done when it suited them. These same people were not able to tell us where the savings would be made and that there would be no cuts to front-line services.

On another issue, we are still waiting to find out how the primary care centres were chosen. One thing Mr. O'Brien told us yesterday was that to the best of his knowledge, as chief executive officer designate, nobody in the HSE had anything to do with selecting those centres. Will the Leader agree that, as the Tánaiste rightly said, we need absolute clarity and statements on this situation? I hope he will prevail on the Minister to ensure that he will use the opportunity today to make the situation on these very important issues very clear.

We will not table an amendment to the Order of Business on the basis that there will be opportunities throughout the day to clarify these issues. However, if there is not, we will highlight them every day because the farce that has become the management of our health service must come to an end.

**Senator Ivana Bacik:** Listening to Senator Mac Sharry, I was struck that he might have kept his powder dry for a little later in the day given that the Minister for Health will be in the House from about lunchtime onwards. The Senator might have saved his points for the Minister.

**Senator Marc MacSharry:** I might have new ones.

**Senator Ivana Bacik:** I am sure the Senator will have.

I welcome the really good news from the Kerry Group yesterday and I join with others in congratulating the group on the announcement of 900 jobs in the immediate future. It is a reminder of the strength of the agrifood sector and it is a really good boost for public morale as well as for the economy.

I join with colleagues who called for a debate on the report of the Ombudsman for Children. We said previously that after the children's referendum on 10 November, we might ask the Minister for Children and Youth Affairs to come to the House for a general debate on children's rights. It might be worth looking at the report of the Ombudsman for Children then but before that, the Minister for Education and Skills will come to the House. Many of us have called for various issues to be addressed during the debate with him and I note that 47% of the complaints to the Ombudsman for Children, Emily Logan, in 2011 concerned education. Some of the issues she raised in her report will be of relevance in the debate with the Minister for Education and Skills and we might be able to cover them then.

I ask the Leader again if we might have a debate on community policing and street crime, something about which we have spoken previously. I condemn the shooting yesterday of the 16 year old boy in Crumlin. It was shocking and again highlights the problem of street crime. I spoke yesterday about the purple flag initiative and the huge improvements in safety on the streets brought about as a result of co-operation between community police and local businesses in cities and towns in Britain and Northern Ireland. It is an initiative we might look at introducing here to avoid these sorts of horrific incidents.

There is some danger to Bewleys and its signage on Westmoreland Street. Starbucks is apparently seeking to have the old mosaics removed. That is regrettable and I hope Dublin City Council will not allow it. It is a very important part of the heritage of the city and it is very nice to still see the stained glass, the signage and the mosaics from the Bewleys café on Westmoreland Street and it would be a shame to see it removed.

**Senator David Norris:** The House may generally share this view. I strongly congratulate

the national broadcaster, RTE, on a most remarkable and uplifting programme last night. I refer to the interview with the former President, Mary McAleese. This was a prophetic voice and it struck a visionary note, a note of optimism, hope, decency and deep understanding. When I learned that my former colleague and friend was going to Rome to study canon law, I worried that she might get caught up in the academic nature of that and it might become an obfuscation. However, she showed that she intended to use it to explore the meaning of Vatican II and the spirit of that great Pope, John XXII.

**A Senator:** John XXIII.

*(Interruptions).*

**Senator David Norris:** John XXIII. I think we all know the wonderful man who started the Vatican Council. That is the person I am speaking of.

Mary McAleese had a very difficult background. She was reared in Ardoyne, which was a mixed area but largely Protestant, and some of her neighbours joined the UVF. Her capacity to understand the forces that led to that reminded me of the Dali Lama when he told me in Dharamsala that he was praying for the souls of the Chinese because of the damage they were doing to themselves. It was wonderful and uplifting. This is the hope for Ireland and the church - a critical but loving voice understanding the fallibility of all human institutions, including the church. I felt that long before she came to that brief but wonderful endorsement of gay rights which, as President, she was unable to give except in a most discreet way. She gave such an endorsement in that programme. I refer to her capacity as a statesperson when she was upbraided quite improperly by an American cardinal in New York. She dealt with that with forceful dignity but without allowing it to explode into a major diplomatic incident. She did not reveal it until now. None of us new about it; I certainly did not but I was proud of the way she dealt with it.

I am proud of the progress from South America of our great President, Michael D. Higgins. I thrilled when I heard him evoke the spirit of Pablo Neruda and President Allende-----

**An Cathaoirleach:** Senator Norris, we are not discussing the presidency today.

**Senator David Norris:** Yes, but I would like to tie it in, if I may, with the need for a visionary prophetic approach-----

**An Cathaoirleach:** Have you a question for the Leader?

**Senator David Norris:** I am glad we have such people in this land. Bringing it back to the economy-----

**An Cathaoirleach:** Have you a question for the Leader?

**Senator David Norris:** Yes. Can we have a debate which will include matters such as those raised by the President of Brazil when addressing President Higgins and sending a message back to the Irish people to say that it was dangerous to engage in nothing but austerity measures, nothing but tax cuts and nothing but humiliating the people and driving them out of work? I very much welcome the concern Her Excellency, the President of Brazil, showed in talking to our President about the fate of young people who are being driven into unemployment, the danger of a lack of social cohesion if this process is allowed to continue unabated and her commitment to deal with the European Union as a whole and not just with the economies of

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the stronger members. That is a sense of community I appreciate and which former President, Mary McAleese, represented in her wonderful life-enhancing address on television last night.

**Senator Michael Mullins:** As this is world mental health day, I take the opportunity to urge public awareness of mental health issues and ask the Leader to arrange at a future date a discussion on mental health issues. I commend the HSE, in particular people from HSE west, with whom I spent a few hours on Saturday distributing leaflets highlighting mental health issues and trying to negate the stigma associated with mental health which is obviously based on fear and misunderstanding. It is important the House devotes some time to discussing mental health and mental health funding, to highlighting the fact there is help for people and that they should not feel isolated and alone or that there is nobody to whom to talk or to turn. We need to publicise the fact there is help out there and make people aware that the HSE in every town and community is there to assist people. World mental health day provides us with an opportunity to fly the flag for mental health and make people aware it is an ordinary illness and that there is treatment, help and very significant support for them. In other parts of the world that is not the case. Some 350 million people worldwide suffer the effects of depression. In some countries fewer than 10% of those who need treatment have the opportunity to avail of it. That is in stark contrast with Ireland which this year allocated an additional €35 million towards mental health and mental health treatment. I urge colleagues to spread the word in their communities that help is available for people suffering from depression and that they should not feel alone.

**Senator Martin Conway:** Well said.

**Senator Terry Leyden:** From 1 October 2012 the Private Security Authority demands a fee of up to €2,250 for a licensee to install CCTV cameras in private houses. Anybody who breaks the law, including householders, will incur a fine €3,000 and be committed to imprisonment for 13 months. Heretofore this service was readily provided by local electricians or technical people. When the Government came into office it said it would cut out red tape, bureaucracy and make it easier for small businesses to operate. Certainly the Private Security Authority is making life very difficult for small electrical firms. On a large turnover there is a large fee. This is a surcharge on small businesses. It is very difficult to run a small business in Ireland. The Government said it would reduce the number of quangos and organisations-----

**Senator David Norris:** Set up by the previous Government.

**Senator Terry Leyden:** Indeed, and should not have set up many of those organisations.

**Senator David Norris:** Hindsight is a great thing.

**An Cathaoirleach:** Senator Leyden to continue, without interruption.

**Senator Terry Leyden:** The Government assumed office on a promise and won the election under false pretences on many issues, including transparency in Government. Please do not raise the health centres because there is more to come out on that issue.

**An Cathaoirleach:** We are discussing health later. Has the Senator a question for the Leader? Senators are exciting me.

**Senator Ivana Bacik:** The Senator is easily excited.

**An Cathaoirleach:** Does Senator Leyden have a question for the Leader?

**Senator Terry Leyden:** Yes. I ask the Leader to examine this point to ensure there is a reduction in charges. The licensing issue is fine but a person should not be charged €2,250 for a licence every two years to install small CCTV cameras in a private houses or businesses throughout the country. I had no expectation of the Government but the public had high expectations of the Government.

**An Cathaoirleach:** We cannot discuss that matter today.

**Senator Terry Leyden:** It will go down in flames the same as the previous Coalition Government.

**Senator John Whelan:** I call on the Leader, as a matter of urgency, to inform the Minister for Finance and the Minister for the Environment, Community and Local Government, of a matter of grave concern, namely, a fire hazard which could have serious ramifications in the town of Portarlinton. It concerns the former Avon Arlington factory which is disused, closed and derelict since 1998 but apparently is now under the responsibility and ownership of the National Asset Management Agency. However, it has given the local community the run-around, saying it is not its responsibility to secure it and make it safe and has abandoned the property. It is an eyesore on the edge of the town and within hundreds of metres of the mainline train station which serves the south and west. It is a tinderbox of 12,000 sq. m with hundreds of barrels of chemicals on site, unsecured and open to the elements. The ground is contaminated and possibly the watercourses in the area. I have raised the issue with the senior officials in Laois County Council who say they cannot get a straight answer from NAMA in respect of responsibility for the site. I am genuinely concerned about it. I do not want to have to return to the issue and say "I told you so". The Portarlinton community and the development association are getting the run-around from NAMA. It is vital that whichever Minister is responsible instructs NAMA to take responsibility for it if the site is in its ownership. The Environmental Protection Agency must intervene as a matter of urgency because the site is being vandalised and used for anti-social behaviour. If one incident occurs at the site the entire town would have to be evacuated. It is a disaster waiting to happen. It is not fair to the people of the town that this derelict site on the edge of a town, with a population of 8,000, is allowed go unsecured. Responsibility for it is way beyond the scope of the local authority. If NAMA has taken ownership and control of the site, it cannot be allowed to wash its hands of it.

**Senator Trevor Ó Clochartaigh:** I note that yesterday in response to the article I mentioned in the *Irish Examiner* about austerity not working that Senator John Gilroy cast aspersions on the article and said I should not believe everything I read in the newspapers, that it probably was not true and that I had not read the report. I have read the report, which contains 266 pages, and direct him to page 41 which has a special three-page report which was covered in the *Irish Examiner* and in *Financial Times* yesterday. The article states that the IMF got its figures wrong and that austerity is not working. Perhaps Senator Gilroy is very busy, spending so much time publicising himself as a single parent that he has not had the time to read the entire report. He should focus on what is happening as he is obviously out of touch in respect of austerity and what is working and not working.

I note also that the Leader had a go at me yesterday - I do not have a problem with that - in regard to the Sinn Féin figures on a wealth tax. That is fair enough. I draw to his attention some of the figures prepared by the Government and some of the savings that were supposed to be made. The Minister for Public Expenditure and Reform, Deputy Brendan Howlin, planned to save €75 million expenditure on allowances and has come back with a measly saving of €3.5

million. We were told there would be a microfinance fund facility to avail of funding from the European Investment Fund but we have not seen much progress on that issue. The Department produced a medium-term fiscal statement in December in which it predicted a year on year growth of 1.6% for 2012. However, growth in the second quarter is at 0% and year on year the growth figures for the quarter are down by 1.1%. We were promised 100,000 extra jobs. We have not seen those but in the past 12 months 33,400 jobs have been lost to the economy. The unemployment rate is at 440,000, almost 15%. It is a bit rich of the Leader to cast aspersions on our figures when the Government gets its forecast totally wrong.

I call for a debate on a wealth tax because Sinn Féin has done much homework on such a tax. Based on the information made available to us, we estimate that up to €800 million could be made available from a wealth tax but the Department of Finance will not cost it and will not give us the figures. I challenge the Leader to invite in the Minister for Finance and put a costing on what the wealth tax proposed by Sinn Féin would bring in. If it is €400 million, €500 million, €800 million, let us see it. At least it would be more than is coming in at present and the right people would be taxed as opposed to those who cannot afford to pay. Instead of brushing me off as if I am a crank and that we are the party with the voodoo economics, the Government should look at its policies and economics and let us have a proper debate.

**Senator Pat O'Neill:** Will the Leader invite the Minister for Transport, Deputy Varadkar, to come to the House for a debate on his proposals in respect of the increase in penalty points. I welcome the fact that he will increase penalty points for the use of mobile telephones while driving. We have had too many deaths on the roads in the past month. We should have a debate on road safety and penalty points before legislation is brought to this or the other House in respect of increasing the number of penalty points. It would be a worthwhile exercise and we would get the views of all sides of the House. His officials would then be able to draw up proper legislation on the issue. I call for a debate on the penalty points system and transport in the near future.

*11 o'clock*

**Senator Jim Walsh:** I ask the Leader to arrange a debate on good governance. It would be a useful exercise to reflect the views of various sides of the House on what constitutes good governance. Yesterday, we saw an example of appalling governance at the Committee of Public Accounts to which Senator MacSharry referred. How such people reach certain positions must raise questions about the selection and recruitment process in the public service. The delegation's dismissive attitude and failure to display any command of their responsibilities and brief was alarming and spoke for itself.

A good governance debate could also include the Construction Contracts Bill 2010 which has not been enacted. The Bill has knocked around for the past four years. It was inspired by the good work of our colleague, Senator Feargal Quinn, and addressed the issue of hard-pressed subcontractors, many of whom have gone to the wall in the interim with the loss of a high number of jobs. Our legislation and *modus operandi* favour banks as the preferred creditors but there is a need to examine that provision.

It is farcical that people from this State must go to our neighbouring island to be declared bankrupt in order that they can have some time and be able to earn a living and, hopefully, create jobs. Unfortunately, many of those entrepreneurs may not return here and their skills and potential to create jobs will be lost. It is appalling that the legislation has been delayed.

In many ways - and I have spoken about the subject before - its a reflection of the dysfunctional nature of the public service system. We have far too many people in the public service who simply mark time and do very little yet earn good salaries. Their primary objective is to get as much as they can for as little input as possible. I have criticised the system for the past seven years. There are excellent people in the public service without whom it would collapse but we need to root out the bad. The Minister for Public Service and Reform needs to change the public service, as a matter of urgency. The Minister identified in his budget speech savings of €150 million yet admitted almost a year later that the most savings he can achieve is €3.5 million. It shows that he is not up to the job or acting in the best interest of the country. I ask the Leader to examine the issues and to arrange a debate. The Government has the largest majority in the history of the State but that privileged position is being squandered. We are back to the 1980s when all the Government did was squabble among itself, mark time and double the national debt. We are in a disastrous situation and can ill-afford behaviour that will lead to a complete catastrophe for the people.

**Senator Michael Comiskey:** I join in welcoming the good news announced yesterday by the Kerry Group. It shows that the agrifood industry is up and running. It can solve our current economic problems and we should support the industry in every way.

I want to refer to the news that has broken over the past couple of days about the failure of sewage treatment systems, particularly in Longford, and the health risks posed to residents living in an estate. We should debate such estates which are in NAMA. I am aware of a number of them in the north west where people are living in houses but the sewage treatment facilities are inadequate and unfinished. I do not know how their solicitors who arranged their mortgages signed such contracts.

**Senator Trevor Ó Clochartaigh:** Hear, hear.

**Senator Michael Comiskey:** The sewerage systems were unfinished. In many cases tankers draw sewage away from these estates. Who is responsible? The issue must be sorted out as a matter of urgency.

**Senator Aileen Hayden:** I am surprised at Senator Walsh's comments about the Minister for Public Service and Reform. His comments are typical of the obfuscation by the Fianna Fáil Party, in particular, given that an awful lot of the increments to which he referred were introduced under its stewardship. They were simply ways of hiding payments under the counter instead of calling them salaries which is what they deserved to be called. Many of the people to whom the Senator referred are poorly paid. He should start calling a spade a spade. We should start calling these payments core salary rather than increments which they are not.

With regard to the matters that arose over the past few months, I ask the Leader to give us an assurance that the Minister for Social Protection will come to the House. We have all read various notices in the newspapers on what may be in the next budget. It is important that we arrange a broad-ranging discussion on where we want social protection to go and debate it in an unexcited and unheated fashion.

I have noticed that Second Stage of the Welfare Reform Bill has gone before the Stormont Parliament. It is heading in the same direction that social welfare changes did in England and Wales which meant a rowing back on benefits. I am particularly concerned about the significant rowing back on benefits for young people in the UK. The move has been followed here by suc-

cessive Governments. There is a suggestion that older people, people with disabilities and other sections of society cannot afford to take cuts but that young people can take numerous cuts. We need to discuss the issue in an open and frank fashion rather than pinpointing one section of society. It is as if a young person's interest in housing, social protection and the economy is not as important as that of other people. Aside from asking the Leader to invite the Minister for Social Protection to come to the House, I would also like him to arrange a special debate on youth affairs issues such as mental health, access to social protection, access to housing and employment activation measures.

**Senator Maurice Cummins:** Well done, Senator.

**Senator Diarmuid Wilson:** Like other colleagues, I welcome yesterday's announcement by the Kerry Group that it will locate an international centre of excellence in Naas. Over 900 people will be employed on a permanent basis and 400 people will be employed on a temporary basis while the centre is being constructed. This morning some commentary suggested that there was political interference in achieving the project. I hope there was.

**Senator Michael Mullins:** I hope there was.

**Senator Diarmuid Wilson:** I welcome the move and I hope there will be more. If there was political interference on a weekly basis then we would have 52,000 jobs created per year. For the remaining year or more of the life of the Government we could expect to see 52,000 high-quality jobs being provided.

I ask the Leader to clarify when the Minister for the Environment, Community and Local Government will announce his proposals for local government reform. Every Monday morning we wake up to hear that it will be this week or next week. I am aware that he was prepared to announce it last July. Only for the intervention of our colleagues in the Labour Party who stopped him, we would already know his plans. I hope the Labour Party got its way with the local government reform proposals that the Minister will bring before us. All I want to know is when he will do it because hundreds of councillors do not know what their future holds. I ask for clarification on the matter.

I welcome the fact that the Leader has invited a number of Ministers to come here before the budget. When will he invite the Minister for Education and Skills? I have a number of questions for him, particularly on adult education and guidance counselling services.

**Senator Martin Conway:** I acknowledge that today is World Mental Health Day. It is a major issue here, particularly among young people. I concur with other Senators in their call to make resources available to deal with the issue. Other Senators have spoken about road deaths, penalty points and so forth. It is an issue but I acknowledge the effort that has been made by the past number of Governments to reduce the number of road deaths. There has been a dramatic reduction in the number of road deaths in recent years. We need to adopt the same approach to suicide. First, we need a dedicated, focused all-party effort to increase the awareness level of suicide and mental health issues. Second, we need to ensure that people realise that help exists and that there are people they can talk to. I salute the many organisations throughout the country making valiant efforts to raise awareness of suicide and mental health issues, particularly among young people. The Seanad has a role to play in creating future policy and initiatives that will help reduce suicide rates. The Seanad has held very successful public consultations and there is scope to do something in the area of mental health. I agree with the proposals made

by my colleague, Senator Mullins, that we have a dedicated session on mental health in the near future and perhaps out of this we can chart what the Seanad can do practically to solve the problem.

**Senator Catherine Noone:** I was shocked to read that 98,200 penalty points have been issued to motorists using their mobile telephones at the wheel this year alone. This stark statistic shows that people very much use their mobile telephones while in command of a vehicle. An AA survey found that 50% of motorists admitted to making calls while driving and that 40% stated they have sent texts. While nobody professes to be perfect on all fronts, and there will be occasions when one must use one's telephone, these statistics are startling. I welcome the news that the Government has accepted the recommendations of the Oireachtas joint committee in this regard.

I join my colleagues in acknowledging World Mental Health Day. It is very important that we continue to raise in the House the serious issue of suicide and mental health. I concur with the suggestions of Senators Mullins and Conway. In difficult times such as those in which we live mental health issues come much more to the fore and those who have never suffered from depression or other mental illnesses do not realise they are just as bad as, if not worse than, many physical illnesses, although they do not appear to be to the world at large. Those living with depression find it difficult to function. My colleagues suggested we dedicate an afternoon to discussing the issue and coming up with real solutions as to how we can stamp out suicide and remove taboos and raise awareness of how difficult it is to function in today's world with mental illness.

**Senator Paul Coghlan:** Yesterday I welcomed the good news story for the agrifood sector which came from the Kerry Group. It is a tremendous success under the dynamic leadership of its CEO, Stan McCarthy. However, today is a sad day for Irish business with the announcement that a receiver has been appointed to Bill Cullen's Glencullen Holdings. He spent 55 years in the motor trade and was a tremendous contributor by way of good employment and charitable works. He has done a great deal of good for the motor industry, and in other spheres of Irish business life. There has been much criticism recently of Ulster Bank and I will refrain from getting involved. However, I am fearful in this instance, which is a bolt out of the blue, and I hope it has not acted hastily. I commend the work of John Trethowan in the Credit Review Office. I do not know anything about the Glencullen Holdings matter as it is something I learned about this morning. I sincerely hope for the good of the trade and all those employed in Swords, Liffey Valley and elsewhere that the receiver, with the help of the group, will be able to trade out of whatever difficulties exist. It is a sad day to see something like this happen to someone who has contributed so much and worked so hard over 55 years. I do not understand how it cannot be properly negotiated. I am flummoxed. I wish him and the group well. I also wish well everybody in business in these challenging times.

**Senator Michael D'Arcy:** There has been much discussion on the agricultural sector and yesterday's very good news story about the Kerry Group. Unfortunately, we have had too many bad news stories in the agricultural sector, mainly because of accidents on farms. We all saw the horrific tragedy which befell the Spence family in Northern Ireland a number of weeks ago. I saw a report on the news of another man who lost his life yesterday in Westmeath. He was found dead in a slurry pit. I have some experience of this, in that last winter I had an accident on my farm when 13 stock went down into the slatted tanks. We need a serious debate with the Minister on farm safety. The largest number of deaths seem to be caused by slatted tanks and gases emitted following agitation. It is a serious issue when one sees the number of people who

have lost their lives because of this.

As I stated, I spent a period of time in my tanks trying to take stock out and I would not do it again. I do not consider myself to be any more or less knowledgeable than most farmers about the dangers, and there is a lack of knowledge, which I also had, about the extent of the danger. It is only following the tragedy in Northern Ireland that people realise it. Three gases are emitted and one lungful of the wrong gas will kill a person. Unfortunately, this message is not out there in the agricultural community. I now know I was lucky. I spent six hours trying to take stock out of a tank underneath the ground, and one lungful of the wrong gas would have meant I would not be here today. It is as serious as this. There is an incredible lack of knowledge in the sector about this particular danger. I raise the issue because the slurry period will close at the end of the month and an enormous quantity of slurry will be agitated, taken out and applied to the land in the coming three weeks. We should hold this debate as soon as time can be made available because the information is not out there. If we hold such a debate and get coverage perhaps a life could be saved.

**Senator John Kelly:** I compliment my party colleague, Senator Ivana Bacik, on her proposal yesterday for a new initiative of a purple flag area which would indicate a crime free zone in an urban area. It is a great idea and we should fully support it. I would like to take it a step further in an effort to outlaw crime in the country. It is time we had a debate in the House on the availability to serial criminals of free legal aid. The people of the country are absolutely outraged that serial criminals can commit assault after assault, robbery after robbery and even murder and still continue to receive free legal aid paid for by the Exchequer. This needs to be addressed. I know of many cases, including a recent case where a man received free legal aid on 16 occasions. The people I speak to suggest that one should be able to avail of free legal aid once in a lifetime. At the very minimum it should be a case of three strikes and one is out. It is a debate worthy of the House. Many of my colleagues who have a legal background will not agree with me-----

**Senator Ivana Bacik:** True.

**Senator John Kelly:** -----but certainly the people I deal with fully support the idea.

**Senator Mark Daly:** I call for a debate on the growing democratic deficit in the country. Previously I have spoken on the issue of Seanad reform. We are all awaiting the final report of the Minister for the Environment, Community and Local Government on local government reform. Ireland has the lowest level of local representation of anywhere in Europe next to the United Kingdom. Yet we are talking about abolishing town councils, and merging city and county councils. Having served there himself, I am sure the Leader is unhappy about getting rid of Waterford City Council and moving it - as I understand it - to Dungarvan, which will only raise the cost rather than implement reform. It will also result in less public representation in a country that already has the lowest level in Europe.

I ask the Leader for a debate on the report of the local government efficiency review body published in July which made 104 recommendations, giving widespread scope for changes to local government. It is proposed to reform it now without the input of the elected Members of this House or of local government. This group was appointed by a previous Minister, yet these reforms are now being implemented without being analysed to ascertain if they are appropriate for local government in Ireland. When will the Minister for the Environment, Community and Local Government finally publish this reform proposal? How can he defend that we will

continue to lie at the bottom of the European league table when it comes to local democracy?

**Senator Mary Moran:** I add my support to World Mental Health Day. While I acknowledge the support and services available, much more could be done particularly in the area of young people committing suicide and self-harm among those aged under 25. I support the call for an afternoon to be set aside to discuss positive ways in which we can move forward. There have been some great debates on mental health in the Seanad in the past year. I acknowledge the support of the all-party mental health committee which made some excellent suicide awareness demonstrations and presentations in the past year.

While I am aware that the Minister for Health will be in the House this afternoon, I ask the Leader to ascertain when we can expect the second phase of the Walsh report, which was due to be published at the end of September. He might also ask the Minister for Health for an update on the publication of the report on the 35 women left out of the redress scheme for victims of Dr. Michael Neary.

**Senator Maurice Cummins:** Senator MacSharry spoke about the Committee of Public Accounts. What happened there is a matter for that committee.

**Senator Marc MacSharry:** It is a matter of public interest.

**Senator Maurice Cummins:** The Senator should let me finish and I will reply.

**Senator Marc MacSharry:** The Leader should not insult the people of this House with that rubbish.

**An Cathaoirleach:** The Leader, without interruption.

**Senator Maurice Cummins:** The Senator should show me some courtesy - I listened to him.

**Senator Marc MacSharry:** The Leader should have the manners to answer the question.

**An Cathaoirleach:** The Leader, without interruption.

**Senator Ivana Bacik:** Let the Leader reply - "chillax".

**Senator Marc MacSharry:** "Chillax".

**Senator Maurice Cummins:** We will take the Committee Stage of the Health Service Executive (Governance) Bill. The matters the Senator is raising deal with health governance. If he is so interested in the matter, he would have tabled an amendment on Committee Stage - he can still do so on Report Stage if he wishes. I am only trying to point him in the right direction if he listened to me.

Senator Bacik spoke about children's rights and the report of the Ombudsman for Children. After the referendum on the constitutional amendment on children's rights, we can arrange to have a debate on the issue. Senators Bacik and Kelly called for a debate on community policing and street crime. I note Senator Kelly's views, which clearly differ from those of Senator Bacik, on habitual criminals and the issue of free legal aid.

**Senator Rónán Mullen:** Could the Leader not arrange a debate between Senators Kelly and Bacik, and leave the Minister out?

10 October 2012

**Senator Maurice Cummins:** I note Senator Norris's résumé of the television programme dealing with the former President, Ms McAleese, and his comments on the visit of President Higgins to South America.

Senators Mullins, Noone, Conway and Moran highlighted that today is World Mental Health Day. We have had several debates on this very important issue and I am sure we will arrange future debates on it. Especially on the day in question, I am glad that the issue has been raised by the Senators.

Senator Leyden spoke about the Private Security Authority and the surcharge on small business. It is unfortunate that matter was not raised during the two and a half hour debate with the Minister of State with responsibility for small business yesterday. However, the Minister, Deputy Bruton, will come to the House on 6 November for a pre-budget session when Senators can question him on jobs and related issues.

**Senator Terry Leyden:** That is very positive.

**Senator Maurice Cummins:** Senator Whelan spoke about the former Avon Arlington factory in Portarlinton. Laois County Council should deal with the matter under the derelict sites order. The Senator should take the matter up with NAMA, which has a special division dealing with these types of issues. Ultimately as it is a derelict site, Laois County Council should take action against the owner and if the owner is NAMA it should take action against it. I can assure Senator Ó Clochartaigh that the Government has already introduced a balanced budget and will continue to introduce balanced budgets in order to get us out of the present economic mire.

Senators O'Neill, Noone and Conway called for the Minister for Transport, Tourism and Sport to come to House to debate road safety and penalty points. I will try to arrange that with the Minister.

Senator Walsh spoke about good governance. We will be dealing with reform of the health service and good governance in that area after the Order of Business.

Senator Comiskey spoke about the sewerage problems in estates in Longford. The Minister of State with responsibility for housing will be coming to the House in early course and she may be the appropriate person to address those issues.

In response to Senator Hayden, the Minister for Social Protection will be in the House on Thursday next for two and a half hours as part of a series of pre-budget debates with various Ministers. People will have ample opportunity to raise the myriad of social welfare items that have been mentioned on the Order of Business. Perhaps in that debate we can deal with facts rather than the speculation of which we have heard plenty in recent weeks.

Senators Wilson and Daly spoke about local government reform. I understand the Minister will be making an announcement and all will be revealed on the issue next week.

On the issue of education, the Minister will come to the House again for pre-budget statements on 23 October during which I am sure Senators will have many questions on the education sphere.

I note Senator Paul Coghlan's comments on the demise of the Glencullen group which is certainly a blow to the motor trade. Senator Michael D'Arcy spoke about accidents on farms and getting safety information to farmers. It is a very important issue that I will raise with the

Minister for Agriculture, Food and Marine. The Minister was here last week and even if he is not scheduled to be here in the next week or two, we will certainly arrange for that type of information to get to farmers - it is a very serious issue.

I already said that Senator Daly spoke about local government reform. He need have no worries about the status of Waterford city. If he read the terms of reference of the group that was charged with the issue of amalgamation, he would know that it specifically dealt the protection of city status for Waterford.

In addition to dealing with mental health, Senator Moran asked when the Walsh report would be published. I will try to ascertain that for her.

Order of Business agreed to.

*Sitting suspended at 11.30 a.m. and resumed at 11.45 a.m.*

### **Houses of the Oireachtas Commission (Amendment) Bill 2012: Order for Second Stage**

Bill entitled an Act to amend the Houses of the Oireachtas Commission Act 2003 to confer additional functions on the Houses of the Oireachtas Commission; and to provide for related matters.

**Senator Catherine Noone:** I move: That Second Stage be taken now.

Question put and agreed to.

### **Houses of the Oireachtas Commission (Amendment) Bill 2012: Second Stage**

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

**Minister of State at the Department of Arts, Heritage and the Gaeltacht (Deputy Dinny McGinley):** Ar dtús, ba mhaith liom a rá go bhfuil áthas mór orm, mar Aire Stáit sa Roinn Ealaíon, Oidhreachta agus Gaeltachta, an díospóireacht ar an mBille um Choimisiún Thithe an Oireachtais (Leasú) 2012 a thionscnamh i Seanad Éireann inniu. Ba mhaith liom léargas a thabhairt don Teach ar phríomhchuspóirí agus ar phríomhfhorálacha an Bhille agus iad sin a mhíniú i gcomhthéacs an chúlra a bhaineann leis an Bhille. Ina dhiaidh sin, beidh deis ag Baill an Tí seo a dtuairimí a nochtadh faoina bhfuil sa Bhille, agus tá mé ag súil go mór le héisteacht le Seanadóirí ar an ábhar seo. Creidimse gur Bille tábhachtach é seo a mbeidh dea-thionchar aige ar an Ghaeilge sna blianta amach romhainn.

Go hachomair, tá dhá chuspóir leis an Bhille, is iad sin, foráil a dhéanamh maidir le leathnú ar ról Choimisiún Thithe an Oireachtais i ndáil le reachtaíocht a aistriú agus maidir le hathbheithniú tréimhsiúil ar Chaighdeán Oifigiúil na Gaeilge. Déantar foráil leis an Bhille maidir le leasuithe ar na hAchtanna um Choimisiún Thithe an Oireachtais, 2003-2009 i ndáil leis na cuspóirí sin. Ní miste na cuspóirí sin a chur sa chomhthéacs stairiúil a bhaineann leis an ábhar

seo ó thaobh na Gaeilge de.

Ón uair gur bunaíodh an Stát i 1922, tugadh aitheantas ar leith don Ghaeilge mar theanga náisiúnta Saorstát Éireann faoi Bhunreacht 1922 agus mar an phríomhtheanga oifigiúil faoi Bhunreacht 1937. Tá iliomad tagairtí don Ghaeilge déanta i go leor reachtaíochta a bhaineann le réimsí éagsúla den státchóras ó shin i leith, ach go háirithe Acht na dTeangacha Oifigiúla 2003 a chuir tús reachtúil don chéad uair le soláthar sheirbhísí an státchórais go ginearálta trí mheán na Gaeilge. Cé is moite de stádas oifigiúil na Gaeilge faoin Bhunreacht a bhfuil tábhacht ar leith ag baint leis in Éirinn, tugadh stádas don Ghaeilge ar bhonn níos forleithne agus aitheantas mar theanga oifigiúil agus mar theanga oibre don Ghaeilge san Aontas Eorpach sa bhliain 2007. Ciallaíonn sé seo go bhfuil an Ghaeilge áirithe i measc na 23 teanga oifigiúil atá aitheanta ag an Aontas Eorpach. Ní miste a rá go bhfuil an t-aitheantas seo an-tábhachtach i gcomhthéacs teanga atá á labhairt le 2,000 bliain agus atá ar an teanga scríofa is sine san Eoraip atá fós á labhairt mar theanga bheo phobail. Is iad na hiarsmaí is sine atá againn den Ghaeilge ná inscríbhinní ar chlocha Oghaim ón tríú agus ón cheathrú haois. Ó shin i leith, tá an teanga ag síor-athrú ó ré na Sean-Ghaeilge trí ré na Meán-Ghaeilge go ré na Nua-Ghaeilge.

D'fhéadfaí a rá go raibh an cinneadh a tógadh sna 1930dí athrú ón gcló gaelach go dtí an cló rómhánach ar cheann de na cinntí ba thábhachtaí ó thaobh scríobh na Gaeilge de. Ba léir gur aithníodh ag an am an tábhacht a bhain le córas cló a fhorbairt a bheadh áisiúil chun úsáid na Gaeilge mar theanga nua-aimseartha a éascú. Go deimhin, ba sa chló rómhánach a fhoilsíodh an leagan Gaeilge d'Achtanna an Stáit nua ón chéad lá riamh cé go raibh an cló gaelach á úsáid go forleathan ag an am.

Nuair a bunaíodh Saorstát Éireann i 1922, cuireadh seirbhís oifigiúil aistriúcháin an Oireachtais ar bun le haistriú a dhéanamh ar Achtanna Oireachtais. Tá sé beartaithe anois leis an Bhille seo leathnú a dhéanamh ar ról Choimisiún Thithe an Oireachtais i ndáil le haistriú ionstraimí reachtúla. Ba dheas liom an comhthéacs a bhaineann leis seo a mhíniú don Teach.

I Mí na Samhna 2008, cheadaigh an Rialtas ag an am polasaí chun gach ionstraim reachtúil a aistriú go Gaeilge agus aontaíodh go mbunófaí lár-aonad aistriúcháin chun na hionstraimí reachtúla a aistriú. Bunaíodh an t-aonad sa Roinn Gnóthaí Pobail, Tuaithe agus Gaeltachta, mar a tugadh ar mo Roinnse ag an am sin. Ceapadh an polasaí seo ar chomhairle ón Ard-Aighne ag an am i gcomhthéacs chás an Stáit in achomharc chuig an Chúirt Uachtarach. Thóg an Stát an t-achomharc mar thoradh ar chinneadh san Ard-Chúirt go raibh dualgas bunreachtúil ann ionstraimí reachtúla a dhéanfaí i mBéarla a aistriú go Gaeilge. Rinneadh cinneadh na hArd-Chúirte i gcás a thóg an t-atairne, an tUasal Pól Ó Murchú. I mbreithiúnas na Cúirte Uachtaraí i gcás Uí Mhurchú sa bhliain 2010, rialaigh an Chúirt ar son an Stáit ina achomharc. Rialaíodh nach bhfuil aon dualgas ginearálta bunreachtúil ann gach ionstraim reachtúil a aistriú.

I Mí an Mheithimh 2011, chinn an Rialtas seo gur cheart céimeanna a ghlacadh chun seirbhísí aistriúcháin reachtaíochta an Stáit a chomhdhlúthú i dTithe an Oireachtais, a mbeadh freagracht reachtúil orthu as sin amach as reachtaíocht phríomha agus thánaisteach a aistriú. Aistríodh an fhoireann ón lár-aonad aistriúcháin chuig Tithe an Oireachtais níos luaithe i mbliana ar bhonn riaracháin, go dtí go n-achtófar an Bille seo. Níl aon dabht ach go bhfuil ciall agus réasún le cinneadh an Rialtais seirbhísí aistriúcháin an Stáit a chomhtháthú, i gcomhthéacs an bhrú leanúnach atá ar acmhainní tearca an Stáit agus an dualgas atá orainn an leas is fearr a bhaint as na hacmhainní sin.

Maidir le reachtaíocht a aistriú, foráiltear leis an Bhille go n-aistroidh Coimisiún Thithe an

Oireachtais ionstraimí reachtúla a dhéanann Airí nó dreamanna eile seachas Airí, mar shampla comhlachtaí reachtúla, nuair a iarrfaidh Airí orthu déanamh amhlaidh. Foráiltear leis an Bhille freisin go bhféadfaidh Airí, nó daoine seachas Airí, socruithe a dhéanamh go n-aistroidh duine seachas Coimisiún Thithe an Oireachtais ionstraimí reachtúla. Déantar foráil leis an mBille fosta go bhféadfaidh Coimisiún Thithe an Oireachtais socrú a dhéanamh go gcuideoidh daoine seachas comhaltaí foirne le haistriú ionstraimí reachtúla, de réir mar is cuí.

Maidir le costais, foráiltear leis an mBille go bhféadfaidh Coimisiún Thithe an Oireachtais táillí a ghearradh as ionstraimí reachtúla a aistriú. Is iad Ranna Rialtais nó comhlachtaí poiblí eile nach iad a íocfaidh as an chostas a bhaineann leis na hionstraimí a aistriú. Meastar gur €325,000 an costas bliantúil a bhainfeadh le haschur na n-ionstraimí reachtúla a dhéantar in aghaidh na bliana a aistriú. Meastar gur timpeall €3.3 milliún thar thréimhse deich mbliana costas na n-ionstraimí reachtúla atá ar mharthain a aistriú. Beidh sé i gceist leis an múnla beartaithe a leagtar amach sa Bhille go n-aistrefar ionstraimí reachtúla ar éileamh a fháil, cibé acu is ionstraimí reatha iad nó nach ea, agus sin faoi réir na n-acmhainní a bheidh ar fáil.

Ba dheas liom aghaidh a thabhairt anois ar an ghné eile den Bhille a bhaineann le Caighdeán Oifigiúil na Gaeilge. Cé go ndeirtear gur beatha teanga í a labhairt, aithnítear freisin an riachtanas a bhaineann le caighdeánú a dhéanamh ar theanga sa chaoi is go bhfuil treoir údarásach ann faoi cheart úsáid teanga, go háirithe sa litriú agus sa ghramadach. Sa chomhthéacs seo, ní miste an tábhacht a bhain leis an Chaighdeán Oifigiúil, a d'fhoilsigh Rannóg an Aistriúcháin anseo i dTithe an Oireachtais den chéad uair i 1958, a aithint. Mar a dúradh sa réamhrá leis an chéad eagrán, is “caighdeán le haghaidh gnóthaí oifigiúla agus mar threoir do mhúinteoirí agus don phobal i gcoitinne” a bhí ann.

*12 o'clock*

Leanadh roinnt buntreoracha agus an Caighdeán Oifigiúil á chur i dtoll a chéile, is iad sin, tugadh rogha de na leaganacha ba fhorleithne a bhí in úsáid sa Ghaeltacht. Tugadh an tábhacht ba dhual do stair agus do litriocht na Gaeilge agus lorgaíodh an rialtacht agus an tsimplíocht sa Chaighdeán Oifigiúil. Cé nach lia duine ná tuairim faoin Chaighdeán Oifigiúil, ach go háirithe lucht labhartha na gcanúintí éagsúla, níl aon dabht ach gur thug sé rialtacht agus soiléireacht san áit a raibh mírialtacht agus doiléire roimhe sin. Mar iarmhúinteoir, aithním féin an tábhacht a bhaineann leis sin, sa chóras oideachais ach go háirithe.

Ar ndóigh, ach an oiread le haon teanga eile, tá an Ghaeilge ag síor-athrú agus ní miste dúinn a bheith airdeallach ar na himpleachtaí a bhaineann leis sin do chaighdeán oifigiúil na teanga. Sa chomhthéacs sin, thóg an Rialtas a bhí i gcumhacht ag an am cinneadh i Mí na Samhna 2008 go ndéanfaí athbhreithniú ar an Chaighdeán Oifigiúil. Bunaíodh coiste stiúrtha de shainolaithe faoi choimirce na Roinne Gnóthaí Pobail, Tuaithe agus Gaeltachta, mar a tugadh air ag an am, chun tabhairt faoin athbhreithniú seo a críochnaíodh i Mí an Mheithimh 2011. Mar Aire Stáit, teastaíonn uaimse buíochas a ghabháil leis an choiste stiúrtha a thug faoin obair fhiúntach seo le díograis agus le dúthracht. Tá obair thábhachtach déanta acu.

Mar is eol don Teach, tá dul chun cinn déanta ó shin i leith maidir leis an Chaighdeán Oifigiúil. Tar éis don Rialtas teacht i gcumhacht, tógadh cinneadh i Mí an Mheithimh 2011 go dtabharfaí feidhm reachtúil do Rannóg an Aistriúcháin i dTithe an Oireachtais d'fhoilsiú agus d'athbhreithniú tréimhsiúil an Chaighdeán Oifigiúil. Ó shin i leith, tá leagan nuashonraithe den Chaighdeán Oifigiúil, An Caighdeán Oifigiúil: Caighdeán Athbhreithnithe, foilsithe ag Rannóg an Aistriúcháin i dTithe an Oireachtais i mbliana. Ina theannta sin, i gcomhréir le mianta an

Rialtais, tá torthaí an athbhreithnithe ar an Chaighdeán Oifigiúil, a rinne an coiste stiúrtha faoi choimirce mo Roinnse, curtha faoi bhráid Thithe an Oireachtais le hiarratas go dtógfaí san áireamh iad sa chéad athbhreithniú eile ar an Chaighdeán Oifigiúil. Dá bhrí sin, ní féidir le haon duine a mhaíomh go bhfuil obair luachmhar an choiste stiúrtha curtha ar leataobh. Tá iarratas déanta ag mo Roinnse ar Thithe an Oireachtais torthaí an athbhreithnithe ag an Choiste Stiúrtha a thógáil san áireamh sa chéad athbhreithniú eile ar an Chaighdeán Oifigiúil. Ní miste a nótáil go bhfuil sé ráite sa réamhrá leis an leagan nuashonraithe den Chaighdeán Oifigiúil go ndéanfar athbhreithniú arís air faoi cheann trí bliana, is é sin sa bhliain 2015.

Ba mhaith liom an deis a thapú chun a mhíniú go soiléir cén fáth nár fhoilsigh an Rialtas na moltaí a bhí déanta ag an choiste stiúrtha. Cé go ndearnadh athbhreithniú ar an chaighdeán faoi choimirce mo Roinnse, bhí moltaí an athbhreithnithe sin le cur faoi bhráid an Rialtais sula bhféadfaí iad a fhoilsiú. Mar a tharlaíonn, bhí obair an choiste stiúrtha críochnaithe i Mí an Mheithimh 2011 agus thóg an Rialtas cinneadh an mhí sin nach mbeadh ach caighdeán oifigiúil amháin ann agus go mbeadh an fheidhm reachtúil maidir leis seo ar Choimisiún Thithe an Oireachtais.

Tá sé thar a bheith tábhachtach a bheith soiléir faoi na gnóthaí seo, ní hamháin i gcomhthéacs na hÉireann ach i gcomhthéacs na hEorpa chomh maith, áit a bhfuil na hinstitiúidí Eorpacha ag plé le reachtaíocht an Aontais Eorpaigh a aistriú go Gaeilge i gcomhréir leis an díolúine don Ghaeilge atá i bhfeidhm san am i láthair. Mar Aire Stáit, creidimse go bhfuil sé an-tábhachtach a chinntiú nach bhfuil ach caighdeán oifigiúil amháin ann don teanga; go bhfuil soiléireacht ann maidir leis an fhreagracht reachtúil don chaighdeán agus go bhfuil próiseas ar leith ann chun athbhreithniú a dhéanamh ar an chaighdeán. Tá sé sin go léir déanta faoi fhorálacha an Bhille seo.

Faoin Bhille, déantar leasú ar an Acht um Choimisiún Thithe an Oireachtais 2003 chun foráil a dhéanamh maidir leis an sainmhíniú ar an Chaighdeán Oifigiúil, is é sin caighdeán oifigiúil na Gaeilge atá le húsáid sa reachtaíocht phríomha agus sa reachtaíocht thánaisteach agus mar an treoir le haghaidh scríbhneoireachta sa Ghaeilge. Ina theannta sin, déantar foráil leis an Bhille chun feidhm reachtúil a thabhairt do Choimisiún Thithe an Oireachtais d'fhoilsiú agus d'athbhreithniú tréimhsiúil an Chaighdeáin Oifigiúil uair amháin gach seacht mbliana ar a laghad. Chomh maith leis sin, ceanglaítear leis an mBille ar Choimisiún Thithe an Oireachtais, le linn dó athbhreithniú a sheoladh ar an Chaighdeán Oifigiúil, dul i gcomhairle leis na hAíre Ealaíon, Oidhreacht agus Gaeltachta, Oideachais agus Scileanna agus Dlí agus Cirt agus Comhionannais, agus le páirtithe eile a bhfuil spéis acu ann agus leis an phobal i gcoitinne. Faoin Acht um Choimisiún Thithe an Oireachtais, 2003, tá an chumhacht ag an choimisiún coistí a bhunú. Foráiltear leis an Bhille go bhféadfaidh Coimisiún Thithe an Oireachtais saineolaithe seachtracha a cheapadh chun coiste den sórt sin le linn athbhreithniú a sheoladh ar an Chaighdeán Oifigiúil.

Is éard atá sa Bhille seo ná iarracht dhá rud a chur ina cheart. Le bunú an lár-aonaid aistriúcháin i mo Roinnse le linn tréimhse oifige an Rialtais dheiridh, chiallaigh sé go raibh dhá rannóg Stáit ag plé le haistriú reachtaíochta, Rannóg an Aistriúcháin i dThithe an Oireachtais agus an lár-aonad aistriúcháin faoi chúram mo Roinne. Cuirfidh achtú an Bhille seo seirbhís aistriúcháin reachtaíochta an Stáit faoin aon díon amháin, is é sin Rannóg an Aistriúcháin de chuid Thithe an Oireachtais. Chomh maith leis sin, ceapadh coiste stiúrtha, arís le linn tréimhse oifige an Rialtais dheiridh, le hathbhreithniú ar an Chaighdeán Oifigiúil a stiúradh faoi chúram an lár-aonaid aistriúcháin de chuid mo Roinnse, cé go raibh Rannóg an Aistriúcháin de chuid an Oireachtais ag tabhairt faoin obair chéanna ó 1958 i leith. Arís, le hachtú an Bhille seo, beidh

an obair seo ag titim faoin aon díon amháin, is é sin Rannóg an Aistriúcháin de chuid Thithe an Oireachtais.

Sílim gur céim chun cinn tábhachtach atá sa Bhille seo ar mhaithe le ceart úsáid na Gaeilge a thabhairt slán don chéad ghlúin eile. Táim ag súil go mbeidh páirtithe leasmhara na Gaeilge agus lucht úsáide na Gaeilge toilteanach tacaíocht a thabhairt don chur chuige seo a rachaidh chun sochair don Ghaeilge. Cé go gcuirtear go leor béime ar an teanga labhartha sa lá atá inniu ann, tuigfidh Baill an Tí seo go bhfuil tábhacht ar leith ag baint leis an bhfocal scríofa inár dteanga dhúchais. I bhfianaise an aitheantais bhunreachtúil atá ag an Ghaeilge agus stádas na teanga san Aontas Eorpach, tá tábhacht ar leith ag baint le caighdeán oifigiúil amháin a bheith ag an teanga gur féidir a úsáid sa reachtaíocht phríomha agus sa reachtaíocht thánaisteach agus mar an treoir le haghaidh scríbhneoireachta sa Ghaeilge. Mar thoradh ar fhorálacha an Bhille seo, níl aon cheist i m'intinn ach go mbeidh ceart úsáid na Gaeilge i gcomhréir leis an Chaighdeán Oifigiúil níos soiléire do lucht scríofa na teanga agus gur dul chun cinn ar mhaithe leis an teanga é sin.

Molaim an Bille seo don Teach.

**Senator Brian Ó Domhnaill:** Ba mhaith liom fáiltiú roimh an Aire Stáit, an Teachta Donnchadh Mac Fhionnlaoich, agus roimh fheidhmeannaigh na Roinne go dtí an Teach chun plé a dhéanamh ar Dhara Chéim an Bhille. Tá mé ag labhairt inniu thar ceann úrlabhraí Fhianna Fáil ar chúrsaí Gaeltachta, an Seanadóir Labhrás Ó Murchú, de bhrí nach bhfuil sé in ann a bheith anseo inniu.

Tá lúcháir orm a bheith anseo chun labhairt ar an mBille, maraon le cúrsaí Gaeilge go ginearálta sa Teach agus sa saol taobh amuigh. Tá an Ghaeilge agus todhcháí na Gaeilge fíor thábhachtach don Stát agus do mhuintir na tíre. Cé go dtig leis an Stát comhairle agus tacaíocht a thabhairt chun an Ghaeilge a labhairt agus na struchtúir éagsúla a chur i bhfeidhm, mothaím go bhfuil sé suas do phobal na tíre féin an cinneadh a ghlacadh an Ghaeilge a labhairt. Tá a fhios agam go bhfuil tacaíocht ar fáil do pháistí atá ag dul isteach go dtí gaeilscoileanna agus a leithéid, agus is buntáiste mór é sin don chéad ghlúin eile.

Mar adúirt an tAire Stáit, tá go leor oibre déanta i dtaca leis an Ghaeilge a cur chun cinn le roinnt blianta anuas. Tá Acht na dTeangacha Oifigiúla 2003 ann agus tá an Ghaeilge aitheanta mar theanga oifigiúil ag an Aontas Eorpach. Is buntáiste mór an t-aitheantas sin don Ghaeilge mar cheann de 23 theanga oifigiúla san Aontas. Chomh maith leis sin tá an Straitéis 20 Bliain don Ghaeilge ann, ina bhfuil spriocanna éagsúla leagtha amach a gcaithfear a bhaint amach. Mar shampla, tá sé mar sprioc sa straitéis go mbeidh méadú ar líon na gcainteoirí Gaeilge laethúla sa tír ó 83,000 go dtí 250,000, go mbeidh 20% sa bhreis de phobal na Gaeltachta ag labhairt Gaeilge go laethúil agus go mbeidh seirbhísí Stáit ar fáil do dhaoine atá ag iarraidh a gcuid gnó a dhéanamh i nGaeilge. Tá go leor oibre déanta maidir le teilifís, raidió agus na meáin chlóite agus tá buíochas tuillte ag TG4, ach go háirithe, as an obair atá déanta, agus atá ar siúl go leanúnach, ag an stáisiún leis an Ghaeilge a dhéanamh “cool” do phobal óg na tíre. Tá buíochas tuillte ag Raidió na Gaeltachta, ag *Foinse* agus ag a leithéid sin fosta.

Tá sin go léir tábhachtach chun a chinntiú go bhfuil an Ghaeilge amuigh ansin agus nuair a chuirtear an teilifís ar siúl, go bhfuil rogha a bheith ag éisteacht le stáisiún Gaeilge in áit a bheith ag éisteacht le stáisiún Béarla. Is rogha iontach é sin agus tá sé ina bhuntáiste mór, go háirithe leis na cláir éagsúla atá ar fáil ag TG4.

Ó thaobh na hoibre atá ar siúl ag an Stát, caithfidh an Stát a bheith ansin le cosaint a thabhairt don Ghaeilge agus le cinntiú go bhfuil na scéimeanna atá ar fáil ag an Stát in ann daoine a mhealladh i dtreo na Gaeilge. Tá deireadh curtha le scéim labhairt na Gaeilge ach tuigtear dom go mb'fhéidir go bhfuil i gceist scéim úr a chur i bhfeidhm. Tá na campaí samhraidh agus a leithéid ag tabhairt na daoine óga i dtreo na Gaeilge. Conas is féidir duine a mhealladh i dtreo na Gaeilge le hairgead a thabhairt dó ach tá sé tábhachtach ag an am céanna go mbeadh airgead curtha ar fáil leis na scéimeanna sin a chur i bhfeidhm sa dóigh go mbeidh struchtúr Stáit ansin.

Moltar sa Bhille dualgas aistriúcháin a dhéanamh ar Bhillí agus ar ionstraimí reachtúla a aistriú ón Roinn Ealaíon, Oidhreacht agus Gaeltachta go dtí Choimisiún Thithe an Oireachtais. An bhfuil an tAire Stáit iomlán sásta go bhfuil Rannóg an Aistriúcháin in ann an dualgais sin a chomhlíonadh faoin mBunreacht agus faoin dlí in Acht na dTeangacha Oifigiúla, maidir le Billí agus ionstraimí reachtúla? An bhfuil Rannóg an Aistriúcháin in ann na hoibre sin a dhéanamh?

Tá cúlra an Bhille soiléir. Bhí cás cúirte ann agus tugadh breithiúnas i Mí Bealtaine 2010 nach raibh dualgas ar an Stát na hionstraimí reachtúla go léir a aistriú go Gaeilge. Ina dhiaidh sin, agus ag rith leis ag an am céanna ó 2008, bhunaigh an Rialtas roimh ré coiste stiúrtha a raibh saineolaithe, cainteoirí dúchasacha, múinteoirí agus aistritheoirí air. Bhí na daoine sin ag obair go deonach ag iarraidh teacht aníos le tuairisc agus le polasaí don Roinn a bhfuil an tAire Stáit anois i gceannas air. Tá tagairt déanta don obair a rinne an coiste sin ach ní fheictear dom cén fáth nach bhfuil an obair sin ar fáil sa Roinn nó do Bhaill an Oireachtais. Má tá tuarascáil ann, bheadh sé tábhachtach an tuarascáil sin a fhoilsiú sula rachadh an Bille tríd Tithe an Oireachtais, go bhfeicfimis cad atá ann. Níl aon eolas agam ar cad atá sa tuarascáil ach sula dtabharfaimis dlí úr isteach, bheadh sé tábhachtach an tuarascáil sin a fheiceáil. Cad iad na moltaí atá sa tuarascáil? An bhfuil an coiste ag moladh go ndéanfar an obair seo ar dhóigh dhifriúil nó nach dtabharfaí an cúram do Choimisiún Thithe an Oireachtais? Níl an t-eolas agam. Ceist atá agam níos mó ná rud ar bith eile.

Dúirt an tAire Stáit go bhfuil buíochas mór tuillte ag na daoine a bhí ag obair ar an gcoiste sin, agus tá sin fíor. Rinne siad cuid mhór oibre. Níl an Ghaeilge cosúil leis an mBéarla. Thig liomsa dul go Ciarraí, go Corcaigh nó go Conamara agus Béarla a labhairt agus tá na focail céanna, chóir a bheith, ag gach aon duine. I nGaeilge, áfach, tá difríocht mhór ann. Bíonn daoine go minic ag rá liomsa go bhfuil mé ag caint ró-ghasta agus i nGaeilge Ulaidh. Tá difríochtaí idir na canúintí. Go minic, nuair atá duine ag caint le múinteoir, mar shampla, deirtear gur Gaeilge oifigiúil atá sna téacsleabhair agus ní an ghnáth Ghaeilge. Léim féin ag an Aifreann i Mí Iúil i gcónaí. Bíonn ar na sagairt an Ghaeilge a fhaigheann siad a aistriú isteach go Gaeilge áitiúil sa dóigh go mbeidh an pobal in ann í a dhéanamh amach níos fearr ná an Ghaeilge oifigiúil. Tá difríochtaí ann.

An raibh ceist na gcanúintí ar chuid den méid a bhí á fhiosrú ag an gcoiste stiúrtha? B'fhéidir go raibh moltaí maithe aige. Níl a fhios againn an raibh siad maith nó nach raibh mar nach bhfuil an tuarascáil ar fáil, de réir cosúlachta. Ach tá sé tábhachtach machnamh a dhéanamh ar an obair sin agus é sin a dhéanamh ag an pointe seo, má táimid chun buíochas ceart a thabhairt don choiste agus obair an choiste a chur san áireamh, má tá an obair substaintiúil go leor chun é sin a dhéanamh.

Tugadh cuireadh do Choimisiún Thithe an Oireachtais a bheith ar an gcoiste ach diúltaíodh don chuireadh. Cén fáth a rinneadh é sin? Beidh cead tugtha do Choimisiún Thithe an Oireachtais saineolaithe ón taobh amuigh a thabhairt isteach le h-athbhreithniú a dhéanamh agus le tacaíocht a thabhairt don obair atá le déanamh ar an gCaighdeán Oifigiúil, agus beidh

sé seo á dhéanamh idir seo agus an chéad am eile a bhéas an Caighdeán Oifigiúil á fhoilsiú. Tá an Caighdeán Oifigiúil úr amuigh. Leabhar galánta atá ann agus tá cuid mhór oibre déanta ag Coimisiún Thithe an Oireachtais le seo go léir a tharraingt le chéile. Níl mé ag tarraingt ceiste ar bith ar obair an choimisiúin, ach b'fhearr gan obair an choiste stiúrtha a fhágáil ar leataobh. Cén fáth nach bhfuil sin á chur san áireamh ins an Bhille?

Tá sé ráite go mbeidh an chéad leagan den Chaighdeán Oifigiúil á fhoilsiú i gceann seacht mbliana.

**Deputy Dinny McGinley:** I gceann trí bliana.

**Senator Brian Ó Domhnaill:** Deirtear go gcuirfear obair an choiste san áireamh ag an am sin. B'fhéidir go bhfuil réasún éagsúil leis sin. Sin na ceisteanna atá agam. Ní raibh mé in ann a bheith i láthair ag an gcruinniú faisnéise sa Roinn aréir.

Má chreidimidne i bhFianna Fáil go bhfuil an Rialtas ag déanamh rud a chuideoidh leis an Ghaeilge, béarfaimid iomlán tacaíochta dó. Má chuidíonn beart an Rialtais le daoine i dtaobh iad a spreagadh chun an Ghaeilge a labhairt agus tacaíocht a thabhairt dóibh, caithfimid go léir ár hataí polaitiúla a fhágáil taobh amuigh den Teach agus tacaíocht iomlán a thabhairt do sin. Níl mé ag ceistiú rud ar bith anseo ach ba mhaith liom a fháil amach cad é a tharla do thuarascáil an choiste stiúrtha. An t-eolas atá agam ná go raibh sé beagnach réidh le foilsiú nuair a bhí obair an choiste réidh i Mí an Mheithimh 2011, níos mó ná bliain ó shin. Cén fáth nár fhoilsíodh an tuarascáil sin? B'fhéidir go gcuideoidh sé linn na smaointe go léir a bheith againn chun an obair a tharraingt le chéile níos fearr. Go raibh maith ag an Aire Stáit agus ag feidhmeannaigh na Roinne as a bheith anseo.

**Senator Catherine Noone:** I will save the translation service effort today by delivering what I have to say in English. I think I should get brownie points for making it more efficient.

**Senator Brian Ó Domhnaill:** Cailín dána.

**Senator Rónán Mullen:** Níl sé sin mar pháirt d'obair an tSeanadóra.

**Senator Catherine Noone:** I welcome the Minister of State to the House. He is a regular visitor to the Seanad. We always like to see him here. As he has said, the Houses of the Oireachtas Commission (Amendment) Bill 2012 is a relatively straightforward Bill. The obvious goals of the legislation are to introduce greater efficiency, to save money, which we really need to do, and to consolidate the records and standards used when Irish-language translations are done, thereby ensuring such translations are more consistent.

The previous Government decided in November 2008 to approve the translation into Irish of all statutory instruments. That decision also established the central translations unit and led to a review of the official standard for Irish. Subsequently, in June 2011, the current Government said there was a need to begin to consolidate translation services within the Houses of the Oireachtas. Obviously, we have arrived at that point now that we are considering this legislation. The aim is to ensure there is consistency among the consolidated translation services. The new unit within the Houses of the Oireachtas will have statutory responsibility for translating primary and secondary legislation and ensuring the official standard for Irish is reviewed not less than once every seven years. Staff from the central translation unit have transferred to the Oireachtas pending the enactment of this sensible legislation.

Therefore, the two primary purposes of this Bill are to expand the role of the Houses of the Oireachtas Commission by allowing it to assume functions previously held by the central translation unit, in terms of translating primary or secondary legislation, and to guarantee that the official standard for Irish - an caighdeán oifigiúil - is reviewed periodically. In any debate on this legislation, it needs to be emphasised that significant savings will be achieved on foot of it. We often talk here and in the Dáil about the need for public reform and the importance of getting more for less and achieving greater efficiencies. In its own small way, this Bill will do precisely that. It is envisaged that a financial saving will arise in the short to medium term from the consolidation of functions. It should also be mentioned that the introduction of consistency, in terms of having an official single standard of Irish, is needed and should be uncontroversial.

This Bill contains a number of provisions relating to the translation of legislation. It provides for the Houses of the Oireachtas Commission to translate statutory instruments made by Ministers, or by people other than Ministers when requested by Ministers to do so. Similarly, it provides that Ministers may make arrangements, if they so wish, for the translation of statutory instruments other than by the Houses of the Oireachtas Commission. The commission can arrange for people other than staff members to assist in the translation of statutory instruments as it considers appropriate. The Bill will allow the commission to charge fees for the translation of statutory instruments. This could mean that we will be able to cater for the amount of legislation that is before the Houses at a given time. A serious amount of legislation is coming through at the moment. The model proposed in the Bill will involve the translation of statutory instruments on demand, subject to the availability of resources, with Departments or other public bodies paying for the cost of the service.

The second part of the Bill relates to caighdeán oifigiúil na Gaeilge. It provides for the publication of an caighdeán oifigiúil by the Houses of the Oireachtas Commission at least once every seven years. This will ensure there is a consistent and evolving standard that takes account of any changes in the intervening period. Similarly, the Bill also provides that when the Houses of the Oireachtas Commission is conducting a review of an caighdeán oifigiúil, it should consult the Ministers for Arts, Heritage and the Gaeltacht, Education and Skills, and Justice and Equality, as well as interest groups and the public, to ensure there is a wide consultative process in relation to the language. I believe this is a healthy step. It is important that we include as many groups as possible in the procedure. Given the two major points covered in this legislation, I suggest it should be seen for what it is - a straightforward Bill that will ensure greater efficiency in how we handle translation and greater consistency in how our legislation is translated. Ultimately, it will ensure that the translation processes receive the resources needed to do the job effectively.

**Senator Rónán Mullen:** Ba bhreá liom cúpla rud a rá agus ceist nó dhó a chur. Cuirim fáilte roimh an Aire Stáit. Is léir go bhfuil Bille ciallmhar os ár gcomhair. Cinnteoidh an deariarachán seo go mbeidh seirbhís lárnach ar fáil agus nach mbeidh aon easaontas nó amhras faoin gcaighdeán. Tá an ceart ar fad aige gur chóir go mbeadh foinse amháin údarásach ann ó thaobh caighdeán na Gaeilge de. Cé go raibh sé aisteach, tuigim na cúiseanna go raibh an ionad aistriúcháin sa Roinn Ealaíon, Oidhreacht agus Gaeltachta, nó an Roinn mar a bhí sí. Is léir go bhfuil sé ciallmhar go mbeidh gach rud lárnaithe i Rannóg an Aistriúcháin de chuid Coimisiún Tithe an Oireachtais amach anseo.

Is mian liom cúpla ceist a chur ar an Aire Stáit. I mo thuairim, mar ghnáth-Bhall an Oireachtais, ba cheart go mbeadh daoine in ann teacht ar aistriúcháin Gaeilge de reachtaíocht atá ag dul tríd na Tithe. Ní maith an rud é go bhfuil moill mór ann faoi mar atá sé. Deirtear

liom go bhfuil go leor Achtanna an Oireachtais nach bhfuil aistriithe go fóill. Níl sé sin inghlactha i gcomhthéacs seasamh oifigiúil na teanga sa Bhunreacht agus an aidhm atá againn uilig sa tír seo an Ghaeilge a chur chun cinn. Is bocht an scéal é, i ndáiríre, más féidir a rá nach bhfuil aistriúcháin déanta cheana féin ar go leor Achtanna an Oireachtais, gan trácht ar ionstraim reachtúla.

An tseachtain seo caite, nuair a bhí mé ag ullmhú don díospóireacht ar an mBille a chur tús leis an reifreann faoi chearta na bpáistí, rinne mé iarracht aistriúcháin Ghaeilge ar frása nó dhó sa leagan Béarla a fháil. Ba léir nach raibh aon leagan Gaeilge ann. Go bhfios dom - má tá dul amú orm, is féidir leis an Aire Stáit é sin a rá - ní féidir linn mar pholaiteoirí teacht ar leagan Gaeilge de reachtaíocht ag an bpointe tábhachtach nuair atá cur agus cúiteamh faoi bhrí na reachtaíochta, agus na hathruithe gur chóir a dhéanamh, ar siúl againn. Níl a fhios agam céard a tharlaíonn i dTionól Náisiúnta na Breataine Bige. B'fhéidir go bhfuil a fhios ag an Seanadóir Ó Clochartaigh cad a tharlaíonn ann.

Má tá polasaí dátheangach le bheith ann, ba chóir go mbeadh sé soiléir go bhfuil daoine dáiríre faoi. Ní dóigh liom go bhfuil sé ciallmhar nó inghlactha nach bhfuil leagan Gaeilge de Bhillí ar fáil nuair atá siad á phlé ag polaiteoirí. Déantar go leor rudaí. Is dócha go raibh aistriúcháin ó Bhéarla go Gaeilge ar fáil inniu nuair a bhí an tAire Stáit ag caint. Bíonn sé ar fáil sa Dáil freisin. Is é an coincheap laistiar de sin ná gur chóir go mbeadh polaiteoirí in ann a gcuid gnó a dhéanamh agus rudaí a mholadh trí Ghaeilge. Ba cheart go mbeadh siad in ann díospóireachta trí mheán na Gaeilge a bheith acu nuair atá siad ag iarraidh athruithe a dhéanamh ar ghnéithe reachtaíochta. Muna bhfuil an reachtaíocht atá á phlé ar fáil i nGaeilge, tá sé ar nós gur cuma leis an Rialtas. Caithfear breathnú ar an ghné sin den cheist. Tá a fhios agam go bhfuil seo casta agus go gcuirfidh sé leis an t-ualach ar an Stát Seirbhís. Dá mbeadh reachtaíocht á h-ullmhú le plé sa Dáil agus sa Seanad, bheadh gá le hathruithe le go mbeadh leagan Gaeilge ar fáil don reachtaíocht sin ag an bpointe sin. Má táimid dáiríre faoi dhátheangachas agus faoi chomhionannas do lucht na Gaeilge, lucht úsáidte na Gaeilge agus lucht an Bhéarla, ba chóir, le bheith gairmiúil faoi, go mbeadh leagan Gaeilge den reachtaíocht ar fáil ag an bpointe sin.

Tuigim ón méid atá ráite gur éirigh an coiste saineolaithe as a gcuid oibre i Mí an Mheithimh 2011. Séard atá á dhéanamh ag an reachtaíocht seo anois ná féachaint chuige go mbeidh gach rud faoi Rannóg an Aistriúcháin. Fuair an tAire Stáit tuairisc ó na saineolaithe i Mí an Mheithimh na bliana seo caite. Cén fáth mar sin ar foilsíodh an leagan nua den Chaighdeán Oifigiúil le déanaí? Fuairamar uilig sa phost inmheánach é. Os rud é go bhfuair an tAire Stáit toradh ón choiste saineolaithe i 2011, cén fáth nár tógadh na moltaí sin san áireamh ag an bpointe sin, sular cuireadh an t-eagrán seo i gcló le déanaí? Feicim go mbeidh leagan nua den Chaighdeán ar fáil laistigh de thrí bliana agus go gcuirfear na moltaí sin san áireamh. B'fhéidir nach dtuigim i gceart é, ach má bhí na moltaí réidh i lár na bliana seo caite, cén fáth nár tógadh san áireamh iad roimhe seo, sular cuireadh an leabhar nua seo i gcló le déanaí agus sular caitheadh an t-airgead uilig a bhain leis? Bheinn buíoch don Aire Stáit dá mbeadh sé in ann cabhrú liom sin a thuiscint.

D'éist mé leis an méid a bhí le rá ag an Seanadóir Brian Ó Domhnaill maidir leis na sagairt a bheith ag imeacht ón gcaighdeán oifigiúil. Is dócha dá mbeadh an Pápa Benedict anseo, bheadh sé ag rá: "Tuigim do chás". Its ridiculous to think of na sagairt ag imeacht ón gcaighdeán oifigiúil. Ach, is dócha go mbeidh an teannas sin ann i gcónaí idir An Caighdeán Oifigiúil agus an Ghaeilge mar a labhartar í agus na canúintí éagsúla agus mar sin de. Mar dhuine a d'fhoghlaim go leor de mo chuid Gaeilge sa scoil, ní bheadh an scolaíocht éasca dúinn muna mbeadh An Caighdeán ar fáil dúinn.

10 October 2012

Tréasláim leis an Aire as an méid atá déanta anseo. Creidim go bhfuil sé ciallmhar. Ba bhreá liom go mbeadh na hacmhainní cuí ar fáil do Rannóg an Aistriúcháin le gur féidir leo déileáil leis an riaráiste agus le gur féidir leo cur le próiseas óna mbeidh amach anseo leagan Gaeilge de reachtaíocht ar fáil ag an bpointe ag a bhfuilimid á phlé. Dála an scéil, luaitear anseo go mbeidh sé de chead leagan nó aistriúchán a fháil in áiteanna eile. Conas a tharlóidh sé sin? I measc na moltaí, deirtear go mbeidh Airí, nó daoine seachas Airí, in ann a chinntiú go mbeidh reachtaíocht nó ionstraim reachtúla déanta seachas ag Rannóg an Aistriúcháin. Cé a bheadh i gceist ansin agus cén seasamh a bheadh ag na haistriúcháin sin?

**Senator James Heffernan:** Cuirim fáilte roimh an Aire Stáit ar ais go dtí an Teach. Ar dtús, déanaim comhghairdeas leis an Aire Stáit, leis an Seanadóir Ó Domhnaill agus le muintir Thír Chonaill agus Dún na nGall agus leis an fhoireann peile ar fad. Bhí bua mór acu cúpla seachtain ó shin agus is dóigh liom go bhfuil na tinte chnámh fós ar lasadh ar na cnoic agus na sléibhte.

The Minister of State spoke about the importance of the Irish language in the Constitution and in its recognition by the European Union as an official language. While the Bill is short and technical, it addresses the issue that there must be one standard of Irish on which we can all agree. The standards for Irish have changed consistently since those who spoke the language first came to our shores. It is common for any spoken or modern language to go through a certain degree of change. I found the Minister of State's reference to the change in the typeface in the 1930s very interesting. The typeface at the time was very attractive and distinctive and I am sure its demise was lamented by many. I was not aware that change had happened in the 1930s. An uncle of mine has experience of that typeface, but I doubt he attended teacher training in the 1930s. If he did, he is a lot older than I thought.

With regard to the Bill, because of the infinite wisdom of the previous Government and the previous Minister, Deputy Éamon Ó Cuív, the central translations unit was established. The Minister of State has explained why this was done and that it resulted in two units of the State being involved in the translation of legislation. Often, when two groups are moving in the same direction, they follow different signposts and arrive in different ways. What the Minister of State is attempting to do is right. He is trying to ensure everybody is on the one road and that people are not moving in different directions. I am sure the learned scholars, to whom Senator Brian Ó Domhnaill referred, who work in the central translations unit and on the steering committee do and have done good work, as the Minister of State has acknowledged.

I believe the report to which Senator Brian Ó Domhnaill referred is online, although I stand to be corrected on this. I gather from the Minister of State that he has given a commitment that the recommendations made by that group and the steering committee will not be swept under the carpet. He has given guarantees that the recommendations made by the expert group will be taken into consideration when An Caighdeán Oifigiúil is reviewed in three years time. That is welcome. However, as we have seen in the past, there is significant duplication in various Departments. Therefore, I am glad the Minister of State has taken the initiative, as we cannot have different groups doing the same job. That does not make sense in the circumstances in which we find ourselves.

I commend the Minister of State for bringing forward this legislation which we fully support.

**Senator Trevor Ó Clochartaigh:** Cuirim fáilte roimh an Aire Stáit arís. Geallaim nach

mbeidh mé ag siúl amach inniu air fad agus atáimid ag plé an Bhille seo. Fáiltím roimh an Bhille go ginearálta. Tá go leor rudaí le moladh agus tá moltaí agam le cur leis agus bheinn sásta dá n-éistfeadh an tAire Stáit leo agus iad a thógáil ar bord. Fáiltím roimh na feidhmeannaigh ón Roinn chomh maith a rinne cur i láthair cuimsitheach aréir dúinn ar an méid atá sa Bhille. Cé go bhfuil an Bille beag, tá sé iontach tábhachtach.

Ní aontóinn leis an Seanadóir Ó Domhnaill. Thagair sé don am nuair a thagann muintir Thír Chonaill go Conamara agus labhraíonn siad Béarla ann agus go dtuigimid ar fad a chéile. Ní tharlaíonn sin an t-am ar fad. An rud faoin chaighdeán dar liom ná go bhfuil sé ann maidir le gnóthaí oifigiúla an Stáit trí mheán na Gaeilge. Tá caighdeán againn sa Bhéarla, sa Fhraincis, sa Iodáilis má tá duine ag scríobh litir fhoirmeálta nó ag déanamh Achta a bhaineann le Tithe an Rialtais. Ní mór dó bheith sa chaighdeán oifigiúil a bhaineann le hobair oifigiúil an Stáit. Sin an tuiscint atá agam ar an gcaighdeán oifigiúil. Ní chuireann sé sin cosc ar bith orainn ár gcuid canúintí a úsáid agus is breá an rud na canúintí a chloisteáil i nGaeilge agus i mBéarla sa tír seo. Tá saibhreas an Bhéarla sa tír seo ó thaobh canúna atá aitheanta go hidirnáisiúnta ó thaobh na litríochta agus mar sin. Ní dóigh liom gur féidir linn a rá fiú ó thaobh an Bhéarla de go labhraímid an teanga chéanna sna ceantair éagsúla. Go deimhin, labhraímid Béarla difriúil i mbeagnach chuile contae in Éirinn agus tá sé tábhachtach a aithint ó thaobh an chaighdeáin de go mbaineann sé le hobair oifigiúil Stáit a dhéanamh. Tá sé tábhachtach sa chás sin go mbeimis soiléir ar céard é an caighdeán oifigiúil ó thaobh na Gaeilge de.

Tá an-obair déanta ag an gcoiste a bhí ag obair faoi scáth na Roinne ar an chaighdeán. Bhí daoine ansin a rinne obair dheonach agus tá siad le moladh go mór as ucht na hoibre sin. Impím ar an Aire Stáit go gcaithfear na moltaí atá déanta acu a thógáil ar bord sa Chaighdeán Oifigiúil. Níl a fhios agam cén phlé a bhí ann idir Rannóg an Aistriúcháin anseo agus an coiste go dtí seo ach mholfaínn gur chóir go mbeadh cruinnithe idir an dá dhream leis an méid oibre a bhí déanta a thógáil ar bord agus a chur san áireamh. Cé go mbeidh an caighdeán oifigiúil againn ó thaobh obair Stáit, nílimid ag iarraidh nach mbeadh muid in ann ach oiread roinnt de shaibhreas na teanga ó thaobh na Gaeilge agus na gceantar agus na gcanúintí éagsúla a thógáil san áireamh agus an caighdeán á úsáid.

Tá a fhios againn go bhfuil riaráistí go leor ann ó thaobh Billí atá le haistriú. I ndáiríre, faoi láthair tá Rannóg an Aistriúcháin ag coinneáil suas chun dáta leis an méid a dhéantar gach bliain. Baineann na riaráistí leis na blianta 1992 go dtí 2006. Tá an fhadhb seo ag eascairt as na Rialtais a chuaigh roimh an Rialtas faoi láthair nár chuir na hacmhainní ar fáil chun na Billí seo a aistriú. Ba mhór an náire dóibh sin agus ba chóir go mbeadh na hacmhainní sin curtha ar fáil ag an am ionas nach mbeimis sa chás ina bhfuilimid.

Mar dhuine a bhíonn ag labhairt na Gaeilge sa Teach seo, caithfidh mé ard-mholadh a thabhairt do Rannóg an Aistriúcháin. Tá an-chomhoibriú faighte againn uaithi ó thaobh bheith ag labhairt anseo agus i gcónaí má táimid ag iarraidh comhairle nó tacaíochta, tá sé le fáil ón rannóg agus molaim go hard í mar gheall air sin. Ba cheart go mbeimis ag breathnú ar chur leis na seirbhísí go bhfuil cead ag an rannóg a chur ar fáil.

Aontaím leis an phrionsabal sa bhunphointe atá ag an Aire Stáit go mbeimis ag lárú na háite ina bhfuil an caighdeán, nach mbeadh dhá nó trí ghrúpa ag rá linn gur leosan an caighdeán agus go mbeadh raic agus éasaontú faoi. Ar a laghad, má tá sé láraithe, déanann sé ciall. Feictear dom go bhfuil an tAire Stáit á lárú ar bhealach amháin ach á dhílárú ar bhealach eile. Tá an tAire Stáit ag rá go mbeidh an cúram ar Rannóg an Aistriúcháin ach ansin deir sé go mbeidh cead ag Ranna Stáit eile a gcuid aistriúcháin féin a dhéanamh. Ní bheidh dualgas ar na daoine

sna Ranna Stáit eile sin dul i gcomhairle le Rannóg an Aistriúcháin nó a gcuid oibre a chur faoi bhráid na rannóige. Ní dhéanann sin aon chiall. Tá sé tábhachtach go mbeadh an focal deiridh a bheith ag aonad amháin sna haistriúcháin a dhéanfaí. Is fiú mar sin athbheithniú a dhéanamh ar alt 3(2)(c) agus (d) sa chás sin. Tuigim go bhfuil acmhainní ag cuid de na Ranna éagsúla mar bíonn cuid mhaith aistriúcháin ar siúl iontu ach ba cheart iad sin a chur faoi bhráid Rannóg an Aistriúcháin le cinntiú go bhfuil an rud atá aistrithe ag cloí leis an chaighdeán atá leagtha síos. Seans nach mbeadh mórán coimhlinte ansin ach bheadh sé tábhachtach é a dhéanamh.

Pointe eile ar thagair an Seanadóir Ó Domhnaill dó ná aonad an aistriúcháin san Aontas Eorpach. Ní dóigh liom go bhfuil ceangal oifigiúil Stáit eadrainn agus an tAontas Eorpach ó thaobh úsáid na Gaeilge san Eoraip agus ba chóir breathnú air sin. Má tá caighdeán oifigiúil á úsáid anseo, ba chóir go mbeadh an caighdeán oifigiúil céanna á úsáid san Aontas Eorpach ag na haistritheoirí atá ag feidhmiú ansin. Níl mé cinnte cad é an mheicníocht go díreach a dhéanfadh sin ach bheadh sé tábhachtach go mbeadh an dá chaighdeán lena chéile. Tuigtear dom go bhfuil bac á chur ar mhéadú úsáid na Gaeilge san Eoraip mar gheall ar easpa aistritheoirí, b'fhéidir go mbeadh soiléiriú ag an Aire Stáit faoi sin. Cinnte, ní raibh dóthain aistritheoirí curtha ar fáil go bhféadfaí iarratas a dhéanamh ar an gCoimisiún go leanfaí an méid seirbhísí trí Ghaeilge a cuireadh ar fáil san Aontas Eorpach agus an fhostaíocht dá réir. Tá an ceangal leis an Aontas Eorpach fíor-thábhachtach má táimid chun stádas na Gaeilge san Aontas a mhéadú.

Bheinn amhrasach dá mbeimis chun cead a thabhairt do na Ranna a gcuid aistriúcháin féin a dhéanamh go ndéanfaidís é, go háirithe dá mbeadh táillí le baint de chuid de na Ranna as seirbhísí aistriúcháin a chur ar fáil. An taithí atá agam, agus níl mé i bhfad sna Tithe seo, ná go bhfuil cuid mhaith Ranna nach bhfuil dúil acu bac leis an Ghaeilge, beag nó mór, agus bheinn an-amhrasach go mbeidís ag cur na Gaeilge agus aistriú Billí ar bharr an liosta. B'fhearr liomsa go mór fada go mbeadh an rud ar fad lonnaithe faoin aon aonad amháin, Rannóg an Aistriúcháin, agus go bhféadfaí na hacmhainní aistriúcháin sna Ranna eile a thabhairt isteach faoi scáth na rannóige nó go bhféadfaí breis acmhainní a chur ar fáil don aonad chun aistriú a dhéanamh do na Ranna ar fad le cinntiú go gcuirfeadh an obair seo i gcrích.

Tá ard-mholadh ag dul do chuid de na Seanadóirí a bhíonn anseo agus Teachtaí Dála. Ó tháinig mise anseo os cionn bliana ó shin, tá iarracht á déanamh acu ó thaobh úsáid na Gaeilge agus tá cuid mhaith acu ag déanamh ranganna Gaeilge agus mar sin. Molaim go hard iad agus impím orthu fiú an cúpla focal féin atá acu a úsáid. Rud is féidir a dhéanamh ná cead a thabhairt faoin mBille seo cead do Rannóg an Aistriúcháin cabhrú le Seanadóirí agus Teachtaí Dála atá ag iarraidh óráide a dhéanamh as Gaeilge. Nílimid ag iarraidh go scríobhfaidís an chuid pholaitiúil san óráid ach má tá an méid sin scríofa go mbeadh seirbhís ar fáil le cuid den óráid a aistriú le gur féidir le Baill é a léamh sna Tithe.

I measc na rudaí ba mheasa a tharla ó thaobh seirbhísí Stáit trí Ghaeilge ná gur cuireadh deireadh le Gaeleagras. Tá sé tábhachtach go mbreathnófar air sin arís ó thaobh na seirbhísí atá ar fáil ionas go mbeidh deis ann leithéid de Ghaeleagras a bhunú arís agus go mbeidh deis ag Státsheirbhísigh agus na daoine atá ag feidhmiú sna Tithe anseo an Ghaeilge a chleachtadh sna ceantair Ghaeltachta ar chúrsaí le gur féidir leo í a úsáid ina gcuid oibre. Tá ard-mholadh ag dul do chuid mhaith den fhoireann anseo i dTithe an Oireachtais. Mar gheall go mbím feiceálach ó thaobh na Gaeilge de, is iomaí duine anseo nach mbeinn ag súil leis a labhair an Ghaeilge liom agus ag a bhfuil Gaeilge líofa.

Tá sé tábhachtach go nglanfaí na riaráistí sin chomh luath agus is féidir. Ní dhearna an Rialtas deireanach nó na Rialtais a chuaigh roimhe é sin. Táimid ag coinneáil suas chun dáta

leis na hAchtanna go dtí seo ach ní mór don Aire Stáit beart a dhéanamh de réir briathair leis an Bhill seo agus na hacmhainní a chur ar fáil go luath leis na riaráistí sin ó thaobh Billí a aistriú. Maidir leis an choiste chomhairleach a bhí ann, is daoine iad a chur a gcuid saineolais ar fáil saor in aisce mar gheall ar an tsuim agus ar an ghrá atá acu don teanga. Fiú má tá gach rud láraithe faoi Rannóg an Aistriúcháin anseo, tá ról ann don choiste chomhairleach fós, do dhaoine atá ag obair i saol na Gaeilge, i measc an phobail agus sna hinstitiúdaí tríú leibhéal ag a bhfuil saineolas acu sa Ghaeilge, comhairle a chur ar fáil do Rannóg an Aistriúcháin de réir mar a eascraíonn sé ó am go chéile.

Tá gá le hacmhainní, tacaíocht agus an rud a chur i gcrích. Molaim an Bille, áfach, tá ciall áirithe ag breathnú ar an rud a lárú. Céim dhearfach chun cinn é agus mura dtiocfadh aon athrú air idir seo agus Céim an Choiste, beimid sásta tacú leis. Déanaim comhghairdeas leis an Aire Stáit as ucht é a thabhairt os comhair an Tí inniu.

**Senator Martin Conway:** Tá fáilte roimh an Aire Stáit sa Teach. I am following Senator Noone and others in giving my delivery as Béarla because my tutor has gone down the west and I must source a new tutor. I wish her well.

It makes absolute sense to bring this together; it makes no sense to have two offices doing a similar job. It would be much more efficient to have one office doing it, it would eliminate confusion and tension and is the correct approach. I will not repeat the remarks of my colleagues but I will make a couple of points about translating documents into Irish.

It is wholly appropriate that all legislation should be available in both English and Irish. Irish is regarded as our first language so it is a priority and should be done as quickly as possible, within reason. We must always bear in mind that reason is very important but the fact it must be done is critical. It is also correct that where necessary and appropriate, translation should be farmed out. There are plenty of people who are well capable of supplementing the services available here.

It might be provocative to say it but I must ask if we are doing the Irish language any favours when a county development plan must be translated in full into Irish when not one person will purchase a copy of it. Would that money not be far better spent promoting the learning of spoken Irish as opposed to wasting it on translation for the sake of translation? Where it is necessary and appropriate, it should be translated. Where there are people looking for a translation, it should be made available, but a county development plan will consist of seven volumes and it will probably cost between €60,000 and €100,000 to translate into Irish. It is very frustrating when not a single person requested or bought it. That is a complete waste of taxpayers' money and does the language no favours; it actually turns people against the language.

The Irish language is something we should all be proud of. It is regrettable, and I include myself in this, that the percentage of the population who speak Irish has reduced year on year. It is our job as people who genuinely like the language and see it as an essential part of our heritage that makes us who we are that we should ensure people speak the language and that money is spent appropriately on its promotion. I would much prefer to see that €60,000 spent to provide classes for those who want to learn Irish again and to promote oral Irish, refostering the love of Irish that we have in our DNA but that needs to be activated.

I support this Bill. Unfortunately I am unable to be here to hear the Minister's reply on the documents in local authorities and State agencies that are translated into Irish and left on the

shelves and never picked up. I will get it from the record and will talk to the Minister of State about it privately in the future. In a situation where there are so many demands on resources there must be a common sense approach.

**Senator Mary Moran:** I also welcome the Minister of State back to the House and sincerely apologise for delivering my speech in English as my Irish is not up to scratch. My tutor has also gone west. My tutor is my daughter and she has just completed her degree in journalism through Irish and is now undertaking a masters in léann na teanga. I know the caighdeán oifigiúil has been pertinent and I have heard a lot about it in the last weeks and months.

I completely agree with Senator Conway that we need a common standard and that the money is being wasted on translation while the language should be there as something we love. I would love to see money for such activities being channelled into courses or grants for those studying through the medium of Irish. There are some such grants but they have been cut back. Irish should be promoted. As a former teacher, I know there are students who love Irish who might not go to a gaelscoil. We must foster that love to encourage them to continue. Speaking to my daughter's friends, I know there are people who would have loved to have continued had there not been a lack of finances. If grants were available, they would pursue their career and develop their love of Irish.

Senator Ó Clochartaigh mentioned the importance of dialects and I agree with him, they are part of our culture and heritage. Not only do we have dialects in Irish, we have them in English as well. As a newly-appointed Senator, I found it very strange to listen to the dialects from all over the country, and sometimes having difficulty even understanding English.

I welcome the proposal that an caighdeán oifigiúil will be reviewed not less than every seven years, with the next review taking place in 2015. I was not aware the last one was published in 1958 and I feel 54 years is far too long an interval between reviews to keep the Irish language as up to date and relevant as possible. I also welcome the consultation between the Minister of State and the Minister for Education and Skills, as well as other interested members of the public. I ask the Minister of State to consider a closer and lengthier consultation period between the Department of Education and Skills and interested parties and the appointed committee as provisions will need to be made in course curricula and resources to allow for any changes or reviews to the previous caighdeán oifigiúil.

The Minister of State referred to external experts who can be consulted or appointed to the committee. Where will they come from? Will they be from An Coiste Téarmaíochta or lecturers from the main universities? Native Irish speakers of the main dialects should also be consulted during the review.

In view of the increased workload for Rannóg an Aistriúcháin, will there be more employment in the sector in the future?

**Minister of State at the Department of Arts, Heritage and the Gaeltacht (Deputy Dinny McGinley):** Gabhaim buíochas leis na Seanadóirí go léir a labhair ar an Bhille seo agus cuirim fáilte roimh go raibh siad an-deimhneach agus go raibh tuiscint ar cad é atá i gceist againn leis an Bhille seo. Mar atá ráite, bhí dhá Roinn go dtí seo le tamall anuas ag plé le gramadach na Gaeilge. Cothaíonn sin deacraíochtaí, níl aon dabht faoi sin. Is é croí-lár an Bhille seo ná comhtháthú a dhéanamh idir Rannóg an Aistriúcháin agus an lárionad aistriúcháin atá ansin ó 2008.

*1 o'clock*

Tá siad ag obair le chéile i láthair na huaire. Tabharfaidh an reachtaíocht seo, a bheidh os comhair na Dála go luath, seasamh reachtúil don mhéid atá ag dul ar aghaidh faoi láthair. Is cainteoir dúchais mé. Tá cainteoirí dúchais eile sa Teach chomh maith. Tá daoine anseo a d'fhoghlaim a gcuid Gaeilge i gCúige Uladh, i gCúige Chonnacht agus i gCúige Mumhan. Tá canúintí éagsúla sa Teach.

Mar atá ráite ag an Seanadóir Moran, tá canúintí i ngach teanga, fiú amháin Béarla. Tá difríocht mhór idir an chanúint a labhrann muid thuas i nDún na nGall agus na canúintí i mBaile Átha Cliath, i gContae Chorcaí, i gContae Chiarraí nó i gContae Lú. Sa Bhreatain Mhór, mar shampla, is mór an difríocht atá idir an Béarla a labhraítear in Albain agus an Béarla a labhraítear i gCorn na Breataine, sa Bhreatain Bheag nó i Yorkshire. Tá na canúintí ann. Nuair a thagann sé go dtí an Béarla scríofa, áfach, tá caighdeán náisiúnta ann. Sílim gur céim mhór ar aghaidh a bheidh ann ó thaobh na Gaeilge nuair a bheidh caighdeán náisiúnta amháin leis an teanga a scríobh. Beidh daoine fós in ann a rogha canúint a úsáid, agus is maith an rud é sin. Dá n-imeodh na canúintí, cailliúnt mhór a bheadh ann. Céim ar aghaidh mhór a bheidh ann nuair a bheidh caighdeán oifigiúil scríofa againn. Tabharfaidh sé misneach do mhic léinn agus daoine eile a bhainfidh úsáid as agus an Ghaeilge á scríobh acu. Tá sé sin an-tábhachtach ar fad.

Chuir Rannóg an Aistriúcháin an chéad Caighdeán Oifigiúil Gaeilge ar fáil sa bhliain 1958 - beagnach trí scór bliain ó shin. Is cuimhin linn go léir an leabhar glas. Táimid ag obair leis an gcaighdeán sin le beagnach 60 bliain. Tá sé thar am é a thógáil suas chun dáta. Tá sé ráite sa reachtaíocht seo go ndéanfar athbhreithniú ar an gCaighdeán Oifigiúil “gach 7 mbliana ar a laghad”. Tá sé ráite agam go ndéanfar an chéad scrúdú eile ar an gcaighdeán taobh istigh de thrí bliana. Is cinnte go raibh cainteoirí dúchais, scríobhneoirí, acadóirí, daoine as na hollscoileanna agus daoine le eolas ar logainmneacha i measc na saineolaithe a d'oibrigh i lár-ionad mo Roinne a bhí thall i mBóthar Mespil. Ba mhaith liom arís mo bhuíochas a chur in iúl dóibh siúd a tháinig go dtí an rannóg go rialta chun a gcuid saineolais a chur ar fáil.

D'iarr Seanadóirí cén fáth nár foilsíodh an chaighdeán eile. Tá sé an-deacair é a fhoilsiú. Bhí Rannóg an Aistriúcháin ag teacht amach le leagan suas chun dáta den chaighdeán. Dá mba rud é go raibh an cheann eile curtha amach le *imprimatur* an Rialtais, bheadh na daoine amach ansin curtha amú. Ní bheadh a fhios acu cén caighdeán a mheas mar an ceann ceart. Agus é sin ráite, tá sé iontach tábhachtach go mbeidh an corpus oibre a rinne an ghrúpa seo ar fáil do Rannóg an Aistriúcháin agus go ndéanfar scrúdú air. Nuair a thiocfaidh an chéad eagrán eile amach i gceann trí bliana, bainfear úsáid as cuid de na moltaí a rinne siad.

Iarradh orm cé hiad na saineolaithe a thiocfaidh isteach. De réir na reachtaíochta seo, beidh cead ag Rannóg an Aistriúcháin cuireadh a thabhairt do shaineolaithe - iad siúd a chabhraigh leis an lár-ionad aistriúcháin, b'fhéidir, nó daoine eile nach bhfuil eolas againn fúthu go fóill - teacht isteach. Má tá eolas nó moltaí le soláthar acu, beidh siad ar fáil. Ar ndóigh, beidh sé sin ag brath ar Rannóg an Aistriúcháin.

Bhí cúpla pointe le déanamh ag an Seanadóir Ó Domhnaill. Bhí sé in amhras i dtaobh cumas Rannóg an Aistriúcháin cur faoin obair bhreise seo. Tá an-dóchas agam go n-éireoidh leo é sin a dhéanamh nuair a bheidh an Bille seo rite. Tá an dá fhoireann tagtha le chéile anois.

Dúirt an Seanadóir Mullen, nach bhfuil anseo, agus an Seanadóir Ó Clochartaigh gur chóir

go mbeadh reachtaíocht ar fáil sa dá theanga ag an am céanna. Sílim gur ndearna cúpla duine eile an pointe céanna. Aontaím ar fad gur chóir go mbeadh sé mar sin. Tá mé cinnte go mbeidh sé ar chumas Rannóg an Aistriúcháin tabhairt faoi sin. Baineann an deacracht mhór leis na 700 nó 800 hionstraimí reachtúla nach bhfuil aistrithe. Dúirt an Ard-Chúirt gur chóir iad a aistriú, ach dúirt an Chúirt Uachtarach nach gá iad a aistriú muna mbíonn éileamh orthu. Agus é sin ráite, ní shílim go bhfuil sé inghlactha go bhfuil 700 nó 800 ionstraimí ina luí ansin. Is é an cus-póir a bheidh againn agus na bliana amach romhainn ag imeacht ná greim a fháil orthu agus iad go léir a thabhairt suas chun dáta. Sílim go mbeidh an Bille seo ina chabhair ag na haistritheoirí agus iad ag iarraidh é sin a dhéanamh.

D'iarr an Seanadóir Mullen agus daoine eile an mbeidh cead ag Rannóg an Aistriúcháin cabhair a fháil ó dhreamanna taobh amuigh. Is fíor go bhfuil go leor comhlachtaí príobháideacha a bhfuil sé ar a gcumas acu aistriúcháin a dhéanamh agus daoine le cáilíochtaí fostaithe acu. Ba mhaith liom a rá go ndéanfar profáil ar aon reachtaíocht a chuirtear amach go dtí na comhlachtaí sin nuair a thioctfaidh sé ar ais. Caithfidh Rannóg an Aistriúcháin bheith sásta leis an rud atá déanta acu. Sílim go mbainfear úsáid as seift nó scéim den chineál sin más rud é go mbeidh sé ina chuidiú. B'fhéidir go mbeimid in ann cuid de na hionstraimí reachtúla a chur amach go dtí na comhlachtaí príobháideacha, má chabhródh sé sin linn iad a thabhairt suas chun dáta. Caithfidh siad cloí leis an gCaighdeán Oifigiúil de réir Rannóg an Aistriúcháin, a dhéanfaidh profáil ar a gcuid oibre.

Aontaím leis an Seanadóir Noone, a dúirt go mbeidh an córas seo níos éifeachtaí agus proifisiúnta. Dúirt sí freisin go rachfaidh Coimisiún Thithe an Oireachtais i gcomhairle leis na hAirí eile má tá aon athbhreithniú le déanamh ar an gCaighdeán Oifigiúil. Tá sé sin soiléir sa Bille.

Caithfidh mé a rá leis an Seanadóir Heffernan nach raibh a fhios agam, leis an fhirinne a rá, gur tháinig an Cló Rómhánach isteach sna 30dí. Is féidir liom a mhíniú nach raibh mé ar scoil sna 30dí. B'fhéidir gur rinneadh an athrú sna 30dí ach níor tháinig sé isteach sna scoileanna go dtí na 50dí agus na 60dí. Déarfainn go raibh uncail an tSeanadóira ag insint na firinne. Tá súil agam go bhfuil sé beo go fóill. Is maith an rud gur tugadh isteach é. Bhí an cló Gaelach an-deas, ach bhí sé ag cruthú deacrachtaí chomh maith. Tá an Cló Rómhánach againn anois agus is cló idirnáisiúnta é.

Tá an Seanadóir Conway imithe. Tá na haistriúcháin ar thuairiscí a luaigh sé á dhéanamh de bharr forálacha Acht na dTeangacha Oifigiúla 2003. I láthair na huaire, tá athbhreithniú - review - á dhéanamh ar an Acht sin. Nuair a bheidh an t-athbhreithniú sin ar siúl, ba cheart dúinn a chinntiú go mbeidh an toradh is fearr ar an t-airgead a chuirtear isteach. Tá airgead agus acmhainní gann faoi láthair. Caithfear cinneadh a dhéanamh an fiú an oiread sin airgead a dhíol ar phlean forbartha Chontae an Chláir, mar shampla, nuair a d'fhéadfadh muid é a úsáid chun tacaíocht a thabhairt do scoláirí Gaeilge, coláistí samhraidh, campaí samhraidh, an clár tacaíochta teaghlaigh, srl. Is é sin an rud atá á scrúdú againn san athbhreithniú. B'fhéidir gur fiú éisteacht le comhairle na Seanadóirí a labhair inniu. B'fhéidir nach bhfuil an toradh is fearr ag teacht as an airgead sin.

Níl a fhios agam an gcosnaíonn sé €60,000 nó ní hé go ndeireann an Seanadóir go gcosnaíonn sé €60,000, ach tá seacht leabhar ann agus cosnaíonn sin airgead mór. Mar a dúirt mé, tá an t-athbhreithniú ag dul ar aghaidh ar Acht na dTeangacha Oifigiúla agus beimid ag scrúdú pointí a d'ardaigh Seanadóirí sa Teach.

### *Seanad Éireann*

Ní dóigh liom go bhfuil aon cheist eile, ach ar ndóigh, tá mé thar a bheith buíoch go bhfuil dearcadh deimhnitheach ag Seanadóirí ar seo agus táim buíoch as an dearfach atá ann é a thabhairt le chéile, caighdeán amháin a bheith ann agus an luach is fearr a fháil ar na hacmhainní atáimid ag cur isteach ann. Beidh an Bille anseo arís an tseachtain seo chugainn agus go dtí sin beidh machnamh á dhéanamh agam féin agus ag na hoifigigh ar na pointí a ardaíodh anseo.

Táim cinnte go mbeidh leasuithe á moladh ag Seanadóirí agus má táimid go léir dáiríre, uilig ar aon intinn agus sílimid go bhfuil na leasuithe fiúntach, go bhfuil fiúntas ar bun leo agus go bhfuil siad praiticiúil, tógfar san áireamh iad. Chomh fada agus a bhaineann sé liomsa, tá intinn oscailte agam. Sílim, nuair a bheidh sé seo reachtaithe, go mbeidh a fhios againn go léir cá seasaimid chomh fada agus a bhaineann sé leis an gCaighdeán Oifigiúil.

Arís, gabhaim míle buíochas le Seanadóirí as an méid a bhí le rá acu. Beidh mé ag dúil go mór le bheith anseo arís an tseachtain seo chugainn nuair a bheimid ag dul tríd Céim an Choiste den Bhille seo.

Question put and agreed to.

**Acting Chairman (Senator Terry Leyden):** When is it proposed to take Committee Stage?

**Senator Catherine Noone:** Next Tuesday.

Committee Stage ordered for Tuesday, 16 October 2012.

*Sitting suspended at 1.15 pm. and resumed at 2.30 p.m.*

### **Business of Seanad**

**Senator Colm Burke:** I propose an amendment to the Order of Business, “That we adjourn Committee Stage of the Health Service Executive (Governance) Bill 2012 at 4.30 p.m. as opposed to 5 p.m. as the Minister for Health is also taking Private Members’ business.”

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

### **Health Service Executive (Governance) Bill 2012: Committee Stage**

Section 1 agreed to.

#### NEW SECTION

**Senator Sean D. Barrett:** I move amendment No. 1:

In page 3, before section 2, to insert the following new section:

“2.—The Health Service Executive shall cease to exist on 1 January 2014.”.

The Minister and I have had many interesting debates, including debates before he became

Minister for Health and I became a Member of this House. The great Fintan O'Toole chaired one debate we had in TCD. It is a great pleasure to welcome him and wish him well in the task because, as I said the last day, it is probably the most demanding job in Irish public life.

The Minister said the last day that he envisages the demise of the Health Service Executive, radical reform and the introduction of universal health insurance. I share the Minister's goals but would it not be better to put a sunset date on the Health Service Executive, which we are agreed should go? As approximately half the population has commercial health insurance and more than one third has a medical card, could we speed up the introduction of full coverage for people for health insurance? I hope that health insurance involves competition because the Milliman report showed that protecting one monopolist as health insurer was not a sensible policy. There are many issues like extended average length of stay, the lack of scrutiny of claims and so on. I know the Minister has sent Milliman back into VHI to see how efficiencies can be gained. I think they will also be gained by having a choice of insurance providers.

The Minister and I would probably be in agreement that it is an expensive health service, as the Department of Health's own data shows. We spend 11.4% of gross national income on health while Finland spends 8.9%, Sweden 9.8%, Switzerland in 11%, Denmark 11.3% and Norway 9.6%. Colleagues, like Senator Crown, might disagree with the UK system but it is getting a universal health service for 9.6%. Even Germany, which was mentioned the last day, is a couple of percentage points ahead of us. We have a very expensive health service which must deliver and that is why I support the Minister in his reforms. I realise that attempts to reform the health service have been seriously damaging to the political careers of very many Ministers for Health. I certainly feel a duty that if the Minister is trying to reform the system, he deserves my support.

One of its faults is that it is excessively bureaucratic. The number of clerical and administrative staff in 2011 was more than 16,000 while in 1980, it was 5,400. The total staff in the health service between 1980 and 2011 went up by 87%. That is against a 195% increase in clerical and administrative posts, that is, 2.24 times.

I support the Minister in his reforms. My amendment is purely a suggestion and I will not push it. It should be accepted that we implement the reforms the Minister wishes faster. That is the purpose of the amendment. I think it is called a "sunset date" in US legislation. Alfred Kahn, in the context of the Civil Aeronautics Board, said that if one leaves bureaucracies around, one gets function creep and they will invent other things to do. Is it not better to tell them it is all over on a certain date? It might not necessarily be the date I have put in the amendment.

**Senator Colm Burke:** Unfortunately, I do not agree with the amendment. The discretion has to be left with the Minister in this matter because we are talking about a major change in abolishing the HSE and setting up the new structure. The discretion has to be left with the Minister in regard to putting it in place.

I refer to the negativity about the health care sector. It is interesting to look at the key indicators in regard to health care over the past ten years and I give credit where it is due, including to the previous administration. The media focuses very much on the negatives in the health care sector but the argument I keep putting to people is in regard to maternity care. The number of babies born has gone up from 55,000 to 74,000 per annum. We have one of the lowest perinatal mortality rates in Europe, and long may that continue. Likewise, outpatient attendance has

increased from over 2 million per year. The Minister disagreed with me the last day and he had a lower figure but I checked my figures. In 2011, more than 3.5 million people attended outpatient departments. That works out at approximately 37,000 attending Irish hospitals each working day, excluding Saturdays, Sundays and public holidays. That is a huge number.

There are many positives and the EU survey on health care attitudes in Ireland showed that Ireland has the highest percentage of its population in the EU reporting to have good or very good health. That is an indication of the service that is being provided. There are difficulties in certain areas and there is a need to be far more efficient in respect of the services provided, particularly in trying to eliminate waiting lists. However, that will take time and we must continue working on it. We must bring about the changes needed where deficiencies have been identified in the service. The Minister has done much in the past 18 months. In fairness to the previous Minister and previous Administrations, much good work was done. The major issue was the escalation of costs during that period. Perhaps more should have been done to ensure checks in the system, in particular, where the cost of drugs within the health care sector increased from €576 million to €1.9 billion. That should not have happened and needs to be addressed. While I agree in principle with Senator Barrett about a timeline, the discretion must be left with the Minister and it is accommodated in section 1.

**Minister for Health (Deputy James Reilly):** I appreciate Senator Barrett's support and share his sentiment. I want to expedite the changes as quickly as possible but the abolition of the HSE, as an entity, will take careful planning, consultation and complex further legislation. It would be premature, therefore, to include a date for the abolition of the HSE in the Bill. The Bill is intended, as a transitional measure, to help prepare the health system for the changes ahead. I hope the Senator will understand that and not push this to a vote.

**Senator Sean D. Barrett:** I agree with what Senator Colm Burke has said that the ratings which were published by the Minister show that we seem to think we are healthy but we have problems with the health service. I have made a proposition to the Minister and as I have heard his reply I withdraw the amendment and look forward to seeing it appear, under the Minister's name, in due course.

Amendment, by leave, withdrawn.

Section 2 agreed to.

Sections 3 and 4 agreed to.

## SECTION 5

**An Cathaoirleach:** Amendments Nos. 2 and 3 are related and may be discussed together, by agreement. Is that agreed? Agreed.

**Senator Averil Power:** I move amendment No. 2:

In page 4, to delete lines 24 to 27.

I welcome the Minister to the House. My colleague, Senator Marc MacSharry, spokesperson on health, will give the Fianna Fáil position on the Bill as a whole and propose a range of amendments to improve it. I want to speak to my amendments which seek to ensure greater accountability within the health service for mental health, in particular, and I have proposed a number of amendments from that perspective.

The amendments as a whole are designed to ensure the Bill puts in place the leadership and accountability structures needed to ensure implementation of A Vision for Change and delivers real improvements in mental health services. I do not need to tell the Minister that mental health problems have huge social and economic costs. The social costs are immeasurable on families when people go through mental health problems unsupported. Even at a time of limited resources and priorities within the health service, we cannot turn a blind eye to the fact that there is a huge cost for individuals, employers and the State as a whole.

Unfortunately, we do not have a good history of prioritising mental health services. They have long been the poor relation of the health service as a whole. In 2010, just 5.3% of health spending went on mental health compared with 12% in England, 18% in Scotland and 20% or more in other EU member states. It is clear we are starting from a low base and much progress has been made in recent years, as acknowledged by the previous speaker, but we have a long way to go. The particular weaknesses have been highlighted by groups such as Mental Health Reform, that our approach to mental health focuses purely on a medical model, that there is limited access to supports other than medication, an over-reliance on inpatient services, inconsistent support across the country and there are large gaps in geographic areas for particular groups, such as children and adolescents. A Vision for Change set out the roadmap to improve the position and has widespread support from a broad coalition of groups who want it implemented.

The reason I have tabled the amendments is that A Vision for Change has not moved on and is not where we had hoped it would be at this point. There have been consistent and widespread concerns about the HSE's lack of accountability for delivering on A Vision for Change. That has been attributed by Mental Health Reform, in its constituent groups, in large part to the absence of empowered leadership within the HSE and gaps in structures of accountability that lead to a lack of planning and a lack of separate reporting on mental health services. The Bill presents an opportunity to put in place the structures in A Vision for Change which called for the establishment of a national mental health services directorate and that it would be one of the main drivers of implementation of the policy. It is not clear from the Bill that will be achieved on the current wording. It is not specific about who the directors will be. There are other flaws that I will point out later.

I welcome the fact that the section strengthens the Minister's control over the HSE's activities and provides that written directions can be given by the Minister to the HSE "concerning the implementation of any policy or objective of the Minister or the Government which relates to a function of the Executive, where the Minister is of the opinion that the Executive is not having sufficient regard to such policy or objective in the performance of its functions." That appears to be an improvement on the current position. However, I am concerned, as is Mental Health Reform, about the limitation that the Minister can only give a direction on policy implementation where he or she is of the opinion that the Executive is not having sufficient regard to that objective in its performance. It indicates that the Minister must wait until there is a failure before he or she can give a directive. We propose an amendment that provides that the Minister shall be empowered to give a direction on policy implementation at any time, without limitation, not waiting for a problem but ensuring that clear directives are given in the first place.

Amendment No. 3 is designed to increase public accountability of the mental health services and the role of the HSE in that respect. The section, as drafted, increases the HSE's accountability to the Minister for implementation compared with the present position, by saying that the HSE should report to the Minister on its compliance with any ministerial direction.

Clearly that is positive. We are proposing that to ensure greater public accountability, any such report by the HSE, concerning its compliance with ministerial directives, should be published.

In recent days we have witnessed instances of concerns about lack of accountability and an unwillingness on the part of HSE officials to answer questions at parliamentary committees in order that there could be greater public scrutiny, more of which is needed in the current context. The amendment seeks to ensure there is nothing to hide and that the HSE should be happy to publish reports on compliance and making clear what it have been asked to do by the Minister and whether it is performing its function.

They are two simple amendments, the purpose of which is to improve accountability and transparency,

**Deputy James Reilly:** I understand the concern underlying amendment No. 2, that the Minister will not be able to act fast enough or that he or she may have to wait until the HSE has failed to take account of policy before he or she can issue a direction under section 10(1)(c). The provision, as drafted, would not result in this scenario. Section 10(1)(c) balances the Minister's responsibility for policy with the HSE's responsibility for operational matters. The HSE has responsibility under the Health Act 2004 for the provision of health and personal social services. However, the HSE also has a statutory obligation to have regard to ministerial and Government policies and objectives when performing its functions. The HSE, similar to any statutory agency, is expected to fulfil its statutory functions. Section 10(1)(c) should not, therefore, need to be used often but is intended as an additional power for the Minister to use when it is needed. The new ministerial power should also be seen in the context of the proposed new accountability arrangement for the HSE whereby the HSE is accountable to the Minister for the performance of its functions. That means it will have to explain its decisions and actions to the Minister. This will help in ensuring that the Minister can act in an effective and timely way in regard to issuing a direction under section 10(1)(c). It should help to avert a situation where section 10(1)(c) needs to be used.

If the Senator withdraws the amendment, and rather than put it to a vote, I will seek further Parliamentary Counsel advice on the matter. I do not believe that it will be necessary but I will come back to the matter on Report Stage.

With regard to amendment No. 2, I am concerned that there could be too many reports on compliance regarding a single direction and their publication could lead to confusion. An overall picture of service matters would be available from performance reports against the service plan and from the HSE's annual report. There is already a legal requirement for the HSE to publish its service plan and annual report. Therefore, I do not propose to accept these amendments.

**Senator Averil Power:** I welcome the commitment given by Minister that on withdrawal of my amendment he will seek further advice on it. I appreciate that he probably needs to take a timeout with his officials and to think it through with a cool head. I can resubmit my amendment on Report Stage. The deletion still gives the Minister the discretion that he needs because it leaves him with the overall powers. I have used a good wording and I appreciate that the Minister has committed to examine the matter. We can revisit the issue on Report Stage, if necessary.

Amendment, by leave, withdrawn.

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**Senator Averil Power:** I move amendment No. 3:

In page 4, paragraph (c), between lines 36 and 37, to insert the following:

“(8) The Director General shall publish any reports presented by the Executive to the Minister concerning its compliance with a Ministerial Direction.”.

Amendment put and declared lost.

Section 5 agreed to.

## SECTION 6

**An Cathaoirleach:** Amendment No. 4 has been tabled by Senators Power, MacSharry and other Fianna Fáil Senators. Amendments Nos. 4 and 21 to 24, inclusive, are related and may be discussed together by agreement.

**Senator Averil Power:** I move amendment No. 4:

In page 4, lines 41 and 42, to delete all words from and including “priorities” in line 41 down to and including “service” in line 42 and substitute the following:

“priorities in accordance with which the Executive shall prepare its service”.

The intention behind section 6 is to strengthen the accountability of the HSE to its service delivery. It provides for the HSE to “have regard” to priorities set by the Minister in its annual service plan and could enable the Minister to set a priority to provide the kind of community-based mental health care services that we need. Undoubtedly, it is a step in the right direction to provide that the Minister can indicate his priorities and expect the HSE to “have regard” to them. I am concerned that the phraseology of “have regard” is too weak. Hence, we tabled an amendment to strengthen the provision by saying that the annual service plan must be prepared “in accordance with” the priorities set by the Minister. Thus, we have inserted an automatic requirement that the priorities set by the Minister are adhered to.

Again, the amendment stems from the point of view that mental health services have traditionally been the poor relation in the health service. When the HSE operates throughout the year there is panic as to whether there is enough money for services such as accident and emergency and other services. Often mental health services are the first in line to have funding cut. It is important that the Minister takes responsibility for saying that mental health services should be given priority. The measure should evolve into an automatic requirement being placed on the HSE to act “in accordance with” that priority. It would ensure that money is safely ring-fenced for mental health services. It is not simply that the HSE must “have regard” to it which appears to be quite weak language.

**Deputy James Reilly:** I will respond to each of the amendments separately. I appreciate that the Senators are motivated by a concern to ensure that provisions are sufficiently robust to ensure that the HSE abides by priorities set by the Minister.

In regard to amendment No. 4, the Bill provides that the Minister may specify priorities to which the HSE must have regard in its service plan. The HSE must take heed of these priorities when preparing its service plan. Moreover, the Minister may direct the HSE to amend its service plan if the plan does not have sufficient regard to priorities and performance targets. I

think that provision is sufficient to cover concerns.

In regard to amendment No. 21, I understand that the issue is whether particular terms in section 12 are strong enough to ensure that the HSE follows the Minister's directions. Section 12 amended section 31 of the Health Act 2004 which deals with how the HSE prepares and submits its service plan for the Minister's approval. Directions under section 31(3) relate to the form and manner in which the service plan is prepared.

Under section 31(4) a service plan must be prepared in a formal manner that is consistent with any direction under section 31(3). This seems appropriate wording and, therefore, I do not intend to accept amendments Nos. 4 and 21.

The purpose of amendment No. 24 is to delete the reference to policies in section 31(9)(d). The subsection provides that the Minister may, after consulting with the Minister for Children and Youth Affairs, direct the HSE to amend a draft service plan if, among other gaps, it "does not accord with the policies and objectives" of the two Ministers or the Government. A deletion of the term "policies" would mean that the subsection would then refer to "objectives" rather than "policies or objectives." Both terms are useful and I am also conscious of the term "policy or objective of the Minister or the Government", a term used consistently elsewhere in the Health Act 2004 and in this Bill. Therefore, I do not propose to accept the amendment.

I shall deal with amendments Nos. 22 and 23. I would like the opportunity to give further consideration to the amendments tabled by the Senators and, subject to legal advice, I may table related amendments on the service plan on Report Stage.

With regard to section 12, and subject to legal advice, I may table technical amendments to clarify the information given in the service plan about the number of employees.

**Senator Averil Power:** I explained the rationale behind amendment No. 4 in my opening address. We are discussing the amendments together and the Minister gave his position on amendments Nos. 4 and 21 to 24, inclusive. All of the amendments are structured in the same way. They are about changing terminology and using stronger wording. Amendment No. 21 wishes to substitute the words "is consistent with" with "complies with."

I appreciate the Minister's undertaking that he will consider amendments Nos. 22 and 23 and we can discuss those on Committee Stage. I hope that when he reflects upon them that he will see the wisdom behind them. They are based on a critique of the Bill that was sent to me - as I am sure that it was to many other Members - by the mental health reform group. I am sure the same critique was also sent to the Minister and the Government. The amendments are based on the views of groups that have an intimate understanding of current issues and want them improved. I hope that when the Minister considers the amendments he will see they have merit. We can discuss the issue again on Report Stage and I withdraw amendments Nos. 22 and 23.

**Senator Marc MacSharry:** I wish to make a general comment on the amendments as Senator Power has already dealt with them.

I am concerned that some of the terminology used - and with respect to the officials - ensures that Sir Humphrey has control. When a Government policy and priorities exists then the State agency responsible has a statutory duty to comply with them, not merely to resemble the policy or priorities.

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Terms like “consistent with” are very loose and when the Minister was in opposition he would have said such terms would give the Minister of the day plausible deniability. From the Minister’s perspective such terms grant him a safeguard and an ability to blame the officials if something does not go to plan. My view - and our view - is that the Government of the day should set policies that are in line with the demands and needs of the people in terms of services. The relevant organisation must carry those out to the letter, not to the extent that the person of the day may feel that it is consistent with, resemble, or be to the fullest extent possible but they must “comply with” them. Particularly in the context of an organisation whose budget, under the new regime, will come from the Minister, it will have to be responsible for spending one of the largest portions of the tax take. In that context, whether it is Minister Reilly or another Minister from whatever party, now or in the future, there needs to be absolute control and input in order to stand over spending.

*3 o'clock*

We do not want a future Committee of Public Accounts or Oireachtas Joint Committee on Health and Children to have an argument over whether a particular action was “consistent with” the policy or priorities of the Minister of the day as opposed to “complies with”. I do not feel there is a level of plenipotentiary status that officials within a State agency should have which could supersede the Minister of the day or the policy or priorities he or she might have set.

**Deputy James Reilly:** Regarding amendment No. 4, the service plan is designed to take account of a number of matters and must include information on various issues. For example, it must indicate the type and volume of health and social services to be provided by the HSE during the period to which the plan relates. The proposed amendment could have unintended consequences with its emphasis on ministerial priorities given section 31 as a whole.

Regarding amendment No. 21, this is a direction on the form of the service plan and is a separate issue from a direction under section 10 which may relate to policy implementation. The current wording is clear. With regard to directions on policy implementation, the service plan must be consistent with any directions issued by the Minister under section 10. The Minister may direct the HSE to amend the draft service plan if it is not consistent with any directions issued under section 10.

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

Amendment declared lost.

Section 6 agreed to.

## SECTION 7

Government amendment No. 5:

In page 6, line 18, to delete “PART 2A” and substitute the following:

“PART 3A”.

**Deputy James Reilly:** This is a technical drafting amendment to clarify that the new Part inserted in the Health Act 2004 in regard to the directorate is to be called Part 3A and not Part 2A. The numbering of the sections contained in this new part starts at 16A in order to follow section 16 of the Health Act 2004.

Amendment agreed to.

**An Cathaoirleach:** Amendments Nos. 6 to 8, inclusive, 10 and 20 are related. Amendment No. 9 is an alternative to amendment No. 8. Amendments Nos. 6 to 10, inclusive, and 20 may be discussed together by agreement. Is that agreed? Agreed. Government amendment No. 6:

In page 6, line 30, to delete “Subject to subsection (3)” and substitute  
“Subject to section 16K(10)”.

**Deputy James Reilly:** These are drafting amendments. Section 16A(3) states: “The Directorate may perform its functions notwithstanding a vacancy in the membership of the Directorate.” Amendment No. 7 proposes to delete this subsection because section 16K(10), subject to amendment No. 20 captures the objective of providing that the directorate may continue perform its functions in the event of a vacancy even in the office of the director general or in the office of an appointed director. Amendment No. 20 would delete “act” and substitute “perform its functions” in section 16K(10).

Amendments Nos. 6, 8 and 10 are consequential technical amendments. I ask Members to accept amendments Nos. 6 to 8, inclusive, 10 and 20. I also wish to indicate that, subject to legal advice, I may table an amendment to clarify the provisions and arrangements for the director general or an appointed director who is absent for an extended period.

Amendment agreed to.

Government amendment No. 7:

In page 6, to delete lines 34 to 36.

Amendment agreed to.

Government amendment No. 8:

In page 6, line 37, to delete “(4) A person” and substitute “(3) A person”.

Amendment agreed to.

**An Cathaoirleach:** As amendment No. 8 has been agreed, amendment No. 9 cannot be moved.

**Senator Sean D. Barrett:** Amendment No. 8 substituted “(3) A person” for “(4) A person” and the Minister is seeking legal advice. As I am not sure my amendment contradicts what the Minister has said, I seek to indulge the patience of the House. I sought to delete the section stating: “A person may not be appointed as an appointed director unless he or she is a person who is an employee of the Executive holding the grade of national director in the Executive.” I am trying to facilitate the Minister in his reforms. Does this tie his hands unnecessarily? There could be a person who had experience as a private hospital manager, a health insurance company manager or, as the Minister mentioned earlier, somebody from Scandinavia. I put forward these thoughts. I know the Minister is seeking legal advice on the matter, but that was what I had in mind. In performing this important task the Minister’s hands should not be tied. That is the spirit in which I offered amendment No. 9.

**Deputy James Reilly:** I appreciate the Senator’s help and the sentiments.

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**An Cathaoirleach:** It is redundant at this stage anyway.

**Deputy James Reilly:** The Chair has already ruled.

Amendment No. 9 not moved.

Government amendment No. 10:

In page 6, line 41, to delete “(5) An appointed” and substitute “(4) An appointed”.

Amendment agreed to.

**An Cathaoirleach:** Amendments Nos. 11 and 12 are related and may be discussed together by agreement. Is that agreed? Agreed.

**Senator Averil Power:** I move amendment No. 11:

In page 6, between lines 45 and 46, to insert the following:

“(6) The post of Director for Mental Health shall be a publicly advertised position, subject to strict criteria.”.

The amendment has two purposes. The first is to ensure that one of the directors appointed will be a director for mental health. The second is to address, in the context of the mental health post, the issue Senator Barrett has just raised. It is bizarre that the Bill specifies that only individuals who are currently national directors in the HSE can be appointed as directors. There is a significant risk that the best person for the job might not be appointed for that reason. I do not know anything about the individuals serving as national directors or anything about their performance. However, it is bizarre to tie the Minister’s hands in that way. The trend in public sector management in recent years has been to ensure there is external competition, particularly for top posts so that we can get the best person for the job.

Senator Barrett referred to somebody who might have delivered health service change elsewhere. In particular it would be crazy to exclude someone, who has experience of mental health services, from interviewing for the job. I do not understand the intention behind such restrictions in the Bill and I ask the Minister to reconsider. If the best person for the job is somebody who is currently serving as a national director, so be it. However, the Minister’s hands should not be tied in that fashion. We need to ensure there is a proper competition so that people can have faith that the person appointed holds the expertise and experience required. This is one of the most important amendments we have tabled and I ask Members on the other side of the House to reflect on the wisdom of tying the Minister’s hands and not having a proper open competition for key leadership posts in turning around the health service in general and in particular in the area of mental health, which needs leadership more than most areas in the health sector. It needs somebody with a passion for mental health and the ability to deliver real change.

**Senator John Gilroy:** Senator Power makes a compelling argument for her amendment. I would like to explore the issue further and perhaps the Minister might elaborate on it. I believe there is considerable merit in the proposal. While it might be somewhat premature to include it in this transitional Bill, I ask the Minister to elaborate on it.

**Senator Marc MacSharry:** We will press the amendment to a vote. On Second Stage, I asked whether the *Titanic*, if it had been called the Olympic, would have stayed afloat. As Sena-

tor Power has said, while nobody is specifically saying that any of the current directors of the HSE are not capable, qualified or the best people for their various jobs, whether in mental health or in the other directorates, the reality is that we cannot stand over a process that effectively legislates to establish a new agency - a better structure - with the same people at the helm. There will be no public confidence in the system. This is a charade if we are merely, to use the phrase used on Second Stage, “moving the deckchairs around the Titanic” or changing the name. Do we still want Captain E.J. Smith to steer the boat, expecting that his time it will skip around the iceberg? The reality is that the Minister will need to be able to stand over this process and to be exceptionally confident that “X” is the correct person to be the director of mental health services and so on. The process must be open and allow applications from other people.

The Minister stated there will be no expense incurred in putting in place this legislation. It is hoped that in order to avoid expense, a decision was made to have no recruitment process, which if not managed correctly can cost a significant amount of money, with everyone sliding into the various jobs, as was done in respect of Mr. O’Brien, CEO of the HSE. I do not think this gives rise to public confidence. I am not suggesting the people concerned would not sail through the recruitment process. However, it is in the public interest that the process is robust and transparent in terms of the appointment of people with the required experience and qualifications. This, in turn, will ensure the people appointed are assured of the people being behind them. This will not be the case in this regard. Regardless of how qualified those appointed are, confidence in them will be undermined by this process.

**Senator Colm Burke:** I agree that this matter should be looked at again. Senator Power has put forward a strong case on the issue. This relates to an issue previously highlighted by me, namely, financial management of the HSE. When we looked at this area we found that many people involved in financial management of the HSE did not have the financial management qualifications required. I am not suggesting that the person to be appointed does not have the relevant experience or qualifications. However, this proposal provides the Minister with an option that might not exist under the Bill as drafted. It is a proposal worthy of consideration.

**Deputy James Reilly:** I have a clear recollection of the reason this provision was included in the Bill, which is the following. This is a temporary arrangement. An open competition would have involved procurement issues and so on, which process could go on for six months. This is a temporary arrangement to carry us on to the next phase when the HSE is abolished *in toto* and we move to an integrated care agency. It does not preclude people from outside the current health family from involvement. They can apply for another role in the HSE and be appointed directors from that family.

I agree with the sentiment of what Senators’ are saying. If we were legislating for an ongoing situation as opposed to a temporary structure, I agree there would be a need for open competition. Given the life of this agency will not be for more than three years, possibly less than this, the decision was made to expedite the process in a real way to allow reforms to be progressed quickly. We can come back to this on Report Stage if Senators wish, prior to which I will seek some legal advice on it. I am sure Senators will agree on the need for quick progression of the reforms and change in terms of how we do business. We also want to ensure accountability, transparency and that the patient is at the centre of everything we do. That is the rationale behind this, without going into the legal niceties in terms of the notes I have with me on this issue.

**Senator Marc MacSharry:** We are not happy with this provision. I do not believe the Minister is happy with it either. How long is a piece of string? Will it be in place for one, two,

three or four years? We are all aware of the scenario that arose yesterday, with €329 million becoming €374 million in a month. People need confidence in this process. What is happening is that a new entity is being established with no change in personnel. Express parts of the legislation state that the only way one can qualify for the position is to have already held the position under the previous regime which did not work.

We will reflect on this between now and Report Stage. I ask that the Minister do likewise. I believe this is not in the public interest.

Amendment, by leave, withdrawn.

**Senator Averil Power:** I move amendment No. 12:

In page 7, after line 46, to insert the following:

“16D.—The Director for Mental Health shall be responsible for planning, budgeting for and reporting on the implementation of mental health policy. His delegated functions shall include but are not limited to producing a multi-annual plan to implement the Government’s mental health policy; consulting with patients, their families and significant others and other stakeholders in relation to a mental health services reform implementation plan; producing annual service plans, approving mental health service area budgets, reporting regularly against performance indicators agreed with the Minister for Health and ensuring equity of resources between Mental Health Catchment Areas.”.

This is the most important of our series of amendments in that it seeks to ensure the appointment of a director of mental health and sets out the functions of such person. It is important these are set out in the Bill. The Bill as drafted refers to the appointment of between four and seven directors but does not state what will be their functions or responsibilities. We strongly believe there is a need for a director of mental health. A key recommendation of A Vision for Change is that a mental health directorate be established. This must happen. I do not understand the reason the Minister would not be willing to accept an amendment to the effect that there will be a director for mental health unless he is confident one will not be established. In legislating for such an appointment, it is important to set out the functions of that person. As such, the amendment specifies that the director for mental health would be responsible for producing a multi-annual plan to implement the Government’s mental health policy, consulting with users of mental health services, their families, significant others and other stakeholders in relation to a mental health reform implementation plan.

Senator Gilroy has been going around the country consulting with people. We held a joint meeting two weeks ago to hear the views of the public in terms of their experience and that of their families in the area of mental health services. I was struck by the gap between what some of the service providers believe is happening and the experiences of people who have been through those services. It is important that the director would be specifically tasked with ensuring there is ongoing consultation with the users of mental health services and that this feeds into policy being subjected to external scrutiny. It should not be the case that families in difficulty are treated as customers subjected to an overall plan. There is a need to really listen to people and to allow change on the basis of proper feedback.

The other functions set out in the amendment include the need for annual service plans for the mental health sector and a specific budget for mental health services, which is key given the raiding this year of the mental health budget to support other areas of the health service. It

is important there are performance indicators agreed with the Minister in this regard and that information in terms of the plan, where it is at, the budget in place and how it is being spent, outcomes for patients and so on are publicly available. It is also crucially important to ensure equity of resources between mental health catchment areas, which is a real problem now.

We strongly believe it is crucial this Bill follows through on A Vision for Change and ensures there will be a person specifically tasked within the directorate with provision of leadership for the mental health sector and that the statutory functions and responsibilities of this person are clearly set out in the Bill so as to ensure real implementation. That is what we need. We have a plan for the health services. There is broad agreement on the fact that A Vision for Change is a good plan. However, what we do not have is implementation. I am not convinced there will ever be real implementation unless a person with leadership responsibility is appointed and there is a clear reporting structure on each of the issues outlined. I hope that the Minister can accept the amendment.

**Senator John Gilroy:** There is nothing in this amendment that I could not support. It is a worthy proposal. However, it may be premature given we are in a transitionary period. While I support all that has been said by Senator Power, it is not relevant at this time.

The comments made on A Vision for Change are quite right. I remember some years ago I was involved in a literature review of various mental health policies at international level. A Vision for Change was certainly the best we could find at the time. I agree with Senator Power that we need a driver behind it because it will not be delivered without one. We are not speaking about establishing a new agency but reforming the existing one. Everybody would rather see the change expedited rather than prolonged and I hope we will get through this transitional period as quickly as possible and go through the procurement and interview processes required to find somebody for the role of mental health director for A Vision for Change.

To comment briefly on Senator MacSharry's fondness for nautical metaphors, I remind the House that the iceberg which sank the Titanic melted, as did one which sunk our economy which was called Fianna Fáil.

**Senator Marc MacSharry:** Good one.

**Senator John Gilroy:** Did you like that?

**Senator Thomas Byrne:** That will really help the sick people of Ireland.

**Deputy James Reilly:** As I outlined previously, the Bill provides that members of the directorate be drawn from HSE employees holding the grade of national director but does not specify individual national director posts. In tandem with the proposed new governance structures, new administrative structures will be put in place in the HSE to reflect the need for greater operational management focused on the delivery of key services and greater transparency of funding, service delivery and accountability. The planned director posts include a director of mental health. However, this is separate from the Bill. When performing their functions as members of the directorate, members will act collectively as part of the governing body of the HSE. This is distinct from their individual responsibilities as senior employees holding the grade of national director.

Given the overall structure of the Bill and its purpose, which is to abolish the board of the HSE and not abolish the HSE itself, I hope Senators will appreciate it would not be possible to

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accept these amendments and provide the level of specificity suggested with regard to a particular service area, notwithstanding the importance of this area. I do not propose to accept the amendments but I have listened carefully to what Senator Power has stated and I agree with her sentiments on the importance of mental health. We will have a director of mental health who will have control over his or her budget. The idea of these directorates is that the directors will have clear line of sight over their budgets and what happened previously will not happen again, whereby budgets and moneys were moved from one area to another after being voted for a specific purpose by the Houses of the Oireachtas.

Amendment put:

The Committee divided: Tá, 17; Níl, 29.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Byrne, Thomas.	Bradford, Paul.
Crown, John.	Brennan, Terry.
Daly, Mark.	Burke, Colm.
Leyden, Terry.	Clune, Deirdre.
MacSharry, Marc.	Coghlan, Paul.
Norris, David.	Comiskey, Michael.
O'Donnell, Marie-Louise.	Conway, Martin.
O'Donovan, Denis.	Cummins, Maurice.
Ó Domhnaill, Brian.	D'Arcy, Jim.
Ó Murchú, Labhrás.	D'Arcy, Michael.
Power, Averil.	Gilroy, John.
Reilly, Kathryn.	Harte, Jimmy.
Walsh, Jim.	Hayden, Aideen.
White, Mary M.	Heffernan, James.
Wilson, Diarmuid.	Henry, Imelda.
Zappone, Katherine.	Higgins, Lorraine.
	Keane, Cáit.
	Kelly, John.
	Landy, Denis.
	Moloney, Marie.
	Moran, Mary.
	Mulcahy, Tony.
	Mullins, Michael.
	Noone, Catherine.
	O'Keeffe, Susan.
	O'Neill, Pat.
	Sheahan, Tom.
	Whelan, John.

Tellers: Tá, Senators Marc MacSharry and Diarmuid Wilson; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared lost.

**An Cathaoirleach:** Amendments Nos. 13 and 14 are related and may be discussed together by agreement. Is that agreed? Agreed.

**Senator Marc MacSharry:** I move amendment No. 13:

In page 9, line 25, to delete “Subject to subsection (4),”.

This is similar to the earlier scenario where we are saying that the recruitment of a director general and directors would be subject to the Public Service Management (Recruitment and Appointments) Act 2004 without being subject to subsection (4) and relates to the fact that people would automatically have to have been in the existing organisation before they can become directors of the new organisation.

The question of confidence in the process arises again. Given the difficulties that have arisen in the health service, it is a question of integrity and ensuring the peace of mind of the director. While I am sure the candidate’s qualifications and experience will be such that he will sail through the process, the public has an entitlement that must borne in mind.

I will be happy to listen to the Minister’s response. While we intend to withdraw the amendment, I ask the Minister to reflect on the matter between now and Report Stage. We must return to this on Report Stage in the interest of the public. Neither the public interest nor that of the Minister will be served if we put this provision into law temporarily. This also applies to the provision the Minister said he would reflect on between now and Report Stage. With respect to the Parliamentary Counsel people can credibly and justifiably say the legislation is a charade and means nothing.

**Acting Chairman (Senator Diarmuid Wilson):** Those Senators who wish to engage in conversation should do so outside the Chamber.

**Senator Thomas Byrne:** With this provision, the programme for Government is once again torn to pieces. The amendment my colleague seeks to make merely seeks to implement what is in the programme for Government. The Senator is asking that “subject to subsection (4)” be deleted. The subsection means a public competition does not have to take place in respect of the job. Where is the new politics and open government? Where is the programme for Government to which the Government solemnly committed before the people? Where is the change that people expected? The programme for Government stated all appointments above principal officer level should be subject to open competition. This Bill makes an utter mockery of that.

How does the public know it is getting the best possible person for the position? Quite simply, it does not. All it knows is that the Minister appointed a person of his own volition and that nobody else was involved in making the decision. This is wrong. The Government promised to change this process but has failed to do so. That is exactly what is driving the public mad. It expected new politics and new methods of public administration. It is not getting them in this

Bill, particularly in this section.

**Senator John Gilroy:** We were doing well until Senator Byrne arrived.

**Senator Thomas Byrne:** Am I supposed to agree with everything?

**Senator John Gilroy:** The point we are making is the same as the one we made on amendments Nos. 11 and 12. The transitional nature of the Bill requires that we move fast. Senator MacSharry's amendment does nothing to expedite the change we all desire. The legislation is transitional, and the legislation for the establishment of a new board and to bring about the reform we all desire is coming down the road. Senator Power mentioned a period of three years, but this is not a target so much as the deadline. I am confident that the Government can deliver the necessary change well within that period. Stating the Government has broken pledges in the programme for Government is irrelevant to this Bill. I am sure the Minister will have a few words to say in this regard also.

**Deputy James Reilly:** I could easily start by saying we all know what drives the public mad. What has driven it mad is our financial sovereignty being handed over to a troika due to the actions of the previous Government. Let us call a spade a spade.

A number of issues arise. This Bill is an interim measure on the way to the abolition of the HSE. I refer to an interim structure at the top of the HSE to replace the board. It is to give a clear line of sight.

I wonder how many takers one would get for an interim position that certainly will not last any longer than three years and particularly for the salary in question, given that the previous incumbent was on €320,000 per annum plus a car allowance of €25,000. The director-general designate is on €195,000. This represents a considerable saving for the taxpayer.

We are very fortunate to have someone of the calibre of the gentleman concerned agreeing to take the post. I have absolute confidence in him, the Secretary General of the Department of Health and the new leadership of the VHI. These represent the three legs of the stool that comprise our health service. It is terribly important that all three interact in a meaningful, coherent way to address the cost base of the service, which is clearly too high. This was not addressed heretofore but it is now being addressed. As the House knows, new arrangements were agreed at the LRC talks by consultants and these will have a major benefit.

Section 16E provides for the appointment of the director general. Under subsection (4), the first director general is appointed by the Minister. This is not something that has not happened before. Subsequent directors general will be appointed by the Minister following a recruitment process under the Public Service Management (Recruitment and Appointments) Act 2004. There are legislative precedents providing that the first person appointed to a new office be appointed as envisaged under subsection (4). The use of this provision is the most practical way to advance the new directorate's arrangements. I do not, therefore, intend to accept the amendments.

It is important at a time of change that there be some sense of direction and that people have some certainty about who is in charge. Having the director designate in position to walk into the job achieves this comprehensively. The people in the HSE now know where the new leadership lies and they are rowing in behind it. I welcome that.

**Senator Thomas Byrne:** The view expressed by the Minister that nobody can be found to run the health service for €195,000 per year for three years is beyond belief, ludicrous and untrue. The Minister has not even tried to engage in a public appointments process. In one case in which there was a public appointments process, the candidate ultimately selected was unable to take up the position. In this case, however, the Minister has not even tried. He just appointed somebody whom he knows. I am sure the person in question is well respected – I have no doubt about that – but that is not the point. The Government parties committed in the programme for Government to a new type of politics, with the consequence that positions such as the one in question would be open to competitive tender. There may well be other talented people who would be better for the job. However, we do not know because the competition has not taken place. The Minister has ridden roughshod over the programme for Government. He promised new politics but failed to deliver. The Minister can huff and puff all he likes-----

**Deputy James Reilly:** Just like you.

**Senator Thomas Byrne:** The Minister signed up for a programme for Government but this legislation goes directly against its provisions. I do not understand how the Labour Party, which is so concerned about the programme for Government, and Fine Gael can let this occur and laugh it off. The public is not laughing it off.

The Minister talked about blame and suggested what the public is angry about. The public is angry with a number of different parties. We can start debating those issues if the Minister wants. I will be more than happy to do so because some brickbats that are thrown by Fine Gael towards us would have me suggest that some people should look in the mirror.

**Acting Chairman (Senator Diarmuid Wilson):** Let us stick to the amendment.

**Senator Marc MacSharry:** We had an opportunity on Second Stage to get stuck in politically. There is a private Members' debate later in which I am sure none of us will be holding back, but I do not want any of us to lose sight of the fact that nobody is saying the current appointee is not suitable for the job in the context of this legislation. I may have points to make in this regard during the Private Members' debate later, but that is a different matter. The public needs to have confidence in the process. We cannot have confidence in a process that sets up a new organisation with existing staff. While I have used Titanic metaphors, this is a question of people having confidence and those inside the organisation having peace of mind from knowing that they have come through a robust process unaided. How long will a person be in that position? When it ceases to be temporary, will he or she be required to go through a recruitment process or will another exception be included in the legislation in respect of the first director general and directors? The latter instance would be wrong. It is an insult to people to state that someone will struggle along on €195,000. For those who are lucky enough to have a job, the average industrial wage is low.

I will give an advance taster of this evening's Private Members' business. The previous Administration in its wisdom did not make me the Minister for Health and Children. I am not responsible for that policy. This is a new day.

**Senator John Gilroy:** The Senator supported the policies.

**Senator Marc MacSharry:** As the distinguished former Minister and Leader, Mrs. Mary O'Rourke, often and clearly stated, that was then and this is now. I was not in government. I made no policy. When I make a point on legislation or issues, it is credible, as it is being made

by someone who has been elected in a new time and on the current Minister's watch. Regardless of how badly the game may have been played at different times or on different pitches over the years, there is little point in examining last season's matches to assess today's game.

I will not push the amendment to a vote, but we will vote all day on Report Stage unless the Fianna Fáil group can exit this Chamber knowing that, although the same people may be on the board, they will be selected via a process in which the people can have confidence, one that proves there was no one better to do the job in these difficult times. We owe it to people to ensure this happens, given the fact that a deficit of €45 million is being clocked up each month.

**Deputy James Reilly:** I would like an opportunity to respond to some of the Senators' comments. In fairness to Senator Byrne, he was not present for the early part of the debate. Perhaps he did not hear the arguments.

**Senator Thomas Byrne:** I was attending the finance committee.

**Deputy James Reilly:** That is fine.

**Senator Thomas Byrne:** I do not know where the Minister was. He could not be found by the media for a number of days.

**Acting Chairman (Senator Diarmuid Wilson):** Please, could we avoid personalising this debate?

**Senator Thomas Byrne:** The Minister personalised it in respect of me. I was attending the Oireachtas finance committee.

**Deputy James Reilly:** No. I merely pointed out that the Senator was not present to hear the argument.

**Senator Thomas Byrne:** There was an implication.

**Deputy James Reilly:** I stated, "In fairness to", but the Senator is so scratchy and itchy, he just wants to row no matter what.

**Senator John Gilroy:** Paranoia.

**Acting Chairman (Senator Diarmuid Wilson):** Colleagues, please.

**Senator Colm Burke:** This is only Wednesday.

**Deputy James Reilly:** I am trying to point out that this is not a new organisation, but a reorganisation of the top of the existing organisation. This is not the abolition of the HSE, but of the board of the HSE. I am sure Senator MacSharry will agree that I did not claim that anyone would struggle on €195,000 per year. I clarified that it was a saving to the taxpayer. I also pointed out-----

**Senator Marc MacSharry:** The Minister stated that we would be lucky to find someone for that money.

**Deputy James Reilly:** No, I stated that we were lucky to have someone so good. One might not be able to find many people who are prepared to enter into a three-year contract. The time may be even less, depending on the rate of progress with the interim care agency, which

is planned to replace the HSE.

Amendment, by leave, withdrawn.

Amendment No. 14 not moved.

**Senator Marc MacSharry:** I move amendment No. 15:

In page 10, line 26, after “opinion,” to insert the following:

“such opinion being corroborated by independent written medical advice,”.

**Senator Colm Burke:** Speaking from a legal point of view, the section is correctly drafted and the amendment could cause legal problems. If a person refused to appear for the medical assessment, which he or she would be entitled to do, the Minister’s hands could be tied. The Minister has made adequate provision, as the Bill states: “in the Minister’s opinion, the person has become incapable through ill-health.” No Minister will let someone go without adequate evidence. If a person was let go because the Minister’s opinion was that he or she had a medical complaint, the courts would find in favour of the party who was forced to retire unless the Minister produced copper-fastened evidence. The amendment would cause major complications and tie the Minister into producing medical evidence. Without that evidence, the Minister would not be able to take necessary action. I will not support the amendment.

**Senator John Gilroy:** Implicit in the section is what the amendment proposes. The amendment touches on being tautological.

**Deputy James Reilly:** I accept what Senator MacSharry is trying to do in terms of the perception of safeguarding the employee, but there are many examples in legislation of removing someone from office when, in the opinion of the body or person responsible for the matter, the officeholder has become incapable through ill health of effectively performing his or her duty. The Bill’s provision is based on these examples and I fail to see the need to go further than is usual. As Senator Burke pointed out, the amendment could have unforeseen consequences. The Bill’s provision is a standard legislative measure throughout Departments and I do not propose to accept the amendment.

Amendment, by leave, withdrawn.

**Acting Chairman (Senator Diarmuid Wilson):** Amendments Nos. 16 and 17 are related and may be discussed together. Is that agreed? Agreed.

Government amendment No. 16:

In page 12, to delete lines 9 to 15 and substitute the following:

“(b) where and to the extent specified in a delegation made under paragraph (a), authorise the subdelegation of any or all of the functions delegated under paragraph (a) to or by other employees of the Executive.”.

**Deputy James Reilly:** These are technical drafting amendments on the subdelegation of functions within the HSE and I ask Senators to accept them.

Amendment agreed to.

Government amendment No. 17:

In page 12, to delete lines 31 to 34 and substitute the following:

“(a) vary any delegation or subdelegation of a function made under this section, including by modifying the geographical area to which the delegation or subdelegation relates.”.

Amendment agreed to.

**Acting Chairman (Senator Diarmuid Wilson):** Amendments Nos. 18 and 19 are related and may be discussed together. Is that agreed? Agreed.

**Senator Sean D. Barrett:** I move amendment No. 18:

In page 13, line 17, to delete “, or is likely to be”.

This amendment is to delete “, or is likely to be” from the line “The Director General is not required to give an account before any Oireachtas Committee of any matter relating to the general administration of the Executive that is, or is likely to be, the subject of proceedings before a court or tribunal in the State”. I tabled my amendment long before yesterday’s events at the Committee of Public Accounts. I appreciate the *sub judice* rule, but I know of no other “likely to be” *sub judice* provision. The Bill’s provision could allow people not to answer questions, something that seemed to annoy many of our colleagues yesterday. Is there anything in law that allows one to refuse to answer a question because it is likely to be *sub judice*? Is there a burden of proof on the person using that defence at an Oireachtas committee or can he or she just shrug his or her shoulders, claim the issue might arise again and not answer? The spirit of the amendment is to solve a serious problem. We do not want to give people easy reasons to avoid answering questions at Oireachtas committees.

*4 o’clock*

That deals with the first amendment.

Amendment No. 19 seeks to delete: “In carrying out his or her duties under this section, the Director General shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.” We are in a democracy and are in a position where we have had to be rescued by the IMF. Silencing people, including this director general, is not appropriate. I welcome the discussion we are having this afternoon. Let us all have the ideas. No one is so precious as to be able to claim he or she is precluded by law from discussing the “merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy”. It is draconian in a democracy. If we had all the answers, we would not be in the position in which we find ourselves of trying to solve them with all the reforms we are carrying out. I welcome everyone’s views and I hope the Members of the House would consider deleting that subsection along with what I regard as an extreme version of the *sub judice* defence mentioned in amendment No. 18.

**Senator Marc MacSharry:** We certainly agree with amendment No 18. It appears Sir Humphrey inserted this provision. It is the out clause for the committee that the lads attending the Committee of Public Accounts yesterday might have liked to have had, but unfortunately it does not and should not exist in law, as far as I can see. Who knows what might come before a

court or be the subject of a legal issue.

However, I do not agree with amendment No. 19. I would like the director general to be very robust in the context of the Minister's office in challenging policy which he or she might disagree with or felt was not in the best interest. However, I do not believe he or she should voice opposition to a particular policy in the public domain if heading up the agency to carry out the directions of the Government of the day. One would hope and expect that voicing disagreement often happens in the confines of the Minister's private office, but not elsewhere.

**Senator John Gilroy:** Amendment No. 18 is worth exploring more and I would be anxious to hear the Minister's comments. Surprisingly, I agree with Senator MacSharry's comments on amendment No. 19.

**Senator Marc MacSharry:** Imagine.

**Senator John Gilroy:** It is rather remarkable in that regard. It would be a recipe for chaos for the director general to be publicly at odds with the policy of his or her own Department. I would like to hear something more about amendment No. 18.

**Senator Thomas Byrne:** I acknowledge that this section copies section 21 of the Health Act 2004, as I understand it. However, I do not agree with the provision and I am not sure it has been invoked up to now. I would hope that it would not be invoked under any circumstances because I believe an Oireachtas committee can make its own determination as to what is or is not *sub judice*. This option for the director general should not be included. It would be reforming if this were removed in its entirety to allow the director general to be answerable to the Oireachtas. I would hope the procedure of going to the High Court would not be invoked. It has not been up to now under the old Act and this is very similar to that provision. There is merit to Senator Barrett's point on the *sub judice* rule, which has not been noticed up to now. Credit is due to the Senator for spotting it and his amendment should be supported.

I would go further and oppose the entire section which is not good and should be changed. It should not be left the way it is for the sake of it. As we saw yesterday, there certainly was disagreement between Members and officials as to what could and could not be discussed. The Member was not looking for the officials to go into policy. Although they responded that they were precluded from talking about policy, I do not believe they were being questioned about policy but about the operation of the health budget.

I disagree with the Senator on Government policy. It is not the function of public servants to advocate policy one way or another when it has not already been decided. It is a matter for Ministers and for Oireachtas Members and I would be happy for that to continue. That would place an intolerable burden on public servants who are supposed to be and are neutral. They would not want that burden. The Minister and the Government should be accountable for policy and not public servants.

**Deputy James Reilly:** The provision relating to amendment No. 18 is: "The Director General is not required to give an account before any Oireachtas Committee of any matter relating to the general administration of the Executive that is, or is likely to be, the subject of proceedings before a court or tribunal in the State." This is found in much other legislation, as it would be important not to interfere with the integrity of any future court proceedings as well as to protect the integrity of any current court proceedings. The phrase "is likely to" is designed to narrow matters down in the context of possible future proceedings. The new section 16I(6),

as inserted by the Bill, provides for an application to the High Court by the director general or the committee to determine whether the director general is required to give an account to the Oireachtas committee. This is widespread throughout Departments and State agencies.

On amendment No. 19, the subsection concerned is located in a general section dealing with the attendance of the director general before Oireachtas committees. It is in that context that the subsection is enacted. Senators will notice that subsection (9) begins with the words: "In carrying out his or her duties under this section". It is not an attempt to prohibit or censor the director general in any way but to delineate the position of the director general when he or she appears before an Oireachtas committee.

If one were to accept the amendment and delete the provision, as proposed by Senator Barrett, an Oireachtas committee would be free to ask the director general about matters of policy and his or her agreement or disagreement with it, and he or she would be obliged to answer. Matters of policy are properly the domain of Ministers and the Government, as other Senators have pointed out. It would not be appropriate for a representative of the HSE to comment on policy matters. To ask a director general such a question would compromise his or her ability to properly serve the elected Government of the day and would also compromise the ability of the Government to have a working relationship with the director general, who has a pivotal role under this legislation in the planning and execution of policy in regard to health matters. This type of provision is standard in legislation setting up State bodies.

Therefore, I cannot accept these amendments. I agree with the Senators who have pointed to the chaos that would result if public servants had to decide on whether they agreed with policies and argue with the Government of the day which is elected by the people to implement its policies.

**Senator Sean D. Barrett:** I thank the Senators for their views on these amendments. It is a pity that the occurrence of "or is likely to be" is widespread in legislation. We are facing a problem when so much public administration has failed. It gives a defence against answering questions and a considerable amount is wrong. While I do not have a background in the health service, in the area of economics, during the period we got into trouble, where on earth were highly paid people in the Central Bank, the Department of Finance, and the accountancy and other regulatory bodies who were supposed to be regulating banks? The Government is introducing whistleblower legislation, but we must assist them so that bodies that have failed cannot use opt-out clauses to stop discussing policy. We have spent four years trying to find out what on earth the aforementioned bodies were doing in the damage they did for the economy, which also has implications for the health service. I would hope we would move towards more answering of questions and less closed public administration. The current system is not serving the country.

It could be said that the public face of Government was easily solved because we had an election, following which one of the Government parties, which had been in power for the best part of 80 years, was reduced from 78 to 20 seats. There is concern that the permanent Government remains, is largely exempt from the consequences of failed advice and bad policies, continues to opt-out on the basis of freedom of information defences, does not write anything down lest a journalist might discover it and so on. We need a new culture of administration and not only in the area of health.

I accept what the Minister said. However, our public administration has failed people. The

political element of failure has been dealt with by the public. We now need to reform the way in which we do our public business. I will withdraw the amendment based on what the Minister had to say. However, I believe we have a wider cultural problem in Irish public service, to which I have tried to draw attention in my amendments.

**Senator Thomas Byrne:** I would like to comment on the amendments before they are withdrawn. We have been told that this is a striking blow for more accountability, openness and transparency in the health service. However, what we are getting in terms of the section under discussion is the same legislative provisions as heretofore in terms of accountability and the delegation of functions down the chain away from the Minister and director general. That is the sum total of the change, which does not say much for this legislation. One wonders why bother to introduce it.

**Deputy James Reilly:** In regard to devolution of powers, this has been the cornerstone of this Government's policy. We want local people to have the say over their services. This is the reason for the establishment of hospital groups. We will shortly be publishing a document on hospital groups and on small hospital frameworks. I cite the situation in Galway following the appointment last January of Mr. Bill Maher to run Galway University Hospital, Merlin Park Hospital and Roscommon and Portiuncula hospitals. Mr. Maher has ensured a substantial increase in footfall at Roscommon Hospital, with the addition of new facilities and services, including plastic surgery and rheumatology services. There is also a commitment to build a new colonoscopy unit there. Furthermore, when Mr. Maher took over there were 9,901 people who, had they not been treated by September, would have been waiting a year or longer for treatment. The current figure in this regard is zero. Also, when Mr. Meagher took over the number of people on trolleys was between 40 and 50 per day. That average figure in this regard is now seven.

There is more work to be done. However, devolving power locally gives people autonomy over their budgets. I want to see them given autonomy over their recruitment and procurement, albeit done with a mind to central information so that we get the best deal. That is what delegation is all about. I have seen this work already in the example given. There are other examples also.

I thank Senator Barrett for his contribution and his clear sentiment towards expediting the reforms we are all so keen to see come about. I thank him also for withdrawing his amendments.

**Senator Thomas Byrne:** I am delighted to hear the good news story outlined by the Minister. However, this was done under the Health Act 2004, which begs the question as to what is the purpose of this legislation.

**Deputy James Reilly:** Further reform and more powers are needed. Much more can be achieved with further devolution to local management in respect of their hospitals.

Amendment, by leave, withdrawn.

Amendment No. 19 not moved.

**Acting Chairman (Senator Diarmuid Wilson):** Amendment No. 20 has been already discussed with amendment No. 6. Government amendment No. 20:

In page 15, line 39, to delete "act" and substitute "perform its functions".

10 October 2012

Amendment agreed to.

Section 7, as amended, agreed to.

Sections 8 to 11, inclusive, agreed to.

## SECTION 12

**Senator Marc MacSharry:** I move amendment No. 21:

In page 18, line 42, to delete “is consistent with” and substitute “complies with”.

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

Amendment declared lost.

Amendments Nos. 22 and 23 not moved.

**Senator Sean D. Barrett:** I move amendment No. 24:

In page 20, line 22, to delete “policies and”.

Perhaps the Minister will consider a small adjustment for Report Stage. It is proposed to delete where it does not accord with “policies and” objectives of the Minister. We should discuss “policies”. One would appreciate that everybody involved has the objective of extending healthiness, life spans and so on. Some people might believe this is best done at GP level and others believe it might best be done at hospital level. We can differ. We can discuss “policies” without disputing the Minister’s objectives, which is exactly what we are doing this afternoon. We share the Minister’s objectives. I do not foresee any difficulty where people have different ways of achieving those objectives. In contrast to what I was describing earlier about economists who sat around in public employment when this country got into trouble, debate goes on all the time and is most refreshing, stimulating and wonderful. Let us not rule anything out because in such a context we would be discussing policy.

If somebody disputes the Minister’s objectives, he is right to oppose. However, I do not believe the issue of people having different policies towards his objectives should be a major deal in this legislation. That is the spirit in which I proposed this amendment.

**Acting Chairman (Senator Diarmuid Wilson):** While I allowed the Senator some latitude in terms of speaking to this amendment, it has already been discussed with an earlier group of amendments. I will allow a brief comment from the Minister if he wishes.

**Deputy James Reilly:** We have already discussed the matter.

Amendment, by leave, withdrawn.

Section 12 agreed to.

Sections 13 to 16, inclusive, agreed to.

## SECTION 17

**Senator Sean D. Barrett:** I move amendment No. 25:

In page 22, lines 42 to 44, to delete all words from and including “, in” in line 42 down to and including “to” in line 44 and in page 23 to delete lines 1 and 2 and substitute “have professional qualifications in auditing.”.

This relates to a consideration expressed earlier by Senator Burke. He is probably better equipped to deal with this matter than I. The amendment proposes that those who are engaged in auditing should have professional qualifications. We are seeking to assist the Minister in terms of the new role of the audit committees. The Minister may be able to reassure us that this is already the situation or is what he has in mind.

**Deputy James Reilly:** The section as drafted provides for the appointment of not fewer than four people who have the relevant skills and experience to perform the functions of the audit committee established under the Bill. These functions include advising the Director General on financial matters relating to his or her functions, risk management and other related matters. I understand the Senator’s purpose and logic in bringing forward this amendment. However, in view of the committees overall functions, I am anxious not to limit the criteria for membership and consider that the particular qualifications set out in the Senator’s proposed amendment are encompassed in the current wording which refers to relevant skills and experience. I, therefore, do not propose to accept the amendment.

In regard to section 17 which provides for the audit committee, I would, however, like to indicate that I may be bringing some technical amendments on Report Stage to clarify a reference to risk management and some other arrangements in relation to the committee.

**Senator Sean D. Barrett:** I thank the Minister and look forward to hearing what he has to say on these matters on Report Stage. It is important this onerous task, in a sector wherein there was a tradition of auditing not being done by professional people, is undertaken by those with the best skills. In other fields, such as banking, the accounts were not very reliable either and those people had professional qualifications. As it has been a problem in the health service which has drawn the attention of the Comptroller and Auditor General on many occasions, I will support the Minister in whatever measures he has in mind. The very large health budget should be properly audited and perhaps we can examine this again on Report Stage.

Amendment, by leave, withdrawn.

Section 17 agreed to.

Sections 18 to 22, inclusive, agreed to.

#### NEW SECTION

**Senator Thomas Byrne:** I move amendment No. 26:

In page 27, before section 23, but in Part 2, to insert the following new section:

“23.—Any officer/employee of the Executive shall be tax resident in Ireland for the duration of his or her employment with/by the Executive.”.

This amendment has been tabled to highlight an issue about which the Taoiseach expressed concern in the Dáil. Deputy Micheál Martin raised the issue of external consultancies providing legitimate tax avoidance for special advisers to the Minister for Health. Two UK companies are involved but I will not name them as they are doing something which is utterly lawful and

allowed. They provide consultancy services to the Minister for what is effectively the role of a special adviser. An individual person has been chosen by the Minister to give him advice. We have always had issues with special advisers, as did the Government when we were in government and we appointed them.

In this case the special advisers have been based abroad and have established consultancy companies or provide advice through such companies abroad. This gives them a legitimate tax benefit. Deputy Martin raised this with the Taoiseach who stated he would speak to the Minister about the issue. Deputy Martin stated it will add to cynicism and scepticism among the public if this means of procurement and utilisation of consultancies by the Minister and his advisers is allowed to continue. The practice is unlawful in Ireland and special advisers based here would not be allowed to do it under tax law. It is a retrograde step.

I may well withdraw the amendment and return to it on Report Stage. I accept the amendment may not have the exact effect I intend because some of these advisers are not employees of the HSE but employees of the Minister or the Government. However, it is an issue worth highlighting because of the tax saving in the order of €250,000, an amount which would have a significant effect on the budget of many hospitals. It would pay for a number of home helps or nurses. The issue should be addressed. In the Dáil, the Taoiseach replied to Deputy Martin that he would raise the matter with members of the Government, that he did not believe it was acceptable to have consultants involved in work if it had the effect described, that he would certainly raise the issue with the Minister and that he would revert to the Deputy. I am now raising the issue with the Minister to see whether any improvement in the situation has been made.

**Acting Chairman (Senator Diarmuid Wilson):** I call Senator Burke but I do not expect him to answer the questions asked by Senator Byrne. The Minister will speak afterwards.

**Senator Colm Burke:** I have a difficulty with the definition of “officer/employee”. The amendment would not apply to someone who was contracted. I do not believe the amendment would be in compliance with EU regulations on the freedom of movement of workers. Locum consultants work in hospitals from time to time because no one else is available. Even if they work in Ireland for only a month and are not normally resident here, they must pay the full amount of tax which is deducted at source. For the past two years if a medical consultant employs someone to carry out locum work, the Revenue Commissioners insist the medical consultants who subcontract such work must deduct and pay the tax while it is up to the person who does the locum work to claim back the money. I understand the point being made by Senator Byrne but perhaps the issue should be examined with regard to tax rather than health care.

**Deputy James Reilly:** These individuals are not advisers to me; they are advisers and consultants to the special delivery unit. In the broader sense, employees of the HSE are subject to the same taxation arrangements as other employees working in Ireland. As Senator Burke stated, taxation arrangements are not appropriate to the Bill and therefore I will not accept the amendment.

**Senator Thomas Byrne:** The special delivery unit is not an outside body. It is a fundamental part of the Department which the Minister established. The individuals who have benefited from these legal arrangements were selected by the Minister and he has publicly praised them for their expertise. Along with Mr. O’Brien, he stated the State is lucky to have their expertise. The Minister did not employ their companies but quite legitimately they used companies in foreign jurisdictions to reduce their tax liability, a practice which I understand would not be al-

lowed if they were resident in this country. This is the point I am trying to make.

Neither the Minister nor Senator Burke has dealt with the serious issues which have been raised by Fianna Fáil and at least considered by the Taoiseach as something worthy of raising with the Minister and the Minister for Finance. We should put a stop to it. The €250,000 could go a long way in certain services. It would not be a panacea for the entire health service. However, it adds to public scepticism and cynicism. On the day we have seen what I believe is the longest list on record of patients waiting on trolleys in Our Lady of Lourdes Hospital, people do not have much confidence in the special delivery unit and neither do I.

**Senator Sean D. Barrett:** This raises a major point which we do need to address, namely, the tax avoidance industry. As Senator Burke stated, it may be more appropriate to finance legislation, but the Minister for Social Protection, Deputy Joan Burton, was particularly keen on targeting this when she was in opposition. A major scandal emerged in the UK where the head of the student grants agency had such an arrangement and was engaging in what is called tax avoidance, which deprives the Exchequer of large amounts of money. It is distinguished by an entire body of tax lawyers and accountants from tax evasion, which is criminal. At all times the Government should be against these tax avoidance schemes.

The Carter commission in Canada argued for the simple rule that a dollar is a dollar is a dollar and if it has purchasing power it should be taxable, regardless of the source. It is also an issue in the United States in that one of the presidential candidates because of his sources of income probably pays approximately 13% income tax, which is much lower than the average worker in the health service.

The amendment is sounding a caution. The Leader wants to discuss these issues in a pre-budget debate, but tax avoidance schemes such as this got away scot-free in last year's budget while special needs assistants and others doing important work did not. It is very important that the issue is raised now and perhaps the Minister will bring it to the attention of his Cabinet colleagues.

**Senator Thomas Byrne:** This is an illegal tax avoidance scheme in this country but legal in Britain and this is the issue I am trying to highlight. I am happy to withdraw the amendment, reformulate it to address some of the concerns raised and re-introduce it on Report Stage.

**Acting Chairman (Senator Diarmuid Wilson):** Does the Minister wish to comment?

**Deputy James Reilly:** Normally I receive on my phone information on the highest numbers of people on trolleys every day but I do not have them today. Yesterday 45 people were on trolleys in Our Lady of Lourdes Hospital. In the past the number has reached above 50 so to say it is the highest is not accurate.

In January last year we had 569 people on trolleys throughout the country and today the number is approximately 230. Last year it was 330 so it is now 100 fewer. Let us examine what the special delivery unit has achieved along with the clinical programmes and the front-line staff. It is fair to say the unit had a very good conversation with those working in the hospital alluded to by Senator Byrne. It asked what they felt needed to be done and introduced a range of initiatives involving home help, home care and teams to give intravenous antibiotics at home. More long-term and acute beds were opened and they undertook to conduct a capacity study, which showed a capacity issue had arisen so more beds were opened as a consequence. None the less, there is no question that this hospital remains a problem, and there is a need for support

for the management there because not alone has it the worst record with regard to patients on trolleys, it also has one of the highest rates of absenteeism. Let us look at what it has achieved because we do not say it often enough. There has been an 85% reduction in the number of people waiting a year or longer for an inpatient procedure. There has been a 63% reduction in the number of people waiting nine months or longer for an inpatient procedure. There has been an 18% reduction in those waiting three months or longer. They are real measurable improvements and signs of progress that have come about because of a focus by the special delivery unit, SDU, in conjunction with the clinical programmes and the front line which is doing sterling work. There has also been a 22% reduction in total in the number of people on trolleys. That equates to more than 13,400 people who do not have to endure being on trolleys.

We should bear in mind that it was only a year ago in January that 569 people were on trolleys despite billions being spent on the health service. We are not looking at inputs all the time anymore. We are looking at outcomes for patients as measured by those who have to wait three months, nine months or a year, or those who have to wait on trolleys or have to be re-admitted. We are looking at outcomes for patients in terms of the stroke programme, which is now saving one life per week and avoiding three other people having to go into long-term care. They are Irish citizens, our people, our friends and people in our communities. They are real. That is what the SDU has been able to achieve in conjunction with the clinical programmes.

I will mention some of the things that have been done. For the first time in this country, there is now an accurate figure for outpatient waiting times. There is an attempt to say they doubled from April to last month when in fact only half the hospitals had been counted in April. Nearly all of them have been counted and there are only about two more to go. We reckon the full figure will be 360,000. That seems like an insurmountable figure but it is not if one thinks that more than 200,000 people are treated every month in outpatient departments. We are not afraid to have clarity around these matters, identify the problems and address them in conjunction with those in the service. We will do that. We had a very good debate in the House a couple of weeks back in respect of this.

In respect of this issue, the SDU has had a remarkable effect on our health service, has brought the focus back to where it should be - on the patient - and, for the first time, has enabled the front line to do the work it wants to do and grow the self-belief again that it can handle this challenge and do what we all want to see done. This is to have a health service that is equitable and accessible for everyone, not just those who can afford to go privately.

**Senator Thomas Byrne:** I will withdraw the amendment. I will bring it back on the tax issue, which is a serious one. I raised the trolley issue and the Minister came back with an answer. If I am not correct with regard to that figure, I will take it back because the figure was not from the Irish Nurses and Midwives Organisation. It was given to me today by a person concerned with that area. I accept that this is not the figure on the INMO website. Obviously, it is an ongoing issue. I will withdraw the amendment but bring it back on Report Stage.

Amendment, by leave, withdrawn.

Section 23 agreed to.

Title agreed to.

Bill reported with amendments.

**Acting Chairman (Senator Diarmuid Wilson):** When is it proposed to take Report Stage?

**Senator Maurice Cummins:** Next Tuesday.

Report Stage ordered for Tuesday, 16 October 2012.

### **Primary Care Centres: Motion**

**An Cathaoirleach:** I welcome the Minister back to the House.

**Senator Marc MacSharry:** I move:

That Seanad Éireann:

- agrees that the selection criteria for primary care centres prioritising urban deprivation was unilaterally ignored by the Government;
- requests that all documentation be immediately published to clarify how exactly the criteria was changed and the extra centres were selected;
- condemns the cutbacks to front line services particularly bed closures, staff lay-offs, and cuts to home help hours as a result of the mismanagement of the health budget which has resulted in €285 million overspend, and
- calls on the Government to reverse these proposed cuts to front line services and to make savings in other areas as outlined in budget 2012 by the Government.

I welcome the Minister back to the House. Notwithstanding all the issues I would like to raise with him, including the issue this evening, he has always made himself available to this House. His record is better than that of any other Minister in that regard. I thank him for that.

With regard to the selection of primary care centres, the issue of prioritising the tackling of urban deprivation was unilaterally ignored by the Cabinet, including the Minister. It is vital that all documentation relevant to the process be made available as a matter of urgency. There has been a ministerial resignation. It is not unprecedented but it is certainly a very serious matter considering the reasons former Minister of State, Deputy Róisín Shortall, gave for her departure.

It has been said on our side of the House by many colleagues that the wrong Minister resigned. While I would have many issues with the Minister and the Minister of State who resigned, I believe it may be easier to shout from the terraces than it is to play on the pitch. Notwithstanding that, the former Minister of State chose to state her reason for resigning was stroke politics. At a time when the entire body politic is in very low standing among the public, whatever remedy is available must be employed. In this context, it is in the interest of the Minister to ensure that any and all documentation, be it so-called commercially sensitive documentation or otherwise on lease agreements that may have been entered into after the granting of planning permission, be made available to the public.

The never-ending and ever-changing story of the primary care centre of Balbriggan, in par-

ticular, is extremely worrying. To many objective observers, it appears that the Minister looked after his own constituency when the opportunity presented itself. I refer to the original site being deemed inappropriate, the HSE moving on and the further expressions of interest, after which a site was chosen. All of this occurred on the Minister's watch. He wrote to Balbriggan Town Council to state there was an agreement for a site and a purchase price in principle. That was in July, I am told. Clearly, the Minister was aware that the site was agreed in principle and that the price was effectively agreed. The site happened to be associated with a long-term activist and supporter of the Fine Gael Party.

With that in mind, it is essential that we get to the bottom of this issue. As I said, it appears as if the Minister were looking after his own constituency. He looked after Roscommon because Deputy Frank Feighan took the hit that Deputy Denis Naughten was not prepared to take. The Minister for Health's ministerial colleague, the Minister for the Environment, Community and Local Government, Deputy Phil Hogan, has not been able to deny that he lobbied explicitly for a primary care centre to be put in his area. The reality is that the preannouncement weighting of all of the locations was not consistent with their having been placed in the top 35. That is a concern of the people. The former Minister of State, Deputy Shortall, called it stroke politics and based her reason for withdrawal very specifically on that issue.

I cannot help but notice the absence of a number of Labour Party Senators.

**Senator Ivana Bacik:** There are three of us present in the Chamber.

**Senator Aideen Hayden:** There are actually more present than there are Fianna Fáil Senators. It is a Fianna Fáil Private Members' motion. Perhaps the Senator would like to answer that.

**Senator Marc MacSharry:** I cannot help but notice the absence of certain Labour Party Senators.

**Senator Aideen Hayden:** What does it say for the Senator's party?

**Senator Marc MacSharry:** Clearly, it is close to the bone when one considers the amount of heckling and the reaction on the issue. I do not see Senator Whelan, for example, whom I am sure is wondering-----

**An Cathaoirleach:** We do not allude to Senators who are not present in the Chamber.

**Senator Ivana Bacik:** It is just as well because there are so few Fianna Fáil Members present.

**Senator Marc MacSharry:** One wonders why a Senator who was most vocal on the issue of Abbeyleigh hospital is absent from the Chamber. I am sure he is wondering when the announcement will be made by the Minister, Deputy Reilly. The Labour Party Whip, party leader and spokesperson on health are present but they have to be here. One wonders, however, about their colleagues who have, quite rightly, raised some of these issues in the past.

The aforementioned sideshow is occurring against the backdrop of a floundering health service. There are many isolated issues to celebrate. Some have been pointed out. Earlier, Senator Burke pointed to some developments that are going well. Of course, there are many people working extremely hard and giving very good care to people throughout the country.

There are many isolated issues to celebrate. The Minister has mentioned them. Senator Burke referred to a number of aspects that were going well. Many people are working hard to provide good care throughout the country. However, there is a major issue with cost overruns, the health service's general management and front line cuts. It has been proposed to cut home help hours again. Combined with previous cuts, this amounts to 1 million hours. The HSE will not be in a position to assess each individual case for cutbacks between now and Christmas.

Promises were made. As the Minister is aware, I am on record accusing him of running a deeply cynical campaign from the Opposition benches. He made a series of promises to buy the general election based on a bottom line that he knew could not support the level of expenditure demanded. Promises were made in Ennis and Roscommon, there was going to be a centre of excellence in Sligo and cancer services were to be returned within 100 hundred days, a promise on which the current Minister of State, Deputy Perry, pontificated. All of them have been welched upon and the Minister has claimed that he did not realise that the cupboard was bare. He met the troika before the election was called and knew that the cupboard would not allow him to fulfil promises of that nature. As I have stated on previous Private Members' motions on health, that was irresponsible.

Yesterday, the director general designate of the HSE and the Secretary General of the Department attended the Committee of Public Accounts and were able to clarify that what was a deficit of €329 million had increased to €374 million. With the deficit increasing by €45 million per month, people can legitimately ask whether the Government can continue. Never mind the sideshow of a Minister of State resigning because she has no confidence in her senior Minister, whom she accused of stroke politics and who is clearly looking after his buddies in the Cabinet and his party. Examples include the Minister for the Environment, Community and Local Government, Deputy Hogan, in the case of Kilkenny, and Deputy Feighan in Roscommon, who took a bullet on Roscommon hospital that Deputy Naughten was not prepared to take. The Minister, Deputy Reilly, is also looking after his own constituency. Conveniently enough and as luck would have it, the person who owns the site happens to be a member and supporter of the party. I am not saying that there is anything wrong with that. Ireland is a small country and it is possible to trace a political lineage to everyone. Someone somewhere has had a first cousin who has canvassed for someone else in some party at some time. However and as the former Minister of State, Deputy Shortall, pointed out, this explanation does not account for the agreed and clear criterion of deprivation being unilaterally ignored.

We were told that the Minister consulted his Cabinet colleagues and took advice from HSE officials, but the HSE's director general designate clearly stated yesterday that he was not in a position to confirm that the HSE had anything to do with the site's selection. The children's hospital is due to be built in the constituency of the Minister for Transport, Tourism and Sport, Deputy Varadkar. I wonder whether that had anything to do with his support for the Minister, Deputy Reilly. On "The Week in Politics", he stated that what had happened looked like stroke politics. The Minister for Social Protection, Deputy Burton, and others expressed doubts.

Many of the Labour and Fine Gael Senators who have expressed concerns about, for example, the home help cutbacks and the cost overruns are absent. The overruns were advised by Mr. Cathal Magee as far back as March or April, given the budget set out by the Minister. That budget was dishonest because it was not achievable as far as Mr. Magee was concerned, but he was shipped out of his HSE offices and someone new who was prepared to take over was slipped in. The hospital overruns were predicted by me and many others almost one year ago. Some €124 million was to be saved on drugs and €74 million on the charging for the use

of private beds. None of these savings was achieved.

**An Cathaoirleach:** The Senator has less than one minute remaining.

**Senator Marc MacSharry:** The Minister is trying to defend himself against a growing pool of opposition, possibly within Fine Gael but certainly among some Labour members of the coalition, as evidenced by Deputy Shortall. This situation needs to come to an end.

When the House debated the HSE governance Bill this afternoon, the Minister referred to it as an interim measure to facilitate the abolition of the board. What will it do in real terms? We used nautical terms, for example, the *Titanic* being called the *Olympic*. The legislation provides that one needs to have held a position in the old structure to qualify for that position in the new structure. It is a mockery.

I am amazed that the Minister is surrounded by the same people, yet he was the most forthright in condemning the former Minister, Ms Mary Harney, and the previous Government in terms of health. When I was on that side of the House, I probably agreed with him and mimicked much of what he was saying. His press adviser, the spin doctor who is dressing up the Balbriggan issue for him, is the same person who worked for Ms Harney, of whom the Minister was critical.

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

**Senator Marc MacSharry:** The *Titanic* looks the same. It has the same captain. We might be passing legislation to call it by a different name, but the health system under the Minister's administration is littered with broken promises and a cost overrun heading towards €500 million. We do not know how that will be tackled. Given the extra €750 million that must be found in next year's budget, must we find €1.25 billion? The people on the ground want to know and need confidence.

**An Cathaoirleach:** I call Senator Ó Domhnaill.

**Senator Marc MacSharry:** We are all behind the Minister. All he needs to do is tell us how he will do it.

**Senator Brian Ó Domhnaill:** I second the motion and welcome the Minister to the House. I agree with Senator MacSharry, in that the Minister was always available to attend when required. Some of his Cabinet colleagues could learn from him.

A number of words came to mind while Senator MacSharry was speaking. The Minister undertook the marathon expedition in 2010 and finished the course. It would be fair to say that he is there for the long haul and that Deputy Shortall was there for the short haul and is now gone. Labour Senators may have opinions in this regard and point fingers at this side.

*(Interruptions).*

**Senator Brian Ó Domhnaill:** If we were in government-----

**Senator Maurice Cummins:** Never again.

**Senator Brian Ó Domhnaill:** -----and had this scenario unfolded, we know who would have been shouting the loudest. We have a right in opposition to ask the questions to which the people are seeking answers.

Politics is about the art of the possible. Primary care was a fundamental pillar of the programme for Government's health sphere. I agree that the development of primary care is essential if we are to remove the logjam in hospitals. However, this is an issue of how we achieve that and how we select centres, particularly where public private partnerships are involved. Regardless of what happened previously, politics must be renewed.

Another fundamental plank of the programme for Government was a renewed transparency in public office, in the Government and in the Oireachtas, but none of that has come about. This is just one glaring example. In February 2012, the criteria for the selection of primary care centres were agreed between the Minister, the then Minister of State and departmental officials. Subsequently, 15 centres were added to the list. Senator MacSharry has covered most of this aspect of the motion, but how were additional sites added? This shades the political process and demonstrates political interference in a system where criteria had been agreed by officials overseen by Ministers. If the process and criteria were objective and acceptable internationally, as I understand they were, why was there need for political interference to decide that centres like Balbriggan, which was way down the list of 200 primary care centres, would be selected ahead of Dundalk, which was 21st on the list? The public is asking these questions and although there may be answers during this debate, there has been a glaring omission in providing an answer to those questions.

We all know what happened in Roscommon before the election, when a commitment was given that the hospital would be kept open, but we know what has happened since. There is also the issue of the delivery of two primary care centres in Roscommon. Why close a hospital and then invest money in primary care centres? If all the services available at Roscommon hospital had been kept intact, there would be no need to provide primary centres. There are hundreds of thousands of empty buildings throughout the country and we do not need new buildings in the current climate. We should be looking at empty buildings that can be modernised and refurbished.

**Senator John Gilroy:** Where are they? Who owns them?

**Senator Brian Ó Domhnaill:** I know who owns some of them. They are people with huge mortgages who are struggling to pay them and cannot find tenants for those properties. I am sure they are lobbying Government Members. I know some of these people and I am sure the Members opposite know them as well. If the Labour Party wants new buildings when thousands of empty buildings are available, I cannot see the logic in it. We should look at refurbishment rather than new buildings.

The second part of the motion relates to the cuts in home care packages and home help. The programme for Government indicated that additional funding would be provided each year for the care of older people, with the funding going to more residential places, home care packages and the delivery of more home help and other professional community care services. With cuts of €8 million in home help between now and the end of the year, there will be 1 million fewer home help hours, which will force elderly people out of their homes and into public or private nursing units.

Has the Minister or the HSE the capacity between now and Christmas to assess individually all 11 million hours of home help? How can the Minister state that the assessment process is based on a review of individual needs, which is what is being said locally, when the outcome has been determined? The cuts have been put in place. How can the HSE be sure that cuts to

home help hours will not just mean more people will have to avail of full-time care in a hospital setting, which is inevitable?

We are in a time when individuals are being refused a carer's allowance to look after disabled, elderly and vulnerable people. The home help hours are also being cut. We must get a grip. We are either an economy or a society. We will either look after the people who built the country or we will not.

**An Cathaoirleach:** The Senator is way over his time.

**Senator Brian Ó Domhnaill:** These are the elderly and vulnerable. Any cut to home care packages and home help support is a disgrace and cannot be supported.

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

**Senator Brian Ó Domhnaill:** This motion is important. I plead with the Minister to go back to the drawing board and rule out any cuts to home help in particular.

**Senator Colm Burke:** I move amendment No. 1:

To delete all words after "Seanad Éireann" and substitute the following:

— affirms the Minister's commitment to the aims of the primary care strategy, which has the key objective of developing services in the community, giving people direct access to integrated multidisciplinary teams of general practitioners, nurses, physiotherapists, occupational therapists and others. The continued development of primary care teams and primary care centres are fundamental to making it easier for people to access care closer to their homes;

— welcomes the infrastructure stimulus package within which primary care facilities will be developed at 20 locations across the country using the public private partnership, PPP, mechanism;

— notes that a number of criteria were used in selecting primary care centres for development by PPP. These included the deprivation index for the catchment population, the service priority identified by each integrated service area-local health office, an accommodation assessment, existing health facilities, GP to population ratio, pressures on services, particularly acute services, funding options and the feasibility of implementing the development as a PPP;

— notes that the HSE is facing a significant challenge in 2012 given the need to set expenditure levels within the parameters of the national recovery plan;

— acknowledges the significant reductions which the health sector has experienced over the last three years, both budgetary and staffing;

— notes that the HSE has operated the Croke Park agreement very effectively, with over 3,500 staff redeployed, and a reduction in overall numbers of over 6,000;

— commends the Minister for Health on managing within this difficult environment, and at the same time achieving cost reductions within the health sector which are impressive by international standards, particularly within the hospital sector;

— supports accelerating the type of service delivery reforms that will move to models of care across all service-care groups which treat patients at the lowest level of complexity and provide services at the best possible unit cost; and

— welcomes the Minister and Government’s determination to move towards a health system that provides access based on need rather than income, underpinned by a strengthened primary care sector, a restructured hospital sector and a more transparent “money follows the patient” system of funding that will be supported ultimately by universal health insurance.”.

I welcome the Minister back to the House. He has had a long evening here and we appreciate the time given to this matter. The amendment clearly sets out support for the Minister in the work he is doing. It is important for us to consider the overall goal of what we are trying to achieve in reforming the health service. The last part of the amendment states that the Seanad: “welcomes the Minister and Government’s determination to move towards a health system that provides access based on need rather than income, underpinned by a strengthened primary care sector, a restructured hospital sector and a more transparent “money follows the patient” system of funding that will be supported ultimately by universal health insurance”.

We made it quite clear when we came into Government that the introduction of universal health care would take a number of years, and there is a process that must be gone through in implementing it. There is a step-by-step approach, with one such step being primary care units. On 17 July, the Minister for Public Expenditure and Reform, Deputy Howlin, announced an infrastructure package of €2.25 billion, with €115 million allocated to two bundles of primary care. Initially, the idea was for 20 primary care units identified that could be developed, and another 15 were added. I wonder how the other side of the House would have reacted if the Minister announced today that there would not be an additional 15 units? How would the people who will benefit from the additional 15 units feel towards the Opposition if they were suddenly withdrawn? That seems to what the Opposition wants but the Minister is not prepared to do it. He wants to use the money and the opportunity available to him to develop primary care units in the maximum number of areas in the fastest possible time.

The criteria are quite clearly set out, with a number of issues taken into account. For example, elements include the deprivation index, the service priority identified by each integrated service area, the accommodation assessment and staff surveys. Additional criteria include competition, GP co-operation and the population being served by general practitioners. Pressure on services, particularly acute services, have been taken into account, as well as funding options such as Exchequer funding, builder lease and implementing public private partnerships. All these elements have been taken into account when the Minister has considered primary care.

My colleague across the House asked why we do not examine the potential use of unoccupied buildings. In constructing a health care centre, certain standards must be reached, and not every building can be adapted to cater for health care. In many cases it is probably cheaper to construct a brand new building than adapt an existing building. We must consider such issues. We have identified 35 areas where primary care units can go ahead, but we must go through a process, and they will not suddenly appear overnight. The locations have been identified but the type of building required, for example, must be determined. We must make progress.

On Monday there was a letter in the *Irish Examiner* arguing that there has not been a health care sector in Ireland for decades. We now appear to have gone down the road of hysteria, with

people convinced there is no health care sector in place. I can give out figures repeatedly. In fairness to previous Ministers, much development has taken place in the health care sector over the past ten, 15 or 20 years, although we could have done more. We must get on with the process at this stage. The fear being put into people's minds is a concern because people are very worried. I had a group of people in the House today who raised a number of issues on health care and they did so as a result of the amount of media attention these issues have been given and because the problems have been over-exaggerated.

I will cite some examples I gave earlier. In regard to maternity care, the number of deliveries a year has increased from 55,000 to 74,000. We have the lowest perinatal mortality rate. Outpatient attendances have increased from 2 million to 3.5 million. Some 31,700 people per working day attend for outpatient consultation, even at a time when money is scarce the number of people with medical cards has increased from 1.146 million to 1.8 million. Some 130,000 people have a GP-only card.

**Senator Brian Ó Domhnaill:** That has to do with unemployment.

**Senator Colm Burke:** The Government is being criticised for not doing enough in health care. More than 23,000 people are supported under the fair deal scheme which costs more than €1 billion. This is what the Minister has been doing and what he wants to do is to get better value for money.

Since the Minister came into office he has €1.7 billion less in his budget to use yet the services being provided have improved. The criticism being levelled against him is not in order. He has done a very good job in the time he has been in office. We have a lot more to do and let us keep working towards achieving that. In fairness to Opposition Members, some constructive amendments were put forward in the earlier debate today and the Minister has taken on board some of those and given them serious consideration. Having worked in Brussels, I believe we need to work more together. In terms of the fear that has been put into people's minds, we need to change that focus in the way we deal with this debate.

**Senator John Crown:** I will not say too much this evening other than that I would share some interest in seeing a little clarification on the decision-making process that was involved in the primary care centres, but I will not be supporting this motion. I am not a party member. I was a fairly vocal critic of aspects of policy of the outgoing Government. Since coming into this House I have worked very closely with members of the dominant party in the previous Government and have forged good working, personal and professional relationships with them and I am glad we were able to advance a number of issues related to health care and other aspects. I look forward to working with Senator White on important legislation relating to retirement age. I have been privileged to work with Senator Daly on our anti-smoking legislation and with Senator MacSharry on legislation seeking increased clarity, transparency and consistency in the approval of cancer and other high-tech drugs.

However, on this occasion I will not be supporting this motion and I hope there will be an understanding of my position on this. While there is a need for clarity on the decision-making process that went into the primary care centres, the wording of this motion is unduly critical, censorious and makes certain assumptions about the process which are not as yet borne out by facts in the public domain. As such, I cannot support the contention that the Government unilaterally ignored well-established criteria. I look forward to hearing the Minister's exposition in the House today as to exactly what those criteria were.

There is something else I want to say and it is a very instructive illustration of how the process of politics works. I must admit that on a personal level I am far less cynical about the politicians who occupy these two Houses than I was before I became a Member of this House. I am, if anything, more cynical about the process of politics. The systems which have been put in place have enforced certain behaviours, namely, that of flip-flopping. When people are in opposition they will oppose cutbacks, when they are in government they will enforce cutbacks and when they are back in opposition they will oppose them again. Patronage will be dispensed by parties in power and it will be opposed by those in opposition until they are back in power when they will again dispense it. In our political system where in truth - do not take this personal, guys and girls - there is very little between the parties ideologically or in terms of convictions, matters such as patronage become issues. There is inevitably built into the reality of the system a certain amount of playing of politics and parochialism. One can understand how Roscommon hospital which lost its 24-hour access might feel there was a gap in terms of pre-existing medical care which needed to be plugged and that a primary care centre would legitimately provide some of the coverage for that. I look forward to hearing what has to be said about this.

I like giving the Minister a little back stiffener every time he comes into the House and I want to give him another one now because his reform programme is one that I support. To give Members a quick picture of the vision, some people see things and ask why and some see the others and ask why not. Let us look at the “why not” argument. Let us imagine a system where everybody has a single negotiable insurance instrument which may be provided by a private insurance company or by the State, one which is based on a fixed percentage of one’s income where richer people subsidise the poorer people but at the end of the process everybody has a solitary instrument, a card, a computer chip or whatever, which gives them the same rights of access to the same health systems without any fear or favour, that they can go to any institution they wish and take part in the same waiting process and, hopefully, they will not be waiting in such a system. Some of the hospitals and doctors they elect to go to might be employees of the State, employees of the universities or other not-for-profit private entities. Some may be completely private practitioners. There will be sufficient policing in place to make sure that there was no cherry-picking or price gouging, that there was not supplier-induced demand, as we call it in health economics, where doctors prescribe unnecessary procedures in order to increase their throughput and line their own pockets. It is a system which has complete empowerment of the patient at its core. The patient chooses where he or she goes. It is not chosen by some nameless bureaucrat. It is a system which involves tackling the greatest vested interest in our health system now, which is one that never gets mentioned, which is the permanent government, the bureaucracy, the Civil Service and the HSE, a group which needs to be challenged. It is a system which would put in place patient-derived forces which would have the effect of enforcing responsible behaviours on doctors, which would open the market by employing more doctors and which would end waiting lists because people do not get paid until they do what they say they will do. They do not get paid for being merely in a job; they get paid for producing.

This is the vision that we need put in front the Minister. I will support him on his journey to it. I am very keen that he will try to accelerate that move, that implementation. I am sure there would be goodwill all around the House for that. I see a number of other issues which arise on the way to that nirvana as being perhaps more in the nature of distractions than true progress. We are hoping that the Minister will accelerate this process and move quickly because this is not some vague goal we should think about in a second term of office. This is something we need to acknowledge, as is what we need to do to fix the system. Palliative administrative and bureaucratic band-aids over the system we have now will not fix the fundamental problems

which are inequity, poor quality and inefficiency.

**Senator John Gilroy:** I welcome the Minister to the Chamber. I find Senator MacSharry's concern for the Labour Party deeply touching and I thank him for it. His contrived annoyance becomes a little threadbare when we take a look at his own side and point out to him the lack of senatorial colleagues of his own party-----

**Senator Marc MacSharry:** Do not burn any bridges.

**Senator John Gilroy:** -----who have come into the House to support him.

We could also mention Dungloe and ask Senator Ó Domhnaill if he has identified any sites in that area-----

**Senator Brian Ó Domhnaill:** It is not built yet.

**Senator John Gilroy:** -----or shall we take the Senator at his word and place the primary health care centre in a three-bedroom, semi-detached house, as he is proposing?

**Senator Brian Ó Domhnaill:** That is being flippant. There are buildings that could potentially be suitable.

**An Leas-Chathaoirleach:** Can the Senator in possession deal with the substance of the motion and not personalise the matter? I am not sure what Senator MacSharry said but Senator Gilroy is only enticing backchat and it is not helpful to the order of the House.

**A Senator:** The Senator would not do that.

**Senator John Gilroy:** That would not be my intention.

I welcome the motion before us because it gives us a good opportunity to discuss primary health care and it is probably the most important element of health care delivery that we can examine and it is also a very important part of the programme for Government. However, the blatant and undisguised party politicisation of the debate is to be regretted, and I am sure the Leas-Chathaoirleach will agree with that.

I am certain our colleagues on the other side of the House will agree with me when I say that the provision of primary care and primary care infrastructure is one of the more important elements of reform that we can achieve in this term of Government. We will resist the temptation to point out that the current dysfunctional condition of the health service is a legacy of mismanagement of the system by the previous Administration that we inherited. We saw in yesterday's histrionic behaviour at the Committee of Public Accounts that evidence of this dysfunction remains. It appears that the need to score party political points outweighs the requirement for calm and measured debate. Undoubtedly there is a level of frustration with the manner in which certain elements of health care is provided in this country but it can hardly be addressed by stagecraft or amateur dramatics, either in this House or elsewhere.

Health care has been prioritised in the programme for Government and funding has been allocated for the provision of this vital infrastructure. This will not only go a long way towards addressing the existing inadequacies in the provision of primary health care but will also act as a stimulus to the wider economy through the provision of much-needed employment in the construction phase of such developments. The motion before the House appears to be an amal-

gamation of everything. It was obviously put together by a committee in an attempt to score as many political points as possible. In its thoroughness it forgets that the problems highlighted in the motion can be attributed to and traced directly back to the failures of the previous Government. It will be supported and voted for by Members of this House who, probably out of a sense of embarrassment or decency, have decided not to turn up for this debate.

In light of this, the Government amendment is reasonable and can be supported by all Members of the House, including those on the Opposition side. The delivery of primary care in an integrated fashion is a major step forward and in the current constrained economy represents an ambitious but deliverable project. It is regrettable that this work was not undertaken when there were ample funds available. The funding available for it now is something of which the Minister for Health and the Minister for Public Expenditure and Reform can be proud and they can take some measure of satisfaction in its delivery.

The delivery of health care in a timely fashion based on need and delivered as close to home as possible at the level of least complexity can be achieved. This underpins the strategy of health care delivery in this country. Public private partnerships have worked well in the past, particularly in the delivery of vital infrastructure, such as roads. We have seen this in some of the projects delivered under the previous Administration, to be fair. For too long, however, we have spoken about health service reform. We all agree that the previous Government's effort in this direction through the establishment of the HSE represented an honest but ultimately unsuccessful attempt to grapple with the problem. The legislation before the House seeks to deliver the most fundamental reform of the service since 2004 and will probably go a long way towards addressing many of the legacy issues in that regard. This Government has moved very quickly and the Minister is to be commended on that.

In supporting the Government's amendment we can all look forward to the day in the not too distant future, when the people of Ireland will have the health service they need and demand.

**Senator Trevor Ó Clochartaigh:** Fáiltim roimh an Aire. Tá sé thar a bheith tábhachtach an rún seo atá os ár gcomhair inniu a phlé agus tá mé ag éisteacht go cúramach leis an méid atá á rá ag an bhFreasúra. An tseachtain seo caite, nuair a d'árdaigh mé an cheist seo, bhí mé ag moladh go mbeadh rún againn os comhair an Tí maidir le muinín nó easpa muiníne a chuir san Aire, bíodh sin bealach amháin nó bealach eile. Bhí cuid mhaith de chomhghleacaithe an Aire i bPáirtí Fhine Gael nach mbeadh fadhb dá laghad acu le vóta muiníne a chur ann, agus bhí go leor daoine sa bhFreasúra ag rá gur bhreá leo rún mímhúiníne a chur ann. Ar bhealach, is é atá ag tarlú anseo.

Tá an fhoclaíocht atá á úsáid ag daoine iontach suimiúil. I note that part of the Government amendment "commends the Minister for Health for managing within this difficult environment, and at the same time achieving cost reductions within the health sector which are impressive by international standards, particularly within the hospital sector". I take it from that wording that Fine Gael and the Labour Party are voting confidence in the Minister. Obviously, we will not be supporting the amendment. However, it is quite interesting, particularly coming from the Labour Party Senators. It appears to be very much at odds with statements from other party members. I might refer to them later.

I welcome the Fianna Fáil motion, which we will support. There are two primary issues in this debate. The first is the manner in which the Minister, Deputy James Reilly, has conducted himself. We believe he has not explained in a credible way his decision to promote two towns

in his constituency to higher places on the list. The effect of this was to allow these two areas to have a status that means they will now have primary care centres. The logic formally given for the Minister's promotion of these two sites appears to be of Einstein-like complexity, notwithstanding the fact that we would not begrudge a primary care centre for any area that needs one. We believe the Minister persistently misled the House about his business connections with Seamus Murphy and the consultations he had with senior Labour Party Ministers about expanding the number of health care centres. He is dodging questions and failing to answer them clearly. I hope he takes this opportunity to answer them.

There is a certain sense of arrogance and bluster, which has only increased public suspicion that the reasoning was purely cynical and self serving. The Minister's insistence that there exists a logistical logarithmic progression is meaningless and needs explanation. Quite honestly, the dogs on the street and particularly the people who use the health services really do not believe the answer being put forward by the Government on this issue. The Minister and the rest of the Government must come clean about the basis for adding these 15 centres. That should be a very straightforward operation. The support of the Labour Party for the Minister over its own Minister of State with responsibility for primary health care is another let down for voters. Deputy Eamon Gilmore and the Labour Party have backed the Minister, Deputy James Reilly, throughout all of this and the Labour Party must take responsibility for its part in the Government too.

The second issue is the real reason the Minister should resign, namely, we believe he is doing a very bad job. The Fine Gael and Labour Party coalition has been running the public health services into the ground. The people look to their leaders to do the right thing, but Fine Gael has failed the people on this and has failed to legislate to reform the health service. We all know these are tough times and that tough decisions must be made, but this is a question of choices. Where is the legislation required to cut consultants' pay and to recoup moneys from private health insurers?

The recent controversy was sparked by cuts of €130 million announced by the HSE. This was in addition to €750 million taken out of the health budget in 2012, which itself followed a €1 billion cut in 2011. Recent Social Justice Ireland reports point out that during this time the income of our wealthiest citizens increased and billions of euro were handed over to bad banks. We do not see the Government tackling those groups of people. It appears that this Government will always take the easy option of cutting the services for the vulnerable.

Another issue has been glossed over in this debate. We are talking about building primary care centres, but what about the staffing of those centres? I can offer an example from Spiddal in County Galway. Spiddal has had a primary care centre for a number of years but it has never been fully staffed. It has never had the full complement of occupational therapy, physiotherapy, speech and language therapy and other services. There is the issue of building primary care centres but there is also the issue of staffing them. This debate is taking away from the fact that while primary care centres might be built in cahoots with private enterprises, those centres must be staffed to ensure the people who need the services will get them.

Recent Government policies could put lives at risk in the interests of the profits of private insurance companies who provide care for money. We oppose the Government's amendment as we believe it ignores the reality of the health system. The Labour Party and Fine Gael said they would lift the ban on ongoing recruitment. They have not done so and are therefore forced to pay for more overtime and additional agency staff. Those extra costs mean that cuts in front-

line services are inevitable. I saw that last week with the closure of a day centre in Carraroe. We were told that because agency staff could not be brought in and extra staff had been taken out of the public system to be put into Owenriff Nursing Home in Oughterard, which fell foul of a Health Information and Quality Authority, HIQA, report, there were not enough staff to keep the public service open last week. One cannot pull €1.7 billion out of the health service and expect front-line services not to be affected. That is fairytale politics and economics. Citizens deserve better and more honest policies.

We have tabled an amendment to make the motion more sensible. It is our position that Fianna Fáil's motion makes no sense or is at least incomplete. Its statement that cuts should be made elsewhere is vague. Where does that party think the cuts should be made? Is it in education or rural transport? The point is the failing health system is a symptom of a failing economic policy, which means that policy needs changing. That was backed up yesterday by the IMF annual report, which stated that austerity is not working. However, the present Government and its predecessor had their heads in the sand in that regard. They do not want to read this and do not even want to admit it. The confidence of the people in the health care system has been limited in any case and for good reason. The actions of the Government and the air of stroke politics arising from the Minister's recent decision have made this worse. As Phil Prendergast, MEP, has stated, this is the sort of politics that has brought us to ruin. The people are losing faith in their Government to do the right thing. Are Nessa Childers, MEP, Phil Prendergast, MEP, and others in a different Labour Party?

**An Leas-Chathaoirleach:** The Senator's time is up.

**Senator Trevor Ó Clochartaigh:** I have not heard any Labour Party Members tonight expressing full confidence in the Minister. However, if they vote in favour of the Government amendment "commending the Minister for Health for managing within this difficult environment", that is what they are doing. Ba mhaith liom go smaoinoidís orthu féin faoi seo sula ndéanann siad é mar ní dóigh liom go bhfuil muinín againne as an Aire. Níl muinín ag an bpo-bal as an Aire. Níl muinín ag a chomhghleacaithe as an Aire agus ní cóir dóibh vótáil ar son leasaithe an Rialtais.

**Minister for Health (Deputy James Reilly):** I welcome the opportunity to speak on this motion and in support of the Government amendment. The central objective of the Government's reform programme is to deliver a fair, efficient, single-tier health service supported by a strong primary care system and underpinned by universal health insurance. The latter will mean people are treated on their need; not what they can afford. The programme for Government sets out a clear pathway for the future development and strengthening of the services, notwithstanding the enormous financial challenges the Government inherited. Despite the challenges posed by reducing resources, it has already made significant advances in improving services and delivering on the commitments it made in the programme for Government. I will provide examples to give Members a flavour of how much things are changing. Earlier today, I stated there had been an improvement of 22% in the number of people who are obliged to wait on trolleys. I have just received the latest figures, which indicate a reduction of 23.8%. This is real and measurable and the people concerned are real.

I acknowledge there are still too many people lying on trolleys and we must and will do more. I mentioned earlier the reduction, from an all-time high of 569 patients on trolleys only last year in January 2011 to a figure of 139 on 7 September 2012, which is a 75% reduction. Overall surgical waiting list numbers have decreased in the last year by 7%, while each time

band has seen a substantial reduction with those waiting more than 12 months down by 85%, those waiting over nine months down by 63% and those waiting more than three months down by 18%. In addition, I note there are 800 fewer children on waiting lists. There has been the establishment for the first time of a national office of clinical audit, NOCA, for surgery, critical care and orthopaedics. For the first time, the country now has 24 hour a day, seven days a week thrombolysis coverage, which means that all hospitals that receive stroke patients and treat them have a stroke unit. The statistics currently available indicate this is saving one life a week, as well as saving three other citizens from entering long-term care.

The average length of stay has reduced from 8.7 days to 7.9 days. The rate of readmission from heart failure has been reduced from 27% to 6.3%. A national education programme for asthma is now operational in primary and secondary care. Four 24 hour a day, seven days a week percutaneous coronary intervention, PCI, centres are in place to enable the percutaneous insertion of stents for acute heart attacks. This development is real and now means that someone who experiences a coronary occlusion - who previously would have had a heart attack and died - can be saved. Not alone can such a person be saved but instead of being a cardiac cripple lying in a bed for eight weeks, he or she will leave hospital after 48 hours. These are real achievements that affect the lives of citizens.

In the area of mental health, three significant programmes are being designed in areas such as self-harm and eating disorders. Moreover, an integrated care model for diabetes and other chronic diseases is being put in place. In emergency medicine, all 28 continuous improvement implementation teams are in place. Moreover, 30% more patients are being seen in dermatology and rheumatology clinics and national audiology screening of 99% of children within four weeks of birth is in place. There is much more, including the productive theatre initiative, the money-follows-the-patient initiatives, the change such clinical programmes have brought and the money this has saved in respect of bed-days saved. The savings amount to 70,000 bed-days, or €63 million, and there will be more this year. As part of the reform programme the Health Service Executive (Governance) Bill 2012 has been published and was debated in this Chamber earlier today. This provides for the abolition of the Health Service Executive, HSE, board and its replacement with a new directorate and governance structures. A director general-designate has been appointed and already is taking action to change and reform the system.

The Government's primary care strategy is one of the key pillars of the reform programme in health. The key objective of this strategy is to develop services in the community that will give people direct access to integrated multidisciplinary teams of general practitioners, nurses, physiotherapists, occupational therapists and other health care disciplines. A modern, well-equipped primary care infrastructure is central to the effective functioning of primary care teams. The infrastructure development, through a combination of public and private investment, will facilitate the delivery of multidisciplinary primary health care and represents a tangible re-focusing of the health service to deliver care in the most appropriate and lowest cost setting. It is the intention of Government to develop as many centres as possible by one of three separate methods, namely, direct investment, that is, Exchequer-funded HSE construction, by way of leasing arrangements and through public private partnerships. The Minister for Public Expenditure and Reform, Deputy Howlin, announced the Government's €2.25 billion infrastructure stimulus package on 17 July. This will provide investment in a range of important new projects. The infrastructure stimulus package announced by the Government involved projects that would meet key infrastructural needs in line with the priorities identified in the Government's investment framework. They would form the first phase of a new programme

of public private partnerships, PPPs, designed to stimulate economic growth and create employment. A total of 35 potential locations for primary care centres have been published. Of these, approximately 20 will be commissioned subject to agreement between the local GPs and the HSE on active local GP involvement in the centres - because otherwise one merely would be building empty palaces - and site suitability and availability. It is envisaged the locations will be offered to the market in two separate bundles. The current position is that the HSE is engaging with the National Development Finance Agency as required to progress the primary care centre public private partnership programme. The HSE is currently analysing the available sites in each location and engaging with the GPs in each location to determine their interest in participating in the primary care centre development.

I believe it is important to report on the progress achieved to date in the area of primary care. In order to achieve savings in health spending while also reforming and improving the health service, it is imperative that we develop new models of care. Primary care should be able to meet 90% to 95% of people's health needs and through modern and strengthened primary care, we can achieve much better health outcomes and much better value for money. I look forward to working with the Minister of State, Deputy Alex White, in ensuring we achieve this. In January, the universal primary care project, UPC, team was established to drive the implementation of the primary care reform. The projects overseen by the UPC team include policy, planning, costing and legislative preparation for the extension of free GP care and the preparation of legislation for this key reform is at an advanced stage. It also oversees the development of implementation plans for chronic disease management in primary care and preparation for a new GP contract to reflect the programme for Government commitments to universal free GP care and intensive chronic disease management. All this change, however, must take place in the context of a very difficult budgetary environment.

The HSE budget has been reduced by €2.5 billion over the last three years. The number of health service staff has fallen from a peak of 111,000 in 2007 to fewer than 103,000 now. As all Members are aware, the country still faces serious challenges in respect of the public finances. Further measures to address the deficit were submitted to the troika in July including accelerated cash collection from private insurance income, use of capital funding for revenue on a once-off basis, savings in 2012 from agreement with the pharmaceutical industry, additional once-off funding arising from an agreement with the Medical Defence Union and once-off transfers of funding from the Department's Vote.

*6 o'clock*

Proposals for the achievement of additional savings of €130 million were announced by the HSE in August. Almost 50% of the savings are to be achieved from more focused cash and stock management initiatives, savings in medical equipment - non-capital, furniture, education, training, office expenses, travel and subsistence and advertising. The remaining 50% will be achieved through efficiencies in disability services, home help hours, home care packages, agency and overtime payments.

As Senators are aware, Government policy is to support older people to live in dignity and independence in their own homes and communities for as long as possible. The demand for home supports will increase in the light of changing demographics, needs and wider system pressures. This has obviously been a challenging year for the health services overall, including maintaining services in line with evolving resource pressures. Decisions in regard to the provision of home help hours will continue to be based on a review of individual needs, and no

current recipient of the service who has an assessed need for this will be left without a service.

Ongoing reductions are being applied to HSE-funded disability services generally as part of the general Estimates reductions, with savings generated focusing mostly on consolidation and rationalisation of back office costs to protect front-line service delivery as much as possible. The HSE is continuing to examine options for savings from other sources to limit further the impact on front-line services.

In addition to undertaking measures to address the immediate position, the Department has been undertaking strategic measures to address the ongoing financial issues in the HSE. A review of the financial management systems in the Health Service Executive was commissioned in May. The review team came up with a number of recommendations to improve the financial management process within the HSE, and PA Consulting was engaged to draw up urgent measures to be put in place in regard to the HSE's financial management and processes having regard to the findings and recommendations of this review. It was also requested to stress test the HSE's July cost containment plans, analyse the effects of the plans on scheduled and unscheduled care and identify potential structural cost savings in the acute hospital sector. The consultants' report is due to be submitted to my Department shortly.

I would like to address some of the issues raised and comments made. Senator MacSharry spoke about me being downright irresponsible. I have to put it to him that there could be no greater example of downright irresponsibility than the throwing away of our financial sovereignty. The only stroke here is from the masters of strokes themselves who want to spin a good yarn to distract from the real issue which is the mess left by the previous Government which we must clean up, and in health, that mess is as big as anywhere.

There is also a contention that we have the same captain and we are just moving deckchairs on the *Titanic*. We have already had a long discussion in the House about a new director designate for the HSE.

**Senator Marc MacSharry:** He is the same.

**Deputy James Reilly:** There is a new Secretary General in the Department of Health and a new chief executive officer and a new chairman in the VHI. Things have changed greatly, and will continue to change. I said previously that as we reach that point where the *status quo* is really changing, the noise and din from those who are comfortable with that *status quo*, which does not put patients first, will grow to a deafening din, but so be it. We are committed and we are going to do it. There is no turning back for me or for my Government.

Roscommon hospital was mentioned and it was said that if it had not been closed, there would be no need for primary care centres. I would say to Senator Ó Domhnaill that that is to totally misunderstand what health reform is about. It is about moving patient care to the lowest level of complexity that is safe, timely, efficient and as close to home as possible. Clearly, there is a deficit in primary care in the Roscommon area which has to be addressed, and all the more acutely because of the fact the accident and emergency department in Roscommon hospital no longer functions as it did. We have had that debate before and we know that the service there was not safe, as determined by the Health Information and Quality Authority. I am pleased to report an ever-increasing footfall in Roscommon hospital in terms of new facilities and new services, including plastic surgery and rheumatology to mention but two. Bill Maher continues to focus on moving more stuff from the bigger hospitals to the smaller ones, which is as it should

be, and, indeed, from the hospitals back to the community in primary care.

As I said, the home help reduction should not result in anyone losing out. No one who is assessed as needing a service will be left without one. As I said, I very much look forward to working with the Minister of State, Deputy Alex White, in regard to primary care and to continuing my work with the Minister of State, Deputy Kathleen Lynch, in regard to mental health, disability and older people.

Senator Ó Clochartaigh has abused his privilege in this House by suggesting that I have any business relationship with Mr. Seamus Murphy. I do not and I have said that outside the House and inside it. I challenge Senator Ó Clochartaigh to repeat that outside the House and to deal with the consequences. When he talks about credibility, I find it difficult to stomach it given that his party leader still tries to tell us he was never a member of the IRA. However, what I found even more disturbing was the shroud-waving engaged in by his party in February. Pregnant women expecting the joy of a new child were told by his party spokesman that they would not have a safe service and cancer patients were told they would not be able to get their drugs. The case proved to be utterly false and not only did we maintain a safe service but, as I outlined, we have improved it in so many ways.

There is much more to be done; I do not deny it. I remain as committed as ever to doing that. I remain more determined than ever to make it happen but, mostly, I am more convinced than ever that we will achieve it because of the excellence of the people working in the health service and the new leadership that is emerging, both clinically and managerially. I commend the amendment to the motion.

**Senator Terry Leyden:** I welcome the Minister but I regret that no officials from the HSE or his Department are here.

**Senator Martin Conway:** He does not need them. They have more important work to do.

**Senator Terry Leyden:** The Minister is alone, but he is in good company at the same time. Having been a Minister of State in his Department, it sounds like a much more exciting place than when I was in it between 1987 and 1989. Hawkins House was not quite as dramatic.

**Senator Brian Ó Domhnaill:** Take him back.

**Senator Terry Leyden:** I would like to know if the Minister did give delegation to-----

**An Leas-Chathaoirleach:** The Senator should stick to the current situation.

**Senator Terry Leyden:** I think I am sticking very closely to it. I will develop my argument as I go along, so wait in anticipation. Did the Minister actually delegate responsibility to the former Minister of State, Deputy Shortall? It is a very important point.

**Deputy James Reilly:** I can answer that question. She was given a delegation-----

**Senator Terry Leyden:** I thank the Minister for that because that is not always the case in his Department. Between the Minister and the Secretary General, there has been much toing and froing in the past. Having been a Minister of State in that Department, all I can say is that if one is delegated responsibility, one works in conjunction with, consults and shares responsibility with one's Minister. One does not go on a solo run in regard to a particular project.

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They seek them here, they seek them there, they seek them everywhere, the elusive primary centres in Boyle and Ballaghaderreen. They are not there. There is no contact, no evidence and no site. Will they ever be built? They will be a poor substitute for an accident and emergency department in Roscommon hospital.

We have often heard the letters of St. James. By God, they are nothing like the letters of James the apostle here when he assured the people of Roscommon that, in accordance with Fine Gael policy on local hospitals, it would retain the emergency, surgical, medical and other services at Roscommon hospital. The alleged, the so-called or the possible centres in Boyle and Ballaghaderreen are no substitute for an active accident and emergency department in Roscommon hospital.

We have a new primary care centre in Roscommon but only one practice and one chemist shop went into it, along with HSE staff. In Ballaghaderreen nobody has come forward with a site and no site has been identified and no doctor has been contacted.

**Senator Colm Burke:** A site will be obtained.

**Senator Terry Leyden:** In Boyle a new centre has been built by Dr. Loftus and his team at enormous expense and it is functioning very satisfactorily. There are other doctors in Boyle and, perhaps, they will avail of the Minister's generous offer. I can give one assurance as a practising politician. Balbriggan health centre will be built and occupied.

**Senator Maurice Cummins:** As will the others.

**Senator Terry Leyden:** Balbriggan will be the first primary care centre in Ireland to be opened.

**Senator Maurice Cummins:** Nearly as good as Roscommon.

**Senator Terry Leyden:** When I went into the Department of Health and Children I got the file on Roscommon County Hospital and was shocked when I read the proposal at that time, which I had to ensure would be reversed. I know a good deal about local politics and about ensuring that one's constituency is looked after in a proper manner. All I can say to the Minister in that regard is, "So be it". I make no personal allegation about the Minister in this regard. He is looking after the interests of his constituents in Dublin North and is serving them well. He follows fine representatives from that constituency over a long period who served in the other House, all of whom were very colourful. Dublin North always produces the most colourful, effective and efficient Deputies and when they become Ministers they certainly look after their constituents.

**An Leas-Chathaoirleach:** The Senator is colourful.

**Senator Terry Leyden:** I will tell the House about stroke politics. When the Minister for Public Expenditure and Reform, Deputy Brendan Howlin, put €20 million into Wexford General Hospital for a new accident and emergency unit, the Government of which he is a member closed the accident and emergency unit in Roscommon hospital.

**An Leas-Chathaoirleach:** I welcome the Minister of State at the Department of Health, Deputy Alex White, to the House.

**Senator Terry Leyden:** I also welcome him and congratulate him.

**An Leas-Chathaoirleach:** Senator Leyden has me confused. I wish the Minister of State well.

**Senator Terry Leyden:** Well done to the Minister of State and I congratulate him. I welcome him back to the House.

**An Leas-Chathaoirleach:** Senator Conway's time is disappearing.

**Senator Martin Conway:** I will take my time because the previous Senator-----

**An Leas-Chathaoirleach:** He used fewer than five minutes.

**Senator Martin Conway:** He ranted but we are well used to it at this stage. I welcome the newly-appointed Minister of State, Deputy Alex White, to the House. He is a gentleman I do not know well, except by reputation, and the reputation is strong. His work as Chairman of the Joint Committee on Finance, Public Expenditure and Reform certainly received a number of plaudits and I am sure the members of that committee are disappointed he is moving on. However, the Government is delighted that a steady, safe, strong, competent, capable and deliverable pair of hands is taking over the realms of primary care.

**Senator Trevor Ó Clochartaigh:** Róisín was that as well.

**Senator Martin Conway:** Primary care will improve; there is no ifs, ands or buts about that. The 35 primary care centres identified by the Minister, and more, will be built in the lifetime of the Government. In recent weeks the Minister is more determined than ever to deliver on primary care and he has a good Minister of State to ensure that will happen. I can assure the House the delegation orders are signed and that the Minister of State will deliver on primary care. Primary care is extremely important. It is a pity it is politicised to the degree it has been in recent weeks. It is a political issue but it is not a party political football. We have had enough of that from all sides of the House in the past 15 to 20 years. The health service was gradually dismantled in the past ten to 15 years and has to be rebuilt. Unfortunately, as the sections are spread all over the place, trying to get a handle on how bad it is, and a handle on the overspends and the phenomenal waste of money that has taken place in the health service in the past decade, will take time.

While the Minister is doing that he is also trying to formulate a plan and impose his ideology. He is also trying to improve the structures, as we saw in the Health Service Executive (Governance) Bill debated earlier, and trying to ensure that accountability stays with the Minister and Ministers of State and is not kicked off to the Health Service Executive as happened under previous regimes, which legislated to ensure they were not accountable and could kick the ball forward. We have had to legislate to bring that back to ensure that accountability lies with the Minister. That has been achieved in the legislation. In fairness to the other side of the House, some interesting amendments were proposed to the Bill which the Minister will take into consideration. It must be acknowledged that he was fair and reasonable in the parliamentary discourse that took place today.

In general, there is much positivity in health. Primary health care will be the big ball issue in the coming years that will be delivered but a number of other deliveries are also taking place. The bones of €2 billion has been taken out of the health service and there has been improved delivery. Waiting lists are being reduced. Roscommon hospital provides a great service in plastic surgery and other areas. I spoke with people in Roscommon last week and they are absolutely

delighted with the service.

**Senator Terry Leyden:** One cannot get plastic surgery in Roscommon if one were dying.

**Senator Martin Conway:** The scaremongering that took place in Roscommon was a bag of wind. Slowly but surely the Senator will realise that.

**Senator Terry Leyden:** The Senator should worry about Ennis hospital and not Roscommon hospital.

**Senator Martin Conway:** Deputy Luke 'Ming' Flanagan and the Senator's colleagues will realise that in due course.

We have had the Crowley value for money report on funding for services for people with disabilities. I commend the former Minister, Mr. John Moloney, who realised that money was being squandered on disability services that were not getting to the people in need of such services. In fairness, he commissioned a report under Laurence Crowley which confirmed the squandering of money by the Government in the previous ten years on disability services. That party has the gall to go on national and local radio and speak about the attempts by the Government to pull back some of the waste of money. I commend Laurence Crowley for his report but the dirty work will have to be done by the Government to try to rectify the problem and ensure the waste is stopped, including the vast sums of money, €3,000 and €4,000 per week, paid to chief executives of NGOs. One particular chief executive of an NGO was in receipt of approximately €500,000 per year. We have to clean up all that skulduggery.

**Senator Trevor Ó Clochartaigh:** What about the consultants?

**Senator Martin Conway:** We will do it. Every month there will be progress and by the end of the lifetime of the Government people will get a fair day's wage for a fair day's effort. More than €1 billion has been pumped in, which is adequate to provide support through the myriad NGOs around the country who are doing that work. Those NGOs will be accountable and the bonuses they have paid themselves, through voluntary collections and which they refuse to declare to the Government, will be tidied up. We will see be a proper, transparent, accountable health service.

I second the amendment. I wish the Minister of State, Deputy Alex White, the best of luck in his difficult task in the country's interest.

**Senator Mary M. White:** It is my pleasure to welcome the former Senator, now Minister of State, Deputy Alex White, to the House. He will be diligent in his new position. Having sat beside me during the term of the previous Government, I know he is a dedicated politician.

Owing to the Whip system I will have to vote with my colleagues. I had the privilege of serving with the Minister for Health, Deputy James Reilly, on the Joint Committee on Health and Children for two years. He knows his business upside down and inside out. I am prepared to give him a chance. The gossip is demeaning and brings politics into disrepute. What is happening is taking from the serious work that has to be done in the complicated issue in the Department of Health and the HSE. I also support the Minister because of his vision and strategy for the health service. I am totally opposed to the dual health service here where a rich person can go to the Blackrock Clinic the next day but a poor person must wait a year. The Minister's strategy is to have a fair and efficient single-tier health service supported by a strong primary

care system and underpinned by universal health insurance. That is why I support his vision and strategy. We are here to change the health system and to turn it upside down and change it inside out.

**Senator Marie Moloney:** Well done, Senator.

**Senator Mary M. White:** I would like to raise another issue with the Minister of State. I am concerned about the proposed €65 million cut to disability and home help services.

Senator Conway has left but he is *au fait* with the massive inefficiencies of the service. I will follow the matter myself and track it. I want to ensure that every person who needs help receives it and we all have a moral responsibility to ensure that happens. We should not disregard the newspaper headlines that people in receipt of disability or home care packages will lose them. The media has dragged politics into disrepute and the situation is getting worse by the week. The media tries to entertain the public who are already cynical about the Seanad and the Dáil but politicians are being labelled as lazy.

I feel honoured and privileged to be a public servant. As John F. Kennedy said: “Ask not what your country can do for you; ask what you can do for your country.” I had the privilege of being very close to President Kennedy when he came to Dublin and visited Dublin Castle in 1963 - and I will tell Members about that on another occasion. On this day 50 years ago he responded to the Thalidomide birth defects crisis by signing an amendment to the Federal Food, Drug and Cosmetic Act that required pharmaceutical companies to prove that their products were safe and effective prior to marketing. He understood how important it was for his nation to know that this poisonous drug was not approved for sale in the USA. We were not so fortunate here with just 32 survivors alive after 50 years.

The Fine Gael Party gave a commitment in its programme for Government that it would deal with the issue and properly look after the needs of the 32 Thalidomide survivors. No one ever believed that the survivors would reach 60 years of age because it was believed that they would die when they were about 20 or 25 years old. It is a scar on the reputation of the Irish State that the group has been so badly treated. They have not even received an apology from the State. President Kennedy had the guts and knew that it was not correct to allow the drug to be sold. Not only was the drug allowed into this country, it was still on shelves in pharmacies around the country a year later when people knew it was poisonous. I would like to see the issue resolved. The Thalidomide group has decided to take the matter to the courts. The Minister for Health said that he would do his best to resolve the issue when he came to power. The former Minister for Health, Mary Harney, and the Fianna Fáil Party failed to deal with the issue and adopted a flippant attitude towards it. I was the group’s champion in the previous Government and I arranged for many of the survivors to meet the Fianna Fáil Parliamentary Party but I was shocked at its heartlessness because it could not even make an apology on behalf of the State. I wish the new Minister of State the best of luck in his new role.

**An Leas-Chathaoirleach:** I call on Senator Bacik who has six minutes.

**Senator Ivana Bacik:** I welcome the Minister of State, Deputy Alex White, to the House. It is a pleasure to have him back here in his new capacity as Minister of State and I am delighted to see him. I am sure, and I hope, he will be a regular visitor to the House. We also appreciate the presence of the Minister for Health for more than half of the debate and for responding directly and personally. It was important to us that he did so.

We have listened to speakers from the Fianna Fáil Party go on at length about flaws in the health care policy of the Government. Senator White differed by acknowledging the Government's radical reform programme and made favourable comments about it. I agree with her that we have had inequalities in the health care system for far too long and they are unsupportable. It is hard to accept criticisms from a party that governed during prosperous times yet increased the inequality in the health care system and presided over disastrous policies like co-location, the initiation of a consultant contract of which it is now critical, and the growing inequality and long waiting lists that we had even in the boom. We easily forget that during the Celtic tiger there were huge problems with the health care system and there was no attempt made to carry out a systemic reform that the Government is committed to.

I am proud to be part of the Government because and I shall quote the programme for Government which states, "This Government is the first in the history of the State that is committed to developing a universal, single-tier health service, which guarantees access to medical care based on need, not income."

**Senators:** Hear, hear.

**Senator Ivana Bacik:** The document bears rereading because it is clear and unequivocal in its commitment to a radical reform of the health care system. It also clearly states that this is the first Government that will do that.

**Senator Marc MacSharry:** It is quite different from the manifesto.

**Senator Ivana Bacik:** Both Government parties had manifestos based on radical reform. The programme continues, "This Government" is committed to introducing "Universal Health Insurance with equal access to care for all." The programme acknowledges, as do Ministers, that reform will not be easy and will be a difficult process that will take a little time. It is a process that is well worth carrying out and has already started. It is due to the radical reform that we have seen reform in primary care. That is the first step. Following the commitment to universal health insurance given in the programme for Government, there is a commitment to introduce universal primary care. That is a radical new proposal that will be brought in through an ambitious four-phase programme that will ultimately result in free access to GP care.

An integral part of primary care reform is the idea that a stimulus package would be provided and the Minister referred to it in his speech. Such a package would include - and it was announced as part of the infrastructure stimulus package announced by the Minister for Public Expenditure and Reform, Deputy Howlin on 17 July - projects to meet key infrastructure needs in line with priorities identified in the investment framework, including primary care centres. Some Opposition Senators have been critical of the idea of building new primary care centres but I disagree with them. It is our strong policy to have new primary care centres. I have had direct experience of them in other countries such as Spain which has an excellent primary care network. They have a one-stop-shop in local communities with access to GPs, dental treatments and a range of treatments that most Irish people must go to hospitals to access. A move towards primary care centres is progressive. The building of centres is also part of a job creation stimulus package.

I am delighted that the Minister of State, Deputy White, will drive forward the reforms. Clearly, there have been frustrations caused by delays in rolling out the four-phase programme for primary care. Steps have been taken. It is important that we push the programme forward

and see it as part of the overall package of health reforms.

I pay tribute to the former Minister of State, Deputy Shortall, and thank her for her pioneering work in primary care. She also pushed forward a very important health measure for dealing with alcohol abuse. I know that her replacement, Deputy While, will progress her work.

The Seanad Public Consultation Committee recently held good hearings with NGOs and groups working on preventive health strategies, particularly cancer prevention. I look forward to sharing the findings of the public consultation committee with the Minister of State and the Department of Health. Health strategies are an important part of a health care system. It is also about cost saving and ensuring that people have access to health care at the earliest possible opportunity.

All of these radical reforms would be difficult in the best of times but they are particularly difficult in the current economic climate. The Government's amendment makes reference to that. It points out that the Minister for Health has managed an impressive cost reduction in difficult times, that waiting lists have reduced, and we have all heard the figures, and that the Croke Park agreement has delivered real results in the health care sector. Health service staff reductions amount to over 6,000 people yet we see efficiencies are being delivered. It shows the achievements that can be gained with greater efficiency through the Croke Park agreement.

It is also clear that the Minister inherited problems such as budgetary strategy and financial management in the Department of Health. We are changing that through new changes to HSE governance. We have inherited the HSE, a creation of the previous Government. It is important to ring fence budgets in the way we ring-fenced the mental health budget under the Minister of State, Deputy Kathleen Lynch. In primary health care the programme for Government provides for ring-fencing for additional psychologists, counsellors and community mental health teams.

I was delighted to hear Senator Crown voice his support for the amendment and for the Government's reforms. We need to keep in our sight the very radical nature of the reform being introduced and the vast amount of work it will take as well as the critical goal we all share of access to health care on the basis of need rather than on means.

**Senator Sean D. Barrett:** I welcome the Minister of State, Deputy White, my former colleague from the Oireachtas Joint Committee on Finance, Public Expenditure and Reform, to his new post. He was a brilliant Chairman of that committee and the expertise in finance he will be bringing to the Department of Health is most important. I wish him well in his role.

I wish to outline some thoughts about primary care centres. In the past we had dispensaries and we had a choice of doctor schemes. I have some concerns and hope this has been properly costed. In the past medical graduates used to convert the garage or the front room of a house into a GP office. If we get the State and public private partnerships involved - I know the Minister of State has an interest in that from his previous role - will we just end up with the money going to builders, auctioneers, bureaucrats and so on? It was a simple product and many people would say that the GP service was the one that did not fail. People did not have to wait for years to see a GP. I wonder if, following some of the recent controversy, it might merit re-examination. What was wrong with what we had previously with physiotherapists and others setting up practice at home? While it was not a one-stop shop, let us ensure we are not creating a new cost base and involving the State in new capital expenditure.

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The Department's document indicates that we have invested approximately €5 billion in health capital projects in the past ten years. Some of it was used earlier than that to convert hospitals such as Dr. Steevens' Hospital into offices. It is a heavily bureaucratic service and I hope the Minister of State will be able to run that down. Based on numbers discussed in the earlier debate with the Minister, Deputy Reilly, the fastest increasing area of the health service since 1980 has been in the number of administrators and clerical people. This is about people treating patients.

We need to speed up the introduction of universal health insurance. Some 36% of the population have medical cards and there are other grades of medical cards. As approximately half the people already have private health insurance, let us go for it. I hope the Minister of State will get an opportunity to review a version of the Milliman report on hospitals and the VHI that is less redacted than the one supplied to us. We have a very long average length of stay. I note from the Minister's speech that this has been reduced from 8.7 days to 7.9 days. However, the Milliman report gave an example of a treatment that would take 3.7 days where best practice applied internationally and took 11.6 days here. That adds approximately €1,000 a night to every in-hospital treatment covered by VHI.

The report also stated that very little analysis, appraisal and value-for-money research has been done within VHI to ascertain whether health insurance prescriptions and the overall costs were unduly high. I had hoped that competitive health insurance would drive down costs and excessive lengths of stay. There is material on that matter that the Minister of State might like to look at. My amendment was to move faster to universal health care provided it is done in a competitive way so that instead of saying that a particular company charges less for health insurance because it cheated by recruiting only young people and not old people, one would rather say it was because the VHI had had a monopoly with too many monopolistic habits. If old people can be allocated equally among all the competing insurance companies, we would get better value.

I have heard GPs make a further point - one the Minister of State and I would have had in common in a previous time as members of a board of a university. Milton Friedman and Simon Kuznets, both Nobel Prize winners, said in the 1940s that if the American Medical Association were allowed to determine who could go to medical school and what foreign doctors could practice in the United States, it would result in a very expensive health service. I believe they were right given that it accounts for approximately 17% of gross national income in that country.

What kind of health service would we have had if universities had not been so adept at turning away students with 550 points seeking to enter medical school in the past 25 years? Would that have given a much more patient and consumer-orientated service? Was it good value from the national point of view that these highly qualified and talented people who wanted to study medicine and had all the points were kept out? There was a particularly daft attempt to weight that through the HPAT because too many women qualified - this was opposed by the Minister, Deputy Reilly, and also the former Senator, Dr. Mary Henry. Keeping out of medical school some of the most talented people the country has produced over the past 20 years must have had knock-on consequences for the service the Minister of State is seeking to organise in the consumer's interest. Perhaps he might also review that matter.

The Minister also spoke about public private partnerships which really need to be examined. In other fields, as the Minister of State will know from his time as Chairman of the Oireachtas

Joint Committee on Finance, Public Expenditure and Reform, the results were doubtful. I believe in a public sector and a private sector. When they come together, I am not so sure that the public sector has typically got a good bargain for the citizens as a whole.

The Minister of State is very welcome to the House and I hope he comes here many more times. I wish him every success in his new role. As we said to his senior colleague, the Department of Health has been the toughest job in Irish political life for a very long time - it has damaged the political careers of many who have held ministerial office there. It is most important that the Government succeeds and I wish the Minister of State well in his endeavours.

**Acting Chairman (Senator Michael Mullins):** I acknowledge the presence in the Visitors' Gallery of the former Minister of State, Ms Mary Wallace, and other visitors, who are very welcome. It is good to see them.

**Senator Deirdre Clune:** I offer my congratulations to the Minister of State, Deputy White, and I wish him well particularly in the implementation of the primary health care programme. I am delighted that the Minister, Deputy Reilly, was present earlier to speak on the motion. Much has been made of him having been constantly critical of the previous Government's health policy when in opposition. While I accept he was critical, at the same time he was developing a roadmap on how to introduce universal health care, which is now part of the programme for Government and will be implemented within two terms of office. He did not spend the entire time in opposition throwing stones - he spent time researching how we would develop and implement the universal health care model, a major plank of which is primary care. I believe he has hit the ground running since coming into office.

Earlier this afternoon we had Committee Stage of the Health Service Executive (Governance) Bill, which changes the structures of how the HSE operates. Primary care is about delivering services as close as possible to people in the community. It is particularly important for those with disabilities and the elderly. The Minister of State comes in at a very fortuitous time with the announcement of the stimulus package in July. The Government has published the list of 35 primary care centres.

I take issue with the motion in the name of the Fianna Fáil Senators, which asks the House to agree "that the selection criteria for primary care centres prioritising urban deprivation was unilaterally ignored by the Government". However, this was not the case. The 20 primary care centres that were selected on the basis of deprivation are included in the Government's list.

**Senator Thomas Byrne:** What about the other 15?

**Senator Marc MacSharry:** The stroke related to the other 15.

**Acting Chairman (Senator Michael Mullins):** Senator Clune without interruption, please.

**Senator Deirdre Clune:** There is one in my constituency in Togher, which has been neglected for many years and I am glad to see it has been included. Deprivation is one of the many indices that have been used. Anybody who has any experience of trying to get a primary health care centre developed knows how essential it is to get GP buy-in.

**Senator Marc MacSharry:** Proximity to a Minister and broken promises were the other criteria.

**Senator Deirdre Clune:** There was also the question of whether they would be done by

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public private partnership, leasing or developing by the State. The public private partnership model has been used here successfully, although I admit there is need for some oversight in this regard to ensure we are getting value for the taxpayer. I have no objection to the leveraging of private funding for projects we cannot afford. I was a member of the Committee of Public Accounts which examined the issue of public private partnerships. We have gained some experience, in particular in terms of the provision of schools. Much expertise in this regard has been built up in the relevant Department.

**Senator Trevor Ó Clochartaigh:** They are great at logarithms.

**Senator Deirdre Clune:** I have confidence that public private partnerships can and will deliver, with the necessary supervision. The Minister listed in his speech the improvements made since he took up the health portfolio, in particular the reduction in the number of patients on trolleys, the reduction in surgical waiting lists, the establishment of the office for clinical audit, the criteria for orthopaedics and so on. Many changes have been made. I commend the Minister on his work to date.

The Croke Park agreement has delivered in terms of the implementation of necessary measures. I am sure Senators Colm Burke and Gilroy, both of whom are also from the Cork area, will testify to the many changes that have come about in Cork in terms of reorganisation of health services there. We have been briefed by officials from the HSE on the successes achieved under the Croke Park agreement. Necessary changes, such as the movement of orthopaedic services from St. Mary's Hospital to the South Infirmarium-Victoria Hospital, would not have been possible but for the co-operation of staff as per that agreement. It has been successful despite the loss of staff. This needs to be repeated often.

I commend the Minister on the important work he has done to date. I wish him and the new Minister of State, Deputy Alex White, well and assure them of my support and, I am sure, of this House for the work they are doing. It is very important we move to the delivery of primary care in the community, taking the emphasis off hospitals on which we have been dependent for too long.

**Senator Jim Walsh:** I wish to share my time with Senator Thomas Byrne.

**Acting Chairman (Senator Michael Mullins):** Is that agreed? Agreed.

**Senator Jim Walsh:** I welcome the Minister of State, Deputy Alex White, to the House and congratulate him on his appointment. I wish him well.

Primary care is essential. It is important to emphasise that it will ultimately save money in the health service. There is a need for greater emphasis on programmes which encourage people to avoid incurring medical conditions which are not good for them or the Exchequer.

Members on this side are condemning the cuts in this area, in respect of which the Minister of State is opposing us. When previously a Member of the Seanad on this side of the House, the Minister of State did as we are doing and we opposed him. This is part of the cynicism surrounding politics, as mentioned by Senator Mary White.

When it comes to the budget and overruns in the health service, it is inexplicable that the serious overruns identified in the early part of the year are to be addressed between now and the end of this year. When the district hospital in New Ross closed, a number of people came

together, took it over and operated it as a community hospital. Each month the board of directors were given information on hospital costs for the previous month, how this compared with the previous year and projections and forecasts to the end of the year. Everyone knew exactly what was going on and if corrections needed to be made, they were made immediately. We did not wait until the end of the year to do so. It is obvious there is not in place in our health service the required management personnel to carry out these functions, which is serious. This issue needs to be addressed.

The appalling attitude of the witnesses who appeared before the Committee of Public Accounts yesterday typifies the reason our health services and finances in that area are as bad as they are. There are too many administrators in the health services. I was critical of the proposal to establish the Health Service Executive as I believed it was a flawed model and doomed to failure because there were no intermediate checks at regional or county level. Oireachtas Members and councillors could play some role in relation to the delivery of services in their areas and monitoring of funding in this regard.

Another issue which needs to be addressed and for which I have been calling for a long time is that of costs across the public service, in respect of which I accept we on this side of the House must accept some blame. The level of salary being paid to hospital consultants in this country is scandalous. Some 500 consultants are on salaries in excess of €200,000 and the salaries of many others are just below that threshold. I recently spoke to a hospital consultant, who is surgeon in Italy. His salary is €5,000 per month which amounts to €60,000 per annum. Consultants here are being paid three times that amount. This issue needs to be tackled, otherwise patients will suffer. This is not fair or justifiable. This issue needs to be tackled if we are to have fairness and equality in our system.

**Senator Thomas Byrne:** I thank Senator Walsh for sharing time with me. The reason we are opposed to these cuts is clear, namely, they target the most vulnerable, including those in need of home help and those who are disabled, while nothing is being done to tackle the drugs bill. I am not sure if the Bill dealing with this issue has been introduced in the Dáil yet. Implementation of that would result in savings of €10 million. However, the Minister, Deputy Reilly, has sat on his hands in respect of the Bill. I sincerely hope the Minister of State, Deputy White, whom I congratulate on his appointment, will not do that.

It is hoped that the primary care legislation, which is promised in the programme for Government but on which nothing has happened, will be introduced, thus providing the Minister of State, Deputy White, with delegated powers. Until then, he will be at the whim of the Minister, except in the specific functions delegated to him, including the poisons Bill and other issues which do not affect the public.

A stroke was pulled in relation to the provision of the new primary care centres. Senator Clune said 20 centres are required. If she is correct, the proposal to provide 15 was wrong. The reality is that on the day they were announced-----

**Senator Maurice Cummins:** Senator Clune did not say that.

**Senator Thomas Byrne:** -----as part of the stimulus package, every Senator and Deputy in the areas connected with these centres issued statements welcoming their construction. It became apparent later that only 20 of the 35 announced in the stimulus package would be built. Senator Leyden referred to the lack of progress being made in Boyle and Ballaghaderreen. The

same applies to Kells in County Meath, which was one of the 15 locations added to the list of 35. There is nothing happening in relation to the provision of that primary care centre. I raised this matter on the Adjournment last week. Negotiations collapsed in 2010. The Minister said in this Chamber last week that the HSE is seeking to resurrect those negotiations. I do not believe they can be resurrected if they broke down in 2010. Shame on the Minister for Health to announce a centre in Kells when there appears to be no foundation for it. This appears to be the pattern throughout the country, except as mentioned by Senator Leyden, in Balbriggan and Swords.

I am opposed to the health policy being devised, which is based on competing insurance companies.

**Senator John Gilroy:** It is based on equality and need.

**Senator Thomas Byrne:** People will be offered competing insurance. It is a privatised version of the health service, with insurance companies deciding what people can have. They will purchase the health care and will have control over the hospitals. I do not accept the HSE is the failure which everyone paints it to be. At the end of the day, the HSE is a public health service purchasing public health care for the public good. The Government proposes to change this. It will be regrettable, if it ever happens.

**Acting Chairman (Senator Michael Mullins):** The next speaker is Senator Harte, whom I understand is sharing time with Senator Moloney.

**Senator Jimmy Harte:** I welcome the Minister of State, Deputy White, to the House. I was listening in my office to the contributions of various Senators. The contribution from the Sinn Féin Member in relation to home care was hilarious. During a telephone conversation with a friend of mine from Strabane, I was told the residential home there is due to close shortly. A number of other homes in Northern Ireland are also to be closed by the end of this year or early next year.

**Senator Trevor Ó Clochartaigh:** Tax generating powers will sort that.

**Acting Chairman (Senator Michael Mullins):** Senator Harte, without interruption, please.

**Senator Jimmy Harte:** I previously lived in Lifford, which is about a mile from Strabane. Everyone in Donegal is aware of the threat of closure of Lifford community hospital, which is a residential home. For the past two or three years Sinn Féin councillors and Deputies have been jumping up and down on platforms stating how disgraceful this is, while a two minute jog away on the other side of the river there is not one peep out of them about the closure of Greenfield House. In 2009, a Sinn Féin Councillor in Strabane, Jarlath McNulty, stated, "Most Greenfield residents have been there long term and to be forced to move out of familiar surroundings and away from friends and care staff at this stage would be extremely traumatic and detrimental to their health and wellbeing". This is the same party which issued a statement today-----

**Senator Trevor Ó Clochartaigh:** Is Senator Harte not aware of the block grant? Must I explain it again?

**Senator Jimmy Harte:** I am aware of the residents of Greenfield.

**Senator Trevor Ó Clochartaigh:** Tory cuts from Westminster.

**Senator Jimmy Harte:** Sinn Féin is implementing the Tory cuts.

**Acting Chairman (Senator Michael Mullins):** I ask Senator Harte to stick to the motion.

**Senator Jimmy Harte:** Senator Ó Clochartaigh does not live near the Border. I was born in Lifford and lived there for many years. Strabane is as much a part of Ireland as Galway is but the residents of Strabane do not get the same treatment. The residents of Greenfield House have been told they will be turfed out. The same councillor-----

**Senator Trevor Ó Clochartaigh:** The residents of Carraroe are also affected by cuts to old people's homes.

**Senator Jimmy Harte:** Sinn Féin is implementing Tory cuts. We are implementing cuts imposed by the EU but in the North Sinn Féin is part of a government. We are trying to solve the problem, but in Northern Ireland Sinn Féin is complicit with the Tory Government. Sinn Féin should not blame the Tory Government, it should blame its leaders and the people who are implementing these cuts.

**Senator Trevor Ó Clochartaigh:** It has no control over the block grant.

**Senator Jimmy Harte:** Forget about the block grant.

**Senator Trevor Ó Clochartaigh:** It is all about the block grant. If we had devolved powers we could raise our own taxes.

**Senator Jimmy Harte:** The only partitionist party in the room today is Sinn Féin because it distinguishes between residents in Strabane and Lifford. They can be sure-----

**Senator Trevor Ó Clochartaigh:** The greatest load of waffle.

**Senator Jimmy Harte:** I know where the waffle is coming from. It has been coming from the Sinn Féin representatives in Donegal who have attended meetings I have also attended-----

**Senator Trevor Ó Clochartaigh:** So Senator Harte has full confidence in the Minister, Deputy Reilly.

**Senator Jimmy Harte:** -----and castigated the Government on every occasion.

**Senator Trevor Ó Clochartaigh:** Good man.

**Senator Jimmy Harte:** They have repeated what Mr. Jarlath McNulty said across the Border about the mental health and well-being of the residents-----

**Senator Trevor Ó Clochartaigh:** Stand by your man.

**Senator Jimmy Harte:** Sinn Féin should be honest with the people and tell them why it is doing it. It is doing it because it is in government in Northern Ireland and must do it. However it comes down here and tells us to do something different.

**Senator Trevor Ó Clochartaigh:** We have no fiscal powers. That is why we are doing it.

**Senator Jimmy Harte:** Sinn Féin has no powers whatsoever.

**Senator Trevor Ó Clochartaigh:** No fiscal powers.

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**Senator Jimmy Harte:** It has no powers.

**Senator Trevor Ó Clochartaigh:** No fiscal powers.

**Senator Jimmy Harte:** Obviously it has no powers.

**Senator Trevor Ó Clochartaigh:** Does Senator Harte know what fiscal powers are?

**Senator Jimmy Harte:** I will say one thing.

**Senator Trevor Ó Clochartaigh:** Fiscal powers relate to raising taxes.

**Senator Jimmy Harte:** Sinn Féin may not have powers but it has the power to protest and make statements. A statement was issued from Stormont this evening, but no statement has been made about Greenfield House or the care of the patients there. Why not?

**Senator Trevor Ó Clochartaigh:** Tell me about Carraroe. Tell me about the people down here.

**Acting Chairman (Senator Michael Mullins):** Please stick to the motion.

**Senator Jimmy Harte:** I am not here to defend the Minister, Deputy Reilly, or any person. I am here to defend the Government and the actions it is taking on primary care. I am well aware of the future of primary care for my children and their children, and it is important we put it in place and not end up back where we were in 2010.

**Senator Marie Moloney:** Like other Senators I welcome the Minister of State, Deputy White, to the Chamber. I am sure when he was sitting here he did not think he would be sitting where he is now. Well done and congratulations. There is no better man to take over the portfolio.

I will keep my comments brief because I know we have time constraints. People have spoken about empty buildings throughout the country and wondered why primary care centres are being built. It is because they will be purpose-built and building them will create employment. When they are built and operational the rent from GPs will go to the State and not to private developers. I will stand over this any day and it is a good thing.

The special delivery unit which was established is definitely showing results and reducing waiting lists throughout the country. It is a step in the right direction. Much more must be done of course, and as Fianna Fáil used to say, a lot done and more to do. We all echo this sentiment. We know there is much work to be done but we are here to do it and we are up to the job. Of course it is with great regret that Deputy Shortall did not see it through because she had many good ideas. I hope the Minister of State, Deputy White, will take over the alcohol legislation and see it come to fruition. It is Labour Party policy to drive primary care centres so I will not apologise to anyone for doing it. We will continue to do it and that is what we are here to do.

Reference was made to home care packages. No cuts were made to home care packages and funding was increased. This is to be welcomed, particularly in this climate when funds are scarce. I am concerned about those who receive home help hours. I hope the Department will consider the person at all times. At a HSE meeting we were told home helps are paid by the hour and we must get value for money. Of course we do, but we must remember we are speaking about vulnerable people. I hope the Minister of State will do what he can to ensure those

who receive home help will have their hours maintained.

HSE areas which keep within their budgets should not be punished through cuts being made. I ask the Minister of State to examine this. I know it is early days for him and he is finding his feet. The Department of Health is a poisoned chalice, as Fianna Fáil knows. In fairness to Fianna Fáil, it kept pumping money into health but it did not work so we had to pull it asunder and reform it. We could not have begun the process of reform without the Croke Park agreement and keeping people on our side and working. We all recall that prior to the election nurses were out with placards seeking a reduction in hours. Under the Croke Park agreement this has gone away. I urge those who want to break the Croke Park agreement to keep it going.

**Senator Maurice Cummins:** It is a long time since I have heard such a disjointed and scattershot approach to a motion before the House. Senator MacSharry's speech was an exercise in innuendo, speculation and gossip. He even raised the subject of the children's hospital and suggested if it were built in any Minister's constituency Fianna Fáil would suggest it was due to the influence of that Minister. Only a few weeks ago, the leader of Fianna Fáil in the House stated a site had been available free of charge in Balbriggan since 2002. If it was available since 2002 why did Fianna Fáil not build a primary care centre in Balbriggan?

Senator Ó Domhnaill suggested we should build primary care centres in ghost estates. No wonder the country was in the state it was and that the Government inherited such a system. It would certainly take more than 18 months to solve the health problems we have, but the Minister outlined the Government's achievements over the past 18 months. There is no question that there is much more to be done. It cannot be achieved in 18 months.

Sinn Féin wants the Minister to resign but we take that with a grain of salt. It wants a utopian situation with a fairy tale system as the Senator mentioned.

**Senator Trevor Ó Clochartaigh:** I did not mention it at all.

**Senator Maurice Cummins:** It wants to throw more and more money at a myriad of problems, a policy which has failed the country and has plunged it into bankruptcy.

**Senator Trevor Ó Clochartaigh:** Why does the Government not tackle the consultants?

**Senator Maurice Cummins:** Senators know the criteria used for selecting 20 primary care centres under the PPP. I will outline the additional criteria applied by the Minister, Deputy Reilly, and I will be clear, so do not say I am not clear. They were competition; GP co-operation; GP to population ratio; a cost effective GP buy-in; existing health facilities; pressures on services in areas, particularly acute services; funding options, including Exchequer funded HSE build or lease; and the ability to implement a PPP. These are the clear criteria the Minister applied-----

**Senator Trevor Ó Clochartaigh:** When were they made up?

**Senator Maurice Cummins:** -----and the Department of Public Expenditure and Reform accepted the Minister's thinking that competition was required to ensure cost effective GP buy-in. On this basis the number of potential primary care centre locations was determined. Senators now know the criteria. They are clear and concise. By deciding to create a list of 35 rather than 20 the Minister, Deputy Reilly, provided positive encouragement for enlargement and financial participation by GPs in this significant and important stimulus package.

*7 o'clock*

When dealing with public private partnerships, it certainly makes sense to maximise the options available. This Government will not be blown off course by motions such as we have seen before the House today. We have committed to fixing the broken country and health service we inherited. The Minister and the Ministers of State, Deputies White and Lynch, certainly will not fail. They have outlined the achievements to date. There is much to be done and we will deliver free GP care and so many other things promised in the programme for Government in the five year term of this Government. The Opposition can talk all it likes and throw at us whatever it wishes, but we will deliver. This is a Government that is united in reforming the health service and the team that is in place will deliver that reform.

**Senator Diarmuid Wilson:** The Senator should ask Deputy Shortall about that.

**Acting Chairman (Senator Michael Mullins):** As Senator Cummins had some spare time, I will allow Senator Hayden two minutes in which to make her contribution.

**Senator Aideen Hayden:** I will be very brief. Sometimes one looks at the Opposition benches and says “fair enough, a real issue”. At other times, one looks at them and thinks that the issue raised is so cynical, it is beyond expression. I am reminded of the best example of cynicism in the political system, which was the decentralisation process engaged in by some of those now on the Opposition benches who, when in Government, gave a new meaning to the phrase “one for everybody in the audience”. I congratulate the Minister for coming to the Chamber today. He showed real courage and a willingness to explain himself in the face of what can only be described as a somewhat cynical attack.

My grandmother had a series of hats in her wardrobe and she always told me that if one waits long enough, it will come back into fashion. To some extent, what we are looking at now in respect of the primary care programme is history repeating itself. I am reminded of the closures of the cottage hospitals during the 1970s and 1980s where we were far too quick and willing to look to centralisation and centres of excellence. As we look into an Ireland where we are facing an ageing population, primary care centres are the future. I welcome the Minister of State, Deputy White, to the House. This is one of the most important programmes this Government will embark upon and wish the Minister of State the best of success.

**Senator Marc MacSharry:** At the outset, I am delighted my former colleague and very good friend outside the ring has been promoted. There is no better man to come up the curve quickly and do all that is necessary in pursuit of his work. That is genuine.

**Senator Aideen Hayden:** Hear, hear.

**Senator John Gilroy:** Will the Senator withdraw the motion?

*(Interruptions).*

**Senator Marc MacSharry:** The Acting Chairman cannot allow this heckling to last five minutes as I have a lot to answer. I always welcome the Minister to the House. I said at the very beginning of this debate and all day how appreciative we are of him making so much time available. He is the only Minister with that kind of record. We have had all the Ministers in the House at different times. He always comes to the House and we genuinely appreciate that.

The Minister stated that I said he was irresponsible. Indeed, he was irresponsible and reckless in the promises made before the election. That is a fact. Those promises were made on the

back of a budget of which the current Government and former Opposition was aware. It met the troika just as we did. The cupboard was as bare then as it is now. No one said to Senator O’Keeffe, a candidate for the Dáil at the time, to promise a centre of excellence in Sligo. No one told the Minister to write that letter we heard Senator Leyden read out in respect of the promises to the people of Roscommon. The Government knew the promises were not deliverable. They should not have been promised. That was irresponsible and politically downright reckless. I described it before as political delinquency, and that is what it was.

As much as I welcome my friend and congratulate him on his elevation to Minister of State, and while I have no axe to grind and hold no bars in respect of the former Minister of State, Deputy Shortall, the reality is she resigned for a reason. She was close to it and chose what many of us might feel was an easy option, to shout from the terraces instead of playing on the field, but she did it for a reason. That for me demands, as we say in the motion, that the Minister publish all the documentation to do with these locations. We are all in favour of primary care centres, universal health care and new GP care, but where are they? It does not concern the 20 locations that were chosen, rather it concerns the 15 sites. How did we pick them? If one is in Dundalk, which is 21st in the ranking, one would wonder why its primary care centre location did not get up the curve. We want all 400 of them as quickly as resources will permit. I have no doubt the Minister of State will ensure this is done as quickly as possible, to the extent to which resources are available. However, the reality is that 15 locations were chosen. How were they chosen? I venture it was done on political grounds. It was a case of choosing one for the Minister’s constituency and two in Roscommon to look after poor Deputy Feighan who took the bullet Deputy Naughten was not prepared to take.

**Senator John Gilroy:** The Senator is judging the Government by his own standards.

**Senator Paul Coghlan:** That is not what happened.

**Senator Marc MacSharry:** As for cynicism-----

*(Interruptions).*

**Acting Chairman (Senator Michael Mullins):** Senator MacSharry, without interruption.

**Senator Marc MacSharry:** I congratulate the new Labour Party Whip. If she was here long enough, she would know that the most cynical campaign ever carried out in opposition was by the then shadow Minister, Deputy Reilly. That is a fact.

Of the current cuts, front-line cuts are all over the news. All Senators are fielding complaints in their constituency clinics about cuts to home help hours - hours cut to half hours, half hours cut to 15 minutes and 15 minutes disappearing. That is what we are all interested in here. In terms of the achievements, I have never doubted what Senator Crown rightly said earlier on. Some people see things that are and say, “Why”, and others dream things that never were and say, “Why not?” I have said many times that I do not doubt the vision or commitment of the Minister and his team to what they want to achieve. The reality is that we are 18 months in but where are we? We had a €329 million overrun in August, which some months later has risen to €375 million. Yesterday, the civilian heads told the Committee of Public Accounts that they would tell it what they wanted to tell it.

**Senator Jimmy Harte:** Cash the Fianna Fáil cheques.

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**Senator Marc MacSharry:** They would tell it what they wanted to tell it and nothing else. With regard to that mantra about not listening to Fianna Fáil, when I was on the Government side of the House, and any of the senior Senators still around and the Minister of State might remember it, I got stuck into the then Minister day and night on health.

**Senator John Gilroy:** The Senator still voted with the Government.

**Senator Marc MacSharry:** There is a track record, form and consistency here on health.

**Senator John Gilroy:** When did the Senator not vote against any policy? He did not vote against any policy.

**Senator Marc MacSharry:** That is the scenario there. We have cost overruns in every hospital in the country. We have letters of undertaking being given to Tallaght Hospital for its overdraft. What is going to happen in Sligo General Hospital and Beaumont Hospital with their overruns? We are heading for €500 million so will the Minister have to find €1.25 billion in health cuts when it comes to the budget in December? We have heard his personal view that public sector pay needs to be looked at. Will that be Government policy? Will the Croke Park Agreement be thrown out the window, as it were? The health service as people see it is a farce. We do not have a scenario where, of course, health professionals are working very hard and everyone is doing their best. The bottom line in respect of management is that hospitals are taking out overdrafts, senior civil servants are refusing to answer questions and the Minister is talking about how, aspirationally, we are going to have universal health care, free GP care and the devil and all. However, the reality is that nothing has happened.

Amendment put:

The Seanad divided: Tá, 32; Níl, 11.	
Tá	Níl
Bacik, Ivana.	Byrne, Thomas.
Barrett, Sean D.	Daly, Mark.
Bradford, Paul.	Leyden, Terry.
Brennan, Terry.	MacSharry, Marc.
Burke, Colm.	O'Donovan, Denis.
Coghlan, Paul.	Ó Clochartaigh, Trevor.
Comiskey, Michael.	Ó Domhnaill, Brian.
Conway, Martin.	Power, Averil.
Crown, John.	Walsh, Jim.
Cummins, Maurice.	White, Mary M.
D'Arcy, Jim.	Wilson, Diarmuid.
D'Arcy, Michael.	
Gilroy, John.	
Harte, Jimmy.	
Hayden, Aideen.	
Heffernan, James.	
Henry, Imelda.	
Higgins, Lorraine.	

*Seanad Éireann*

Keane, Cáit.	
Kelly, John.	
Landy, Denis.	
Moloney, Marie.	
Moran, Mary.	
Mulcahy, Tony.	
Mullen, Rónán.	
Mullins, Michael.	
Noone, Catherine.	
O’Keeffe, Susan.	
O’Neill, Pat.	
Sheahan, Tom.	
Whelan, John.	
Zappone, Katherine.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators Marc MacSharry and Diarmuid Wilson.

Amendment declared carried.

**An Cathaoirleach:** Due to the failure of Senator Crown to vote “Tá”, the amended result is “Tá, 32; Níl, 11”.

**Senator Paul Coghlan:** He did the right thing.

**An Cathaoirleach:** The amendment is declared carried.

Amendment No. 2 not moved.

Question, “That the motion, as amended, be agreed to”, put and declared carried.

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

**Senator Maurice Cummins:** At 10.30 a.m. tomorrow.

### **Adjournment Matters**

#### **Ambulance Service**

**Senator Jimmy Harte:** I welcome the Minister of State, Deputy Kathleen Lynch. Last

week in Letterkenny, an injured jogger had to wait 48 minutes for an ambulance to come from the hospital, which is about 1.5 km from where his injury occurred. It turned out that the ambulance came from Carndonagh, 35 miles away. Luckily, the jogger was not seriously injured but he could have been. He had to lie on the road with passers-by comforting him.

Six months ago, I had reason to get an ambulance. It arrived within five minutes and I was in hospital approximately ten minutes after the incident occurred. I am aware, therefore, of the comfort associated with having an ambulance arrive quickly and the professionalism of the ambulance and hospital staff. I would not like to believe I would have had to wait 48 minutes for an ambulance. I wonder whether I would have coped as easily as the jogger. Perhaps other people could have.

It is scary that in a town the size of Letterkenny, which is well serviced with a general hospital, primary care centre and general practitioners, an ambulance could take 48 minutes to arrive. It is not acceptable. I am not criticising the ambulance drivers or staff but pointing to a breakdown somewhere. This matter was aired extensively on local radio, thus giving a negative impression of the health service. If the incident was isolated, we could live with it. However, we are very concerned that if such an incident happens again, the injured party may not receive proper attention on time. If it had been a cardiac incident, 48 minutes would have been too long to wait. I still have not discovered why there was a delay. Perhaps the Minister of State will outline the circumstances and give comfort, if not a guarantee, to the people such that there will be no recurrence. Such an incident should not occur in this day and age, particularly when there is a hospital but a ten-minute walk away.

Luckily, passers-by assisted the jogger in question. In Letterkenny town, many people walk and jog in the evenings. The incident was an unfortunate one in which two cars collided and ended up on the footpath, injuring the unfortunate jogger. Perhaps the Minister of State will offer some comfort to those concerned about ambulance delays.

**Minister of State at the Department of Health (Deputy Kathleen Lynch):** I am responding to this matter on behalf of my colleague, the Minister for Health, Deputy James Reilly. I expect that everyone agrees the Minister has spent considerable time today responding to questions. I thank the Senator for raising this matter and for the opportunity to clarify the position. It is important that it be clarified.

The HSE's national ambulance service, NAS, provides pre-hospital emergency care and emergency and some non-emergency patient transport. Before the NAS was established, each health board had its own ambulance service, with little co-ordination across board boundaries or national leadership on pre-hospital care. Supported by the Department of Health, the Pre-Hospital Emergency Care Council and HIQA, the NAS is providing national management of ambulance services. In particular, the following developments are continuing: ongoing reduction to two ambulance control centres; increased deployment of advanced paramedics, who provide more complex on-site care; modernisation of communications and control infrastructure; and the development of new performance indicators.

Where necessary, emergency cover is supported by advanced paramedics in rapid-response vehicles and by resources dynamically deployed from adjacent stations. A new intermediate care service is addressing routine inter-hospital transfers and releasing ambulances for emergency work, and the national aeromedical co-ordination centre organises aeromedical support, including inter-hospital transfers, transplant transport to the United Kingdom and the emer-

gency aeromedical service, EMS, based in Athlone. The effects of these changes are improved efficiency and increased resource availability across the service. In deploying emergency resources, the national ambulance service, NAS, operates under the Pre-Hospital Emergency Care Council, PHECC, EMS priority dispatch standard. The PHECC standard identifies the appropriate resource for emergency calls and promotes practice in line with Health Information and Quality Authority, HIQA, national standards for safer, better health care. These set out the principles for timely and clinically appropriate responses.

Ambulance crews are available to respond to emergencies, emergency transfers and lower acuity calls. Ambulance control centres are responsible for strategically deploying emergency ambulances to maintain emergency cover, and for dispatching the nearest appropriate emergency resource to a call. Emergency ambulances from all stations across Donegal are used in a dynamic manner to maintain emergency cover and to respond to calls as required. Ambulance stations across the county and adjacent counties support one another, and the nearest available ambulance responds to an emergency call regardless of where it is based.

Key to the Senator's issue, the NAS has informed the Department that, at 7.31 p.m. on the day in question, Ballyshannon control centre received a call relating to an incident in Letterkenny. The on-duty ambulance crews in Letterkenny were responding to other calls. In line with established procedures, an emergency ambulance was tasked from Carndonagh. This ambulance arrived at 7.55 p.m., 24 minutes after the call was received. Meanwhile, an off-duty HSE paramedic was at the scene from 7.50 p.m., some 19 minutes after the call, and had informed Ballyshannon centre of her presence. The ambulance left the scene with the patient at 8.10 p.m. and arrived at the hospital at 8.13 p.m. I am satisfied the nearest available and appropriate emergency resource was deployed and that established procedures were followed.

The NAS has undergone significant change to ensure quality, safety and value for money. As with other clinical areas, this process is ongoing as clinical needs and standards develop. These developments are in the best interests of patients and are a key part of the Government's work to ensure high quality emergency care. We all aim to have emergency calls responded to as quickly as possible. I do not mean to take away from this particular incident, but it is clear the most appropriate response was provided in the quickest possible time.

**Senator Jimmy Harte:** I thank the Minister of State. The call was received at 7.31 p.m., and I assume that it took three minutes from the call being logged to the ambulance being told to mobilise, as well as two or three minutes in travel time. However, the ambulance arrived at 7.55 p.m. Assuming the ambulance left at 7.35 p.m., it took approximately 20 minutes to get there. Perhaps I am incorrect, but the distance between Carndonagh and Letterkenny is 40 miles or so. I do not know how the ambulance could have travelled 40 miles in 20 minutes. What speed can an ambulance achieve? Perhaps the Minister of State might clarify. Seeing as how it would have taken 40 minutes at roughly 100 km/h, the ambulance would need to have been travelling at 120 mph to cover it in 20 minutes. Even if the times are correct, they are unacceptable in a cardiac arrest situation. A person would die. The person who arrived would not be a qualified cardiac medic whereas a cardiac unit was only 1.5 miles away.

**Deputy Kathleen Lynch:** It is unclear from the response provided to me whether the ambulance was actually in Carndonagh. It could have been somewhere else, but I will try to clarify for the Senator. Having spoken to some people in the Department, it is clear that, had the emergency call involved a person suffering a cardiac event, the response would have been different

**Senator Jimmy Harte:** I hope so.

**Deputy Kathleen Lynch:** It would have been. This is the idea behind having centralised, most appropriate responses. Centres take the details of the emergencies. I am sure this emergency was not pleasant for the person in question.

### **Pilot Training College**

**An Cathaoirleach:** I welcome the Minister for Transport, Tourism and Sport, Deputy Varadkar, to the House.

**Senator Denis O'Donovan:** I welcome the Minister and thank him for taking this debate. In or around 1 July, I was contacted by a distraught mother who had paid approximately €85,000 to have her son trained as an airline pilot. She borrowed some of that money and remortgaged a property, a story that is typical of many of the students caught in this situation. How much money has been lost by the students in total? The figure I have been given is between €5 million and €10 million. Why did the Pilot Training College, PTC, in Waterford accept money from unsuspecting students when there apparently were concerns about the company's viability as long ago as the end of 2011? That an organisation accredited by the Irish Aviation Authority, IAA, took substantial sums of money in such a situation is a serious issue.

What investigation has the Department carried out to date, if any? What investigation has the IAA conducted? Is the Minister in a position to ensure the trainee pilots, some of whom have only received part of their training, will have their training completed by another accredited college? Is the Director of Corporate Enforcement inquiring into this debacle? If not, why not? Did an auditor for the IAA or the PTC raise questions about the company's viability more than 12 months ago?

A further issue has come to my attention. I will not be disparaging towards the directors or others involved, but some students e-mailed me. Has another company set up shop in recent days in the premises owned and operated by the PTC since that company's liquidation? If so, are any of the old company's directors involved with the new one? They may not be.

During my probing of the issue, I learned that the training institute in Florida was owed approximately €1.4 million by the PTC. What became of that money? The PTC extracted substantial sums from many young people, primarily boys but also some girls, so that they might be trained as pilots. Something is rotten. I felt for the mother who approached me at a wedding. I knew her to see her. She explained her extreme plight. That was early in the situation when the trainees were still in Florida. The Minister assisted in getting them home, but a cost of \$500 or \$600 per student to bring them back from America is small change compared with the substantial sums they have lost.

I am deeply concerned by a number of the issues that have arisen. I do not know whether the situation is as serious as I have been led to believe by some of the students and their families, who are scattered throughout Ireland. Would it be appropriate to notify the Garda of what the company was doing? The issue has come to light again. In the past week to ten days, the High Court appointed a liquidator to PTC. During the summer, there was some hope for a plan to save the company and complete the trainees' training. These people have been wronged and the State owes them a duty. I hope the Minister will be able to answer some of these questions

or give some good news about the Department guaranteeing the completion of the training for these pilots.

**Minister for Transport, Tourism and Sport (Deputy Leo Varadkar):** I thank the Senator for raising this important issue. The position which has arisen is most regrettable and came about from the failure of the Pilot Training College, PTC, a privately-owned and operated flight training school, to meet its contractual obligations to its students in the completion of their training in Florida. I fully understand the frustration felt by the students involved and their families and I expressed my sympathy when I met some of their representatives on 20 July last. Unfortunately in the current economic climate, many businesses have failed, leaving their suppliers, etc., out of pocket, including businesses where a State body has a regulatory role.

It is important that the role of the Irish Aviation Authority, IAA, with regard to flight training organisations is properly understood. The IAA has responsibility for approving and overseeing flight training organisations in Ireland and the primary functions in this regard are the oversight of the safety, quality and standard of the training being delivered, the conduct of examinations and flight tests. It considers whether the company has sufficient resources to safely provide the training required to the internationally-determined standards but has no involvement in, or responsibility for, the contractual arrangements between PTC and its students. The IAA's role in the approval and oversight of flight training organisations is based on European rules and, unfortunately, PTC is not an isolated example, as there have been other similar failures in other countries in the recent past, with students suffering losses also.

As part of its regulatory role, the IAA completed audits on PTC in May 2011 and April 2012 and on PTC Florida in April 2011 and in October 2011. The IAA also made site visits in the first quarter of 2012 and in June 2012. During these various inspections it was clear that PTC complied with all EU and international requirements as a flight training organisation and there was no indication of any deficiencies. PTC's accounts were signed off by professional auditors and were not qualified in any way.

EU and international requirements state clearly that the financial evaluation carried out as part of the approval and oversight process is not intended to be a consumer protection provision. However, the IAA has tried to offer assistance to affected students where possible. On 26 June, when the IAA was notified that PTC were ceasing all training activities, it immediately despatched a representative to Florida to secure the records of all students, and all training carried out to date was credited towards the students' final qualifications where possible. The IAA has also worked with other flight schools to explore how students might complete their training elsewhere at as reasonable a cost as possible.

I am advised by the IAA that some 79 students have opted to continue their training with other approved Irish flight training organisations, 20 of whom are self-funded students. There are a further 19 self-funded students who have remained in Florida to pursue their training under the US system, with another 24 who have not decided on their future career. As a gesture of goodwill and without prejudice, the IAA funded the costs of students who wished to return to Ireland and 65 students availed of this offer.

On 26 July the High Court appointed an examiner to PTC Ireland. The IAA worked with the examiner to assess the options available but unfortunately two weeks ago the examiner advised the court that a potential investor had withdrawn and it ordered the liquidation of PTC. Whereas I and my Government colleagues sympathise with the plight of the students and their families

who have suffered considerable financial losses through the collapse of this company, neither the Government nor the IAA accepts any liability in this regard. The Irish taxpayer cannot be liable for a company's debts just because it had an approval of some form from a State agency.

The Senator asks about reports that a new company has been established at the same address as PTC. I understand that a company, Clearsky Pilot Training College Limited, has been registered at that address. The IAA has not received any application for approval from the company involved. However, following these reports, last Thursday, 4 October, the IAA inspected the premises of the company in question and found that the company is providing refresher training for an international non-EU client. That training does not meet the standard required for an Irish or EU pilot's licence. Should this new entity wish to provide training meeting stringent EU standards, like any other company it will have to apply to the IAA for approval.

While the Companies Acts do not come within my remit, I am advised that a registered company is a legal entity separate from its owners, shareholders and directors. The owners of a limited liability company are liable only for the amount of money that they have invested in the company and are not liable for the entire debts of the company. PTC was such a limited liability company. Distressing as it may be for all creditors of PTC, whether students or firms, under the Companies Act, if a person is the owner or director of a company that is put into liquidation, the directors and owners are legally entitled to establish or continue to be involved with another company and the debts of the first company do not transfer with the owners or directors to the new company. Creditors of the failed private entity should pursue the recovery of their debts with the liquidator if possible. As I have said already, neither the Government nor the IAA accept any liability for a private company's debts. Nevertheless, I acknowledge the Senator's comments that the students and their families have been wronged. They have been wronged by the company involved and not the Irish taxpayer.

I cannot provide a figure on how much has been lost but it will amount to several million euro. It is important to bear in mind that this does not just affect the young guy down the road or his mother but other parties are also involved, such as foreign airlines, a business in Florida and many other creditors. It would not be possible for the Government to compensate some creditors because we have sympathy, but not compensate all creditors. That would run into many millions of euro, including payments to foreign colleges, students and airlines.

I cannot answer the question of why the company accepted money up to the point that it ceased trading but unfortunately it is not uncommon for a business to continue to operate until the day it ceases trading. I do not know if the Director of Corporate Enforcement or the Garda are involved in this case and I cannot speak for them. I hope they will take an interest in the case and if there is a case to be answered in terms of company law or any other matter.

**Senator Denis O'Donovan:** I thank the Minister for being so frank. I am disappointed as I feel much concern for the students who have been wronged and there has been much light touch regulation from the IAA. Perhaps we could examine that in future. The IAA experienced a company getting into difficulty in the not too distant past, although it may have been before the current Minister took office. I am a solicitor by profession and it is my opinion that if a person or company takes in substantial sums of money up-front knowing that commitments cannot be fulfilled, it is bordering on criminal. The company sent these students to Florida knowing that fact, which is reckless trading. There should be some mechanism to punish such companies as we are talking about unsuspecting young people and their families. Some of these people put their life savings into the training scheme but the company was accepting this money up to the

difficulties arising on 1 July. Somebody in the company knew damn well that within weeks it would be in a trading position where it would not be possible to survive.

The Minister should have another look at the matter because it will not go away. The liquidator will probably not even consider the people who have been wronged as priority debtors. These students should receive greater attention from the State as we sent them to be trained. The light touch regulation of the IAA must be tightened, and it is a bit like the banking regulation in the past, which had terrible consequences for the country. I respect the Minister in coming here to take this matter and I understand his plight.

**Deputy Leo Varadkar:** I absolutely share the Senator's feelings in this regard. Some of my own constituents are in the same position as the people he describes. We have a shared experience of the feelings of the people who have been wronged. If there was reckless trading in the case, it is a matter for other authorities and the Senator makes a valid point in that regard.

There was a failure of another training college but that was more than 20 years ago. At a policy level we are considering the introduction of a bonding system where if this happens again, at least the customers and trainees would be protected. I do not accept that the IAA has been involved in light touch regulation and it is important to ponder the point. If the IAA had discovered that the company was in trouble financially, what could it have done? All it could have done was close the company and told it that it could no longer trade and the people affected would be in exactly the same position they are in now except perhaps for the one or two who may have paid full fees in the past week or two. When it comes to bodies that are licensed, regulated or approved by a Government body, we should bear in mind that all the airlines are licensed or approved by government. Radio stations, all our public and private bus companies, hauliers, driving schools, private colleges and other institutions are all in some way regulated, licensed or approved by government. It would be very reckless of me as a Minister to put the Irish taxpayer on the hook for the failure of companies such as those.

### **Upward-Only Rent Reviews**

**Senator Mark Daly:** I welcome the Minister of State to the House and thank her for taking this matter in respect of which I seek clarification on upward-only rent reviews. Fianna Fáil has published a Bill dealing with the issue of upward-only rent reviews, which is within the bounds of the Constitution. As the Minister of State will know, upward-only rent reviews are crippling many businesses. Those tenants are fighting their landlords to try to stay in business and reduce their costs. Rents are falling all around Dublin and throughout the country, yet landlords are enforcing the lease clauses requiring upward-only rent reviews.

We have examined this issue on the basis that we must stay within the bounds of the requirement within the Constitution to protect people's private property and their interests in it. There was a commitment to address this issue in the programme for Government and in the manifestos of the two parties in government. The Fine Gael Party manifesto states that it would commit to end upward-only rent reviews. It also states, "We will pass legislation to give to all tenants the right to have their commercial rents reviewed in 2011 irrespective of any upward only or other review clauses." The programme for Government states, "We will legislate to end upward-only rent reviews for existing leases."

When Deputy Alan Shatter became the Minister for Justice and Equality he said this would

take a few months. On 5 May he informed the Dáil that legislation on the issue was being developed and that he was in ongoing consultation with the Attorney General. In July he said that the matter was still with the Attorney General and in the 2012 budget the entire commitment was dropped. Retail Excellence Ireland, an independent group not beholden to any political party, said the Government lied to every retail outlet in the country. If the legislation we put forward is within the bounds of the Constitution, why is the Attorney General stating that this cannot be done?

**Minister of State at the Department of Justice and Equality (Deputy Kathleen Lynch):**

I am taking this matter on behalf of the Minister for Justice and Equality who is unable to be here for a myriad of reasons.

I welcome the opportunity to deal with the issue of upward-only rent review clauses in commercial leases. I would like to note the broader context which should inform this debate. That context relates to the ongoing work of Government to bring about the necessary transformational and structural changes to our economy which will assist struggling businesses and help them to grow.

The Government is acutely aware of the pressures felt by the retail sector in particular. However, in December last, the difficult decision was made not to proceed with the commitment in the programme for Government to legislate to end upward-only rent review clauses for leases entered into prior to 28 February 2010. It was a very difficult decision. This is not an area in which I was very involved either before or after.

The approach envisaged by the Government at that time aimed at providing relief for tenants whose businesses might be viable were it not for the adverse impact of paying rent significantly above prevailing market levels. However, the Government's legal advice was to the effect that the approach proposed gave rise to constitutional difficulties. There was a substantial concern that any legislative scheme involving interference in the contractual relationships of private parties would find it extremely difficult to survive a constitutional challenge. Furthermore, the Government was advised that any model proposed would require the payment of compensation to landlords whose rights were infringed, so that the proposal would be compatible with the Constitution and the European Convention on Human Rights. The Government was strongly of the view that compensating landlords in such circumstances could not be justified in the current economic climate.

Although legislative intervention may not be feasible, NAMA is playing a role in dealing with problems caused by upward-only rent reviews applying to NAMA properties. This role applies where tenants of NAMA debtors can show that the rents they are paying are in excess of current market levels and, consequently, the viability of their businesses is threatened. In such circumstances, tenants can seek NAMA's approval for rent reductions. By the end of August, NAMA had received 271 rent abatement applications, of which 206 were approved, four were refused, nine were not eligible because they did not refer to NAMA properties, and the remaining 52 were under review. Since the start of the year, NAMA has approved cumulative rent reductions of over €6 million.

By way of general comment, the common practice of including upward-only rent review clauses in commercial leases did not arise because of any legislative requirement. The nature and application of a commercial lease is a matter for the parties to that lease, and parties have always been free to agree that review clauses, other than those based upon the upward only

model, be included in their leases. Furthermore, even where upward-only clauses are present, the parties have always been able to agree that a flexible approach should be taken both as to the amount of rent payable, and the way in which that rent is to be paid. In this context, the Government has repeatedly urged that a pragmatic approach be taken by those involved in lease renegotiation.

One of the difficulties in regard to rent reviews is the absence of readily accessible, accurate information in order to determine the market rent payable in respect of comparable commercial properties. The Property Services (Regulation) Act 2011 addresses this issue by providing for the establishment and maintenance of a commercial leases database by the Property Services Regulatory Authority. Work is under way to ensure that the database will be operational at an early date.

The attention of the House is drawn to the existence of a rent review arbitration code, to be found on the Department of Justice and Equality website, which was developed by an expert group whose membership was drawn from all relevant stakeholders and which provides a mechanism to deal with the resolution of rent review disputes in the commercial property sector. The code contains detailed provisions concerning the production of comparative evidence relating to property transactions. It also places a firm duty on all parties to disclose all relevant information in their possession. As matters stand, parties are free to specify that this code should apply to rent review arbitrations and all parties are encouraged to make use of its provisions. I hope that addresses some of the Senator's concerns.

**Senator Mark Daly:** I thank the Minister of State for her reply. I know she was not involved in making the promises or drawing up the manifesto. However, I am sure she will agree that it is not surprising that people are extremely cynical of all politicians in all political parties about issues such as this one when a commitment on this is contained in party manifestos and in the programme for Government. One must wonder who was advising all the parties concerned on putting this commitment in party manifestos without stress testing it or examining if it was doable or deliverable. Perhaps the Minister concerned who should have replied to this matter was involved in advising the inclusion of this commitment as part of the programme for Government without checking if it was constitutionally possible or feasible. I note from the reply that there were substantial concerns about this - that is the case with all legislation - that it was considered it would be difficult to achieve - it would be because that is what legislation is about - and that there was an issue regarding the infringement of rights. I know the reply was written by the Department of Justice and Equality.

*8 o'clock*

It is disturbing that it is included in the reply that if one is lucky enough to be in a NAMA property, one might get a rent reduction.

**Deputy Kathleen Lynch:** It is obvious that they are getting rent reductions.

**Senator Mark Daly:** I know. However, one must be destitute, in a commercial sense, to be in NAMA and then one might get a rent reduction. There is no legislative requirement for upward-only rent reviews in leases, as was said in the Minister's reply. However, it was stated in the manifesto that there would be legislation against this.

I thank the Minister for coming to the House to clarify the issue. It is unfortunate for politics that things are included in manifestos that are not researched and if they were researched, it just

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makes people cynical that the attitude is: “We will put it in even though we know we cannot do it.” Perhaps the Minister will convey the message to the Minister for Justice and Equality that despite the fact it was removed from the last budget and deemed to be not doable, he might consider it this time. Commercial retailers are on their knees and they need help from the Government.

**Deputy Kathleen Lynch:** The Government is aware of the difficulties being experienced in the retail sector. The evidence is before our eyes in the streets where we see the footfall is not the same as it was previously. The commitment in the programme for Government was made in good faith and was based on the recognition of the difficulties faced by the retail trade. However, nobody would dispute the Attorney General’s knowledge of the Constitution and the legal position, and her advice is very clear. Equally, nobody would suggest that we should have to pay compensation to landlords as a result of an infringement of their rights. That is the advice being received. That advice has been given not once but several times because the Government was extraordinarily anxious to do something for this sector. It is unfortunate it is not possible to do it in this way. There might be other things that can be done to support it. It is not the retailer who is in NAMA but the property developer or owner, and in that context there is a negotiating position.

The Government made the commitment in the programme for Government in good faith but, unfortunately, it has been unable to do it.

The Seanad adjourned at 8.05 p.m. until 10.30 a.m. on Thursday, 11 October 2012.