



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

19/06/2013

Business of Seanad	59
Order of Business	60
Social Welfare and Pensions (Miscellaneous Provisions) Bill 2013: Committee Stage	75
Business of Seanad	76
Social Welfare and Pensions (Miscellaneous Provisions) Bill 2013: Committee Stage (Resumed)	77
Visit of British Delegation	88
Social Welfare and Pensions (Miscellaneous Provisions) Bill 2013: Committee Stage (Resumed)	89
Health (Amendment) Bill 2013: Order for Second Stage	98
Health (Amendment) Bill 2013: Second Stage	99
Public Health (Availability of Defibrillators) Bill 2013: Second Stage [Private Members].	117
Offences against the State (Amendment) Act 1998: Motion	137
Criminal Justice (Amendment) Act 2009: Motion	147
Adjournment Matters	155
Care of the Elderly	155
Courts Staff Recruitment	157
Fodder Crisis	160
Local Electoral Area Boundary Committee Report	162

SEANAD ÉIREANN

Dé Céadaoin, 19 Meitheamh 2013

Wednesday, 19 June 2013

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

*Machnamh agus Paidir.
Reflection and Prayer.*

Business of Seanad

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

The need for the Minister for Justice and Equality to appoint an additional taxing master in view of the current long delays in having the taxation of costs heard before the two existing taxing masters.

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

The need for the Minister for Health to make a statement on the imminent closure of Cara House, Market Street, Skibbereen, County Cork; and if he will reconsider putting a stay on the closure of this facility until suitable alternative accommodation is procured in the Skibbereen area.

I have also received notice from Senator Michael D'Arcy of the following matter:

Due to significantly reduced quantity of forage harvested to date this year combined with the complete depletion of forage reserves from previous years, the need for the Minister for Agriculture, Food and the Marine to put in place a strategy now to ensure another fodder-feed crisis is prevented next spring.

I have also received notice from Senator David Cullinane of the following matter:

The need for the Minister for the Environment, Community and Local Government to discuss the recommendations of the local electoral area, LEA, boundary committee report, and in particular the recommendation to divide the town of Carrigaline, County Cork, in two parts between Carrigaline-Ballincollig LEA and Bandon-Kinsale LEA, and to reconsider this recommendation in advance of legislating for boundary changes within local authorities.

I have also received notice from Senator Brian Ó Domhnaill of the following matter:

The need for the Minister for the Environment, Community and Local Government to ensure all Leader funding from EU sources is drawn down or approved for viable projects

across the country by 31 December 2013.

I have also received notice from Senator Lorraine Higgins of the following matter:

To ask the Minister for Education and Skills if he will consider implementing a policy whereby suicide prevention and awareness, mental health and anti-bullying numbers will be printed on school books or in student journals as a means of assisting in ensuring the health, safety and well-being of schoolgoing teenagers.

I have also received notice from Senator Averil Power of the following matter:

The need for the Minister for Transport, Tourism and Sport to ensure the Government will proactively endorse the bid to host the 2018 Gay Games in Limerick, given that the games would be worth up to €80 million to the city and Ireland more generally and that the alternative bids from London and Paris have been officially endorsed by David Cameron and François Hollande; and if he will ensure the Government provides every possible support for the site visit of the Federation of Gay Games from 1 to 5 July 2013.

I regard the matters raised by the Senators as suitable for discussion on the Adjournment. I have selected the matters raised by Senators Colm Burke, Denis O'Donovan, Michael D'Arcy and David Cullinane and they will be taken at the conclusion of business. Senators Brian O'Domhnaill, Lorraine Higgins and Averil Power may give notice on another day of the matters which they wish to raise.

Order of Business

Senator Maurice Cummins: It is proposed to take No. 1, Social Welfare and Pensions (Miscellaneous Provisions) Bill 2013 - Committee Stage, to be taken at 11.45 a.m. and adjourned at 2.15 p.m., if not previously concluded; No. 2, Health (Amendment) Bill 2013 - Order for Second Stage and Second Stage, to be taken at 2.30 p.m. and the debate on Second Stage to be adjourned not later than 4.30 p.m., if not previously concluded, with the contributions of group spokespersons not to exceed eight minutes and those of all other Senators not to exceed five minutes; No. 3, Private Members' Business, Public Health (Availability of Defibrillators) Bill 2013 - Second Stage, to be taken at 4.30 p.m. and conclude not later than 6.30 p.m.; No. 4, motion re renewal of certain provisions of the Offences against the State (Amendment) Act 1998, to be taken at 7 p.m. and conclude not later than 7.45 p.m., with the contributions of all Senators not to exceed five minutes and the Minister to be called on to reply not later than 7.40 p.m.; and No. 5, motion re Criminal Justice (Amendment) Act 2009, to be taken at 7.45 p.m. and conclude not later than 8.30 p.m., with the contributions of all Senators not to exceed five minutes and the Minister to be called on to reply not later than 8.25 p.m.

Senator Darragh O'Brien: I ask colleagues opposite to bear in mind when we debate Second Stage of the Health (Amendment) Bill 2013 today the fact that since the Government took over, 6,000 people per week have given up private health insurance owing to rising costs.

I ask the Leader if the Government actually values children. Does it put them first? Is there any pre-election pledge that Fine Gael or the Labour Party will not break? Is there any item in the programme for Government they will not break either? I ask these questions in the context

of the announcement the Minister for Education and Skills, Deputy Ruairi Quinn, will make today on special needs assistants and resource hours for children with learning disabilities, autism and language disabilities. I remind Government Senators that the cuts began in 2011 when they reduced resource hours and special needs assistants by 12%. Today the Minister will propose that children be given only 75% of the recommended resource and learning supports. He cut the level of support in December's budget. When asked why pupils with disabilities should face cuts, he said everyone needed to go the extra mile. For these children who should be valued, to go the extra mile is more difficult. Children with special needs deserve and require Government support. I ask the Leader why the Government has taken it on itself to bring about a sustained attack on children with special needs and their families. The Government will propose that a child only receive 75% of the recommended hours. It is absolutely disgraceful and I am sure Senators opposite agree. I am certain that not one of them can support the measure with a clear conscience. The Minister for Children and Youth Affairs, Deputy Frances Fitzgerald, was in the House a couple of weeks ago talking about what she would do in the provision of pre-school and support services for children. I agreed with much of what she had to say. Unfortunately, however, it is a little late. These are things the Government has been doing since 2011. It has been cutting the level of special needs support and resource hours on a sustained basis. Will the Leader tell me if Fine Gael and the Labour Party believe this is acceptable? Given the gravity of what will be announced today, I propose an amendment to the Order of Business that the Minister for Education and Skills attend the House to explain why he sees fit to provide that children with special needs who require resource teaching face a 12% year-on-year cut. It is outrageous, irresponsible and disgraceful.

Senator Ivana Bacik: It is welcome that the G8 summit has concluded with a strong statement on tackling tax evasion internationally and on issues of tax, trade and transparency more generally. It is particularly welcome from the perspective of the developing world to see that the eight leading developed countries have signed this declaration. It is also welcome that Ireland received strong, positive publicity, apart from the midges at Glendalough, from the visit of the Obamas. The visit of Michelle Obama and her daughters to Trinity College Dublin was an especial highlight for many of us.

I welcome national bike week and urge colleagues to get on their bikes in the fine weather and more generally. Cyclists have been getting bad press, particularly in the Dáil and recent media commentary. It is important to note that there is generally very little provision for cyclists, not just in Dublin but also on the roads nationally. There are still very low numbers cycling regularly to work and school. While numbers have increased in recent years, they are nowhere near the levels they were at in the 1980s in terms of the proportions of pupils cycling to school and third level students cycling to college. We must increase the numbers cycling as the more cyclists take to the roads, the safer they become for cyclists, pedestrians and other road users. The Dublin Cycling Campaign and others have done great work. We have seen great improvements in cycling infrastructure in Dublin with the introduction of the Dublin bike scheme and the development of the Grand Canal cycle path. There are still many cycle paths and routes which are very inadequate, including nearby at St. Stephen's Green, where cyclists must face into oncoming motor traffic. We need a more joined-up approach to cycling. I, therefore, ask the Leader for a debate on ways to increase the use of bicycles. Perhaps the debate might take place when we come back in September.

I ask for a debate on legislation to tackle the issue of forced marriages in the light of the judgment yesterday in the High Court in which Mr. Justice McMenamin commented on an

application in respect of a child in care. He said there was a potential need for specific legislation to deal with the dreadful human rights abuse and abuse of children represented by forced marriage. It has been a huge issue in Britain and elsewhere. Legislation has been introduced in other jurisdictions and, if it is a problem here, we should follow suit to ensure no girl is forced into marriage against her will.

Senator Rónán Mullen: I agree. It should provide that no under-age person should be forced into marriage against his or her will.

I propose an amendment to the Order of Business that the House hold a 45 minute debate with the Minister for Health and Children following Second Stage of the Health (Amendment) Bill on a specific issue affecting women's lives and health. I raised this issue in the context of the so-called protection of life in pregnancy Bill. It was exposed a number of months ago when there was an investigation into a HSE crisis pregnancy programme and funded counselling services. The investigation revealed extremely irregular practices carried out by State-funded pregnancy counselling agencies. It specifically involved the Irish Family Planning Association and others and included, for example, the falsification of medical reporting on five occasions. On five occasions, the investigations found women were told to hide their abortions from their doctors. They were encouraged to lie and to tell the doctors, if they had complications after an abortion, that they had a miscarriage. That was one example of a life-threatening endangerment of women by State-funded pregnancy counselling agencies. The Master of the Rotunda Hospital, Dr. Sam Coulter-Smith, spoke to the *Irish Independent* about the dangers of giving such advice to women. In two Irish Family Planning Association clinics, women were told how to purchase and import an illegal abortion pill.

Senator Ivana Bacik: On a point of order, these were just allegations. I do not think this has been proven.

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

Senator Rónán Mullen: I want the Minister for Health to come in for a specific debate because of an extraordinary answer given to a question by Deputy Terence Flanagan in the other House. He asked about the progress report on the investigation into the Irish Family Planning Association and others, which was supposed to be chaired by a former Secretary General of the Department of Education and Skills, Brigid McManus. We are now told it is an audit of State-funded crisis pregnancy counselling services. We are told it is near completion and that the process will be finalised within the next six to eight weeks.

An Cathaoirleach: Is Senator Mullen proposing an amendment to the Order of Business?

Senator Rónán Mullen: I have proposed an amendment. It appears that Ms McManus is designated as an audit requester but none of the people involved in revealing the information and carrying out this important investigation, nor the journalists who reported on it, has been contacted so far by the people supposedly carrying out an investigation. It appears the HSE is carrying out an investigation into itself but we have no evidence of any progress. I propose that we amend the Order of Business to allow for a 45 minute debate specifically on this issue with the Minister for Health. I hope colleagues will support it.

Senator Colm Burke: I support my colleague on the matter raised by Mr. Justice John McMenamin yesterday. According to the court reporting, consent was dispensed with in May 2010 when the person was under 18. The point made yesterday concerned the need to notify State

authorities when someone is under 18. The requirement for three months notice was dispensed with when the application was made for consent to go ahead with marriage. Different cultures are living in the country and we must be mindful of that when dealing with legislation. The Minister for Justice and Equality should now examine the matter in respect of bringing forward legislation and making sure something like this is not allowed to happen again.

With regard to the visit of Michelle Obama yesterday, I compliment the Garda Síochána and the State authorities for the efficient way in which the trip was managed. The country received positive publicity as a result of the visit. Everyone involved in organising it should be complimented. We should not be slow to compliment people when it is a success.

Senator Denis O'Donovan: I second the amendment proposed by Senator Darragh O'Brien. I ask the Leader for support with regard to the plight of seafaring people and small fishermen, having regard to the terrible tragedy off the coastline a few days ago, in the Leader's area. The one tiny glimmer of light that came from it was that the bodies of the three men were found and they were repatriated and buried onshore. I know of 100 families in my area where the bodies were never recovered. They were washed out to sea and never found so there was no closure or burial. I raised this some time ago, as did Senator Cullinane. I ask the Leader to insist that the Minister with responsibility for the marine introduces a grant system or pilot scheme for personal location beacons, which are a watch type device. If someone falls in when out on a small boat, as was the case of these three fishermen, or when the boat capsizes, an automatic signal goes out and the local lifeguard station can pick up the signal. In seconds, the station can identify where the tragedy took place and initiate an immediate response so there is a much better chance of recovering people alive rather than dead.

In this sad case, the three men were wearing life jackets but due to the cold water I suggest they died of hypothermia. The number of people lost at sea, *pro rata*, is far greater than the number of people lost on our roads. We have a very small population of sea goers and fishermen. I am not talking about people who can afford yachts but guys who go out part-time to try to make a living, which is becoming more difficult. I am asking the Minister to initiate immediately a provision whereby personal location beacons are made compulsory. This should be done as soon as possible.

Senator Lorraine Higgins: I request that the Minister for Justice and Equality comes into the House to discuss the possibility of introducing minimum sentences for those convicted of certain crimes. I raise this in light of the decision reached by the Australian court in the Jillian Meagher case. Justice was not only seen to be done but it was done and the convicted killer got a minimum sentence of 35 years. While it will not bring back the family members' daughter, sister or wife, there is some comfort to a family to know that the perpetrator will not see the light of day for a 35 year period, at a minimum. Ireland must strive for such standards in our criminal justice system. Murder is premeditated, thought out and planned. Therefore, minimum sentences should be standard in murder cases and all premeditated crimes. We need a strong message and to introduce active deterrents to prevent a revolving door system in our criminal system in Ireland.

Senator Mary Ann O'Brien: I was taken with what my cousin, Senator Darragh O'Brien, said and I wondered what Winston Churchill, Jamie Oliver, Stephen Spielberg, Agatha Christie, Leonardo da Vinci, Thomas Edison, Richard Branson and Erin Brockovich have in common. They were all special needs students and brilliant people who contributed so much to society. They are also vulnerable people when they are young and suffer from low self-esteem. They

need help and a leg-up and I cannot believe what Senator Darragh O'Brien shared with us this morning. I support him.

It is June and the weather is beautiful but there must be wind outside because the kite flying has begun. Last weekend, the Minister for Social Protection, Deputy Burton, tested business people. The Government has done such good through its initiatives for businesses to grow to help people regain confidence. We are an island and it is very difficult for those of us who are exporting to be competitive. We must get across the Irish Sea to get to England or Europe. I refer to Harvest 2020. We want to grow employment but the Minister is thinking of increasing the minimum wage. We are talking about special needs but to pay for the country and to get it back on an upward slant, we must regain confidence and build employment. I do not think raising the minimum wage is the way forward for Ireland. I have great sympathy for those who are less well-off.

I would like clarification from the Government, which is getting rid of the town councils.

I hope there will be great savings. Rates are increasing by between 30% and 100%. How can a retail business such as the hairdresser's in Waterford mentioned yesterday sustain itself or plan for the future if its rates will go this high? I would like clarity from the Minister for the Environment, Community and Local Government on what he is planning and how he will maintain the competitiveness and confidence of Irish businesses.

Will the Leader seek clarity from the Minister for Social Protection on her plans for the national minimum wage?

Senator Michael Comiskey: I am concerned by newspaper reports that co-operatives and others dealing with farmers will reintroduce a 1% levy per month on debts owing to them. Farmers have experienced a difficult winter and spring and run up large debts. I understand where the co-operatives are coming from, but farmers should not be burdened further by adding a 1% levy to their debts. It is important that we work with them. We must encourage them to use their banks wherever possible. We only have a month or six weeks to avert a crisis next winter; therefore, everybody must work closely with Teagasc and the farming organisations to make sure farmers are advised and have sufficient fodder for next winter and encourage them to deal with their banks rather than being subject a 1% levy by co-operatives on money owed to them.

Senator John Crown: I hate to sound like a broken record because I raised this issue yesterday, but additional information has come to my attention which urgently needs to be brought to the Minister's attention. An approved licensed drug, Ipilimumab, is the first to benefit substantial numbers of patients with a relatively uncommon cancer, malignant melanoma. It is, sadly, one which Ireland has a uniquely dramatic increasing incidence of. However, this drug is not reimbursed by several private health insurers. It has come to my attention that the problem is worse and more systemic than I understood and that, in addition to GloHealth, Aviva is also not paying for it. Laya Healthcare has not adopted a policy, but when approached on a case by case basis has approved it for individual patients. However, Aviva is a large player in the non-VHI part of the market and its staff boasted to a group of oncologists who were making representations on this issue last week that they had never paid for it on behalf of a patient. I would like to bring to the Minister's attention that Aviva's UK site states it places no limits on the availability of any licensed cancer drug. This policy is, therefore, unique to Ireland. The company needs to be called out on this issue. I understand markets are different, but there is

something wrong about the people concerned entering our market and charging our patients premia, while alleging that they are offering them choice and denying it in the fine print. This is a matter of serious concern.

There is, however, a matter of greater concern. It became apparent during my conversations with representatives of one of the companies that there had been a concert between them in making a decision not to approve a drug. That looks like an illegal cartel. I am not a legal expert, but when a bunch of providers that are supposed to compete with one another decide mutually that they will not make a product available, that is of dubious legality. Will the Leader bring this to the attention not only of the Minister for Health but also the Minister for Jobs, Enterprise and Innovation who probably has an oversight role in matters of competition and business practice? I am concerned about this issue. One of my patients is confined to hospital. He has paid tax all his life to support the public health system and paid insurance premia all his life to reduce the burden on the public health system, but he had to be discharged from a private hospital earlier and taken in a wheelchair to a public hospital to receive treatment at the expense of the taxpayer who is funding a system that is creaking financially. He was then readmitted to the private hospital for the rest of his care. There is something wrong with this and it needs to be addressed.

Senator Denis Landy: Like Senator Mary Ann O'Brien, I wish to raise the issue of commercial rates. The proof of the pudding is in the eating, but some of the pudding has been eaten. The local authorities in County Tipperary are being amalgamated and it has been predetermined that the commercial rate will be between 2% and 11% higher than that charged by town councils and that it will apply across the county. This information has been given to the councils. All rates will, therefore, increase across the county. Last week in reply to Deputy John Deasy in the Lower House the Minister for the Environment, Community and Local Government said the concept was that there would be harmonisation of rates to the lower level within each county. That flies in the face of what is happening in County Tipperary and what has happened in Waterford city in the past few weeks where businesses are up in arms because of this issue. Rates in the city have been re-evaluated and gone through the roof. I refer to the policy document adopted by the Government last October entitled, Putting People First, paragraph 6.7.9 of which states:

Where town rates are currently below the relevant county level (around two thirds of cases), it may be considered appropriate to apply a moratorium up to say 2015, with phasing of any increases over an appropriate subsequent period. Where there is a mix of towns in a county with rates above and below the county level, phasing should allow an equalisation over a subsequent fixed period of years.

The document clearly states there will be harmonisation, yet the Minister stated the opposite in a reply to a Topical Issue debate in the Lower House. In County Tipperary commercial rates will increase by between 2% and 11%. We need to find out what the position is.

An Cathaoirleach: The Senator can table an Adjournment matter on this issue.

Senator Denis Landy: I would like the Leader to ask the Minister to come to the House to address this issue because small businesses are struggling to keep their doors open. In my own town, Carrick-on-Suir, we make an effort every week to bring more business into the town-----

An Cathaoirleach: The Senator can raise these issues when the Minister comes to the

House.

Senator Denis Landy: -----and if rates increase, that will sound the death knell for small businesses.

Senator Trevor Ó Clochartaigh: Ach an oiread leis an Seanadóir Bacik, aontaím gur maith an rud é go ndeachaigh Comhdháil an G8 ar aghaidh go síochánta agus go bhfuair daoine léargas ar ché chomh fada chun cinn agus atá cúrsaí tagtha ó thaobh síocháin de ar an oileán seo le 15 bliana anuas.

It is welcome that the G8 summit went off without major incident and that there is a new view internationally of peace in Ireland and so on, but 15 years on from the Good Friday Agreement, as President Obama said, there is still a great deal of work to be done to embed the peace process. There are outstanding issues under the Agreement. It is also important, as Senator Ivana Bacik noted, that tax, trade and transparency issues were discussed. The Government has made great play of our international reputation in the markets, etc., which is the reason we have been given for the repayment of bondholders and compliance with the troika programme and so on. That is why it is strange that when we have been castigated by a US Senate committee about our tax regime, the Taoiseach did not raise this matter with President Obama when he had the opportunity to do so. Surely if the Taoiseach is so confident about our tax regime, he would have done so because UK watchdogs, as well as the US Senate committee, are stating Ireland is a tax haven. That is having a serious impact on our reputation internationally and it is strange that the Taoiseach did not raise the issue. It is important, therefore, that the Minister for Finance attend the House for a debate on taxation issues.

That debate should also be held in the context of budgetary talks that have commenced within the Government. Time will pass quickly as we run into the budget in October. Last year the Leader promised us a series of debates on budgetary issues in the run-up to the budget. It is important that a timescale be put in place in order that we will have an opportunity, while the Seanad is still in place, to debate the budgetary portfolios and implications of budgetary cuts and changes. Will the Leader indicate when that process will commence? Will a timetable be put in place for these budgetary debates?

Senator Cáit Keane: I support the Senators who spoke on the important issue of forced marriage. A High Court judge has said he believes the rules, regulations and laws in this regard need to be changed. The strategy document on domestic, sexual and gender-based violence contains only one reference to forced marriage in its 200 pages. It is only mentioned and there is absolutely nothing more about it. This is an important issue that we must examine in depth. We must consider culture and every other relevant factor, particularly the legal rights of children.

Today I speak about young people because Dublin has been chosen to host the One Young World summit next year. It is an important summit for young people. Approximately 2,000 of the world's young leaders will descend on Dublin for the major annual summit which is to focus on global problems. Dublin beat off competition from Singapore, Hong Kong and Edinburgh. The summit is to take place in Johannesburg this year and was held in Pittsburgh last year. Since the Leader has been so proactive in ensuring the Seanad is used for good debates and since so many young people will be in Dublin, I ask him to invite to the House those who bid for and are organising the summit, namely, Ms Clara Kelleher, Mr. Bob Collins and Ms Valerie McGrane, to discuss with an all-party group what they envisage for Ireland prior to the

summit which will be worth at least €30 million to Dublin. We should recognise the work these individuals are doing. In listening to the voices of the youth, we can learn a lot. They have shown what they can do. The Lord Mayor of Dublin, Mr. Naoise O'Murray, has spoken about the matter.

Senator Brian Ó Domhnaill: I support Senator Rónán Mullen's amendment to the Order of Business on what could be described as a national scandal. Some €3 million is made available by the HSE each year to the crisis pregnancy counselling service. As previously reported, the information being provided, particularly through the Irish Family Planning Association, appears to be putting women's lives at risk. This is according to medical evidence and medical reports. In addition, serious questions need to be asked of the Minister for Health and the HSE. We must appreciate that the current CEO of the HSE is the previous chief executive of the Irish Family Planning Association. There are questions to be asked in this regard also. There is a need for an independent investigation. Can the HSE investigate itself on this issue? Time has shown it cannot. It is over eight months since it initiated the inquiry. A Garda inquiry was running in parallel, but there have been no answers to date.

An Cathaoirleach: Is the Senator seeking a debate on the issue?

Senator Brian Ó Domhnaill: I am.

Second Stage of the Protection of Life During Pregnancy Bill is to be taken in the Dáil tomorrow. A reply to a parliamentary question last evening showed that the HSE was proposing that the findings of any report carried out on the misinformation provided and the threat to women's lives being facilitated by the Irish Family Planning Association would not be available for at least six to eight weeks. That appears to be too cosy and coincidental, given that the Bill will have been debated by the Oireachtas by then. There is a need for a 45 minute debate today with the Minister and the Order of Business should be amended. I plead with the Leader not to ask us to put this matter to a vote to allow for what I propose. If the Seanad is to be saved, questions of national importance such as this should be addressed here. We will have an opportunity to do so, as the Minister is due here today.

Senator Martin Conway: In the mid-west, as in other areas, hospitals are grouped. Ennis General Hospital, together with the hospitals in Dooradoyle and Nenagh, are considered to constitute one hospital campus connected to the Mid-Western Regional Hospital, the university hospital in Limerick. Naturally enough, there will be hiccups in the transitional process envisaged, but I am troubled by a statement from three senior doctors in the area to the effect that there has been a change to the long-standing practice of accepting vulnerable older people automatically in the medical specialists section for the elderly. The elderly may be vulnerable and under threat. According to the three doctors in question, this practice has been stopped abruptly. The hospital regrouping to which I referred is the first that has stopped abruptly the long-standing tradition according to which it is understood vulnerable older people should have immediate access to hospital care, when necessary. The HSE has not yet commented on the very worrying and troubling statement by the three doctors. At this stage, it is incumbent on it and the hospital group, including the hospitals in Dooradoyle, Ennis and Nenagh, to issue a statement to reassure people that the allegation is untrue. If it is true, it should be stated why it is and the alternative measures being put in place should be outlined. Perhaps the Leader, through his good offices, might ask the HSE what exactly is happening. The last thing we need, certainly in the mid-west which has had its fair share of ups and downs, is concern or worry on the part of the elderly by virtue of the changes to the management structure that have taken

place.

Senator Mary M. White: Having had the honour of being elected to the Industrial and Commercial Panel of the Seanad on three occasions, I speak with authority. Every year the budget is announced on a given day. Full of anticipation, we all go to the Dáil gallery to listen to the announcement. Afterwards people protest at the gates of Leinster House about all of the cuts made by the Government. Will the Leader, please, invite the Minister for Finance to the House to discuss with us what he intends to introduce in the forthcoming budget? We, as democratically elected Members, have a right to express our opinions on this subject. Yesterday afternoon an alliance from west Cork was protesting at the front gate. There were people of all ages present. Both senior and young gentlemen and ladies came to draw attention to the severe cuts that had taken place in west Cork. The Leader and the Cathaoirleach will be shocked by them. They include the downgrading of Bantry hospital, the closure of three Garda stations and the cutting of home help hours. For the first time yesterday I met the passionate shop steward for the alliance, Ms Violet Carroll. There was a €2.25 million cut to the Leader programme for community projects in the area. How dare the Government have such an archaic, old-fashioned way of bringing forward a budget. Will the Leader, please, request the Minister for Finance to pay us respect? Members are elected to various panels and there are Members on the Government side on mine. Our job is to discuss the cuts in a rational, businesslike way, not to have a slash and burn approach which is causing distress to so many.

Senator Michael Mullins: Although I will not be supporting the call for an amendment to the Order of Business, I support strongly some of the points made by Senator Rónán Mullen on the State-funded counselling service for those with crisis pregnancies. We need to ascertain whether the law has been broken, whether the lives of women are being put at risk and whether women are being advised to hide crucial information from their doctors which could have serious implications for them. The allegation is that women are being advised to hide crucial information from their doctors which could potentially have serious implications for their future health. In that context, I am calling for the immediate publication of the audit which, as indicated by the Minister for Health in his reply to a parliamentary question by Deputy Terence Flanagan yesterday, is ongoing. We can then ascertain whether there is a need for a fuller investigation into the activities of crisis pregnancy agencies that are in receipt of State funding.

I strongly support the call this morning by Senator Lorraine Higgins for a serious examination of sentencing policy in this State, the need for which is highlighted once again by the verdict in the Jill Meagher murder case in Australia. We all know of cases where criminals convicted of serious crimes were released from prison after relatively short periods of time only to re-offend. In one case in my constituency, such a person went on to commit a second murder. We must have a serious review of our sentencing regime. I ask the Leader to arrange such a debate with the Minister for Justice and Equality, Deputy Alan Shatter, at the earliest possible opportunity.

Senator Marc MacSharry: I join colleagues in expressing concern at the pace of the investigation into certain practices at the Irish Family Planning Association. I raised this issue in the House last November when it first became clear that there was worrying evidence of dangerous advice and encouragement being given to women to provide incorrect information to their doctors which could adversely affect their health. I understood at that stage that an investigation was to take place. In his reply to the parliamentary question by Deputy Terence Flanagan, the Minister referred to an ongoing audit. What is required, however, is not an audit but a proper investigation that will provide clear answers. We cannot have State-sponsored

organisations giving advice to people which could potentially damage their health.

I support the proposed amendment to the Order of Business calling on the Minister for Education and Skills to come to the House to discuss the latest cuts to the education budget. It is not the first time the Government has persisted in focusing on the most vulnerable in its efforts to reduce spending. We are now presented with further cuts to the budget for resource teachers, with the suggestion that only 75% of the recommended allocation will be granted. Surely it is within the capability of the Minister to identify where people are better placed to sustain cuts rather than continuing to place the burden on those who are most vulnerable and most in need of State assistance in terms of resource hours and assistance in the education system? It beggars belief that any Minister sitting around the Cabinet table would stand over these types of cuts. It surely must be possible to identify areas better placed to sustain further cuts.

Senator Catherine Noone: I join Senator Marc MacSharry in calling for clarity on the activities of crisis pregnancy advice centres, an issue I too raised when it came to light last November. It need hardly be pointed out that a crisis pregnancy is a time when women are at their most vulnerable and, as such, an investigation is warranted. In fact, it is difficult to understand why the audit is not yet completed. A thorough investigation must be carried out to ensure there is clarity regarding the type of advice being given to vulnerable women in these situations.

Abolition is not a popular word in this House these days, but I take this opportunity to welcome the abolition of mobile telephone roaming charges, which the European Parliament has committed to implement before the next European elections. I and other Senators have raised this issue in the House on numerous occasions. Many people have found themselves out of pocket because they were not aware of the rate at which costs were accruing, whether in the North, in Europe or elsewhere. It is particularly important that people who move regularly between this State and the North should have clarity on this issue. As such, I welcome the undertaking to resolve the matter in the very near future. It is an excellent proposal from the perspective of consumers in this State and will also benefit tourism.

An Cathaoirleach: I now call on the Leader to reply.

Senator Mary M. White: On a point of order, it was Councillors Alan Coleman and Patrick Gerard Murphy who led the west Cork alliance protest at the gates yesterday.

An Cathaoirleach: That is not a point of order.

Senator Maurice Cummins: I cannot respond to that point of order which has left me somewhat taken aback.

Senator Darragh O'Brien claimed that the Government is not putting children first in this country. In fact, the reason we had a referendum on children's rights is that this Government is determined to put children first. I was not going to comment on the Senator's suggestion as to what the Minister for Education and Skills, Deputy Ruairí Quinn, might say today. I should point out, however, that the provision for resource teachers and special needs assistants for the coming school year will remain at the same level as this year.

Senator Darragh O'Brien: It will not.

Senator Maurice Cummins: The number of SNAs remains at 10,575 and the number of resource teachers allocated by the National Council for Special Education will once again be

5,265.

Senator Darragh O'Brien: How many pupils will avail of the service?

Senator Maurice Cummins: A further 4,685 resource teachers have been allocated by the Department, bringing the overall allocation to 9,950. This is the third year in a row in which the number of SNAs and resource teachers has been protected by the Government.

Senator Darragh O'Brien: It amounts to a cut, however, because there are more children coming into the system.

Senator Maurice Cummins: The NCSE has indicated that demand for resource teachers has risen again this year. As the number of posts available is the same as last year, it is necessary to reduce the individual allocations by a further 10% to ensure all children who require resource teacher support will be able to access it.

Senator Darragh O'Brien: Will the Leader stand over this claim that all children who require such support will receive it?

An Cathaoirleach: The Leader, without interruption.

Senator Maurice Cummins: I am sure we will have another debate on the issue when the full details are announced.

Senator Ivana Bacik reminded us that this is National Bike Week and urged us all to get on our bicycles. I compliment local authorities throughout the country on the various initiatives they have taken in this regard.

The issue of forced marriages, which is the subject of a case that was before the courts yesterday, was referred to by several Members. I will raise the issue with the Minister for Justice and Equality. If it is found, in the aftermath of this court case, that there is a requirement for legislation, I am sure the Minister will expedite the introduction of same.

Senators Rónán Mullen, Brian Ó Domhnaill, Michael Mullins and others referred to certain practices by crisis pregnancy agencies including the Irish Family Planning Association. I was not aware of the Minister's reply to Deputy Terence Flanagan, but I agree the report which was referred to should be published. However, I do not propose to amend the Order of Business to address that matter this morning. Members might wish to submit it for discussion on the Adjournment tomorrow to obtain the information they have sought.

Senator Colm Burke complimented all involved in the organisation of the G8 summit and the visit of Ms Michelle Obama and her daughters to this State, with particular reference to the excellent work done by the Garda Síochána. Everybody would endorse that sentiment.

Senator Denis O'Donovan referred to the dangers faced by fishermen in the course of their work and asked about the use of personal locator beacons. In the aftermath of the dreadful fishing accident off Tramore last week which claimed the lives of three fishermen from Passage East in my own county, I contacted the Department for Transport, Tourism and Sport to ascertain what action is proposed to be taken. I am told the Department is working with the Department of Agriculture, Fisheries and Food and Bord Iascaigh Mhara on the legislative and financial supports for a series of maritime safety measures - focusing on the fishing sector - including the promotion of personal locator beacons. This involves complex work which is now

nearing completion. I understand a suite of measures to support fishing vessel safety will be announced by the Minister for Transport, Tourism and Sport, Deputy Varadkar, and the Minister for Agriculture, Food and the Marine, Deputy Coveney, in the coming weeks. I thank Senator O'Donovan for raising this important matter for the benefit of all involved in the marine sector, fishermen in particular.

Senator Higgins called for a debate on sentencing, particularly minimum sentencing. We will ask the Minister to come to the House for a debate on that issue. I asked previously for this and perhaps the Minister will come to the House soon. I agree totally with Senator Higgins that the punishment must fit the crime in all the cases referred to. The Australian case was mentioned specifically.

Senator Mary Ann O'Brien raised the issue of competitiveness and the proposals of the Minister for Social Protection, Deputy Burton, in regard to the minimum wage. I have read accounts of the proposal and believe the Minister will clarify the situation. I agree with the Senator that competitiveness is key to creating jobs. With regard to the issue of rates which both she and Senator Landy raised, I agree commercial rates and increases in those rates are a major issue for small retailers. Yesterday, on the Order of Business, I addressed the question of the valuation placed on many properties and businesses, in Waterford in particular. These properties have been revalued for rates purposes in the past number of weeks. This issue is a cause of great concern for many small retailers and will put them to the pin of their collar to survive. I understand a meeting was held in Waterford yesterday, attended by staff from the valuation office, but I am not aware yet of what transpired at that meeting. However, I agree rates are a major problem, particularly for small retailers, in these difficult times.

Senator Comiskey outlined the situation regarding the farming community, fodder and the need to ensure we will not have the problems we had this year in the future. I agree with him. We will try to get the Minister for Agriculture, Food and the Marine to come to the House to outline his plans for the future in that regard.

Senator Crown raised the issue of the availability of licensed cancer drugs and the possible operation of cartels. This is a serious problem being brought to our attention by the Senator. If such cartels are operating, immediate action should be taken by the appropriate Minister, whether the Minister for Health, Deputy Reilly, or the Minister for Jobs, Enterprise and Innovation, Deputy Bruton. I hope that during the debate on the Health (Amendment) Bill this afternoon, the Senator will get the opportunity to raise that particular issue with the Minister for Health. It is an issue that is relevant for our whole population. When people are ill, especially with life-threatening diseases, the necessary medication must be provided. A situation like that outlined by Senator Crown today is totally unacceptable in our health system and must be addressed.

Senator Ó Clochartaigh raised the issue of the Good Friday Agreement. Even after all these years, this remains a work in progress and there are still issues to be addressed. With regard to a debate on budgetary matters, the timescale is very tight this year. We had comprehensive debates last year, but as Senators are aware, the budget will be on 15 October this year. I will see what I can do for September or even before the recess to arrange for some debates on the budgetary process. Senator White also raised the issue of the budget.

Senator Mary M. White: The Leader should arrange for the Minister for Finance to come here to discuss it.

Senator Maurice Cummins: If Senator White would allow me to reply on that issue, I have never countenanced a Minister for Finance coming to the House and announcing the budget before budget day.

Senator Mary M. White: He could answer questions on it and discuss it.

An Cathaoirleach: The Leader, without interruptions please.

Senator Maurice Cummins: I do not think that will happen this year or any other year.

With regard to cuts to Leader funds, the cuts regarding the company in west Cork occurred because the company had not approved sufficient projects. The money was then transferred to other approved Leader projects.

Senator Brian Ó Domhnaill: In Kilkenny, in the Minister's constituency.

An Cathaoirleach: The Leader, without interruption.

Senator Maurice Cummins: This has gone on throughout the country.

Senator Keane raised the matter of the One Young World summit, which will be held in Dublin next year. We would like to compliment all the organisers on that. I will get the details on that from Senator Keane after the Order of Business. Senator Conway spoke of hospital groupings. We had a very comprehensive discussion with the Minister last week on the issue of hospital groupings and services. I agree with the Senator that the HSE should clarify the issues he has raised and I am sure it will.

Senator Mullins also raised the issue of sentencing and the publication of the report referred to yesterday in a response to Deputy Flanagan. I have commented on that. Senator Noone spoke about roaming charges and their proposed elimination. An end to these exorbitant charges would be welcomed by all as they have been a problem not just for tourists but for businesses and other sectors. The sooner they are abolished, the better for all involved.

An Cathaoirleach: Senator O'Brien has proposed an amendment to the Order of Business, "That a debate on the 12% year-on-year cut in resource hours and support available for children with special needs be taken today." Is the amendment being pressed?

Senator Darragh O'Brien: Yes.

Amendment put:

The Seanad divided: Tá, 15; Níl, 27.	
Tá	Níl
Byrne, Thomas.	Bacik, Ivana.
Crown, John.	Bradford, Paul.
Cullinane, David.	Brennan, Terry.
Daly, Mark.	Burke, Colm.
MacSharry, Marc.	Clune, Deirdre.
Mooney, Paschal.	Coghlan, Eamonn.
Mullen, Rónán.	Coghlan, Paul.
O'Brien, Darragh.	Comiskey, Michael.

19 June 2013

O'Brien, Mary Ann.	Conway, Martin.
O'Donovan, Denis.	Cummins, Maurice.
O'Sullivan, Ned.	D'Arcy, Jim.
Ó Clochartaigh, Trevor.	D'Arcy, Michael.
Ó Domhnaill, Brian.	Gilroy, John.
van Turnhout, Jillian.	Harte, Jimmy.
Zappone, Katherine.	Healy Eames, Fidelma.
	Henry, Imelda.
	Higgins, Lorraine.
	Keane, Cáit.
	Kelly, John.
	Landy, Denis.
	Moloney, Marie.
	Moran, Mary.
	Mullins, Michael.
	Noone, Catherine.
	O'Donnell, Marie-Louise.
	O'Neill, Pat.
	Sheahan, Tom.

Tellers: Tá, Senators Marc MacSharry and Ned O'Sullivan; Níl, Senators Paul Coghlan and Marie Moloney.

Amendment declared lost.

An Cathaoirleach: Senator Mullen has moved an amendment to the Order of Business, "That a 45-minute debate on the advice being given by the State-funded counselling services and agencies in relation to crisis pregnancies be taken after No. 2". Is the amendment being pressed?

Senator Rónán Mullen: Yes.

Amendment put:

The Seanad divided: Tá, 9; Níl, 31.	
Tá	Níl
Byrne, Thomas.	Bacik, Ivana.
Crown, John.	Bradford, Paul.
Daly, Mark.	Brennan, Terry.
MacSharry, Marc.	Burke, Colm.
Mooney, Paschal.	Clune, Deirdre.

Seanad Éireann

Mullen, Rónán.	Coghlan, Eamonn.
O'Brien, Darragh.	Coghlan, Paul.
O'Donovan, Denis.	Comiskey, Michael.
Ó Domhnaill, Brian.	Conway, Martin.
	Cullinane, David.
	Cummins, Maurice.
	D'Arcy, Jim.
	D'Arcy, Michael.
	Gilroy, John.
	Healy Eames, Fidelma.
	Henry, Imelda.
	Higgins, Lorraine.
	Keane, Cáit.
	Kelly, John.
	Landy, Denis.
	Moloney, Marie.
	Moran, Mary.
	Mullins, Michael.
	Noone, Catherine.
	O'Brien, Mary Ann.
	O'Donnell, Marie-Louise.
	O'Neill, Pat.
	Ó Clochartaigh, Trevor.
	Sheahan, Tom.
	van Turnhout, Jillian.
	Zappone, Katherine.

Tellers: Tá, Senators Rónán Mullen and Brian Ó Domhnaill; Níl, Senators Paul Coghlan and Marie Moloney.

Amendment declared lost.

Question put: "That the Order of Business be agreed to."

The Seanad divided: Tá, 30; Níl, 10.	
Tá	Níl
Bacik, Ivana.	Byrne, Thomas.
Bradford, Paul.	Cullinane, David.
Brennan, Terry.	Daly, Mark.
Burke, Colm.	MacSharry, Marc.

19 June 2013

Clune, Deirdre.	Mooney, Paschal.
Coghlan, Eamonn.	Mullen, Rónán.
Coghlan, Paul.	O'Brien, Darragh.
Comiskey, Michael.	O'Donovan, Denis.
Conway, Martin.	Ó Clochartaigh, Trevor.
Crown, John.	Ó Domhnaill, Brian.
Cummins, Maurice.	
D'Arcy, Jim.	
D'Arcy, Michael.	
Gilroy, John.	
Healy Eames, Fidelma.	
Henry, Imelda.	
Higgins, Lorraine.	
Keane, Cáit.	
Kelly, John.	
Landy, Denis.	
Moloney, Marie.	
Moran, Mary.	
Mullins, Michael.	
Noone, Catherine.	
O'Brien, Mary Ann.	
O'Donnell, Marie-Louise.	
O'Neill, Pat.	
Sheahan, Tom.	
van Turnhout, Jillian.	
Zappone, Katherine.	

Tellers: Tá, Senators Paul Coghlan and Marie Moloney; Níl, Senators Marc MacSharry and Paschal Mooney.

Question declared carried.

Social Welfare and Pensions (Miscellaneous Provisions) Bill 2013: Committee Stage

An Cathaoirleach: I welcome the Minister, Deputy Burton, to the House.

Sections 1 and 2 agreed to.

SECTION 3

An Cathaoirleach: Amendment No. 1, in the name of Senator Cullinane, has been ruled out of order.

Amendment No. 1 not moved.

An Cathaoirleach: Amendment No. 2 has been ruled out of order as well as it involves a potential charge to the Exchequer.

Amendment No. 2 not moved.

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

Senator David Cullinane: I would like to speak briefly to this section. I know the amendments were ruled out of order. I will outline, in the context of this section, the broad thrust of the reasons we tabled these amendments. One of the issues relates to what happens when a person who has been dismissed by an employer takes a case to the appropriate employment rights body, under the Unfair Dismissals Acts 1977 to 2007, and that body finds against the employer and rules the person was unfairly dismissed. We are seeking to make provision for the State to be reimbursed in such circumstances for the cost of the social welfare payments of the former employee who was unfairly dismissed.

It is obvious that a person who has been dismissed unfairly and is no longer receiving wages from his or her former employer, will have to seek social welfare payments and wait for the social welfare officer to make a subjective decision on the claim. It is reasonable in such circumstances to expect the employer who dismissed the person unfairly to reimburse the State for the cost of providing social welfare payments to the former employee. Why should the State have to pay social welfare payments in respect of a person who was unfairly dismissed from his or her place of employment? That was the broad thrust of amendment No. 1, which has been ruled out of order. The Minister might be able to deal with the issue under the section itself.

Amendment No. 2 has also been ruled out of order. As the Minister took part in long discussions in the Dáil and the Seanad on the impact of the abolition of the transition pension, I will not labour the argument in favour of this amendment. She is aware of our views on the increase in the pension age. We have had robust and good exchanges on that issue. We do not feel that people who reach the age of 65, and have to receive jobseeker’s allowance until they reach the pension age, should be treated the same as people who receive jobseeker’s allowance because they are seeking work. It is unreasonable to expect such people to have to satisfy the criterion of being genuinely in search of employment. Perhaps provision could be made to exclude people in such circumstances from having to provide evidence that they are genuinely seeking work. We are making that case in light of the nature of the payment in question and the reason these people are getting it. The Minister might be able to address those points.

Progress reported; Committee to sit again.

Business of Seanad

Senator Maurice Cummins: I wish to amend the Order of Business so that No. 1, the Social Welfare and Pensions (Miscellaneous Provisions) Bill 2013 - Committee Stage, will be adjourned at 1.55 p.m. if not previously concluded; and that No. 3, Private Members’ business, Public Health (Availability of Defibrillators) Bill 2013, will be taken at 5 p.m. and conclude no later than 7 p.m, which makes it half an hour later than was announced on the Order of Busi-

ness.

An Cathaoirleach: Is that agreed? Agreed.

Senator Paschal Mooney: Does that reduce the amount of time devoted to this Bill?

Senator Maurice Cummins: It is not reducing the time. The Bill is being adjourned at 1.55 p.m. and we will be coming back to it. It was originally ordered to finish at 2.15 p.m. and it will now adjourn 1.55 p.m. but it will not be concluded.

Senator Paschal Mooney: Are we coming back to it today?

Senator Maurice Cummins: No.

An Cathaoirleach: Is the amended Order of Business agreed? Agreed.

Social Welfare and Pensions (Miscellaneous Provisions) Bill 2013: Committee Stage (Resumed)

Question again proposed: "That section 3 stand part of the Bill."

Senator Marie Moloney: I agree with Senator Cullinane on this point, on which I have spoken before in committee and in the House. For people who work all their lives and are obliged to retire at 65, because that is what their contracts state, and who perhaps get a lump sum having paid into a pension scheme, it is very unfair they are means tested for three months before they go onto the State pension. Does the Minister know whether the Minister for Jobs, Enterprise and Innovation can change this? Does the finish date come under employment law? Perhaps we should find out whether the Minister for Jobs, Enterprise and Innovation can change this and allow people the option, if they want it, to retire at 65 or to work on until pension age.

It is very unfair that people are getting caught in this trap of having to be means tested for three months. As with the transitional jobseeker's payment for lone parents and retained fire fighters, it might be possible to make a change in this regard. Why would a person have to be available for work at 65 years of age when it is very unlikely that person is going to be employed by anyone? The Minister might consider extending this facility to such people also.

Senator Fidelma Healy Eames: The Minister is welcome. These are two very useful amendments-----

An Cathaoirleach: The amendments are out of order. We are speaking on the section.

Senator Fidelma Healy Eames: I understand that. I am speaking to the section and the substantive element of the amendments, although I understand they are out of order. The thrust of what Senator Cullinane is trying to achieve is very useful but we will have to find the right place to bring in the amendments. I agree that any employer who has had a finding made against it of unfair dismissal should reimburse the State with the unfairly dismissed former employee's social welfare payments for the period that applies. I would support Senator Moloney on the point that once a person comes to the age of 65, he or she should not be forced to actively seek employment, and that perhaps it would be optional at that point.

Deputy Joan Burton: With regard to the first amendment, this is really a matter for the

Minister for Jobs, Enterprise and Innovation because the legislation in regard to employment terms and conditions is a matter for that Department. I assume this is the primary reason the amendment was ruled out of order.

The Department of Social Protection took over the administration of the redundancy and insolvency payments over two years ago. The Senators will know the very hardworking staff in the Department of Social Protection have cleared what had become an enormous backlog. I know Senators Mooney, Moloney and others had dealt with quite a few difficult cases where getting redundancy proved to be a very long structure. My Department, which, as I said, now administers the scheme, has cleared the backlog and has developed IT to allow people to be paid redundancy and insolvency payments within a much faster timeframe, provided the various notifications have been given. As I said, however, the legislation is a matter for the Minister for Jobs, Enterprise and Innovation and we do not have charge of it.

With regard to jobseeker's allowance and the requirement to be actively seeking work, it is important to note that persons who qualified for jobseeker's benefit and who are aged between 65 and 66 years are generally entitled to receive payments until the date on which they reach pensionable age.

Senator Marie Moloney: It is for 12 months.

Deputy Joan Burton: I will be coming back to this in any event as we are examining the legislation surrounding it.

In the context of the budget, it is important to understand that in terms of the sustainability of Irish debt, one of the agreements made with the troika in 2010 was to review pension conditionality and pension ages. That review, which was agreed by the former Government in 2010 and formed part of the conditionality of the deal Ireland struck with the troika, has resulted in a much greater sustainability of the Irish social welfare system overall.

It is important to recognise that while people would not receive the full State pension, transition, which is disappointing for many people, they will be entitled to jobseeker's benefit. I agree with Senator Healy Eames that it may be possible to consider changing employment legislation in regard to allowing people to develop contractual rights to work for the longer period. Again, unfortunately, like the last point, that is not within the remit of my Department. However, it is certainly something I would be very happy to see consideration given to by the appropriate Minister.

Senator David Cullinane: I thank the Minister for her helpful response. On the first issue she raised, we will take it up with the Minister for Jobs, Enterprise and Innovation. There might be an appropriate way to raise it in legislation he will bring before the House on other issues.

On the issue of pensions and jobseeker's benefit, my difficulty is in regard to low paid workers, who tend to be blue collar workers and people who do more physical work. While I accept the Minister's point in regard to looking at contracts, I do not want to again get into the whole debate about increasing the pensions age. However, there is an issue in that very physical manual work takes a toll on a person's body, and to force such workers to work longer to 66 and perhaps even up to 68, if that is where we eventually go, is not really where we should be going. I see it as a matter of choice, not something we force people to do. Whatever we need to do in regard to changing the law on contracts, there are people whose current contracts will finish at 65. It is unreasonable to expect those people to go onto jobseeker's benefit at that point

19 June 2013

in their lives. It is my view that they should get the pension, although that is another issue. I thank the Minister for her clarification on both of the issues.

Deputy Joan Burton: The practice in social welfare offices throughout the country in regard to older people is what I would call highly pragmatic. I have not heard of many cases of, as the Senator suggests, people being forced. In fact, I would say the one thing notable for its absence in the Irish social welfare system is anybody being forced. What we have is a highly organised support structure to enable people to go back to education, training and employment.

It is also important to recognise that, alongside the people to whom the Senator referred, who may find difficulty working as they become older because they have been doing hard manual work or outdoor work, there are many older people who want to work for a longer period of time. There are two sides to this. Because of advances in nutrition, medicine, lifestyles and so on, there are many people in this position. I heard someone on a radio programme the other day suggesting 50 was the new 30, so I suppose we can all live in hope. Because of this, there is a significant number of people who would like to be able to work longer, perhaps with diminished hours and so on. That is why I am a strong supporter of extending contractual rights for people working to later ages. That legislation is not the responsibility of my Department. Longevity in Ireland is climbing very rapidly thanks to nutrition, standards of living and lifestyle patterns. It is anticipated in all developed countries that there is a significant number of people who would like to be engaged in the workforce for a longer period. Equally, there are other people for whom that may be more difficult. We should remember that if people have serious physical difficulties, our disability provisions within social welfare legislation are generous in comparison with any European country.

Senator David Cullinane: I wish to clarify something. I do not expect the Minister to reply. The point I was making was about people being forced to work. I agree with her about choice and if people want to work longer, I fully support their right to do so. I was talking about a situation where the pension age has been changed to 66 and could increase, thereby forcing people to work longer. When people have jobs that are physical in nature, it does take a toll on their bodies and they should not be forced to work until they are 66, 67 or 68. We have not properly thought that through. I was not talking about the social welfare services being inflexible or forcing people to do anything. I am talking about people being forced to work longer or go on to jobseeker's benefit because the pension age was increased. These are people who might have worked in industry or construction and because of the nature of the job, it is unreasonable to expect them to work longer.

Question put and agreed to.

Sections 4 and 5 agreed to.

SECTION 6

Senator David Cullinane: I move amendment No. 3:

In page 7, between lines 29 and 30, to insert the following:

“Social Welfare Appeals

6. The Social Welfare Appeals Office shall ensure that all appeals are processed and responded to within 21 days of receipt of the application to appeal a decision.”.

I am sure the Minister will agree that the staff in the social welfare appeals offices do a very good job. I would certainly admit that. We all deal with people who come to our offices with a range of social welfare problems whose applications are at appeal stage and who come to us to get some information about what stage their application is at. There seems to be a problem with how long people wait for their appeal decision to be made. If we accept that, we must look at where the problem lies and how we solve it. There is a problem that needs to be addressed and resolved.

I looked back over the debate on Committee Stage in the Dáil. The Minister will be reluctant to be prescriptive in putting a timeframe into legislation. I can see a logic in that. I accept that there needs to be flexibility and that there are occasions where having a longer time period might suit the person who has made the claim because he or she might need to provide documentation. At the same time, it is reasonable for us to look at what is an appropriate level of time during which an appeal should be heard. We would say it is 21 days.

If the Minister is not in a position to accept the amendment, I would ask her to look at a number of issues that add to the problem. The most obvious one is that there has been a reduction in numbers in the public service and an increase in the number of people seeking payments. This obviously has consequences. I accept that more people looking for payments means more applications for all social welfare payments and a greater burden and workload for the Department. This comes back to the public service embargo and whether we are properly resourcing Departments that need to be resourced. If we have an increase in the workload, we should make sure there are sufficient staff there to make sure the applications can be processed as quickly as possible and that people are not waiting unduly for their payments.

Medical assessments are another issue. I recently discussed this with the Minister of State with responsibility for housing and planning at the Department of the Environment, Community and Local Government. We simply do not have enough medical assessors. This is the case even with people applying for social housing and transfers on medical grounds. I can give an example in Waterford City Council where the medical officer comes in two or three times a year. This person must get through a huge workload involving a considerable volume of applications. The assessor is really only skimming over the applications, which do not get the attention they deserve. The tendency is often to refuse the application, let it go to appeal and then have a look at it. As a result of that and possibly the shortage of medical assessors, social welfare officers simply refuse applications and say the person can appeal and provide any supporting documentation that might be needed.

My colleague, Deputy Ó Snodaigh, would have made the point to the Minister in the Dáil that we could look at improvements in technology, making it easier for people to know the status of the claims and the possibility of an appeal or application number. If one had such a number, one could go online and track it to see where the payment is. I sit on the Constitutional Convention where we had a very good discussion about our electoral and political system. One issue that arose is the notion of localism and clientelism in Irish politics, its impact on the national Legislature and the fact that national politicians carry out a significant amount of work serving constituents. If we are honest, very often much of that work involves trying to get information for people that they should be able to get themselves. Someone could come into my office or that of any Senator or Deputy having applied for a payment three months ago and having not heard anything about it. They simply want to find out what stage their application is at. They try to contact the offices or the appeal numbers but it can be almost an impossible task. They leave their phone number and message but do not receive a return call. We are dis-

empowering those citizens.

We should be empowering citizens and making sure people can get the information themselves without having to go to politicians. The system lends itself to people being forced to politicians to get information. We have direct line numbers as Members of the Oireachtas and can make contact directly with different Departments and get the information for them. Is that really our job? Should there be better public interfaces? This is very relevant in the context of the amendment to section 6 because there is much reform in this area that is being progressed by the Minister and there is much in this Bill that I support. There are some measures I do not support but there are many I do support. However, we need to look at other models. For example, there are one-stop-shops in the UK where a person can give his or her national insurance number, see what application is there and properly track it and get the information themselves. They do not have to go to politicians. I am not saying people should not go to politicians. I am simply saying that in most cases, they only go because they cannot get the information themselves. A holistic approach is necessary to reduce the waiting times for a decision on an application and an appeal.

Our amendment is very specific in respect of time periods. I am second-guessing the Minister by assuming she is not going to accept the amendment. If she will not accept it, she might address the reasons people wait so long for a decision on an appeal to be made. Where are the pressure points, how do we address them and how do we make the process quicker and more efficient so that people get their payments as quickly as possible?

Senator Marie Moloney: I agree with the sentiment behind Senator Cullinane's amendment. We need to reduce time in the appeals office but stipulating that it must be turned around in 21 days is a bit unrealistic. I have found that instead of going straight to the appeals office, a significant percentage of appeals are medically based. Much of that was due to the fact that one could only claim disability benefit for two years. One has nowhere to go, one applies for either disability allowance or invalidity pension and the conditions are much tighter. Now people are being refused and are going to the appeals system. I have found, however, that if one asks for a review before the appeal it is much quicker. I have worked extensively with medical assessors for several people. They should not have to come to me. Senator Cullinane's one-stop-shop is a very good idea. The public can go in and deal with a person, just as we get information when we ring the Oireachtas line and pass it on. Why not let the customers get the information themselves in the new Intreo offices? They should be set up to give the public the information it needs. We need to change the mindset of people so that they stop going to politicians and go to the one-stop-shops or Intreo offices to get the information they require. I agree that we need to reduce the times. The medical assessors work hard. The Minister might in due course ensure that a one-stop-shop is set up in the Intreo offices to deal specifically with public inquiries across the range of social welfare benefits.

Senator Fidelma Healy Eames: I thank Senator Cullinane for this amendment. I see merit in having a time limit on appeals because we get many queries on this issue and some of the waiting times last months. I know of one case where it was 18 months. To limit it to 21 days would be dangerous if it cannot be met. The Minister might say something about this issue and what she might consider reasonable. The waiting times at the moment are too long. I have had to bring some urgent cases to the Minister for her assistance and then the payment was forthcoming but that is not the way we should be doing our business. Will the Minister say what stage the one-stop-shop is at?

Deputy Joan Burton: We are rolling out the new Intreo offices, which are integrated, around the country. We have a constraint. The OPW is our agent in getting new or refurbished premises. Understandably this takes some time. I had the pleasure, however, of being in the Killarney office recently with Senator Moloney, which is a new Intreo office and it really has transformed and improved the quality of service. Similarly, in the north west the Taoiseach and I opened the Sligo office which has made a significant difference to the experience of people going in for a range of social welfare measures. We hope to have all the offices rolled out and completed by the end of next year, along with the roll-out of the public services card, the facility to take people's photographs and to take electronic signatures. In some offices which are not fully physically converted we are able to do the personal services card and electronic signing. There are more than 250,000 such cards operational and it is the subject of a section in this Bill that we will roll this out to other social welfare recipients. At the moment it is for jobseekers and people who are new to the system and we will extend it to existing customers. That is a very positive move.

When I came into the Department in 2009 the previous Government had changed the duration of illness benefit from indefinite to two years. I said at the time it was an appropriate reform because at any one time, 16% of our working age population is on some kind of illness-related social welfare payment. Given the level of health and nutrition in the country that is quite an extraordinary figure. Once that two-year limit was brought in from 2011 there was a significant number of people coming out of illness benefit entitlement resulting in a very big spike in appeals for other entitlements such as disability and invalidity. We have done a complete reform of carer's benefit, domiciliary care allowance, family income supplement and I have advised Members in the past of the changes that are ongoing where we have totally renewed the IT platforms. The consequence has been - and much of this has happened in the north midlands and north-west region - that in the Longford office, where many of these claims were processed, there has been a huge reduction in the backlogs and we no longer have any backlog in family income supplements. We have additional improvements to the structures. I wish to assure Senators that part of the spike was due to more people being unemployed and the other part due to the changes in conditions that were being brought in.

There are very significant improvements, for example, the time taken has come down from 52.5 weeks, almost a year, to 36.5 weeks which is just over half a year. Senator Cullinane needs to be cautious about what he wishes for in asking for a time limit of 21 days on appeals because that would mean a very strong tightening up of our whole system for application, appeals and review. In many other countries an applicant for an appeal has one shot. If one prepares one's appeal inadequately, rather like buying an airline ticket, the application fails if one misses a box. We certainly can require and develop both the forms and the quality of the information that people must provide before an appeal is accepted as complete. In the Irish system we allow scope for reviews. As Senator Moloney has said people could perhaps stay their hand on the appeal and opt instead for a review, particularly in the many cases where people have not submitted adequate medical evidence.

I understand the Senators' point about these cases. One of the problems is that our medical assessors make the judgment on medical grounds and we appointed two additional assessors in March, another one currently and we are hoping to take on another medical assessor by September and to organise another recruitment panel. We have also taken on 15 extra appeals officers who have had to be trained up. If people do not present a full statement, backed by medical evidence of their claim, they have a very reduced chance of success. Some people

19 June 2013

who put in an appeal might be better off discussing the additional evidence they need to support that appeal and getting that medical evidence. We have completely revised the timelines, the information and the application for instance, in respect of the domiciliary care allowance to assist parents who are applying. Now if the case were coming up for review they would get three months' notification. People have two further months to gather together the appropriate medical evidence regarding their children. The measure has worked well for many people. We have also had extensive consultation with parents' representatives on the quality of application forms. There is no limit on improving many of the forms. They are public administrative forms for the spending of public money and, therefore, must contain a lot of administrative detail. I am a strong supporter of the campaign for plain English or Irish. I want to ensure that one does not need letters after one's name in order to fill in these forms. Work on the forms is ongoing.

The new Intreo service is being rolled out. I hope that

we will develop more specific services for areas such as rent supplement and appeals because many of the latter relate to disability.

We rely on the co-operation and support of the Office of Public Works for the physical regeneration of a building. I wish to inform Senator Moloney that we opened an office in Dundalk over four months ago. Recently I visited the office and vouch that there has been a tremendous improvement. It offers more privacy, dignity and a nicer atmosphere for the staff of the Department and clients or customers. The common reception desks are a feature of the new Intreo offices; Senator Zappone has visited the Tallaght office. A person can approach these desks, state what he or she needs, receive the required form and then a dedicated interview slot, within a relatively short period. The adoption of the Intreo system has almost done away with the need for people to go on supplementary welfare allowances. The number of people availing of the allowance has fallen very dramatically. The new scheme allows for very early decision-making, particularly in the case of jobseekers.

I do not propose to accept the amendment. As I said, the current system allows people to apply, receive extra information and conduct reviews rather than just one chance and one is out. There is a lot to be said for the current system. I am cautious about what the 21-day deadline might mean in practice.

Senator David Cullinane: I accept the logic behind much of what the Minister has said. I welcome the roll-out of the Intreo offices but I hope that the south east and Waterford will get one soon.

Deputy Joan Burton: I shall be delighted to do that and I shall attend in person. I hope that the Senator will be inside the office rather than outside.

Senator Mary Moran: Well said, Minister.

Senator Paschal Mooney: Senator Cullinane will attend if he is invited.

Senator David Cullinane: I am always invited.

Deputy Joan Burton: I shall be delighted to provide the Senator with an invitation.

Senator David Cullinane: I am sure, in line with the traditions of the Labour Party, that

the Minister would like people to be inside or outside of the office making their feelings known.

The rolling out of Intreo offices has been a very good idea and I welcome the improved service. At present when people attend their social welfare office they will encounter long queues, a lack of privacy, an inability to get information and a rushed service. The Minister will be aware that the same applies to community welfare offices which mostly provide clinics. I know that the Waterford community welfare office opens for three days a week for just two hours and people wishing to avail of its services must collect a ticket and wait in line. Unfortunately, people are not always seen on the day so must seek assistance from their politicians.

I welcome the extra posts for medical assessors. It is an important measure but we must wait to see if it will improve the situation.

The ability for people to get proper medical documentation to support their claim is an issue. In some cases they must go to a consultant for the documentation. One of the problems that I have discovered is that medical assessors are increasingly placing less value on letters from GPs. Sometimes there might be a good reason for doing so because GPs write letters-----

Deputy Joan Burton: Unsupported.

Senator David Cullinane: -----that are very general in nature and do not properly support the application. The CWOs, social welfare officers, appeals officers and medical assessors seem to prefer consultant reports and place more value on them. That makes sense but it is more difficult for people to get a letter from a consultant. The problem also relates to the recruitment embargo and staffing issues.

A valid point was made about referrals. I always advise a person who has had his or her application turned down to seek a referral. The Minister mentioned her support for the campaign for forms in plain English and to provide people with information in plain English. The option of a referral is not always clearly outlined in the letter of refusal for an application. I have read these letters of refusals several times and there was no mention of a referral just the option to lodge an appeal. It must be clearly conveyed to people that they do not have to opt for an appeal straight away and they can opt for an internal referral first. The referral option has not been properly communicated to people and I ask the Minister to pursue the matter.

Earlier I sought an improvement in the online service and suggested the provision of tracking numbers. An improved online presence would complement the work of Intreo offices. Such measures would improve the experience for people and ensure that they can access information quicker.

Amendment put and declared lost.

Question proposed: "That section 6 stand part of the Bill."

Senator Paschal Mooney: I would appreciate the Minister's guidance on the following. Does the section extend PRSI contributions to people with an income from a trade or profession?

There is a view that the provision may prove contentious given the lack of extra entitlements that will accrue to those individuals despite the extension. My party believes that the provision does not address the long-term deficit of the Social Insurance Fund and the range of benefits that it should support. The bottom line is that the self-employed will continue to be excluded

from a range of benefits. Perhaps the Minister can explain why she has introduced this limited benefit extension.

Deputy Joan Burton: The purpose of the section is to extend PRSI to the private income of public servants who have a public service income. For example, hospital consultants may have a significant private income. The last report by the VHI stated that 300 hospital consultants earned in excess of €100,000 from their private income via the VHI. For historical reasons the private income was not subject to PRSI. Section 6 proposes to extend the PRSI provisions to their private income and I anticipate that it will yield a modest but important additional €12 million to the collection of PRSI here. The provision will help to bridge the gap between the commitments given to people who have contributed to the Social Insurance Fund and the fund's deficit.

We have discussed the fund's deficit before. Last year I published an actuarial review that showed how much the deficit had grown. Obviously the current deficit has grown due to the large number of people who are unemployed and are claiming benefits such as jobseeker's benefit. As we have discussed on a number of occasions, the population of older people is growing. It is great that people can retire. However, the annual cost to the social welfare system of providing for the extra retirement payments is approximately €200 million per year. It was an anomaly that people paid PRSI on all their income, except this group. The amendment is to extend it to this group. Because it comprises public servants who have entitlements to public service pensions, it is important that they contribute in the same way as those whose entire income is in the public service or the private sector and pay PRSI on it.

Senator Paschal Mooney: May I clarify that this applies to hospital consultants only, not the wider self-employed sector?

Deputy Joan Burton: It applies essentially to public servants. Probably the better known examples of public servants who potentially have significant private income would be some of the people working in the medical and allied fields. They have one income stream from employment in the public service and might have another significant income stream, for example, from rents, other employments or offices they might hold.

Senator Marie Moloney: Consultancy fees, for example, in the case of a public servant.

Deputy Joan Burton: Yes.

Senator Paschal Mooney: Yes, but the provision does not extend to the self-employed in the commercial sector, those who run their own businesses or who, owing to the economic downturn, have perhaps lost businesses.

Deputy Joan Burton: It is not intended to so apply. As I previously advised the House, the advisory group on tax and social welfare is completing work on the provision of PRSI entitlements and contributions for self-employed persons. There has been quite a demand from self-employed persons to be able to apply for social insurance coverage. For a contribution of 4% for the required number of years they receive an entitlement to a retirement pension, a widow's or widower's survivor's pension which, as the actuarial review pointed out, is tremendous value for money. If there was to be an extension to other benefits, one would have to contribute. In the case of somebody in employment, the individual employee contributes 4% and the employer contributes, over 10%; therefore, there would have to be a bridging of the gap. Last year's actuarial report went into very extensive detail of what would be required to bridge it.

I have said publicly that I am very sympathetic to this argument. It is referenced specifically in the programme for Government. I am particularly conscious of the fact that young people in the employment market nowadays are likely not to have one job for life. They are much more likely to be employees at some stages and at others, contractors on short-term contracts, self-employed or developing their own companies. We are encouraging all of this; therefore, this is one of the reforms to which we have to move in the social welfare system. It has significant financial consequences and we must develop proposals in that context. The advisory group which comprises people with great expertise in the area is examining it and I expect to receive a report by the end of the year, perhaps by early autumn.

Senator Paschal Mooney: I presume there is no indication that those in the self-employed sector would be against the notion of making a contribution. The argument is about the fact that they are denied that option.

Deputy Joan Burton: Yes. As I said, these issues are all being examined in detail by the advisory group. We have the self-employed; we also have people in atypical employment with a very low number of contract hours. We have a series of issues regarding a properly funded and properly based social insurance system. As a country, we also have to adapt to changing work patterns. Many people who are retiring had a job for life, particularly if they were in the public service. Many young people no longer particularly want that certainty. They see themselves moving around, undertaking different options and, in some cases, working abroad for a while. We have to change the social welfare system to take account of all of this.

Question put and agreed to.

SECTION 7

An Leas-Chathaoirleach: Amendment No. 4 in the names of Senators David Cullinane, Kathryn Reilly and Trevor Ó Clochartaigh is out of order as it involves a potential charge on the Exchequer.

Amendment No. 4 not moved.

Section 7 agreed to.

SECTION 8

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

Senator Marie Moloney: Section 8 refers to a new appeals system for the partial capacity payment. While I welcome this and agree with it, I have reservations about this going through the appeals system. We have just had a long debate on the issue of appeals and how long they take. If this goes into the regular system of appeals, it can potentially take six to 12 months to have a decision made. No employer will hold a job for six to 12 months for anybody; therefore, a person would probably lose his or her job. In some cases, a person already had an exemption and has to reapply under the new partial capacity scheme. That person is caught in a catch-22. While I will not advise against bringing in the appeals system because it is very important to people, I ask that if these appeals go through the appeals office, they be marked, with a red sticker or whatever else, to be given priority and dealt with within 21 days or one month. No way will an employer hold a job for anyone longer than this.

An Leas-Chathaoirleach: Does the Minister wish to respond?

19 June 2013

Deputy Joan Burton: No; I will take into account what the Senator has said. I brought in the partial capacity benefit in February 2012. It had been talked about for a long time and is a very positive change in the social welfare system. It is the norm in social welfare legislation to provide for an appeals mechanism at a point where a decision is being made; therefore, that is the purpose of the provision. We have awarded just over 1,000 partial capacity benefit claims, of which 866 are at the moderate incapacity level, 147 are at the severe level and 13 at the profound level. When people at work develop a serious condition, for example, multiple sclerosis or cancer, once their condition has been stabilised, they may have periods of remission and the treatment may work well, they may wish to return to work. The partial capacity benefit system provides that opportunity because the fact that they have an incapacity arising from their illness is formally recognised such that if there is a recurrence, they are able to take time out and look to the Department of Social Protection to take account of their condition. That is a very positive development. I accept what the Senator said and will bear it in mind. It is very much in the developmental stage. As the numbers are small, we may be able to take into account her proposal.

Question put and agreed to.

SECTION 9

An Leas-Chathaoirleach: Amendment No. 5 in the names of Senators David Cullinane, Kathryn Reilly and Trevor Ó Clochartaigh has been ruled out of order as it involves a potential charge on the Exchequer.

Amendment No. 5 not moved.

Senator David Cullinane: I move amendment No. 6:

In page 15, between lines 4 and 5, to insert the following:

“(4) Retained firefighters who have previously applied for a jobseeker’s payment before the enactment of this Bill and have not had their claim approved shall be assessed on their current application.”

I understand that the back-to-school clothing and footwear allowance amendment has been ruled out of order as has the cost-of-education amendment. I will not, therefore, discuss them. However, I ask that in the context of the budget this year the Minister looks at those payments again. This is the time to raise the issues as, undoubtedly, they will feature over the next weeks and months. We will all raise them on the Order of Business and the Leader will say that the Minister was here on Committee Stage of this Bill, which was the opportunity to raise them. I am taking this opportunity. It is important that the payments are reconsidered, in particular the back-to-education clothing and footwear allowance, which is a very important payment. It was cut last year, which I disagreed with. It was unfortunate but that is what the Government went with. In the context of the budget this year, I ask the Minister to look at those.

I will hear what the Minister has to say on amendment No. 6 and reserve the right to comment further.

Deputy Joan Burton: We discussed the situation in relation to retained firefighters on Second Stage in the House. Nationally, there are approximately 2,000 retained firefighters outside our larger cities in which there are typically full-time fire services. Retained firefighters are vitally important to their communities. Typically, these workers provide services in rural and less

densely populated areas, but some larger urban centres also have retained firefighter cohorts.

It is estimated that approximately 800 part-time firefighters are also in receipt of a jobseeker's payment. Retained fire fighters are entitled to a jobseeker's payment in respect of days on which they are engaged in fire fighting or training. However, they are required to satisfy the statutory conditions for the receipt of a jobseeker's payment of being available for and actively seeking work. If they do not satisfy the conditions, they are not entitled to the jobseeker's payment. Taking into account the important community service retained firefighters provide to so many of our communities, I established a departmental group. Various Members, including Senator Moran, have raised the matter with me on foot of problems arising in the Louth area in relation to decision-making. There is a requirement that a firefighter live within one and a half miles of a fire station. If one was offered work much further away, one could do one or the other but not both. Therefore, people were not satisfying the requirement that they genuinely seek work.

This is a problem I am told goes back to the early 1970s. Given that it has been knocking around for 40 years, I am delighted to be able to introduce an amendment, which I know has the support of all parties in the House. The amendment seeks to exempt retained firefighters from having to satisfy the substantial loss of employment, or subloss, rule under jobseeker's benefit. In addition, they will be exempt from suffering the loss of one day of jobseeker's payment, whether jobseeker's benefit or jobseeker's allowance, for every day of employment in fire fighting. This means that any day of employment as a firefighter will not reduce an individual's weekly jobseeker's entitlement. The on-call arrangements are also being taken into account.

I do not propose to accept the amendment. We are introducing the legislation and it will apply from the date of its implementation. There is a cost to the Department but it is in relation to a service which is vital. I thank everybody on all sides who have supported the introduction of the legislation.

Progress reported; Committee to sit again.

Visit of British Delegation

An Leas-Chathaoirleach: Before I call the next speaker, I welcome - and I am sure Members will wish to join me - a delegation from the British Labour Party, which is led by Mr. David Watts, MP. On my own behalf and on behalf of all my colleagues in Seanad Éireann, I extend a very warm welcome to the delegation and wish them a very successful visit to Ireland.

Social Welfare and Pensions (Miscellaneous Provisions) Bill 2013: Committee Stage (Resumed)

SECTION 9

Debate resumed on amendment No. 6:

19 June 2013

In page 15, between lines 4 and 5, to insert the following:

“(4) Retained firefighters who have previously applied for a jobseeker’s payment before the enactment of this Bill and have not had their claim approved shall be assessed on their current application.”

(Senator David Cullinane)

Senator David Cullinane: I welcome the change which has been made. I have dealt with many retained firefighters in County Waterford who have found themselves in this situation. Due to an anomaly in the system, if a firefighter applied for a social welfare payment and the deciding officer determined that he or she was not available for work because of the rule requiring firefighters to live in close proximity to a fire station, he or she was not entitled to a payment. That created problems. I recognise that the provisions in the Bill represent a significant step forward, on which I commend the Minister. Many people in the Houses of the Oireachtas have raised the issue as a concern. I have received several phone calls welcoming the announcement that there would be a change. It is right to relay that to the Minister.

Amendment No. 6 is intended to deal with people whose claims are already in the system. It is important not to forget those people. I am not saying we need to go back decades or years but rather intend to address live applications and the fact that the change does not apply to them. The only way to apply the change for those applications is if the applicants apply again, which might be unfair. I am not sure we are being entirely flexible or taking the most pragmatic approach by rejecting the amendment. We are dealing here with a very small number of people. I received a letter from a firefighter who is in this situation and is making an appeal. It summed up the position of these people. He wrote:

I welcome the work done so far in relation to fire fighters and our social welfare claims and it is heartening to see the legislation progress through the House. It is with this in mind that I received notification this morning that my own claim is to be rejected again on the grounds of availability. This continues the trend of every single fire fighter’s claim from the Birr fire station having been refused. This, as you are all aware, puts each and every fire fighter and his or her family under immense financial pressure for a period of up to seven months while the slow wheels of the appeals process move forward. What is even more disturbing is that the fact that this very same reason was put forward by the very same deciding officer last year and when it went to the appeals process, her decision was overturned. To put forward the same argument for a second year might be considered funny were it not so serious. This is obviously a huge disappointment to all of us in Birr who are only asking to be treated the same as the rest of our colleagues in Offaly and beyond.

Firefighters are making the point that there must be a change. They welcome the positive announcement which, unfortunately, does not apply to those whose applications are in the system. The Minister should take a more pragmatic approach and accept the amendment.

Senator Marie Moloney: I add my voice to the compliments to the Minister for addressing an issue that has been ongoing for 40 years. The firefighters have been very patient to wait 40 years for the change in legislation. Once the Bill goes through, it will be from that point on that they will be able to avail of the provision. I can be corrected if I am wrong. Anyone who has applied and was turned down on that ground should reapply as soon as the Bill is through the Houses. Is that correct?

Deputy Joan Burton: Yes. The provision will commence as soon as we have the legislation in place. I am happy that after a very long period, we have been able to work out something that was causing genuine hardship. It is a critically important that this service should be available, particularly in rural communities. Perhaps the Department of the Environment, Community and Local Government will change its arrangements but it has advantages. It allows for a fire service throughout the country and I am happy to do this. I do not have the capacity to go further at this point.

Amendment put:

The Committee divided: Tá, 13; Níl, 29.	
Tá	Níl
Byrne, Thomas.	Bacik, Ivana.
Crown, John.	Bradford, Paul.
Cullinane, David.	Brennan, Terry.
Daly, Mark.	Burke, Colm.
MacSharry, Marc.	Clune, Deirdre.
Mooney, Paschal.	Coghlan, Eamonn.
Mullen, Rónán.	Coghlan, Paul.
O'Brien, Darragh.	Comiskey, Michael.
O'Donovan, Denis.	Conway, Martin.
O'Sullivan, Ned.	Cummins, Maurice.
Ó Clochartaigh, Trevor.	D'Arcy, Jim.
Ó Domhnaill, Brian.	D'Arcy, Michael.
Reilly, Kathryn.	Gilroy, John.
	Harte, Jimmy.
	Healy Eames, Fidelma.
	Henry, Imelda.
	Higgins, Lorraine.
	Keane, Cáit.
	Kelly, John.
	Landy, Denis.
	Moloney, Marie.
	Moran, Mary.
	Mullins, Michael.
	Noone, Catherine.
	O'Brien, Mary Ann.
	O'Donnell, Marie-Louise.
	O'Neill, Pat.
	Sheahan, Tom.
	Zappone, Katherine.

Tellers: Tá, Senators David Cullinane and Trevor Ó Clochartaigh; Níl, Senators Paul Cogh-

Ian and Marie Moloney.

Amendment declared lost.

Section 9 agreed to.

SECTION 10

An Leas-Chathaoirleach: Amendment No. 7 is out of order because it involves a potential charge on the Exchequer.

Amendment No. 7 not moved.

Question proposed: "That section 10 stand part of the Bill".

Senator Katherine Zappone: I seek clarification on a number of questions I raised on this section on Second Stage. It concerns the effect of the transition status on one-parent family payments as claimants transfer to jobseeker's allowance. Will one-parent families with a child dependant aged between 18 and 22 years in full-time education continue to receive income support on transition to jobseeker's allowance of €29.80 per week for him or her? Will they continue to receive the fuel allowance payment because normally one needs to be in receipt of the transitional jobseeker's allowance for 380 days to receive the allowance?

Deputy Joan Burton: The Senator raised these questions on Second Stage last Thursday. I assure her that time spent in receipt of the one-parent family payment will count in satisfying requirements for continued payment of qualified child increases where the child is in full-time education up to the age of 22 years. I agree with her that the fuel allowance is of great importance to many welfare recipients, particularly families. The aim of the scheme is to provide additional support for those on long-term welfare payments during the winter. I can confirm that persons who are exiting the one-parent family payment will retain entitlement to the allowance if they access another social welfare payment such as jobseeker's allowance.

Senator Fidelma Healy Eames: Is there a link with child benefit in this regard? Child benefit payments cease the day the child turns 18 years. Does the payment continue for one-parent families until the child reaches 22 years?

Deputy Joan Burton: The payment of child benefit is separate from the issue of one-parent family payments. The conditionality attached to child benefit stands alone and the scheme applies up to the age of 18 years. It does not cross over to the issues raised by Senator Katherine Zappone. Child benefit ceases at the age of 18 years.

Senator Marie Moloney: When the youngest child in a one-parent family reaches the age of 14 years, the payments for older children stop at the age of 17 years. Once one-parent families transfer to the transitional jobseeker's allowance, they will receive payments for children aged between 18 and 22 years in full-time education and, therefore, it will be an advantage to them.

Deputy Joan Burton: Potentially, if they are in full-time education. The purpose of transferring to the transitional jobseeker's payment is to reflect what happens in other jurisdictions

which have better child poverty outcomes and to provide a positive framework to encourage lone parents to return to education, training and employment once the youngest child is settled in school. The purpose of the transitional arrangements is to recognise that lone parents have family obligations and the reason we are introducing this arrangement is to give this due recognition. I acknowledge that when people are transitioning back to work while parenting on their own, part-time work, education or training, in particular initially, may be the best option for them. Providing a strong framework for lone parents in order that they can resume education, training or employment gives them an opportunity to develop their careers as their children grow older. From my constituency work and dealings with people, I know that many women, as they cease having the status of lone parents as their children become adults, regret not having availed of opportunities to establish what they wanted to do and develop a career. The system we are providing for is actually a good one.

I have spoken before about child care. There is still limited child care provision, but I was very happy to provide in this year's budget funding for 6,000 after-school child care places. It was the first time this was provided for in our structure. We must build up our child care family support systems as we proceed. The amendment reflects the realistic options for lone parents, while providing a framework to provide really strong encouragement.

Senator Paschal Mooney: This is one of the few opportunities I will have to talk about benefits. We have discussed section 9, but given that we are talking about jobseeker's allowance for lone parents, the Minister should be aware that on Second Stage I referred to the circumstances of members of Irish Equity, the representative body for the acting profession. I have received further information on this issue and assume that some actors are lone parents who are covered by the legislation. I gather that members of Irish Equity, while not always automatically excluded, have many difficulties in obtaining social welfare payments. That comes from the head office. It is difficult for actors to pursue work in their field as the Department of Social Protection is often of the view that they should be pursuing all types of work, not just in the arts. I am astonished that is an official view that is being taken or a view being taken by individual assessment officers. In other words, those who happen to be actors are told, "Tough. Go out and do something else and then we might consider you."

Another aspect of the problem is that if actors pay for and participate in training to up-skill within their profession, the Department of Social Protection will not pay them for the duration of the training because they are considered to be unavailable for work. This does not apply in any other sector.

The Irish Film Board now has responsibility for training in the industry. This responsibility has been transferred from FÁS which is now the responsibility of the Department of Social Protection. The view of Irish Equity is that it would be useful if there were a connection between the Irish Film Board and the Department in the way that there was regarding FÁS training courses at one time. In other words, there was a connection between the Department and FÁS, but this seems to have disappeared. I can write to the Minister on this issue, as I am only raising it now in the course of this debate. It seems there is an opportunity for the Department to be proactive in helping those involved to participate in training to up-skill within the industry. I would be really concerned if there were a quasi-official position or a position being taken at local level that was making life difficult for members of Irish Equity through their being told that they should go and pursue something else. This is an important matter. There are only 1,500 people involved, of whom I understand only approximately 1,000 might be seeking work at any one time. The number, therefore, is small.

19 June 2013

Deputy Joan Burton: I thank the Senator for raising the issue. The welfare and well-being of professional actors and other creative professionals are important in terms of the status of the arts. In general, if an unemployed person has a particular job such as acting, it is understood initially by the deciding officer that he or she will try to obtain further employment in his or her specific area. However, if over a long period the individual is unable to find such employment, it is reasonable to encourage him or her to look to other areas. That has certainly happened frequently. People may engage in other activities, ranging from other forms of artistic work to teaching, for example. I do not want to be prescriptive. For many of those involved in the acting profession, there are certain possibilities. It is important that actors be encouraged to take up employment.

In the development of the Intreo services we could probably be of specific assistance in that we will be examining education and training as part of work experience. If a person has a particular profession such as acting, the case officers working in the Intreo offices will possibly be best placed to help. A couple of months ago I was very happy to reach an agreement with the Arts Council, through the county arts administrators, to arrange for JobBridge opportunities in the arts. The initiative was launched in Killarney a couple of months ago and a number of arts officers in different counties have been extremely active. Some of the activity pertains to festivals. If the Senator wants to submit more detailed suggestions to me, he should do so. If somebody is unsuccessful in the acting profession and resting for a longer period than expected, it is reasonable to provide a mechanism to assist him or her. With the rolling out of the Intreo offices, I hope this is what will develop.

Senator Paschal Mooney: I am grateful. I was not aware of the new arrangement. FÁS was the training authority, but responsibility now seems to have shifted to the Irish Film Board. Therefore, the Department of Social Protection seems to be out of the loop.

Deputy Joan Burton: The part of FÁS that has come to the Department of Social Protection is the employment services side. The training side has stayed within the Department of Education and Skills, to which it was transferred by the previous Government. I do not believe we have any connection there. If the Irish Film Board wants to approach my Department with specific proposals, it should do so.

On Friday I was in Cork where I visited the Triskel Arts Centre. It is a fine community employment development in the centre of the city and has operated for a very long period. There are a number of people working in community employment and they are extremely impressive. The arts centre and other organisations have been examining the potential utilisation of the JobBridge scheme through the development we have agreed with the Department of Arts, Heritage and the Gaeltacht, and particularly the Arts Council and county arts officers.

I hope unemployed actors will be able to avail of opportunities through the participation structures we have been developing and expanding during my time as Minister. If the Irish Film Board wants to meet my Department, we will be happy to meet it. I suspect the relationship to which the Senator referred largely concerns the Department of Education and Skills.

Senator Paschal Mooney: I refer to up-skilling within the industry.

Question put and agreed to.

SECTION 11

Senator Paschal Mooney: I move amendment No. 8:

In page 17, between lines 35 and 36, to insert the following:

“(6) Recipients of any Public Services Card shall not be subject to a charge for the issue of such card.””.

This amendment relates to the new identification requirements. My understanding is that in extending these requirements to all social welfare payments, the cost of rolling out the public services card will be €24 million. The Minister has indicated that the Department is finalising plans for a national roll-out of the new system on a phased basis. My concern is that welfare recipients could be asked to bear the cost of introducing these new arrangements. Will the Minister clarify the position in this regard?

Deputy Joan Burton: I assure the Senator that there is no provision for charging individuals for the furnishing, replacement or renewal of a public services card. We have rolled out more than 250,000 of the cards thus far, mainly to new applications and in the jobseeker’s area in particular, the intention being to roll out the scheme to other social welfare clients in due course. We are entering into an arrangement with the Passport Office, which already uses biometric photographs, to allow us to avail of that data without asking people to provide a new photograph. However, some retired people, for example, have told me that they do not particularly care for their passport photograph and would prefer to sit for a new one with their hair done and so on.

We hope to complete the roll-out by next year. It is a very important development in terms of deterring identity fraud. The new biometric photographs are sufficiently sensitive to flag a situation where, for instance, a person on the database in the Tallaght office is also on the database in another office. The system will seek verification in such instances as to whether it is the same person. Other schemes are also vulnerable to fraud under current arrangements. In the case of the free travel scheme, for example, which is greatly valued by those who are eligible for it, there is a problem of misuse, not in respect of pensioners, I hasten to add. As we roll out the card, we will be in a position to verify the identity of persons availing of free travel, which is not confined to retired people. Several of the transport providers are reporting problems with forged travel cards or people using legitimate cards inappropriately.

Senator Paschal Mooney: I recall the Minister speaking on another occasion about alleged fraud under the free travel scheme. That is totally unacceptable and I support her in any efforts she makes to address it. I am anxious, however, that any such efforts would not in any way endanger the entitlement to free travel. I accept the Minister’s publicly stated commitment to the scheme, but I would hate to see withdrawal being used as a stick. There are numerous ways to avoid this type of fraud. The administration of the scheme seems to have been somewhat lax in the past, which the Minister is addressing.

Deputy Joan Burton: We have been working with the various transport companies to devise a series of on-the-spot checks. We have a facility whereby a travel card which seems to be fraudulent - some of the ones I have seen are merely cheap photocopies in a plastic wallet - can be checked to verify the authenticity of the number. There has been quite a lot of that type of activity on several of the transport services in recent times, including the Luas. As we achieve the roll-out of the public services card and the related technology in the transport companies, there should be a significant easing of that problem.

Senator Paschal Mooney: I reiterate my concern that there is nothing in the legislation to prevent a charge being imposed. I am not suggesting that the Minister is of a mind to do it, but there is nothing to prevent a future Minister from so doing. Does she agree that is the case?

Deputy Joan Burton: As we know from our experience of the bank guarantee and the range of taxes and changes which flowed from it, there is nothing fixed under the heavens when it comes to social welfare and taxation. There is no provision for the charge to which the Senator has alluded. Moreover, even if such a provision were included in the Bill, it would be open to any future Minister to amend it. In short, there cannot be total certainty in regard to any legislation, particularly in the context of our experiences since 2008.

Senator Fidelma Healy Eames: It is a priority of the Minister's Department, as it is for us all, to prevent and curb social welfare fraud. Is she confident that the electronic signature and photograph that will be contained on the new public services card are foolproof? If so, does she agree that we should not also have gone down the road of fingerprinting?

Senator Michael Mullins: I strongly welcome the introduction of a public services card. Will the Minister clarify when she hopes to have the scheme rolled out for every recipient of State benefits? I would like to see it closely married with the free travel scheme, in respect of which there is apparently widespread manipulation and fraud. At a time when our national transport company is struggling to remain solvent and meet its commitments, it is deplorable that the scheme is so poorly regulated and the cards so inefficient that there is a significant opportunity for abuse.

In regard to Senator Paschal Mooney's amendment, I certainly hope there will be no charge for the card. However, it might be useful to have some deterrent in place to prevent people from losing it on a regular basis or wilfully destroying it. If there is a possibility of incurring a charge, people will be less likely to engage in the type of carelessness that would necessitate the provision of replacement cards on a large scale.

Senator Marie Moloney: I urge the Minister, as I did on Committee Stage, to be conscious of the very elderly and people on invalidity benefit, many of whom are not in a position to attend to have their photograph taken. The Minister mentioned using existing passport photographs but the reality is that many very elderly people do not have passports because it was not the custom to travel abroad when they were younger. I have had several cases where people who wished to fly to Britain using Ryanair could not do so because they did not have a passport. For some of them, securing one would be a significant inconvenience. We must ensure that where very elderly people do not present to have their photograph taken, their pensions will not be affected and every effort will be made to liaise with and accommodate them.

Senator David Cullinane: It is important to note that the vast majority of people who are in receipt of social welfare are genuine claimants. My information, which the Minister will undoubtedly correct if it is inaccurate, is that only 3.4% of total welfare expenditure is accounted for by either error or fraud, with one third of that percentage relating specifically to fraud and the remainder to errors made by social welfare offices or by claimants themselves. We are talking, in other words, about a tiny percentage of recipients. While it is vital to clamp down on fraud, because those involved are taking money not only from the State but from other people who are entitled to welfare, we must keep matters in perspective. Only a tiny cohort of total welfare claimants is guilty of fraud.

Deputy Joan Burton: I thank Senators for their comments. I assure them that I value the arrangements in regard to free travel, as do pensioners. The bottom line is that abuse of the scheme undermines the benefit for everybody. The provisions in this Bill will ultimately protect the integrity of the scheme.

As to why a public services card was not introduced before now, I cannot answer. It has been discussed for ten years.

Senator Paschal Mooney: The former Minister for Social Protection, Deputy Éamon Ó Cuív, took the initial steps to introduce it.

Deputy Joan Burton: It was talked about for a long period before that. We are now, finally, in the process of implementing it. If we had opted for another system, that would have meant further delays leaving, in a way, the best being the enemy of the good. What we are now rolling out is a data card which has the capacity to hold substantial amounts of data. Therefore, other Departments will be in a position, if they wish, to avail of some of the storage mechanisms on the card. It will be possible to update the card in the future, but it is important that we go with what we have now. We are one of the few European countries doing this and we have the strong support of the public here for it as it recognises how important it is to have a secure social welfare system.

Senator Fidelma Healy Eames: Is the Minister confident the system is adequately fool-proof?

Deputy Joan Burton: Yes. The registration process is called Safe. With regard to older people and the query raised by Senator Moloney, we are making arrangements for older people. We hope to have most of the cards rolled out by the end of next year. Our target to the end of this year is 600,000 cards and we are well on target to achieve that or even go beyond it. When the Safe registration process is undertaken and somebody comes to sign up for a card, the software performs a search of the captured or imported customer photograph - it is imported if it comes from a passport photo - against existing photographs on the Department's database to ensure the individual has not already been registered for a public services card using a different personal public service number. We are aware that some people may have multiple public service numbers because, particularly during the boom, huge numbers of public services numbers were issued.

Senator Fidelma Healy Eames: Twice the population.

Deputy Joan Burton: Therefore, we check the photograph against the database and if somebody appears to be registered with the service elsewhere, for example in Tallaght, but also pops up in Carrick-on-Shannon, Killarney or elsewhere, the message will be transmitted that this appears to be the same person, giving rise to a query. Staff in social welfare offices have told me that sometimes when people are invited to have their photos taken, they say they are too busy at that point in time. Members may draw their own conclusions from that. Sometimes when people are confronted with the requirement for a photo, they decide they have another pressing engagement. Photos are very important in terms of identity. On this basis, last year the House agreed to legislation giving officers at airports and ports the power to stop people who appear to be travelling in and out frequently and the DPP has already taken a number of court cases arising from this. It is very important that people have confidence that the social welfare system has a strong structure to protect against fraud or abuse.

On the issue raised by Senator Cullinane, the overall extent of overpayments last year amounted to approximately €92 million. I can make the information on this available to Senators. Suspected fraud accounted for €34 million, or 38% of this and customer or third party error accounted for €40.5 million, or 44%. In many cases, if somebody is spoken to about an issue or if an issue arises - for example if social welfare inspectors enter a place of employment and find somebody who is not registered for tax and social welfare purposes - people often give the excuse that they just arrived in that premises that morning. Sometimes it is impossible to prove or disprove that, although the inspectors would obviously go over the records. Much of the error or mistake in regard to overpayments is down to customers supplying wrong data.

Another significant amount, €11.5 million, comes to light after somebody has died because of there being far more money in his or her estate than anticipated. The person may have been receiving payments for which, it appears from the estate details in retrospect, he or she did not qualify. Therefore, the amount of overpayment due to departmental error is only approximately 6% of the total. It is important people appreciate that and that is the reason I have been so anxious, as Minister, to set in train mechanisms that provide for the prompt and speedy recovery of overpayments. A significant proportion of these overpayments arise from fraud and abuse, and a further significant proportion arise due to customer error, where customers did not realise that if they were going to work, they should make that arrangement known to the social welfare office.

An Leas-Chathaoirleach: As it is now 1.55 p.m, I will ask Senator Mooney whether he is pressing the amendment. If not, we will adjourn the debate.

Senator Paschal Mooney: I am pressing the amendment.

Amendment put:

The Committee divided: Tá, 13; Níl, 28.	
Tá	Níl
Byrne, Thomas.	Bacik, Ivana.
Crown, John.	Bradford, Paul.
Cullinane, David.	Brennan, Terry.
Daly, Mark.	Burke, Colm.
MacSharry, Marc.	Clune, Deirdre.
Mooney, Paschal.	Coghlan, Eamonn.
Mullen, Rónán.	Coghlan, Paul.
O'Brien, Darragh.	Comiskey, Michael.
O'Donovan, Denis.	Conway, Martin.
O'Sullivan, Ned.	Cummins, Maurice.
Ó Clochartaigh, Trevor.	D'Arcy, Jim.
Ó Domhnaill, Brian.	D'Arcy, Michael.
Reilly, Kathryn.	Gilroy, John.
	Harte, Jimmy.
	Healy Eames, Fidelma.
	Henry, Imelda.
	Higgins, Lorraine.

	Keane, Cáit.
	Kelly, John.
	Landy, Denis.
	Moloney, Marie.
	Moran, Mary.
	Mullins, Michael.
	Noone, Catherine.
	O'Neill, Pat.
	Sheahan, Tom.
	van Turnhout, Jillian.
	Zappone, Katherine.

Tellers: Tá, Senators Paschal Mooney and Ned O'Sullivan; Níl, Senators Paul Coghlan and Marie Moloney.

Amendment declared lost.

Progress reported; Committee to sit again.

Sitting suspended at 2.10 p.m. and resumed at 2.30 p.m.

Health (Amendment) Bill 2013: Order for Second Stage

Bill entitled an Act to amend the Nursing Homes Support Scheme Act 2009, to amend the Health Act 1970, and to make provision for related matters.

Senator Colm Burke: I move: "That Second Stage be taken today."

Question put and agreed to.

Health (Amendment) Bill 2013: Second Stage

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

An Cathaoirleach: I welcome the Minister, Deputy Reilly, back to the House.

Minister for Health (Deputy James Reilly): I am pleased to have an opportunity to introduce the Second Stage debate on the Health (Amendment) Bill 2013. The Bill amends the Nursing Homes Support Scheme Act 2009 and the Health Act 1970. The primary purpose of

the Bill is to give effect to the budget 2013 announcements relating to the nursing homes support scheme, public acute hospital inpatient charges and the charging of private inpatients in public hospitals. The Bill also amends certain charging provisions under the Health Act 1970 and enables the outsourcing of functions under the Nursing Homes Support Scheme Act 2009.

It was announced in budget 2013 that the asset contribution under the nursing homes support scheme would be increased from 5% to 7.5%. It was also announced that the entitlement for State support to be backdated to 27 October 2009 for people who were in nursing home care prior to the commencement of the scheme would be abolished. The HSE's 2013 national service plan sets a target of 22,761 people to be in receipt of financial support under the nursing homes support scheme at the end of 2013. Given the extreme pressure on HSE funding across the full range of its services, it is necessary to increase the asset contribution. However, residents' contributions will continue to be based on the means of the individuals concerned and on their ability to pay. Even after the increased asset contribution comes into effect, the HSE will continue to meet the greater part of the cost of an individual's nursing home care. Despite the increase in the asset contribution, it is important to note that the scheme contains several safeguards which ensure the person in the nursing home and their spouse or partner, if applicable, are adequately provided for. These are unaffected by the provisions of the Health (Amendment) Bill 2013.

The increase from €75 to €80 in the acute public hospital inpatient charge and the charging of private inpatients in public beds were announced as part of budget 2013. These measures will raise approximately €120 million in a full year. The Government believes that the new private inpatient charge makes sense in light of the serious situation we have had up to now. Insurers have been enjoying a significant subsidy. Private patients in public beds have paid a standard charge of just €75 per night. By contrast, private patients in private beds have paid up to €1,121 per night. In both cases, the patient sees their consultant privately and pays the consultant's private fees. When one realises the cost of providing this service to private inpatients is at least €200 million more than the amount public hospitals are currently allowed to raise, one can see the imperative to address the situation. The subsidy is equivalent to the cost of running a large hospital, or the cost of treating approximately 30,000 public patients every year. We cannot allow this situation to continue.

Everyone is entitled to use a public hospital. However, some people choose to be treated privately, in which case they have chosen to pay the consultant and the hospital. The Government believes that users of private services should pay for the costs of providing them. The charge for private care in a public hospital should cover the costs of providing the service, including non-consultant hospital doctors, nursing staff, medicines, blood, medical and surgical supplies, radiology, diagnostics, operating theatres, laboratories, administration and support staff. This approach is entirely in keeping with the move to universal health insurance, where public and private providers will compete on a level playing field, free of unfair subsidies. Indeed, we will need to remove this subsidy one way or another as we move to universal health insurance.

The Bill updates certain provisions relating to charges and contributions under the Health Act 1970 and enables outsourcing under the Nursing Homes Support Scheme Act 2009. Section 53 of the Health Act 1970, as amended in 2005 and 2009, now covers three different charges: public acute hospital daily inpatient charges, charges for long-term residential care under the nursing homes support scheme and long-stay charges for inpatient services. The language and concepts used in the provisions for long-stay charges have become quite outmoded due to the development over the years of a wide range of different models of residential care service

provision that are tailored to meet needs in the disability, mental health and care of older people sectors. The Bill provides for the repeal of section 53. It provides in distinct and separate sections for charges for long-term residential care under the nursing homes support scheme, for public acute hospital daily in-patient charges and for an updated framework to replace long-stay charges, namely maintenance and accommodation contributions for residential support services.

The Bill updates and replaces arrangements under the repealed section 53 for maintenance charges required from those in receipt of long-stay inpatient services other than acute hospital care or services covered under the nursing homes support scheme. The replacement provisions will apply to the provision of residential care by or on behalf of the HSE in hospitals, convalescent homes, nursing homes or residential accommodation in the disability or mental health sectors, excluding residential settings already subject to their own charging regimes, namely acute hospital care and long-term residential care services provided under the nursing homes support scheme. A key and well-established principle is that people who are given residential care should make an affordable contribution towards the cost of their maintenance and accommodation.

As quality service provision is expensive, it is fair and equitable for all of those who receive publicly funded residential care to make appropriate payment toward the maintenance and accommodation costs associated with providing such services, if they can afford to do so. Funding derived from maintenance and accommodation contributions will continue to be directly applied by the HSE towards the provision of health services. There will be a continuing requirement to pay an appropriate and affordable contribution towards the maintenance and accommodation costs to the State of providing such services. Contributions will be in line with current long-stay charges. The actual contribution will depend, as it does now, on the individual's income level. Long-stay charges are currently just below 80% of the non-contributory State pension. The maximum contribution will remain at this level. The exemptions that apply to long-stay charges will continue to apply to residential support services maintenance and accommodation contributions. The HSE will continue to have the discretion to reduce the level of contribution required depending on individuals' financial circumstances, the extent to which they provide for their own maintenance and their assessed needs.

There is a commitment in the programme for Government that a Government-wide review will be carried out to identify and eliminate non-priority programmes and outsource non-critical functions, where appropriate. With this in mind, a provision enabling outsourcing is being inserted into the Nursing Homes Support Scheme Act 2009. However, no specific outsourcing proposals are under consideration at this time. The Bill also contains a provision which extends section 53A of the Health Act 1970 to public nursing homes. It is worth highlighting that the Government is committed to enhancing the quality of life of older people. We are acutely aware of the evolving health and care needs of Ireland's older population. When the nursing homes support scheme commenced, a commitment was made that it would be reviewed after three years. A public consultation to inform the review was carried out last year. A summary report of the submissions received was published on the Department's website in December. Work will continue on the review in the coming months with a view to its completion late this year or early in 2014.

I propose to outline briefly the main provisions of the Bill. Section 4 provides that the HSE may outsource its functions under the Nursing Homes Support Scheme Act 2009. Section 6 abolishes the entitlement for State support to be backdated to 27 October 2009 for people who

were in nursing home care prior to the scheme commencing. This provision was originally inserted in anticipation of a large volume of applications in the initial months of the scheme. It ensured applicants would not be disadvantaged if any backlogs occurred at that time.

Given that the scheme has now been in operation for almost four years, it is considered appropriate to abolish this provision.

Section 7 increases the asset contribution to 7.5% for new entrants to the nursing homes support scheme after the enactment of the Bill. This will be capped at 22.5% in the case of the principal private residence. In the case of a couple, the cap on the principal residence will be 11.25% where one member of the couple enters long-term nursing home care.

Section 8 amends section 51 of the Health Act 1970 to add definitions of “acute in-patient services” and “long-term residential care services” to the existing definition of “in-patient services”. Section 10 repeals section 53 of the Health Act 1970. The repealed provisions are either relocated to or replaced by parallel provisions in new sections of the Act which are inserted by sections 12 and 19 of this Bill.

Section 11 amends section 53A of the Health Act 1970. At present, section 53A enables the HSE to apply an economic cost of care charge to a person in an acute hospital if they are no longer receiving medically acute care and treatment and have been certified as requiring long-term residential care services. The charge applicable is the average cost of long-term residential care in public nursing homes.

This amendment will extend the provision to public nursing homes. Where a person enters a public nursing home for services other than long-term residential care - for example, respite or rehabilitation - and has subsequently been deemed by a registered medical practitioner to require long-term residential care services, the HSE may charge them the average cost of care in public nursing homes. This and the existing provision under section 53A are enabling provisions and will only apply where an individual refuses to co-operate with the application process for the nursing homes support scheme.

Section 12 inserts two new sections, 53B and 53C, into the Health Act 1970. Section 53B is a technical amendment arising from the repeal of section 53. Section 53C provides for the public acute hospital inpatient charge and raises it to €80 from its current level of €75. Currently, this charge applies for a maximum of ten days in a rolling year and, as there are no plans to change this maximum, the charge will be capped at €800 over this period. Section 53C also sets out the categories of persons who will be exempt from the charge, including medical card holders.

Section 13 amends section 55 of the Health Act 1970 and sets out the basis for the charging of all private inpatients in public hospitals. In future, where a person waives eligibility to services as a public patient, the HSE, or someone providing a service on its behalf, may impose the relevant charge. The charge is set out in the Fourth Schedule.

Section 14 inserts section 74A in the Health Act 1970 and provides for the collection of outstanding charges or contributions where the service has been provided on behalf of the HSE. Section 15 inserts as a Fourth Schedule to the Health Act 1970 a list of charges in respect of in-patient services provided to private patients in public hospitals. The charges depend on whether a patient is accommodated in a single or multiple occupancy room, or on a day case basis, and to which Schedule, as outlined in sections 16,17 and 18 of the Bill, the hospital concerned is

assigned.

Sections 16, 17 and 18 insert, respectively, as Fifth, Sixth and Seventh Schedules to the Health Act 1970, the lists of hospitals to which the charges set out in the Fourth Schedule apply. Section 19 provides for the insertion in the Health Act 1970 of new sections relating to residential support services maintenance and accommodation contributions. These will replace the present maintenance charges required from those receiving long-stay inpatient services, other than acute hospital care and long-term residential care provided under the nursing homes support scheme.

Section 67A defines “residential support services” as services - other than outpatient, acute inpatient or long-term residential care services - provided by or on behalf of the HSE to a person residing in a hospital, convalescent home, nursing home or residential accommodation for persons with physical, sensory, mental health or intellectual disabilities, where the person’s accommodation is provided by or on behalf of the HSE. Section 67B enables the HSE to make residential support services available to persons with full or limited eligibility.

Section 67C provides that HSE shall collect a contribution towards the cost of maintenance from a person who is receiving residential support services if the person has previously received specified services on at least 30 days within the 12-month period ending on the day in question. It provides that the Minister for Health, with the consent of the Minister for Public Expenditure and Reform, may make regulations specifying the amounts of the contributions required from persons or classes of persons, which may not exceed 80% of the maximum rate of the non-contributory State pension, as currently applies to long-stay charges. It also exempts certain categories of people from paying the contribution. These categories are consistent with current exemption provisions relating to long-stay charges.

Section 67D allows the HSE to waive the contribution, in whole or in part, in certain circumstances and requires the HSE to prepare guidelines, which must be approved by the Minister, with the consent of the Minister for Public Expenditure and Reform, setting out the circumstances in which the HSE may waive or partially waive a contribution. These guidelines will be published by the HSE.

Under this section, provision is made to take account of the extent to which an individual may provide for his or her own maintenance or partake in activities which are, for example, beneficial towards the individual’s rehabilitation or address agreed care plan objectives. This will be of particular relevance to those residing in settings in the community where there is a strong emphasis on ensuring that each individual is supported to the greatest extent possible in living in the community and managing his or her own affairs.

I commend the Bill to the House and look forward to hearing the views of Senators.

Senator Marc MacSharry: I welcome the Minister. Anybody can be late and we understand that, so there is no difficulty, particularly as the Minister is one of the best attenders in the House. Nonetheless, it is customary that we get a copy of the speech when a Minister begins speaking. We did not get it until the end, and three were given to the Government side-----

Senator John Gilroy: Rightly so.

Senator Marc MacSharry: I offer many thanks to Senator Gilroy for sharing one of those copies so we could have a quick preview of the closing pages of the speech.

We will not be supporting this legislation and I have several questions in this regard. Mr. Colm McCarthy prepared a report on health insurance but it would seem that not much cognisance has been taken of its findings. There is very serious concern that an increase in health insurance premia will inevitably result from this. I have heard a suggestion from the Department that the Minister has actuarial data to show this will not happen, so I would be most interested that he publish this information given independent economists such as Mr. Colm McCarthy are saying it is inevitable we will have an increase. All of the insurance companies are also saying this, with some suggesting there will be increases in premia of over 20% and as much as 40%, and they are collectively agreed it will be close to a 30% increase across the board.

As somebody who has private health insurance with VHI, I have found that, with a family of five, I have had to adjust the kind of cover I have. We were paying in the region of €3,200 per annum and we have had to cut back on a number of items to leave it now in the region of €2,000. That is against a backdrop where approximately 1,100 people a week have pulled out of health insurance, which is greatly upsetting the sustainability of our community rating system. This is the forgotten generation - people like Senator O'Brien, myself and those of that age group - who are struggling to nurse mortgages and so on, and are now asking: "Will I stay in the health insurance market or not?"

The Minister in his commentary on this issue has pointed out that health insurance claims are up, but that is hardly a good sign. Of course they are up, given the people who are still in there are the ones who are older and less healthy, regrettably, and it is the younger people who are pulling out. This is what the data that has been made available to us seems to suggest. In the recent figures, we see that 79,000 customers under the age of 40 left the market while the number of insured people over the age of 50 increased by 14,000. That is simply unsustainable.

I am sorry the Minister has to leave and I thank him for taking the time to attend. No doubt, the Minister of State with responsibility for disability, equality and mental health issues, whom I welcome, will pass on all of my sentiments and listen as intently as ever.

I have just spoken about how I inquired about what data were available in the Department to show that we were not going to have an increase in premia of 30%. The Minister has said the health insurance companies are scaremongering. However, it stands to reason that if I, as a taxpayer with health insurance who contributes to the same public health system through my taxes, must now be charged €900 or whatever the figure is per night for a bed in a non-teaching hospital as opposed to €75, or €80 following the passage of the Bill, it will inevitably affect the solvency of the insurance companies. That is borne out by a number of issues that have been raised by Mr. Colm McCarthy in his report. Inevitably, there will be fewer people in the health insurance market and those who stay will be over 50 years in the main. They are more likely to be sick and a heavy burden on the system and those who leave will put increased pressure on the public system, creating additional costs. It does not seem to add up and is very woolly. We do not know how it will pan out. In terms of the basic economics and if we are to listen to those involved in the system, this will not play out very well, which is a major concern for us. For that reason, we cannot support it.

There appears to have been no consultation with the insurance companies. Perhaps there is a line of communication with VHI, given its connection to the State, but in the case of the other companies, there seems to have been no formal contact to ask them what they think could be done and how we should respond to the financial challenges in the health service. I gather the insurance companies made a submission on a collective basis a month ago containing sugges-

tions about how savings could be made. It is our information that there was no response to that submission. Is that the case because if it is, it seems like a very bad practice to come up with a plan and then consult after it has been implemented?

Yesterday the Minister announced a new health forum, which will aim to lower the cost of health insurance. Who announces such a forum the night before legislation is published? It is like saying, "This is the new car that we are selling into the market and we plan to test its performance after we sell 50,000 units." It is just ridiculous; it is planning in reverse and haphazard. If there is a master plan behind this, the Minister of State should share it with us because it looks very haphazard and loose. Regarding the announcement of a new health forum that will aim to lower the cost of health insurance plans and "knock heads together", based on what the insurance companies which contacted us stated, it seems that they were available to talk for a long time.

Is the Directorate-General for Competition in Brussels in any way concerned about this measure? On the one hand, the private insurers negotiate directly with private hospitals, whereas the Minister of the day sets the price in the case of public hospitals. Is there a competition issue? There might be. The Minister should look into the possibility that some insurance company will refer it to the Directorate-General for Competition.

The Bill was to provide for the roll-out of free GP care, but we do not see anything in it about this. That was our understanding of the position. The measure seems to have been pushed out further and further.

There is an adjustment being made to the fair deal scheme whereby a higher proportion of the elderly person's estate will be sought. Age Action Ireland has made its views very clear on this and other budgetary measures announced before Christmas. The other measures such as trebling the prescription fee are being interpreted by Age Action Ireland and quite likely the elderly as a further attack on them.

What are the Government's plans to attract young healthy people to the health insurance system? At its peak, 2.5 million or more people had health insurance across the full system. This figure has been substantially reduced and it has been predicted that 300,000 will leave as a result of this Bill. What measures will the Government introduce to entice people to take out health insurance because I see nothing in the Bill to that end? People in Senator Darragh O'Brien's age group and mine - what the ESRI called the forgotten generation - pay between €2,000 and €3,000 per year if they have a few children; therefore, it is a no-brainer. That figure must come down or other measures will have to be put in place because it is simply unsustainable.

While I appreciate that the Minister of State is deputising for the Minister, I ask that she try to answer some of my questions. In terms of the figure of €75 which is to increase to €80, we are supportive, but we cannot support the other measures proposed. If they come to pass which they clearly will because the Government has a majority, a universal system of health insurance will be even further away because the Bill will inevitably bring down the numbers already with private health insurance. As Mr. Colm McCarthy said in his report, the lower the number with private health insurance, the more difficult it will be to implement a universal system of health insurance.

An Cathaoirleach: I call Senator Colm Burke.

19 June 2013

Senator Darragh O'Brien: I would like to call for a quorum. The way this debate has been conducted has been most unsatisfactory. The Minister has not been able to stay and we only have three Government Senators present.

Notice taken that 12 Members were not present; House counted and 12 Members being present,

Senator Colm Burke: I welcome the Minister of State. It is not often that I agree with Senator Marc MacSharry, but it would have been helpful if the Minister's speech was given to us before the debate commenced. I am a little disappointed. I made two calls to the Department yesterday seeking clarification not only on this matter but also another health Bill to be discussed after this and I find it unhelpful that I do not even know as I go into the next debate what the approach will be in dealing with the next Bill. As a result I will support the Bill on the next Stage.

This Bill amends the Nursing Homes Support Scheme Act 2009 and the Health Act 1970. The 2009 Act was brought in to set up a proper structure to provide funding for nursing homes. As far back as 2001 the Ombudsman's report had identified several deficiencies in how we were providing nursing home care. It was amazing that it took nine years before any major development took place. That followed court hearings on the matter in 2004 and 2005 and it took another three or four years to develop a proper structure. This has worked well over recent years and this Bill makes some amendments to it. We face challenges in elderly care over the next few years. There are many young people in the Visitors Gallery. By the time they reach retirement age people will be living even longer than they do now.

In 2003 there were 441,900 people over 65. By 2012 that had risen to 549,300 and by 2030 it is expected to rise to 926,000. The year 2030 may seem to some of us a long way off but it is only 17 years away and that highlights the planning that we need to do to make sure that when we provide nursing home care there is adequate funding. The figure for 2030 represents an increase of 141% on the number over 65 from 2011. That is a major challenge for the health service. One of the interesting figures emerging from research too is that there are fewer people in the older age category who have disabilities. People are far more active now. Since 2006 the number over 85 has increased by 22% which further emphasises the need for long-term planning to continue to provide the level of support that we are giving.

The budget for 2013 provided over €13.6 billion for health care which is a huge budget. It is important that we manage that and provide maximum care for all the citizens of the country and elderly care is an important part of that overall programme for the year. Maev-Ann Wren identified a need for 13,000 additional residential places by 2021 which is only eight years away. I do not think that will have to be delivered but we need to develop new programmes and try to provide more home care packages so that more people can stay at home longer when they need support. This Bill provides for increasing the asset contribution of 5% per annum for three years up to 7.5%. While the Opposition may criticise that increase we need to plan ahead.

We have not seen any figures for the recovery of money from people who signed up under the fair deal scheme over the past three or four years and unfortunately have since died. Will we get an annual report of that collection? I have not seen any evidence of the collection process in place. I know that it is a very short period in real terms but I imagine that the State is entitled to collect from people who signed up to the fair deal scheme.

This Bill provides for several changes not only in respect of elderly care and its cost but also of charges in hospital. My opposite number raised concerns and is not supporting this Bill. There is a problem in the cost of health care both in terms of the overall cost and the way the health care service has grown. It is far more comprehensive now. Over the past ten or 15 years the number of people attending outpatient appointments has gone from 2 million a year to over 3.5 million a year. While I regularly see letters in the paper criticising the health care system, a recent one even said the health care sector is in a shambles yet we have one of the best maternity care services in Europe, with one of the lowest maternal mortality rates. It is important that in providing health care we make sure that there is adequate funding to allow that develop and grow. While the Opposition is raising serious concerns about this Bill in order to continue the level of services required there must be a cost factor. This Bill is dealing with that cost factor and planning for the future.

Senator John Crown: I welcome the Minister of State back to the House. When many of the minor health care reforms such as this, which are coming through the system in preparation hopefully for the big bang of the move to a fully insurance-based system, come up I find myself selectively approving of them through gritted teeth because they increasingly resemble a series of Band-Aids put over the gaping wound – I am going to start mangling metaphors here- which is our incredibly inefficient, dysfunctional, two-tier health system. As Lincoln said a house divided against itself cannot stand and that is exactly what we have. As a result there are several severe inefficiencies. Having said that, we need the private system at the moment. If it were to collapse it would cause an unsustainable burden to fall on the current public system. I speak with a colossal conflict of interest because I make most of my income from the private insurance system. I have to say that now or someone will remind me of the fact. Until we move to the model whereby everyone is treated the way a private patient is now we will be dealing with these inconsistencies. The ultimate logic of the insurance-based system is one which is socially responsive, in which people like me, who make a lot of money, pay more for the care that people who make less money will get for a whole lot less.

Let me point out one or two matters. From the coalface, there are patients who at some stage because they have private insurance get some consultation or some part of their treatment in the private system but because there are holes in the private insurance coverage here they decide to have their scans or X-rays done on the public side because they cannot afford the out-of-pocket expense and subsequent reimbursement. Increasingly we find people who go to the public system being told that even though they are citizens, taxpayers, members of our society who allegedly have the same rights as anybody else, being denied these rights and told that they must register as private patients when they go to a public hospital. That is inconsistent, irrational, and wrong. Will the new arrangements as outlined in this Bill enshrine the rights of people who wish to exercise their rights as citizens to become public patients, not skipping any queues but going in the same way as anybody else, and to continue to do that or will it be incumbent on them to exercise their private insurance which many have as a fall-back position in case they need to come into hospital? I cannot see this outlined here. Will the new arrangements, as outlined in this Bill, enshrine the rights of people who wish to exercise their rights as citizens to become public patients, not skipping any queues but going in the same way as anybody else and to continue to do that, or will it be incumbent on them to exercise their private insurance, which many have as a fall-back position in case they need to come into hospital to receive treatment for some catastrophic illness? I cannot see this outlined here.

I cannot stress enough the importance that the VHI be sustained. I will tell the Minister of

the State a story. I was hoping to have the opportunity, and no disrespect to the Cathaoirleach but when I raised this issue during the past two days the Leader of the Seanad suggested that I raise it in this debate as it is somewhat relevant. Several of the commercial private health insurers have made a decision not to cover those people who have been diligently paying their premia to them, sometimes for many years, for cancer drugs. I do not refer to exotic, obscure, dubiously beneficial cancer drugs but to cancer drugs which have been approved for public patients through the national cancer control programme's approvals process and by the VHI. It is troubling to me that in meetings with delegations of oncologists recently some of them were happy to say that they had never paid for one of these drugs. The drug in question is ipilimumab. I am sorry if I sound reduplicative but malignant melanoma is a condition which when I was a medical student we thought of as being a rare condition but it is now quite common in Irish people because of our fair hair and fair skin and the fact that God designed us for living under grey skies and never seeing the sun, and it is a disease to which we are uniquely susceptible.

The incidence of this dreaded disease doubled between 1998 and 2008 from 400 to 800 cases. It is likely that it has increased substantially since 2008. More troubling, the number of people who present with secondary malignant melanoma, which is generally not curable, also doubled during that period. This was a disease that had a ferocious reputation, when it was secondarily spread, for being highly resistant to chemotherapy and to other drugs and one which in recent years has become moderately sensitive to some of the newer drugs that have emerged, one of which is ipilimumab. It is not a panacea or a miracle drug but for a minority of patients who get it, it is a drug which can produce extraordinary results. Now we have insurance companies saying they will not cover it.

I have had patients on the private side come to me who I have had to send over to the public side following a process of appeal to their insurance companies. I will go on record and say to anybody listening to this debate, and as usual our colleagues from the journalism galleries are not present, that I do not believe anybody should take insurance with GloHealth or with Aviva. If they are thinking of changing from VHI, they should not do so because these companies have now decided that they will not provide cancer drugs to their clients. Laya Healthcare Ireland has not taken an official position to approve the treatment but on a case-by-case basis it has grudgingly approved it for individual cases. Sadly, some of the insurance companies, which are not-for-profit insurance companies, which represent members of the public sector and the allied public sector such as the Garda and the ESB, have also been extremely difficult on this issue.

What I find troubling, and I would like the Minister of State to convey this to the relevant Ministers, is that there is strong circumstantial evidence that anti-competitive practices have been practised by the private insurance companies. I find it odd that a group of them simultaneously decided they will not approve a drug and quote the fact that the other companies will not approve the drug. When I pulled one of them up on this a month or two ago I said that what they are saying they did sounds suspiciously cartel-like to me. I said that when a group of people who are supposed to be competing on the grounds of cost and service decide, apparently collectively, to deny an essential service to people, this is anti-competitive. I would like the Minister for Health and the Minister with responsibility for trade who oversees competition to inquire of the companies if any such collusion has occurred because if it has, I believe it is illegal. In the meantime, I do not know what pressure can be brought to bear on these companies because these drugs - which are expensive, for which approval in the public system was hard fought and having regard to people who have paid taxes and their health insurance premia - are now being paid for out of the public purse and I think that is wrong. Insurance companies that

market themselves as providing choices and who then deny the choice to patients are behaving dishonestly.

I also draw the Minister of State's attention to the fact that Aviva, which has a substantial UK presence, states on its UK website that it will never deny any cancer drug to any patient which is approved. Clearly, it is practising by different rules in the UK and in Ireland and, conceivably, it is practising by different rules in Northern Ireland and in Ireland, although I cannot verify that.

There are a number of troubling issues. Fundamental reform of our health service will make many people with the most vested interests very unhappy. I am referring to the health service administrators, HSE executives, civil servants, a cadre of hospital managerialists who have emerged, and all the PR companies for all of the agencies. It will make them unhappy because if the reform that was promised prior to the election occurs, it will empower patients to make their choices and it will disenfranchise many bureaucrats. I ask the Minister of State not to take this pejoratively, but we have a Band-Aid over the knee approach to reform.

Senator John Gilroy: The Minister of State is welcome to the House and it great to see her back here again. The Health Act is probably second only in complexity to the Tax Consolidation Act and it is therefore necessary and appropriate that it would be reviewed and updated from time to time. I would have preferred if these reviews did not come as part of the budgetary process and that they formed a stand-alone review of the various schemes under the Health Act.

Every Member who was a politician prior to the nursing homes support scheme being put in place would know that the greatest amount of our time as politicians was consumed in assisting people who were trying to access the services for long-term and ongoing care for their elderly relatives. Since the scheme was introduced it has provided a very good solution to what seemed at one time to have been a rather intractable problem for politicians but mainly for patients. That the nursing homes support scheme is in place is a positive development.

The Opposition has said that it has some concerns about this measure. We all have concerns when the mere mention of increasing costs comes to the fore. That is something that gravely concerns us. I think it is reasonable to expect that the asset contribution might increase. I read during the week that people who were born in the 1960s might now have a reasonable expectation of living to their 85th year. That represents an increase in the average life expectancy of nearly seven years over a generation. Arrangements need to be put in place to ensure the sustainability of this scheme but it would have been better if it did not come as part of the budget, which might give rise to the accusation that this measure is merely a revenue-raising initiative. Of course it is not, it is part of a move - a Band-Aid move as it appears to Senator Crown, and indeed often to more of us as well - in the direction of the universal health insurance scheme that we are committed to bringing in. It is important that this would be acknowledged. Health is about public health but it is also about public confidence in our health system. If we cannot have a public confidence in our health system, we are in trouble and the undoubted problems that exist will become exacerbated as people lose confidence in our system.

I want to focus on that part of the Bill and also on the idea that private patients should pay for beds in public hospitals through their insurance or otherwise. It is a matter of social justice, social equity and social solidarity that would happen. Approximately 50% of the public are covered by a medical card insurance and 40% are covered through the medical health insurance scheme. If the system is as equitable, democratic, fair and as republican as we might like

it to be, we must ask ourselves why people feel it necessary to have health insurance. We saw the leader of Sinn Féin recently express a lack of faith in our services when he twice used the private services of another country to access medical treatment.

There is undoubtedly a benefit in having private health insurance because otherwise why would one pay money for something that was not necessary? Private health insurance might well be one of the reasons for the ongoing and traditional historical legacy of the two-tier health system, which do not enjoy in this country but with which we have been landed. It is reasonable that a private patient accessing public services would be required to pay for those. I think that any reasonable democrat would have to agree with that. Notwithstanding the pragmatic idea that as health insurance premia rises people will leave due to economic constraints. That is a problem. Insurance companies need to get with the programme.

Recently the mother of a young man in Cork told me that her son developed chest pain while playing rugby a year ago. When he was assessed it was discovered that he had a serious complaint that could be corrected by a medical procedure. Unfortunately, the 15 year old boy could not access treatment under the public scheme due to a waiting list of two years which would have meant that he could not play the sport that he loves for two years. Presumably he would have reached 17 years of age before undergoing the operation and have had to wait a further six months before being allowed to play rugby again. The family had private health insurance so decided to use it to cover the cost of his two-night hospital stay. I shall outline the timeframe. Let us say he was admitted to hospital on Monday night, the procedure took place on Tuesday and he was discharged on Wednesday. The bill amounted to an unbelievable €17,000. At the time I was informed that a family consisting of a couple and their three children could travel to Florida and stay three weeks in a top grade hotel for €5,000. That puts the hospital bill in perspective. There must be room for savings. My example proves that insurance companies could do better and that the negotiation skills of hospital administrative staff or the people in the service responsible for pricing must do better.

My party will have plenty more to say when we debate amendments at Committee Stage but I shall leave it at that for now. We must acknowledge that there are concerns. The previous Administration introduced the nursing homes scheme. When my party was in Opposition it may have criticised the scheme in its initial stages. However, my party acknowledges that the scheme has been beneficial, that it is one of the better schemes and provides the widest range of services for older people.

Senator Darragh O'Brien: I welcome the Minister to the House. Senator MacSharry has outlined my party's opposition to certain provisions of the Bill.

With no disrespect to the Minister, he could have answered some of the questions. On three occasions I have asked him when will he extend the publicly-funded free GP service but he gave different dates. Last April it was stated that the Bill would include a provision to roll-out the service but that has not happened. There is still no timeframe. I am anxious to learn when it will take place. Originally it was proposed to roll-out the service during the first year.

Medical cards for specific long-term illnesses has been a major plank of the Minister's reform agenda. The provision has gone off the radar. Where is it?

I have private health insurance and I joined GloHealth last year. It is thanks to Senator Crown that I shall now examine its policy document in great detail. Price and long waiting lists

are considerations when purchasing health insurance. A tonsillectomy is an easy procedure for adults and children but one must wait over two years for it in the public system. That is why people who can afford to buy private health insurance but most people cannot afford health insurance.

I am concerned about private health insurance and I have raised the matter on a number of occasions. I am not saying that private health insurers are 100% correct but the new measures will increase premia. The Minister has stated that he has independent actuarial evidence that the measures will not, or should not, increase premia. It would be in the best interest of his Department and the Minister to publish the actuarial evidence. I formally ask him to publish the actuarial advice. It will give us something to discuss with the insurers.

Why did the Minister have no direct consultation with the private health insurers? Over 2 million people have private health insurance but the number is decreasing. Why did he refuse to meet the private health insurers in order to negotiate savings? He refused to meet one health insurer. Did he refuse to meet other health insurers? Did he meet the VHI? If so, then he has a serious problem if he did not meet the others. I want him to answer my questions and I shall pursue the matter at Committee Stage.

Some private health insurers can make savings. Bed charges are based on the procedures so there has been a 15% reduction in the costs private insurers are charged by private hospitals. The cost of cataract and angiogram procedures has fallen by 27% but the cost for a private bed is the same regardless of the procedure. We must also examine the astronomical professional fees and consultants' fees.

Senator Gilroy mentioned a specific case. Presumably fees were charged for an anaesthetist and consultants. Their work is very important work but savings can be made. The Government intends to increase a bed charge fee from €75 to €860. I may have private health insurance but I am also a taxpayer. One must cut one's coat according to one's cloth and I, and other people like me, will have made a financial sacrifice to have private health insurance. I am also a taxpayer and shall be charged more for using the same bed in the same facility. Public private partnerships are used to build schools yet the Government still funds private schools. For the past two years 1,100 people per week have cancelled their private health insurance which will put pressure on the public system. Senator Crown has day-to-day knowledge of the public system. He and others can vouch that it is creaking at the seams.

As Senator Colm Burke acknowledged, every day thousands of people do excellent work in the health service. Will another 60,000 people have left the private health insurance scheme by this time next year? Last year 79,000 people under the age of 40 withdrew from the private insurance scheme. The figures are factual and indisputable.

Last night around 9 p.m. the Minister announced a forum to lower the cost of health insurance. When will it be launched? Has it been planned for a number of months? When will the forum be established? Who is on the panel? He said that the chairperson will be independent. Who shall it be? The market should have been consulted about the forum but it was not. Will the forum act like to cloak and hide the deficiencies of the Bill? There will be substantial increases in private health insurance but the Minister's knee jerk reaction is to establish a committee to "knock heads together." I hope that I am wrong but I am sure that he will set me straight on the matter.

Acting Chairman (Senator Paul Coghlan): I call Senator Conway and he has five minutes.

Senator Martin Conway: I welcome the Minister here to debate this important legislation. I shall commence by giving credit to the last government for introducing the nursing home subvention scheme. It is one of the better schemes and is reasonable. A sign of a good scheme is one that can be tweaked and improved. Senator Darragh O'Brien wondered whether we would be back here next year to debate certain issues again. I sincerely hope that we will not but we may have to return here to improve the scheme.

Senators must deal with constituents on a daily basis. Most of my constituents that contact me about the scheme and their loved ones who avail of the scheme are reasonably satisfied. There are exceptions to the rule. I spoke to a retired public servant whose wife suffers from Alzheimer's disease. Unfortunately, even with two pensions and the scheme, he must pay up to €800 per week for his wife to avail of nursing home care. The way he looks at it is that he worked and contributed all his life for what he would consider a good pension and to have that amount of the pension going into the scheme is regrettable because he is in a situation in which he is struggling to survive. He has appealed it unsuccessfully.

It is a good scheme. Much is happening to support the elderly. We have been requesting an increase in the level of inspections for a long time. We are seeing much more activity there. We all commented on the worrying "Prime Time Investigates" programme on crèches a couple of weeks ago and we all wonder if there are horrific scenarios in nursing homes. We have had reports of that in the past. The Minister is deeply committed to ensuring that the highest possible level of care is available to older people, that inspections are increased and that the standards expected of these nursing homes are maintained and improved on.

We are facing a situation in which the age of the population will increase considerably, we hope, due to advances in health care and treatments. We heard earlier of the average lifespan pushing up to the 80s in the future. Society must plan for that scenario. The fundamentals are there. We are in an atrocious financial abyss, but we must get certain priorities right. Incrementally, we are working on that. Those who run nursing homes are, by and large, very committed to their work and profession and are making a big difference to the lives of people. The standards have increased dramatically over the last number of years and I hope we will see a further increase in the future.

Senator Feargal Quinn: The Minister of State is very welcome. She is a regular in this House and I am glad to see her here. I am not so sure about the Bill. I am wary of supporting anything that has the potential to push up health insurance premiums and thus force people to leave the health insurance system. Senator Crown has described this very well today. It was interesting to hear the Minister say that, according to the report, the Government hopes to raise €120 million from the combined measures in the Bill next year. It is regrettable that the motivation for this Bill seems to be cost saving rather than benefiting the customer - that is, the patient.

If a person has paid for private health care, why can he or she not be entitled to a public bed, similar to a public patient? This case was made very well by Senator Darragh O'Brien. If one has a private car, surely one should also be entitled to take public transport at the same cost as someone without a private car. That is what is happening here. We must take a much more long-term approach rather than focusing on short-term gain. Professor Colm McCarthy predicted that the market could shrink by 40% in the coming years if premiums continue to

rise, and said the Government needs to take a longer-term approach rather than what he terms “patching up a cash hole”. His report found that around 85% of customers said they would give up their health insurance if premiums rose by 30%. That is staggering to consider.

I will speak about the wider issue of insurance incentives and encouraging people to stay healthy to save money. According to the World Health Organisation concept, health is not to be seen as mere absence of disease but as part of one’s complete physical, mental and social well being. Perhaps we have to examine the deeper causes of ill health and try to find ways the Government can encourage people to take exercise instead of sitting in front of a television like a couch potato, as they call them. Behaviour economists call this “nudging”. It is a lovely word. The word “nudge” has been used by the British Prime Minister. He has established a nudge unit in Downing Street. The recent health care law passed in America has a provision to encourage employers to offer wellness programmes. Should we go deeper and see how we can link things such as health insurance to activity? Has the Minister had any consultation in this area? Might she follow the example of the US President, Mr. Obama, and examine how economists could help reduce the burden of our health system?

I know two particular instances in the supermarket business. One is a man called Steve Burd of Safeway, a very big US company. He developed a system to pay his employees huge benefits if they went to the gym, stopped smoking, lost weight, etc. It really worked. He had to put a control system in place to do it, but to hear the enthusiasm with which he talks about it is so interesting. There are other innovative developments, such as the ones by the Discovery group in South Africa. Again, a supermarket company there, called Pick n Pay, has had major success with this. Discovery has introduced a programme called Vitality that applies the air miles model to health care. Customers earn points by exercising, buying healthier food or hitting certain targets. They receive a mixture of short-term and long-term incentives ranging from reduced premiums to exotic holidays. Discovery formed alliances with a host of companies to provide rewards linked to one’s vitality levels. Pick n Pay, which is a very large grocery chain in South Africa, provides discounts of up to 25% on 10,000 healthy foods. Retailers here could look at this example. Airlines offer discounted flights for members of the scheme. Discovery can measure whether people go to the gym, rather than just joining, because they must swipe their membership cards.

Discovery says it has solid evidence that participation in the programmes more than pays for the rewards. The active participants are less likely to fall ill, and if they do they spend a shorter time in hospital. It is interesting that Discovery, which is South Africa’s leading health insurer, with some 5,000 employees, is entering new markets. It has formed a partnership with Prudential in the UK. Could we attract companies such as this to the Irish market or even take on some of their ideas to nudge people towards a healthier lifestyle so they spend less time in hospital? It is essential, as 80% of health activities in Ireland relate to chronic diseases. Perhaps that is where the private investor and the health service in Ireland can do something to improve the lives of our citizens. I am talking about prevention of illness rather than just curing people. I think it was in China that doctors did not get paid if patients took ill; they got paid if people stayed well. It was the doctor’s job to keep people well rather than to cure their illnesses.

Senator Jimmy Harte: I welcome the Minister of State. On the issue of public beds and private health insurance, when I visited Taiwan in January as part of a delegation we met representatives of the bureau of health information, their equivalent of the HSE. I asked the head of its delegation if Taiwan had a problem with waiting lists. They said there was no such thing as a waiting list in that country, where they have both a public and a private system. Taiwan’s

19 June 2013

population is approximately 25 million, in a country half the size of Ireland. I did not know whether the information was being embellished, so that night when we met some Irish people working there I asked the same question and they agreed that there were no waiting lists. They told me that if one needs to see a brain surgeon or an orthopaedic consultant, one sees him or her that day or the next day. I asked why people would opt for private insurance if that was the case and was told that they might like a larger room or a newer hospital. The system seemed to work very well. We must get to that situation in Ireland.

Private companies pay approximately €75 per night for public beds whereas we are paying €1,200 to the private hospitals. Letterkenny General Hospital has a cardiac unit and the cardiac surgeon there tells me he is qualified to perform stenting. He carries out angiograms and a range of other treatments. Stenting is common. I have a stent myself and know how traumatic it can be for someone to have the procedure. The surgeon cannot carry out the stenting procedure in Letterkenny. He has the funding and equipment but does not have the staff. If Letterkenny General Hospital got €1,200 per night instead of €75 per night, the money could be used to employ an extra nurse or specialist. Private insurance companies are aware that this is coming. They cannot expect to be subsidised. A public patient in Donegal who needs a stent may have to wait three months. I had to wait a weekend between the angiogram and the insertion of the stent. It was psychologically and physically demanding. To tell someone he or she can wait three months as he or she is not at serious risk does not provide real comfort. I encourage greater analysis of this. A contribution of €1,000 to Letterkenny could help it to employ the extra staff needed to provide and expand services. It has the surgeon and the equipment but it needs the support staff.

This would help the staffing levels and represent a win-win for the hospital. Private insurance companies are profit-making organisations and it is their business to maintain their premia at a rate that people will buy into. They know they have to do that. They will not put up their fees hugely because if they lose their clients, they will not make any money. The private insurance companies are scaremongering. I was very interested in Senator Crown's assertions about the companies which he mentioned in relation to drug treatment. It was very worrying. He has the expertise to give the House a view. I am delighted he raised the matter today. I ask people to go along with this. Private insurance companies can and will survive but small hospital services like Letterkenny cardiac unit are under funding pressure. This could help to fund those units.

Senator David Cullinane: I welcome the Minister of State, Deputy Lynch, to the House. We have had several debates on the health service with her over the course of the last number of years. Unfortunately, the Minister for Health has not given of his time to take Second Stage debates on Bills as much as we would like.

I cannot support the Bill. Frankly, if the Minister of State and her Labour Party colleagues were sitting where I am, they would oppose it. This is about increasing charges for public inpatient services. It increases the asset contribution for those who avail of the nursing home support, or fair deal, scheme. It is unreasonable to ask people to pay more for those services when they are getting less. I had a debate in the House with the Minister for Health recently on increased outpatient waiting times in Waterford Regional Hospital where orthopaedics, ophthalmology and ENT represent pressure points. People are waiting for well over the 12 month limit to see a consultant to get into the system. We all accept that when people get into the system, they receive good treatment. Unfortunately, they have to wait very long periods to see a consultant. After they have seen a consultant, they must wait longer again to get the treatment

they need. Private patients can get access more quickly although many of them are forced to take out private health insurance. I do not agree with Members who say it is reasonable to increase these charges when we have fewer services, hospitals are overcrowded and staffing has been reduced with a resulting impact on frontline services.

There has been a lack of investment in geriatric care facilities and some community nursing units have been closed. Other community nursing units which it was promised would be built, including one in my city, Waterford, have not been provided. The necessary capital funding is not being made available. There is a lack of services across the health sector for public patients, yet we propose to increase charges. It is not the right thing to do. It is being done in a context in which people pay PAYE, PRSI and, more recently, the universal social charge. People are asking why they are paying these charges. The universal social charge was coupled with the health levy. People pay these charges on top of their income tax and then pay for private health insurance, but still have to pay at the gate when they go to hospital. It is not fair to increase the charges.

The Bill seeks to allow the HSE to outsource the management of the scheme. It introduces charges for private patients in public beds in public hospitals, which I agree with. It is outrageous that people who have private health insurance, especially the wealthier in society, are taking up beds in public hospitals for which their insurers are not being charged. Consequently, those customers are not being charged while public patients are not getting the treatments they deserve. I do not have a difficulty with private patients having to pay for the privilege of obtaining services in public hospitals.

The Bill has a number of key aims. The fair deal scheme is currently run by the HSE to provide financial support to 22,000 people in long-term residential care. Currently, individuals contribute 80% of their incomes and 5% of their assets per year, which is fixed at a maximum of three years or 15% for their principal private residence and, in some circumstances, farms and other assets. The Bill seeks to increase the maximum payable proportion of a person's assets from 5% to 7.5% per annum. It abolishes the ability to backdate the entitlement for people in nursing home care before the scheme was commenced, which is particularly unfair. The digest of the Bill sets out that it is not known how many people this change will affect but indicates an approximate figure of 700.

Unfortunately, I cannot support the Bill. There was a great deal more that I wanted to say in that regard. I agree with the changes on the charging of private patients in public beds but cannot not agree with the charges for in-patient services for public patients. The latter will have a disproportionate impact on those on low and middle incomes who have borne the brunt of tax increases and pay cuts. I am not in a position to support that at all.

Minister of State at the Department of Health (Deputy Kathleen Lynch): I was hoping the Minister would be able to return to make the final reply. I apologise on his behalf. It is not as if he is swanning off somewhere. He had to attend a Cabinet meeting.

Acting Chairman (Senator Paul Coghlan): Is not Deputy Lynch here?

Deputy Kathleen Lynch: Members are genuinely interested in asking the Minister for Health these questions. Any question pertinent to the Minister will be relayed to him.

I thank Senators for their contributions to what has been a very good debate, of which I heard the last hour. The Bill is essential to give effect to necessary budgetary measures to sup-

port the continued provision of important services at a time when there is extreme pressure on HSE funding and in keeping with the move to a universal system of health insurance. The Bill will also make an important contribution to simplifying, modernising and enhancing the charging and contributions regime in hospitals, nursing homes and other residential settings.

I hope Members will not mind if I do not respond in order to the points raised. Certain points need to be made. I take on board Senator Feargal Quinn's point about the importance of maintaining ourselves in good health, even though we will always have acute episodes.

I always find Senator John Crown's contributions interesting. He referred to the administration of the health service, which is very important. As someone who was a recent beneficiary of the public health service, having had to be treated urgently, I know that the service provided is very good. We should be in no doubt about this. When people are in urgent need of health care, our experts kick into gear and respond well. The Senator's point is that difficulties arise because of the way we have allowed the health service to develop in terms of charges, administration and the crossing between the elements in our two-tier system. I will not refer to his comments on private health insurers, but I have no doubt that his experience is correct.

What is amazing about the fair deal scheme is that only 8% of the 22,000 applicants have applied for the loan element. The reason is that the average contribution is only €267 per week. It is a pity Senator Martin Conway is not present because there is a reason the family to which he referred is paying so much. The average contribution is what makes the scheme sustainable. In opposition we were critical of the scheme, but in hindsight it has worked extremely well in its operation. It has given a degree of comfort and security to families and older people that the intensive, long-term State care people need at that time in their lives is affordable. We can thank the previous Minister for Health and Children for this. The proposal to charge patients, as raised by Senator Marc MacSharry, was first announced in 2011 and meetings have since taken place on an ongoing basis between the Department and private insurers.

Senator Marc MacSharry: Not with the Minister.

Deputy Kathleen Lynch: As the Senator pointed out, the younger, healthier cohort is leaving the system, but because it is younger and healthier it has not placed an additional burden on the public sector. I hope we will all age and it should not be considered such a burden because it is also a contribution. To grow old is positive. As we age, the burden begins, but I hope economic circumstances will change. I also hope the health service will change in that we should not all end up in a long-stay care setting. Senator Feargal Quinn rightly points out that we will live longer and stay healthier for longer periods. It is appropriate that we charge everyone who uses the public health service because, as it is, it is reimbursing the private health system to the tune of €200 million per year, which is unsustainable.

I had not seen any evidence that insurance costs would increase by 30%. When making our case, we are inclined to exaggerate in our arguments, which is not wrong. Premiums will not increase by 30% and the Minister has asked for evidence from insurers in this respect. I will pass on to him the request made by Senator Darragh O'Brien that the evidence be published, but I do not have it. The Minister would not be so adamant if he was not sure of his figures.

The Minister did not announce a new health insurance forum. He established the consultative forum on health insurance last year to identify ways of addressing costs throughout the industry. I spoke to the officials when Senator Darragh O'Brien asked about the matter. Work

has been ongoing on the matter, not intermittently but on an intensive and regular basis. The Minister has not decided on who the chairperson will be, but that does not mean the forum has not worked. It has several subcommittees which have been working.

The figure of 8% tells us something. If health is about social protection and our well-being, it is equally about actuarial figures. With regard to the fair deal scheme, we collected a sum of €6.4 million, in which Senator Colm Burke was particularly interested. In 13 cases, the sum not collected amounts to €14 million.

With regard to Senator Darragh O'Brien's comment on free GP care, the Minister of State, Deputy Alex White, is responsible for that issue. He is examining options for the roll-out of the universal GP service. He briefed the Taoiseach on this work and the Taoiseach has reported to the Dáil on it. I meet the Minister of State on a regular basis.

This morning someone said that if we were to introduce a universal system of health care, we would not start from here. The difficulty is the chaotic system of payment, fees and levies and how the money is collected. It is not simple and straightforward, but if matters were simple, we would have done it a long time ago.

The provision of medical cards for people with long-term illnesses was never proposed. It was proposed that people with long-term illnesses receive GP cards as a first step towards universal GP care.

Senator Darragh O'Brien: I should have referred to such cards.

Deputy Kathleen Lynch: However, the Minister of State, Deputy Alex White, is concerned that this temporary or interim step would be overtly bureaucratic. I do not have time to explain it, but it is not as easy as first thought. It will not help us in having a universal system of health care. If Senator Darragh O'Brien wishes to have a full explanation, I will have no difficulty in getting it for him.

Senator Darragh O'Brien: I thank the Minister of State. It would be appreciated.

Deputy Kathleen Lynch: The Minister for Health has stated he will introduce the model of the money following the patient as part of the universal system of health insurance. He has started this process with the development of the new charging regime.

Opposition by its nature is about holding Government to account. That is fine and I have no problem with that but we have to be realistic as well. We cannot continue to have the public sector continuously subsidising the private sector. The reason many people have private health insurance is so they can call on it when they need it. It is interesting that younger, healthy people are leaving the system. We need to ensure every citizen has the same access to the health system that those who can afford private health insurance have at the moment. I commend the Bill to the House.

Question put:

The Seanad divided: Tá, 23; Níl, 12.	
Tá	Níl
Bradford, Paul.	Byrne, Thomas.
Brennan, Terry.	Crown, John.

19 June 2013

Burke, Colm.	Cullinane, David.
Clune, Deirdre.	Daly, Mark.
Coghlan, Paul.	MacSharry, Marc.
Comiskey, Michael.	O'Brien, Darragh.
Conway, Martin.	O'Donovan, Denis.
D'Arcy, Jim.	O'Sullivan, Ned.
D'Arcy, Michael.	Ó Clochartaigh, Trevor.
Gilroy, John.	Power, Averil.
Harte, Jimmy.	Quinn, Feargal.
Henry, Imelda.	Reilly, Kathryn.
Higgins, Lorraine.	
Keane, Cáit.	
Kelly, John.	
Landy, Denis.	
Moloney, Marie.	
Moran, Mary.	
Mullins, Michael.	
Noone, Catherine.	
O'Neill, Pat.	
Sheahan, Tom.	
van Turnhout, Jillian.	

Tellers: Tá, Senators Paul Coghlan and Marie Moloney; Níl, Senators Marc MacSharry and Ned O'Sullivan.

Question declared carried.

Sitting suspended at 4.25 p.m. and resumed at 5 p.m.

Public Health (Availability of Defibrillators) Bill 2013: Second Stage [Private Members]

An Leas-Chathaoirleach: I welcome the Minister, Deputy Reilly, to the House. Senator Quinn has ten minutes.

Senator Feargal Quinn: I move: "That the Bill be now read a Second Time."

I welcome the Minister for Health. I hope this Bill will be welcomed too. I could do with half an hour, rather than ten minutes. I will have to speed it up and see what I can do. I am pleased to have an opportunity to open the Second Stage debate on this Bill, which deals with

an issue that affects many people. There is increased awareness of the need for defibrillators to be available. Advances in technology have meant that the prospects of survival can be greatly improved, but we need to take the steps proposed in this Bill. Life is precious. As a society, we do all we can to avoid needless deaths. Regrettably, suicide has become more prevalent in recent years. Much has been done in the area of suicide awareness and prevention. We have made great progress in reducing road deaths; more must be done. Advances in science and medicine have led to the development of vaccines. The search for cures for life-threatening illnesses goes on. These efforts are yielding results.

Deaths from heart disease and cardiac arrest can be prevented. Collectively, we must do all we can to minimise avoidable loss of life. Cardiac arrest is the sudden and abrupt loss of heart function. Sudden death occurs within minutes of the onset of symptoms. The most common underlying reason people die suddenly from cardiac arrest is coronary heart disease. Much more is known now about the causes of heart disease and the risk factors associated with it than was known before. The figures are very interesting. There are between 5,000 and 6,000 cardiac arrests in Ireland each year. Approximately 70% of these events happen in the home in the presence of family and friends. In the 12 months up to October 2012, 123 people were saved as a direct result of the use of defibrillators. We cannot ignore these figures.

I would like to speak about the role of defibrillators. Cardiopulmonary resuscitation, CPR, and defibrillation can mean the difference between life and death. This is why it is vital to provide for the increased availability of defibrillators and to train as many people as possible in CPR and defibrillation. An automatic external defibrillator is a computerised device that analyses the heart system of a person in cardiac arrest. It can recognise a shockable rhythm. The computerised system can advise the operator whether the rhythm should be shocked. Advances in technology and reduced production costs mean defibrillators are now more affordable. As a result, they should be far more widely available.

Defibrillation is a crucial link in what the experts call the “chain of survival”. The first link in the chain is recognition, which relates to the ability of those who are coming to the assistance of a patient to recognise that he or she is having a heart attack. The second link is the delivery of CPR at an early stage, which is really crucial if the chances of survival are to be increased. The third link is rapid defibrillation. Until recent years, defibrillation was not possible until the emergency services arrived on the scene. The wider availability of defibrillation now means it is possible for the defibrillator to be applied to the patient by people in his or her immediate vicinity before the emergency services arrive. The fourth link in the chain is early advanced care, which is provided by nurses and doctors. The fifth and final link in the chain of survival is post-cardiac-arrest care administered in a hospital setting.

When speaking about the chain of survival, it strikes me that the assistance of lay people is crucial to a person’s prospects of survival. The first three links in the chain can be administered by ordinary people moments after the emergency occurs. First reaction and assistance are crucial in this context. According to the experts, every minute that passes without the administration of CPR or defibrillation causes a person’s chances of survival to decrease by between 7% and 10%. I find it interesting that the survival rate for out-of-hospital cardiac arrests in Ireland was 1% in 2006, but this figure had increased to 6.5% by 2012. The goal is to achieve a survival rate of 40%. This can only be achieved through an increased level of training in CPR and defibrillation, as well as an increase in the availability of defibrillators.

The Irish Heart Foundation, which trained over 500,000 people in CPR over the last ten

years, is doing sterling work in this area. In 2009, the foundation developed and self-funded a great initiative - the CPR for schools programme - under which all transition year students in this country received CPR training. This was a real success. I would like to think the Department of Health could work with the Department of Education and Skills to make CPR training a normal part of the transition year curriculum. This would mean that all students leaving secondary school would be trained in CPR and perhaps also in the use of defibrillators. Even in the absence of legislation, defibrillators are becoming more widely available, but there is still a long way to go. It is clear that we will not reach the 40% survival rate target in the absence of a real resolve and determination to put in place the measures that are needed. That is why I believe the proposals contained in the legislation I am proposing are so important.

Section 4 of the Bill before the House will require the owners of certain types of premises, referred to in the Bill as “designated places”, to install defibrillators. Under the Bill, this requirement will apply to 18 categories of venue. Those in a further five categories will be required to install defibrillators when more than 100 people per day are in attendance. I decided to distinguish between different categories of premises because I am conscious of the cost of compliance with this requirement. I do not want to impose particular additional costs on venues where the footfall does not warrant it. While we cannot put a price on the cost of saving a life, I realise that cost is a sensitive matter, particularly at a time of recession. It costs approximately €1,500 to buy a defibrillator. The yearly cost of maintaining a defibrillator is approximately €100. The provision of training is a really key part of the story because research has shown that training increases the likelihood of a person’s surviving in an emergency situation. As I understand it, there are very many organisations engaged in the provision of CPR and defibrillation training. The cost of training a person in the use of a defibrillator ranges from approximately €60 to €100. This takes place in other jurisdictions. In Portugal recently I was queuing to go to the airport when I noticed a defibrillator on a poster and a few metres away was another defibrillator.

I learned later that the figures for their use by the Dublin Airport Authority, DAA, are fascinating. While approximately 6.5% of people recover if a defibrillator is used, the figure for the DAA is 40% because there are plenty of defibrillators and enough people are trained to use them. A 40% survival rate is huge. It is possible to do this.

In preparation for discussing the Bill I examined the approach to public access to defibrillators initiatives around the world. In 2011, Portugal introduced a requirement for supermarkets, airports, train stations, buses and so on to be equipped with defibrillators. The United States has been very progressive in this area, many states have introduced laws providing for public access to defibrillators and Canada has also been to the fore in this respect. The proposals contained in this Bill are loosely based on a Bill which was enacted in Manitoba, Canada, in 2011. Ireland led the way in introducing a workplace smoking ban and hopefully it can lead the way in accessibility of defibrillators.

This is the third Bill that I have initiated in the past six months or so. I have another one ready for publication and I hope that my Construction Contracts Bill will be passed next week or certainly next month. The Seanad is doing important work in implementing and supplementing the Government’s legislative agenda. I look forward to my colleagues’ contributions and once again I thank the Minister for his attendance here today and hope that he will find the debate in this House to be well-informed and constructive. This is a non-contentious Bill. It is not perfect and I am very open to accepting amendments to it. I even have a few of my own. The proposal contained in this Bill addresses an issue that I can safely say is a concern for Members

on all sides of this House. I believe I have taken a reasonable approach to the Bill and hope that the Minister will support its passage through the House and into the Dáil. I believe it is worthy of support, that it will save lives and there are many points that can be made about it. I look forward to a very healthy debate on this.

Senator John Crown: I second this Bill. I concur completely with Senator Quinn's closing sentiment that this is a non-contentious Bill. It is a no-brainer. In years to come people will understand that the need to have defibrillators in places where large numbers of the public congregate or where particular risk activities occur is as acceptable as having a fire exit or a rule against smoking. I have been a doctor for more years than I care to admit and have seen many patients who have been successfully resuscitated through defibrillation and allied measures. It is certainly one of the most gratifying things in medicine to see somebody who clinically has already possibly breathed his or her last because their heart has stopped, recovering.

I am not sure whether Senator Quinn or anybody else was aware that the portable defibrillator was invented by an Irishman, Dr. Frank Pantridge, in Belfast, that all the early work on it was done there and the first ambulances in the world to be equipped with mobile defibrillators were in Northern Ireland. It is particularly appropriate that we consider introducing this critically important lifesaving measure.

I am going to depart from the script for a second while I have the Minister captive here. I have mentioned this issue on a couple of occasions and the Leader of the Seanad asked that I bring it to the Minister's attention when he was here today for the reading of the Health (Amendment) Bill but he was called away. There is a real problem brewing with private insurance companies not paying for cancer drugs and making patients go back to the public system for drugs which have been approved by the national cancer control programme, NCCP. The drug in question is Ipilimumab. I know it has been close to the Minister's heart and he has a very laudable record in using his own good judgment and offices to make this drug available to patients with melanoma who need it. It is intensely frustrating to me that several large private insurance companies are not covering this drug and are insisting that patients who have been paying premia to them, allegedly for the service of having choice in their care, are being told that they cannot choose to have this drug. They are being sent back to the public system where it is costing the taxpayer a considerable sum of money. One of these companies, Aviva, makes it available to its clients in the UK but not to its clients in Ireland. This is wrong.

The two companies that have been most cast-iron in their refusal are Aviva and Laya. The people who are thinking of signing up to, or buying insurance from, these companies should think again and consider the alternatives. The VHI does reimburse for the drug which reflects the fact, which will be relevant in the new social health reform revolution which will occur here, that it is a not-for-profit company but exists to provide a social service. It attempts to do so with a business model which I know can be difficult for it but that is what it is trying to do. It made the right decision in this case and the companies that are in the business for profit are wrong.

I am sorry to eat into the time for this Bill but the Minister is a very busy man and getting access to him can sometimes be difficult. I am very supportive of yet another very practical Bill from Senator Quinn which should have uniform support across the House, and the Government and which, more than most Bills that come before the House, would actually save lives.

Minister for Health (Deputy James Reilly): I apologise at the outset because I will have

19 June 2013

to leave for an important meeting at approximately 5.25 p.m. There is nothing at all contentious in the health sector, as Senators know. We welcome our friends from the Irish Heart Foundation in the Visitors' Gallery.

I am grateful to the Senator for providing me with the opportunity to speak on this matter in Seanad Éireann. It is estimated that approximately 5,000 people die every year as a result of sudden cardiac death. Most of these deaths occur from late middle age onwards as a result of coronary heart disease. It is important therefore to place the Public Health (Availability of Defibrillators) Bill 2013 in a broader context of prevention as well managing cardiovascular disease.

Let us start by acknowledging the improvements in cardiac care brought about through various means, including the national cardiovascular health policy. This policy, named Changing Cardiovascular Health, 2010-2019, provides an integrated and quality assured approach to the prevention, detection and treatment of cardiovascular disease, including stroke. Since 2010 significant improvements have been made with regard to access for acute treatments for coronary heart disease as well as the development of stroke units across the country. The policy report also included a section on sudden cardiac death, a key element of which involves first response survival from cardiac arrest through the development, co-ordination and integration of the emergency medical services with co-responder networks.

On publication of this policy the HSE published the sudden cardiac death steering group report later in 2010. A key element in this was improving first response for a cardiac event. This included guidelines for communities and groups wishing to set up a first responder group, and the integration of the HSE pre-hospital emergency care with community risk responder programmes. It also involved the development of standards for first responders, mainly for general practitioners and voluntary organisations. The HSE has established three programmes to implement the different elements of the cardiovascular policy covering acute coronary syndrome, heart failure and stroke. For the purposes of developing a range of initiatives to improve service delivery in these areas, the Department continues to liaise with the HSE on the implementation of the strategy. Key elements of stroke care include new and existing stroke units provided with additional therapy, nursing and consultant posts. The clinical programme for stroke continues to work to develop and disseminate care pathways and protocols for treatment, a national 24-7 access to safe stroke thrombolysis through service development, telemedicine and training is already available in many hospitals with access protocols agreed for others. Ambulance protocols are being developed for rapid access to hospitals. Thrombolysis is now available in all acute hospitals admitting stroke patients and 9.5% of patients are being thrombolysed. This rate compares well the best European figures and exceeds our target of 7.5%. In 18 months we have gone from the bottom of the league in Europe to the top. We are now saving a life a day through the stroke programme.

Key elements of the acute coronary syndrome care include improving and standardising the care of acute coronary syndrome patients by having put in place an optimum reprofusion service for patients, otherwise known as stenting; having ambulances equipped and paramedics trained to recognise a major heart attack and transporting these patients to the best place, that is a primary PCI centre hospital for appropriate care; having designated primary PCI or percutaneous intervention centre hospitals based on having available catheter labs plus a requisite number of cardiologists who are trained in PCI; additional cardiologists experienced in PCI are being recruited during 2013; and other non-PCI centre hospitals being clear on how best to treat all ACS patients and arranging their timely transfer.

Key elements of the heart failure care include structured services for the management of advanced heart failure which have been established in 11 hospitals. The heart failure programme in conjunction with the diabetes clinical care programme has recently commenced a screening project for left ventricular dysfunction among diabetic patients in order to prevent further complications. A new diagnostic clinic in Gorey, Wexford, St. Vincent's University Hospital Group, provides direct access for general practitioners to echocardiography in the community with remote specialist advice on echocardiographic results and specialist review of patients in the community when required. This is very welcome as it underscores our principle of bringing the services to the patient rather than the patient to the service where we can. Another element is training for pharmacists to screen for cardiovascular disease and to link in with the heart failure programme.

In 2006, the then Minister for Health and Children launched *Reducing the Risk: A Strategic Approach, The Report of the Task Force on Sudden Cardiac Death*. The report made a range of recommendations covering four areas of change, including the detection and assessment of those at high risk of sudden cardiac death, systematic assessment of those engaged in sports and exercise, reducing response time, and surveillance and audit. The report made specific reference to automated external defibrillators or AEDs. It noted that the number of AEDs is increasing across the country and that there were no restrictions on who could purchase an AED or where they should be placed. There is evidence that some locations are more appropriate than others and the scientific literature has identified facility types at which the incidence of cardiac arrest is highest. These include health facilities, important transport hubs, universities and colleges and other venues for major public events. The report identified a number of issues in relation to storage and maintenance of AEDs, national signage for defibrillators, traceability of devices, adverse event reporting and that these responder programmes are compatible with the local ambulance service model.

The National Cardiovascular Health Policy 2010-2019 endorsed the recommendations of the Report of the Task Force on Sudden Cardiac Death. In this regard, the Pre-Hospital Emergency Care Council has developed educational standards. These include the cardiac first response standard, the first statutory standard for basic life support, and the standard for AED use in Ireland. In addition, clinical practice guidelines have been developed to support the delivery of interventions by emergency medical technicians, paramedics and advanced paramedics. On publication of the national cardiovascular policy, the HSE established a sudden cardiac death steering group which reported later in 2010. A key element of this report was improving the first response to a cardiac event. A number of actions have been implemented, including guidelines for communities and groups wishing to establish a first responder group and the integration of HSE pre-hospital emergency care with community risk responder programmes. It also involved training and development of standards for first responders, mainly for general practitioners and other voluntary organisations. Work on the AED register is ongoing and is an important feature in improving defibrillation and resuscitation in Ireland and, as a Senator pointed out, in improving survival rates.

The Bill proposed by Senator Quinn sets out the requirement to provide defibrillators in a range of settings and for events which have a regular attendance of in excess of 100 persons per day. Defibrillators would have to be registered and maintained and staff would have to be trained in their use. The Bill proposes that the Health and Safety Authority ensure compliance with the Act and that the relevant Safety, Health and Welfare At Work Act 2005 is amended accordingly. On this point, I wish to point out that the Health and Safety Authority is statutorily

19 June 2013

mandated to focus on workplace and chemical safety only. In addition, the list of designated places are public venues and not places that the Health and Safety Authority would identify for any level of inspection save in a workplace context.

I wish to clearly state that I endorse the general principle of making defibrillators available in public places, however, we must always be mindful of prevention as a first principle and, in turn, we must continue to progress the configuration and integration of the emergency medical services for co-responder networks, as I outlined earlier.

I want to speak about prevention. We all know that prevention is better than cure. Historically we have been quick to pay lip service to it and slow to pay for it. The actions that we take against the tobacco industry, making tobacco products less available and making children less vulnerable to the advertising of them are hugely important. I equally believe that the other areas we need to address are those of obesity and the abuse of alcohol and that addressing those will hugely reduce cardiovascular events. I accept that the principle of having more defibrillators available will also be valuable in fighting the loss of life resulting from cardiac events.

As most cardiac arrests take place outside the hospital, a public health programme based on trained lay first responders providing early cardiopulmonary resuscitation or CPR and defibrillation may save lives. However, the majority of cardiac arrests occur in the home and less than half of these have a heart rhythm abnormality that cannot be corrected by a defibrillator.

Evidence suggests that the clinical benefits and cost effectiveness of a public defibrillation programme are strongly related to the likelihood that a cardiac arrest will occur at a location where a defibrillator is sited. There are therefore a number of questions that need to be considered when designing such a programme for Ireland, including the quantification of clinical benefits, the identification of the appropriate sites for the defibrillators and to address other organisational issues, including costs.

I have sought and received Government approval that the Health Information and Quality Authority undertake a health technology assessment of a public access defibrillator programme in Ireland. The advice from the assessment will inform my subsequent decisions on the design and implementation of a national programme. I also have approval to draft a general scheme of a public health (availability of defibrillators) Bill, subject to the technology assessment which should also include a regulatory impact assessment, to which the Senator has alluded indirectly in terms of the cost of businesses and so on, and also subject to identifying where defibrillators are currently sited. There is no need to double up on their provision in that if they are already sited in the local Garda station and the GAA, would one be also needed in the post office as well in a small village? It would be hard to justify the cost of that. We need to get the best advice on where they should be sited and where they are currently sited to maximise the return in terms of lives saved.

There is therefore a considerable requirement in defining the range of settings and events as well as monitoring and evaluating the provisions of a community defibrillator programme. The health technology assessment will address key issues in determining how we advance this programme.

I thank Senator Quinn for introducing the Bill and request that the Seanad support my approach in conducting a health technology and risk assessment, HTA, and subject to that my Department will draft a general scheme of a public health (availability of defibrillators) Bill.

I will not oppose the Bill. I hope that I will have the Senator's support to carry out the health technology assessment.

Senator Marc MacSharry: I thank the Minister for returning to the House again today. I appreciate all the time that he gives us. I commend Senator Quinn in particular and Senator Crown on bringing forward this Bill. It is a no-brainer. Senator Quinn has made the points on the positive impact that this can have. The statistics seem to show it is all about how quickly a person can have access to a defibrillator. The key period is five minutes and if access to a defibrillator is secured within five minutes survivability is of the order of 50% for young people but if ten minutes elapse before access is secured almost none would survive, but with CPR around 10% to 20% would survive. It is a no-brainer. Defibrillators should be made available as widely as possible and, thankfully, they are. The bar that I frequent has one and it is clearly visible behind the bar counter. My local football club is fundraising in order to install one in its clubhouse. Senator Quinn has done us a service by making a pitch for the installation of defibrillators at designated locations and I agree with all of them. The process need not be delayed. It is good that the Minister does not oppose the Bill. It is also good that HIQA is examining the potential to extend the Senator's list. We should push on and use the Senator's Bill as a template for making defibrillators and training widely available. Frankly, I disagree with the Minister's statement that if a post office has a defibrillator the local GAA club does not need one. The measure is about saving lives to the extent that funds are available. Funding could be secured by encouraging the private sector to get involved. The Government could provide a tax write-off to an individual or company that sponsors the installation of a defibrillator and training. Local communities will not be found wanting when it comes to fundraising. They would further supplement capital costs incurred by the Department, the HSE or whatever body is assigned to rolling out the scheme.

The Construction Contracts Bill was abandoned for a long period, but now there has been some progress. Today's Bill provides a template and leaves us with no excuse to delay the programme. Perhaps HIQA could be asked to bring its deliberations to a speedy conclusion. If that happened we could kick on and roll out a national programme and worry about the cost at that time. The overall picture would be a gain because the saving of lives greatly outweighs the creation of a capital outlay for the State programme.

Senator Quinn mentioned a survival rate for out-of-hospital cardiac arrests that was formerly 1% and is now around 6%. The target of a 50% survival rate for young people is achievable and is something that we should strive for.

The Minister used much of his speech to praise one of his clinical programmes entitled Changing Cardiovascular Health. He celebrated the fact that we have risen from the bottom of the league to the very top in 18 months. That is in the eye of the beholder and depends on which side of the House one sits on. The clinical programmes have been widely celebrated. The national cancer control programme and the new approach to cardiac care have been a great success for 80% of people. I am sure that objective commentators find statistics showing that these clinical programmes provide 80% coverage when operating at optimum levels acceptable and something to be celebrated. The north west region does not have the appropriate infrastructure to roll out the ambitions contained in Changing Cardiovascular Health. I have said that many times here. The region does not have a cardio categorisation laboratory and there is no plan to create one. Instead, when Professor John R. Higgins rolled out the new hospital programmes in a private briefing to Oireachtas Members he said to me that the road between Sligo and Galway would improve and cross-Border co-operation would be expanded. Let us put politics aside.

The people of the north west region deserve a little bit more strategic planning by their Government. It does not matter that whether people support the Labour Party, Fine Gael or Sinn Féin. It is extremely insulting for someone to simply say we are going to improve the road from Sligo to Galway and we are going to talk a little bit more with the North-South Ministerial Council. The Minister of the day has the comfort of hiding behind statistics. The clinical programmes have been extremely successful but only if one lives in the right part of the country. It is a different picture if one lives north of a line between Dublin and Galway and west of Mullingar.

We all wish the peace process continued success. However, I like to think that the Minister of State, Deputy Michael Ring, is looking after my sporting needs in the context of legislation rather than his counterpart across the Border. I do not expect the Queen of England to look after our health. There is much to celebrate about the clinical programmes but at some stage the Government will need to take appropriate cognisance of the fact that the region has inadequate cardiac care and no radiotherapy for cancer treatment. I apologise for going off on an aside but the Minister did the same when he made his address.

I commend the Bill to the House and commend Senator Quinn on his introduction of it. I regret that Private Members' Bills presented by non-Independent Senators are not always openly encouraged.

Senator John Gilroy: Or done as well-----

Senator Marc MacSharry: That is in the eye of the beholder.

Senator John Gilroy: -----even by those on the Government benches.

Senator Marc MacSharry: Sadly, Private Members' Bills such as the Access to Cancer Treatment Bill introduced by Senator Crown and me, the Family Home Bill and other Bills were interpreted as political ammunition even though they were not. I take solace in the fact that some of good suggestions made by Independent Senators have been embraced. I hope that today's Bill will move forward apace, unlike the Construction Contracts Bill, and I congratulate Senator Quinn again.

Senator Colm Burke: I welcome the Minister of State and I thank the Minister for Health for being here earlier. I also thank the proposer and seconder of the Bill. I thank Senator Quinn and his advisers for a carefully drafted Bill. I have drafted legislation so I know it takes time to draft and prepare legislation.

I will start by referring to the Minister of State's area of Castlebar. In the past few weeks an inquest on a 39-year old man who died outside a nightclub was reported. The jury recommended that all Garda stations should have defibrillators and gardaí should be appropriately trained. Twenty-five years ago there were very few fire extinguishers on properties but legislation made it mandatory to install a certain number of fire extinguishers per square foot in a building. The regulation led to greater fire prevention and ensured that outbreaks were dealt with immediately, with less reliance on a response by the fire service. That proves that when action is taken everyone benefits. The same applies to this proposal. I am familiar with the issue of cardiac arrest. A member of my family survived a heart attack due to the fast reaction of his GP and the emergency services. Therefore, I support the Bill.

Last December a report on equipping GP surgeries with defibrillators was published. Professor Gerard Bury, professor of general practice at University College Dublin, led the study.

He stated in his report that only one in 20 people would survive a sudden cardiac arrest if it happened out of hospital. That statistic further emphasises the importance of today's Bill. Professor Bury further stated that the availability and proper use of defibrillators by GPs increased survival rates three- or fourfold. He pointed out that it costs around €4,000 for a defibrillator and training to be provided to a GP. If all GP surgeries were fitted with a defibrillator and training was provided there would be a great improvement in how GPs respond to and deal with such emergencies. All GP surgeries in the country should have defibrillators and proper training should be supplied. The Department of Health should examine this immediately. The infrastructure is in place in GP surgeries. We are talking about having primary care units around the country and perhaps we should examine the basics of having something as simple as this. Perhaps we should be working with the existing structures and ensuring both the equipment and training are provided. That would be of assistance in dealing with the issue. Many of us make the presumption that GP surgeries might have defibrillators, but I was surprised to find that such a large number of GPs would not necessarily know how to use one. This is very relevant in rural areas, in particular, where the nearest hospital might be 20 or 25 miles away. We should urgently examine this issue, especially in rural areas where there is a distance to be travelled by the emergency services and in transporting the patient to the nearest suitable unit.

The Bill is welcome. It has my full support in dealing with and progressing this issue. In my earlier discussions with Senator Feargal Quinn he accepted that there probably would be a need for some amendments to it. We should not put this Bill on the shelf and wait another four or five years before any action is taken in this matter. I welcome the Bill and the Senator has my full support.

Senator Mary Ann O'Brien: I welcome the Minister of State. I will not take six minutes because, like Senator John Crown, I am delighted with the Bill on which I congratulate Senator Feargal Quinn. As Senator Marc MacSharry said, this is a no-brainer. The Minister for Health, Deputy James Reilly, talked about prevention, which we all want to see. We want to see nil use of tobacco, responsible use of alcohol, correct diet and exercise, which is a wonderful, educational, long-term goal for Ireland. I also believe "prevention" is a word we need to use in conjunction with the Bill. We will get it through and it will prevent deaths and save the health service money because somebody who survives a heart attack but is incapacitated in hospital long term is costly to the State. What is more important for us in the Seanad and the country than the health of citizens? To be able to stand here and be part of something that could help save people's lives is amazing.

I was disappointed by what the Minister for Health said at the end of his contribution. I was excited when he said, "I have sought and received Government approval." I thought he was going to say, "Come on Senator Quinn; let us push your Bill through." However, he went on to say, "The Health Information and Quality Authority will undertake a health technology assessment of a public access defibrillator programme in Ireland." How many years will that take? Again, as Senator Marc MacSharry said, this is a no-brainer. The Minister said he would think about drafting a Bill when the report came out. The Bill has already been drafted; the work has been done. We need to work together with Senator Feargal Quinn to produce a few amendments and tweak the Bill.

I would have a lot more questions for Senator Feargal Quinn on funding. Senator Marc MacSharry raised the issues of tax write-offs and fundraising. I own and run a small company and some eight years ago I put in place a defibrillator. We updated our training programme only two weeks ago. We have 36,000 sq. ft. and we like to train people in all parts of the building.

The defibrillator is to be found only three minutes away from anyone and there are 112 of us in the building. For me, it is a no-brainer for the employees who work eight or nine hours per day. I would like to make it part of the health and work safety programme. There are some ridiculous things we do in health and work safety rules that are not anything like as important as this could be in saving the life of a visitor to one's business or that of one of one's valuable employees. I was so excited to see the Bill today because we did it in our own little company eight years ago. As one of the former Senators said, like a fire extinguisher, this is a must-have.

Senator Feargal Quinn mentioned supermarkets, but I would like this to be broader. What is wrong with all workplaces with a certain number of employees having a defibrillator? We will have to examine the issue of funding. That year we were not particularly profitable. Senator Feargal Quinn mentioned a figure of €1,500, plus some training costs. One can usually obtain a grant towards training. Surely businesses can find that money to protect the health and lives of their employees. We could consider apartment buildings and landlords; there are many other places of which we can think. I am shocked to think that GPs are not trained. Senator Feargal Quinn has my full support and if there is anything I can do to help him push the Bill through, I ask him to call on me.

Senator Sean D. Barrett: I welcome the Minister of State, Deputy Michael Ring, and what the Minister for Health said earlier. I congratulate Senator Feargal Quinn on bringing the Bill before us. In the area of health we need these very low-cost, cost-effective measures. Other Senators said many of the things I wanted to say on defibrillators, fire extinguishes and the Heimlich manoeuvre. People died at dinners because we did not know how to do the manoeuvre to prevent meat from clogging their windpipes. Road safety measures reduced the number of deaths on Irish roads from 650 to approximately 160 last year. There are emergency medical technicians in ambulances. There used to be drivers only. Now they perform extremely valuable work, as the Bill indicates.

Senator Feargal Quinn has said there is a 10% reduction per minute in survival rates; therefore, we must take this action within ten minutes typically. I support his goal in respect of the survival rate.

I welcome Senator Colm Burke's support for the Bill. Senator Feargal Quinn's estimated cost to buy a defibrillator is €1,500, €100 to maintain it and €60 to €100 for training. Therefore, Senator Colm Burke's figure of €4,000 per GP might be unnecessarily large. Portugal got there first. Manitoba also got there before us.

The 40% survival rate at Dublin Airport is important. In the Department of Transport, Tourism and Sport there is a sizeable budget for promoting safety on the railways of €13 million or €14 million. Could we use that budget to have defibrillators on trains? With the free travel concession, many elderly people travel on trains and there have been cases involving people who were returning from sports fixtures. If a train is trapped between two stations or out in the country, it is difficult for an ambulance to get to people; they would hardly make it in ten minutes. Perhaps the same could be done in the case of buses. I do not think there is a special bus safety budget, as there is for trains.

When the Minister of State is reviewing this issue with the Minister of State at the Department of Transport Tourism and Sport with responsibility for public and commuter transport, Deputy Alan Kelly, will they consider having defibrillators in taxis? There is an onerous new requirement that all new taxis must be wheelchair accessible. That adds substantially to the cost

involved. A defibrillator would not add much to the cost and could be of value to passengers. The provision in respect of entertainment venues in section 2(v) of the Bill would have covered the Castlebar case Senator Colm Burke mentioned. The Seanad is at its best today, doing things for society at little cost to the Exchequer. We are helping to reduce sudden cardiac death in a very cost-effective way. I am delighted the Minister will not oppose the Bill. I acknowledge Senator O'Brien's caution but the further study is done. We saw that a while ago on the damage trucks with very few axles do to roads. The Minister of State at the Department of the Environment, Heritage and Local Government, Deputy O'Dowd, indicated that the Department would have to study the issue. The research has been done and all the Department needs to do is download it as Senator Quinn did. There is no need to waste time.

In the current Estimates, the charge per bureaucrat in the Department of Health is set out at not far short of €75,000. That represents 50 defibrillators gone because some guy is conducting a study on behalf of the Minister to prove something that has already been proven before the House. The Minister of State should not bother with the study but should just go ahead and do it. I know that Deputy Ring is enthusiastic, which is why he should go ahead. He will certainly have the support of the House.

Senator John Gilroy: I welcome the Minister of State to the House. I would say to Senator Barrett that some of our bureaucrats are well worth €75,000 a year. I commend Senator Quinn on the Bill, which is important and timely. Indeed, some colleagues referred to it with the awful term "no-brainer". The necessity for the widespread distribution of life-saving equipment to make it available to anyone in our communities who needs it is evident. While we do not and could not disagree with that logic, there are logistical difficulties, as the Minister of State briefing indicates at the last page. In the absence of defibrillation, CPR is not always sufficient to save a life and the converse is also true. There are matters which do not appear obvious at once but become so when we consider the logistics.

The categories of premises referred to in the Bill are widespread and well-thought out. I agree with all of them and might add one or two. The costs appear in the general scheme of things to be very affordable at €1,500 to buy the equipment, €100 to maintain it and €60 for training. The training course involves minimal requirements as most modern defibrillators detect electrical charge themselves and do not operate if such a charge exists in the cardiac tissue. They are rather easy to use. I am chairman of my local soccer club, which has a defibrillator which even I know how to use. It shows that it is certainly not difficult. There are certain legal issues to consider. Perhaps, the legislation could provide for stronger indemnification of users. Last year, we saw a young footballer in England suffer publicly and distressingly a cardiac event. The prompt intervention of medical assistance ensured the young man was walking back to take the acknowledgement of the crowd some two months later. If the equipment and expertise had not been available to him, he would probably not have survived. He said so himself.

There are one or two things that might be added to the Bill, though they present their own difficulties. There are suggestions that can be made as to where else we might place defibrillators. The governing bodies of some sporting organisations might not thank me for certain suggestions. We often think when we hear about the use of defibrillators of the high profile cases of young people who die unexpectedly. The Minister of State has reminded us that 5,000 people per year lose their lives due to cardiac events. We must broaden our thinking beyond what is immediately obvious. The governing bodies of sporting organisations might well have a role to play. It was put to me some time ago that it would be a good idea if all referees were trained in the use of defibrillators. What would happen if one had a defibrillator in one's clubhouse on

a Sunday morning during which a small soccer match with three or four spectators was taking place? I know such scenarios well. In those circumstances, there might be no one present who is trained in the use of the defibrillator. Lack of knowledge and a fear of doing more harm than good might mean the defibrillator was not used where it could have helped. It would be a good idea to train all referees. It might not be of use during training but when a game is being played, a referee is always present. Perhaps, we could look at that.

The Minister has indicated that he is prepared to accept the Bill, which I welcome. It is a great idea. Like my colleagues, I recognise that there is a complexity attached to this which might require further consideration. As Senator Quinn and Senator O'Brien have said, such consideration would not take a great deal of time. There information is there which is why we should get on and implement it. I commend Senator Quinn and welcome the Bill, which the Labour Party supports fully.

Senator Averil Power: I join colleagues in strongly welcoming the Bill and commend Senator Quinn for bringing it forward. I welcome the Minister of State's remarks that the Bill is accepted in principle. I hope we can move it forward at a faster pace than his initial response indicated. The early availability of defibrillators has been recommended in a number of different reports and much of the research work has been done. We could move forward at a very early stage. There are a number of amendments which could be made on Committee Stage but I see no reason for delay in getting there.

This is a very important Bill. The Health Research Board indicates that up to 5,000 people die every year from sudden cardiac arrest. Those events might not have been fatal had people had early access to defibrillation. Time is absolutely of the essence. The chances of survival for a person who has suffered a cardiac event drops by 10% every minute. Even if a person does survive, the risk of serious brain damage increases. I understand that the response time in Dublin is approximately seven minutes, but it is much longer than that around the rest of the country. The harsh reality is that the absence of defibrillators is costing lives. An ambulance cannot get there in time to save a person. The use of a defibrillator is a simple process. The latest version of the technology will even talk one through all the steps and includes visual and voice prompts to tell someone what exactly they need to do. The technology will not provide a shock unless it is needed. It is incredibly smart technology and very cheap at the price. This is fantastic legislation which deserves support.

We have the research that shows that defibrillators have saved lives. The policy at Dublin Airport of installing defibrillators means that 19 people are alive today who would not otherwise have survived. People of all ages, including an 85 year old gentleman who was saved a few months ago, are still with us because the airport installed the machines and trained its staff. It ensures that within a few minutes walk of any part of the airport, there is a defibrillator. I know first-hand how important the technology is. A good friend of mine, Seaghan Kearney, is a year or two younger than me and very healthy. He is very fit and plays football a couple of times a week. He was playing football one night with friends and simply dropped to the floor. I was talking to him earlier when I told him I was speaking on the Bill. He said he was very lucky that there was one charge left in the defibrillator in the sports hall where he was playing and that there was a fireman playing who was not there most nights. Seaghan says it is pure luck that he is here. Every day he thanks God there was a defibrillator that saved his life. He said it should not depend on luck and that we should be able to say to people across the country that defibrillators are available. We must make the effort to put them in place. For that reason, it is important. Seaghan Kearney said there was a defibrillator there but it was of nearly no use

to him because it had not been charged. If we introduce a policy whereby there is a defibrillator in every building, we must bear in mind the ACT campaign of the Mater Foundation. The three steps for ensuring defibrillators work is that they are accessible, and not locked away in a press for which no one knows where the key is, that they are charged and that people are trained in how to use them. Otherwise, it is futile and there is no point in having machines if people cannot use them. It is important to ensure there is an education and training strategy.

With regard to costs, this deserves the priority of having funding behind it. The point has been made about the cost to the health service if we do not reach someone in time and people end up in prolonged care suffering serious issues such as brain damage, which would be prevented if we had someone to help them as first responder and to provide CPR or use the defibrillator. We would save money in the health service in the long run. It is simply a matter of prioritisation.

For small businesses under pressure, we need to provide grants. The same applies to sporting organisations. There must be funding behind it. Some companies provide training and the standard varies in respect of the level of support provided afterwards. I would like to see a whole strategy, working with the Mater Foundation, which has done major work on this issue. The foundation knows what needs to be done. There should be a national strategy to train the trainers and ensure people are available, not just through private organisations, to provide training.

Later, we should ensure every transition year student is familiar with this. Senator Gilroy made the point that it is so easy that even he could figure it out. One session with a group of transition year students, who will be the peers playing in the football match, is of benefit. Cardiac arrest affects people of all ages but there is an issue of sudden adult death. Let us make sure that if something happens to a young person, peers are trained in how to respond and have the confidence to respond. What puts people off going to someone's aid is not having confidence and worrying about what may happen. I welcome the fact that the Bill deals with civil liability and that people have nothing to worry about by putting themselves forward. They do not have to worry about legal exposure. I strongly welcome the legislation and I hope the Minister can ensure the Government gives it greater priority to move it forward. We can talk through amendments and ensure everyone is happy. If the Department has concerns, they can be addressed as part of the next Stage. I hope we will not wait a long time to get a signal to proceed to Committee Stage. Everyday, lives are being lost for the lack of early defibrillation.

Senator Terry Brennan: Ba mhaith liom fáilte a chur roimh an Aire Stáit ar ais go dtí an Teach. I acknowledge the presence of members of the Irish Heart Foundation in the Gallery and I welcome them to the House. I am glad to see the Irish Heart Foundation strongly supporting the Public Health (Availability of Defibrillators) Bill. If the legislation is passed, it can provide a powerful legislative platform to ensure that many more lives are saved through bystander CPR and early defibrillation. About half of the 10,000 deaths from cardiovascular disease in Ireland each year are due to sudden cardiac death and 70% of these occur outside hospital, as other Senators stated. CPR training is a major priority of the Irish Heart Foundation, which I welcome, and I understand the foundation oversees the training of approximately 60,000 people each year. I commend the foundation on the initiative. The programme has helped to produce a survival rate, when resuscitation is attempted, of 6.5% according to the latest available research from Ireland's national out-of-hospital cardiac arrest register. Some 133 lives were saved out of 2,033 patients for whom data were available over a four-year period to the end of 2011.

However, international comparisons show that higher rates could be achieved, particularly when the equipment and training are in place to ensure early recognition, early CPR and early defibrillation. For example, survival rates in Norway, Sweden and Denmark are 13%, 11% and 9%, respectively, while higher rates have been recorded in the Netherlands, where research over a three-year period shows survival rates of 49.6% for patients treated with an onsite defibrillator, compared with 14.3% when no defibrillator was available. We are a long way behind.

The presence of defibrillators in communities creates demand for CPR training that otherwise might not exist. Where training is inadequate or non-existent, as is often the case, defibrillators will not be used and therefore can play no life-saving role. Such situations would concern me. In my last employment, we had regular training and reminders about CPR, which was an advantage.

Legislating to provide more defibrillators is a vital prerequisite to increasing the life-saving role of CPR but this can only be maximised with proper regulation to ensure adequate ongoing training. I cannot emphasise it enough. Whether defibrillators or CPR, the wider population must be able to use them. I am convinced that widening the availability of defibrillators in tandem with certified CPR training will result in considerably more lives being saved in communities across the length and breadth of Ireland. International experts estimate that in optimal conditions, where there is high availability of defibrillators and a high level of people trained in CPR, the survival rate when resuscitation is attempted could be as high as 40%.

Each year there are 5,000 to 6,000 cardiac arrests in Ireland. The report of the task force on sudden cardiac death recommends a person should receive defibrillation within three to five minutes of the arrest occurring. I was at a wedding eight or nine years ago and saw cardiac arrest in a young man of 55 years of age, who was slim and did not drink or smoke. The man was a drummer in a pipe band and the bride was a drummer in a band in Canada, as well as being a nurse. She had friends who were doctors in Northern Ireland and Canada attending the wedding. He hit the ground with the back of his head. There was no sign and someone tore his shirt off and called for an ambulance. Within ten seconds, there were six doctors around the young man. He was lucky because if it happened in a hospital corridor, he would not have had attention so quickly. The ambulance took 20 minutes. I felt for a pulse but he had none for 20 minutes. When the defibrillator was introduced, it transformed the situation. I went to see him in the hospital in Newry and I could not believe that a half an hour later he was sitting up in bed. Training in CPR is important. If nobody at the wedding had been able to perform CPR he would have died, and he realises that. I cannot emphasise enough the importance of training.

There are defibrillators at different locations in the Leinster House complex and 25 staff are trained to use them, although I have not seen them. I do not frequent the bar but somebody said there was one there. It would be no harm to have training on a continual basis. I commend Senator Quinn. This is a marvellous Bill on which he has done a great deal of work. It is a sensible Bill and both he and Senator Crown have my full support.

Senator Jillian van Turnhout: I would also like to heap praise on Senator Quinn regarding the Bill he has introduced. I am supportive of this initiative. I understand the Minister for Health wants to conduct a technical assessment but he did not outline a timeframe. I am always concerned when Ministers do not outline a timeframe. Perhaps it could be completed before we return in September and we could then complete the passage of the Bill. I am sure Senator Quinn would give it the summer to allow that to take place.

The Bill represents a powerful legislative platform to ensure many more lives are saved through bystander CPR and early defibrillation. This is important, given that an estimated 10,000 people die each year from cardiovascular disease, of which almost half are from sudden cardiac death. A total of 70% of these deaths occur outside hospital. The survival rate for out-of-hospital cardiac arrest was 6.5% in 2012. This figure can and must be improved upon. International comparisons show that higher rates can be achieved, particularly when the equipment and training are in place to ensure early recognition, early CPR and early defibrillation. Survival rates in Norway, Sweden and Denmark are 13%, 11% and 9%, respectively. Even higher rates have been recorded in the Netherlands, where research over a three-year period to 2009 showed that neurologically intact survival was 49.6% for patients treated with an on-site defibrillator compared with 14.3% where there was no defibrillator. Perhaps this will help the Minister with his research. I fully support the efforts made in this Bill to achieve a survival rate of 40%.

Legislating to provide more defibrillators is a vital prerequisite to increasing the life-saving role of bystander CPR. Like others, I commend the excellent work of the Irish Heart Foundation's Chain of Survival initiative, which comprises four vital links that can save a life: early access; early cardiopulmonary resuscitation; early defibrillation; and early advanced care. In addition to overseeing training in the initiative, the IHF provides significant assistance enabling communities and organisations throughout Ireland to maximise early CPR and defibrillation. The foundation has unrivalled expertise in the practical operation of the efforts we are discussing.

Senator Brennan and others mentioned that the presence of a defibrillator often creates demand for training on how to use it and, therefore, helps to create knowledge. It is important to ensure that through regulations there is adequate, ongoing and certified training. Everybody knows how important it is to regularly update training in the workplace and so on. Knowledge is power. We need to hardwire knowledge of CPR into the public consciousness by including a CPR training module in the school curriculum. This would save many more lives. I am a girl guide leader and we include it in our training. Everybody engaged in youth work and sports should include CPR in training. Young people who aim to be leaders in these organisations should have access to this knowledge. We should share such knowledge, because who knows when we will need to put it into practice?

I raised an Adjournment matter with the Minister for Health last week relating to National Stroke Awareness Week. This year's focus is on the IHF's Act FAST campaign, which was launched in 2010 to increase public awareness about the early signs of stroke and to encourage speedy medical intervention. During the debate, I referred, in addition to financial assistance, to other supports at the disposal of the State, such as the provision of advertising sites in high-footfall areas of Government buildings and property and consideration of a way to reimburse the 23% the foundation has to pay in non-returnable VAT for the campaign, which is proving not only to save lives and improve quality of life but also to save the State money.

There is also a VAT argument to be made regarding defibrillators. There is an anomaly in our taxation system whereby an individual can get a tax rebate of 23% on the purchase of a defibrillator whereas a sporting organisation or club of volunteers cannot. This needs to be rectified. I appreciate the anomaly is rooted in VAT law but I would like to know what is being considered in the context of existing taxation law to address this issue. I will continue to pursue this issue where the State charges VAT when it is saving money because NGOs, sporting and youth organisations and civil society organisations are doing its job and saving lives in some

cases. I commend Senator Quinn on this initiative, which I fully support.

Senator Brian Ó Domhnaill: I also commend Senator Quinn on this legislation, which is welcome and very much warranted, given that many thousands of people lose their lives each year due to heart attacks or sudden cardiac death. If the necessary equipment and assistance were more widely available, according to all the expert reports, including that of the task force on sudden cardiac death in 2006, survival rates would be much higher, particularly in the three-to five-minute window after an attack occurs.

The Bill details all the premises in which defibrillators should be made available. The Senator has conducted important research and I subscribe to supporting it, as will every other Member on a cross-party basis. I am working with my local soccer club to hold a fund-raiser in mid-July to purchase a defibrillator. There is no point in going down this road without doing the training and we have engaged the Irish Red Cross to undertake training in August and September with at least 12 club members in order that we can avail of this facility. Every sporting organisation needs to have a defibrillator. We have witnessed in recent years at both semi-professional and professional levels sports people suffering sudden cardiac arrest, which has resulted in loss of life. I am sure the Minister of State will subscribe to that. The GAA has undertaken a worthwhile initiative to fund 1,000 defibrillators through the club system, and that is working effectively.

A number of clubs in my county have obtained the defibrillators, and training was provided. There is no point in having the equipment if there is no training or ability to use it. This is identified in Senator Quinn's Bill.

There is a cost associated with providing defibrillators, although it is not huge. Will the Minister of State consider making a small amount of money available to every sports and community organisation, through the sports capital programme or another programme, to provide at least some assistance in the purchase of defibrillators? It could be for the local community hall or the local athletics, GAA, soccer, badminton, hockey or hurling club, for example. It may be worthwhile to support Senator Quinn's Bill by having the Exchequer match the funding raised by local clubs.

I will not go through the statistics; suffice it to say that every family in the country knows someone who has been affected by heart disease or sudden adult death syndrome. Leaving politics to one side, I believe there is certainly a need to provide this equipment. There is certainly a need to ensure training is available and to support the Bill. I hope that when the Bill is supported this evening, it will not just lie on the shelf of the Government and that it will be passed and implemented. It would be disrespectful for this not happen given the amount of work Senator Quinn has put into it. I commend him on the work. It is an honour to be able to say a few words on the Bill this evening.

Senator Jimmy Harte: The Minister of State is very welcome to the House. With a name like Harte, it is appropriate that I speak on this subject today. In Letterkenny, there is a road named after my father in that the locals call it the "Harte bypass". I fully support the Bill.

In France last summer, I noticed a defibrillator beside the *gendarmerie* station in the square of a small village. That is the model we could use. The French would not agonise over health and safety; they have done as I described and they provide training. We sometimes get tied up with health and safety and then start thinking about defibrillators. We should be pushing for

them first as the training would follow.

In areas that attract tourists, areas of Dublin such as Grafton Street and St. Stephen's Green, Market Square in Letterkenny and towns with sizeable populations, there is a likelihood that someone will collapse from a heart attack. A defibrillator would save his or her life. Defibrillators would not exist if they were not of any use. Everyone knows people with heart-related problems. I had a stent inserted after running a marathon. I believed running would keep me fit but I collapsed three weeks later, although not from a heart attack. Had I had a heart attack in an area such as the square in France, I would have been saved. If, God forbid, I had one in west Donegal or on the street in Letterkenny, I probably would not survive. There is a role for defibrillators and legislators have a role to advance the agenda.

Sports clubs, including local soccer and GAA clubs, provide defibrillators, as Senator Ó Domhnaill said. Every club in the country should have access to a defibrillator. The Government should provide a subsidy or encourage local communities to fund their provision. A local five-a-side club asked me whether I could help out in obtaining a defibrillator. The cost is approximately €2,200. Senator Quinn may correct me if I am wrong.

Senator Feargal Quinn: Even less.

Senator Jimmy Harte: Even less. It would not be a lot of money if the club raised €1,000 and the local authority, HSE or Department chipped in also. It is important that we have the facility because, without such primary care, an increasing number of people would be dead or suffer from heart attacks causing severe damage.

Having spoken to a local cardiologist in Letterkenny, I learned there are not as many heart attacks as there were years ago because of intervention, such as stents, and better lifestyles. However, when a heart attack does happen – it can happen to both young and old – a defibrillator is invaluable. The cardiologist said heart disease is very much a genetic phenomenon and that the problem with the gene pool is that there is no lifeguard. Many people walking around today are quite fit and healthy but they may have an underlying heart condition that will not be detected until they collapse in the street. The first 30 minutes are so important to survival. By the time an ambulance reaches west Donegal or south Kerry, it is probably too late. This is why defibrillators are required. I am sure that all French and other European towns have a defibrillator. One could not miss one in the square. If somebody does collapse, there is always someone in a crowd of 100 people who has CPR training or who is a doctor or nurse. One can be sure that someone will have the necessary experience. There is no point in placing a defibrillator on top of a mountain but it is very important that they be in busy areas where people congregate.

I fully support the Bill. We have a new supporters club and we are talking about raising money for charity. This may be one area in which money could be raised. It could be given to schools for clubs, which could raise the remainder themselves.

Senator David Cullinane: I welcome the Minister of State to the House. I commend Senator Quinn on introducing practical legislation. He has had a good run in recent weeks, bearing in mind his Bill that passed through the Dáil and the Seanad Bill that progressed through Second Stage. The latter Bill, or a similar one, was introduced in the Dáil by some Independent Members. The Bill before us is important and practical and should be supported. It makes a great deal of sense to have defibrillators at specified public locations and it can save lives.

The Bill is very well drafted. Obviously, we may have issues of concern in regard to some

aspects. While the Minister of State may have concerns, I hope the legislation will not be held up just because it has been produced by somebody outside the Government. That tends to happen at times. I hope the Bill will be given due regard, that we can ensure it will receive the attention it deserves and that it will be passed in both Houses.

Any Bill that seeks to improve safety and save lives, where possible, by putting in place appropriate equipment should be considered. The Minister of State may be interested to learn that I am working on an initiative in this regard concerning the fishing industry. He may know about the recent horrific tragedy off the coast of Waterford. We have had far too many tragedies off the coast of the south east and elsewhere. This highlights the need to improve safety and to have personal location beacons for fishermen to wear. The beacons have GPS and can be worn as wristbands, or they can be integrated into life jackets. These are practical measures that we should be considering. There are new technologies that should be embraced. It makes perfect sense.

When I was a member of Waterford City Council, I tabled a motion very similar to this legislation. The State should lead by example. All local authorities and State agencies, bodies and buildings should have defibrillators. It makes perfect sense, and we need to set an example. There is little point in legislators saying every organisation should have defibrillators if we do not have them. Every time one passes the Members' restaurant one of the first things one sees is the machine. We lead by example. Every State body and organisation and public office should have the equipment.

Sudden adult death syndrome and sudden cardiac arrest are issues with which the general public has become increasingly familiar in recent years. In particular, in Ireland we can all recall the very tragic loss of Tyrone football captain Cormac McAnallen several years ago. More recently we saw the collapse of midfielder Fabrice Muamba during a soccer match in Britain who, thankfully, recovered. Many others have not been so fortunate. We can all recall stories, often of young men and women, who have passed away while playing sport and many others who died suddenly from various forms of cardiac conditions when in public.

It is important that, where possible, that the equipment is available. It is important not to forget that while we have seen tragedies, the availability of the equipment has saved lives. There are many examples. A study was done when defibrillators were installed in Dublin Airport, for example, which found they saved lives. I understand 119 lives were saved over a number of years because the equipment was available and those who needed it were able to access it. It saved the lives of tourists.

An airport is a busy place and a lot of people come and go. To save any life is hugely important but to save over 100 lives over, I understand, a three-year period is an important figure for us to bear in mind. Earlier this year *thejournal.ie* reported that 19 lives had been saved in Dublin Airport in a single year as a result of the introduction of the machines ten years ago. In 2012 three lives were saved, including an 85 year old man who had returned with his family and who thanked emergency services.

The Irish Heart Foundation estimates that sudden cardiac death kills more than 5,000 people in Ireland each year, including approximately 100 people aged under 35. Although the survival rate of out of hospital cardiac arrest is approximately 7% in Ireland, it should be noted that 123 people were saved as a direct result of having the equipment nearby in the 12 months prior to October 2012.

All the technical arguments have been made, as well as calls for why this should happen for practical reasons. I appeal to the Minister of State and the Minister for Health to take the Bill on board and progress it through the Dáil and Seanad. Let us examine it on Committee Stage and iron out any issues. Let us make sure we pass the Bill and make it law. We may need to give support to sporting organisations. A sum of €1,200 is a small amount of money when one considers it could save lives. All sporting clubs and organisations are struggling and there are competing demands. We should consider whether grant support is a possibility. I ask the Minister of State to support the Bill and progress it through both Houses.

Senator Feargal Quinn: I express my appreciation to the Minister of State and the Minister for Health, Deputy Reilly, for accepting the Bill, and to everyone who has spoken. It has been an eye-opener to hear the words and experiences of others.

The Bill would not have come about if I had not gotten a lot of help. I am delighted to see some members of the Irish Heart Foundation are here. I commend Chris Macey, Sarah Cane and Gearóid O Man. They have been very supportive of the Bill, as was the Bills Office which gave me a great deal of help. Brian Hunt put his heart and soul behind drafting the Bill and my assistant Anne O Broin played a very large part in this. It would not have been enough without the wholehearted support we have had today. I greatly appreciate all of those who have contributed.

The ideas which have come from so many Members will help a great deal in making the Bill capable of being enacted as early as possible. Senator van Turnhout said we should make sure that during the summer, all the references the Minister made to having assessments done will be completed and, it is to be hoped, by September we could get it moving. It is a non-contentious Bill and has 100% approval. We need to make sure it is passed on that basis.

I have a daughter living in France who mentioned to me that there is a sign indicating the presence of a defibrillator outside every town hall and gendarmerie. A central piece of law did not introduce that policy, rather, each individual town decided on it with the enthusiasm of the townspeople. It is possible to have them in commercial businesses. If one shop has one and its competitor does not, it is an added advantage. The cost is comparatively small; I understand it is approximately €1,500 initially and €100 per year to maintain. People have to be trained, which costs between €60 and €100 per person. The cost of equipment and training six people would be approximately €2,000.

An employee in one of my supermarkets was 25 years of age, fit, healthy, energetic and in the gym on his day off when he died. I do not know whether a defibrillator was available but if there was it did not get to him quickly enough. I went to the funeral and met his parents and brothers and sisters. Senator Power spoke of the young man in a club she attended.

There is an urgency about the Bill. The Construction Contracts Bill was initiated three years ago, and went through the Seanad and most Stages in the Dáil. The Minister, Deputy Reilly, showed enthusiasm for this Bill. It will move and will be passed very quickly. The Minister said he would not oppose it. He will act with speed and commitment, and it will become law. Whether this Bill or another system is put into operation, the fact it has been discussed on Second Stage today is positive. Let us make sure we can get it to Committee Stage as soon as we can.

There have been many helpful contributions. Senator van Turnhout referred to the VAT

19 June 2013

anomaly, of which I was not aware. We have learned a great deal. I appreciate those who have supported the Bill. It is a reminder of the value of this House that it is possible to introduce legislation. This is not contentious and has broad support. The Irish Heart Foundation is very supportive of the Bill and its potential to save lives. The sooner we can enact it the better.

I do not think cost is a significant concern because it is comparatively small, in particular when compared with the value of a life. As a country we value the lives of our citizens and this is something we can do. There are some public private partnerships in place. I refer to the dublinbikes scheme which has done well. Defibrillators could be made available in exchange for advertising space or through sponsorship. There are innovative ways to introduce them. Manitoba was mentioned as one of the first regions to do something about this issue. We can learn a lot from what has happened. In looking at the next step, we do not have to invent something new or spend a lot of time on commercial considerations.

Question put and agreed to.

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

Senator Colm Burke: Next Tuesday.

Committee Stage ordered for Tuesday, 25 June 2013.

Sitting suspended at 6.40 p.m. and resumed at 7 p.m.

Offences against the State (Amendment) Act 1998: Motion

Senator Ivana Bacik: I move:

That Seanad Éireann resolves that sections 2 to 4, 6 to 12, 14 and 17 of the Offences against the State (Amendment) Act 1998 (No. 39 of 1998) shall continue in operation for the period beginning on 30th June 2013 and ending on 29th June 2014.”.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Jan O’Sullivan): The House will be aware that the Offences against the State (Amendment) Act 1998 was passed in the wake of the murder of 29 people by the Real IRA in Omagh on 15 August that year. It was a necessary response to that atrocity and the loss of 29 innocent lives. That bombing and those murders also represented a direct attack on the fragile peace process and the State as a major sponsor of it. They demanded a robust response from the State and a clear statement that the atavistic view of the murderers would not prevail. We had had enough of their agenda of hatred, sectarianism and contempt for the will of the majority. Like the rest of us, they had been given the opportunity to decide in a democratic way on the future of the island and the relationship between the two jurisdictions. Their views did not prevail and, like all anti-democrats, they resorted to murder and terror, but they were never going to succeed and they have not succeeded. However, to this day they continue with their ideology of hatred and destruction. At the time, 1998, the State had a responsibility to respond to the direct challenge they presented. One such response was to provide strong legislative powers to ensure the Garda and the courts would be in a position to meet that challenge. The Offences against the State (Amendment) Act 1998 was a necessary and proportionate response.

The Act contains a series of amendments to the Offences against the State Acts 1939 to 1985 to make them more responsive to the threat from certain groups. Principally, these amendments concern changes to the rules of evidence for certain offences under the Acts, including the drawing of inferences in certain circumstances; the creation of new offences such as directing an unlawful organisation, possession of certain articles and collecting information; and extending the maximum period of detention permitted under section 30 of the 1939 Act to 72 hours.

Section 18 of the 1998 Act, as amended by section 37 of the Criminal Justice Act 1999, provides that sections 2 to 4, 6 to 12 and 14 and 17 must be renewed by the Oireachtas at specified intervals if they are to remain in force. By virtue of resolutions passed by both Houses of the Oireachtas on 13 and 20 June 2012, these sections were continued in force for a period of 12 months, beginning on 30 June 2012. Prior to moving any motion for renewal, the Act requires the Minister for Justice and Equality to lay before the Oireachtas a report on the operation of the relevant provisions. The current report covers the period from 1 June 2012, the end date of the previous report, to 31 May this year. The report was laid before the House on 17 June. It also includes, following a commitment the Minister gave, a table showing the figures for each of the years since the Act came into operation. This is helpful in showing the importance of the Act in equipping the Garda to detect and prevent terrorist actions.

It is the fervent wish of the Minister and the Government that the time will come when these provisions will no longer be required, but as Minister for Justice and Equality, on behalf of the Government, the Minister must have regard to the reality of the situation. The Garda assessment, shared by the PSNI, of the terrorist threat level in Northern Ireland is that it is severe. While the threat level in this jurisdiction may be different, it is imperative that our laws and the police are properly equipped to deal with the threat, whether in this jurisdiction or Northern Ireland. Let no one be under the illusion that these groups do not have designs on the State, as well as on Northern Ireland. This clearly demonstrates the need for the continuance of these provisions. If Senators need reminding, this need is clearly and tragically evidenced by the murder of the prison officer David Black last November. Also, in March this year, among numerous incidents north of the Border, the Police Service of Northern Ireland arrested three men following the interception of a number of mortars in a van in Derry. All three are known to be members of the new IRA. The van contained four mortars which were ready to fire.

It is not only in Northern Ireland that the campaign of terror has continued or that these terrorist groups are active. In March gardaí arrested five men and recovered a firearm at and near the scene of the fatal shooting of Peter Butterly in County Louth. In February gardaí arrested two men in Newbridge, County Kildare involved in the process of making pipe bombs. Also in February gardaí seized three mortar-rocket launcher-type tubes with associated components and arrested three men in an operation near Cahir, County Tipperary. Last September we witnessed the murder of Alan Ryan. In these circumstances the Garda must have at its disposal the appropriate measures to meet this threat. The powers available under the 1998 Act are considered paramount in maintaining effective preventive action against the terrorist groups. North-South co-operation in the area of security is vital and the Minister can give the House the assurance that it has never been better. He keeps in close contact with the Secretary of State for Northern Ireland, Theresa Villiers, and the Northern Ireland Minister for Justice, David Ford. The Garda Commissioner maintains close and frequent contact with Chief Constable Baggott. This is mirrored by contacts between the two forces at every level.

While countering the threat posed by dissident groups is very important, it is necessary not to lose sight of the threat from international terrorism. The 1998 Act grew out of our own

domestic troubles. However, its provisions form an essential element of the State's response to the threat of terrorism from any source. We cannot ignore the growth in recent years of the international terrorist threat. In co-operation with our EU partners, we must continue to counteract any threat from such sources. The 1998 Act forms part of the response to that threat also.

It is the firm view of the Garda Síochána that the Act continues to be a most important tool in its ongoing efforts in the fight against terrorism. The Garda authorities have stated the provisions of the Act are used regularly, as is evident from the report laid before the House. Furthermore, given the considerable threat posed by some dissident groups, it is essential that the Act's provisions continue in force to support the ongoing investigation and disruption of terrorist activity.

I will now deal with the provisions of the 1998 Act which are the subject of the resolution. As mentioned, on 17 June the Minister laid before the Houses a report on the operation of the relevant sections between 1 June 2012 and 31 May this year. The report demonstrates the value of the relevant sections to the Garda Síochána and the necessity for their continued availability in tackling the terrorist threat.

Section 2 allows a court, in proceedings for membership of an unlawful organisation, to draw appropriate inferences where an accused person fails to answer or gives false or misleading answers to questions. However, a person cannot be convicted of the offence solely on the basis of such an inference. There must be other evidence which points towards a person's guilt. The section was used on 62 occasions in the period covered by the report.

Section 3 requires an accused, in proceedings for membership of an unlawful organisation, to give notification of an intention to call a person to give evidence on his or her behalf. This section was used on 19 occasions.

Section 4 provides that evidence of membership of an unlawful organisation can be inferred from certain conduct, including matters such as movements, actions, activities or associations on the part of the accused. This section was not used in the period covered by the report.

Section 6 creates the offence of directing the activities of an organisation in respect of which a suppression order has been made under the Offences Against the State Act 1939. This section was not used in the period covered by the report.

Section 7 makes it an offence to possess articles in circumstances giving rise to a reasonable suspicion that the articles are in possession for a purpose connected with the commission, preparation or instigation of specified firearms or explosives offences. This section was used on ten occasions.

Section 8 makes it an offence to collect, record or possess information likely to be useful to members of an unlawful organisation in the commission of serious offences. This section was used on two occasions.

Section 9 makes it an offence to withhold certain information which might be of material assistance in preventing the commission of a serious offence or securing the apprehension, prosecution or conviction of a person for such an offence. This section was used on 40 occasions.

Section 10 extends the maximum period of detention permitted under section 30 of the Offences against the State Act from 48 to 72 hours but only on the express authorisation of a

judge of the District Court following an application by a garda of at least superintendent rank. Furthermore, the person being detained is entitled to be present in court during the application and to make or to have made submissions on his or her behalf. An extension was granted in ten cases.

Section 11 allows a judge of the District Court to permit the re-arrest and detention of a person in respect of an offence for which he or she was previously detained under section 30 of the Offences against the State Act but released without charge. This further period must not exceed 24 hours and can only be authorised where the judge is satisfied on information supplied under oath by a member of the Garda Síochána that further information has come to the knowledge of the Garda Síochána about that person's suspected participation in the offence. This section was used on four occasions.

Section 12 makes it an offence for a person to instruct or train another in the making or use of firearms or explosives or to receive such training without lawful authority or reasonable excuse. This section was not used in the period covered by the report.

Section 14 is, in effect, a procedural section which makes the offences created under sections 6 to 9, inclusive, and 12 of the 1998 Act scheduled offences for the purposes of Part V of the 1939 Act. This means that persons suspected of committing these offences may be arrested under section 30 of the 1939 Act. This section was used on 52 occasions during the period covered by the report.

Section 17 builds on the provision in the Criminal Justice Act 1994 providing for the forfeiture of property. Where a person is convicted of offences relating to the possession of firearms or explosives and where there is property liable to forfeiture under the 1994 Act, the court is required to order the forfeiture of such property, unless it is satisfied that there would be a serious risk of injustice if it made such an order. This section was not used during the period covered by the report.

As indicated in the report, a number of sections, namely, section 4, drawing of inferences from the statements of an accused person that he or she is a member of an unlawful organisation; section 6, directing an unlawful organisation; section 12, training persons in the making or use of firearms; and section 17, forfeiture of property, were not utilised during the reporting period in question. It should not, however, be inferred from this lack of use that these provisions are in some way redundant or unnecessary. For example, section 17 was used for the first time during the 2011-12 reporting period, despite being present since the commencement of the legislation in 1998. The existence of the provisions means that members of terrorist groups are aware that the State remains resolute in its determination to use every lawful means to defeat them.

Incidentally, far from being redundant, section 12 will, in effect, be strengthened by a provision in the forthcoming legislation to give effect to the Council of Europe Convention on the Prevention of Terrorism. In this regard, the Government has approved the drafting of the Criminal Justice (Terrorist Offences) (Amendment) Bill 2012. The Bill will, when enacted, amend the Criminal Justice (Terrorist Offences) Act 2005 to create the three new offences of public provocation to commit a terrorist offence, recruitment for terrorism and training for terrorism. These offences will carry sentences of up to ten years imprisonment on conviction on indictment.

19 June 2013

As I stated, dissident groups remain a threat to the existence of the State. They are opposed to the benefits that have flowed from the peace process and determined to undermine it. In its laws the State must retain the capacity to defeat them. On the basis of the information set out in the report and the advice of the Garda authorities, the Minister considers that the relevant provisions of the 1998 Act should remain in operation for a further 12 months, commencing on 30 June 2013. I commend the motion to the House.

Senator Thomas Byrne: Fianna Fáil supports the extension of the provisions of the Offences against the State Act 1998 as outlined by the Minister of State. It appears from her statement that these provisions have been used multiple times. They are an essential tool for the Garda Síochána and the courts in dealing with this type of crime.

As stated by the Minister of State, the Offences against the State Act 1998 was a direct response to the Omagh atrocity. The threat of terrorism from dissident Republicans remains and the spectre of global terrorism is growing. We need to ensure the Garda Síochána and the justice system have the tools they require to fight this threat. It is important on this occasion that the Seanad join the Government in sending a clear message to terrorists and those who seek to cause damage that terrorism will not be tolerated. We must ensure our law enforcement and justice systems have the powers to deal with it.

That Sinn Féin voted in the Dáil today against the continuation of these measures is shocking. It is noteworthy that a tweet by the leader of the Sinn Féin Party on his opposition to the Offences against the State Act 1998 has attracted international ridicule. It is the case that middle Ireland will never accept Sinn Féin when it votes against provisions of this type, provisions which are necessary to ensure ordinary citizens can live their daily lives.

Senator Trevor Ó Clochartaigh: The electorate will decide that matter.

Senator Thomas Byrne: Sinn Féin is an old-fashioned party mired in the past. The threat of violence remains from former comrades - I do not include Senator Trevor Ó Clochartaigh - of some Sinn Féin Members. They have to be dealt with. It is about time the Sinn Féin Party came on board and supported the Government in this regard. It is an absolute disgrace, because of what the Sinn Féin Party is doing, that the Oireachtas cannot send a united message on this issue. It is important that we do so. Fianna Fáil will be supporting the Government as it believes it is necessary to do so.

Senator Paul Bradford: I welcome the Minister of State. It is also welcome that Fianna Fáil supports the Government in the extension of these provisions. In recent years we have had an annual debate in this House on the need to retain these measures in the interests of the State. The primary duty of the Government and, in particular, the Minister for Justice and Equality, is the preservation of security and law and order on the island. These provisions form part of that agenda.

As stated by the Minister of State - I am sure Members of all parties will agree - we all hope the day will come when an extension of the order will not be necessary. However, that time has not yet come. I take on board Senator Thomas Byrne's comments on Sinn Féin. There is a need for a broader debate on the requirement for support from all political parties on the issues of peace, progress, security, law and order. It would be great if the Sinn Féin Party could support the motion, as it would send the strong signal that Ireland was truly united, not in the sense of counties, borders, colours or flags but against violence and in support of the need for dialogue

and political progress. It was worrying when the Minister outlined the thinking behind the need for reinstatement of the order and when he gave details of the facts and figures about the number of possible threats. When I say they have not gone away I am not making a cheap political point. People who sadly and wrongly and sorrily believe that there is a role on this island for violence and threats have not yet realised that there is no future in that sort of ideology. A carrot and stick approach is needed. We need to be strong on security and my party has always been strong in that regard. I welcome the support from most of the Opposition. There needs to be a strong political message going out that this Government and the Oireachtas will take and enact whatever measures are necessary to provide for security and for law and order. At another time we need to debate at greater length and with greater substance and depth the remaining political issues and blockages which have allowed certain tiny minorities of people to believe that there is still a way forward through violence. One of those figureheads of that sort of physical force republicanism, Ruairí Ó Brádaigh, died a fortnight ago. One would hope that everybody could now move on to the new plane of thinking of peace and progress.

It is quite a long time since we had a debate in this House on Northern Ireland and the politics of the island. We are hearing from some of our political colleagues across the spectrum in Northern Ireland that while we look up towards the Border and see peace where previously there was difficulty and we see political co-operation where previously there was turmoil and we think that all the problems have gone away, we must recognise that they have not. We have perhaps to be in the reaching-out mode for a little further. That comes second after the first strong message which this order sends out, that while we would wish we did not have to reinstate it, we will, for as long as is necessary, put in place whatever measures are needed to provide for the security of our citizens and our State. We want to give the Garda Síochána and our armed forces all the support they require. I fully welcome the Minister's proposals but another day we need to talk again about broadening the spectrum within which every person on this island will feel comfortable so that we finally and absolutely can put behind us the use of violence as a way forward.

We all get very excited about what sort of commemorations should be held in 2016 for the centenary of the 1916 Rising. One of the greatest monuments of all would be if we arrived at a situation where without worries about borders, counties, unity or whatever, that violence would no longer be a mechanism for political progress on this island.

Senator Sean D. Barrett: I welcome the Minister of State. If I have noted the numbers correctly, I count at 189 the number of incidents in 12 months, meaning there is one every other day. I was not aware the Garda Síochána and the PSNI are confronting that level of terrorism. Like Senator Byrne, I totally support the motion. I commend the political progress that has been made in this country. On one of the days I was visiting Stormont, buses from Melvin coaches were parked outside. Lough Melvin is on the Leitrim-Fermanagh border and there were people from that area visiting Stormont to observe parliamentary democracy in operation. I had my George Mitchell moment when I sat in the Gallery to listen to the Assembly discussing education and not the constitution. John O'Dowd of Sinn Féin, the education Minister is most impressive. I commend what First Minister Robinson and Deputy First Minister McGuinness have done to promote a new Northern Ireland and it has a very strong support - overwhelming support - in all the political opinion polls. I appeal to the dissidents in this State to enter the dialogue. What has been accomplished in Northern Ireland by the First Minister and the Deputy First Minister is almost a case of being as good as it gets. I do not understand why people will not lend their support and join in under the d'Hondt principle and participate in the government

that is so open.

I recall a case in which the dissidents engaged in terrorism and Martin McGuinness called them terrorists. I remember the Reverend Ian Paisley said, "That's what I call them too - terrorists." I think he thought he had extended the vocabulary that he had been using for years across the sectarian divide in Northern Ireland. It is so difficult to note that people would opt out of a system of political progress which deserves the support of everyone on the island and which achieved massive support in the North-South referendum. The dissidents should examine why they are still engaging in violence and refusing to enter the political system which is open to them under the d'Hondt principle. Northern Ireland has constituencies with large numbers of seats and representation for everybody and a Parliament which is genuinely representative of all the communities there. Talk is much better than war. I do not know why they are continuing the war and I am shocked that the Garda Síochána and the PSNI have to deal with these incidents every second day. The real solution will be when we no longer need this legislation, when they participate in parliamentary democracy rather than using the gun.

I deplore the assassination on the motorway of David Black on his way to work from Coalisland to Belfast. It was an appalling incident and I also remember the Derry incident to which the Minister referred. The peace process is working. I appeal to the dissidents to get on board. Parliamentary democracy is what accomplishes everything and violence has no place in this society, North or South.

Senator Ivana Bacik: I welcome the Minister of State, Deputy Jan O'Sullivan to the House. I also welcome the opportunity to debate the review and continuance of the relevant provisions of the Offences against the State (Amendment) Act 1998. I declare an interest as I appeared in the Special Criminal Court representing people in connection with this legislation on previous occasions. I spoke on the legislation last year and in previous years when a similar debate was held and when there was support from across the floor of the House. We all appreciate the ongoing nature of the terrorist threat and indeed the original impetus for this legislation which was the appalling atrocity in Omagh. We must always ensure a balance when debating legislation of this nature and ensure adequate protections and safeguards.

It is very helpful as a means of guiding us to have the figures from the Minister on how frequently the different provisions are used. It is clear as other speakers have said that some of these provisions have been extremely extensively used over the past year, with some provisions used as often as 62 times in one case and 40 in another case. That is a sign that the provisions are still very much in demand from the Garda Síochána and are very much used.

However, some sections are much less frequently used. When I spoke this time last year I noted that section 4 had not been used in the previous 12 months and I think I am right in saying it had not been used in the 12 months before that either. I note it has not been used again this year. Section 4 refers to guilt by association, how evidence of membership of a proscribed organisation can be inferred from certain matters. I have a misgiving about that section and I have particular misgivings when it is noted that it has not been used in the past 36 months. We need to ensure that while it remains in force for this year that if it has not been used for a further year, it should be considered whether there is any point in keeping it in the legislation. However, as the Minister of State said, I accept that section 17 had not been used for quite a number of years and was used for the first time in the 2011 to 2012 reporting period. It was used on three occasions in that period. I accept there are sections that may remain dormant for some years and then become of use but it is useful then that we would be told of cases where a

section is being used for the first time and perhaps given some indication as to the reason for its use. It is important to ensure adequate safeguards are in place. I am glad the Oireachtas has a role in reviewing these provisions every year. We need to have the relevant information before us with regard to usage of the sections. It would be helpful to have a little more information on past and potential future usage if any such indication is possible.

Senator Trevor Ó Clochartaigh: Cuirim fáilte roimh an Aire Stáit. Tá an-áthas orm deis a bheith agam an scéal mar a sheasann sé le Sinn Féin a chur in iúl mar is ceart, seachas an leagan éagórach a thug an cainteoir a chuaigh romham. I welcome the Minister of State and I welcome the opportunity to speak in this debate. I also welcome the opportunity to correct the misrepresentation of Sinn Féin's opposition to this motion. Our opposition is based on the human rights issues that revolve around this legislation. I find it farcical that a Senator representing Fianna Fáil - the party that imposed on the State the greatest act of economic treason it has ever seen - has tried to castigate Sinn Féin which has played such a central role in the peace process and continued to bed down the process in the North in the past 15 years. An issue articulated by President Obama in recent days arises in this context. The Good Friday Agreement has been in place for 15 years, but some very important sections of it have not been put in place. Serious issues relating to peace in the North have to be dealt with. Of course, we all condemn acts of dissident activity and violence outside the political sphere.

The motion before the House, like the next one we will deal with, involves the apparently perpetual renewal of sections of legislation which breach a substantial human right - the right to a trial by a jury of one's peers. I do not know why Senator Thomas Byrne has an issue with what we are saying in this regard. The right to a fair trial is guaranteed under Article 38 of the Constitution and Article 6 of the European Convention on Human Rights. The fundamental UN human rights instruments, to which the State has signed up, make it clear that fundamental rights protections may be derogated from in times of emergency only. How can that possibly be justified at this time? Every year we have the same debate. The report presented to us - a mere seven pages, including two appendices - is entirely inadequate as a form of scrutiny of the legislation. We have heard no real rationale for the maintenance of the legislation, other than the reference to the statistics contained in the report which are not supportive of the Government's agenda.

The report states the figures set out for the use of the various sections of the Act support the continuing need for these legislative provisions. This is plainly not the case. The use of these provisions - in fact, of nearly every section - has been on a downward trajectory in recent years. Some 443 people have been arrested, but just nine convictions have been secured as a result. To my mind, this raises questions about what people are being arrested for. If there is little concrete evidence, is it simply a case of gathering intelligence? Numerous sections were not utilised once, with some not having been used since 2003. There is less reason than ever for these provisions. There was a considerable reduction in paramilitary activity throughout Ireland last year. Ireland is safer now than it has been for quite some time. The success of the G8 summit has proved this.

The Offences against the State Act was introduced during the Second World War and has been amended numerous times since. Each amendment or enactment was introduced under the guise of an emergency. Whether it was justified then is the subject for another debate. Does the Government really believe we are living through an emergency? Does it think we are in a state of perpetual emergency? It is a damning indictment of a state that it believes the rule of law is in so feeble a condition that there is a need for permanent emergency legislation. I would like

to know whether the Minister for Justice and Equality can envisage a time when the legislation will not be renewed. Do the Minister and his Government colleagues honestly have a desire to see this happen? I believe the Minister, like his predecessors, has become very attached to the idea of such draconian measures.

Sinn Féin has consistently called on the Government to repeal the Offences against the State Act in its entirety. This is an issue of human rights and civil liberties. Senator Ivana Bacik has often contributed to public discussion of the issue of civil liberties and I commend her for doing so. I agree with much of what she has said during such debates. However, she is seeking to vote for the third time for the renewal of non-jury trials, even though the evidence in support of this is growing scarcer by the year. There is enormous potential for miscarriages of justice when the usual safeguards are applied poorly, compromised or dropped entirely. The House will be aware of cases such as that of Dean Ryan, Meleady and Grogan, the DPP v. Pringle and, famously, the Birmingham Six and the Guildford Four. The onus remains on the Minister and the Government to live up to their obligations under the Good Friday Agreement to deliver security normalisation. The Offences against the State Act should be scrapped as part of this process. The Government has made no move in this regard since the publication of the Hederman report. Instead, it has voted to renew this draconian legislation three times.

Sinn Féin's view is that the powers and provisions on the criminal law books are more than sufficient for the purposes suggested by the Government. I urge the House to vote against the renewal motion and instead call on the Government to properly resource the agencies involved in the fight against serious crime. Táimid ag cur i gcoinne na reachtaíochta seo ar an mbunús sin, a bhaineann le cearta sibhialta agus le cearta daonna. Tá Sinn Féin go hiomlán meáite ar an bpróiseas polaitiúil. Tá sé á bhrú chun cinn againn. Is cosúil go bhfuil na polaiteoirí sna Sé Chontae - DUP, Sinn Féin agus gach páirtí eile - bogtha ar aghaidh, ach is léir freisin go bhfuil deacracht fós ag daoine ar an taobh seo den Teorainn bogadh ar aghaidh chomh maith céanna. B'fhéidir go n-oireann sé sin an agenda polaitiúil atá acu féin.

Senator Maurice Cummins: I fully support the extension of the provisions of the Offences against the State (Amendment) Act 1998, as outlined in the motion proposed. The severe threat posed by subversives in Northern Ireland, according to the Police Service of Northern Ireland, has been outlined. It is clear from the many instances mentioned by the Minister of State that there is the same threat in this state. The Garda must be given the tools it needs to deal with it. I compliment the Garda and the Defence Forces which have defended the State since its foundation. Many members of the Garda and the Army have lost their lives while fighting the threat of subversives in the State. It is disgusting to hear Sinn Féin's mealy-mouthed excuses for its decision not to support the motion. However, I welcome the condemnation of dissidents that comes from it. I am glad that the word "condemn" has come back into its vocabulary because it was missing for quite a long time. It would be better if it supported these measures in the House. That would show it truly believes in giving the Garda and the Army the powers necessary to protect the State from attacks by subversives. I fully support the motion.

I thank Opposition Senators, including the Fianna Fáil spokesman, Senator Thomas Byrne, who have expressed stout support for the extension of the provisions of this Act. Fine Gael, Fianna Fáil and the Labour Party have stood together in protecting the institutions of the State. I am glad to see we are standing together to protect the State once more.

Senator Terry Brennan: Cuirim fáilte roimh an Aire Stáit ar ais go dtí an Seanad.

The Offences against the State (Amendment) Act 1998 was passed in the wake of the murder of 29 people by the Real IRA in Omagh on 15 August 1998. It was a necessary response to that atrocity and the loss of 29 innocent lives. That bombing and those murders represented a direct attack on the fragile peace process and the State as a major sponsor of that process. It demanded a robust response from the State and a clear statement that the views of those murderers would no longer prevail. We have had enough of their agenda of hatred, sectarianism and contempt for the will of the majority. Like the rest of us, they were given an opportunity to decide in a democratic way on the future of this island and the relationship between the two jurisdictions. However, they resorted to murder and terror, but they were never going to succeed and they have not succeeded. To this day, some of them are continuing to pursue an ideology of hatred and destruction. In 1998 the State had a responsibility to respond to the direct challenge presented by them. One such response was to provide for strong legislative powers to ensure the Garda and the courts would be in a position to meet the challenge presented. The Offences against the State (Amendment) Act 1998 was a necessary and proportionate response. It contains a series of amendments to the Offences against the State Acts 1939 to 1985 to make them more responsive to the threat from certain groups. The Garda's assessment of the terrorist threat level in Northern Ireland is shared by the PSNI.

An Cathaoirleach: I ask the Senator to conclude, as I am required to call the Minister of State at 7.40 p.m.

Senator Terry Brennan: The threat level is regarded as being severe. We all remember the tragic murder of the prison officer David Black as he travelled to his place of work last November. I must also recall the savage killing of Detective Garda Adrian Donohoe in my own peninsula. He was a young man whom I knew, who had a young family and was assassinated in the course of his duty. Also in March gardaí arrested five men and recovered a firearm near the scene of the fatal shooting of Peter Butterly in my county.

I commend the Minister of State and she has my full support.

Minister of State at the Department of Foreign Affairs (Deputy Jan O'Sullivan): I thank the Members for their support, particularly Senator Byrne who spoke on behalf of Fianna Fáil, and Senator Barrett. It is clear that there is very strong support in this House as in the other House for the legislation. There remains a substantial threat from terrorist activity, particularly from dissident republican paramilitary groups which warrant the continuance in force of the Act's provisions. We need to send the message out loud and clear that these terrorists will be defeated and we will continue in our resolve to ensure that they cannot interfere with the citizens of this country. There have been several uses of the provisions of the Act. Senator Barrett added them up to 189 in total. As has also been said, there is now the opportunity for people to enter the democratic process. There is a very viable and active democratic process in Northern Ireland and here in the Republic and the opportunity to participate in parliamentary democracy is available to everybody who has a political view.

I reassure Senator Bacik and others that the Department of Justice and Equality does seriously consider the legislation in advance of renewing it and to that end the Garda Commissioner comments in particular on these provisions and on the necessity to retain them. I repeat the point that I look forward to the day, as does the Minister, when circumstances are such that the provisions are no longer needed and I assure Senator Ó Clochartaigh of that. In the circumstance where there is a threat to the institutions of the State that time has not yet arrived.

19 June 2013

It is also clear that failure to put in place effective legislation to prevent, investigate or prosecute persons involved in the preparation or commission of terrorist offences would, correctly, leave the Government open to the criticism that it was not doing what is necessary to protect our citizens from terrorist attacks. The Government will not contemplate such a situation. It is quite clear that we do need the provisions of this Act. We have not reached a time in our history when they are no longer needed. I thank the Members of this House for their support.

Question put.

Senator Trevor Ó Clochartaigh: Votáil.

An Cathaoirleach: Will the Senators claiming a division please rise?

Senators David Cullinane, Trevor Ó Clochartaigh and Kathryn Reilly rose.

An Cathaoirleach: As fewer than five Members have risen I declare the question carried. In accordance with Standing Order 61 the names of the Deputies dissenting will be recorded in the Journal of the Proceedings of the Seanad.

Question declared carried.

Senator Thomas Byrne: The Sinn Féin Members will be the subject of international ridicule as a result of voting against this motion.

(Interruptions).

Criminal Justice (Amendment) Act 2009: Motion

Senator Ivana Bacik: I move:

“That Seanad Éireann resolves that section 8 of the Criminal Justice (Amendment) Act 2009 (No. 32 of 2009) shall continue in operation for the period beginning on 30th June, 2013 and ending on 29th June, 2014.”

An Cathaoirleach: I call the Minister of State.

Minister of State at the Department of Justice and Equality (Deputy Kathleen Lynch): The motion provides that Seanad Éireann resolves that section 8 of the Criminal Justice (Amendment) Act 2009 (No. 32 of 2009) shall continue in operation for the period beginning on 30 June 2013 and ending on 29 June 2014. This resolution will provide for the continuation in operation of section 8 of the Criminal Justice (Amendment) Act 2009 for a 12-month period beginning on 30 June 2013.

I will briefly remind the House of the background to the 2009 Act, lest anyone believes that it was an over-reaction to a non-existent threat. At the time there had been an increase in the level of organised crime. Organised gangs had shown a particular ruthlessness in their activities, including attacks on witnesses and intimidation of jurors. As a result, gardaí were encountering difficulties in persuading people to give assistance in their investigations. The complete disregard which these gangs showed for human lives threatened to subvert the entire justice sys-

tem. In the circumstances, it was imperative that the Government and the Oireachtas take the necessary steps to ensure that the criminal justice system was robust enough to withstand the assault which was launched upon it through intimidation and violence of witnesses and jurors.

The measures contained in the Criminal Justice (Amendment) Act 2009 were designed to tilt the balance firmly in favour of the rule of law and justice and instil confidence in everyone that criminal gangs were not going to be permitted to frustrate criminal investigations or prosecutions of their activities. In view of the very real threat which these gangs posed, the Act provided for a limited number of specific organised crime offences to be prosecuted in the Special Criminal Court. The proposal to use the Special Criminal Court for a limited number of organised crime offences removed the possibility of tampering with juries or intimidation of jurors.

The purpose of section 8 is to ensure that organised criminal gangs cannot interfere with the criminal process to determine the outcome of cases. To this end, the section declares that the ordinary courts are inadequate to secure the effective administration of justice and the preservation of public peace and order in relation to certain offences. The offences in question are the organised crime offences under Part 7 of the Criminal Justice Act 2006. Briefly, these offences are: directing the activities of a criminal organisation covered under section 71A of the Criminal Justice Act 2006; participating in or contributing to certain activities of a criminal organisation covered under section 72; committing a serious offence for a criminal organisation covered under section 73; and liability for offences committed by a body corporate covered under section 76.

Section 8 of the Criminal Justice (Amendment) Act 2009 makes these scheduled offences for the purposes of Part V of the Offences against the State Act 1939. While this means that the Special Criminal Court will hear prosecutions for the offences in question, the Director of Public Prosecutions may still exercise his power - I use the word "his" because the current officeholder is a man - to direct that the offences shall be tried in the ordinary courts. I believe that permitting the Director of Public Prosecutions this discretion maintains the fundamental balance in deciding which cases are appropriate to be tried in the Special Criminal Court.

A further bulwark in maintaining this balance is provided in section 8(4) of the 2009 Act. It provides that the section shall cease to be in operation unless a resolution has been passed by each House of the Oireachtas resolving that it should continue in operation for a further period to be decided by the Oireachtas. As I have said, that is the purpose of moving this resolution.

In order to enable the House to assess the need for the continuation of section 8, subsection (6) provides that before a resolution to continue section 8 in operation is passed, the Minister for Justice and Equality must prepare a report, which shall be laid before both Houses of the Oireachtas, on the operation of the section in the period under report. The report, covering the period from 1 June 2012 to 31 May 2013, was laid before both Houses on 17 June 2013.

The Minister's reasons for seeking the renewal of section 8 are clear. Organised crime continues to present a significant law enforcement issue with a number of criminal gangs continuing to engage in serious crimes. There is, unfortunately, plenty of evidence of the willingness of these gangs to engage in murder, armed robbery, kidnapping, drug smuggling, counterfeiting and other serious offences. Given the nature of organised crime, the investigation and prosecution process can be lengthy and difficult. This is particularly so given the insidious power that criminal gangs hold over their members and, regrettably, within the communities in which they live. The 2009 Act has been in operation for more than four years

and, while there have been arrests under the relevant sections of the Criminal Justice Act 2006, no cases have yet come before the Special Criminal Court in accordance with section 8. This does not, however, invalidate the reason for having such a provision available for use in appropriate circumstances. Let us be clear: if criminals are prepared to take human life, they are quite prepared to subvert the system of Government. Accordingly, there is a necessity for legislation that anticipates the possibility. There is a responsibility on the Minister, the Government and the Houses to ensure that the criminal law contains appropriate provisions to ensure the effective administration of justice by the courts.

The use of the Act to date also serves to highlight the considered approach of the Director of Public Prosecutions. It vindicates the way in which the provision is constructed, allowing the director to exercise her discretion to direct that cases be tried in the ordinary courts. In his report to the Minister on the operation of section 8, the Garda Commissioner is of the clear view that the provision is likely to be required for some time to come. The Minister for Justice and Equality must have the utmost regard to the views of the Garda authorities in matters such as this. It is absolutely essential to ensure that the Garda has at its disposal the best possible range of powers to face up to organised criminal gangs.

In the period under report, there have been a total of 41 arrests under the relevant provisions of the Criminal Justice Act 2006. One arrest was made under section 71A, directing the activities of a criminal organisation; 35 were made under section 72, participating in or contributing to certain activities of a criminal organisation; and a further five arrests were made under section 73, committing an offence for a criminal organisation. Charges have resulted in 12 of these cases for a variety of criminal offences, including aggravated burglary, vehicle theft, arson and handling of stolen goods, and the Director of Public Prosecutions has directed further charges of extortion in two cases.

Eight individuals have been charged since the commencement of the 2006 Act, two under section 71A, directing the activities of a criminal organisation, and six under section 72, participating in or contributing to certain activities of a criminal organisation. Three individuals have been convicted under section 72 and have received sentences of three years in one case and nine years in the other two cases. This includes the two individuals originally charged under section 71A. Five other charges under section 72 - participating in or contributing to certain activities of a criminal organisation - were subsequently withdrawn by the Director of Public Prosecutions. However, four individuals were convicted of conspiracy to rob and subsequently received custodial sentences of between two and five years' duration. One other individual was convicted of offences under the Misuse of Drugs Acts 1977 and 1984 and received five years in prison.

The Garda authorities devote considerable resources from across the Garda organisation to their efforts to tackle organised crime, and they deserve our praise for the successes they have had against a number of those involved in these criminal gangs. Furthermore, the Commissioner has made it clear time and again that there will be no let-up in the action taken against these gangs. He has the Government's full support in that approach. To be blunt, the individuals involved in organised crime are ruthless people who will stop at nothing to avoid being brought to account for their crimes. Violence and intimidation are a way of life for these people. We - that is, the Government and the Oireachtas - have a duty to make sure the criminal justice system is equipped to prevent them from undermining our core values. To that end, we must ensure that in the most serious of cases, where jury intimidation is a real possibility, the law has a means available to bring serious criminals to account.

On balance, the Minister considers it is necessary to continue the operation of section 8 for a further period. As I have said, the period now proposed will run for 12 months from 30 June 2013 until next year. I commend the motion to the House.

Senator Averil Power: The Fianna Fáil party strongly supports the extension of the powers contained in the motion. I would prefer if we did not need a Special Criminal Court to hear cases but, unfortunately, we do.

During the last debate we discussed the ongoing threat posed by dissident terrorist groups in this country. The scale of gangland crime that is evident in Dublin and other cities is frightening. Last year there was a 35% increase in gang-related murders, with 11 murders in 2011 and 15 murders in 2012. Unfortunately, we need these systems. The Garda needs to apprehend these criminals and we need an effective courts system.

As the Minister of State has rightly pointed out, the background to the legislation is the 2009 Act. The collapse of the Keane trial in Limerick proved that gangland criminals will go to every possible length to avoid prosecution and will intimidate ordinary decent jurors and witnesses. People took an immense risk to carry out their civic duty only to be intimidated out of participating following threats to themselves and their families. That threat is ongoing and, therefore, we need the most effective system possible.

Gangland crime is a particular issue in my area of north Dublin and I have seen the effect that gang-related murders have on a community. There was a great sense of fear when Alan Ryan was shot dead in broad daylight in Clongriffin. Anybody could have been walking by with their children when the shooting took place. It was the same for the murder of Eamon Kelly in Clontarf. These crimes affect the entire community and create a sense of fear. People need to know that when the Garda and the prosecution service catch the people responsible the case will not collapse and that people cannot intimidate jurors in order to avoid a trial. It is for that reason that the legislation was essential when it was first introduced by Fianna Fáil, but we now need an extension.

As far as I understand, all parties except Sinn Féin will support the motion tonight. I am not surprised that the party is unsupportive given its past history and involvement in terrorist activities. That is the reason it has always been opposed to the use of the Special Criminal Court.

Senator Trevor Ó Clochartaigh: May I interrupt with a point of order?

An Cathaoirleach: Yes, on a point of order.

Senator Trevor Ó Clochartaigh: I do not think the Senator has evidence that Sinn Féin was involved in terrorist activities.

Senator Averil Power: Sorry; I will say it endorsed terrorist activities in this country in the past. It had a very close connection, a deep and personal relationship, between three people involved in the Sinn Féin party and terrorist groups in the country that led to the deaths, as pointed out earlier in our discussion of the previous motion, of innocent civilians and members of the Garda Síochána. Innocent lives were taken, North and South, over an extended period. I am not surprised that Sinn Féin opposed the last motion to extend the Act on terrorist-related crime. It is extraordinary that the party opposes the use of the Special Criminal Court to tackle gangland crime. On the one hand, Sinn Féin representatives in north Dublin and other areas have strongly condemned gangland activities in their local areas, but on the other, the party's

national representatives have come in here and voted against necessary legislation.

Senator Trevor Ó Clochartaigh: The legislation does nothing to tackle gangland crime.

Senator Averil Power: The legislation is necessary to prevent the collapse of trials such as the Keane trial, in which gangland criminals intimidated people to avoid paying for what they did. As I said, I wish we did not need a Special Criminal Court, but we do. Therefore, it is incumbent on all of us, as legislators, to ensure we have the most effective criminal justice system possible and to give the Garda the personnel, equipment and everything else it needs to fight these crimes.

Senator Martin Conway: Like the Senator, I welcome the motion, although it is unfortunate that we need such legislation. The Minister of State, whom I welcome, mentioned some interesting facts in her contribution. Earlier she outlined how many people have been arrested using the powers that we will renew tonight. She also listed the number of prosecutions and pending prosecutions. If the legislation was not needed there would be no prosecutions, but there are prosecutions, so the legislation is needed. That is plain and simple.

Gangland activity has reached an appalling level. The only way we can have some control over it is by enabling and empowering the judicial system and the police force to deal with it. Crime gangs are running amok in parts of this city. They were in parts of Limerick, but the authorities there, all credit to them, are dealing with the issue. It is shocking to turn on the news early some morning or at tea time and discover another gangland murder or double murder has taken place. This is becoming too frequent and needs to be dealt with head on. If the Garda Commissioner were to recommend to the Minister for Justice and Equality and the Minister were to recommend to the House that we introduce more stringent powers, I would be the very first to support this. Rights bring responsibilities and until we get this very serious problem under control, areas of this city will continue to be no-go areas.

Parts of the city are ravaged by drug abuse; poor unfortunate victims are drug addicts because of the greed of these gangs. They are not happy to make hundreds, thousands or millions of euro, they want to make billions. We are dealing with absolute greed and they will stop at nothing. They would kill their own families to amass wealth. We got a glimpse of this in last year's award winning RTE series "Love/Hate". We got a glimpse of the absolute brutality and savagery of the people involved who have no regard for authority or the Government. If they thought they would get away with shooting the entire Cabinet and Opposition, they would do it. We are dealing with very dangerous people and need to deal with them accordingly.

I would never question Senator Trevor Ó Clochartaigh's personal motivation in taking a position on anything, but his party is probably a little misguided on this issue. A number of Sinn Féin activists are very committed to dealing with what is going on in this and other cities and trying to eliminate drug dealing and the masses of money being made. This legislation empowers them and the Garda in trying to achieve what they are motivated to achieve. Senator Averil Power is correct that it is appalling that we still need the Special Criminal Court but we do. As long as we do, the Oireachtas has a responsibility to ensure the Garda and the judicial system have the necessary powers to deal with this issue. It is not that long ago that a journalist was murdered for trying to expose the people concerned and that could easily happen again. On that sombre note, I hope the motion will receive unanimous support.

Senator Trevor Ó Clochartaigh: Cuirim céad fáilte roimh an Aire Stait. Arís, tá an-áthas

orm a bheith in ann seasamh anseo le seasamh Shinn Féin a léiriú ar an cheist seo. It is hilarious that Fianna Fáil and Fine Gael Members are trying to put forward what they see as the Sinn Féin stance on this issue. They are totally off the wall in representing where we stand on it. That does not surprise me because their stance on civil rights issues during the Troubles in the North left much to be desired. They were not as quick to stand up for the civil rights of citizens of the North when they needed to do so. It has been said organised crime remains a significant issue in the State and Sinn Féin is and has been very much opposed to it. It is worth reflecting on the damage it does to communities and people bereaved by crime. We are all familiar with its effect on communities in our constituencies. Very often, crime thrives where there is disadvantage and poverty. The increase in severe disadvantage owing to the Government's policies of austerity is of concern in that regard; however, that is a matter for another day. It is sufficient to say it is the less well-off who are most blighted by the actions of criminals, many of whom have no respect for law and order, on which we are all agreed. However, that is no excuse for the abuse of human rights, which is what the renewal of this legislation is about. That is where we have a fundamental issue with the legislation and let no one misrepresent us on that point.

Senator Martin Conway: Where are the abuses?

Senator Trevor Ó Clochartaigh: I will outline them for the Senator, if he will let me.

Senator Martin Conway: Will the Senator give specific examples?

An Cathaoirleach: Senator Trevor Ó Clochartaigh to continue, without interruption.

Senator Trevor Ó Clochartaigh: The Criminal Justice (Amendment) Act is wide open to abuse. It has a corrosive effect on human rights, citizens' rights in particular. As I stated previously, the right to a fair trial is guaranteed under Article 38 of the Constitution and Article 6 of the European Convention on Human Rights. There is a growing consensus that the Special Criminal Court should be done away with. The Irish Council for Civil Liberties and the United Nations Human Rights Committee have both expressed their concern at its continuing existence. As regards the renewal of section 8 of the Criminal Justice (Amendment) Act, it is intended to allow the trial of serious criminals by the unnecessary Special Criminal Court.

I am, to some degree, surprised that the Government is not even a little embarrassed in bringing forward this legislation, particularly given the report published. It states, "While a number of arrests were made under sections 71(a), 72 and 73, no cases have been sent for trial by the Special Criminal Court". For the second year in a row the provision has been proved to have been of no use whatsoever, yet the Government insists on retaining it as an article of faith. In addition to being blind to the dangers of non-jury trials, it is clear that it is utterly immune to reason or evidence. It is clear that the powers and provisions on the criminal law books are more than sufficient for the purposes the Government suggests. This Act is being retained, despite the poor rate of convictions, merely for trawling and information gathering. This is an abuse of emergency powers ill-fitting a modern democracy.

The Leader of the House had the audacity to call us in Sinn Féin mealy-mouthed. His defence following months of cuts to Garda and support services is mealy-mouthed. That is the real issue.

Senator Martin Conway: On a point of order, I have asked the Senator for specific examples of breaches of human rights.

19 June 2013

An Cathaoirleach: That is not a point of order. The Senator should, please, resume his seat. We are operating to a time schedule.

Senator Trevor Ó Clochartaigh: Senator Martin Conway should contact the Irish Council for Civil Liberties which will point him in the right direction. The Government would be better off in tackling crime by reversing its closure of almost 140 Garda stations, the 10% cut in the number of Garda personnel and the loss of hundreds of Garda vehicles, as well as ensuring the Garda fleet is up to scratch and the serious crime and white collar crime bureaux are adequately resourced, not by retaining this repugnant provision. Last week I was present at a presentation by Women's Aid. The Minister is aware of its annual report. Women's Aid was damning in its criticism of conditions in Dolphin House, for example, where people involved in family law cases are in a desperate situation. That issue needs to be tackled.

Sinn Féin made a wide range of realistic and potentially effective proposals for tackling serious crime in our document, *Policing with the Community*, in 2009. These urgently required measures include an expedited and far-reaching process of civilianisation to free up fully trained gardaí from administrative and other duties to fight crime; increased funding for Garda drugs units, with an enhanced community input into their use and priorities and independent oversight of informer handling practices to prevent situations from developing where individuals with a relationship with gardaí are allowed to amass a criminal empire; enhanced Garda visibility and activity in areas experiencing chronic drug problems; and the provision of more sniffer dogs.

We fully recognise that the vast majority of serious crime is drug-related. Therefore, we have also compiled and submitted to the Government detailed proposals aimed at maximising both demand and supply reduction measures.

I urge the House to vote against the renewal motion and demand that the Government properly resource the agencies involved in the fight against serious crime. I stand here with a mandate which it is important to recognise. If Fianna Fáil, Fine Gael and the Labour Party are as strong in the views as they have expressed tonight, perhaps in the next general election in the Six Counties they might put up some candidates there.

Senator Martin Conway: One never knows.

Senator Ivana Bacik: I welcome the Minister of State, Deputy Kathleen Lynch, and express support for the renewal of section 8 of the Criminal Justice (Amendment) Act 2009. It is helpful to have this review every year. It is important that the Oireachtas continue to keep these matters under review. As I said in the earlier debate on the Offences against the State (Amendment) Act, I declare an interest, having appeared in the Special Criminal Court in the past to represent defendants. Echoing some of what Senator Trevor Ó Clochartaigh said, we need to ensure there is a balance in the use of this court. Many of us regret that there is a continued need for it. However, it is hard to take lectures from Sinn Féin as a defender of civil rights, particularly in Northern Ireland. The families of Jean McConville, the disappeared and the victims of other IRA atrocities might have a difficulty with that contention.

The Minister of State has given us figures for the numbers of arrests and prosecutions, etc. It is of concern that no cases have yet come before the Special Criminal Court in accordance with section 8 since operation of the Act commenced four years ago. No case has come before the Special Criminal Court pursuant to section 8 since the Act came into operation four years ago. It is fair to say it is a matter of concern. We must be very clear about it next year if a

motion comes before us to continue the relevant sections in force. We will need to query why the sections should remain in force. Having said that, it is a matter of some comfort that the DPP has taken the view using her discretion as an independent officer of the State, that there has been no need to use section 8 to try organised crime offences before the Special Criminal Court. Clearly, she believes the ordinary courts are sufficient to deal with those cases in which she might have considered the exercise of her discretion. It is not that we want section 8 to be utilised but we must keep it under scrutiny and question the rationale behind its continuance in force. That is the role of the Oireachtas and the reason we are here. It is an important function of which we should remain cognisant.

Senator Michael Mullins: I welcome the Minister of State to the House. This is very significant legislation and I am pleased to support the motion.

It is unfortunate that we need to continue to extend the legislation, but we have a serious problem with organised crime and gangland murders. Senator Power spoke at length about gangland crime in Dublin. There is no doubt that there is little respect for life among those criminal elements. We have a serious difficulty with violence and intimidation in organised crime. I am disappointed that Sinn Féin opposes the motion. I hear what Senator Ó Clochar- taigh is saying about human rights, but where are the human rights for those innocent young people who are taken to the Wicklow mountains and shot in cold blood because they have failed to obey the orders of their criminal masters or delivered the goods? What of the rights of gardaí who are trying to protect citizens and are shot in cold blood, as we saw in County Louth quite recently?

As well as the awful murders in Dublin, we see down the country that organised criminal gangs have created havoc in local communities. They terrorised people in their businesses and homes. We must put the deterrence in place to ensure we have a system which is so tight that they are just about allowed to breath. We must stand together on this. We have elements of criminal activity which have devastating effects on commerce. We have seen huge involvement by criminal elements in diesel laundering and cigarette smuggling, which deprive legitimate businesses of the ability to make a livelihood.

The legislation is significant and in the interests of all citizens. I agree with Senator Ó Clochartaigh that we must at all times efficiently and effectively resource the Garda. In very difficult times, the Government is doing everything possible to ensure we maintain the Garda at the strength promised in the programme for Government. We must also ensure that we use our resources more efficiently and effectively. I want to ensure that the Minister continues to invest in patrol cars to ensure that pursuit vehicles are fit for purpose. We have improved our road network and we must ensure that when those people come down the country from Dublin, we have Garda vehicles which are capable of pursuing them at high speed. They have very little respect for human life and will put their lives and the lives of gardaí at risk. We must be equipped with the tools to ensure they are stopped in their tracks.

I commend the Minister of State on the motion. We must do everything possible to ensure our citizens are safe and that we have a justice system which brings those people to book and deals with them efficiently and effectively to put them out of business for once and for all.

Minister of State at the Department of Justice and Equality (Deputy Kathleen Lynch): I thank all Members who contributed to the debate. It is important that issues like this are fully fleshed out in debate. It is a significant motion. Let us be quite honest about that. Senator

19 June 2013

Bacik made a point I was thinking of myself. On the one hand, the Garda Commissioner feels the provisions are necessary as part of the Garda armoury to ensure that gangland crime is dealt with, while on the other hand we can take significant comfort from the fact that no case has lately come before the Special Criminal Court. It proves more than anything else that the provisions will be used sparingly and that they have not been abused. It is very clear. If we were sitting here saying how good the legislation was having been used in 40 prosecutions, there might be something else to say. There is a comfort in realising that the use of the legislation is carefully considered and that there has not been a need to use it.

Resourcing the Garda involves more than simply providing recruits, vehicles or stations. It is also about providing the Garda with the legislative powers it requires to complete investigations and prosecutions. I take on board everything Senator Ó Clochartaigh is saying but what we are doing tonight has nothing to do with the recommendations he set out. This is a very clear, specific motion. We can argue the case on resources and stations at a different time but that is not what the motion is about. I commend the motion to the House.

Question put.

Senator Trevor Ó Clochartaigh: Votáil.

An Cathaoirleach: Will the Senators claiming a division please rise?

Senators David Cullinane, Trevor Ó Clochartaigh and Kathryn Reilly rose.

An Cathaoirleach: As fewer than five Members have risen I declare the question carried. In accordance with Standing Order 61 the names of the Senators dissenting will be recorded in the Journal of the Proceedings of the Seanad.

Question declared carried.

An Cathaoirleach: When is it proposed to sit again?

Senator Maurice Cummins: At 10.30 a.m., maidin amárach.

Adjournment Matters

Care of the Elderly

Senator Denis O'Donovan: I thank Senator Colm Burke for allowing me to speak first. This matter concerns Cara House, Market Street, Skibbereen, which is run by the Skibbereen Geriatric Society. Currently, there are 12 residents in the home and there is major concern that the home has been deemed to close on Friday of next week. There is concern and worry about where people will go. Most of these people are in their 80s; some are in their 90s. As far as they are concerned, Cara House has become their home. These people are old and vulnerable and their home is their castle. They are frightened and concerned about where they will be moved to. There are different rumours, including that HIQA has put the gun to the head of the Skibbereen Geriatric Society and demanded the closure of the home. There is another

story that some of them will be transferred to Cork city, which is 60 miles from where some residents come from. I would like the fears and concerns to be addressed. Everyone in Cara House, which I know for many years, is a citizen of the State and it is unnecessary and unfair that they are stressed and that their families are worried and concerned about where they might be shifted to. They are stressed and their families are worried and concerned about where they might be moved. This is unfair and unreasonable. I hope the Minister of State will clarify that an extension can be given through HIQA, the HSE or the geriatric society that runs the home to find suitable alternative accommodation. I have inquired through the HSE and no beds are available in the local community hospital in Skibbereen or in Dunmanway or Schull, while the privately run nursing homes in the area are full. The HSE is not stating this publicly, but its officials will admit that if they have to accommodate the people concerned, they will face logistical difficulties.

I hope the Minister of State will allay fears locally. I have said to those who have contacted me that the elderly people concerned should not worry because they will not put on the streets, but they are fearful about where they will be transferred. It is rumoured that they may be moved to St. Finbarr's Hospital in Cork, which would be a major inconvenience for them and their families. I hope the Minister of State will understand the motivation behind this debate and I do not raise such issues lightly. There is concern and worry, particularly among the elderly patients, some of whom are in their 80s and 90s. They are mentally active enough to understand what is happening and deeply concerned that they will be moved again. They experienced significant trauma and change when they moved from their own homes to this nursing home. None of them can return to his or her home. Cara House has provided an excellent service in the Skibbereen area. The staff are doing wonderful work and the patients are happy there. I wonder, therefore, why this is happening, who is driving the change and what is the current position. It is most important that when I relay the Minister of State's reply she reassure those affected directly that there is light at the end of the tunnel, that there is a way out of this and that the transfers will be made in a dignified and orderly fashion and with respect for the elderly people involved.

Minister of State at the Department of Health (Deputy Kathleen Lynch): I thank the Senator for tabling this matter. Clearly, the shortage of long-stay intensive care beds for people who are ageing is an issue. We need to face up to it and we are examining it in a serious manner.

Cara House, Skibbereen is a residential home for 12 elderly women. It is managed by Skibbereen Geriatric Society. I concur that people are doing their best with the best of intentions. They did a good job at a time the State was not doing it. The society is a company limited by guarantee, which provides residential care and other services for the elderly of Skibbereen and its environs. In December 2012 it applied to HIQA for the registration of Cara House, Market Street, Skibbereen, County Cork, as a designated centre under the Health Act 2007.

Since July 2009 HIQA has been responsible for the registration and inspection of all designated centres for older people. It needs to be satisfied that systems are in place in all designated centres which ensure the safety and welfare of all residents and staff are protected. Cara House, as a designated centre, catering for the long-term residential needs of older people, is subject to registration and inspection under the nursing homes regulatory framework. A registration inspection visit by HIQA raised concerns which included the level of dependency of a number of residents, medication management, staffing and the ability of the home to cater for the residents in its current format. An immediate concern in relation to the administration of medication was addressed in the interim by the association by providing nursing cover to administer medication

in the home.

As a result of the concerns raised during the inspection, HIQA prepared a plan of action for the society to address. Following receipt of this plan, the society's representatives met to discuss the situation. The outcome of this meeting resulted in their withdrawing their application for registration. The society advised both HIQA and the HSE that it would close on 28 June. At this stage the overall priority is the residents' wishes and concerns, as the Senator will be aware. One resident has been relocated to a long-stay bed in Bantry, while two residents are in Bantry General Hospital. Discussions are under way with them with a view to identifying an appropriate placement. Nine residents remain at Cara House, eight of whom have been assessed as requiring long-term residential care.

The HSE is working with the residents and their families to find alternative accommodation. Discussions have been held on the options available to them as they work to find alternative accommodation. Each is being supported in completing the application for financial support under the nursing homes support scheme. While all of the residents have identified a preference for a placement in Skibbereen - as the Senator pointed out, this has been their chosen area of residence for a long time - they have been advised that it is extremely unlikely that this number of beds will become available within the timeframe and second preferences have been discussed with them. All residents can be accommodated within the timeframe in at least the facility they have identified as their second preference. They have been further advised that a transfer back to either the community hospital or the private nursing home in Skibbereen could be requested and that they would receive the next available suitable bed. The remaining resident was not deemed to be in need of a continuing care placement and a package of care is being arranged to support her relocation to an apartment in Skibbereen.

Senator Denis O'Donovan: I thank the Minister of State for her response. To some extent, she has cleared the air because all sorts of rumours were circulating about public meetings and so on. The issue was aired on local radio because the geriatric society, faced with the gauntlet of trying to comply with HIQA's request, decided to run before the storm, but the deadline of 28 June is tight. There is no fire hazard in the home and €50,000 was collected from the public by voluntary organisations in the past few months to cover the cost of works there. It is a pity the home will be closed and I hope somebody in charge of the relocation will visit it. As of a week ago - I am not sure about the past few days - the families of the elderly patients had not received reassurance about their security of tenure. A reassurance to that effect from a senior HSE official would help them to overcome much of their anxiety. I hope they can live out the rest of their days with dignity and respect.

Deputy Kathleen Lynch: We all hope for the same. I will relay the Senator's concerns to the relevant HSE officials and I hope some reassurance can be provided. No one will be thrown onto the side of the street. At this stage of their lives, I will ensure the dignity they deserve is delivered.

Courts Staff Recruitment

Senator Colm Burke: I thank the Minister of State for taking this matter relating to the Department of Justice and Equality and the Courts Service. The High Court has two Taxing Masters and I do not want this matter to be viewed as a criticism of them because they are doing a good job, but there are long delays because of the volume of work they face.

I refer to the need to appoint a third Taxing Master. I make this proposal on the basis that such an appointment would be cost neutral. If one sends a bill for costs to be taxed by the Taxing Master, stamp duty must be paid before one receives a certificate of taxation. Therefore, stamp duty paid will more than adequately pay for the cost of a taxing master.

Let me refer to a case that was settled in September 2012 and that was submitted for taxation of costs. Obviously, there were ongoing negotiations beforehand. The client said she sent in for taxation of costs in February. The earliest date for taxation given is 12 July. Therefore, there is a gap of five or six months. The problem is that if there are any applications for adjournment, the case may well not be dealt with until October or November. There is a major problem, but not so much with the bigger legal firms. The bigger legal firms in Dublin are doing fine because they have all the additional work. I was surprised to discover recently that work that was sent to a Cork legal firm heretofore is now all sent to one in Dublin. No one has explained this to me.

The issue for the smaller legal practice is cashflow. The problem that has now arisen is that insurance companies are aware of the delays in processing the taxation of costs. They have decided to play hardball as regards what they are offering in settlement, not so much in the settlement of cases but in the subsequent settlement of costs. Smaller practices are suffering badly because if one wants to take a case in the High Court in respect of personal injuries, one must pay for the medical reports and many other reports up front. Last week, I spoke to an office worker who told me he or she had to pay £2,500 for a medical report from the United Kingdom. Such reports may take anything up to four years to recover. This results in a cashflow problem. Unless the issue is resolved, practices will be forced to close and jobs will be lost. This is unnecessary. This issue can be dealt with easily without any additional cost to the State. That is why I am raising this matter tonight and seeking the appointment of a third taxing master.

Deputy Kathleen Lynch: I am responding on behalf of the Minister for Justice and Equality. I thank the Senator for raising the matter. The Minister appreciates that people, especially legal practitioners, are interested in the matter of taxation of costs and the efficiency of the system of taxation. As the Senator may be aware, taxing masters are independent officeholders attached to the High Court. The positions of the taxing masters and their offices are currently governed by the Court Officers Act 1926 and the Courts (Supplemental Provisions) Act 1961. As the Senator is aware, there are two taxing masters who perform functions of a judicial nature in respect of legal costs with the aim of establishing a fair relationship between services rendered and the cost of those services. The Courts Service has informed the Minister that the current waiting time for taxation of a bill is ten weeks, down from 12 weeks earlier this year. The Minister has also been informed that a number of measures have been introduced in the taxing master's office to tackle backlogs. These include improved scheduling of cases. Practitioners have also been informed that all requisite documentation is to be lodged at the commencement of the taxation process. It has been necessary to inform parties that taxation cannot be completed due to non-lodgment of the requisite documentation or where proofs are not in order.

The Minister has been informed that the senior taxing master has also already indicated to practitioners that he will take any application for urgent taxation and regularly does so. He has also indicated that complaints regarding delays should be brought to his direct attention. The Senator will appreciate that the need to ensure that persons appointed as taxing master have the requisite experience in practice can, on occasion, give rise to some circumstances in which recusal from a case may be appropriate. However, the Minister has been informed that this issue is being managed between the two taxing masters. With regard to the modernisation of the current legal-costs regime and the framework for the taxation or determination of

disputed legal costs, the programme for Government for the period 2011 to 2016 undertakes to “establish independent regulation of the legal profession to improve access and competition, make legal costs more transparent and ensure adequate procedures for addressing consumer complaints”. These undertakings complement those structural reforms in the EU–IMF–ECB troika programme of financial support for Ireland aimed at removing restrictions to trade and competition in the provision of legal services and at the reform of the legal costs regime. Effect is being given to these structural reform commitments in the form of the extensive provisions of the Legal Services Bill 2011, which remains a priority under the Government’s legislation programme. Second Stage has been completed in the Dáil and Committee Stage is due to begin on 10 July.

The Bill makes extensive provision, particularly in Part 9, for a new and enhanced legal-costs regime that will bring greater transparency to how legal costs are charged, along with a better balance between the interests of legal practitioners and those of their clients. It is particularly relevant to this subject that the Bill provides for a new office of legal costs adjudicator to deal with disputes about legal costs. At present, these are dealt with by the Office of the Taxing Master. The new office, headed by a chief legal costs adjudicator, will modernise the way disputed legal costs are adjudicated, with greater transparency. The office will be empowered to prepare legal-costs guidelines. It will establish and maintain a publicly accessible register of determinations which will include the outcomes and reasons for its determinations about disputed legal costs. It should be recalled that the two existing taxing masters have been appointed by public competition under the enhanced qualification criteria of Part 14 of the Civil Law (Miscellaneous Provisions) Act 2011, which was enacted to prepare the way for the legal-costs reforms contained in the Legal Services Regulation Bill. The Bill also sets out, for the first time in legislation, a series of legal-costs principles. These are contained in Schedule 1 and enumerate the various matters that may be taken into account if disputed costs are submitted for adjudication. Clearly, therefore, the Legal Services Regulation Bill will introduce a range of structural reforms that will make legal costs far more amenable to public scrutiny and competition and subject to more modern and business-like adjudication procedures than ever obtained in the past. The Minister does not propose appointing another taxing master in these circumstances as the necessary reforms are already under way and the matters raised by the Senator can continue to be resolved as part of the managed transition to the new legal-costs architecture contained in the Legal Services Regulation Bill, and as may be considered appropriate by the new office of the legal costs adjudicator.

Senator Colm Burke: While I fully accept that reform is taking place, it will not resolve the problem immediately. There are issues to be addressed. I will be writing to the Minister directly about the matter. There is a cashflow problem and it will cost jobs. That is the reality and the position will not change immediately. The unnecessary delay due to the volume of work facing taxing masters is of major concern. I do not accept the response that the period between the submission of costs and a hearing is only ten weeks. It is certainly not the experience of the people to whom I speak.

I understand that the Law Society of Ireland wrote to the Minister on this matter. I accept that reforms are taking place, but something should be done immediately on this matter. The new legislation will not be implemented for at least another six months. It will take yet another six months to set up the system. Therefore, there will be a 12-month gap.

I do not understand why all departmental and statutory agency legal business is being farmed out to legal practices in Dublin and not to other practices around the country. This matter needs

to be tackled also.

Deputy Kathleen Lynch: The Senator should write to the Minister directly. I do not dispute what the Senator is saying for one minute because he operates in and is closely connected with this area. It is therefore very difficult to dispute his experience.

I should also mention that the Courts Service has informed the Minister that the total number of bills lodged in 2012 represented a 34% decrease on the number lodged in 2011. That, which is related to the downturn in business, probably makes the Senator's case. The Minister reiterates that he does not intend to appoint another taxing master in view of the reforms he is undertaking. The views of the Senator will be conveyed to him.

Fodder Crisis

Acting Chairman (Senator Michael Mullins): I welcome the Minister of State, Deputy Tom Hayes, to the House. It is his first visit to the Seanad, where he first cut his teeth in national politics. I congratulate him on his recent appointment as Minister of State at the Department of Agriculture, Food and the Marine, and wish him much success in what is a very challenging Department.

Senator Michael D'Arcy: I wish to be associated with the comments of the Acting Chairman. It is about 12 years since the Minister of State has been in the Chamber. I extend my heartiest congratulations to him. He is well deserving of the position he holds in government.

I am concerned about tonnages being reaped from the land. I have spoken to people in County Wexford, where the tonnage per acre is down by between 30% to 50%. That must be taken in conjunction with the complete depletion of the existing reserves, which were built up over a number of years. Reserves in sheds, pits and silage bales were all used during the fodder shortage last spring.

I am an optimist. We have to hope for the best but plan for the worst. We could have a bad back end of the year or a poor spring in 2014. We must move now to ensure the potential difficulties, which could be many times worse than what we have experienced, are dealt with. The Minister has done a lot of good work to try to alleviate the difficulties. We need to take immediate steps to try to deal with the problem. Doing something in a month or six weeks' time will be too late. The growing season is now at its peak, later than normal. We need to take steps now.

Minister of State at the Department of Agriculture, Food and the Marine (Deputy Tom Hayes): I thank Senators for the welcome and for their good wishes. I served in this House for four years from 1997 to 2001. They were great times in my political life. I am delighted to be back here in my current role.

I thank Senator D'Arcy for raising this important issue. It is important that we discuss it and get to the facts of the situation. On 24 April the Minister for Agriculture, Food and the Marine, Deputy Coveney, established a €1 million fodder transport subsidy scheme to help alleviate the difficulties being encountered by farmers. The purpose of the scheme was to contribute to the transport costs of importing fodder into the country and to provide assistance to farmers to enable them to feed their animals. In light of the continued difficult circumstances and poor weather during the month of May, the deadline for the scheme was extended twice and funding

19 June 2013

was doubled to €2 million, more than we had thought was needed. By the end of May, some 2,800 loads of imported fodder, amounting to over 40,000 tonnes, had been delivered to farmers, co-ops and marts throughout the country.

My Department also maintained an animal welfare helpline which received over 1,100 calls through the early warning system. The vast majority of incidents were adequately dealt with through fodder being made available under the transport subsidy scheme, but about 475 farmers in need of more substantial support were aided directly by the Department with targeted emergency assistance.

To assist farmers in financial trouble, which was a major issue for many, farm payments have been processed as quickly as possible. To date, more than 29,300 of the remaining 30,200 REPS 4 participants have been paid a total of €167 million in respect of the 2012 application period. Almost €36 million of this issued this year. In recent weeks, approximately €3.6 million worth of AEOS payments have also been issued.

It is clear that the main cut of silage, as Senator D'Arcy outlined, has been delayed this year and, as a consequence, we need to consider the potential for growing additional fodder later in the season. In co-operation with the Minister for the Environment, Community and Local Government, Deputy Phil Hogan, a temporary and targeted adjustment of the nitrates regulations was made to support additional fodder production on farms and to maximise grass growth later in the season. One hopes that if the weather improves - it is very good today - growth will be good and ground conditions will be extremely favourable. One must be optimistic. Farmers are optimistic by nature; otherwise, they would not survive in the business. It is to be hoped there will be better second and third cuts, which is what we must plan for.

Concerns have been expressed regarding access to credit and flexibility with regard to loan repayments, which is very important. Many people have found it difficult to pay for feed or fertiliser. The Department has been in constant contact with the banks. The Minister has met them, as well as the co-ops. They claim adequate credit is available but we need to streamline it and make it more available to people in need. If any Members of this or the other House know of cases in which credit is not being made available to people they should be reported to us. It is very important that this be done. If it is the case we will bring the banks in again.

I also wish to acknowledge the work being carried out by the inter-agency fodder committee. In addition to Teagasc and the Department, there is broad industry representation on the committee. It meets regularly and not only monitors the fodder situation but will also co-ordinate actions over the coming months to ensure sufficient fodder is conserved for next winter. The Minister has requested the committee report to the Food Harvest 2020 high level implementation committee, which he chairs, on the actions being taken and the progress being made. He also proposes to devote a session of the next meeting of the Food Harvest 2020 committee to the fodder situation and the outlook for the remainder of the year. Central to meeting the ongoing targets set out under Food Harvest 2020 in the case of the dairy and meat sectors is a strategic approach to fodder production and conservation.

Finally, I would like to take this opportunity to thank the numerous co-ops, marts and merchants that managed the importation and distribution of fodder. I also commend farm organisations on their efforts and neighbours and friends who have helped farmers during this difficult situation.

Senator Michael D'Arcy: Last spring was the coldest in 50 years, and as a result we had a very late gathering of fodder. The crucial issue is the application of chemical fertiliser. I welcome the position of the Minister for the Environment, Community and Local Government, Deputy Hogan, on the alteration to the nitrates directive, which is very important. The application of bag chemical fertiliser is the most financially efficient method of obtaining fodder. One grows fodder on one's land by purchasing chemical fertiliser. We may need to use more than we did in the past. That may be necessary, however, because the difficult situation farmers are facing as a consequence of the prolonged poor weather is something that might occur only once in 50 years.

The requirements under the nitrates directives have been alleviated somewhat, but we must go further to ensure farmers have sufficient stores of feed for the winter. There is no point in arriving at the same situation next March and wondering what can be done. As I said, I am an optimist and always hope for the best. The reality, however, is that we must plan for the worst. Farmers have been left with no reserves and we have seen the difficulty and expense of bringing stock over in boats from Britain and the Continent. The easiest and most efficient way of dealing with the problem is to allow farmers to spread a small additional quantity of chemical fertiliser now.

Deputy Tom Hayes: The Senator is correct that we must seek to be self-sufficient and grow all our own fodder. That is the ideal situation. We will monitor the situation in regard to the nitrates directive and keep in touch with the Department of the Environment, Community and Local Government in that regard. I urge farmers to engage with Teagasc, whose advisers are the people with expertise in these matters. Their assistance will be vital, particularly in the next two to three months when more fodder can be grown. By also addressing the issue of fertiliser application and the credit situation, I am confident that we can arrive at a situation in which we will have good silage crops and hopefully sufficient fodder for next year. A good harvest would help by ensuring there is an abundance of grain and hence of straw. We are hopeful of a good end to the year.

Local Electoral Area Boundary Committee Report

Senator David Cullinane: I welcome the Minister, Deputy Phil Hogan, to the House. He might be surprised at the motion I have tabled today, which relates to County Cork rather than my own county of Waterford. I have received several petitions from people in the area about the recent report of the local electoral area boundary committee, which outlines the proposed new electoral areas for city and county councils. The publication of the report is welcome in that it provides certainty for local government candidates in advance of next year's elections in terms of their respective wards. It was never realistic, however, that a perfect solution would be found for all areas. Despite the greater flexibility that arises from having a range of six- to ten-seat local electoral areas, LEAs, there are several areas throughout the State in which the boundaries are poorly mapped. Some of these wards are oversized and bear no reality to the communities with which people identify.

Of particular concern are the proposals to divide certain towns. In this regard, the decision to divide Carrigaline in County Cork along the line of the Owenabue river, which runs directly through it, seems utterly senseless. Local residents have contacted me by telephone and e-mail asking me to urge the Minister to reconsider what they see as a very poorly thought-out deci-

sion. The population of the town has increased exponentially in recent years. As recently as 1971 there were fewer than 1,000 residents, but that number had increased to 6,482 by 1991. There was even greater population growth in the Celtic tiger area, from 11,282 to 14,775 in just five years. Like any town that has experienced rapid growth, Carrigaline is facing considerable challenges. It has an exceptionally high number of commuters, with the highest rate of commuting by car, at a massive 74%, of any town in Ireland. The old town has been replaced by a major commuter town as large as any of Cork's major suburbs. I am sure the Minister will agree that a town of this size requires a co-ordinated and sensible approach to planning matters which will ensure the considerable challenges it faces are met. There must be an adequate road network, for example, an adequate public transport infrastructure and efficient management of traffic flows. There must be co-ordinated efforts to attract businesses, investment in retail and so on. In that context, having some 16 councillors from across two separate LEAs making decisions for the town is not prudent. Decisions will invariably lack the necessary focus, and confusion will arise in a situation in which neighbours living only a few hundred metres apart are obliged to make representations to different councillors.

The revisions to the LEAs that impact on Carrigaline also affect the nearby town of Ballincollig, which has been moved back and forth between different general election constituencies and local electoral areas for years. Once again, that town will be separated from its hinterland in the local elections in 2014. These decisions are not helpful in the context of the sustainable planning of towns. There may be contrary views in the area but I have not heard them. I look forward to the Minister's response to the concerns that have been expressed to me by residents.

Minister for the Environment, Community and Local Government (Deputy Phil Hogan): I thank the Senator for the opportunity to clarify issues regarding the recent report of the 2013 local electoral area boundary committee. The committee was established by me in November 2012 and produced its report on 30 May 2013. In publishing the report, I announced my intention to accept in full the recommendations therein and to make in due course the necessary local electoral area orders to give them effect. The local electoral areas specified in these orders, and the number of members to be elected for each area, will apply at the 2014 local elections.

The completion of the report was an important step in the Government's programme of local government reform. The review had a specific goal of improving balance and consistency in representational ratios in local government, while taking particular account of factors such as the location of towns in the new municipal governance arrangements provided for in the action programme for effective local government. The terms of reference provided for minimum levels of representation in lower-population counties and cities. Arising from the recommendations in the report, a total of 949 councillors will be elected at the 2014 elections, in 137 local electoral areas, to 31 local authorities.

Much of the commentary on the report has focused on the reduction in the number of council seats from 1,627 to 949 and the number of local authorities from 114 to 31. However, beyond these reductions is the development of a far more integrated approach between county and municipal government which will better serve the needs of all citizens. This radical structural reform will provide a sound platform for the wider development and strengthening of the local government system in the future. The current number of councillors in local authorities was set in the distant past. There have been huge changes in population in recent decades, as the Senator observed, which have resulted in great disparities in the ratios of councillors to population between different counties and indeed within counties. Whereas previous local electoral

area reviews left the total number of members in each local authority unchanged, this review involves a fundamental reform of the system to take account of population changes and representational disparities.

The recommendations in the report stand as they are. I have accepted them in full, for Cork and for every other local authority area. As I said some months ago when we were debating the new arrangements for Dáil constituencies, there are swings and roundabouts in constituency reviews. In nearly every situation there are multiple options and a range of solutions. However, every change or move has a knock-on effect, with consequences for other parts of the country. The committee, in chapter 3 of its report, makes particular reference to issues arising with regard to the representational ratios in County Cork and recommends, in a later chapter, that eight local electoral areas be formed within the existing divisional boundaries that have operated for administrative purposes in the county.

Senator Cullinane has drawn our attention to local electoral areas in the southern division, where the committee is recommending a number of revisions. The committee explains that these recommendations provide a balance between recognising existing administrative arrangements and facilitating the creation of new local electoral areas which acknowledge the community identities of newer large urban and suburban areas.

I accept that in the case of Carrigaline, it is probably difficult to explain to the local community how a town can be divided in this fashion. However, population and the ratio between population and members come into play, as happened in the case of the town of Swords in the last redrawing of the Dáil constituencies for the 2011 election.

The boundary configuration of Carrigaline will not hamper the strategic planning and development of the town or the general area. It will be a matter for the entire municipal area and Cork County Council to ensure the infrastructure and development plans for the area are inclusive, irrespective of which electoral area people are in. The Ballincollig-Carrigaline area, the area of most concern to the Senator, includes Passage West which has a town council. There is also a six-member Bandon-Kinsale area recommended, which takes its name from the two town councils in this new proposed electoral area.

I understand the Senator's position in regard to this issue, and people have made representations to me regarding the division of Carrigaline. However, if I was to make changes in a particular area, I would be adopting a stance that indicated I did not accept in full the report of an independent group which had examined all the issues intensively. The local government Bill, which is being prepared currently and will be published later this year, will implement the decisions of the boundary review and the municipal districts will cover the entire territory of each county, reflecting European norms, uniting towns with their hinterlands, removing outdated boundaries and ending the anomalous treatment of some larger urban centres.

The Seanad adjourned at 9.25 p.m. until 10.30 a.m. on Thursday, 20 June 2013.