



DÍOSPÓIREACHTAÍ PARLAIMINTE
PARLIAMENTARY DEBATES

SEANAD ÉIREANN

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

Business of Seanad	543
Order of Business	544
Local Government Reform Bill 2013: Second Stage	557
Pyrite Resolution Bill 2013: Order for Second Stage	612
Pyrite Resolution Bill 2013: Second Stage	612
Water Services (No. 2) Bill 2013: Committee Stage (Resumed)	627
Business of Seanad	672
Water Services (No. 2) Bill 2013: Committee Stage (Resumed)	673
Adjournment Matter	674
EU Funding	674

SEANAD ÉIREANN

Dé Luain, 16 Nollaig 2013

Monday, 16 December 2013

Chuaigh an Cathaoirleach i gceannas ar 14.00 p.m.

Machnamh agus Paidir.
Reflection and Prayer.

Business of Seanad

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

The need for the Minister for the Environment, Community and Local Government to give an update on the Bandon main drainage and sewerage scheme, confirm there is adequate funding ring-fenced to progress and complete this project, and confirm when work will recommence and the likely completion date.

I have also received notice from Senator Jillian van Turnhout of the following matter:

To ask the Minister for the Environment, Community and Local Government to advise of future plans for the scheme to support national organisations beyond its current extended period of June 2014, outline whether the focus or awarding criteria will change, and indicate when a decision can be expected by organisations trying to plan budgets for 2014.

I have also received notice from Senator Trevor Ó Clochartaigh of the following matter:

The need for the Minister for Justice and Equality to give details of all the applicants, both successful and unsuccessful, the assessment criteria used and the amounts of money allocated to successful applicants by the Office for the Promotion of Migrant Integration, OPMI, under the European Refugee Fund and European Integration Fund.

I have also received notice from Senator Fidelma Healy Eames of the following matter:

The urgent need for the Minister for Arts, Heritage and the Gaeltacht to intervene to ensure National Parks and Wildlife Service approval to allow remedial works to proceed at Seanadh Phéistín Bridge, Connemara.

I regard the matters raised by Senators O'Donovan, van Turnhout and Ó Clochartaigh as suitable for discussion on the Adjournment and they will be taken at the conclusion of business.

I regret that I must rule out of order the matter raised by Senator Healy Eames as the Minister has no official responsibility in the matter.

Order of Business

Senator Maurice Cummins: The Order of Business is No. 1, Local Government Reform Bill 2013 - Second Stage, to be taken at 3 p.m. and to conclude no later than 7 p.m. with the contributions of Senators not to exceed ten minutes each and the Minister to be called on to reply to the debate no later than 6.50 p.m.; No. 2, Pyrite Resolution Bill 2013 - Order for Second Stage and Second Stage, to be taken at the conclusion of No. 1 and to conclude no later than 8.30 p.m., with the contributions of group spokespersons not to exceed eight minutes each and those of all other Senators not to exceed five minutes each and the Minister to be called on to reply to the debate no later than 8.20 p.m.; No. 3, Water Services (No. 2) Bill 2013 - Committee Stage (resumed), to be taken at the conclusion of No. 2. We spent a great deal of time on Committee Stage of No. 3 last week and we will finish that Stage this evening. I hope to allocate three hours for Report Stage of the Bill tomorrow, which should be more than sufficient.

Senator Darragh O'Brien: The Leader is correct that three hours for Report Stage tomorrow is sufficient.

Is the Leader in a position to provide an update on the meeting the leaders of the various groups were supposed to have with the Taoiseach in respect of Seanad reform? I had understood that the meeting to which I refer was due to be held on Wednesday next. As leader of the Fianna Fáil group, I have received no formal notification of or request from the Taoiseach to attend such a meeting. Am I to assume that the meeting will not be proceeding? Perhaps the Leader is in possession of more information than I am. Will the Taoiseach be sending me an invitation to the meeting in order that he might hear what I have to say?

Senator Paul Coghlan: He might not want to hear from the Senator

Senator Darragh O'Brien: Yes, he may not want to hear what I have to say but I would like to attend. I will certainly make myself available.

On an even more important matter, I am in receipt of information which, in my view, will rock the National Assets Management Agency, NAMA, to its very core. Is the Leader aware that the Garda Commissioner has been requested to carry out an investigation into corruption and impropriety in NAMA?

An Cathaoirleach: That is very strong language.

Senator Darragh O'Brien: It is very strong because the information put into my possession by certain individuals-----

Senator Paul Coghlan: Has the Senator forwarded it to the Garda?

Senator Darragh O'Brien: -----is extremely serious. NAMA is the largest property management company in the world and has responsibility for €74 billion in loans. Allegations have been made in the past couple of years with regard to how some of NAMA's current and former

staff have used information they obtained during the course of their work. It has been alleged that those to whom I refer have leaked or given this information to third parties - vulture funds and other investors-----

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

Senator Darragh O'Brien: This is important because I want to place the matter in context.

Senator Pat O'Neill: Senator Darragh O'Brien is right.

Senator Darragh O'Brien: Information is being leaked from NAMA and is being given to vulture funds and other investors in order to confer financial advantage on them. This will ensure that these entities will profit off the backs of taxpayers and that viable businesses will be shut down as a result. I need to know today whether the Garda Commissioner has been requested to carry out a detailed investigation into corruption and impropriety in NAMA. It is crucial that the Taoiseach, the Minister for Finance or the Minister for Justice and Equality come before the House today to make a statement on this matter, which is so serious that it could undermine NAMA and the property and financial services sectors. I wish, therefore, to formally propose an amendment to the Order of Business to the effect that the Taoiseach, the Minister for Finance or the Minister for Justice and Equality come before the House and confirm whether the Garda Commissioner has been requested to carry out an investigation into corruption and impropriety in the National Asset Management Agency, which manages €74 billion worth of loans on behalf of the taxpayer.

So many different items of information have been referred to in the House in the past two years that it seems that the staff within NAMA who are doing their level best and working on behalf of the State are being tarred with the same brush as certain individuals who are still with the agency or who recently left its employ and who are giving or have given information to third parties in order that they might make serious profits. This needs to stop and, as a result, the matter must be dealt with today in the Seanad.

Senator Ivana Bacik: Senator Darragh O'Brien has raised serious matters of grave concern. The general point he makes is that if anyone has information about corruption or criminal matters that have arisen, then clearly he or she has an obligation to report this to the Garda. That overrides any imperative for discussing such matters in this or any other forum. The other issue is that the Garda Commissioner and the force are independent. I would, therefore, be concerned by any suggestion that there might be some sort of political dictation to the Garda Síochána in the context of what it may or may not investigate. We must be careful-----

Senator Darragh O'Brien: I agree with the Senator. All I am seeking is confirmation as to whether the Garda Commissioner has been requested to carry out an investigation.

Senator Ivana Bacik: We need to be careful about what we are saying,-----

Senator Darragh O'Brien: I agree.

Senator Ivana Bacik: -----particularly if there may be criminal proceedings arising from some of these issues.

On another issue raised by Senator Darragh O'Brien that I was also going to raise, namely, Seanad reform and a certain report in today's newspapers that the Taoiseach was to meet with Seanad political leaders, as leader of the Labour Party group in the Seanad I have not been ap-

proached or asked about a meeting. I would welcome such a meeting either this week or early in the new year to discuss issues of Seanad reform through legislation. I would like the meeting to be sooner rather than later. All Senators have called for that meeting. Will the Leader clarify whether any such meeting is to go ahead this week?

The troika exit is welcome. I mentioned it on Thursday. There has been a good number of events and news announcements to mark it. In light of the exit and commitments given by the Minister for Social Protection, Deputy Burton, on the European youth guarantee, I call for a debate on job creation in the new year. There were some welcome comments in the Taoiseach's speech last night as well as in speeches given by the Tánaiste and others in recent days regarding the focus on job creation and ensuring a return to close to full employment in the coming years. We would all like to hear more about the details of that plan. It would be good to have a debate with the Minister, Deputy Burton, or the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, early in the new year about job creation plans. Each of their Departments will play a large role, particularly in the implementation of the youth guarantee.

Senator Sean D. Barrett: I note that we were not able to cover more than one fifth of the Finance Bill last week. While I accept that is how it happened, I suggest that we go through the important items in the new year. People on this side of the House wanted to have an input into the budget. For instance, section 42 extends capital gains tax relief for properties from the 2011-13 period to 2014. This seems like something that should have been debated in the House. I would also have liked to have discussed pension funds and so on. Rather than have the House never discussing the remaining items, perhaps the Leader might arrange a debate at some stage, regardless of whether the Minister is available to attend.

Yet another insurance company is close to going broke. Apparently, RSA Insurance is short €270 million. As the Minister for Finance moves away from his strong and excellent work in recent years, regulating financial institutions requires debate in this House. Some €270 million is needed by an insurance company, €52 million for a credit union, pension funds must be dealt with, etc. As this sector caused us so many problems in 2008, I would welcome it if the Minister was willing to debate the issue with the House.

I commend the Minister for Transport, Tourism and Sport, Deputy Varadkar, on promising a decision early in the new year on the Phoenix Park tunnel, a railway that connects Connolly and Heuston stations. Platform 10 has already been built. We know from correspondence with the Minister and his work on our behalf, that CIE does not wish to re-open the link. It would prefer something more expensive, as engineers usually do. The estimate is €10 million. The tunnel exists. It runs freight trains, has concrete sleepers and electronic signalling and could be opened for much less than €10 million or whatever would be the cost of building a tunnel through St. Stephen's Green, which is what the railway engineers would like us to do. I commend the Minister on considering a low cost way of relieving congestion in the city, particularly while the Luas lines are being extended.

Senator Jim D'Arcy: It is a great day for the country, our first day of economic freedom in a long time as we leave the EU-IMF programme. The people of this country have worked hard to reach this point. It has not been easy for them. It is notable that the country has not seen the social upheaval witnessed in other countries experiencing similar situations. In many ways, this is due to the responsible attitude adopted by all political parties, allowing for a certain amount of justifiable rhetoric. A special word must be said for the Taoiseach. A few years ago many were saying that the Taoiseach was not up to the job.

16 December 2013

Senator Mark Daly: Was that the Senator's crowd?

Senator Jim D'Arcy: It was said by those who were responsible for creating the mess we are in-----

Senator Mark Daly: And almost half the parliamentary party.

Senator Jim D'Arcy: -----who themselves it must be remembered bailed out-----

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

Senator Jim D'Arcy: Despite Senator Daly's remarks, I respect him and all those sitting around him. I do not respect the members of his party who caused this mess and left on big pensions and are now sitting at home laughing at everybody else.

(Interruptions).

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

Senator Jim D'Arcy: Before I ask my question-----

An Cathaoirleach: The Senator is running out of time.

Senator Jim D'Arcy: I remind everybody that it was the stone rejected by the builders that became the cornerstone.

Senator Darragh O'Brien: That is a good line for the press office. They will like that.

(Interruptions).

Senator Jim D'Arcy: I ask that the Leader invite the Taoiseach to the House so that, as is done in the US Congress, we can stand up and applaud him.

Senator Mark Daly: Senator D'Arcy should second the amendment to the Order of Business.

Senator Jim D'Arcy: The Taoiseach can then tell us what the next stage is for us.

Senator Mark Daly: I second the amendment to the Order of Business that a member of the Government come to the House today to discuss the revelations in relation to NAMA. I thank my colleague, Senator O'Brien, for raising this issue which I have raised on a number of occasions in the House. This is a serious issue. It has been in the ether for a long time that former developers have been benefiting in terms of buying back their own properties from NAMA. We have read in the newspapers that former members of NAMA are under suspicion in regard to their joining property development companies which are buying back their properties.

I have previously raised on the Order of Business the case of-----

An Cathaoirleach: The Senator may not speak about any specific case.

Senator Mark Daly: -----Anglo Irish Bank which granted a loan for the Four Seasons-----

An Cathaoirleach: We cannot discuss individual cases here.

Senator Mark Daly: This information was in the newspapers.

An Cathaoirleach: There could well be legal cases. We cannot discuss the matter now.

Senator Mark Daly: This one is done and dusted.

An Cathaoirleach: There could well be legal proceedings in relation to the matter.

Senator Mark Daly: Some €50 million was spent-----

An Cathaoirleach: We are not discussing any particular case here.

Senator Mark Daly: This is not a legal case. It is a matter of public record.

An Cathaoirleach: The Senator may not speak about any specific case.

Senator Mark Daly: Some €50 million has been spent on-----

An Cathaoirleach: Senator Daly, we are not discussing any specific case here in respect of which legal issues may arise.

Senator Mark Daly: This is not a legal case. It is a matter of public record that €50 million was spent-----

An Cathaoirleach: This is a Parliament and the Senator is under privilege.

Senator Mark Daly: This is a matter of fact.

An Cathaoirleach: The Senator is under privilege.

Senator Mark Daly: I know that.

An Cathaoirleach: I am not allowing the Senator to discuss any specific case.

Senator Mark Daly: This has nothing to do with privilege. It is a fact that-----

An Cathaoirleach: Excuse me. The Senator is speaking here under privilege. I am not allowing him to speak about any specific case or individual.

Senator Mark Daly: This is not in relation to an individual. It is in relation to loans that are on the public record. Am I allowed to discuss those?

An Cathaoirleach: We are not discussing anything like that. This is the Order of Business. Does the Senator have a question for the Leader?

Senator Mark Daly: I am asking the Leader about issues which I have raised previously in relation to lands that have been sold not only below market value but for less than that for which they were sold to NAMA. Properties for sale to developers or people in the know are not being made available to the public by way of list or advertisement in the newspapers and so on. We previously asked in the context of the NAMA and Irish Bank Resolution Corporation Transparency Bill that every asset for sale by NAMA would be available on a public list. This has not been done. As a consequence, the Garda Commissioner is to investigate NAMA, which is a serious issue. This matter has been ongoing for two years.

An Cathaoirleach: The Senator is way over time.

Senator Mark Daly: What we need in NAMA is transparency for the good of NAMA, the

taxpayer, NAMA employees and for the betterment of the structure of NAMA.

Senator Darragh O'Brien: Hear, hear.

Senator Mark Daly: I support the amendment to the Order of Business so that a Minister can come to the House to see if the Government knows what is going on in order to have transparency in NAMA.

Senator Aideen Hayden: I am sure the Leader would have no objection to asking any Minister to come to the House to discuss issues regarding NAMA at the appropriate time and in the appropriate place. However, I completely concur with Senator Bacik. The matter alleged is rightly one for the Garda Commissioner and should remain with him-----

Senator Darragh O'Brien: We just want to know whether it is with him.

Senator Aideen Hayden: -----until he has had the opportunity-----

Senator Darragh O'Brien: The Senator is missing the point.

Senator Aideen Hayden: -----to investigate properly and appropriately any allegations of fraud that are being made.

Senator Darragh O'Brien: The Senator is missing the point.

Senator Aideen Hayden: I am sure the Senator would agree if he were sitting on this side of the House-----

Senator Darragh O'Brien: I do, but the Senator is missing the point.

Senator Aideen Hayden: -----instead of, dare I say, stirring on the other side of the House.

Senator Darragh O'Brien: Sorry-----

An Cathaoirleach: Senator Hayden without interruption.

Senator Darragh O'Brien: On a point of order-----

An Cathaoirleach: A point of order, Senator O'Brien.

Senator Darragh O'Brien: No one is stirring. I have raised an issue that is of national importance so I ask the Senator to withdraw that phrase.

Senator Aideen Hayden: No, Senator.

Senator Darragh O'Brien: I do not stir and I am not spinning.

Senator Aideen Hayden: I have no intention of withdrawing. As the Senator well knows-----

Senator Darragh O'Brien: What I am saying is that if the Senator wants-----

Senator Aideen Hayden: -----if there are any allegations-----

An Cathaoirleach: Senator Hayden, please. Senator O'Brien is on a point of order. What is the point of order?

Senator Darragh O'Brien: I formally ask that Senator Hayden withdraw the allegation that I am stirring. I am raising matters of fact and of national and international importance here.

An Cathaoirleach: I call Senator Hayden.

Senator Darragh O'Brien: All I was asking for was confirmation as to whether the Garda Commissioner has been asked to make an investigation of corruption.

An Cathaoirleach: The Senator has proposed an amendment to the Order of Business.

Senator Darragh O'Brien: I am not asking to be involved in it.

Senator Aideen Hayden: As I said-----

Senator Darragh O'Brien: I ask the Senator to withdraw that phrase of "stirring".

Senator Aideen Hayden: As I said, I do not intend to withdraw that remark. If there is any allegation of wrongdoing or fraud in NAMA-----

Senator Darragh O'Brien: The Senator has missed the point completely.

An Cathaoirleach: I ask Senator Darragh O'Brien to resume his seat.

Senator Aideen Hayden: -----the appropriate person to investigate that is the Garda Commissioner.

Senator Darragh O'Brien: The Senator has missed the point completely.

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

Senator Aideen Hayden: I do indeed.

Senator Darragh O'Brien: The Senator should have listened at the start.

Senator Aideen Hayden: I wish to raise the unfortunate issues that have arisen regarding the Central Remedial Clinic. I ask for the Minister for Justice and Equality, Deputy Shatter, to come to this Chamber at the earliest possible opportunity to discuss with this House his intentions for putting the charities regulatory authority on a statutory footing early - I emphasis early - in 2014. The Charities Act 2009, which provides for the establishment of a charities regulatory authority, was passed almost five years ago. Had it been implemented more promptly, I doubt if public confidence would have been damaged as it has by the matter of the CRC.

While it is very unfortunate, it needs to be acknowledged that funds to voluntary organisations have dropped by 40% since this issue came into the public domain. Many of these organisations are providing vital services to people who need them. If those services are not provided by the voluntary organisations, they will need to be provided by the State. I understand the reason it has taken so long-----

An Cathaoirleach: The Senator is way over time.

Senator Aideen Hayden: -----for the charities regulatory authority to be established was a matter of cost.

An Cathaoirleach: The Senator is way over time.

Senator Aideen Hayden: That is a false economy and I would like the Minister for Justice and Equality, Deputy Shatter, to come to the Houses to outline his current plans.

Senator Feargal Quinn: Almost 20 years ago in 1994 the Government established the leaving certificate applied. That was a great development in education because it recognised intelligences other than just the intelligence of doing an examination on the basis of remembering everything they had learned after two years of study. It measured the other talents, intelligences, skills and abilities. However, many of the access opportunities that gave to students are gradually being closed. Last weekend, I heard that applicants for the Garda College in Templemore will need something other than the leaving certificate applied - something more theoretical and academic. I believe that is a mistake because the talents and abilities of the people who get the leaving certificate applied are exactly the talents needed in the Garda. Something similar happened with nurses some time ago when they were required to have a university degree. While the talent that people have to be nurses certainly includes those academic qualifications, it also includes the ability to care for and look after people, which is not unlike what is needed in the Garda Síochána.

I urge the Leader to make contact with the Department of Education and Skills to ensure that the recognition of the leaving certificate applied will continue to give access to those students to be able to qualify to enter the Garda College in Templemore. I believe it is worthy of consideration.

Senator Paul Coghlan: I am sure those at the top in NAMA are above reproach, governed by law. As has been stated, if there is anything amiss or untoward-----

Senator Darragh O'Brien: What makes the Senator so sure about that?

Senator Paul Coghlan: ----- as has been alleged or suspected, it is up to people to report such matters to the Garda and it is up to that force to investigate. I am not too sure it is the business of the Garda to communicate with Members as to whether it is doing something. I accept that these people are governed by law and I do not believe there is anything untoward at the top in NAMA.

Senator Darragh O'Brien: What would the Senator define as being the top?

An Cathaoirleach: Senator Paul Coghlan, without interruption.

Senator Paul Coghlan: I am aware that allegations were thrown about in this Chamber in the past, albeit not by Senator Darragh O'Brien, for whose comments in general I have great respect, but things were thrown around that could not be substantiated.

Senator Mark Daly: They were substantiated.

An Cathaoirleach: Senator Paul Coghlan, without interruption.

Senator Paul Coghlan: They were not substantiated but Members should have the utmost confidence in the board, the managing director, the chairman and the people of NAMA. However, if something is alleged, let it be properly investigated. That is not the business of Members.

Senator Darragh O'Brien: I want to know whether it is being investigated.

Senator Paul Coghlan: I am unsure that-----

Senator Darragh O'Brien: I seek confirmation in this regard.

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

Senator Paul Coghlan: No, but-----

An Cathaoirleach: Senator Paul Coghlan, without interruption, please.

Senator Darragh O'Brien: The public is entitled to know.

An Cathaoirleach: Senator Paul Coghlan, without interruption, please.

Senator Darragh O'Brien: A Chathaoirligh, the public is entitled to know.

Senator Paul Coghlan: It is a matter for the Garda.

An Cathaoirleach: Senator, have you a question for the Leader?

Senator Paul Coghlan: No, but I am trying to clarify the position.

An Cathaoirleach: I call Senator Cullinane.

Senator Darragh O'Brien: The point is-----

Senator Paul Coghlan: I also wish to express confidence.

Senator Darragh O'Brien: The point is-----

Senator Paul Coghlan: Members should have confidence in NAMA.

An Cathaoirleach: Senators, no crossfire here. I call Senator Cullinane.

Senator David Cullinane: At the outset, I commend Senator Jim D'Arcy on his very own state of the nation address, which he gave in the Chamber this afternoon. I am sure he will be suitably rewarded by the Taoiseach and his seat will be safe after his performance today.

Senator Mark Daly: The Taoiseach's nominee.

Senator David Cullinane: I acknowledge his point, that Members should applaud the Taoiseach, was made tongue in cheek but one should be careful not to upset in any way those who currently are living in poverty. Many people have suffered over the past seven austerity budgets and the past six years and the Taoiseach made the point that people have taken a lot of pain. However, it need not have been the way it was and one should consider the ESRI report published last week. The institute examined all the budgets introduced since 2008 by both the previous Government and the present Administration. It then broke down the various different income brackets and the aforementioned independent think-tank concluded that it was the low paid people in society who paid a disproportionate price and who bore the brunt of those budgets. This is the reality.

In addition, a report from the Mandate and UNITE trade unions called Hungry for Action: Mapping Food Poverty in Ireland, was published on 15 December. It again showed that far too many people are living in poverty in the State, be it fuel poverty, food poverty or, if the

Government has its way, water poverty in the future as well. I called for a debate on poverty several times this year and was supported by a number of Senators from the Government side. However, Members did not have a stand-alone debate on poverty, which would be a useful and worthwhile debate. Perhaps a full-day sitting of the Seanad Public Petitions Committee could be held on that issue because it is of fundamental importance to all Members to do what they can to reduce poverty levels. However, in the context of a Government that will be clapping itself on the back for emerging from the bailout, which is of itself a milestone, all Members should be mindful of the huge levels of suffering that continue to persist, as well as the long road that must be taken to support all those families who are living in poverty. Consequently, I would welcome the opportunity early next year to have a debate on that important issue.

Senator Michael Mullins: I also welcome the fact that Ireland has exited the bailout. Many positive things have been said in recent days in the media, both nationally and internationally. However, like Senator Cullinane, I recognise there certainly are significant levels of poverty and the only thing that will seriously dent that will be the creation of badly-needed employment in parts of the country that are significantly hit by unemployment levels. I hope that early in the new year, a further discussion will be held in this Chamber on job creation and on the Action Plan for Jobs 2014 because that is the tide that will lift all boats. The creation of employment, particularly for those who are long-term unemployed, is the answer to solving the poverty crisis in which many people find themselves.

I support Senator Hayden's call for an early debate with the Minister for Justice and Equality on the charities regulator. I, too, am deeply concerned about the great damage that has been done to the charity sector by the bad publicity generated by the CRC revelations. As a result, many organisations will experience a crisis early in the New Year and will be left unable to provide the services that they have diligently provided over the years. The level of greed that existed in the CRC is appalling and will deprive many people, the most vulnerable in our society, of a service to which they have grown accustomed. Early in the new year the Oireachtas must see what it can do, on an all-party basis, to rescue the sector in order to restore people's confidence in the organisations. Many charitable organisations are ran well and account for every penny collected. It is sad and appalling that a small handful of people can inflict so much damage on organisations who work in the best of interests of the most vulnerable.

Senator Diarmuid Wilson: I join with Senator Quinn's call for the Minister for Justice and Equality to re-examine his decision to disallow applications from graduates of the leaving certificate applied examination and the requirement to have an additional academic or theoretical qualification when applying for a job as a garda.

The leaving certificate application examination was introduced 20 years ago next year. I recognise the contribution that Senator Quinn has made to the examination. Since 1994 many thousands of young people have graduated from second level schools and Youthreach training centres with the qualification. It is an ideal qualification. It should enable people to apply for jobs in the Garda Síochána, the Army or the Civil Service. The qualification is excellent and it is regrettable that it has not been recognised as suitable for recruitment to the Garda Síochána. I want the decision overturned immediately.

Senator Eamonn Coghlan: I support Senator Hayden's call on the Leader to invite the Minister to the House to discuss the long overdue charities regulation Act. I have been involved in the charity sector for 27 years and have been employed by and acted as a volunteer for many organisations. I was disgusted by the vulgarity demonstrated by the CRC board in the way they

abused their corporate governance to fill their back pockets. Like Senator Michael Mullins, I agree that the charity sector has been tarred with the same brush due to their actions. The staff working for credible charities do wonderful things for the less fortunate in society. They have been hurt by the revelations. They too have been questioned when they have delivered their services to the volunteer sector, including those who have raised funds in Ireland and abroad for the various charities.

The charity sector has been shook to its foundation as a result of what happened in the CRC. I have always found that it is the people who have nothing that give the most to charitable organisations and the CRC has broken their trust. I do not want such people to lose trust in the act of charity, particularly at this time of year. They have supported charities for many years and I want them to continue doing so.

I welcome the exit from the troika. Destiny is back in our hands, yet more needs to be done. The Taoiseach has said that the Irish people have made sacrifices. Moving forward is all about attitude. Wonderful accolades have poured in from people outside Ireland on how well we are progressing. Now it is time for people at home to change their attitude and look to a bright future. The Taoiseach has a persistent vision for a better future for this country and this is the start of it now we are out of the bailout.

Senator Maurice Cummins: Senator Darragh O'Brien referred to a meeting with the Taoiseach which he read about in the newspapers. I met the Taoiseach about a fortnight ago and he told me letters would be issued to the leaders inviting them to a meeting, but I have heard nothing since. I have been told there will be a meeting on Wednesday but I have not been made aware of it; nor have the leaders. I will find out for the Senators after the Order of Business what the situation is but it is short notice if a meeting is to take place on Wednesday morning. However, the last time I had a conversation with the Taoiseach was about a fortnight ago and he said letters would issue to leaders, but I understand that has not happened.

Senator Darragh O'Brien made very serious allegations of corruption and impropriety in NAMA and asked if the Garda Commissioner had been requested to investigate allegations of corruption. I am not aware of any such allegations - nor am I aware of whether the Garda Commissioner has been requested to investigate such allegations - but I will certainly bring the matter to the attention of the Taoiseach and the Minister for Finance after the Order of Business. I do not propose to accept the amendment to the Order of Business but I will certainly notify the Taoiseach and the Minister for Finance of this.

Senator Bacik referred to the focus on job creation. I agree totally with her in that regard. The focus of the Taoiseach's address was that we must look to the future now and continue the progress that has been made in regard to job creation. The unemployment rate has gone from 16.5% down to 12.5%. Early in the new term in January I will arrange for the Minister for Jobs, Enterprise and Innovation, Deputy Bruton, and the Minister for Social Protection, Deputy Burton, come to the House to discuss the whole question of job creation.

I note Senator Barrett's comments on the Finance Bill 2013 and his call for a debate on the regulation of financial institutions. I will certainly try to arrange for the Minister to come to the House discuss that matter with us. I note also Senator Barrett's praise for the Minister for Transport, Tourism and Sport, Deputy Varadkar, in regard to the Phoenix Park tunnel and the low cost of €10 million to solve the transport problems. Perhaps the Minister, Deputy Varadkar, might be willing to discuss that project with us in early January.

Senator Jim D'Arcy referred to the restoration of our economic sovereignty today and complimented the Taoiseach. In his address, the Taoiseach outlined a mid-term economic plan. I will certainly ask him to come to the House when it is introduced so we can have a chat about it.

Senator Daly seconded the amendment to the Order of Business. I agree that we should have full transparency in all matters relating to NAMA. The Senator made allegations previously and he could neither put up nor shut up about them, but I agree with him in regard transparency.

Senators Hayden, Mullins and Coghlan and other Senators referred to the Central Remedial Clinic. This issue has done irreparable damage to the charity sector and is causing major problems in regard to the financing of charities.

On the call for the Minister for Justice and Equality to set up the charities regulation authority, in July the Government approved plans from the Minister for Justice and Equality for the establishment of the charities regulatory authority under the terms of the 2009 Charities Act. The authority is to be an independent State agency under the aegis of the Department of Justice and Equality. In addition to functions set out in the Charities Act relating to the registration and regulation of charities, the authority will also take on the functions of the Commissioners of Charitable Donations and Bequests for Ireland. Following the appointment of its members, the authority will operate in shadow form for a period in advance of its formal establishment to allow the necessary systems and procedures be put in place to enable it carry out its statutory functions. Subject to the necessary preparatory work being completed, it is intended that the authority will be formally established in the autumn of 2014. In advancing this process the Minister for Justice and Equality intends, in the near future, to invite expressions of interest from suitably qualified and experienced persons who wish to be considered for membership of that authority. The Minister is pressing on. Naturally, we would all like that authority to be in place in a shorter time than autumn 2014 but I am sure the Minister is fully aware of the need for such a regulatory authority to be in place sooner rather than later.

Senators Quinn and Wilson raised the possibility that the leaving certificate applied will not be sufficient where Garda recruitment is concerned. That is a serious matter. I agree with both Senators that it is a good qualification. I will certainly make representations to the Minister for Justice and Equality and the Minister for Education and Skills on that matter because as Senator Quinn mentioned, people who have done the leaving certificate applied course are the type of people who should be considered and should not be debarred by only having that qualification.

Senator Paul Coghlan raised the issue of NAMA and pointed out that NAMA is governed by law and any breach should be thoroughly investigated.

Senator Cullinane, in his state of the nation address this morning, called for a debate on poverty, which we will try to arrange in the new year.

Senator Mullins called for a greater number of jobs in the regions. That is necessary. We have seen a considerable number of job announcements in Dublin, Cork and other areas, which are to be welcomed, and I am sure those jobs will filter into the regions early in the new year.

Senator Mullins also raised the issue of the charities sector. Some of the salaries of the chief executive officers were mentioned in a newspaper article yesterday but quite a number of them were not mentioned. Chief executive officers in the charities sector earning more than €100,000 is a disgrace and it is doing nothing to repair the damage done in respect of the Central Remedial Clinic, CRC.

Senator Eamonn Coghlan made similar points and noted that the staff in particular have been badly hurt by comments made about the CRC and others. The staff are the innocent party in this regard and we should all support the wonderful work the staff are doing in these charities.

An Cathaoirleach: Senator Darragh O’Brien has proposed an amendment to the Order of Business: “That a debate with the Taoiseach, the Minister for Finance or the Minister for Justice and Equality on the operation of NAMA and to clarify whether the Garda Commissioner has been asked to investigate allegations of corruption or impropriety in that agency be taken today.” Is the amendment being pressed?

Senator Darragh O’Brien: Yes.

Amendment put:

The Seanad divided: Tá, 15; Níl, 21.	
Tá	Níl
Barrett, Sean D.	Bacik, Ivana.
Crown, John.	Brennan, Terry.
Cullinane, David.	Burke, Colm.
Daly, Mark.	Clune, Deirdre.
Leyden, Terry.	Coghlan, Eamonn.
Mullen, Rónán.	Coghlan, Paul.
Norris, David.	Cummins, Maurice.
Ó Clochartaigh, Trevor.	D’Arcy, Jim.
Ó Murchú, Labhrás.	D’Arcy, Michael.
O’Brien, Darragh.	Hayden, Aideen.
O’Donovan, Denis.	Keane, Cáit.
Power, Averil.	Kelly, John.
Quinn, Feargal.	Landy, Denis.
Reilly, Kathryn.	Mac Conghail, Fiach.
Wilson, Diarmuid.	Moran, Mary.
	Mullins, Michael.
	Naughton, Hildegard.
	Noone, Catherine.
	O’Neill, Pat.
	van Turnhout, Jillian.
	Whelan, John.

Tellers: Tá, Senators Averil Power and Diarmuid Wilson; Níl, Senators Paul Coghlan and Aideen Hayden.

Amendment declared lost.

16 December 2013

Cathaoirleach: Is the Order of Business agreed to?

Senator Darragh O'Brien: No.

Question put:

The Seanad divided: Tá, 21; Níl, 15.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Brennan, Terry.	Crown, John.
Burke, Colm.	Cullinane, David.
Clune, Deirdre.	Daly, Mark.
Coghlan, Eamonn.	Leyden, Terry.
Coghlan, Paul.	Mullen, Rónán.
Cummins, Maurice.	Norris, David.
D'Arcy, Jim.	O'Brien, Darragh.
D'Arcy, Michael.	O'Donovan, Denis.
Hayden, Aideen.	Ó Clochartaigh, Trevor.
Keane, Cáit.	Ó Murchú, Labhrás.
Kelly, John.	Power, Averil.
Landy, Denis.	Quinn, Feargal.
Mac Conghail, Fiach.	Reilly, Kathryn.
Moran, Mary.	Wilson, Diarmuid.
Mullins, Michael.	
Naughton, Hildegarde.	
Noone, Catherine.	
O'Neill, Pat.	
van Turnhout, Jillian.	
Whelan, John.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators Averil Power and Diarmuid Wilson.

Question declared carried.

Local Government Reform Bill 2013: Second Stage

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

Acting Chairman (Senator Paul Coghlan): I welcome the Minister.

Minister for the Environment, Community and Local Government (Deputy Phil Hogan): I am privileged to bring the first ever local government reform legislation before this House. It began life in October as simply the “Local Government Bill 2013” and it will, I hope, enter the Statute Book as the Local Government Reform Act 2014, a title which reflects its true historic significance. It may not rank with what is sometimes referred to as the “Great” Reform Act 1832 in the context of the development of democratic government. However, the enactment of this legislation will be a historic departure in the evolution of local government in Ireland and will bring about momentous change.

Following decades of relative stagnation and decline, the local government sector is now leading the way in public service reform. The Bill before the House introduces radical change across the system. It represents change from outdated, inconsistent and, in some cases, almost redundant structures to a configuration that is rational and reflects modern life; a heavily managerial system of governance to one where the elected council assumes a proper position of leadership and responsibility; a primarily infrastructure-focused role to one that has social, economic and community development as a key priority; and a mindset of dependency on the part of local authorities to one of much greater self-reliance and accountable, democratic leadership. The reform process is facilitating this fundamental change through significant reforms across the entire spectrum of local government in the context of its structures, functions, funding, governance and operational arrangements.

This legislation will not have a short life. For a long time into the future it will radically reform how local government operates, provides its services and, perhaps most importantly, serves, represents and engages with communities throughout the country. The Bill is the road-map by means of which we will move from an underperforming, under-resourced system of local government that has been hampered by weak functions and a disconnection from the citizens and communities it is supposed to serve to a coherent system that is at the heart of governance and public service at local level. This is a substantial Bill, set out in 13 Parts, with 70 sections, and five associated Schedules and, as such, I do not propose now to discuss all of its provisions. Rather, I will highlight the main reform provisions contained in the Bill, as first presented, and the changes made as the Bill passed through the Dáil.

Strengthening local authority functions is a core element of this change process. This is happening in the short term in the form of much greater local authority involvement in economic and community development. Equally important in the longer term is the potential for further expansion of the local government role. A modern, streamlined, effective and well governed system of local government will challenge any sceptic or guardian of centralised control, whether in other Departments or State bodies. We are leading public administration down a path of greater subsidiarity and decentralised governance not just because the Council of Europe and the OECD have championed these principles on grounds of effectiveness as well as democracy, but because it makes good sense. As last year’s action programme for effective local government pointed out, it is irrational to maintain a comprehensive array of local authorities covering every square inch of the State without utilising them to the fullest possible degree for the provision of public services. The local authority should be the public service authority at local level for as many services and functions as possible. To copper-fasten this, the Government recently agreed a procedure for local government-proofing of all future proposals for public service functions at local level, which will ensure that the momentum towards devolution under this Bill will continue to be taken forward.

Nowhere is the significance of change more evident than in the structural make-up of the local government system. Proliferation of public agencies and other organisations receiving public funds was typical of Celtic bubble excess, just like the excessive building, overzoning, excessive lending and overspending that characterised that period of irresponsible government. The local government reform programme is leading the way in deflating the bureaucratic bubble in the sector. Including the dissolutions of town councils and the mergers in Limerick, Waterford and Tipperary, more than 190 statutory local bodies are being stood down. Adding various committees, subcommittees, joint committees and other structures associated with these bodies, the final tally in bureaucratic pruning will reach several hundred more.

These entities give rise to considerable administrative demands - servicing meetings, operating back office functions and going through a plethora of statutory or corporate processes such as corporate plans, strategy statements, annual reports, annual estimates, annual audits, etc. These demands and processes arise largely because these bodies exist, not because they confer any direct benefit to the public. For decades, all of these bureaucratic structures and processes have absorbed resources that, thanks to the reform agenda underpinned by this Bill, can in future be more directly and effectively deployed in improving front-line local services, particularly in terms of economic and community development, activities with real potential to enhance the quality of life of local communities.

The irrationality of current administrative duplication is particularly striking when viewed in the context of an individual county. Take for example Tipperary, which we are unifying after 177 years of separation. How do the 160,000 residents of the county benefit from having nine separate housing authorities, road authorities, planning authorities, rating authorities, etc.? What benefit do the 1,800 residents in the environs of Cashel, who make up 45% of the overall town population, derive from the existence of a town council on their doorstep that does not cater for them in any way? Does the town benefit from the processes, efforts and costs required to produce a co-ordinated development plan for the town and environs, which has to be adopted by two different local authorities?

Extending the boundaries of a town like Cashel or in the 74 other urban centres where, in many cases, a significant proportion of the population lies outside the current municipal boundary, including Kilkenny where there are almost twice as many people outside as within, is not an option. That would weaken the county councils, cause further fragmentation in the revenue base and service delivery and perpetuate the administrative duplication that needs to be eradicated. Nor would it address the status and local governance deficit in the many towns across the country that have grown significantly in the past century or more and where in many cases their populations greatly outnumber that of the smaller town councils.

The only basis on which town boundaries might, in theory, be extended would be to relieve the town councils of most of their already limited functions, which would make a nonsense of retaining them as separate corporate entities. These functions are narrow. In the case of the former town commissioners, which operated under 1854 legislation, they are virtually non-existent. Town councils account for only 7% of local government services and expenditure, but almost 70% of the governance overhead in the sector.

Instead of extending boundaries, the Bill provides for an innovative system of municipal governance whereby the towns will be united with their hinterlands, reflecting the norm for municipalities across Europe and achieving a range of benefits in the process. I am confident that this will also extend across all districts the ethos of municipal government and civic respon-

sibility that has underpinned the work of many town councils.

The strength of the new municipalities will be founded not on corporate status, but on the role of their elected members. The Bill devolves a significant range of powers to elected members at district level, bringing county council decision-making closer to local communities while at the same time achieving greater efficiency and value for money through administrative and operational integration. Subsidiarity will, therefore, be enhanced, a fact, contrary to some misleading comments, acknowledged and welcomed by the recent Council of Europe report. Democratic representation will also be enhanced as the municipal districts will facilitate engagement with local communities and make councillors more directly identified with and accountable for decisions affecting the local area.

Those who suggest that the Bill will weaken local democracy do not have a solidly grounded case. This is evident when one considers that town councillors, who account for 46% of local authority members, represent only 14% of the population, with this small minority also having a dual franchise, while, as I mentioned earlier, many large centres of population and, indeed, the entirety of rural Ireland, have no sub-county municipal governance. Legislation can improve structures, functions and systems but it cannot guarantee that the elected members will have the capacity and commitment to ensure that the system works well and that the potential benefits of the reforms are fully realised. This is one of the key reasons that I have made significant provisions in the Bill to support and encourage elected members to step up and meet the challenge of representing and serving their communities well and effectively.

Part 7 makes provision for a carrot and stick approach to the training and professional development of councillors. For too long, training for councillors has been on an ad hoc basis, often based on little more than costly attendance at conferences organised by commercial interests. This approach has not served our councillors, who I believe are deeply committed to doing their job well, or the communities they represent. To this end, the Bill provides for a more structured approach to training as well as continuing professional development, with powers for Ministerial regulations on the syllabus and provision of councillor training. There will be a strong emphasis on relevant professional training provided at a more local level, where possible. I will be working closely with the amalgamated representative body, the successor to the ACCC and AMAI, which I hope will be in place in tandem with the new structures, to ensure the curriculum for this training is fully relevant and fit for purpose.

Attendance at conferences, unless organised by the local authority system or a recognised sectoral body, will be discouraged. The new intake of councillors following the 2014 local elections will be provided with induction courses that address the need for enhanced training in the areas of ethics and the prevention of conflicts of interest, among other important issues. Failure to comply with regulations on attendance at training will lead to financial penalties. This approach will maximise the return on investment for councillor training, and more important, will improve the effectiveness of councillors in discharging their new and expanded role in the development of policy and oversight of its delivery. This new approach to ensuring that councillors are properly trained for the job is essential to achieving the vision for a reformed local government. This reform will not happen if the elected members are not in a position to deliver the kind of policy-making and oversight that our communities deserve. If this Bill is enacted, they will, for the first time in many decades, have a much more important role to play in how the local authorities they serve are governed and managed.

The Bill provides for an enhanced policy-making role for elected members across many

important areas, including economic development and enterprise support, in particular through the new strategic policy committees for economic development and enterprise to be established under the Bill. These new SPCs will provide a crucial mechanism for the development of the economic part of the local economic and community plans, which will be provided for in their entirety by way of Committee Stage amendments. The new SPC will also be the mechanism whereby the operation of the local enterprise offices, which will be one stop shops for enterprise support within the local authorities, will be overseen by the elected members in a manner similar to the oversight of other SPCs on the management and delivery of local authority functions.

The establishment of the LEOs within the local authority system is a significant element of the bolstering of local authority functions in the areas of economic development and enterprise support. It is in line with the wider reform objective of eliminating duplication in that it will remove another tier of governance through county and city enterprise boards, CEBs, while still ensuring that the best of the work done by CEBs continues to be supported and progressed. It is worth mentioning also that the Bill will additionally deliver an enhanced role for local government in ensuring co-ordinated and coherent action for local and community development.

Through the establishment of the local community development committees, local government will once again take centre stage in this area, bringing its resources and democratic mandate to bear while retaining and building on the existing strengths of local initiative and commitment that have been fostered in the sector to date. The local community development committees will also have a key role to play in the development of the community elements of the local economic and community plans. This new approach will address the existing overly-complex structures, lack of joined-up approach to planning, oversight and delivery of programmes, and the requirement for organisations to be represented on a multitude of local boards and consultative bodies. It will provide for a streamlining of structures and programmes to maximise the benefit to communities at a time when funding, particularly EU funding, is becoming more constrained, and integrating local economic and community development planning will ensure a holistic approach to sustainable development at the local level. Membership of the local community development committees will reflect the partnership approach that has been at the heart of efforts to date, and will foster this further by ensuring a balance between sectoral interests and elected members.

These changes provide for a vital expansion in the scope of functions of local authorities, an issue which was quite rightly raised in the Council of Europe's Congress of Regional and Local Authorities report on local democracy in Ireland. The Bill is vital to reversing the tide of marginalising local government which has occurred over the past few decades. It goes further in providing a mechanism for the devolution of a wide range of central government functions from Departments and State agencies. Although extensive devolution will not happen overnight, the Bill provides a robust framework within which a more efficient and effective local government system can take on increasing amounts of such functions. The Bill goes a long way to achieving our vision of local government as the primary vehicle for governance and public service at local level.

In addition to the broader expansion of the functions of local government, this reform Bill also provides for significant steps to rebalance the relationship between elected members and the executive. This was one of the major commitments that we made in our programme for Government as part of our overall reform of the public sector. The Bill will ensure that the elected members are central to the policy-making and governance of local government. They will have increased decision-making powers and responsibilities, including the ability to vary

the level of the local property tax, and enhanced oversight responsibilities in the delivery of an efficient and effective service to the public.

These enhancements, particularly the discretion to increase or decrease the rate of local property tax, will, in a very real way, make elected members accountable to the communities they serve and will re-energise local democracy. Elected members will have to respond to the needs of their communities and take meaningful decisions about the level of funding that needs to be generated from the local property tax and the ways in which that funding will be used. Some have suggested that the Bill is centralising power, but I am convinced that by significantly reducing the dependence on central government funding, and providing a stable mechanism for local authorities to generate and manage their own funds, we are renewing the relationship between local authorities and the communities they serve. The reintroduction of a significant local revenue-raising power provides the first such opportunity since 1977 for citizens to have a vested interest in the decisions their elected members will make.

Central to the rebalancing of power between the elected members and the executive is the replacement of the traditional role of manager with a new position of chief executive. This is not simply a change of title, but a more fundamental change of role which reflects the relationship between the elected members, as the board of directors of the local authority who provide strategic direction, and the chief executive, who has responsibility for implementing that strategy.

The Bill contains a number of important provisions in this regard - providing additional statutory underpinning for the duty of the chief executive to comply with policy as set down by the elected council, and strengthening the capacity of the council to oversee and question the implementation of that policy. The oversight role of the council, following the enactment of the Bill, will involve additional mechanisms for engagement with the chief executive, requirements for regular monthly management reports, mechanisms for additional reports and indeed reviews of implementation, all at the request of the elected members.

However, perhaps the most symbolic provision of this new relationship will be the role of the elected members in the appointment of the chief executive as the individual who will be expected to implement the policy set by them. The current system gives a nominal responsibility to members to approve the appointment of a manager, but this is relatively meaningless as the appointment is automatic after three months, whatever the view of the council. This is completely turned on its head in the Bill, as henceforth the elected councils will have full powers of appointment of the chief executive following a Public Appointments Service nomination. I will introduce an amendment on Committee Stage to provide greater clarity on how the elected members are to perform this important new reserved function.

With these greater powers of the elected members to generate revenue through the local property tax and to direct the policy and programmes of the local authority, it is logical that the Bill would also seek to strengthen the governance and oversight arrangements for the local government system as a whole. The members at municipal district level will play an integral role in the budgetary process. In fact, an amendment made in the Dáil on Committee Stage provided that the chief executive must consider the needs and resources of the local authority and of the municipal districts. The principles of fairness and equity must be at the heart of the budgetary system, especially in the context of the general municipal allocations.

I also draw attention to the new section on local authority service delivery plans, which

was included as the Bill passed through the Dáil. These plans provide for a new methodology whereby local authorities will clearly identify the services they will be providing and the standards to which these are expected to be provided. These plans are essential for two main reasons - they contribute to the Government's efficiency in public service agenda, while also ensuring that citizens and communities can clearly see what services they are getting for the taxes they pay. It is essential that one can see whether the local authority has delivered what it promised and whether one is getting value for money when comparisons are made with neighbouring or similar local authorities. These service plans will be tied in closely with the more quantitative performance indicator or performance standard model at national level over time.

In this regard, the Bill also makes provision for national oversight of local authority performance through the establishment of a national oversight and audit commission. The commission will provide an independent scrutiny of local government performance in fulfilling national, regional and local mandates. It will bring accountability and coherence to the forefront of consideration of local government performance. Moreover, in line with the overall thrust of the Bill, it will be a streamlined structure without a corporate overhead that will be supported by staff from within my Department and which will have powers to request reports from the new regional assemblies. The commission will do its work under the guidance of an independent chair and will comprise members with relevant expertise in a range of areas to provide the most overarching and comprehensive oversight of local government performance. Its reports will inform the Government and the Oireachtas of local government's strengths and weaknesses and will inform elected members of the performance of their authorities.

More important than the change in Title in the Bill are the substantial additions made to it during its passage through the Dáil. While I have mentioned some of them already, another I wish to highlight is section 60, which replaces the regional planning guidelines with regional spatial and economic strategies, which will be the main function of the new regional assemblies. These are essential to ensuring the full integration between planning and economic development and will provide a much stronger framework for integrated national and regional coordination. These strategies will provide the broad framework within which local authorities will perform their enhanced role in economic development. I intend to table further important amendments to the Bill on Committee Stage here in the Seanad later this week, including provisions to cater for points raised by Opposition Deputies during the Dáil debates. I look forward to a constructive debate with Senators in this Chamber, as well as to the suggestions they also may wish to make to improve the Bill. In addition, some important provisions for which drafting had not been finalised in time for the Dáil will be brought forward in the Seanad in order that the Bill, as it leaves this House, will be further enhanced. I wish to point out that while this will involve quite a number of amendments, the majority of them are minor or technical in nature.

However, there also are substantial issues to be addressed. In particular, I would like to highlight the link I propose to make between the new economic development role at local and regional level and community and local development. Through the new community and economic plan there will be a requirement for local authorities to consider the synergies between the local community development committee, LCDC, and the strategic policy committee, SPC, for economic development processes, as well as to build an integrated plan that will be consistent and coherent with the development plan and the regional spatial and economic strategy and which will be responsive to the needs of the communities to which it applies. In addition, taking account of the discussion in the Dáil, I also will propose some improvements to the provisions on the refund of rates for vacant properties. Furthermore, I will table amendments to

provide a strengthened but measured and balanced regime to secure the payment of outstanding non-principal private residence charge arrears, which will be an important potential source of revenue for local authorities in 2014.

As I have stated consistently, this reform Bill is about bringing local government back into the communities it serves and in that regard, I intend to bring forward an amendment that will provide for a framework for much more active and effective engagement by citizens with local government. Previous efforts in this direction were half-hearted, and the current non-statutory structures that were supposed to generate citizen engagement are largely unknown to the public. The new framework will be detailed in secondary legislation that will enable me to take account of the recommendations from a group chaired by Fr. Seán Healy, which recently completed its work.

I opened this debate with a reference to the change in the Title to the Local Government Reform Bill 2013. Although a simple amendment, I believe it sends a strong and unambiguous signal as to the purpose of the Bill. This Bill will provide a robust legislative framework that will reform fundamentally local government structures and will deliver changes across the sector to ensure that our citizens and communities are served and represented in an effective and accountable way. It will reverse the trend of past decades of marginalising local government and will create a strong basis for more devolution of functions and a rebuilding of local government as the primary vehicle for governance and public service at local level. I will conclude by thanking the Cathaoirleach and Senators for the opportunity to consider this Bill before the Christmas recess. This is a busy time for everyone and I hope the debates will be productive and will contribute to a positive outcome before Members rise for the break.

Senator Denis O'Donovan: I welcome the Minister to the House. While I always will be courteous to a decent Kilkenny man, I am unsure whether I will be as receptive to the Bill itself. Instead of calling this the Local Government Reform Bill, I would be inclined to call it the local government choke Bill. The Bill has many negative aspects and while I will not have time to dwell on them all and do not wish to be completely negative about it, instead of empowering the citizens of Ireland it centralises power and disempowers ordinary citizens. It is an attack on local democracy. I question many aspects of the Bill and perhaps the Minister can provide me with answers. He will know the plan will lead to Ireland having the most centralised government in the western world. We often talk about the much better systems of local governance in Norway, Sweden and Finland but Ireland is moving in the opposite direction.

I oppose the Bill for another reason. Instead of the Bill putting people first, power will be bestowed on the bureaucrats. Many powers will be taken away from the ordinary elected public representatives and put in the hands of what the Minister calls chief executives, which is just a new name for county managers.

I wish to focus on a number of issues for the few minutes allotted to me. I am puzzled by the lack of parity and equity in the quota system for local authorities because I thought the legislation was about transparency and openness. Let me give one simple example. Two areas have been merged to produce the new re-organised west Cork area and the number of seats has been reduced from 12 to eight seats. I compare that with the Mizen Head peninsula which comprises six inhabited islands and is geographically larger than nine counties. Cork city's quota will be approximately 1,500 or 1,600 but for the new area it will be 3,500 which is not on. Fair representation means the same figure should apply for cities and towns. If anything, the system should be like the American Senate where Alaska is guaranteed two Senators and

Arizona, with its low density of population, is guaranteed representation. The Minister should ensure the same applies to rural places like County Leitrim, west Cork or north-west Donegal. Unfortunately, the same will not happen.

What would happen if a constitutional challenge were taken against the legislation? I do not intend doing so but there is a lack of parity and great inequity between areas. My local area will lose three town councils, among which is the excellent Clonakilty Town Council led by an excellent mayor who has done Trojan work over the year. It is a great loss to lose mayors. My area will also lose Skibbereen Town Council and Bantry Town Council with a total loss of 27 town councillors and four county councillors. With the area of Skibbereen-Clonakilty being amalgamated with Bantry, the original combined total of 12 members will be reduced to eight posts. It is ludicrous that remote parts of rural Ireland will have greatly increased quotas for representation. There is great disparity throughout the country in the treatment of places.

My next query is on the local property tax. Why will the tax in many areas, particularly in my own county of Cork, fund the water services provision for the coming year? In effect, the local property tax will fund the provision of another tax.

I wish to raise a point about the rating situation. I cite examples that are not common for me but I am sure are typical of other areas. At present, Skibbereen Town Council and Clonakilty Town Council have a rate that has remained at 10% below the county council average over the years. Both towns are hard-pressed to survive and small businesses must eke out a living. However, the town councils must increase the rate to the county average. For some businesses it will mean a massive increase of 10% for one, two or three years. The increase is unfair and unjust and I ask the Minister to address the matter in his reply.

The legislation deals with local government reform. How will the new legislation treat the change political control of local authorities? Since 1999 local authorities, with some exceptions, have been in the control of Fine Gael and the Labour Party, with terrible planning decisions taken in various counties, including County Cork. Since 1993 Fine Gael or the Labour Party or both have controlled planning. I know a man whose properties are in NAMA. He told me that since 1999 he never bothered with us because there was no point in that the majority of the councillors who had a say in the development plans were Fine Gael or Labour Party councillors. That is why they were running to them and having tea parties with them. We were accused of being in cahoots with developers and so on but that was not the case. That should be recognised. I was the last Fianna Fáil chairman of Cork County Council in 1991, which is 22 years ago. Geographically, it is the largest local authority in Ireland. Currently, it is controlled by Fine Gael which ditched the Labour Party when it suited it. Traditionally, it has been controlled by Fine Gael and the Labour Party and that point is worth noting.

Another point, which I know might be of historical interest, is that some desperate planning took place in local authorities. During the last Government, I did not always agree with what the Green Party was doing but it called for an investigation of five local authorities to ensure planning procedures were properly adhered to over the past decade or more. I understand that once the Minister took the reigns, he decided to abandon such investigations. I am not sure what the reasons were but it is important to know them. We are always looking over our shoulder at the past but it is important to ensure that where mistakes were made - we are always looking at ghost estates - we should investigate why they were made and ensure they never again happen.

Bad rezoning, to which I already alluded, was done by councils which were primarily un-

der the control of Fine Gael or the Labour Party or both. Councils in which Fianna Fáil was in control and where there was bad planning should be looked at also. Some terrible mistakes were made in the planning area.

The greater Dublin area will be looked after, as will the cities, because the number of councillors in them will be dramatically increased. However, there will be a deficit in rural Ireland. Will rural planning be protected? I come from a peninsular area in west Cork and have been a long-term advocate of once-off rural housing where there is a genuine local need. A farmer's son or daughter or a nephew can have difficulty getting planning as, in most cases, An Taisce rejects it, irrespective of the criteria. Will once-off rural housing be properly protected in this Bill? The Minister might give me an assurance in that regard.

In the day's when Dick Spring was the Minister, An Taisce was given extraordinary powers to object to any planning, including rural planning. An Taisce has a critical role in protecting heritage and so on but its interference in once-off rural housing has been to the detriment of communities.

I would like to instance a case which was not in my area and in which I was not involved politically but of which I know. A family with five very handicapped children and which was extremely disadvantaged in more ways than one was looking for a new house with special facilities but An Taisce took the case all the way to An Bord Pleanála and succeeded in blocking it, despite the fact councillors from every party said it was a disgrace. The Minister said this Local Government Reform Bill provides for much transparency and openness in local government. Will the right of An Taisce to look at once-off rural housing in a very narrow and biased way be taken from it? Will its powers be somewhat fettered?

I am going to be a bit parochial again and talk about the town councils of Skibbereen and Clonakilty. They have won numerous Tidy Towns awards, international gold medals and European awards. They have done excellent planning also but all those powers are now being taken from them.

The Minister spoke about setting up numerous municipal district councils. I am concerned that will be little more than a window dressing exercise in that those municipal district councils will not cater for the needs of townspeople in the way the town councils catered for them.

I welcome the Minister, Deputy Hogan, to the House but I have major reservations about the Bill. The last local government Bill abolished the dual mandate. I contested at the time with the then Minister, Noel Dempsey, that that was a retrograde step but this is making much worse matters that he made bad.

Senator Cáit Keane: I welcome the Minister to the House. I am delighted to debate with the Minister one of the most radical changes in local government since the foundation of the State. It is historic, as the Minister stated.

I am sorry the Minister began his contribution on a bad note by criticising centralised control because I was 20 years working in local government and this Bill sees decentralisation down to the district. The abolition of rates in 1977 gave the power to central government because if a local authority does not have money, it cannot do anything and raising money locally is difficult. The abolition of rates by Fianna Fáil was hugely important in centralising control. The growth of the quangos also played a major part in the centralisation process, which is now being undone by the Minister.

The Minister stated in his contribution that he is bringing forward a set of wide-ranging actions to deliver reform across key areas of local government to address the weaknesses that have built up over many years. This Bill gives legislative effect to those proposals and I am privileged to be in a position to contribute to this debate. The Minister has the betterment of local government at heart.

The Minister announced last week a €98 million funding boost for local government in terms of the general purpose grant. That represents an 11% increase in local government funding.

For as long as I have been in politics, which is almost 20 years both in local government and as a Member of the Seanad, we have been talking about political reform. It cannot be denied that this Bill is reforming from a structural, administrative and functional perspective. While I would like to see further devolution to local authorities, and the Minister said there would be further expansion of the local government role in future years, that should be based on strong local democracy, a community spirit and citizen empowerment. I am delighted the Minister mentioned that he was putting citizen empowerment on a legislative basis because previously it was on an *ad hoc* basis. I look forward to hearing more about that.

Another devolution of function concerns rates in that county councils can decide to decrease or increase rates and any savings made will be devolved to local authorities, with all the rates harmonised downwards. In the past week Waterford local authority harmonised the rates downwards.

I welcome the transfer of a total of 44 functions to the district councils, and 24 others may be transferred. If 50% of the councillors want to do that, the power is now in their hands.

The Minister mentioned local government proofing in all sectors. That is a welcome development.

Section 72 of the principal Act provided for the transfer of functions from other public authorities as well as from central government. There is provision for that in this Bill as well.

The lack of reserve functions and financial dependency in previous years meant that local government was a creature of central government and of the managers in implementing policies dictated from on high in terms of the finance made available to it from central government. Local authorities had no power to raise finance locally.

I want to comment on section 3A of the Bill. The Association of Municipal Authorities, the ACC and the Local Authorities Members Association have studied the Bill with a fine tooth comb. I commend their work on behalf of the local members. They have made some very good recommendations to the Minister of State and I am confident that he will listen to some of them. One is that the word “council” should be added to the municipal district areas. I support this proposal because a district is a place while the word “council” denotes the administrative body. It will not take much to change that and it will not cost anything.

Will the Minister of State consider the power of the municipal district in section 29? I know that varying the rate was proposed in the Putting People First document published in 2012. There is a local community development fund but the district should have discretion to use that for specific projects in certain circumstances where they want A, B or C in their district for two years. In the North of Ireland they have the discretion to use what they call the Tesco tax for

large corporations. That is another proposal we might consider.

Overall, however, I welcome the introduction of the municipal districts. They are not a new concept but they have taken a long time to implement. I read the Barrington report 20 years ago which mentioned the district councils. The Minister for the Environment, Community and Local Government, Deputy Hogan, is implementing the recommendations of that report. I know that we will lose some fine town councillors because the area is much bigger than that of the town council and because some of the town councillors work full time they would not be able to commit the time or energy to the wider district area which is regrettable. The devolution of power to the district will more than compensate for that because the town councils did not have any powers. It is not possible to compensate for a good person but it is possible to ensure that the districts will have more power.

The Minister of State mentioned the county and city development boards and devolution. Under this section the local community development committee is independent. I wholeheartedly welcome this independent status because the organisations there expressed a fear that they would lose their independence. I reiterate that they will not and want to clear up any doubt that the local community development committee, LCDC, in its own right may be the contracting authority for programmes and measures pertaining to local government. The Association of County and City Councils, ACCC, and the Association of Municipal Authorities of Ireland, AMAI, have raised some concerns about section 35 that the chief executive officer, CEO, of the council shall select and nominate to the LCDCs. This leaves one individual with the power to nominate to the LCDC. The nomination will then go to the council and be agreed without omission or audition, as stated in the Bill. That is not good. We see what happens to appointments that are not ratified in an open and transparent way. It should not be brought for rubber-stamping to a council. It should be ratified and agreed by the council. It was always done that way and was a reserved function, not the preserve of the CEO. The LCDCs should be independent in their own right. The strategic policy committees, SPC, should remain separate but part of the LCDCs. There is a recommendation that the chair of the LCDCs would be on the SPC. I would like the Minister of State to examine that because both need their independence. They need to be coordinated and how this is to be done needs further consideration.

In the corporate policy group, the registered political party constitutes at a minimum 20% of the total membership. Sometimes there are big parties, such as Fianna Fáil, and more often very small parties. It could happen that a registered political party might not have any member on the SPC. That would not be right for a registered political party. The same would be true for independents. There could be a large group of Independents who would not be registered at all. The grouping system did work. Would the Minister of State comment on that or consider it again?

Section 36 deals with the title of mayor and deputy mayor. It is good that the districts are over 20,000. The AMAI recommended that it be 25,000 but the district and the cities have the power to use the title mayor or whatever they want. We know how important the county identity is to its people. As he is from Kilkenny, the Minister should know that the county and the local authority is sacrosanct also. I ask him to consider giving the county the power to elect the mayor because it is a title that is in use and reinforces a sense of civic leadership. Mayor an chontae is one option but I ask the Minister to examine that. Also, the Minister might tell the House how the directly elected mayor of Dublin process is shaping up.

On the local property tax, the Minister has given a commitment that in 2015 the spending

of 80% of the property tax will be decided by the local council. I welcome wholeheartedly the second legal opinion on that, which local councils have sought for a long time. Not only has the Minister given that power to the county council, but he has also given it to the district council.

I wholeheartedly welcome what the Minister is doing on the provision of training for councillors. It is overdue and badly needed but I have a question in that regard. If a councillor fails to attend, which is compulsory under the regulations, he or she will be penalised. Councillors are not even paid a minimum wage and therefore they have to work. If a person is unable to attend the training on the day it is being provided due to work commitments, and where other exceptional circumstances do not apply, that must be considered an exceptional circumstance. I ask the Minister to examine that while welcoming what the Minister has done in that regard because training bodies are important. It is welcome also that councillors are required to report back because we must ensure that the training bodies are working well. The training bodies that provide the training should ensure a questionnaire is given to the participants at the end of every session and that councillors are supported to ensure they report back because they do not have secretarial services available to them.

I have not mentioned the rate base and the variation in the rates. I welcome the fact that the Minister is re-examining the question of the 50% vacant commercial properties. I have much more to say but I will contribute to the debate on Committee Stage.

Senator Fiach Mac Conghail: Fáilte roimh an Aire. I have given up tabling amendments for the Minister to consider, although he genuinely wished me success in that regard. My batting ratio is zero when it comes to proposing amendments but it will not stop me making comments on the Bill. It has been an extremely busy legislative year for the Minister.

We are at the half way point in the life of this Government. I acknowledge the work of the Taoiseach and the Tánaiste in exiting the bailout in a subdued and frank way over the weekend. It is fair to say that although we have regained our sovereignty on the world economic stage, the state of our national and local politics leaves much to be desired. Aside from regaining our economic sovereignty, this Government was also elected to build and reconnect the body politic and our fellow citizens. This Government received an overwhelming mandate to introduce a new way of conducting politics in this Republic. It was not about costs necessarily but about trust. How can we work together between election times in a way that would bring Government closer to the people?

The signals were strong at the beginning, including the setting up of the Constitutional Convention and the response to the Mahon tribunal, in particular the Electoral (Amendment) Act. However, the Minister is more than half way through the lifetime of this Government and all he has to show for it in terms of reform is the odd Friday sitting in the Dáil, a botched referendum on the Seanad, the proposed amalgamation of a few city and county councils in Waterford, Tipperary and Limerick-----

Senator David Norris: Hear, hear, and a micromanaged version.

Senator Fiach Mac Conghail: -----and the abolition of town councils.

The fact that this Bill is now called a reform Bill is stretching a definition a little too far.

Senator David Norris: Hear, hear.

Senator Fiach Mac Conghail: I regret to say that today, yet again, the Government, which had a strong mandate for political reform, has come up short.

The challenge with this Bill is whether it will lead to a major increase in trust and confidence between our citizens and politics. Has the Minister devolved any real political power or decentralised essential services? Will this Bill stand as the radical reform measure that will represent the mandate of the Coalition Government?

The argument must be made for strong local government. It was coherently argued for as recently as October 2012 in the Minister's Putting People First programme.

4 o'clock

Local government reform should have two general goals, namely, to enhance the democratic legitimacy and accountability of local government while also improving the efficiency and effectiveness of service delivery. In short, it is about trust and effectiveness. There are no strict comparisons or answers as to the ideal number of councillors per head of population; it is more complex than that.

In theory, what the Minister is proposing in this Bill could work. Abolishing town councils and replacing them with municipal districts as a basic unit of local democracy could work well if it is delivered in an efficient way which provides both representation and trust. My concern, however, is that there is an elephant in the room when it comes to local government in that the Minister is not budging on county boundaries as the key cornerstone of local democracy. He was both eloquent and correct in his argument for amalgamating councils, with particular reference to Cashel. However, there are many towns whose hinterland is in another county. The Minister stepped away from the radical reform that would have made this initiative more efficient and imaginative. The sub-county municipal district is a move in the right direction, but it could be vastly improved if county boundaries were replaced with administrative regions. The main problem is the decision to stick with the counties as they exist. To be cost effective, efficient and democratic, our system of local government deserves a more imaginative and radical realignment of administrative boundaries. One-size-fits-all reform does not work, and that is the main reason for my disappointment in this Bill. Creating a sub-county municipal district and a regional assembly, with the county council sandwiched in between, creates a camel, that is, a horse designed by a committee. Local government reform by committee is surely the least palatable choice.

We certainly should seek to reduce costs and facilitate greater efficiencies. If that requires reducing the number of councillors, then it should be done. However, reducing the number of councillors will not necessarily, on its own, increase the connectedness or closeness between citizens and government. As such, this reform Bill does not address the weakness in our local government system. While Putting People First aspires to a greater devolution of duties to local government and lays out a new code for local government in the area of social and economic development, the range of functions for which local government is responsible will remain limited under this so-called reform initiative. There is no devolution of power from central to local government. Power and influence are effected by the range of functions for which local government is responsible, the relationship between central and local government and the financial autonomy of local government. Local government in Ireland has a narrow range of functions when compared with other European countries. I see nothing in the Bill that represents a radical reform whereby central government will devolve substantial functions to the local. The

Minister is seeking to retain the power, and that is enshrined in the Bill.

The primary function of local councils is to deliver services as an agent of central government. There no real opportunity under these provisions for local authorities to set policy autonomously, raise taxes for the provision of services locally or build a unique social contract between citizens and government at a municipal level. Instead, the Bill reins in and reaffirms the primacy of the Cabinet in its oversight of the basic unit of democracy in this State. The Minister of State, Deputy Fergus O'Dowd, will agree that there is something radical and imaginative in the following vision:

Local democracy is an essential component of a robust system of representative democracy...Local government involves more than service delivery. Democratic representation and oversight are important elements and local political leadership and oversight can bring greater accountability and responsiveness to local needs than is likely in the case of bodies that operate solely as an agent of centralised organisations.

That, in fact, is an extract from Putting People First. The document goes on to state: "A system of local government that is largely representational and lacking significant functions and responsibilities will, however, be hollow...". In other words, local government must have substantial functions and responsibilities. The difficulty is that the Bill does not deliver that change.

As recently as this year, the Government contradicted its own stated intentions in Putting People First by removing responsibility for the public water supply from local government. This followed on from the changes to the administration of vocational education and the disastrous overhaul of the education grant system. My point is to do with value and consistency. Do we believe in the reform and strengthening of local government? There is no halfway house in this regard, but the legislation before us today simply does not tackle the issue.

This Bill should be called the Local Government (Minor Amendments) Bill 2013. It is an Irish solution to an Irish problem.

When I was in America in 2004, I spent some time in local areas in South Carolina, where I saw how the concept of raising and paying local taxes worked. Local communities at a micro level were able to vote a budget for the local school, community centre and local roads. Raising and paying taxes at local level not only enhance democracy and effectiveness, but constitute real radical reform, and I see nothing of that in this Bill. Dr. Proinsias Breathnach of National University of Ireland, NUI, Maynooth, stated recently in a blog:

Locally-provided public services should also be locally funded as much as possible, as this creates a clear link for citizens between the taxes they pay and the services they get in return. This in turn maximises accountability on the part of local authorities for efficient and effective social service delivery.

I will raise other issues on Committee and Report Stages, such as the introduction of the CEO, regional assemblies and the inherent and increased power the Minister has to provide direction at all levels of local government. To say this is a major reform Bill is an abuse of the English language.

Senator Denis Landy: I welcome the Minister of State, Deputy Fergus O'Dowd. He is no stranger to local government; indeed, he has been involved in it more than most Members

of this House.

I followed closely the Bill's passage through the Dáil and was impressed by the open and constructive debate that took place. That it was a constructive debate is clearly evident from the number of compromise amendments that were made to the Bill in the Lower House. There were 197 amendments on Committee Stage. Some of them dealt with changes such as the level of population requirement for the provision of a mayor while another provided for an enhanced audit function, which provides better transparency and which I welcome. I also welcome an amendment that was accepted by the Government on Report Stage relating to the non-principal private residence charge. The Bill is substantial legislation, running to 220 pages, with 13 Parts and five Schedules, including sections on community development, financial procedures and regional assemblies. This underlines the importance of the Bill. I hope to see the same standard of debate on the Bill this week as took place in the Lower House.

The Bill implements the action plan for effective local government in the Putting People First document, which was first published in October 2012, with some notable changes. The Government was elected with a mandate to reform the economy, the banking sector and the political system, and the Bill goes some towards fulfilling the latter reform at local government level. Having been a councillor for many years, as was the Minister of State and many Members of this House, I support the need for a reform of local government in Ireland following a century of little or no reform and a gradual reduction of powers. We all agree that strong local government must play a vital part in a modern, functioning democracy, a democracy that is empowered to represent the public interest at all times.

I have previously voiced my view in this House, and to the Minister of State and the Minister, Deputy Phil Hogan, both inside and outside this House, on the type of reform I would like to take place. I have expressed my personal disappointment about the abolition of town councils. These councils have provided a vital service and a crucial democratic link for small towns throughout the country. However, I recognise and accept the democratic decision at Cabinet level to restructure the local government system as set out in this Bill. I welcome the strengthening of local government functions in economic and community development. Time will tell whether the proposed reforms can be implemented in a manner that ensures the needs of all communities, including those in small rural areas, are not overlooked. The manner in which subsequent ministerial regulations are enforced following the passing of this Bill will provide more clarity about the quality of the reform we can expect.

I welcome the fact that the Minister has committed to bringing forward amendments on Committee Stage to provide for increased consultation with local communities. It is important that the principle of subsidiarity is recognised. While consultation is required with citizens on decisions which affect them, there is also a need to recognise the democratic mandate of councillors.

The Minister has always taken the concerns expressed by people, particularly those in rural areas, seriously and I am confident he will work to ensure that such concerns will be allayed. The Association of Municipal Authorities of Ireland, AMAI, is the overarching body for town and borough councils and has been in existence for more than 100 years. I have been involved with the association for in excess of 20 years and have been very impressed by the manner in which it has approached the issue of reform. I have worked closely with the AMAI and the Minister to ensure the best possible result will be achieved from this round of local government reform. We all agree that we need a system capable of delivering in terms of supporting

local communities and revitalising town centres. In this regard, I welcome that as a result of discussions on Committee Stage in the Dáil, elected members will have discretion in respect of the 50% refund on vacant properties. I am glad that under the proposed legislation, municipal district members will be consulted about the period of base year adjustment for business rates. The power to determine the annual rate of valuation will rest with the elected members at plenary council level but only after consultation with the CEO at municipal district level. This is another change that has been made since the Bill was introduced, and I welcome it. I also welcome that a key goal in the context of the Bill is to establish a more coherent approach to rates and charges without placing undue pressure on the SME sector. I look forward to working with the Minister to ensure a common-sense approach will be adopted in order that there will be as much equity as possible in this regard.

I acknowledge that the Minister has interacted with the AMAI, the Association of County and City Councils, ACCC, and the Local Authorities Members Association, LAMA, as the Bill has progressed through the Houses and has taken on board some of the issues in respect of which amendments were tabled on Committee Stage in the Dáil. The Minister has made it clear that the sentiment behind some of those amendments is acknowledged and that the matters to which they relate will be considered in the context of future legislation. I refer, for example, to levying additional rates on those who can afford to pay them to facilitate community gain. This would take pressure off existing small businesses and lead to improvements in local communities. In the context of a matter discussed by the Minister and me and referred to by Senator Keane, I hope additional consideration will take place on Committee Stage in this House with regard to the method of selection for local community development committees, LCDCs, to introduce an increased level of democratic input into the selection process relating to those committees. This issue has been raised with me - and, I am sure, with all other Senators - by the representative bodies.

While I acknowledge that some progress has been made in respect of this matter, I am of the view that leaving the option of the title of mayor open for the elected leaders of councils would be cost neutral in nature and would give greater status to municipal districts which are excluded from using this title because their populations are below 20,000. In that context, there is no representative in County Leitrim who is recognised or referred to by the title of “mayor”. That is a mistake and I hope the Minister will address it.

The Bill will have significant consequences for Tipperary, the county in which I live, and also for Limerick and Waterford. The initiative to amalgamate the local authorities is aimed at providing efficiencies and improved delivery of service. I have seen the report compiled by the Minister which claims this amalgamation will save €30 million over five years in Tipperary. I hope the need to make savings was not the only key factor in these mergers and that the delivery of a stronger system of local government to the people was also a consideration. These amalgamations will require significant changes. I hope these will be the kind of common-sense changes which will ensure services can be delivered more effectively and efficiently to constituents despite the low level of representation, which is regrettable but which has been implemented. I am confident the organisations in Tipperary, Waterford and Limerick will work together and unite for the good of the people affected in these counties.

I look forward to debating the provisions in the Bill with the Minister and with my colleagues in this House over the coming days. I also look forward to listening to and participating in the discussions that will occur in order to ensure we get matters right for citizens and those in local government which we strive to represent.

Senator Feargal Quinn: I wish to share time with Senator Norris.

Acting Chairman (Senator Paul Bradford): Is that agreed? Agreed.

Senator Feargal Quinn: We have only ten minutes. The Minister of State, Deputy O'Dowd, is welcome. Like the 43 Members of this House who are elected mainly by county councillors, the six Members who are not elected by county councillors all have opinions and want to speak on the Bill, even though we do not know nearly as much as them. This shows the interest of every citizen.

I welcome the overall efforts to reform local government and make it more efficient, as it costs €5 billion to €6 billion of taxpayers' money every year. This seems an outrageous amount. Do we need so many administrative staff? Is there a way we could do away with the tens of thousands of staff involved? We have too many structures for a small country. This Bill recognises that to some degree. Regarding Senator Keane's point, does Dublin need four local authorities? Would one be enough? What is the Minister of State doing as regards the Dublin area? Senator Keane already asked this question, but I would love to hear the answer.

Senator Cáit Keane: The reference I made was to a directly elected mayor for Dublin.

Senator Feargal Quinn: Yes; I read about that in today's newspaper. When the Department of Health decided to create the HSE to do away with local bodies, we simply increased the number of administrators. We did not increase the number of doctors. I fear that something similar might happen in this case.

Why do we still have such exorbitant rates of pay in local government compared with our EU neighbours? Are our customers getting a better service than customers in Germany or the Netherlands do? I am sceptical.

Will the Minister of State respond to the accusation that the Bill may lead to increased rates for businesses? Surely this is the last thing we need when we are on the cusp of economic recovery. Could the Bill include a provision promising that rates would not be increased for five years? This would be a sensible measure, although I am unsure as to how to include it. It would protect businesses and give them some stability. If we also abolished upward-only rent reviews, businesses and the economy in general would see a considerable boost, and this would set the conditions for more job creation. The provision on rates could remove many businesses' fear that rates would be increased and that they would be put out of business.

I hope we are not getting bogged down in more red tape, although I fear we are. We are losing institutional knowledge when it comes to fostering business. The Bill will establish so-called strategic policy committees, SPCs, which will prepare local action plans - the Minister described these well - for economic activity and job creation and control local enterprise offices, LEOs, which replaced county enterprise boards, CEBs. It seems so confusing. I hope this new structure will be a success, but it seems that the structure will hinder job creation activities. Will the Minister of State address the status of this new system? When does he expect to see it up and running?

There are other worldwide ideas on the reform of local government. Would the Minister of State be open to them? I found the French example interesting. The French Government rightly identified that public service reform needed to focus on what mattered to citizens. In general, most people were found to perceive government services, both local and central, to be effective

based on a small number of personal and professional interactions during what they called life events - for example, the ease with which a marriage licence could be obtained, a birth could be registered, a business could open a new branch or planning permission could be acquired. The French Government made it a key goal to increase public confidence by simplifying everyday interactions. Recent assessments showed that, on an individual level, the perceived complexity of conducting these life events - I like this phrase - had decreased by 20%. For businesses, the figure was 25%. The French Government used quick wins to get public confidence behind the programme, which is what our reforms need. It is possible if the Bill is implemented and provides quick wins in terms of life events.

In France, good departments have been held up as examples to weaker departments, showing them that change is possible. Can the Minister take this on board in the context of reform of the local government system? Local government should be improving these face-to-face interactions and making this area a priority. More targets should be set in order that they are in some way motivated to improve customer service. There are other issues to consider, including identification of efficiencies in local government. For example, could staff be rewarded via collective bonuses when a service improves rather than remain in the same job for a number of years? This might be a fair way to reward actual improvement. I would welcome such a system. There must also be a measurement of results or outcomes on this basis.

Why can local government services not be operated on a business model? For example, could they be permitted to develop supplementary income streams and receive 100% of any efficiency gains generated rather than having to pay most of it into a system? This would promote efficiency. I have many other ideas, which I will give to the Minister of State, Deputy O'Dowd, before he leaves the Chamber.

Senator David Norris: I am grateful to my colleague, Senator Barrett, for our usual collegial arrangement. I welcome the Minister of State to the House. I do not welcome this Bill, however, which I believe was sparked by Europe in the context of the Congress of Local and Regional Authorities of the Council of Europe report of 31 October 2013 which recommended that the Irish authorities revise the legislation to ensure the subsidiarity principle is better enshrined and protected in the law. While the legislation may have been in preparation, they were still concerned about it. The rapporteurs said they were concerned that consultation with local authorities and their associates are not systematic or sufficiently regulated to allow the latter to make an input into the proposed reform. This is again a lack of consultation on the part of this Government.

The chair of the monitoring committee has specifically asked the Government not to pass the legislation until adequate consultation has taken place with the local authorities. There has been no such consultation. For that reason alone, I will be voting against this Bill. My experience during the Seanad referendum copperfastens this. This was also an issue in terms of the abolition of legitimate democratic participation in the context of *Údarás na Gaeltachta*, which issue was raised vigorously by my colleague, Senator Barrett, at the time.

Section 2(2) of the Bill reads:

If, in any respect, any difficulty arises in bringing any provision of this Act into operation or in relation to the operation of any such provision, the Minister may, by regulations, do anything which appears to him or her to be necessary or expedient for removing that difficulty, for bringing that provision into operation or for securing or facilitating its operation,

and any such regulations may modify any provision of this Act so far as may be necessary or expedient for carrying such provision into effect for the purposes aforesaid.

What kind of legislation is it that allows a Minister to do anything he or she wishes? I do not agree with Ministers being allowed to do anything at all and particularly not without consultation with the Oireachtas. We will have a lack of consultation at the other end as well.

I have been contacted by local authorities from Westport to Clonakilty to Macroom to Kilkenny and so on who are concerned about this legislation. The idea that all this chopping, slashing and cutting is helpful is not necessarily true. I have been very critical of local authorities for the past 30 years. I recall being booed at a meeting of the Association of County and City Councils when I raised the issue of section 4 planning permissions. I accept a great deal of reform is needed. I have signed documents from many councils. Interestingly, one proposal is in regard to a reduction in numbers, although on a voluntary basis. They are prepared to go a fair amount of the way.

This is a sop too far. For example, in the context of the town council proposals, 190 representative groups are being destroyed. There is much talk about keeping in touch with the people and democracy. I mentioned the Seanad referendum and the lies told at that time. In the Scandinavian countries when they produced a one-tier system in parliament they invested massively in increasing local authorities and their powers. They did not go around cutting swathes through them. For example, Waterford city, one of our most historic cities, will have its city council abolished, which is crazy.

First post offices went and then Garda stations went. We now have all those Tesco, Aldi and other stores - I do not expect my colleague, who so generously shared time with me, to agree. However, towns are being bypassed. What is happening in this country? Farming is also in difficulty. What will happen to our communities? Will we have everybody living in Dublin and one or two big quangos - IPCs, LDOs, LEDs and PCCs - all over the place? Even the Minister in his original contribution stumbled over one of them. With at least 80 towns affected by the town council abolition, 190 local groups are being got rid of, what happens to the spirit of these small places? They have already had the stuffing knocked out of them. It is things like the Tidy Towns and the support of Westport Town Council for Westport House planning development. Do people think they will get that from a quango, whether it is an LED or some other kind of daft lighting structure?

I believe the Bill should be parked. We should accept the advice of our European colleagues and not pass it until there has been proper and adequate consultation. For that reason, if I am able to be here, I will most definitely be voting against the Bill, but it is no insult to the Minister of State present who is a decent man.

Senator Jim D’Arcy: I welcome the Minister of State to the House to deal with this most important Bill, the Local Government Reform Bill. I spent many years on a local authority with the Minister of State and he was top class, as he is as a Minister of State.

In his opening contribution the Minister referred to the 1832 reform Act and its role in the development of democratic government. He compared the Local Government Reform Bill to that reform Act. There was another reform Act in 1867 - the second great reform Act. As the Minister of State will know from his great knowledge, the Conservative Party had set its face against extension of the franchise in 1832, but in 1867 Mr. Disraeli turned it upside down by

giving the vote to everybody. Everybody at the time meant every man, by the way.

Senator Cáit Keane: We are nearly there.

Senator Jim D'Arcy: Mr. Disraeli decided to open it up completely. *Punch* magazine produced a cartoon of Mr. Disraeli jumping over Becher's Brook and called it the great leap forward. By the end of the century the Conservative Party had supplanted the Liberal Party, the great architects of reform whose club was the Reform Club, and got the middle ground, such that the Liberal Party almost went out of existence. It was a very clever act. I know it is not the intention of the present Minister to perform such a coup. However, it is a very significant development in the democratisation of local government to give more powers to the local authorities.

Historically in this State central government has had most of the powers. There were valid historical reasons for this because at the time of the foundation of the State, there were competing authorities in local areas with two rates being struck in some authorities. Consequently, the central Government was obliged to take control.

However, it is time to open it up and to give more powers to the elected members. The Minister reiterated in his speech that the elected member would have more powers, such as in the appointment of the manager, now to be called the chief executive officer. Moreover, their role will not simply be to rubber-stamp but will be significant. The Minister also indicated his intention to introduce an amendment on Committee Stage to further strengthen that role and I welcome this. I seek a further amendment on Committee Stage in respect of the local community development committees. The Bill states the manager shall appoint or select all the members of that committee or shall appoint a high officer within the council to select the members of this important committee, which will replace the county development board. This is not reasonable because first, the elected members should be able to choose people from among the body of members to sit on that committee. In fact, all members should have a say in respect of that committee in one form or another, certainly as regards the ratification, if Members are to remain true to the premise that elected members in the local authorities are to be given greater power. I would welcome a response from the Minister in that regard.

In addition, I have discerned a feeling among council members that they would like to retain the choice of having a mayor of their authority. I ask the Minister to consider and respond to this issue as well. Many people have stated they are sorry to see the town councils go and so am I. I was chair of Dundalk Town Council and apart from being appointed chairman of the Geraldines football club in Haggardstown, which was the proudest day of my life, holding that office was also very significant in my life. Indeed, on being elected to Louth County Council in 1999, my aunt in England telephoned me to congratulate me on my election to the council. When I told her I had been elected to Louth County Council, she replied by stating I was not on the council - by which she meant Dundalk Town Council - but was on the county council. As the town councils are very important for the people of the towns, this constitutes a major change. While I believe the new municipal district groupings, councils or whatever they are called will go a long way toward sorting out this issue, I seek further definition of their powers and authorities.

This debate also offers an opportunity to pay tribute to all members of town councils down the years, who served and who continue to serve. Many of them will receive no opportunity to serve again, even if they so wished, because too many people seek too few positions this time. One must recognise their great contribution, which was mostly unpaid. It has only been in the

last few years that councillors have been paid at all and this point must be made.

I also welcome the provision for increased training for councillors. There should be increased training for Deputies and, God save us, perhaps a little bit of training for Senators.

Senator Denis Landy: There is no budget for it. We were supposed to be gone.

Senator Jim D’Arcy: Every elected representative, particularly in Leinster House, should have training equal to the Safe Pass qualification if he or she wishes to work in a building. I mean a political safe pass.

Deputy Fergus O’Dowd: Just a little bit.

Senator Jim D’Arcy: There should be.

Senator David Cullinane: A safe house for councillors.

Senator Jim D’Arcy: This morning the Senator talked about me getting a safe pass to remain here for life. Is that correct?

Senator David Cullinane: Yes.

(Interruptions).

Acting Chairman (Senator Michael Mullins): I ask Members to please stick to debating the Bill.

Senator Jim D’Arcy: I ask the Minister to consider the amendments. I welcome the movement to empowerment at local level in the Bill and his statement that “strengthening local authority functions is a core element of this change process.” Therefore, I welcome the Bill.

Acting Chairman (Senator Michael Mullins): I call Senator Ó Murchú and he has ten minutes.

Senator Labhrás Ó Murchú: Cuirim fáilte roimh an Aire Stáit anseo inniu. There is no doubt that the legislation is radical but there are inherent dangers with all radical legislation. In this case, some of the dangers, their extent and significance, will not become evident until the new reform is in operation and, therefore, it will be too late to reverse them in many cases. Some of the proposals are so radical that once they are implemented that will be it.

At this stage we are entitled to ask the following questions and seek answers. What price change? Is it at the expense of democracy? We must also ask ourselves whether the legislation dilutes local democracy. I believe that it does and shall touch on the subject in a moment.

I note with interest that my home town got specific mention in the Minister’s speech here today. The reason that Cashel was given special mention is not because he expected me to speak about the matter. It is due to the status that Cashel and its tourism has always held.

Deputy Fergus O’Dowd: Yes.

Senator Labhrás Ó Murchú: Its mention provides me with an opportunity to explain what I mean by the dilution of democracy. There is no doubt that largely abolishing local councils will diminish their importance on the business, community and tourism maps of their area and county. It does not matter how good the new structures will be. The one great asset

that we have in this time of challenge and opportunity is a sense of place, a sense of nation and a sense of tradition. Members know that is the case and have a sense of place for their towns and counties. We see that sense in the competitive field of sports, in the economic field and when there has been an achievement in an area. That sense of place cannot be replaced by any structure. Cashel received its charter from King William many centuries ago and it was a city when Dublin was just a black hole. Before any of the other cities were even heard of, Cashel was the city of the kings. That sense of place was handed down through the town clerks that I remember in Cashel and right down through the years the sense of history, stability and tradition stood to us when we were challenged.

I have examined what is being sought in terms of political reform. What political reform has there been in Dáil Éireann? There has been hardly any. It sits on a Friday, which is almost a non-event, and there will be fewer Deputies. There was also a botched effort to abolish the Seanad. The Minister and I went on radio and had a very amicable debate, as should be the case, in that regard. Where is the rest of the reform the people expect and were promised?

It is interesting this is happening at a time of recession and economic deprivation. The reason is that people are so preoccupied with surviving and sustaining their lives and their families that they really have not had a chance to consider what is being suggested in this legislation. We talk about democracy but the essence of that is closeness to the people. I served on Cashel Urban Council for 18 years and will give the House one of hundreds of examples I had of closeness to the people. I returned home at 1 a.m. from Dublin, the fire was lighting and my wife had the teapot ready. We were having a cup of tea when there was a knock on the door. It was spilling rain outside and a tenant of a local authority house asked me to look at the leak in the roof of his house. I said I would look at it the next day but he said that it would not be raining the next day and he wanted me to do so that night. I went to look at it and I was able to do something about it. That was the closeness of the people which is democracy no matter what other way one puts it. The abolition of town councils is not a good move and certainly not in the context of the lack of progress in the other areas when it comes to political reform.

I make the same point about the number of county councillors. County councillors have been demeaned and targeted by certain groups and media as if they were, in some way, lesser beings. What they have had to put up with down through the years is an outrage to democracy. The Minister knows better than I do, or certainly as well I do, the service county councillors give in their own areas. Not enough euro could pay them for it. We want sterling service in public life but because that type of caricature, which is contrived, is put forward, it is easy to take a pot shot at councillors and put away so many of them. That is a big mistake because we need our councillors.

Although it sounds like an element of democracy, I do not agree with the idea that the number should be based on the size of the electorate because there are other aspects to an area, including the size of the territory and the deprivation that very often exists in counties which need stronger representation. The idea of diminishing further any chance they have at equity and equality is certainly lessened in this case.

As for bureaucracy, nobody can tell me from reading this legislation that we are giving more power to the people and less to bureaucracy. The opposite is actually happening. We will see that quicker than we expect when it is operating. I am not critical of county managers, county secretaries or officials. My experience of them has been very good but I always think there is a democratic deficit when one hands over to those people more power and gives less power to

the councillors, despite what is being suggested here.

Much of this legislation, as we see from the Minister's well crafted speech, has come from other lobby groups and advisory groups. What is happening is that bureaucracy from outside is having a further say in this legislation. There are very few people in executive positions who want to be answerable to anybody. That is not to take from them but they do not want to be answerable to anybody. That is what is happening here. They will not be answerable. In the case of local councils there will not even be an identity to whom they are answerable. In the case of county councils, the idea that they can raise more money locally might be a good one but it is very often used as an insulation by central Government to allow it to pass the blame down the line if something does not work out. There are ways of doing this, and it should be done, but I do not believe the way we are going now is the proper way to proceed.

I can see from where the European doubt is coming. As the Minister knows, Westport Town Council has put together a submission to Europe because it maintains, and it may be proved correct, that what is in the new legislation is contrary to the European Union charter. I am inclined to agree but I have read its submission and it is excellent, and it is from Government as well as Opposition councillors. It is not just a matter of defending its own turf patch. It simply believes that what is happening is not acceptable. It is not answerable. It is not even ensuring that when the legislation is passed and is implemented, we have not weakened the entire structure because, as the Minister knows, there has been a tendency in Europe to give power back to the people and funding back to the councils to allow people do things for themselves. They are doing things for themselves but what is important here is that if their democratic stand is weakened in doing those things, a problem arises.

The word that comes to mind in all of this after "democracy" is "identity". Identity is vital. We only have to consider what happens when one's county does well in the All-Ireland. I can only look to what happened in County Clare recently. I do not know of any power on earth that was greater, for whatever number of weeks it lasted, in terms of developing a pride and a positivity than Clare winning the replay. I have never seen anything like that. The Minister has had his own experience but that is the power of identity. It is not just about hurling. It is about rugby, soccer and sport in general. It is about doing things for oneself and being acknowledged and endorsed for doing it. All of that will be weakened in this legislation.

It is a very foolish person who would say we do not need reform of local government. There is no question about that but what type of reform should it be? There may have been an element of consultation but I have a gut feeling, and I do not say this in a political way but as a community activist who is proud of my home town and my county, that there is something wrong with this legislation. Even with minor amendments I do not believe we will bring it to a stage where it will represent genuine root and branch reform, coupled with the other public bodies. The Minister might convince us of that at some stage but I am worried.

Senator Terry Brennan: Cuirim fáilte roimh an Aire Stáit ar ais go dtí an Seanad. I note that councillors will retain all their current powers except in regard to section 140 motions on planning. The Minister, Deputy Hogan, has accepted in full the recommendation of the Mahon report that section 140 motions should no longer apply to planning. That was a reserved function of councillors and in my 26 years on a council I could count on one hand the number of times a section 140 motion was invoked in my county. Councillors dealt with those with great responsibility and they were not issued willy-nilly in my county. There were fewer than a handful in 26 years. It was a reserved function. It should not have been taken from councillors.

Councillors will still be able to invoke the section 140 motions to direct the CEO to undertake other lawful functions. The Bill also makes it easier for councillors to invoke a section 140 motion as follows: it reduces from three to two the number of councillors required to sign the order. It also reduces from seven to five the number of days' notice that need to be given. Will the Minister of State ask the Minister for the Environment, Community and Local Government, Deputy Hogan, for an example of when it is likely that councils would invoke the section 140 motion?

This Bill provides that in future no separate structures will be established for the delivery of public services outside local government unless clearly necessitated. For too long local government has been bypassed by quangos. Councillors in future will be given more devolved powers and functions. Councillors will be able to vary the rate of the local property tax from 1 January 2015. This will provide maximum transparency and accountability for local authority spending. Councillors will be able to decide, as an integral part of the budget process, a schedule of works to be carried in their own local areas. They will therefore set priorities in their own areas. Councillors will adopt a local action plan for the development of every sphere of economic activity within their areas. This will give them discretion to set local priorities, address particular local weaknesses and build on local strengths. That is very important.

All other enterprise agencies must align their plans with the council action plan. Through the SPCs for economic development, councillors will be responsible for the planning, oversight and governance of the local enterprise offices, which will replace the present county enterprise boards. This gives councils a meaningful role in the provision of local enterprise support for the first time. Councillors will approve their local community plan, giving them a greater say in the millions of euros of local and community development funding spent annually in their respective areas. Councillors will be given greater involvement in the appointment of their chief executive. The council will be given the power to reject a recommendation of a person for the position of CEO from the public appointments committee. What would or could happen if a local authority rejected a CEO who had been recommended? What would be the next step?

I note that it is proposed in this Bill that the CEO will report monthly to councillors on the performance of his or her duties, in a more business-like fashion, similar to the reporting relationship between the CEO of a company and its board of directors. A new national oversight and audit commission, NOAC, will be established to report on the performance of each local authority highlighting instances of good and not so good practice. The CEO will prepare an implementation plan for the approval of councillors to address any issues raised by the NOAC, whose report will be made public. This will lead to greater transparency. I note the amendments proposed to be taken on Committee Stage, one of which, for instance, is that service plans to be drawn up for every programme area of the council must be approved by councillors, which will provide a more transparent system for councillors to monitor implementation of council policy.

I too recognise the part played by councillors over the years, some of whom have decided not to run in the next local elections. They have made a significant contribution the length and breadth of the country. Many entered local councils when there was no remuneration whatsoever. Men and women did it for the benefit of their communities. Many will not go forward for the next local elections. It would be remiss of me not to acknowledge the part played over the years by many of my colleagues on Louth County Council and by many other colleagues on councils throughout the country for their voluntary contribution. Senator Ó Murchú said that someone knocked on his door at one o'clock in the morning. Someone rang my doorbell at two o'clock on Christmas Day. My wife said "It's not for me, it's got to be for you." I served every

day of the year and never once regretted it.

Senator David Cullinane: I welcome the Minister of State to the House. It is important that in discussing a Bill to reform local government, we take the opportunity to commend all those who serve and sit on local authorities across the State, and all former councillors, and commend those who will put their names on the ballot paper in the upcoming local elections. It is a very difficult and demanding job, as all the Senators who have so far contributed, have said. Without the input from local councillors, local government would not be as strong, robust and as close to the people as it is. We should commend all those people who enter politics at local government level on the fantastic job they do.

This Bill has been a long time coming. Putting People First was launched with much fanfare in Dublin Castle 12 months ago. Now we can see what the Minister called the most radical reform of local government in 100 years. I cannot agree with that. I do not believe it is as radical as the Minister proposes. There are positives in the Bill but it is most certainly not as radical as it should have been. To suggest that it is the most radical reform of local government in 100 years borders on gross exaggeration.

Consecutive governments have undermined and under-funded local government, all in the name of reform. With each passing decade local government has lost power and had its budgets cut. In the spirit of constructive criticism I welcome the positive aspects of this Bill. It gives a commitment to holding a plebiscite on a directly-elected mayor for Dublin, which I support. I would like to see that in other cities across the State. It would have been the right thing for the Government to put the issue of mergers and amalgamations in Waterford, Limerick and Tipperary to the people too. As the Minister of State undoubtedly knows, there are strong opinions on both sides of the debate on whether there should be amalgamations. In my own city, Waterford, there are strong opinions on both sides. It is a very balanced argument. When there are balanced arguments it is only right and proper to ask the people who will be directly affected if they want to see a merged authority. The Government missed an opportunity there.

The Bill goes on to say that if the voters support a directly elected mayor the Minister will not act on the outcome for at least two years. This is far too long. The Minister should act within 12 months of the outcome of the plebiscite. We in Sinn Féin want to see a mayoral office with real power. There is no point in directly electing a mayor to an office that does not have real power.

5 o'clock

There is no point in having elections to an office that has no real power. In the case of any city in the world with a directly elected mayor, he or she has real devolved power and real authority. If we are going to move in that direction, the mayoral role must carry real power rather than being a mere ceremonial position.

The proposal to establish economic development strategic policy groups in all local authorities is welcome. This is an area in which local government should assume a greater role in the future, especially in the context of changes, such as the establishment of local enterprise offices and so on, that are coming on board. Local government must play a much more active role in the economic development of towns, cities and counties.

The reporting mechanism for councillors to provide information on a quarterly basis of all attendance at meetings will give the public a better insight into the work of the people they elect

to local councils. I also welcome the introduction of a register of payments to elected members in respect of attendance at conferences and seminars. This issue has been a bone of contention and sometimes a cause of controversy in the past because of perceived abuses by some councillors. The public has a right to know how these expenses, which come out of public moneys, are being spent. I welcome the provisions to tighten up that regime and ensure greater accountability. I also welcome the initiative to ensure local authorities' draft budgets are made available to the public by early October. I ask the Minister to take this a step further by ensuring councils hold public events to engage the electorate in the process.

The posts of city and county manager will be replaced by a chief executive and there is to be a rebalancing of power between the executive and the elected council. Although this is a welcome change, the powers granted to elected representatives are very limited. In fact, nowhere in Putting People First do the words "power" and "councillor" appear in the same sentence. Having read the Bill and the explanatory memorandum, it seems clear it is all hype and no substance on this particular aspect of reform. There are no powers devolved from any Department. No extra decision-making powers are given to councillors. I acknowledge that additional functions are being given to local authorities and a total of 24 reserved functions may be performed by municipal district members. This is a smokescreen, however, because, as an entirely new structure, all of the functions of the municipal council are, by default, "new". Of the 105 functions outlined in the Bill that may be performed by local authorities, only 35 are new functions. None of them is ground-breaking. Allowing councils to adopt an annual report or decide to "hold or to cease to hold membership of an association of local authorities" is hardly radical or historic. In fact, many of these proposals are already common everyday practice for local authorities. Nowhere in the Bill are there proposals to tackle the housing crisis or the waste management crisis, provide education facilities or support the fire service. The only reference to planning is to curtail councillors' powers through the removal of section 140 notice provisions as they relate to planning.

In short, no additional powers are being granted to councillors and no powers of substance are being devolved by central government to local authorities. I have argued consistently in every debate on this issue that the one thing local government needs is real power and the one thing central government has not given it is precisely that. We could argue the same about this House; the one thing the Seanad needs is real power, but that is the one thing the Dáil has never and will never give it. Departments like to keep power - they do not want to transfer responsibility to local government. We had an opportunity here to reform local government radically by giving elected local representatives power in areas where they currently have none. It was an historic opportunity given the mandate this Government received in the general election, but it is being squandered.

In contrast with what the Government is proposing, Sinn Féin wants to see maximum power devolved from central government to local authorities and a shift of power from city and county managers to elected representatives. These powers include economic planning, waste management, provision of water and sewerage services, housing and many others. Current local government structures are not fit for purpose. We all agree on the need to reform local government, but this Bill does nothing to change the fundamental fact that local authorities do not have the powers they need. Any reform of local government must ensure the efficient and cost effective delivery of services, put in place structures that are fit for purpose and have democratic accountability at its core.

Again, this Bill does none of that. Due to the introduction of the regressive local property

tax, local government continues to be starved of funding. Councillors need funding to repair roads that are subsiding, but the money is not there. Senator Ó Murchú spoke about leaks in houses. The maintenance grants of local authorities have been slashed and the local councils do not have the money they require to carry out repairs to their local authority housing stock. Across the board there have been major cutbacks in local government in the last number of years, all of which have eroded services, yet people are paying a property tax for which they expected to receive extra services. It did not happen.

I also reject the Government's proposal to cull the number of councillors to 949. This is a drastic decrease and leaves the State with one of the lowest numbers of councillors per head of population in the OECD countries. We propose there should be a minimum of 1,165 councillors. This is in line with the reform of public administration in the Six Counties and would mean harmonisation of that reform across the island. Currently, councils are stifled by limited powers and under-funding. Current local government structures should be maintained until the Government commits to real reform based on a devolution of power from central Government. Sinn Féin believes that to achieve local government that is democratic, accountable and delivering, there must be significant and far reaching reforms, not the type of window dressing the Minister, Deputy Hogan, has presented in this Bill. I believe the reforms we propose will lead to local authorities becoming genuinely fit for purpose.

The functions and powers of local authorities are central to their ability to plan and deliver local services and to be held accountable by the public they serve. The key services of local authorities should be housing, planning, environment and waste management, water and sanitary services, economic development, roads and policing.

Providing housing must again become a central role for local authorities. Local authorities should build and preserve an adequate supply of housing that is maintained and owned by councils and provided at an affordable rent to the public. What has taken place in recent years, started by the previous Government and continued by this one, is the privatisation of social housing, with local authorities not being given the money to build local housing. Under our stimulus package, Sinn Féin is committed to building 9,000 homes in 18 months. There are 112,000 people on housing lists across the 34 local authorities, and there are 33,000 empty homes in unfinished estates.

Acting Chairman (Senator Terry Leyden): Before the Senator outlines his full manifesto, he is over time.

Senator David Cullinane: That is what we are here to do, not only to critique a Bill but also-----

Acting Chairman (Senator Terry Leyden): I have no doubt about that, but not on somebody else's time. The Senator can do it in his own time.

Senator David Cullinane: I will finish. The Chair should have signalled that I had one minute left before he interrupted me.

Acting Chairman (Deputy Terry Leyden): The Senator was in such good flow I did not wish to interrupt it.

Senator David Cullinane: I thank the Chair, but, unlike Fianna Fáil, we have proposals and policies, and it is important that the Minister hears the alternative.

This is a big missed opportunity. The Minister had a real opportunity to reform local government properly and to give local government what no other Government was prepared to give, real power. It is the one thing the Minister has not done in this Bill. The legislation is more window dressing and more of the same. It is nothing like the radical reform that the Minister spoke of in his speech. Unfortunately, it is piecemeal and minimalist reform. It is all about a reduction in numbers and saving money, rather than radically reforming local government, which is the opportunity the Minister had following the mandate the Government received in the last election. He has squandered that.

I look forward to Committee Stage when we can properly debate and tease out all the issues, including the amalgamation of local authorities and the cull in numbers-----

Deputy Phil Hogan: It is working well in Waterford.

Senator David Cullinane: We will have that debate on Committee Stage.

Acting Chairman (Senator Terry Leyden): I call Senator Whelan.

Senator John Whelan: I did not indicate.

Acting Chairman (Deputy Terry Leyden): It is just that we would like to give the Labour Party an opportunity to address the issues involved.

Senator John Whelan: Our spokesperson has contributed substantially.

Acting Chairman (Senator Terry Leyden): Excellent, but we are just trying to provide a balance.

Senator John Whelan: No problem, Chairman. Thank you.

Senator Maurice Cummins: We certainly welcome proposals from Sinn Féin. It is very good to hear proposals, regardless of how much creative accountancy would be involved in implementing them. I remind Senator Cullinane that Sinn Féin wished to reduce the number of councils from 26 to seven in the North. That certainly shoots down many of the arguments he has made over the last ten minutes in this House.

This Bill radically reforms how local government operates in this country, how it provides services and how the people and communities throughout the country are represented. As part of the policy to enhance the role of elected councillors in local government, the position of county manager will be replaced with that of chief executive. Chief executives will have more statutory obligations towards elected members and this is spelled out in the Bill. They will be appointed by the Public Appointments Service but their appointment will be the subject of subsequent approval by means of a formal resolution of the relevant council. The Bill gives local councils the power to veto such appointments. If an appointment is vetoed, the recruitment process will begin again. This is a very important change to the system.

The Bill restricts the powers of local councils to use section 140 of the Local Government Act 2001 in respect of planning. In many ways this is a good development, particularly when one considers some of the excesses which occurred in certain local authority areas in that regard. The Bill provides that each of the 31 councils must establish a strategic policy committee, SPC, on social and economic development to function in the same way other strategic policy committees, as per the Local Government Act 2001. It also dissolves county and city develop-

ment boards and provides that all councils have local community development committees, which is welcome.

I also welcome the Minister's statement to the effect that he is willing to accept amendments on Committee Stage. It is a refreshing change on the part of this Government that its Ministers are prepared to listen and to amend legislation if good points are brought to their attention.

I have a number of queries in respect of certain matters. In the context of community development, there appears to have been some suggestion that the chairperson of an SPC may not be a councillor. Will an amendment dealing with this matter be introduced on Committee Stage? I am of the view that the chairs of the SPCs should be councillors. The corporate policy groups of local authorities discuss very important matters and it is essential that elected members should be represented on these groups. There also appears to be a suggestion that the councillors who will serve on local enterprise boards will be chosen by the chief executive officers. That would not be a welcome development and I ask the Minister to consider amending the Bill in this regard. These are some of the issues about which the Association of County and City Councils, ACCC, has concerns. I hope that the points to which I refer will be addressed on Committee Stage.

I live in Waterford. I stand open to correction by the Minister but it appears that Limerick and Waterford are the two cities which will have metropolitan as opposed to municipal districts. That should allay the concerns of people who live in those cities. Waterford has a very proud heritage and next year will celebrate 1,100 years in existence. There was a degree of concern that the role of the mayor of our city would be diminished in some way. The Minister's efforts in that regard, particularly in terms of financing and the provisions for Limerick and Waterford in the general purpose grant that he announced recently, will allay the fears of people in those cities. There is a strong possibility that rates will decrease as a result. Obviously, only the councils will be charged with making decisions on what to do with their money.

Recently, valuations were redone in Dublin and Waterford. People in the latter are concerned. Many small businesses have seen their rates increase by 100% under the new valuations. Admittedly, quite a number of businesses have seen their rates reduce by 40% or 50%. We do not hear much about them. People with small businesses become concerned when their rates increase significantly. I hope that, as a result of the general purpose grant, we will be able to look after them in some way. It is wrong to divide valuations between two Departments, namely, Public Expenditure and Reform and the Environment, Community and Local Government. Clarity and uniformity are necessary.

I have addressed the issue of strategic policy committees, SPCs, and the concerns outlined by the Association of County and City Councils, ACCC, about the chairpersons of SPCs. Some people seem to have a major problem with the scrapping of the development boards, but I have no problem with their coming under the authority of elected members. They provide accountability, whereas the accountability of some of the boards concerned is practically non-existent. I welcome their coming under the auspices of local authorities.

I welcome this major Bill. It has more than 200 pages. I hope that we will be able to tease out the sections comprehensively on Committee Stage. I am sure that all amendments will be debated at length and constructively.

Senator A: They will not.

Deputy Phil Hogan: The Senator knows all about the guillotine.

Senator Maurice Cummins: The Minister has taken decisions about local government that had been put off for decades. Tackling vested interests is not easy, nor is making decisions that will have an effect on people for many years to come, but he has shown himself to be a Minister who will take decisions in people's best interests. They are often tough decisions, but they will provide a local government system that will see us through for many years to come. It is the greatest shake-up in local government that we have seen since the system's inception. I compliment the Minister and his officials on the Bill and welcome the opportunity afforded by this Second Stage debate to comment on it. I look forward to teasing out each of the sections on Committee Stage and welcome the Minister's willingness to accept amendments that will improve the Bill.

Senator Sean D. Barrett: I welcome the Minister to the House. I share the concern of some people that this legislation weakens democracy and strengthens bureaucracy, which is something we should always look out for. Despite the transfer of many functions from local government, including the transfer of roads to the National Roads Authority, the transfer of water to Irish Water, the transfer of higher education grants to SUSI, the centralisation of the driving licence system and the reduction in new house construction, bureaucracy at local government level has not been tackled. The Minister when responding to the debate might elaborate on how much of the McLoughlin report has been implemented.

County managers have grown extremely powerful. The feedback I get from people in local government is that there are too many directors of services and the system is unnecessarily bureaucratic. Concern was expressed earlier by Senator D'Arcy about the abolition of Dundalk Town Council. Some of the towns that will lose their town councils strike me as places that are well run in the context of the number of people visiting them. The Minister will be aware that Westport has led this particular movement. Other places like Lismore, Cashel, Kinsale, Bray, Ennis, Enniscorthy, Listowel, Killarney, Kells, Midleton, Naas, Birr, New Ross and Trim strike me as pretty well-run towns. Dispensing with their local democratically elected people in the context of the abolition of town councils weakens local democracy. I wonder if the tradition started by the late Frank Hall in the Ballymagash of typecasting of councillors is coming back to haunt us in this Bill.

I gather that some town councils cost approximately €5,000 per annum in terms of expenses. As regards whether they did a good job in terms of electing people, I always prefer "elected" rather than "selected" because this allows for change when the next election comes around. As stated by Senator Norris, I opposed the abolition of democratically elected people from *Údaráis na Gaeltachta*, particularly in the context of the Government's gender quotas. We could have had very interesting candidates from the Gaelic speaking areas and from the town council areas if the new gender quotas in respect of particular parties had been adopted.

Senator Ó Murchú referred to Cashel and the boundaries. As far as I can see, boundaries are always in the wrong place. Some of the boundaries between the United States and Canada run through people's houses. Boundaries have to be drawn somewhere. While Senator Ó Murchú might consider the one between Cashel and the remainder of County Tipperary to be awkward, trying to figure out which county one is in when on the border of Fermanagh, Monaghan and Cavan is difficult. Boundaries have been in place for a long time. The fact that many of them may not suit modern managerialism should not detract from them. Thanks to the GAA, counties are enshrined forever in the Irish consciousness. They promote community awareness,

which is important in getting the spirit going.

Perhaps during the next local or European elections the Minister might consult people in some of the towns concerned in regard to whether they want their town councils to be abolished. It is okay for people at the centre to say they do not like them but perhaps they, too, make mistakes. Maybe, as with the case of the abolition for this House, some of the motivations to want to reduce the number of democratically elected people were not acceptable to the public at large despite the best advice of opinion polls and journalists writing on the basis of those opinion polls. Democracy is delicate and we should be willing to pay some price for it - a small one.

The Bill provides for a considerable amount of relabeling, including the chief executive for the county manager, the national oversight and audit commission for the local government auditor, the board of directors, and the powers to appoint the manager after he or she has been appointed by somebody else. That all seems to be just changing labels on the jars to some degree. In recent times, people in places such as Leixlip, Greystones and Shannon actually wanted local government. So it is not just in the 1854 Act and the various other Acts that people asked to have an elected local authority in their area, which gave them a sense of place. I am not sure that local government is as unpopular with the citizens as reflected in the Bill.

I welcome the Minister saying that he is willing to accept all reasonable amendments. Perhaps the Senators with more direct experience of local government than I have will be availing of his generous invitation in that regard. I commend him on that.

One of the Schedules lists the various Leader and other committees - approximately 50 in all - to be abolished. It would be helpful if we also had a list of the other bodies. I just picked out some town councils which seem to be doing a good job, but are still to be abolished.

Towards the end of his speech, the Minister said: "Through the new community and economic plan there will be a requirement for local authorities to consider the synergies between the LCDC and SPC for economic development processes, and to build an integrated plan that will be consistent and coherent with the development plan and the regional spatial and economic strategy, and responsive to the needs of the communities it applies to." I am concerned about the managerialism in that and the repeated use of the word "strategic" by central government. One of the entries under the word "strategic" in the Oxford English Dictionary refers to something designed to disorganise the enemy's economy and to destroy morale. Sometimes strategic plans have precisely that effect. If it means "important" in the mouths of people who say it so much, let us just call it "important".

The new structures and changing the names of the regional bodies do not seem to mean anything. I should have included that in the list of relabeling existing bodies. In general we should have some kind of impact assessment. This is very important legislation and I commend those who worked on it. However, it should focus on how much it is expected to save and what the gains are. Since this Seanad was elected, we have moved steadily away from appending with the explanatory memorandum some kind of quantification of what we are expecting to achieve, which makes it very difficult, as previous speakers have said, to check up afterwards if we ever accomplished the goals we set out to do.

I thank the Minister for his work on the Bill and his openness and generosity to those who wish to table amendments. I have misgivings and I am not at all sure this is a great day for Irish democracy. Bearing in mind that this House was threatened with abolition, there were no Sena-

tors in Government Buildings on the night in September 2008 when the €64 billion walked out, nor were there any local authority members in there either. Why do we not concentrate some time on the people who were there and did so much damage, which the Minister and his Cabinet colleagues with our support have been trying to correct.

How much of a problem do we have here? What alternatives have been considered in order to resolve it and why was this particular alternative chosen? While I welcome both the Minister and the legislation, I have many caveats and do not know how well the people are being served in this regard. I believe opinion polls should have been conducted nationwide. Were everyone to agree with the Minister that all the town councils should go, that would be fine and I would support him. However, there could well be people for whom this legislation is not welcome and Members must consult with and represent them here in the interests of the better governance of the country, a goal which all Members share with the Minister and the Cabinet.

Senator Diarmuid Wilson: First, I welcome the Minister, Deputy Hogan, to the House. While he is always welcome, I do not welcome this legislation and believe the Minister's last minute decision to amend the Title of the Bill before Members to include the word "reform" sums up all that is wrong both with the Bill itself and the Government's approach to the issue of real reform. Having been elected on the back of a commitment to reform, the Minister has shoehorned the word "reform" into the Title of this Bill for the sake of appearances but forgets to include even the slightest nod towards the concept of meaningful reform anywhere else in the Bill's almost 200 pages. Far from introducing real reform and bringing the citizens closer to the system, the Local Government Reform Bill 2013 takes a machete to local democracy. Instead of thoughtful reform, one gets the chop, chop, chop of local democracy. If passed by this House, this Bill will make Ireland one of the most centralised states in the democratic world. This centralisation is achieved in this Bill through the abolition of town councils, the slashing of council numbers, the continued dilution of the powers of local authorities and the half-hearted gesture towards directly elected mayors.

The Government's unsuccessful attempt to abolish this Chamber was another element in that centralisation agenda but one which thankfully was rejected by the people. Were the Government or the Minister even remotely interested in the concept of real political reform, they would have learned the lessons of the Seanad referendum campaign and would have withdrawn this Bill. The Minister would have seen what happened just over ten weeks ago and would have learnt that real reform must start from the bottom up and must be built on the engagement of the citizen. As matters stand, the tier of government closest to the citizen, that is, local government, clearly is the place to start. Sadly but not surprisingly, this Bill completely misses that opportunity. Ireland has one of the weakest systems of local Government in the Western world and yet, Fine Gael and the Labour Party have come up with a Bill that will make local democracy even weaker.

Across the Western world, ordinary citizens perceive themselves to be increasingly alienated from the decision-making process. This is a deeply worrying and dangerous development and never have voters felt more powerless or disillusioned. Across Europe, disgruntled and disempowered voters are turning to parties at the margins and seek answers outside the democratic process. However, the Government's response to this trend is to take what few decision-making powers voters already have on local issues and to place them in the hands of a few bureaucracies. The advent of modern technologies and the evidence of greater involvement of younger people in community, social and voluntary activities demonstrate the potential that exists to allow one to engage citizens in reshaping local political structures. A local government

structure is required that empowers local leadership, engages citizens and gives them a voice in local decisions. A system is required that works on the ground to support local businesses, revitalise town centres, sustain local sports and recreational developments and work in partnership with the education providers. This Bill misses all of these opportunities. The elimination of the 80 town councils nationwide and the removal of councillors from rural areas - with an increase in representation in Dublin - simply exacerbates the gap between elected representatives and the citizens. Let me give my county of Cavan as an example. I am sure that the Minister is familiar with the county. Many hardworking and dedicated people from his own party, my party and none have served their local communities for decades. With one fell swoop of his pen they must witness the abolition of their town councils and the disenfranchisement of the people that they have represented, in some cases for decades. That is unacceptable.

At the end of May next year there will be what is called local elections but the word “local” should be removed because, regrettably, they are no longer “local.” There is one six seater electoral area in Cavan that covers a geographical area that spans a distance of almost 40 miles and stretches from Blacklion to the Dublin side of Cavan town. The rural part of the constituency or local electoral area - let me call it an electoral area because the local part has been removed - people living on the Dublin side of Cavan town and all the way to Blacklion must elect representatives for the same electoral area. The population is concentrated in Cavan town and the greater Cavan area. The possibility of anybody from the rural part of that electoral area being elected is slim. I firmly believe that there should be positive discrimination towards rural Ireland and shall table amendments to support my belief.

Political “reform” is not about reducing the number of elected county councillors in rural Ireland and moving the seats to the greater Dublin area and the east coast. That is not local democracy or political reform. Changing the title of county manager to chief executive is not political reform. As the Leader alluded to, there is a provision to give local councils more power to select who sits on the various committees. My party shall table amendments on the matter on Committee Stage.

Instead of implementing radical reform, the abolition of town councils will centralise power and rather than moving power closer to the citizens, the Bill will make it more distant. In place of efficiencies there will be large, inflexible organisations where size is mistaken for savings. During the recent Seanad abolition referendum, Fine Gael asserted that Ireland’s size meant that we did not need the Seanad or second parliamentary Chamber. To bolster the spurious claim some Government representatives, namely, the Minister for Jobs, Enterprise and Innovation, was wheeled out to quote statistics on the Nordic countries that only have one chamber, he stated that they had an average number of 160 national parliamentarians and claimed that it was time Ireland had fewer politicians as if there is better democracy and governance with fewer public representatives. Thankfully, the people of this country rejected the Government’s plan to get rid of the Seanad. Let me explain what would happen if we followed the logic of the Government, and that of the Minister, who claim that we would have a far better democracy. It is like claiming that we would have better hospitals if we had fewer doctors and beds. It is like saying we would have better schools if we had fewer teachers but more pupils. Their logic does not make sense and, thankfully, the public saw through the Government’s plan.

I wish to raise an issue mentioned by the Leader. We will table amendments on Committee Stage on this matter. I will outline the position on the first amendment we will table. As worded in the Bill, the procedure will be for an official assigned by the county or city manager, chief executive or whatever the new title will be, to select all of the members of the local community

development committees. This includes selecting the elected councillors to sit on the LCDCs. The Association of County and City Councils finds it incredible that power would be given to an official to select unilaterally the members of the committee. What is worse, it is stated in the Bill that the full list will be put before the elected council, which will, without addition or omission, agree to the list provided by the official. This, in essence, means the council will become nothing but a rubber stamp. How in the name of God is this political reform? It is certainly not democracy. Another amendment we will table relates to the naming of the cathaoirleach or the use of the title “mayor”.

I do not welcome this legislation. I know the Minister probably means well. I know he has been working hard in the Department. That he has been working so hard means he is not very popular with many in the electorate. I suggest he should put this legislation on ice and listen to his colleagues. Any of his colleagues I know are altogether sensible. The Minister should listen to the suggestions they are making and the amendments they put forward. Certainly, we on this side of the House will be putting forward amendments. Perhaps the Minister should consider listening a little more to public representatives, those of his party and others, and listening a little less to officials. Regardless of whether the Minister believes it, I firmly believe the winners from the Minister’s proposed reform will be the officials. They will no longer have to deal with town councillors. They will have seven fewer county councillors to deal with in my county. The losers will be the ordinary people, especially those of rural Ireland, as far as this legislation is concerned. We will be putting forward several amendments and we hope the Minister will genuinely consider them and make a proper decision in respect of them.

Senator Terry Leyden: I welcome the Minister to the House. I thank him for being involved and for staying as long as he has to deal with this Bill. I realise it is an important Bill as far as he is concerned. It is the major change in local government since the 1890s. Like Senator Wilson, my point is that the power is moving from the west coast to the east coast. Those of us in County Roscommon have lost seats, from 26 to 18, in three local authority areas. All those councillors were active and effective. They represented their local areas and the communities from where they were elected. Eight of them will be deprived of the opportunity of serving in public life. That is a fact. Boyle Town Council will be removed. The council provided a good service for a town like Boyle, which will now have no local authority or mayoralty. In contrast, it was not so many years ago when a government brought down Dublin Corporation and brought it up into four authorities: Fingal, Dún Laoghaire-Rathdown and South Dublin county councils and Dublin City Council. Now, Dublin City Council is back to 63 members, an unwieldy number. The Minister must accept that.

I accept the Minister probably would not have gone with that model but I know the Labour Party was particularly keen to have a larger representation in the areas where it has strength, and for those areas to be extended and to get further power. In fact, that will probably not become a reality when the election takes place in May 2014. The change also affects the election of Senators. The more Senators there are on the east coast, the fewer there will be from the west coast, the midlands, Cavan, Monaghan, Donegal and elsewhere. The numbers have increased in Kildare, Wicklow, Wexford and Dublin city. Dublin City Council could elect one or two Senators on its own. That is a fact. Many Senators will be at a disadvantage come the next Seanad election which, fortunately, will take place after all. We are all delighted that the electorate has decided that the Seanad was worth retaining. It was certainly an endorsement of the Seanad.

The Minister must have compliant councillors throughout Ireland. In Fianna Fáil’s time

this Bill would not have got through. Senator Diarmuid Wilson could confirm that for the Minister. There would have been uproar among our councillors the length and breadth of Ireland. They would have prevented the one time Minister, Noel Dempsey, or any other Minister going through with it. We are a democratic party and conscious of the needs of the people and the electorate. I could not envisage a Fianna Fáil Government reducing the number of councillors in counties Leitrim, Roscommon, Longford or Westmeath. All of those councils have been reduced and there has been a reduction in their authority. I served on a local authority from 1974 to 1991 when the dual mandate for Ministers of State was removed. Then I got back in 1999 and I became a Senator and then the dual mandate for Senators was removed. I believe that was a bad decision by a previous government. Senators should have been allowed to continue serving on local authorities because they were directly elected by councillors as well as Deputies and Senators. The main bulk of the electorate of approximately 949 were councillors. It was logical to have a direct conduit from Senators from the local authorities to central government. It was a good way of having a decentralised approach. The management was conscious of the fact that many Senators who were on councils would come to Leinster House and have direct contact with the Minister of the day. They would be able to bring forward the views of the council on issues like water storage and services that were particularly needed.

I served as a member of Roscommon County Council, a Deputy and as a Minister of State at one time. It was demanding but that is not unique. In France, for example, the Mayor of Paris is a Member of Parliament and President of the Council of Europe. They can cope well in those areas. However, that day is gone. My colleague, the late Seán Doherty, was Minister for Justice and a member of Roscommon County Council. I was a Minister of State with responsibility for posts and telegraphs and transport and a member of Roscommon County Council. There were several Senators there.

Senator Maurice Cummins: Roscommon was well represented.

Senator Terry Leyden: We were well represented and able to cope with the responsibilities because of good time management. However, that has moved on. There is a great interest in elections now, which is interesting. The number of candidates putting their names forward now in Roscommon exceeds any previous election, as far as I can see. That is a healthy sign for local democracy. People are willing to serve their communities, go before the electorate and seek the mandate needed. The Minister was down near my parish of Casltecoote. He was welcome to avail of the tidiest town and village in the whole of Ireland.

(Interruptions).

Senator Terry Leyden: It was not convenient on the day in question because it did not suit with the hours, but some other day he will come down. There were other issues on the day. However, he did visit my colleague in another hostelry in the village and he was well received.

Senator Terry Brennan: Why not go to the Dáil bar?

Senator Terry Leyden: We will not go into that at the moment. I will have to divide my interest.

An Leas-Chathaoirleach: Are we going somewhat beyond the watershed of this debate?

Senator Terry Leyden: I am being led down a certain line and I will have to avoid getting into it.

I agree with Senator Maurice Cummins. The chair of any strategic policy committee should be a councillor. It should be a person who goes before the electorate. If another person has community involvement and wants to go before the electorate and get elected, then that is fair enough. The Minister should bear that in mind.

I made my final point to the Minister personally recently. I accept what the Minister is doing with mayors. In Kilkenny there will be one mayor and not two mayors in the county. That is fine. In Waterford there will be one mayor only and not two mayors. However, in counties like Roscommon, Leitrim, Longford or Westmeath there will not be a mayor, there will be a cathaoirleach. With respect to the word “cathaoirleach”, that is, chairman, when one goes on a trade mission or invites a dignitary to the county from across the world, he or she immediately recognises the title “mayor”. All I am asking is a very simple request. In a county which does not have a municipal area, where no person has the title of mayor, whether Cavan, Monaghan, Roscommon, Leitrim, Longford or Westmeath, I suggest an amendment be tabled to the effect the county should have the option to use the title “mayor” - some councils do not want the option and have retained the word “cathaoirleach” - from a trade and business point of view. I feel the Minister will go along with my request because it is illogical to deprive, say, County Roscommon of a mayor, if that is the wish of the elected representatives. I ask the Minister to leave the matter to the elected representatives to decide whether they want to call the “mayor” the cathaoirleach of the council, mayor of the county, and deputy mayor. Given that the Minister is a practical individual I do not think he will make a big issue of that matter. I think most of his Fine Gael and Labour Party colleagues would go along with that proposal to allow the title to be retained in counties which do not have municipal areas.

An Leas-Chathaoirleach: I apologise to Senator Michael Mullins as I did not realise he had not contributed. He should have contributed before Senator Terry Leyden but he was hiding in the corner.

Senator Michael Mullins: I welcome the Minister to the House for what is an historic occasion given that this is the first Local Government Reform Bill in 100 years. That says everything about what we need to do with reform of local government. The Bill provides for radical reform in that it gives significant power back to councillors. It provides for the implementation of reforms detailed in Putting People First: Action Programme for Effective Local Government. When we think of putting people first we ask ourselves what do the people want. They want efficient services, cost effective services, good governance and fairness across the counties and the regions in respect of facilities. Given that the Bill is not by any means perfect, the Minister has indicated that he is willing to accept amendments during the course of the debate. Some of the desired amendments have already been mentioned by my colleagues who, like me, have been lobbied by the representative organisations of councillors who make some good points and suggestions for amendment. The most controversial issue is the elimination of town councils. I express the disappointment of the people of Ballinasloe, my home town, that the town council which was a rating authority will be abolished. Ballinasloe Town Council was very effective, having been involved in every economic aspect of the town for the past 100 years. There is concern that significant events and activities in which the town council has been involved for decades, such as the great October fair and festival, which bring huge economic benefit to the town, may mean that the county council and the municipal district may not have the same interest and involvement.

In recent weeks, Ballinasloe Town Council was in a position to dispense more than €1 million to various sport and community projects in the town of Ballinasloe from revenue earned

by the landfill for the county which was located in the town for many years but has now closed. Due to the work of the town council and the excellent councillors who served for many years we can boast that we have, probably, the best sporting and recreational facilities in the country. I pay tribute to all those who have served down through the years on all town councils throughout the country, not forgetting my colleagues in Tuam and Loughrea but, I have a special affinity to Ballinasloe as I live there but also because that town council was a rating authority. I had hoped and had made representations to the Minister that the rating authorities would survive the local government reform agenda. I also pay tribute to the officials who served with the town councils for their foresight and vision.

One of the positive aspects of the Local Government Reform Bill is that it gives significant powers to the elected members. I welcome the fact that councillors will have the power to vary the local property tax. This will provide maximum transparency and accountability for local authority spending. Some of us in this Chamber are old enough to remember 1977 when my colleagues on the opposite side from Fianna Fáil bought their way into Government by denuding all local authorities of funding. It abolished the rates and motor tax and is regretting it since.

Senator Diarmuid Wilson: I was 11 years old.

Senator Michael Mullins: This Bill, I hope, will in some way return an element of power back to the elected members. At municipal district level the councillors will have the power to decide and prioritise work to be carried out in the local district. As an integral part of the budgetary process a schedule of work is to be carried out in its local area. It is significant that they will set the priorities. Councillors will adopt a local action plan for the development of every sphere of economic activity within their area. The emphasis on economic development and economic activity is welcome. While some members have criticised the renaming of the county manager to that of chief executive officer, that sends out a positive message in respect of business, commerce and activity and enhances the stature of the county council and the chief executive officer of the council. Through the SPC for economic development, councillors will be responsible for the planning, oversight and governance of the local enterprise offices. For the first time, this will give councils a meaningful role in the provision of local enterprise support. I think all members want to see greater oversight and greater accountability.

I welcome the fact that the CEO will have to report to councillors on his or her performance on a monthly basis in a businesslike fashion, similar to the reporting relationship that exists between the CEO of a company and its board of directors. Councillors will have a greater involvement in the appointment of the chief executive officer. The council will be given the power to reject a recommendation of a person for the position of CEO from the Public Appointments Commission. This is the first time we have ever seen this happen.

I welcome the new national oversight and audit commission which will be established to report on the performance of each local authority. It will highlight where there has been good practices and not so good practices. It is a pity that commission was not in place during the past decade because some practices in local authorities were anything but good.

6 o'clock

We all see the impact of bad planning decisions daily with ghost estates and other examples. That was not the fault in most cases of local councillors but of well-paid officials.

I welcome the fact that on Committee Stage we will have the opportunity to table and de-

bate amendments. I support the request that the chairs of strategic policy committees, SPCs, will be held by elected members. The Minister has indicated a willingness to look at this amendment. I share the concern that councils will not have the option on the use of the title of “mayor” or “cathaoirleach”. I would like to have an opportunity to convince the Minister of instances in which the title of “mayor” would be the appropriate title to use. There is no doubt that when elected members are on business abroad, the title of “mayor” carries much more weight and sway than that of “cathaoirleach”.

The Bill has many positive aspects. It reflects the fact that we are in a changing Ireland and that population shifts have taken place throughout the country. Some small towns have town councils whereas large sections of the country that had experienced significant growth had no local representation. While the Bill is not perfect I hope our work before the Christmas recess will enhance the legislation and that it will see us into the next decade or more. We are reforming local government for the first time in 100 years. It is not unreasonable that the Bill would not be perfect on its first outing.

Senator Trevor Ó Clochartaigh: Cuirim fáilte roimh an Aire. Tá áthas orm go bhfuil deis agam labhairt ar an mBille tábhachtach seo, atá ag tabhairt go leor leasuithe isteach.

I would like to comment on the positive suggestions put forward by my colleague, Senator Cullinane. We recognise the positive elements in the Bill although the major issue we identify is in regard to local democracy. I get a sense from the Government benches that their Members are putting the best foot forward but it is a case of *Et tu, Brute*, and their colleagues on the town and county councils will not be welcoming the Bill as much as they are trying to do.

I take issue with some of the changes proposed for rural areas. I will outline a number of them as I go through my contribution. In fairness we are having a comprehensive debate on the Water Services (No. 2) Bill. We all know that water is a resource which everybody needs and Sinn Féin has long called for a co-ordinated approach on the island of Ireland toward ensuring that water is brought to where it is needed when it is needed. Under Sinn Féin proposals, reformed local authorities would continue to own, maintain and develop the public water system to provide water for human consumption free at the point of delivery. We oppose the Government’s plan to use public funds to install domestic water meters and to introduce water charges. Water services need to be kept under the democratic control of local authorities. The establishment of Irish Water will do nothing to improve the distribution or quality of water. It will be a subsidiary of Bord Gáis Energy and we have seen in the past week that the Government intends to sell off part of this company. We believe those proposals should be abandoned. If we look at economic development, the Government has failed to develop a coherent island-wide spatial plan for economic development and to reach the target of having 50% of foreign direct investment directed to areas outside Cork and Dublin. Sinn Féin proposes that local authorities will plan for economic development that benefits the entire community. Sinn Féin believes local government could and should play a lead role in conjunction with Government in promoting economic growth and jobs at a local level. I note that this issue was raised this morning on Raidió na Gaeltachta in the context of western regional development, and that EU funding could have been applied for but because of the Government’s lack of interest in national development and development in the west, no applications were made to a certain fund in the European Union for infrastructural developments. It is not too late to do that and we call on the Government to take another look at it.

Our members in local government would adopt and implement plans for economic develop-

ment. Local authorities should provide incubation space and starter grants for local indigenous industry. Sinn Féin would develop an economic spatial plan in full consultation with local authorities, working alongside State agencies such as the Irish development agency, Enterprise Ireland and Tourism Ireland. One of the main concerns in rural areas in particular is the future of Leader programme and the centralisation of Leader under the local authorities. Again the Minister nods his head but the fear is that directors of services, county managers, or CEOs as they will be, will get their mitts on the money, the decision-making which takes place at a very local level will be more centralised, and the priorities of county councils will take over from the priorities of local communities. I think that would be a retrograde step and taking away much-needed investment. We have seen that in places such as Connemara, for example in Forum Connemara, based in Letterfrack, or Comhar na nOileán Teo or Meitheal Forbartha na Gaeltachta which were based in the Gaeltacht. It is hard enough to get a local authority executive or somebody working for the county council to come out to those areas, never mind to understand the needs of the local people when it comes to economic development.

Sinn Féin would return the power for roads and transport back where it belongs, to democratically elected local councillors. We would increase the availability and use of public transport, which means making it affordable and accessible. For too long road building and transport planning has become a central government function. This process has been devoid of democracy or accountability. Local roads are micromanaged by the Department of Transport, Tourism and Sport. Road and transport link people to their communities and work, while also linking goods to markets. Local authorities must be central to their planning. Again I see this development as being linked to the changes in the rural transport programme that are being brought forward. This has been criticised in rural areas because of over-centralisation of the rural transport programmes under the county council, taking away from the local knowledge on the ground of managing those scarce resources. Instead of cutting back in these areas, there should be more funding going into the rural transport programmes to make them even more effective.

Local authorities must become central to accountable policing and crime prevention. Progress has been made with the introduction of the Garda Síochána Act 2005, which laid the foundation for joint policing committees and local policing fora, but more work needs to be done. Joint policing committees must be reformed. They should become more like the district policing partnerships in the North with elected councillors and community representatives having a direct input into local policing plans and strategies. Joint policing committees must also be able to hold the Garda to account. Joint policing committees should be accountable to the district, city or county council, publishing and presenting quarterly reports to the council. Joint policing committees should have the power to draft and implement policing and community safety strategies, establish local neighbourhood watch and community alert schemes targeted at local areas, and introduce crime prevention measures, including restorative justice programmes. We in Sinn Féin want to see a fully integrated and standardised approach to policing and community safety. We will appoint an assistant commissioner whose responsibility will be to work with local authorities and oversee agreed strategies. When one takes away the hype, this Bill is yet another attempt to undermine local government.

Our current structures are not fit for purpose but this Bill is not the solution. It will only further undermine local democracy. Obviously there are major concerns about the abolition of town councils. The previous speaker, Senator Mullins, mentioned his own local area of Balinasloe, but Tuam, Loughrea and Westport and many more town councils have shown their

concerns. One of the issues local authorities have had in recent years has been the policy of the moratorium on recruitment in certain areas. Even though there have been significant cuts in the staffing, one of the biggest problems has been that it was not a targeted reduction in the numbers and has had a detrimental effect. Although we recognise there are a number of things in the Bill that can be seen as positive overall, we cannot support the Bill in its entirety. Táimid ag súil go mór leis an díospóireacht. We are looking forward to the debate and to bringing forward constructive proposals on how the Bill might be amended. We hope the Minister will take our proposals on board. Tá súil agam go dtógfaidh an tAire ar bord na leasuithe a bheidh á moladh againn.

Senator Mark Daly: I welcome the Minister to the House. It is well recognised that we have a national democratic deficit in this country. In fact, Ireland is the most centralised country in the EU in terms of its democratic structures. Since this Government came into power there has been an attempt to centralise power further by way of the attempted abolition of the Seanad and the abolition of Údarás na Gaeltachta. Now we have the proposed abolition of town councils and the elimination of 744 town councillors who are representing their local communities.

We have the lowest level of local public representation in the EU, with one elected local authority member representing 2,815 people. The ratio in Britain, which is in second place, is 1:2,600. In Denmark, by contrast, there is one locally elected public representative for every 1,115 people, while the ratio for France is 1:118. The last figure in particular seems amazing to us, but the system in that country is working. In every town, village or crossroads, there is a mayor or other elected representative as the point of contact within the local authority system. Under this legislation, however, there will, in future, be one local authority member for 4,800 people. In other words, we will still be the worst in Europe when it comes to local representation, but our ratio will now be worse than that in the country in second place, Britain, by a factor of almost two. Nobody could accept that this change represents better local government.

The argument for the abolition of town councils is that they do not have any power and do not do anything. The reality, of course, is that they do nothing because they have been given no power to do anything. That stripping of power has taken place incrementally, under previous Governments as well as the current Administration. Responsibility for the collection of waste was taken away from local authorities and the provision of housing transferred over to housing authorities and private housing associations. In some areas responsibility for roads has been given in large part to the National Roads Authority, which is even getting involved in planning. There have been many cases where planning permission was refused when land went directly onto national or even secondary roads. Suddenly the NRA began making planning decisions and blocking applications in respects of hundreds of thousands of acres around the country. In addition, the establishment of Irish Water will see the responsibility for the water supply taken away from local authorities. The health boards, meanwhile, were abolished with the establishment of the Health Service Executive.

It all amounts to an incrementalised centralisation of power. This Bill represents the culmination of that process, with town councils being abolished with the cry that they do not have any power. They have no power because they were given no power. If they were assigned the same powers as are given to the corresponding bodies in France, we would actually see democracy operating at a local level. This legislation has all the hallmarks of the PATRIOT Act in the United States, in respect of which it was claimed that one could not oppose because it would certainly provide better local government. Nobody is opposed to better local government, but the Bill before us today does not deliver it. It is, in fact, about better bureaucracy and, as such,

it is better for bureaucrats but certainly not for citizens.

Our proposal, and it is one we hope Members opposite will support, is that the new chief executive officer, who is all powerful under these provisions, should be elected for a five-year term. This elected person would have all the responsibilities of a chief executive, including the power to hire and fire, to make decisions and make mistakes, and take the consequences of any such mistakes. There must be serious auditing and oversight of the activities of any person given such a powerful role and who will be in charge of so much public money. If the people of counties Kerry or Kilkenny or any other county in this country were able, every five years, to hire, through the ballot box, a mayor or chairman to run the county on their behalf, then they would also have the ability to fire him or her if things did not go well. We see the situation in some counties where enormous legal bills were racked up by way of a fruitless exercise in the High Court. Somebody should carry the consequences of that and it should be those responsible for pursuing that course, not ratepayers. Citizens should have the capacity to express their opinion at the ballot box on the spending of millions of euro in an unnecessary and ultimately failed legal battle.

As I said, we have the most centralised system of government in western Europe. Powers have, by degrees, been taken away from local government in recent decades. The Government has abolished *Údarás na Gaeltachta* and is now eliminating town councils that have been in operation for 100 years. I am not arguing for the retention of any institution simply because it has been there for a long time. In the case of town councils, however, it is unacceptable to strip them of their powers and then argue for their abolition on the basis of their lack of powers. More power, not less, should be assigned at a local level and should be exercised by elected public representatives who are answerable to the people. Those who make the real decisions at council level - we all know who those people are - should be elected to their positions and held accountable to citizens. Unfortunately, under this legislation, those who are being given all the power will not be directly accountable to the people but only to the Minister.

Senator Paul Coghlan: I welcome the Minister to the House. Senator Mark Daly has a warped and narrow view of these proposals.

Senator Mark Daly: Is Senator Coghlan going to talk about NAMA again?

Senator Paul Coghlan: Not on this occasion. We will leave that until tomorrow.

Senator Mark Daly: Senator Coghlan has the hotline from NAMA.

Senator Paul Coghlan: I am not sure what has distracted Senator Daly.

Senator Mark Daly: Senator Coghlan should be careful. He has an electorate out there and some of those voters will be paying attention to this debate.

Senator Paul Coghlan: There are several firsts in this Bill which are very welcome, particularly the placing of councillors at centre stage. The councils will be greatly expanded, although many of them, unfortunately, because of population distribution, will be in Dublin and on the east coast.

Senator Rónán Mullen: A few trips to Kerry might be welcome.

Senator Paul Coghlan: Everybody should feel free to come to Kerry.

I greatly welcome the emphasis the Minister is putting on training and the empowerment of councillors. That aspect has been sadly neglected for years. I also welcome the fact the Minister is disposed - I hope I am informed correctly in this regard - to an arrangement whereby the chairman of local community development committees and strategic policy committees will be a councillor rather than an official or some other non-elected person.

I have long held the view that there was a degree duplication - although that might not be exactly the right word - within the local government system. I was never of the view, for the example, that towns deserved to have planning authorities separate from counties.

Senator Mark Daly: The members of Killarney Town Council will not be happy to hear that.

Senator Paul Coghlan: I will come to Killarney in a minute. Towns in this country, from Letterkenny to Wexford and many places in between, have been decimated because managers and officials, blinded by the moneys coming in from rates, allowed too many out-of-town developments. That was a mistake but it cannot be reversed at this stage. One planning authority per county is more than sufficient to have regard to spatial planning and everything else, as part of a broader strategy for sustainable development at regional and national level. Unfortunately, many of the developments that were allowed to proceed were developer-led and nothing else. That is what happened. The bubble happened under the previous Government, and this largely contributed to it. Sadly, in many of these towns some of these developers-----

Senator David Cullinane: The majority on the councils were Fine Gael.

Senator Paul Coghlan: It was an executive decision. It was up to the manager. It had nothing to do with my town and it had nothing to do with councillors.

Senator Mark Daly: Is the Senator seriously in favour of getting rid of Killarney Town Council?

Senator Paul Coghlan: I am simply saying that things were generally developer-led, and that led to ruination. Sadly, many of them are now in NAMA. The Senator can discuss that further tomorrow.

However, I wish to talk about Killarney in a different connection. I agree with the Minister that "cathaoirleach" is the right title for a county. Mayors were traditionally in cities or large towns. There are some historic towns. They might not be cities-----

Senator Mark Daly: The Senator cannot have his cake and eat it.

Senator Paul Coghlan: -----but they have huge cultural and other significance, as in the case of Killarney, the capital of Irish tourism.

Senator Mark Daly: Or Kilkenny.

Senator Paul Coghlan: Kilkenny is a historic city too. I believe Killarney should have a mayor, and perhaps Kilkenny. The municipal district should be allowed to have a mayor in a town such as Killarney, which has developed major connections over many years with cities and towns throughout the world. In the case of Killarney that is principally through tourism and tourism promotion, but that has been good not just for the economy of Killarney, Kerry and the south west, but also for the country. I would argue very strongly for that.

Apart from that, I will wait to contribute on Committee Stage, as appropriate. Overall, I welcome this measure.

Senator David Cullinane: The Senator is playing both sides there.

Senator Rónán Mullen: Cuirim fáilte roimh an Aire. I was struck by the opening lines of his speech in which he spoke about the great reform Act of 1832. While he says this legislation might not rank with that, he sees it in historic terms. I do not wish to accuse the Minister of hubris, but there is a governmental hubris underlying that assertion, just as there was with the proposed referendum to abolish the Seanad. On each occasion there was a grand claim of reform, appealing to some type of historical legacy or the Government holding itself out as sitting in a great tradition of reforming legislation. However, as with the proposal to abolish the Seanad, which was the most shallow of political proposals and was grounded not in an aspiration to reform, but in an attempt to exercise a populist manoeuvre, we see the same here again. It is a grab at relevance, an attempt by the Government to portray itself as doing democracy and our system of government a great service. In reality, it is only doing damage because of the crudeness and shallowness of what is proposed.

I welcome the opportunity to engage with the Minister on this, and I listened with interest to the contributions of my fellow Senators. I also followed the debates that took place in the Lower House. However, I have not heard a response from the Government to many of the fine suggestions being made. In fact, I am more inclined to think we need a national government reform Bill rather than one which focuses exclusively on local government structures.

In many ways, this Bill is extraordinary in its scope and ambition. I acknowledge that. In fact, if they were the criteria by which one could measure the usefulness of legislation, the Bill would be an astounding success. However, many people have expressed their concern about the size and impenetrability of the Bill. Even the Labour Party has said that more scrutiny is required. The Bill has 65 sections and involves major structural changes. It has been noted that the Bill received a recent addition to its Title, with the inclusion of the word “reform”. I have made my comment about that. It is almost a case of where one is explaining, one is losing. Despite having 200 pages and pedantic detail, there is no sense of a truly reforming character in the Bill. The opposite is what comes through loud and clear to local democratic representatives throughout the country. There is no respect for their role and no respect for local democracy. They regard this legislation as deeply regressive, leading to a greater centralisation of national government power and control. Local government is not being reformed by the Government in this legislation, it is being attacked.

We are getting the opposite to what we need, which is genuine devolution of power to the regions and to people. What comes across in this legislation and in everything the Government is doing is that not only does officialdom, by which I mean the permanent government and particularly the elected Government, not trust the people, it also does not care what they think. That is the reason we have the most centralised system in Europe, as Senator Daly and others said, and that is the reason this Government wants it to stay that way. There is an arrogance attached to this Government and its super majority.

Consider the British system and the Barnett formula for deciding what to give the regions in subventions. Effectively, the tax take of the country is pooled, the money is dished out to regions on the basis of a formula and the regional assemblies spend it. Would that not be great in Ireland? Instead of taking health, education and, latterly, water responsibilities from local

government, as has been done in recent years, there could be a genuine desire to resource local government and to bring forward people in the community who could take local decisions and decide on local priorities - that might be to keep Garda stations open, in preference to other goods they might consider to be of lesser importance in that region - and use public resources to implement those decisions. That would be genuine democracy. It would be genuinely in keeping with the principle of subsidiarity, which is a classically Christian democratic principle. Fine Gael claims to be a Christian democratic party and is allied with the European People's Party, EPP, in the EU, but there is nothing about subsidiarity in this Bill. If one thinks that giving the county manager the glorified name of chief executive officer furthers the cause of local participation in democracy, that is naive. It is not even subsidiarity in name.

Ireland is a small country, but we still have a situation where decisions are too centralised and too influenced by the chatter in Dublin. Decisions about education and local authority rates and so forth should be made at the most local level possible. There have been a number of reports on improving local government. Buried somewhere in one of them was a fascinating discussion on regional authorities and what they could do. However, what do we see? The Government is getting rid of town councils, cutting the number of councillors and amalgamating local authorities. That is not reform and pruning the system, but attacking it. It is not using a secateurs but a chainsaw.

I strongly believe in local government reform and I would like to see it happen. Consider the German federal system of Länder. The Länder decide how long the school day is, the education curriculum in the school and so forth. It is interesting to note in passing that in Plato's *The Republic* the ideal republic was a city state of 50,000 free men, with apologies to the women representatives here. Plato was not up to date on either the emancipation of slaves or the participation of women. However, the concept was that people in a democracy would know each other, and the ideal structure was one in which people knew each other and were participating and working with each other. This legislation takes us further away from all that. Fundamentally, there is a mistrust of people and, worse, a mistrust of their capacity to be effective agents of local government.

The criticisms of this legislation are not the reactionary mutterings of an outdated political class of local councillors, who might say anything to protect their interests, their local fiefdoms, their local status or the mayoral chain they get to wear when the camogie team returns to the town. It is not about anything so petty. The objections to this legislation are the articulation of the rational and clear-sighted fears held by experienced practitioners in local democracy. Even if we allow that there is a level of self-interest within some of those who have raised objections to this Bill and the "Putting People First" document on which it was based, serious and valid concerns would still remain in terms of the consequences of the Bill becoming law.

This is certainly not a plea for the *status quo*. As with the Seanad abolition debate, those who oppose what the Government is proposing believe passionately, definitely more passionately than the Government does, in authentic reform. That is a given. The question which arises is whether the Bill facilitates authentic reform or impedes it. The Minister is on the record as stating that the key objective of the local government reform programme was to address weaknesses in the existing system, including issues identified in the report on local democracy in Ireland adopted by the Council of Europe's Congress of Local and Regional Authorities in October 2013. The weaknesses to which I refer include the need for wider devolution of functions to local government, greater subsidiarity at local level, greater financial discretion for local authorities and increased consultation with local authority member associations.

Let us consider the objective of encouraging greater subsidiarity at local government level, particularly as the support or neglect of this principle by our national Government is really a litmus test of its commitment to work towards other objectives. The general aim behind the principle of subsidiarity is to guarantee a degree of independence for local authorities in respect of central government. This, therefore, involves a sharing of powers among several levels of authority. I am afraid that the recent experience relating to this House does nothing to give us comfort that the Government is serious about sharing power with those at the local levels of democratic representation. This goes to the heart of the fears being voiced in respect of this matter. Chambers Ireland has stated that a key concern for businesses with regard to the Bill revolves around the fact that responsibility for setting of commercial rates and increasing charges, such as those relating to parking in town centres, will be removed from local authorities. This legislation does not give back to local authorities, it actually takes away from them. These are not trite concerns. In practice, subsidiarity means that local autonomy on a range of issues is respected by central government. Nothing in the legislative programme of this Government demonstrates that it takes this concept seriously or - when it invokes the term - sees it as anything other than ideological window-dressing.

The relevant provisions in the Bill contradict the guiding principle outlined by the local government efficiency review group in its final report of July 2010, which the Government committed to implement in April 2011. One of the three guiding principles set down states that local authorities, regardless whether they are running all publicly-funded activities in their areas, should have a lead role in overseeing them or in their provision. This is a principle which the Government appears to have forgot but which local representatives have not. The trend to date on the Government's part is towards increased centralisation of services, a copperfastening of the power of the Executive at the expense of the legislative arm and a reluctance to implement meaningful reform.

The Minister has stated that reform of local government will save the taxpayer €420 million during the next four years and lead to a 40% reduction-----

Acting Chairman (Senator Michael Comiskey): The Senator's time is exhausted.

Senator Rónán Mullen: I will conclude. Everyone wishes the Government well in its efforts to save money. However, the overly simplistic mantra of "more money, fewer politicians" which we have been hearing is unworthy of our democratic system and does not reflect its needs. During the debate on the proposed abolition of the Seanad, the Taoiseach continually invoked Denmark as a democratic model. The truth is that Denmark is equivalent in size to Ireland but it has a much more vibrant and robust, democratically accountable local authority structure. Where is the invocation of that and similar models now? The answer is that it no longer suits to invoke them as examples.

Senator Martin Conway: I welcome the Minister. It is to his absolute credit that he has delivered on a commitment made to the Irish people during the most recent general election campaign that there would be radical local government reform. This was the final point in Fine Gael's five-point plan and the Labour Party also made a significant commitment in respect of this issue. In its election manifesto, Fine Gael committed itself to streamlining local development, economic development, etc. That commitment is being delivered upon in this Bill. In its manifesto, the Labour Party referred to greater oversight, effective auditing and so on and those matters are dealt with in the Bill. There is no point in repeating everything that has already been said but I do wish to make a number of points.

I direct anyone who suggests that we do not have a mandate from the people to deliver this reform to the result of the general election in 2011. If one talks to ordinary people who are not involved in politics and who are struggling to run businesses, etc., one will discover they are of the view that what is being done here is extremely positive. The reforms provided for in the Bill are sensible and should have been brought forward years ago. There has not been any type of reasonable reform in the area of local government in the past 100 years. The previous Administration introduced its own reform plan, Better Local Government. I suggest that said plan should have been titled “Bad Local Government” because it created the position of director of services and those who occupied them were each paid in excess of €100,000 per year. Some counties still have up to nine directors of service as a result. Thankfully, however, the numbers have already been reduced. I am of the view that they can be reduced even further.

Under the provisions in the Bill, councils and their members will have the power to reject any recommendation which comes before them in respect of persons nominated for the position of chief executive. What will happen in circumstances where the elected representatives want a particular candidate and, as a result, veto every other nomination which comes before them? Will the Minister comment on this matter, which was brought to my attention recently? All sorts of situations could arise. If the Minister is not in a position to provide an answer now, there is no major panic about it and he can do so in his own good time.

As Senator Cummins indicated, there are just a couple of minor amendments which we would like to be made to the Bill. If the Minister can see his way to accommodating those amendments, we would all be extremely happy.

Whenever one does something dramatic in the context of reform, it is difficult to bring everyone along. If one asked every councillor throughout the country to outline his or her ideal local government structure, one would probably receive 950 different proposals. Something had to be done and the system had to be streamlined. There are currently too many councillors and that matter is being dealt with in the Bill. I am of the view that the legislation is extremely positive in nature. When matters settle down in the aftermath of next May’s local elections, people will recognise that what is envisaged represents a fundamental and effective reform of local government.

Senator Mary M. White: I welcome the Minister. I wish to place my cards on the table by congratulating him on the initiative he has taken in the context of including quotas for women in the legislation. Ministers and politicians in general usually only have one or two opportunities during their lifetime to carve their names in stone. The Minister will be remembered for the initiative to which I refer. I am of the view that he should be Ireland’s next European Commissioner on the basis of his achievement on behalf of the women of Ireland.

Senator David Cullinane: Hear, hear.

Senator Cáit Keane: That is a good endorsement.

Senator Mary M. White: The position of women would have remained the same if this proposed change to the law had not been introduced.

Senator David Cullinane: I second the Senator’s proposal.

Deputy Phil Hogan: I propose that Senator Mullen be the next Commissioner.

Senator Rónán Mullen: I am sure the Minister would like the European job if it was going.

Senator Mary M. White: The Bill furthers the Government's agenda of centralising power and decision making at national level. Legislation to provide for real reform of local government would facilitate greater devolution of powers to local communities. The Local Government Reform Bill 2013 creates a democratic deficit at the heart of the Irish political system, bestows more power on unelected officials and bureaucrats and fails to transform how politics operates in this country. Headline-grabbing cuts ignore the substantive changes to local authority powers, make the Government even more distant to citizens and mask the failure to shift away from both "silo thinking" and delivery of services by centralised government. Promises in the programme for Government in respect of rebalancing powers between councillors and officials have been abandoned, with section 144 of the Local Government Act 2001 being amended and no new or additional powers being given to councillors. Greater democratic participation is completely ignored by the Bill, which transfers powers away from communities to what is the most centralised Government in western Europe. Members of the public do not realise how democratic most other European countries are in comparison to Ireland. A kind of fog has been allowed to fall over that matter. The Minister previously stated that the level of centralisation is unhealthy. Now, however, he is making it worse. I urge the Government to celebrate business more by undertaking a complete overhaul of business rates. Last Thursday, I held an event on revitalising the retail sector, at which Sir Terry Leahy, former chief executive of Tesco, was guest speaker. Sir Terry, whose father and mother were from Sligo and south Armagh, respectively, fundamentally believes that government should keep out of business. Business creates the wealth that allows us to meet most of our social objectives, of which the primary one must be the right to a job. The Minister may have read Archbishop Martin making the same point in today's edition of *The Irish Times*. We cannot meet our social objectives without wealth creation and *vice versa*. When Connie Doody and I co-founded Lir Chocolates my role may have been to develop the business, but the agenda that drove me was to create employment.

An independent retailer, Ms Breda Cahill, also spoke at the event. Ms Cahill, who employs almost 80 people in full-time and part-time positions, epitomises the type of case to which Sir Terry Leahy referred. The rates she must pay would break one's heart. Local authorities should keep their noses out of business and stop imposing unreasonable rates. The bureaucrats who set rates do not have any commercial sense and are impeding small and medium size retail businesses. While the multinational companies are located predominately in urban centres, the small retail companies that create employment and provide front-of-house opportunities for local products to get on the radar and start exporting are located nationwide. These small shops and businesses, which are already struggling with pressure on their sales and margins, and the cost of electricity and excessive rents, will be forced to pay higher rates, potentially driving many of them out of business. Ms Cahill, who has three retail outlets in Dundrum, Balally and Ballinteer, was crying out for help. The banks have been extremely cold-hearted and she has been left heartbroken as a result of the rates she must pay.

As I stated, the retail sector provides employment locally and regionally and offers young people an opportunity to experience work and learn what must be done to hold on to a job. Little understanding is shown for the contribution small shops and the retail sector make to employment and economic sustainability in local towns and villages. The issue is not on the radar. Our shops are being hindered by a business rates regime that is completely out of date.

It is unfair and damaging to saddle one narrow strand of the economy with such a high level of taxation. Businesses need to be sustainable for the sake of the country and local employment. Commercial rates are preventing businesses from developing employment. The retail sector employs 275,000 people and has shed approximately 50,000 jobs since the beginning of the recession in 2008. Business rates and the pressure on retail are unacceptable. As I stated, local authorities and bureaucrats should keep their noses out of business and allow the private sector to develop and grow. I hope the Minister succeeds in becoming a European Commissioner.

Senator Paul Bradford: As I have only six minutes' speaking time, I ask Senator Crown if he wishes to make a brief contribution. I would be disappointed if Senators who wish to contribute are prevented from doing so.

Acting Chairman (Senator Michael Comiskey): The order of the House is that the Minister will be called at 6.50 p.m. If the Senator wishes to share time with Senator Crown, he may do so.

Senator John Crown: Yes, I will speak for one minute.

Senator Paul Bradford: I welcome the Minister. It has been intimated that he is willing to look favourably on amendments on Committee Stage. While it is not the Minister's fault, the Oireachtas, especially the Seanad, should have been given sufficient time to discuss this legislation. Senators and local authority members have a unique relationship, albeit one which was sneered at during the Seanad elections. People decided differently, however, in the Seanad referendum. I am disappointed that sufficient time has not been provided for a full and adequate Second Stage debate on this crucial legislation. Speaker after speaker described this as a landmark Bill and noted we have waited 100 years for this type of reform. The Seanad could have played a pivotal role in advising and informing the Minister on reform of the local authority sector. While I appreciate he has a deadline to meet with elections scheduled for next May, I hope he will not insist on having the legislation concluded this week. The Bill is worthy of detailed consideration and if the Seanad must sit a day or two earlier in January to deal with Report Stage, so be it.

I do not have time to make a substantive contribution. I welcome much of the content of the Bill. The Minister, as a long-serving member of both a local authority and the Oireachtas, brings experience in both areas to the table. Having engaged in many debates in the House and at parliamentary party meetings on local government reform, I appreciate the need for reform. The Minister has now placed a package of local authority reform before the House for consideration.

I missed the Minister's Second Stage contribution but as this is an issue of great interest to me, I went to the trouble of visiting the Dáil Chamber on the day he contributed on Second Stage in the other House. I listened with interest to one comment he made on that occasion. To paraphrase him, the Minister indicated the legislation would bring us into line with the rest of Europe and, as such, was a positive development. The previous speaker expressed a hope, perhaps not in jest, that the Minister will hold a different political position next year and she wished him luck if that prospect is realised, as much media speculation suggests it will be. If the Minister is fortunate enough to secure a highly responsible post of European Commissioner, he will sit around a table with colleagues from across the European Union. Some night, when the meetings are finished and the Commissioners are relaxing over a pleasant meal, perhaps they will discuss local government. When the Minister, the Irish Commissioner, asks them about the

state of local government in their respective countries and reports back to them that, as a result of the Government's deliberations, Ireland will have 31 units of local government, the French, with 36,000 units of local government, the Germans, with 12,000 units of local government, the Finnish, about whom we heard so much during the Seanad referendum who have almost 350 units of local government, the Belgians, with almost 600 units of local government, the Swedes with 300 units of local government, the Portuguese, with 300 units of local government and the Dutch, with almost 500 units of local government, will be rather bemused.

Having decided that politics is bad and politicians are somehow bad people, we are now making a major play of the idea that abolishing town councils and getting rid of 800 local politicians presents us with some form of nirvana.

We should celebrate that Ireland begins afresh today following our exit from the bailout. We must ensure we do not return to the practices that ruined the country. We must learn lessons, including that we have not used or facilitated local government for the development of the country. This Bill, specifically its provisions on the destruction of town councils, poses serious questions. None of us can deny what we have said previously and the Minister will be aware from Fine Gael Parliamentary Party deliberations on town councils four or five years ago that I was one of those who spoke in favour of major reform of town councils, while others took a different view. We have now decided to throw out the baby with the bath water by creating municipal districts.

I have spoken repeatedly in both Houses about the concept of district councils. The 1991 Barrington report, which can be found in the Oireachtas Library, focused on district councils and recognised the need for reform of urban councils. It also recognised that a natural unit of between 15,000 and 20,000 people would be an effective unit of local government. That is something we need to reflect on as well. I appreciate that my time is up. I will allow Senator Crown in. I hope we will have an opportunity to engage with the Minister on Committee Stage. This is the Minister's landmark legislation. It will exist for decades to come. I appeal to the Minister to ensure this important Bill is not rushed through the Oireachtas this week. We can all make the sacrifice of coming back a day or two earlier in January to try to get it right.

Senator John Crown: Gabhaim buíochas leis an gCathaoir agus leis an Seanadóir Bradford for giving me time. I will be very brief. I would like to draw an analogy that I am sure the Minister has heard many times today. It is in the nature of the political climate that exists following the Seanad referendum that people are inclined to draw parallels between this reform initiative and the reform initiative that culminated in the people being asked whether they wanted to abolish the Seanad. In both cases, a genuine problem existed and needed to be addressed. There is clear evidence at national level of real failures in the system of government. These failures cannot always be attributed to the actions of individuals. They are somehow intrinsic to the irrational systems that have arisen in the way we conduct national politics. None of the problems to which I refer, which contributed substantially to the economic decline, would have been addressed by abolishing the Seanad.

I compliment the Minister for grasping the nettle by looking at the structure of local government, which is deeply ingrained in Irish political culture, and acknowledging that there is a need to reform it. While I praise the Minister for doing that, I am afraid I disagree with the actual substance of the way he is going about it for the simple reason that I do not think it addresses the core questions. I do not think these reforms will address the core problems that need to be fixed, such as the democratic deficit within local government. If anything, they will make those

problems a little worse. As legislators in these Houses, we deal every day with the way the permanent officials of the Civil Service do their business. They appear to be impervious in the face of the articulation by elected representatives of a democratic wish for change. I believe this problem will recur at local government level, albeit on a bigger scale, as a result of the reforms we are discussing. A real time bomb is ticking away in these reforms, whereby this country's large, heavily entrenched, self-serving and corporatist bureaucracy will become less sensitive to the wishes of the people who elect the shrinking number of councillors.

One of the critical issues in local government reform, as in health care reform, is the need to connect activity to revenue generation. I am not sure this Bill provides for such a connection. The fundamental problem in our health service is the complete disconnect between how decisions on spending money are made and the ability to raise money to meet the expenditure needs that exist. The manner in which money is given out by fiat in the health service still tends to occur, to a large extent, in the local government sector. That will remain the case after these reforms are enacted. I believe that is a recipe for irresponsible, dysfunctional and inappropriate spending. It leads to the neglect of areas that should benefit from appropriate public services. While I am pleased that someone of the Minister's seniority has grasped the nettle of local government reform, I am afraid I will not be supporting this Bill. I thank the Minister for his time.

Minister for the Environment, Community and Local Government (Deputy Phil Hogan): I thank all the Senators who have contributed to this debate. I agree with Senator Bradford that there is a special relationship between 43 of the Members of this House and those who are elected at local authority level. I am willing to take on board the spirit of what people have implied in their contributions today. I will ensure, as far as possible, that we have a good and sound Bill. Like many Members of this House, including Senator Bradford but not Senator Mullen, I was a member of a local authority for 21 years. I have a little experience to bring to this matter. Throughout my lifetime, this country's system of government has been totally centralised at the expense of local government. That has particularly been the case since rates were abolished in 1977. It takes a brass neck for many speakers, particularly Senator Wilson and his Fianna Fáil colleagues, to advance the notion that this Bill will lead to the centralisation of powers.

Senator Diarmuid Wilson: It is a fact.

Deputy Phil Hogan: I hate to say that to the Senator because he is a good friend of mine.

Senator Mary M. White: The Minister is lucky to have any good friend.

Deputy Phil Hogan: When Fianna Fáil was in power, it centralised everything in quangos at national level. It abolished any powers of particular significance that were held at local government level. As a result of what happened in 1977 and thereafter, we have local administration but we certainly do not have local government. I remind the House that the Bill provides that in future, no separate structures will be established outside of local government unless they are clearly necessitated in exceptional circumstances. It will no longer be possible for local government to be bypassed by quangos. Councillors will be able to vary the local property tax. There is no better way to ensure councils have power than to give them the ability to raise and spend money at local level.

Councillors at municipal district level will be given reserved functions for the first time. Town councils, urban councils and town commissions have never had these functions. Ap-

proximately 70% of all local authority activity was taking place at town council level, but just 7% of the money was being spent at that level. Councillors will be able to adopt local economic and community strategies for the first time. The moneys we get from the EU, which currently bypass local government and go straight to the community sector, will now be aligned with local authorities, which will have the power to adopt plans for the spending of that money. The local authority powers that were given to county and city enterprise boards, through Enterprise Ireland and the Department of Jobs, Enterprise and Innovation, will be returned to local government level at the local enterprise offices. I do not understand why people like Senator Mullen did not read the Bill to see the significant responsibilities and functions that are being devolved to councillors for the first time.

We are setting up a new arrangement - a national commission - to ensure the money that will be spent at local authority level when councils have considerable additional moneys, powers and responsibilities will be spent well. I genuinely believe the combination of the regional assemblies and the national oversight commission will have a meaningful role in the adoption of best practice in local authorities. This structure will ensure that councillors are able to make changes in authorities that are not up to scratch, for example by asking relevant questions about best practice. It should not matter whether the service is supplied by the public sector or the private sector at local level as long as the customer gets the best possible service. Much more accountability is needed. It should not be a case of the managerial local authority system, as it is at present, policing itself on the basis of key performance indicators. That is what happened under the performance-related pay regime that was applied to directors of services and managers by my predecessors.

The attendance of public authorities at meetings is also important. I will table an amendment on Committee Stage, as proposed by several Senators, to ensure public authorities can be asked and, in so far as possible, compelled to be responsive at local level to local representatives. Nothing in the Bill takes powers away from councillors, except in the case of parking charges. As Senators are aware, most parking charges are imposed at municipal district level. It has to be in some municipal district. The municipal districts will be the biggest beneficiaries of the additional income that will accrue in this respect.

I understand that Senator White started a business and was very involved in making sure it was an outstanding success. I remind her that the commercial rate is set by councillors rather than by bureaucrats. We have a job to do in informing councillors that they have a responsibility to business. Rates have generally been frozen in recent years, but they need to come down. That is why I am saying quite clearly that these reforms, which will result in savings, must lead to the commercial rate being harmonised downwards.

Senator Mary M. White: It depends on the county manager. The fees for development and creating employment-----

Deputy Phil Hogan: The councillors adopt the commercial rate at budget time every year. The Senator might not realise that because she was never a member of a local authority.

Senator Mary M. White: I know about the different county managers.

Deputy Phil Hogan: Senator Wilson will tell the Senator about it.

Senator Mary M. White: I know that some innovative county managers understand that unfair commercial rates cannot be imposed on companies that employ people.

16 December 2013

Deputy Phil Hogan: All I can say is that councillors have powers if they wish to use them.

Senator Mary M. White: I do not disagree with that.

Deputy Phil Hogan: My experience is that businesses profit where councillors are strong, where they take on the manager and the system and where they find savings elsewhere. That is why Kilkenny has the lowest rate in the country.

Senator Mary M. White: It is a great county.

Deputy Phil Hogan: Senator Landy and others mentioned the considerable concern of the Congress of Local and Regional Authorities regarding the need for greater constitutional protection for local government. The changes in the Bill do not impinge on the constitutional position. The Constitution does not specify the details of the type of local government structures we must have in this country. Those details are provided for by means of legislation rather than in the Constitution. Our Constitution is a broad framework document.

7 o'clock

It does not get into very detailed specifics. To put people's minds at rest, a monitoring committee of the Council of Europe at the Congress of Local and Regional Authorities recently reviewed local government in Ireland. Its report acknowledged a number of positive developments in respect of local government, particularly the Government's commitment to expand local government's responsibilities and remit. Contrary to what might have been reported in the media which sometimes does not get it right, I will read an extract of comments from the report on the proposed changes. It states:

The existing 80 town councils whose replacement by municipal district councils accounts for the quoted reduction on councillor numbers together represent 14% of the population of Ireland. The reduction can be considered to be warranted both in terms of eliminating duplication and in the context of a public service reform and consolidation generally.

The report also stated:

In the rapporteurs' opinion, the structural changes are a positive element of the proposed reform, as it provides a solution to an unfair situation whereby those living in towns had two votes as compared to the rural areas which had one. It also simplifies the structure. These changes are also expected to be followed by other important steps, including greater subsidiarity, avoidance of duplication, a review of boundaries, better representational balance between urban and rural areas and a cohesive administrative/executive reorganisation.

Contrary to what people might think, the Congress of Local and Regional Authorities is very supportive of what we are trying to do.

Senator David Cullinane: On a point of order, are we extending the Order of Business?

Acting Chairman (Senator Michael Comiskey): No.

Deputy Phil Hogan: I will conclude.

Senator Maurice Cummins: I suggest an amendment to the Order of Business to allow the Minister to respond to the debate.

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

Deputy Phil Hogan: Senator Mac Conghail was very concerned about the fact that there was no significant devolution in the legislation. In respect of local authorities, members now have power to vary the local property tax and have a source of income at local level that will be enshrined on 1 January 2015 due to this power to vary rates plus or minus 15% of the national central rate. This is fundamental to stronger local government. There will be a much stronger local authority role in economic development through the local enterprise offices and there will be much closer involvement by local authorities in local development. Community funding by-passes local authorities at the moment but that will now be centre stage with local government. The amendment of section 72 of the Local Government Act 2001 enables wider devolution of powers to local government and the Cabinet handbook has been amended to ensure that local government proofing procedures are put in place to ensure that local government is the first option for any new local functions.

We have an assignment of some 70 reserve to the new municipal districts. Some of the functions are greater than others but they must be assigned to some place so the municipal districts are getting 70 reserve functions. The municipal district members are also to be involved in deciding programmes of works in respect of the municipal area. The reforms being implemented in the local government structures will help to ensure that we will make devolution much easier and more achievable in the future.

Senator Quinn was concerned about the rates. As I said to Senator White, rates should be harmonised downwards. The rates increases if they apply, which is up to the councillors, will be phased in over a ten-year period.

Senator Mary M. White: The Minister is manipulating the truth.

Deputy Phil Hogan: No, I said the councillors-----

Senator Mary M. White: They are under the power of the bureaucratic manager.

Acting Chairman (Senator Michael Comiskey): The Minister, without interruption.

Deputy Phil Hogan: The power to set rates and the ERB is in the hands of the councillors and I am not taking away that power. The ARV will be frozen during the harmonisation of rates process. I mentioned the Council of Europe report. Unfortunately, Senator Norris was reading an earlier version of the report. I clarified that in the context of their positive contribution. The selection of local community development committee members is an issue of concern. I am certainly looking at amendments in respect of that and am very open to them. Members must remember that we have established a local community development committee to allow that committee to hold the contract for EU funds and there must be a bottoms-up approach to this. The membership of the committee are the people who will select the chairperson. I know one local authority that is a front runner in this process that will select a councillor to be chairman. That is up to the 15 or 17-member committee to do that. Otherwise, we will fall foul of the necessary rules and regulations that are required to draw down European funds in the future.

Senator O'Donovan talked about the ratios of population in west Cork. We had a situation where arguments were being made by places like Ballincollig that they did not have the same ratios of councillors to population as west Cork had previously even though there was a very substantial additional population in that area. No matter which way you do it, you will have

anomalies. I understand that it is often difficult to get the right councillor-to-population ratio for rural areas and peninsulas but I have done all I can in the context of setting up the terms of reference of the independent commission to try to reflect that.

In conclusion, I may not have dealt with all of the queries that have been raised during the course of the debate but I will certainly tease them out with Senators during the-----

Senator Terry Leyden: What about mayors in counties?

Deputy Phil Hogan: I do not propose to make any changes in respect of mayors in counties. We struck a balance in consultation with the Association of County and City Councils and the Association of Municipal Authorities of Ireland. Their representative bodies had a working group working out the details of these issues for the past year. That is the conclusion it reached and I certainly do not want to unravel that particular issue if it has already come to an agreement on it. I have been very open with the representative organisations of the local elected members and they have made many valuable suggestions. If we re-open that kind of debate, we will here until next Christmas to assure that every county was looked after in terms of title when what I feel is more important is the functions of councillors are stronger and that they realise responsibilities they have and are able to take on the bureaucracy.

Senator Mary M. White: I agree with the Minister on that.

Question put:

The Seanad divided: Tá, 24; Níl, 15.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Brennan, Terry.	Crown, John.
Burke, Colm.	Cullinane, David.
Clune, Deirdre.	Daly, Mark.
Coghlan, Eamonn.	Leyden, Terry.
Coghlan, Paul.	Mullen, Rónán.
Comiskey, Michael.	Norris, David.
Conway, Martin.	Ó Clochartaigh, Trevor.
Cummins, Maurice.	Ó Murchú, Labhrás.
D'Arcy, Jim.	O'Brien, Darragh.
D'Arcy, Michael.	O'Donovan, Denis.
Gilroy, John.	Power, Averil.
Hayden, Aideen.	Reilly, Kathryn.
Higgins, Lorraine.	White, Mary M.
Keane, Cáit.	Wilson, Diarmuid.
Kelly, John.	
Landy, Denis.	
Mullins, Michael.	
Naughton, Hildegard.	
Noone, Catherine.	
O'Keeffe, Susan.	

O'Neill, Pat.	
van Turnhout, Jillian.	
Whelan, John.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators David Cullinane and Diarmuid Wilson.

Question declared carried.

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

Senator Maurice Cummins: Next Wednesday.

An Cathaoirleach: Is that agreed? Agreed.

Committee Stage ordered for Wednesday, 18 December 2013.

Pyrite Resolution Bill 2013: Order for Second Stage

Bill entitled an Act to provide for the making of a scheme for certain dwellings affected by pyrite; to provide for the establishment of the Pyrite Resolution Board to manage the implementation of such scheme; and to provide for matters connected therewith.

Senator Maurice Cummins: I move: "That Second Stage be taken now."

Question put and agreed to.

Pyrite Resolution Bill 2013: Second Stage

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

Minister for the Environment, Community and Local Government (Deputy Phil Hogan): I am delighted to have this opportunity to introduce the Pyrite Resolution Bill 2013 to the House. It represents an important milestone in the quest to provide sustainable and practical solutions for home owners affected by pyritic damage, many of whom have had to endure the hardship of living in pyrite-damaged homes for some considerable time.

Developing the structures necessary to deliver a remediation scheme has proved particularly challenging and, regrettably, has taken much longer than I anticipated. Initially, I had hoped that those identified in the report of the pyrite panel, which was published in July 2012, as hav-

ing direct or indirect responsibility for the pyrite problem would work with me to provide a voluntary industry-led solution, including appropriate funding arrangements. Despite protracted discussions, however, it did not prove possible to agree a voluntary scheme.

In the absence of such agreement, the Government approved the funding of a pyrite remediation scheme from the imposition of mandatory levies on the quarrying and insurance sectors, on which basis my Department commenced work on the development of a pyrite remediation Bill. Unfortunately, legal difficulties arose during the drafting process and it was not possible to proceed on the basis of the Government approval.

While the State is not responsible for the pyrite problem, a view supported by the independent pyrite panel, it would be unconscionable to leave affected home owners without a solution. Against this background and having regard to the exceptional nature of the pyrite problem and the circumstances in which it occurred, I asked my Department to explore alternative options for resolution. Despite a number of alternative options having been considered, the only sustainable and practical option was to provide Exchequer funding.

In spite of budgetary constraints, the Government recently approved initial funding of €10 million, with additional funding to be provided from a stimulus package to be agreed early in 2014. This will enable the homes identified as being most severely damaged to be remediated over a two-year period.

The main provisions of the Bill provide for the establishment of the pyrite resolution board on a statutory basis and the operation of the pyrite remediation scheme. Earlier this year, I set up the board on an administrative basis. The report of the independent pyrite panel provides the backdrop to the Bill. One of its key recommendations was the categorisation of dwellings as red, amber and green as a means of prioritising the remediation of affected dwellings. The Bill follows this approach. The Bill provides for a pyrite remediation scheme for dwellings affected by significant pyritic damage, having regard to the Irish Standard 398-1:2013 Reactive pyrite in sub-floor hardcore material - Part 1: Testing and categorisation protocol. This standard was developed and published by the National Standards Authority of Ireland, NSAI, in response to a recommendation in the pyrite report. This approach is practical and sensible. The remediation of dwellings is an expensive and disruptive process and it would be unreasonable to expect dwellings not exhibiting damage to be remediated. This approach is also supported in the High Court judgment of Mr. Justice Peter Charleton in the case of *James Elliot Construction v. Irish Asphalt*, which is now on appeal to the Supreme Court. In the judgment, Mr. Justice Charleton stated:

It is not yet reasonable to remove the infill ... solely because of the high sulfur content of the infill. That only established a possible danger into the future. Removing the infill because of actual heave is on the other hand entirely reasonable.

The principle behind the Bill is to provide a solution for a restricted group of home owners whose homes are affected by pyrite. The scheme is one of last resort and eligibility will be confined to one dwelling per owner, subject to specified exceptions. This scheme does not apply to housing provided on a commercial scale and dwellings owned by builders, developers or persons connected with them who constructed the said dwellings will be excluded from the scheme. The pyrite resolution board will establish priorities for remediation based on the severity of damage and the most economic and effective use of resources. It may also group dwellings in need of remediation together for the purposes of achieving efficiency and cost ef-

fectiveness through economies of scale.

The scheme will apply to dwellings within the geographical areas identified in the pyrite report and where the home owners can establish to the satisfaction of the pyrite resolution board that they have no other practicable options to obtain redress other than under the scheme. However, it is not intended that the financial resources of individual applicants will be considered as part of the assessment of available options, although a number of other pertinent factors will be considered, including the extent of structural warranty cover or other forms of insurance cover available to the home owners or legal actions being pursued by or on behalf of the applicants.

This is not a compensation scheme. Home owners will not be able to seek the recoupment of costs associated with the remediation of a dwelling undertaken prior to the commencement of the scheme. Inclusion in the scheme is predicated, *inter alia*, on the dwelling being subject to significant damage attributable to pyritic heave and where this can be verified, having regard to the IS 398:1-2013 prior to works commencing. This is in line with how similar Government schemes operate or have operated in the past, where prior approval is a key eligibility requirement for a scheme. The Bill provides in exceptional circumstances that a dwelling that does not meet the eligibility criteria of the scheme in terms of either the severity of damage or on the grounds of ownership may be included in the scheme if it adjoins another dwelling being remediated and where the board considers that its exclusion may cause damage to either dwelling.

While the board will not directly employ staff, it will be supported by staff who will be assigned to it mainly from my Department, but also from the Housing Agency. This will enable the board to undertake its role efficiently and without the necessity for a separate and costly staffing structure. The Housing Agency will be responsible, *inter alia*, for the procurement of competent professionals and contractors, arranging for testing of dwellings, awarding contracts and making payments in respect of the remediation works and all other ancillary costs.

My preferred approach for dealing with the pyrite problem was for responsible parties to provide a voluntary solution. While this did not prove possible, the pyrite resolution board is continuing to engage with HomeBond with a view to agreeing a process within which the latter can contribute resources to the remediation process. I want to make it clear that any such agreement will be fully transparent.

The scheme provides for a two-tiered appeals process. Decisions made by staff of the board can be appealed to the board itself and decisions made by the board can be made to an independent appeals officer appointed by the Minister.

The initial phase of the remediation programme will deal with approximately 1,000 affected dwellings that it is understood are in need of repair. My Department and the pyrite resolution board are confident that this figure is credible and its validity is supported by a number of positive indicators, including the number of people who have registered an interest on the pyrite resolution board's website to receive an application when the scheme becomes operable, that being, some 850.

The board will be responsible for overseeing and directing the delivery of the pyrite remediation scheme and has already made significant progress on developing appropriate systems and procedures. It is finalising work on the proposed online application and processing system and is also working on developing other complementary systems, with appropriate checks and balances, to ensure that effective and efficient programmes of remediation are delivered to af-

affected home owners. Following the Bill's enactment, the board will prepare a draft scheme that will be submitted to me for my approval. When approved and made, it will be laid before the Houses of the Oireachtas. I understand that the board will be in a position to accept applications early in the new year.

I will table amendments on Committee Stage tomorrow evening, most of which will be of a minor drafting nature or for the purposes of clarity. However, one amendment will provide for the board to seek to recover damages or costs from any person who is deemed responsible for pyritic damage to the dwelling of the applicant who has consented to the board instituting civil proceedings.

I had hoped that the pyrite remediation process would be more advanced by now in terms of works having commenced, but the legal difficulties that arose with the drafting of the previous legislation has inevitably impacted on the anticipated timeline. The Bill provides a clearly defined legal framework for the delivery of practical and sustainable solutions to home owners within a reasonable timeframe. The scheme is fair and transparent and will restore the structural integrity of pyrite-damaged homes at minimum cost to the taxpayer and I hope that Senators on all sides will welcome this important piece of legislation. I commend the Bill to the House.

Senator Darragh O'Brien: I welcome the Minister and this Bill. I know how much work he and his officials have done on the pyrite issue. From time to time, I have criticised the Government on various issues, but I must commend the Minister's commitment in this instance. It is also appropriate that I mention our late colleague, the former Minister of State, Shane McEntee, who is unfortunately no longer with us. His area and mine were badly affected. From speaking with him, I know that he did a lot of work on the issue. On the day that this Bill is introduced, it is important that the former Minister of State and Deputy, Shane McEntee, be mentioned and that his work be acknowledged.

The Bill is a major step forward. I will comment on it and, like the Minister, I will table some amendments tomorrow. I have visited more than 100 homes in the north Dublin area that are badly affected by pyrite. It is a scourge on those families and home owners, many of whom have paid substantial sums for houses that are now worthless. At least this is a light at the end of the tunnel and a roadmap forward. I hope that the Minister will consider the amendments that I will table on behalf of my group in the good faith that they will be meant.

I have a few concerns that I wish to put to the Minister. Early last year, I published the Home Remediation Bill on pyrite. I am concerned that we have understated the problem and I note that the Minister mentioned that in his speech. I would hope that he will keep the situation under active review and I take it that he has commissioned a number of independent reports. In the town of Lusk alone, we are talking about remediating nearly 850 houses and, in the first round, 1,000 have been badly damaged.

While the Minister has the red, amber and green approach to remediating those houses that display a severe level of pyrite, the problem is progressive in the sense that the situation gets worse the longer it remains untreated. The Minister has rolled out this scheme on the basis of starting in 2014 with a fund of €10 million but is there a multi-annual fund? Is it €10 million each year for three years or does the Minister have to revert to Cabinet to seek additional funding?

I agree with the Minister it is regrettable that some of those who were responsible for this

problem, and some of the insurers as well - I will not mention the one in particular, but the Minister knows of it - have effectively washed their hands of this matter. That is why I welcome the Minister's opening statement that the State will seek redress from them. There are cases before the courts that will show us what we need to do after that.

Taking the category 2 damages as being the worst affected, where does the Minister see that moving towards? Must people who have over 1% of pyrite in their houses or apartments, re-apply to the board as their accommodation gets worse? Some people who live in pyrite estates are worried and have major issues with insurance companies. They include even those who have borrowed money to fix their houses. I have received numerous e-mails from constituents who sought feedback in advance of this debate. They may have fixed their houses already but cannot get insurance on their homes.

These insurance companies need to be brought back in by the Minister through the pyrite resolution board because these houses have been recertified as sound. In such instances, there is still a big cloud hanging over those estates and dwellings because they cannot get further insurance cover.

The Minister should also consider those who have already paid to fix their dwellings. Most of them have borrowed the money, but there is no element of retrospection in the proposed legislation, which is unfair. I ask the Minister to re-examine that matter. Some people have paid up to €6,000 for a pyrite test, which must go to the UK to be verified. They have also borrowed and remortgaged to fix their dwellings but have no recourse through the scheme. The State should allow such expenses to be written off against future tax liabilities, be they PAYE, self-employed or proprietary directors. The Minister could also examine VAT rebates in such cases at the very least. The Minister should re-examine the issue because some people have become further indebted due to this situation.

The Minister said he has excluded commercial and community facilities but community facilities in Dublin and the north east have been affected by pyrite, so there is a major problem there. I have been contacted by one Irish company that paid €10 million for its premises in 2005 but it is now worthless. The insurance company will not pay and the business concerned does not have the money to remediate the premises. That company employs 70 people, so these are real situations.

The Minister said that he will allow people to apply within the scheme and there may be exceptions, but he has specifically mentioned the commercial sector. There is a valid reason for that but here is a company where 70 jobs are threatened. I will forward the details to the Minister and his officials.

I would be interested to hear how the Minister sees the scheme moving forward. He has stepped into the breach and I personally think he has done a good job in bringing it this far. There have been some delays but, unfortunately, people cannot wait. It would have been preferable to make the insurance companies pay. Some houses and apartments are dangerous due to underground services, including gas and electricity, where floors are rising and doors cannot be opened or closed. These are serious safety problems.

Most individuals who have pyrite in their houses are experts, as they have researched the matter. They know the situation will get worse. Those on the red card can apply to get it done immediately but the Minister should give a commitment to those coming down the tracks in the

next year or two as their houses deteriorate. The Minister should reconsider the houses he has not classified but which require immediate work. It will be more expensive to fix them when they deteriorate, including such problems as cracked tiles and dislocated cabinets.

I have tabled a number of amendments for Committee Stage tomorrow to deal with these items in more detail. I have discussed the issue with the Minister personally and I am trying to be helpful with regard to this Bill. We will be supporting this legislation. Tomorrow, however, I wish to discuss specific amendments dealing with retrospection and a review. It is important that the Oireachtas should review the scheme regularly.

When the Minister publishes his guidelines on how the scheme will operate, I note he will lay them before the Oireachtas. Can he give a commitment to set some time aside to examine the criteria for applying under the scheme? Regardless of party affiliations, we can see how people have had to live with the scourge of pyrite in recent years. It affects family life, including finances and insurance, and is all encompassing. The Bill goes a good way to meeting the problem but we can build on it further.

I look forward to engaging on it with the Minister tomorrow on Committee and Remaining Stages.

Senator Colm Burke: I welcome the Minister and thank him for bringing forward this legislation. The problem of pyrite is one of the most frightening things for any family to encounter. I have worked in the legal profession and acted for builders where subsidence has occurred. In addition, I have worked for householders. Identifying and dealing with subsidence is one problem, but pyrite is a far more complex matter. It is frightening for families to have to deal with it.

This occurred in the period 1995-2007 when we had a major increase in construction. Between 2000 and 2006, there was an 88% increase in housing construction with 93,000 houses completed in 2006. In such a period, the necessary checks and balances were not always fully in place. Since all the checks and balances were not there, we did not react quickly enough when problems began to appear.

In fairness, however, Fingal County Council did react back in 2007 and probably put a hold on further problems arising since it identified the matter and acted upon it. Over 130 million tonnes of hard core was moved per annum in providing for both commercial building sites and dwelling houses. The report states that 74 estates were examined, affecting over 12,250 houses. I am not saying that this many homes were affected but concerns were raised about that number of dwellings. While initial concerns were raised in quite a number of estates, there have been no claims. In one local authority area, 850 social and affordable houses were directly affected. This problem arose not only in the private sector but in the public sector. While regulation in this area has been improved we must be prepared at all times to review and update regulations in respect of the building industry. The cost of resolving this issue is huge for the State. The report was published in June 2012. I know that the Minister's efforts to get Home Bond and the insurance industry to participate in the scheme have not to date worked out. As stated earlier, it is unfortunate that all of the players involved were not more proactive in trying to resolve this matter.

The Minister referred in his speech to a case being dealt with by Mr. Justice Charleton in the Supreme Court. It is disappointing that this matter has not yet been decided on. The lack of decision by the courts in relation to this matter has created a vacuum in this area. There

are many people waiting on the sidelines for that decision, which emphasises the necessity for the amendment of the Constitution in order that a Court of Appeal could be established. It is disappointing that that appeal has not been fast tracked. My understanding is the case has not yet been dealt with. However, I am open to correction on that. It is disappointing if it has not because the decision is vital in terms of the long term sharing of responsibility in relation to this matter.

This Bill is only the start in terms of dealing with this matter. It is constructive legislation in that it affords priority to houses in serious condition. It is only right that they should be given priority. I accept as stated earlier that the longer the problem goes unchecked the more expensive it will be to resolve it. The sooner we remove the houses affected from the list the sooner this chapter can be closed. I accept it will be some time before that happens.

I welcome the Bill which is well thought-out. While the situation may require to be reviewed in the future, it is important this legislation is enacted to assist the many people who have been severely affected, including in respect of obtaining home insurance. Insurance cover was also an issue in respect of the properties in Cork that were flooded. Likewise, in areas where there is evidence of subsidence insurance companies are refusing to provide cover. This is unfortunate. The Motor Insurance Bureau of Ireland deals with cars involved in an accident not covered by insurance. We may now need to consider whether we need to provide a central fund in respect of houses which insurance companies have refused to insure. It is an issue we should look at long term in relation to areas affected by subsidence, flooding and other unusual problems, such as that about which we are now speaking. We need also to discuss the issue of cost sharing by the taxpayer and the insurance industry, which in fairness is making substantial profits from home insurance every year. It should, therefore, be asked to make a contribution when such issues arise. Likewise, the building industry and other industries supplying to the building industry should be asked to contribute to address of this problem.

I thank the Minister for bringing forth this legislation. I look forward to the remainder of the debate on it.

Senator Rónán Mullen: I welcome the Minister to the House. Like my colleagues, I, too, welcome this legislation. I intend only to echo many of the points made, although not in detail. It is important that this step is being taken. As stated by other Senators, it is one of the early chapters of a story that will be ongoing. We are all aware of the significance of the home in the human consciousness and of the terrible disappointment and inconvenience that people have suffered because of damage to their homes. I accept that the quarries may not have been aware of the presence of pyrite in infill. However, that others might be partially responsible through negligence and so on is disquieting. This can partly be seen as one of the legacy issues of an era when there was insufficient, inadequate or proper respect for people. This was evident in the lack of proper regulation in the construction industry.

I recall almost a decade ago when helping a friend who was running in the local elections in a Dublin suburb seeing for the first time the appallingly poor quality of development and lack of respect for people's needs in terms of the manner in which houses were designed and thrown together. There was no due regard to proper standards. This issue, although broader, can be linked in with that. Families in north Dublin, Louth, Meath, parts of Offaly and Galway have been affected by this issue. I echo the remarks by Senators O'Brien and Burke that what has to be done to resolve this problem is going to cost the taxpayer. It would be desirable that the construction industry, although on its knees, and the insurance industry, which is not, would

play their part and contribute their fair share. I would be very supportive of any mechanism by which this could be achieved. It is a key value that what be done here be done at minimum cost to the taxpayer.

Another key value is solidarity with people and the homeowners who have been so badly affected. In this regard, perhaps the Minister will say if there is any good or principled reason to deny access to the scheme by people who not so such mitigated their loss but did take steps to improve their situation and who may now be at a significant financial disadvantage or much deeper in debt, because they were in a position to, or made sacrifices to, improve their situation prior to this scheme being put in place? Is it not wrong in principle and from the point of view of public policy not to engage with such parties and to allow them access to the scheme? The Minister said earlier that the scheme is not a compensation scheme, which I understand. Is there not an injustice in denying people who were in a position and did take steps to remediate their homes access to the scheme?

I am also concerned about the position of people who identify problems in the future. The Minister earlier quoted Mr. Justice Charleton who said: "It is not yet reasonable to remove the infill..... solely because of the high sulphur content of the infill." What will happen in the future? Presumably when a heave actually takes place people will be in a position to access support under the pyrite resolution scheme. That is an important principle. Comparisons are invidious but other groups - this issue has arisen previously, including in respect of former residents of the Bethany Home - in similar situations do not, and understandably so, see the justice of their being excluded from redress. While comparisons are invidious, it seems a similar issue can apply with people who might emerge in the future. I am not assuming for a moment that it is not the Minister's intention. I understand this is the first step of an unfolding story, which is obviously of grave concern to the Government and the taxpayer. Whereas we fully welcome the Bill, there is a degree of uncertainty as we face into the eventual resolution of the problem. I will be supporting the legislation and I thank the Minister for it.

Senator Aideen Hayden: I welcome the Minister, who I believe will be spending many hours with us today. I congratulate the Government on introducing the Bill and the Minister's personal commitment to the issue has been noteworthy. It is long overdue for the many homeowners who have been victims of what is known as pyritic heave. Such a technical term belies the human misery suffered by individuals who found themselves trapped in homes they could not either sell or afford to repair and where the structural damage was extensive.

While the figures vary around the country, some 12,500 properties were damaged by this pyritic heave following the building boom. When this occurs, remediation costs on average €40,000 to €50,000 per home and involves the removal of the ground slab containing the pyritic material and its replacement with a new ground slab. It is very invasive and involves the family leaving the home, storing their furniture and engaging in fairly extensive renovations.

Some homeowners were fortunate enough to be covered by the premier guarantee, an insurance scheme operating in the construction sector and others had developers who made repairs. However, as we know, many homeowners were covered by HomeBond, which following a High Court decision in 2011 withdrew insurance cover for pyritic heave damage.

As has already been mentioned, the confirmed areas for pyritic heave were mostly concentrated in north Leinster, particularly in north County Dublin, Offaly, Meath and Louth. However, we need to bear in mind that in 2007 alone we built more than 80,000 housing units and we

do not know the full extent of the problem. During the property boom the volume of quarried stone increased threefold between 1993 and 2007. In Fingal, Meath and adjacent areas, non-premium aggregate was supplied to meet this demand. While this would not have complied with the standards set by HomeBond, at the time there was no effective testing system to detect it.

The Minister established the independent panel which reported in June 2012. It is worth reading the executive summary of the pyrite panel report for a complete understanding of what happened. It is clear that no blame falls on the Government for its failure to uncover what some would have termed unacceptable practices that developed during the boom, including a lack of documentation setting out where backfill was sourced for housing. Today we are dealing with the last vestiges of some of the recklessness of the property boom. The pyrite panel made 24 recommendations, including establishing a new standard or specification for hard core under concrete floors, testing certification and traceability by quarries, evidence of periodic testing and so forth. However, in this instance the stable door and horse come to mind. In future we will not have this difficulty.

The Government has announced the allocation of €10 million to repair homes damaged by pyrite and the Bill before us sets out the manner in which this is to be achieved. I am concerned that the scheme will be confined to those homeowners who have no other way of rectifying the damage pyrite caused to their homes. The pyritic damage needs to be serious enough to meet specified criteria. It is a scheme of last resort. The Minister has explained why that is the case from the Government's perspective. However, there should be recourse for homeowners who do not qualify for the scheme or who have already paid out of their own scarce resources to remedy the damage. Through my work I am aware of many individuals who lived from day to day with gaping walls and enormous cracks in rooms, making them simply uninhabitable.

Nobody in their right minds, who could possibly raise the money to make the remedies, would continue to live like this. I would have preferred to have seen a compensation fund paid for by the various interested parties involved in the construction of those affected homes. That fund should have been established to remedy the damage that remains and compensate those who, themselves, paid to remedy the damage.

I believe the quarries involved, the construction sector and the insurance sector should be paying. HomeBond withdrawing cover in 2011 shows a serious defect in the protection given to homebuyers.

Senator Darragh O'Brien: Hear, hear.

Senator Aideen Hayden: In reality the HomeBond scheme was to give assurance to purchasers that any structural defects would be covered by the bond. It was a breach of trust for HomeBond to withdraw from pyrite damage, in the knowledge that homeowners had no way of dealing with the matter. If there was a third party with responsibility, then HomeBond should have paid up and pursued that third party itself. It is worse that HomeBond is a bond provider established by the construction sector for its own members, designed to give buyers confidence that defects in a new home would be fixed. Effectively the State is now stepping in to take over the responsibilities of HomeBond. When the construction sector is up and running again, I suspect that purchasers will not accept a HomeBond guarantee anytime soon. With evidence of increased demand for housing, the Minister might consider mandating an insurance scheme that will properly protect purchasers of new homes.

The scheme as proposed will mean that some homeowners will neither have the damage rectified nor be compensated for repairs they have made. I also understand that homeowners will carry some of the cost themselves in that items such as new flooring after amelioration, painting and decorating etc. will not be covered. All of those who are affected by pyrite should be compensated. If the construction sector cannot pay today, it should pay tomorrow. In environmental law there is a principle of the polluter paying. A home is the most expensive thing most of us will ever buy in our lives and we should be entitled to rely on it being constructed correctly. No stone should be left unturned by the Minister to ensure that those responsible for this debacle pay the full cost, including compensation in the course of time.

I have a question on the structure of the board and the scheme. I am very familiar with the Housing Agency which is an excellent body. Is it necessary to put in place a separate board? Could the Housing Agency not have carried out the work both of the board and the work as set out for it, including the procurement of competent professionals and contractors, arranging for the testing of dwellings, awarding contracts, and making payments in respect of the remediation work and all other ancillary costs? The proposed two-tier structure seems rather clunky.

I am pleased the Minister proposed a two-tiered appeals process, which will give some comfort to people applying to have their properties included in the compensation scheme.

The Bill represents a good day's work and I congratulate the Minister on the amount of effort and energy he has put into it.

Senator Sean D. Barrett: I again welcome the Minister. I commend him on the Bill. At this time of year we remember the late former Minister of State, Shane McEntee. I also commend Senator Darragh O'Brien and others who have worked on this problem.

I have all the reservations Senator Hayden has just expressed. There is a repeated trail of people coming into this House visiting their failures on taxpayers and on the Houses of the Oireachtas; the taxpayer always loses. The industry will not pay in this case and the insurance proved to be useless. That is in a queue behind banks, insurance companies, credit unions and pension funds, all of which in the recent past have been looking for dig-outs, bailouts and so on. As the Taoiseach said last night, we have put the taxpayers to the pin of their collars. We need to design tort law so that people pay up when they cause these problems because otherwise we will have a real moral hazard problem. They will never reform if they always roll over the Government and the Houses of the Oireachtas, and get away with their misdemeanours. The Minister should get together with the Minister for Justice and Equality, Deputy Shatter, to see if we could design laws to ensure that those responsible pay the bill.

8 o'clock

It is interesting that in other countries, people who commit financial misdemeanours pay and go to prison. If *Forbes* magazine gave Ireland that prize for protecting investors so much, it might be a prize we do not want. It is about time taxpayers were protected against inefficient people in the real economy. However, that issue is for another day. The Minister has stepped into the breach in succession to the former Minister of State, Shane McEntee, who took this issue very much to his heart and I support this Bill. The next stage must be to find out a way to get those who actually cause these problems finally to stump up some of the bill and not to keep sending it to the Minister and his Department.

Senator Terry Brennan: Everyone is aware that while the State is neither culpable nor

liable for the pyrite problem, it nevertheless took responsibility to provide solutions for homeowners who, through no fault of their own, have been significantly damaged by pyritic heave and who have been left with no viable means of redress following the withdrawal of cover for pyrite damage by HomeBond in the summer of 2011. I note from the Minister's statement that the pyrite resolution board continues to engage with HomeBond with a view to agreeing on a process with which it can contribute to the remedial process, which is to be welcomed. The Minister stated it would not have been reasonable or defensible that affected homeowners, who have no viable option for redress, would be left without a resolution. The Minister and his officials have been working tirelessly over many months to put in place an alternative funding model for the pyrite remediation scheme. While recognising this has not been an easy task, having regard to budgetary constraints in the current climate, I note the Government has approved €10 million in initial funding and that additional funding will be allocated over the next two years from the capital stimulus programme. The Minister stated that approximately 1,000 dwellings are affected by pyritic heave and require immediate remediation. The pyrite resolution board, with support from the Housing Agency, will now implement this programme.

I again acknowledge and commend the Minister and his officials on the great work they have done in this matter. I also wish to acknowledge a conversation I had with the former Deputy Shane McEntee, in or around this week last year, in which he indicated his great concern for these people. He was extremely sympathetic and was deeply concerned. I acknowledge the part he had played prior to his death and the work his daughter, in following him, also has done. It would be remiss were Members in this House not to recognise all that had been done. I wholeheartedly welcome this most important Bill, which will give some comfort to many affected householders. It is to be hoped this important Bill will be accepted and agreed by all parties in this House and will be met with unanimous acceptance. Well done to all concerned.

Senator Kathryn Reilly: I also welcome the Minister to the House. I welcome this Bill, which represents a long overdue beginning to a resolution of the pyrite scandal and the trauma and disruption it has caused to so many lives and to families and homeowners in the affected areas. I wish to pay tribute to people such as Sandra and Peter Lewis and others in the Pyrite Action Group, who coolly and effectively lobbied over a long period for their voices to be heard and the wrongs visited upon them to be made right. Like other Senators, I wish to pay tribute to the late Shane McEntee, who worked very hard in his local area on this issue. As previous speakers have mentioned, the pyrite scandal is an extreme of example of the lax regulation, negligent building practices and development that happened during the so-called Celtic tiger years. It is not unrelated to scandals such as that of Priory Hall and others. All these were the result of greed, which drove Ireland in those times and meant that corners were cut, profits were maximised and responsibility essentially was reduced to not even being an afterthought. Homes were thrown up without any consideration for the quality of the work, location or materials. This placing of profit over quality led to the dream homes of many families essentially becoming a living nightmare as pyritic heave set in. Families that had spent huge sums and had taken on large debts were left with crumbling homes. A large responsibility in this regard should be placed at the doors of the quarry and construction industries, which failed to ensure their products and materials were up to standards. While it is most unfortunate that a levy scheme has not been worked out to see these parties pay their share, I am glad the scheme has not been delayed further by this. The Minister mentioned legal difficulties in his speech and he should refer to them further in his response. Other Senators also have mentioned a particular problem with the resolution process being that it does not include people who took it upon themselves to repair their homes. One must recall these people took the initiative to so do out of desperation, rather

than in a situation in which the costs were easily afforded. While they no longer fall into a category of priority focus, in the longer term they should not be overlooked and should receive benefit of some kind further down the road.

The issue of HomeBond has been raised by a number of Senators and I could not make my contribution without referring to it and to the disregard it has had for its customers and how it has let down those customers extremely badly. Moreover, the manner in which it treated the Oireachtas committee when asked to appear before it to answer questions is indicative. I have a few concluding questions. The Minister mentioned he was in the process of engaging with HomeBond and he should provide Members with an update in this regard. Similarly, when does the Minister expect to receive the draft scheme from the board? While he mentioned it in his speech, what is the timeframe for this scheme following the enactment of the Bill? I acknowledge a funding allocation was made this year and further allocations will be made from the stimulus programme. What additional funding does the Minister believe is needed from that stimulus in practice over the next couple of years?

Senator Ivana Bacik: I welcome the Minister to the House and welcome this Bill, which has clearly received a general welcome across the House. It is nice, when Members are debating other Bills that are not quite greeted with the same level of consensus, that this Bill has been introduced. Others have already spoken about the general recognition of the need to provide some resolution for the many homeowners affected by pyritic heave, which is a real affliction to their homes. However, as others, including my colleague, Senator Hayden, have already stated, it seems unfair that the taxpayer should be obliged to foot the bill. At the same time, the Government is facing up to responsibility and to dealing with mistakes made in the past and to making some form of amends for them. Others, including Senators from the benches opposite, have referred to the contribution made in this regard by the late Shane McEntee. It is nice that everyone recognises he had sought very hard to find a resolution for the homeowners and all Members welcome that with this Bill, some degree of resolution will now be put in place. However, as others have noted, it is to be hoped that at some point, the polluter will be obliged to pay at least something towards the cost of that resolution.

Senator Fidelma Healy Eames: The Minister is welcome to the House and I welcome his action on this issue. As other Members have stated, no blame is attached to the present Administration for the cause of the problem. However, I have considerable concerns regarding the cost to the State and the scale of the problem, which I believe to have been underestimated in the Minister's contribution today. As I do not believe the figures add up, I wish to explore with the Minister the full cost of this problem. Several times up to now, the Minister has been asked questions in both the Dáil and the Seanad on the full cost of the pyrite problem to the taxpayer. I note that on all occasions, he has avoided this question either by refusing to answer or by stating the post-2015 funding position will be dealt with having regard to the position at that time and developments in the meantime.

What does that mean? The provision is unacceptable considering that the taxpayer must fund the problem because the Minister has not implemented the recommendations in the report of the pyrite resolution panel. The report has stated that after the initial €10 million allocated in the budget for 2014, additional funding will be allocated over the next two years from the capital stimulus programme. I have read the report. Its 200 pages contains a table, table 4.2, that points out that the average cost per house is €45,000 and a total of 10,300 houses that have not as yet been tested or remediated, which could mean a potential future cost in excess of €460 million.

Let us examine the figures. There are 1,100 houses in need of remediation and the Minister has provided €10 million. However, with the average cost per house being €45,000 and given the number of homes involved, it will need to provide €49.5 million. Can the Minister tell us where the remaining €39.5 million will be sourced? Has the taxpayer to foot the bill? There is an extra 10,300 houses located in the same estates that have not yet been identified as being affected but that could happen. As Members have said here, future houses where the same materials are used and houses that have been remediated, in the interest of fairness, deserve to be beneficiaries of the scheme. I am not saying that the State should pay it all. I ask the Minister to clarify the following. What will be the full cost of the scheme for the 1,100 houses and what is the shortfall? How much will it cost for the 10,300 houses located in the same estates, should that arise?

I agree that the State must take charge of the problem and compliment the Minister for doing so. It should ensure that all owners are promptly and fairly compensated for a problem not of their making. However, the Minister must ensure that those responsible for the problem are made to bear the cost. I welcome his confirmation that he will table some amendments on same tomorrow evening.

I agree with the recommendation in the pyrite report that states:

It is the view of the Panel that funding for the Resolution Board should not come from the Exchequer. It could come from, for example, the imposition of a levy on the construction/quarrying sectors and on the related insurance cover for those sectors or other similar sources.

However, a spokesperson for the Department said that legal difficulties prevented a levy being imposed on the construction and insurance industries. That makes no sense. In the past legal difficulties did not stop the Government imposing a levy on banks after the first bailout of AIB in the 1980s; a levy on insurance companies following the collapse of PMPA; or more recently a levy on medical insurance following the collapse of Quinn Insurance. Can the Minister advise the House of the Government's estimate for the full cost of pyrite remediation and the funding mechanism proposed?

I do not accept that the people who caused the problem should not pay. I am very concerned that remediation is to be carried out by the Irish Concrete Federation, CIF, and HomeBond. Therefore, they will benefit from this Government and taxpayer funded scheme but they do not pay. That is not right and is appalling. The chair of the remediation scheme panel is Mr. Jim Farrell, managing director of Roadstone.

Acting Chairman (Senator Jillian van Turnhout): I ask the Senator not to mention names and advise her that her time is up.

Senator Fidelma Healy Eames: It does not look good.

Deputy Phil Hogan: Not true. The Senator does not have her facts right.

Senator Fidelma Healy Eames: Please correct me.

Deputy Phil Hogan: I will.

Senator Fidelma Healy Eames: I am happy to listen to correction. The situation does not look or sound good and the problem must be addressed. The taxpayer should not have to pay

but a levy should be imposed on the industry. I want an explanation for why that cannot be done when there is precedent.

Acting Chairman (Senator Jillian van Turnhout): I thank the Senator. As no other Senators have indicated a wish to speak, I call the Minister.

Minister for the Environment, Community and Local Government (Deputy Phil Hogan): I thank all Members of the House for their support of the legislation. I thank the Pyrite Action Group who lobbied, through their public representative across the various counties and the wider public, because of the serious concern that individuals had for the plight of the homeowners who ended up with a pyritic problem, through no fault of their own. I thank all of the public representatives for their measured and constructive contributions to the debate and for finding a solution, especially my good friend and colleague, the late Deputy Shane McEntee, who was mentioned by other people.

Today marks a significant step forward. We wish we had a different solution. I shall answer the matters raised by Senator Healy Eames later. We could not sit idly by as a Government. We wanted to find a solution because people had been badly affected and held no hope of a solution. That is why it has taken a lot longer than I expected, and I acknowledge that. The consequent work that we did, with the pyrite resolution panel, indicated the extent of the problem. I do not know how extensive the cost will be because we have not sought applications. We did ask people with a high level of expertise to assess the extent of the problem. Perhaps the Senator knows more about pyrite than the independent panel that I have established. I trust it to carry out its work, to show me and inform me. I am not concerned about the speculative figures that she mentioned that were off the top of her head.

Senator Fidelma Healy Eames: The figures are from the panel's report.

Acting Chairman (Senator Jillian van Turnhout): The Minister please, without interruption.

Deputy Phil Hogan: I am not into speculative figures or figures off the top of one's head remarks. I am considering, in a qualified way, the type of categorisation that the panel put on the extent of the problem. It said there is between 850 to 1,000 homes in urgent need of remediation and that is what the scheme is about.

The quality of the built environment affects the quality of everyday life, as Senator Hayden said in particular. We must learn from past mistakes and show everyone that we do not want the type of problems that we have had with Priory Hall, unfinished estates or pyritic problems visited on people again. That is why I have taken many steps to put in place a more robust regulatory regime that will provide greater protection for the consumer.

As Senators will know, I signed the Building Control (Amendment) Regulations 2013 into law earlier this year. Some professionals do not want new regulation. All new building projects, commencing on and from 1 March 2014, when the new regulations take effect, will require design drawings and particulars to be lodged with the local building control authority. Inspections will take place during construction and they must be overseen by a registered construction professional. Also, certificates of compliance will be signed by the lead designer, the builder and the person we call the assigned certifier.

We believe that the numbers that we have identified are credible. We do not think the prob-

lem has been understated. We must remember that the scheme is restricted. As Senator Barrett rightly pointed out, taxpayer's money will be used to fund the scheme and, therefore, it cannot be open-ended.

With regard to Senator Darragh O'Brien, commercial properties are generally built under contract and the parties have recourse to enforcing the terms of the contract. An individual homeowner does not have the same redress.

Senator Darragh O'Brien: Is that so?

Deputy Phil Hogan: Perhaps we can discuss the matter on Committee Stage. I shall return to the matter then.

Senator Darragh O'Brien: That is fine.

Deputy Phil Hogan: I agree that it is unreasonable to expect dwellings not exhibiting damage to be remediated. There are limitations on the funds available so we must have some restrictive scheme in place, as a last resort, to help the people that are in urgent and immediate need of remediation.

I am concerned about problems relating to insurance cover and, more correctly, the restrictions that are being imposed by some companies on homes that had been remediated. I shall raise the matter with the insurance industry federation. This should not be the case. Homes that are remediated should not be refused cover.

Senator Fidelma Healy Eames: Yes.

Deputy Phil Hogan: It would be easy to say that the regulatory system was deficient but that is not true. Builders and developers are obliged under building regulations to use proper materials. There is an obligation on suppliers to supply materials that are fit for purpose.

I agree with everyone in the House who said that the people that caused the problem should pay but we ran into legal difficulties under constitutional property rights regarding imposing a levy on the quarrying and construction sector. We got no co-operation whatsoever from the general insurance sector. We got very little co-operation from HomeBond and Premier Insurance. I can assure the House that I have explored every legal avenue that was open to me to see if we could impose a levy on the stakeholders who caused the problem. It was not possible for us to get a scheme that was legally sound, and I did not want to establish a scheme giving hope to people who are affected only to have it struck down by the courts and another protracted legal challenge that would drag on for perhaps three or four years. It is for that reason that I appreciate the Government's decision to assist me in this process. I have the understanding of all Ministers at a time when we do not want to be imposing any more on the taxpayer. It has been the difficulties and the hardship people have gone through in their individual circumstances on a human level that has brought about a decision to have a €10 million scheme initially. The Minister for Public Expenditure and Reform, Deputy Howlin, and I are examining the capital stimulus programme in 2014 with a view to providing additional resources but we will wait to see the numbers that will come into the scheme. We are conscious the scheme will continue for two years. We are dealing with the red category initially and when we are at the stage of receiving applications, I hope we will be able to get a full picture of the extent of the problem.

To reply to Senator Healy Eames, the difference is that when the banks and the State got

16 December 2013

involved in the insurance sector years ago, they got an agreement. They agreed there would be a levy. We do not have an agreement. That is the difference.

Senator Fidelma Healy Eames: Why can we not be informed?

Deputy Phil Hogan: I have just explained to the Senator the legal complications I face. The Senator may be an expert on law but I have to deal with the Attorney General and the legal resources in my Department to advise me. I gave her the background in terms of the difficulties that arose. I do not want the unfortunate home owner to be put into a protracted legal issue again. We cannot say how much it will cost when we are not sure about the numbers. When we see the level of applications, we will be in a position to know the extent of the cost. Some houses will be more affected than others. Senator O'Brien mentioned estates that do not want anybody to know they have a pyritic problem but, nevertheless, they have to be resolved in some way. If someone is living in an estate of, say, 50 houses and six or seven of them have a pyritic problem, we would want to ensure the entire estate is clean of a pyritic problem to help marketability, insurance cover and all the issues with which we are very familiar. The pyrite resolution board will deal with those issues as best it can.

Seventy-four estates have been identified as being in serious difficulty. Regarding HomeBond, levies and all those issues, HomeBond is a private company and the reality is that the State cannot confiscate the money from it, but I assure the Senator that I will do everything I possibly can, morally, legally and otherwise, through measures we will be taking in future for the construction industry, to ensure there will be an opportunity for me to get HomeBond, Premier Insurance and others that have not co-operated on this occasion to the table in a more concerted way. Equally, a contribution through the court process that will present itself arising from decisions of the Supreme Court may give me an opportunity to get some money back from the quarrying and the construction sectors.

I am conscious that we should not be doing this as taxpayers but I explained the background and the legal difficulties, and I have to come to the House for the purpose of having this scheme established. I would not be here otherwise.

I thank the Senators for their contributions to the debate on the Bill. It is urgent legislation because it has dragged on for about a year longer than I would have wished, but I appreciate the indulgence of the House in coming forward with its support. We will examine the amendments Members brought forward, and I will table some amendments also on Committee Stage.

Question put and agreed to.

Acting Chairman (Senator Jillian van Turnhout): When is it proposed to take Committee Stage?

Senator Ivana Bacik: Tomorrow.

Committee Stage ordered for Tuesday, 17 December 2013.

Sitting suspended at 8.24 p.m. and resumed at 8.29 p.m.

SECTION 20

Question again proposed: “That section 20 stand part of the Bill.”

Senator Sean D. Barrett: When we reported progress I was speaking on this section. I was addressing the issue of the directions of the Minister when I ran out of time. The Bill reads in section 20:

(1) The Minister may give a direction in writing to Irish Water, in relation to the performance by Irish Water of its functions under this Act, requiring it to comply with such policies of the Government as are specified in the direction.

(2) The Minister may, by direction in writing, amend or revoke a direction under this section (including a direction under this subsection).

(3) The Minister shall not give a direction under this section without first consulting the Minister for Communications, Energy and Natural Resources.

I propose that those consultations should involve the National Consumer Agency and the Competition Authority. The Bill reads at section 20(4), “Irish Water shall comply with a direction given to it under this section”, which is the matter at stake.

The Commission for Energy Regulation received directions from the then Minister, Mr. Noel Dempsey, which proved rather damaging to the sector. Economic regulation seeks to impose the same sorts of disciplines on a firm to manage its costs that a firm subject to competition might face. The reason we have regulatory bodies is that the consumer is without power, typically, and the producer can be extremely powerful, so to have a regulator is an attempt to redress the balance. If the Minister intervenes, that distorts that balance. I will come to a more substantive legal point presently. A particularly disadvantageous case which illustrates the economic point is the direction given on 27 October 2009 to the aviation regulator by the then Minister, Mr. Dempsey, which required an increase in the charge at airports by 41% and up to 50% for check-in desks. At that time, late 2009, we had lost 4 million passengers and we have lost another 4 million in the period since.

Ministers do not have all the wisdom. The Government is only now recovering from that draconian decision following the abolition of the travel tax. If a Minister gives a direction that turns out to be at variance with the interests of the consumer and the general economic interest, it can have dire consequences. Water is even more important than airports because it affects every person in the country. We cannot live without it, as the Minister said. We cannot have a regulator who can be told to do things by the Minister. We have a bad track record in this regard, an example of which is the fact, as the Minister, Deputy Noonan, told us recently, the health insurance charge has gone up by 86% in the past four years although there is a regulator for that sector as well.

I am unhappy with the idea that Ministers can give orders to the regulator. The regulator is a referee who is supposed to protect relatively powerless customers and it is wrong for a Minister to have the power, for example, to tell the referee to award two penalties to one team rather than the other. This is supposed to be a quasi-judicial function. I am unhappy about the economics of it.

One of the great fortunes I have is that, with 64 academic departments in TCD, I have access

to great knowledge. My legal colleagues at TCD would be unhappy the Minister has that power to intervene in a quasi-judicial situation. They cite the Sinn Féin funds decision of the Supreme Court in 1950 which disallowed an attempt by the then Government to interfere in funds which Sinn Féin had held since the 1920s. That is only the side issue, however. The point at the very end of the judgment was as follows:

The effect of that article and of Arts. 34 to 37, inclusive, is to vest in the Courts the exclusive right to determine judiciable controversies between citizens or between a citizen or citizens, as the case may be, and the State. In bringing these proceedings the plaintiffs were exercising a constitutional right and they were, and are, entitled to have the matter in dispute determined by the judicial organ of the State. The substantial effect of the Act [which sought to gain control of the Sinn Féin funds] is that the dispute is determined by the Oireachtas and the Court is required and directed by the Oireachtas to dismiss the plaintiffs claim without any hearing and without forming any opinion as to the rights of the respective parties to the dispute. In our opinion this is clearly repugnant to the provisions of the Constitution, as being an unwarrantable interference by the Oireachtas with the operations of the Courts in a purely judicial domain.

If I have a dispute about the price of water, the fact the Minister can issue a direction with which the regulator is compelled under section 4 to comply infringes what was stated in the Sinn Féin funds case, namely, that disputes cannot be resolved by one person telling the Oireachtas what we should do, and that the Minister is always right. I do not know if the courts would accept the right to give those directives. That is why I raise the point. I do so on the basis of what has been written on the issue. One of those distinguished writers, Mr. Justice Gerard Hogan, who is now a member of the Supreme Court, pointed out that Mr. Justice Gavan Duffy held that the legislation was unconstitutional since it required the courts to dismiss a claim on its merits without a hearing, and also violated the constitutional principles regarding the separation of powers. Mr. Justice Hogan then notes that this impressive judgment was confirmed on appeal by a seminal decision of the Supreme Court.

I question on legal grounds the powers the Minister seeks, having pointed out that Ministers were not omniscient in regard to airport regulation, which had seriously unintended consequences. If there are lawyers who are unhappy with the powers the Minister is seeking, it is right that university Senators should bring that matter to the attention of the House.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Fergus O'Dowd): Notwithstanding the excellent legal opinion he has given us, and the significance of the legal brains involved, we are talking here about Irish Water, not the regulator. This is not a directive to the regulator; it is a direction in writing to Irish Water. During the initial years of its operation, Irish Water will be in receipt of substantial State funding. Moreover, the power relates to a direction requiring that Irish Water comply with any policies of the Government. This is not in conflict with the independent role of the Commission for Energy Regulation. The Senator also referred to directions to the CER, but these are dealt with in section 3.

I do not believe the Senator's concerns will apply in this particular case, notwithstanding the importance of the arguments he places before us. The law on all of this would have been studied by the Attorney General, who has signed off on this as meeting all the legal requirements and precedents. It is in this Bill having been proofed and stamped by the Attorney General.

Senator Sean D. Barrett: I thank the Minister of State. In the case I mentioned, there were two directives. One was to build the new terminal and the other was to raise the money to finance it. The concern is where a Minister gives a directive that is not economically sound, as in the airport case, given we now have a new terminal and 8 million fewer passengers going through Irish airports. That had to be financed and the financing was through an increase in charges, which partly contributed to the reduction in traffic and the difficulties in tourism.

I will not press the point at this stage but will bring the Minister of State's points back to those with whom I was in discussion. We might see developments on Report Stage. Let us suppose the Minister makes a wrong decision and Irish Water has to comply, and the cost of water goes up. Will the regulator be compelled to finance what turns out to be an excessively expensive situation? I will think about it overnight. I thank the Minister of State for his response.

Question put and declared carried.

SECTION 21

Acting Chairman (Senator Jillian van Turnhout): Amendments Nos. 40 and 41 are related and may be discussed together. Is that agreed? Agreed.

Senator Diarmuid Wilson: I move amendment No. 40:

In page 14, lines 29 and 30, to delete "have regard to Government or nationally agreed guidelines" and substitute "be compelled to Government or nationally agreed guidelines".

I welcome the Minister of State, Deputy O'Dowd, back to the House. We will try to get through our business as quickly as possible this evening. I am moving these amendments on behalf of my colleague, Senator Brian Ó Domhnaill, who cannot be here. Amendment No. 40 compels Irish Water to set down Government or nationally agreed guidelines on salary pay-scales. The proposals in the Bill only make it necessary for Irish Water to have regard to Government or nationally agreed guidelines. Fianna Fáil believes we cannot have a scenario where there would be no salary upper limit. Currently, other utility companies are paying salaries in the region of €600,000 per annum to their CEOs, which is not acceptable. Amendment No. 41 compels Irish Water to comply with directives in regard to remuneration, allowances, terms or conditions the Minister may give. This is important for public accountability.

Senator David Cullinane: I seek clarification on these amendments and I am not sure whether I support them. Obviously, there is a concern if one looks at what is happening in other sectors, including in the public sector and even in the voluntary hospital sector where there are top-up payments on salaries and so on. There should be proper salary caps in place for senior staff in any new organisation set up which is funded by the State. The section states: "have regard to Government or national policy." Are the words "have regard to" strong enough? It also states: "Irish Water shall comply with any directives with regard to such remuneration, allowances, terms or conditions which the Minister may give to Irish Water". I seek clarification that it is watertight and that we do not have a situation where there are breaches in salary caps in a new body set up, that we have to deal with them afterwards and we are told there are now contractual arrangements in place. Let us make sure we do it right now. I look forward to the Minister of State's response.

Deputy Fergus O'Dowd: This Bill currently provides that Irish Water will be obligated to have regard to Government policy and guidelines when determining the remuneration or al-

lowances for expenses to be paid for members of its staff. It will also be bound by Government guidance and codes of practice. That will cover the issues in regard to semi-State companies. Accordingly, the amendments proposed are unnecessary.

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

Amendment declared lost.

Senator Diarmuid Wilson: I move amendment No. 41:

In page 14, line 34, to delete "may" and substitute "shall".

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

Amendment declared lost.

Question proposed: "That section 21 stand part of the Bill."

Senator Trevor Ó Clochartaigh: Tá a fhios agam gur phléamar an t-ábhar seo an lá deireanach. Tá eolas breise tagtha chugam ó shin i leith maidir leis na fostaithe i gcomhairle contae áirithe. Tuigtear dom gur chuir siad aighneacht isteach chuig an Aire Stáit maidir leis an bpléchápiéis a chuir an Roinn amach. Tá suas le 200 duine fostaithe faoi sheirbhísí uisce sa chontae seo. Tá inní orthu faoin gcaoi ina bhfuil siad le haistriú trasna ó áit amháin go háit eile. Cén uair a tharlóidh sé sin? Cén próiseas a bheidh i bhfeidhm? B'fhéidir go dtabharfadh an tAire Stáit soiléiriú dúinn faoin chaoi ina bhfuil an próiseas idir Uisce Éireann agus comhairle chontae faoi leith ag feidhmiú. Tá inní orm ó thaobh ceist a d'ardaigh an Seanadóir Ó Domhnaill an lá faoi dheireadh. D'iarr sé an mbeadh íocaíocht iomarcaíochta nó redundancy payment le fáil ó eagraíocht amháin ag deireadh an phróisis. Dúirt an tAire Stáit nach mbeadh i gceist ach aistriú trasna - cineál transfer of undertakings. Tá inní ar daoine i dtaobh a gcearta ceardchumann. Is mian leo go mbeidís á n-aistriú trasna ar na coinníollacha céanna agus atá siad fostaithe faoi láthair. An transfer of undertakings, sa chomhthéacs dlíthiúil, atá i gceist anseo, nó an mbeidh conradh nua i bhfeidhm? Dúirt an tAire Stáit freisin gur féidir le fostaithe áirithe aistriú trasna láithreach más mian leo, agus go mbeidh an chuid eile acu ag fanacht 12 bliain go dtí go n-aistreofar trasna iad. Breathnaíonn an rud an-scaoilte. Tá an cheist seo á phlé agam i gcomhthéacs an aighneacht atá déanta ag comhairle contae faoi leith nach bhfuil soiléir air ag an bpointe seo. Tá an Nollaig buailte linn arís agus tá an t-aistriú seo le tarlú.

Deputy Fergus O'Dowd: Ba mhaith liom go ndéanfar leasuithe eile ar an mBille seo ar an gcéad Chéim eile chun cuid de na pointí atá ardaith ag an Seanadóir a threisíú. There will be a small number of leasuithe ag teacht isteach ar an chéad Chéim eile den Bhille seo chun a chinntiú cad a tharlóidh nuair a fhágann daoine local authorities following the conclusion of the service level agreements and to clarify the duration of the first agreement. There will also be leasuithe dealing with the payment of moneys by the Minister for Finance to Irish Water agus freisin to address issues relating to the pensions of public servants transferring to Irish Water. Beidh sé níos soiléire amárach conas mar a bheidh na téarmaí seo istigh sa Bhille. Beidh gach duine sásta go bhfuil cinnteacht ann faoi cad a tharlóidh. Tá súil agam nach mbeidh aon easpa eolais ar an gceist seo. Tá súil agam go bhfuil sé sin sásúil.

Senator Trevor Ó Clochartaigh: Fanfaidh mé go dtí go bhfeicfidimid.

Senator Denis Landy: On the issue of service level agreements, is it clear in the legislation that the first service level agreement is for 12 years? That is something on which I have been

asked to get clarity since the last day.

Deputy Fergus O'Dowd: There will be absolute clarity on that in amendments tabled on Report Stage tomorrow. The 12 years will be in the legislation. It is not in it at present, so we are working on a small number of amendments to clarify that. All outstanding issues in regard to pensions and so on will be clarified in amendments on Report Stage.

Question put and declared carried.

NEW SECTION

Acting Chairman (Senator Jillian van Turnhout): Amendments Nos. 42 to 44, inclusive, are related and may be discussed together. Is that agreed? Agreed.

Government amendment No. 42:

In page 14, to delete line 39, and in page 15, to delete lines 1 and 2 and substitute the following:

“**22.** (1) As soon as may be after the commencement of this section, Irish Water shall prepare and submit to the Minister a scheme or schemes for the granting of superannuation benefits to or in respect of—

(a) persons who were accepted into the employment of Irish Water in accordance with *section 15*, and

(b) persons who were appointed under *section 21* and, immediately prior to their appointment, were—

(i) officers of the Minister, or

(ii) members of the staff of a local authority.”.

Deputy Fergus O'Dowd: These amendment are proposals for the superannuation section and take account of consultations with the Department of Public Expenditure and Reform, Irish Water and the local authority sector. The agreed approach is that the Irish Water consultative group needs to be reflected in the legislation. It has been agreed that the pension benefits accruing to public servants transferring to Irish Water should be no better or no worse than had they remained in the employment of a Department or a local authority. It is an important part of the overall water sector reform that there are no barriers to the movement of staff from the local authorities to Irish Water. As I said, further amendments will be tabled on Report Stage tomorrow.

Amendment put and declared carried.

SECTION 22

Government amendment No. 43:

In page 15, to delete lines 24 to 32 and substitute the following:

“(7) (a) Save in accordance with a collective agreement negotiated with a recognised trade union or staff association and approved by the Minister with the consent of the Minister for Public Expenditure and Reform, a scheme under this section shall, as respects a person referred to in *subsection (1)*, provide for the granting to or in respect of him or her

of superannuation benefits upon and subject to such terms and conditions as are not less favourable and not more favourable to him or her than the terms and conditions in relation to the grant of such benefits that would have applied to him or her had he or she continued to be an officer of the Minister or a member of the staff of the local authority concerned.”.

Amendment put and declared carried.

Government amendment No. 44:

In page 15, to delete lines 43 and 44, and in page 16, to delete lines 1 to 7 and substitute the following:

“(8) Where, in the period beginning—

(a) on the date on which a person was accepted into the employment of Irish Water in accordance with *section 15*, or

(b) on the date on which a person was appointed under *section 21*, where such person was immediately prior to his or her appointment—

(i) an officer of the Minister, or

(ii) a member of the staff of a local authority,

and ending immediately before the commencement of a scheme under this section, a superannuation benefit falls due for payment to or in respect of a person so accepted into the employment of Irish Water, or so appointed, the benefit shall be calculated and paid by Irish Water in accordance with such scheme, arrangements or enactments in relation to superannuation, as applied to the person immediately before the said date and, for that purpose, his or her pensionable service with Irish Water shall be aggregated with his or her previous pensionable service.”.

Amendment put and declared carried.

Question, “That section 22, as amended, be agreed to”, put and declared carried.

SECTION 23

Government amendment No. 45:

In page 16, lines 14 to 31, to delete all words from and including “(1) The” in line 14 down to and including line 31 and substitute the following:

“(1) The Minister shall, for the purposes of defraying the cost to Irish Water of paying superannuation benefits to or in respect of persons referred to in *subparagraph (i)* of *section 22(1)(b)*, pay to Irish Water a sum equal to the cost that the Minister would incur were he or she liable to pay superannuation benefits to or in respect of those persons upon their retirement from Irish Water or death and calculated on the basis that their pensionable service and pensionable remuneration upon retirement or death remained the same as their pensionable service and pensionable remuneration as officers of the Minister immediately before the date of their being so accepted into the employment of Irish Water.

(2) The Minister shall, for the purposes of defraying the cost to Irish Water of paying superannuation benefits to or in respect of—

(a) persons who were accepted into the employment of Irish Water in accordance with *section 15*, and

(b) persons referred to in *subparagraph (ii) of section 22(1)(b)*,

pay to Irish Water a sum equal to the cost that the local authority would incur were it liable to pay superannuation benefits to or in respect of those members of staff upon their retirement from Irish Water or death and calculated on the basis that their pensionable service and pensionable remuneration upon retirement or death remained the same as their pensionable service and pensionable remuneration with the local authority immediately before the date of their being so accepted into the employment of Irish Water.”.

An Cathaoirleach: Amendments Nos. 45 to 47, inclusive, are related and may be discussed together.

Deputy Fergus O’Dowd: The amendments take account of consultations with the Department of Public Expenditure and Reform and also with Irish Water and the local authorities. The agreed approach at the Irish Water consultative group needs to be reflected in this legislation. It is necessary to recognise that there will be future costs arising for Irish Water in respect of staff transferring to it from the public sector. This section provides a mechanism for the Minister to provide funding to Irish Water in respect of these costs.

Amendment put and declared carried.

Government amendment No. 46:

In page 16, line 34, after “Water,” to insert “with the consent of the Minister for Public Expenditure and Reform.”.

Amendment put and declared carried.

Government amendment No. 47:

In page 16, line 36, after “Minister” to insert “with the consent of the Minister for Public Expenditure and Reform”.

Amendment put and declared carried.

Question, “That section 23, as amended, be agreed to”, put and declared carried.

SECTION 24

Government amendment No. 48:

In page 17, line 25, after “area” to insert “within the meaning of the Act of 2001”.

Deputy Fergus O’Dowd: This is a minor technical amendment to clarify the meaning of the term, “administrative area” which has the meaning assigned by the Local Government Act 2001.

Amendment agreed to.

Question proposed: "That section 24, as amended, stand part of the Bill."

Senator David Cullinane: This section refers to the performance of functions by local authorities on behalf of Irish Water. One of the arguments that the Minister of State would make in favour of the Bill is that the proposal to transfer the assets and liabilities of the water services sections of local authorities would help improve the quality of service and also increase efficiencies in water services nationally. It is one of the core arguments made by the Government. I have a difficulty with transferring power away from local authorities into Irish Water. Local authorities would need assurances that all liabilities existing on their books at the time of transfer would be taken up by Irish Water, to include loans, outstanding capital balances and any contingent liabilities. I hope that confirmation can be given because it is important for local authorities. As we discuss this section, it must be acknowledged that we are dealing with very significant powers which will be taken from local government. In my view, local government and local authorities have done a very good job with regard to water services.

I assume the Minister of State will agree that local councils have always been seen as a first point of contact during emergencies when there is a problem with water supplies, as evidenced during the severe weather in 2009 and 2010. Many local authority members and staff will be aggrieved that this service is being taken away and that the establishment of Irish Water may not deliver a more effective response to similar weather events in the future. I know the Minister of State will argue that Irish Water will be effective in this regard but some people remain unconvinced. It is worth acknowledging the very good and constructive role played by local authorities to date in providing water services, notwithstanding any arguments or differences we may have on the issue. We should commend the staff of local authorities in particular who worked in very difficult conditions over many years. I empathise with many councillors who are fearful of losing some of these core services from local government to Irish Water. Those are my general points on the section.

Senator Trevor Ó Clochartaigh: On the general area of service level agreements, one of our significant concerns in some of the more westerly counties such as Mayo, Galway and Roscommon is the priority to be given to local developments. One of the local authorities has made an application to the Department on the issue of foreign direct investment. At the moment, some of those western and more rural county councils can ensure that the water services infrastructure is available to encourage companies interested in locating in their region. These county councils are very concerned that they will be unable to do so when Uisce Éireann is established which may result in an IDA-type mentality where cities such as Galway, Cork and Dublin are given priority for foreign direct investment. The county councils are concerned they will no longer have that power because they will not have control over water services. This is a very significant concern. I ask the Minister of State to comment.

This country does not have a great track record with regard to the provision of other services in rural areas. Under Telecom Éireann, as bad as it was, it was difficult enough to get work done in a rural area but when it came to Eircom, it was even more difficult. There is a concern that the EPA findings which we discussed still show that a significant level of funding is required for remedial actions. For example, the EPA remedial action list shows 147 supplies and it indicates that remedial works in a further 70 supplies need to be completed by the end of 2013. There have been issues around THM, cryptosporidium and E. coli. My issue about the service level agreements is that centralised decision-making will be based in Dublin in Uisce Éireann, who will decide which repairs and services are to be prioritised and how the diminishing capital will be divvied out.

The Minister of State has not explained the magical arithmetic of where the money for the capital investment will come from. He referred to €1.2 billion and the fact that only €200,000 is available from the commercial rates and that the shortfall will have to be funded from the investment fund from abroad. How much will be capital investment? Who will be in charge of deciding in counties Galway, Mayo, Roscommon or Leitrim which schemes are to be prioritised? More pertinently, which counties will be prioritised? In other spheres of Irish society, the major urban centres and the eastern counties tend to get the bulk of the funding for infrastructural projects such as roads and rail networks. This has been our experience, unfortunately, on the western seaboard and in western counties and it is probably also the case in the Border counties. I am very concerned and many county councillors have similar concerns that once Uisce Éireann is established and it is in charge of who gets the money, we will see another version of this prioritising policy.

Deputy Fergus O'Dowd: The service level agreement between a local authority and Uisce Éireann will last for 12 years which means the county council will be doing most of the work. Depending on the county the council may not be involved with design work but it will be involved in discussions with Uisce Éireann about the key projects and the cost predictions. Uisce Éireann must have regard to the policy of the county council, to the county development plan, to the Enterprise Ireland development plans and other statutory agencies such as IDA Ireland and the EPA.

If we were to do all the work that needs to be done, it is believed we would need €600 million a year in capital expenditure for the next X number of years. Even at the best of times we did not have that level of funding for capital expenditure. A balance needs to be struck between the needs of the area and what the funding can provide. The Senator is correct that decisions will be necessary as to whether, for example, Cashel rather than Cork city will get a €20 million investment plant.

9 o'clock

Practical decisions will have to be made on those issues but the decisions of local authorities, as always has been the case, even with the Department, is that there has to be two-way communication. There must be due regard to what is essential. A list of priorities has to be made, and Irish Water, Uisce Éireann, will produce its plan, which will be transparent. It will be published and will then be open for opinions. It will go before the regulator and the regulator must decide the cost. That is a critical job and it must be done in a transparent way because we must ensure that everybody signs off on the key issues that must be dealt with and that the money is available to do that.

Senator Trevor Ó Clochartaigh: I do not take much solace from the Minister of State's answer because what he is saying feeds into my question. On the figures available to us, capital investment in water has been cut from almost €435 million in 2011 to €331 million in 2012, with more cuts planned until the budget is €266 million. The Minister said we would need €600 million a year to keep up with the current demand-----

Deputy Fergus O'Dowd: For capital expenditure. That is not the running cost.

Senator Trevor Ó Clochartaigh: Can the Minister tell us what the planned capital expenditure for next year will be because my fear is if we do not have the €600 million we need, and we only have €250 million or €260 million, the lion's share of that will be swallowed up by the

bigger counties, certainly on the eastern seaboard? It is all well and good for Galway County Council or county councils in Mayo, Leitrim or Roscommon to have their priority list but if Uisce Éireann has only €266 million and it is prioritising Dublin, Wicklow or Louth, that leaves those of us on the western seaboard at a loss. The genuine fear is that there will not be enough money to go around and that rural areas in particular in those counties we will be left behind.

Also, will the Minister clarify whether the moneys collected will be put into the national pot? For example, does the money collected on, say, the €250 or €750 charge per house in Galway go into a national pot and is then divvied out or will ring-fencing happen in local areas to ensure that the money collected in Galway will be spent in Galway? That is something the taxpayers will want to know.

Senator David Cullinane: I know we are dealing with 12 year service level agreements but Senator Ó Clochartaigh is making an important point about a concern that would be shared by local authorities across the State in terms of how Irish Water will give priority to water projects demanded by local authorities. Some weeks ago a delegation of Oireachtas Members and local councillors met with the director of services with responsibility for water in Waterford County Council. It was to do with a housing estate in Dunhill, County Waterford where the one bore hole that will feed the new housing development had essentially dried up, causing problems with water. On two or three occasions the housing estate was without water. The council had to put in a temporary tank in front of the estate, which is located there now almost on a permanent basis until a solution is found.

When we met the director of services we asked him how the local authority determines the projects that are a priority. As we know, many demands are made of local government, even now in terms of all the different local authorities. There are many demands regarding the water mains schemes, areas wanting to join the mains, repairs that need to be carried out, and systems that need to be upgraded but as Senator Ó Clochartaigh said, rural areas in particular often lose out because of the sheer cost of repairs and so on. The question arises about hierarchy and how Irish Water will determine the projects that are a priority. Those are the issues we would want teased out in advance of a Bill to ensure we know exactly how Irish Water will treat those competing demands from all local authorities. Local authorities will continue to lobby Irish Water on all of the schemes needing to be upgraded, repaired, put in place or whatever. How will Irish Water prioritise all those different schemes once it is centralised? That will be a test of whether this will work in practice. I acknowledge what the Minister said about the 12 year level agreement that will iron out whatever difficulties that might arise but those are the genuine concerns of local authority members. I support the comments made by Senator Ó Clochartaigh on this section.

Deputy Fergus O'Dowd: If I may, I will repeat some of the points I made. Section 27 provides that Irish Water shall prepare investment plans setting out where Uisce Éireann considers investment in infrastructure is necessary for the effective performance of its functions. That is the first point. There will be investment plans. In developing these investment plans, Uisce Éireann shall take account of the water services strategic plan prepared under section 26 and a range of other policy considerations including, and this is the important part, local area plans, regional planning guidelines and strategic development zones.

Before preparing an investment plan Irish Water will be required to consult with the Environmental Protection Agency, EPA, the regional bodies in respect of whose functional area the investment plan is likely to apply, and each planning authority in respect of whose functional

area the investment plan is likely to apply. Copies of this plan must be submitted by Irish Water to the regional and planning authorities. If someone is on a planning authority, they will get a copy of the plan and will have an opportunity to debate it. The first investment plan should be prepared for the two year period after the transfer date, and further investment plans shall be for durations to be determined by the Commissioner for Energy Regulation. It must consult with the elected people in the council, the planning authorities, the EPA and the regional authorities.

I have no doubt there will be difficult decisions to be made, and they will be predicated upon what the capital investment is for whatever period, but the first period will be two years, which will at least give certainty to the works that will be done in the first two years. I presume many of those works will be at the planning stage now because I could not imagine getting too many new ones designed and ready to roll out of the blue in terms of planning, costing and so on.

I would be confident Uisce Éireann will consult widely. I am confident that local councillors would be aware of what is happening. Conflicts of interest might arise in terms of what a local area might want. It might want to rezone 200 acres outside its town for whatever purpose, which is a problem that arose in the past. That is what councils did during the boom but there were no services to deal with that planning and now many of the planning permissions granted have been rescinded. What we need is proper planning and development and proper consultation, and I believe that will happen.

An Cathaoirleach: Is section 24, as amended, agreed to?

Senator Trevor Ó Clochartaigh: On the section-----

An Cathaoirleach: I call the Senator on the section. We have given this section quite a good airing.

Senator Trevor Ó Clochartaigh: We have but there is another issue that is very important. We talked about the EPA findings. I have before me the recommendations on public water supplies. Will Uisce Éireann be directed to give health and safety the top priority if, for example, it is found there is a problem with a water supply such as the one in Roscommon which has a permanent boil notice on it? Will that be given priority? I understand also that the Killarney water supply is in a treacherous position at the moment and that there is a serious need for an upgrade. We have them in County Galway also, which I listed the other day. Six supplies have issues with E. coli, trihalomethanes, THMs, etc. The recommendation from the EPA is that water services authorities, WSAs, should prioritise improvement works on supplies, with a boil water or water restriction notice in place, on all or part of the supply in order to have the required works completed as a matter of urgency. What will be Uisce Éireann's priorities? Will it be the health and safety issues raised by the EPA on an annual basis? In fairness to the county councils, their planning permissions are in place. Their plans are ready to go but the issue has been a lack of capital investment. They have not had enough money to address the issues, many of which have been outstanding for a long time. How can we be confident that Uisce Éireann will do a better job, especially when we are dealing with a centralised organisation that will be based in Dublin?

Senator David Cullinane: In fairness, the Minister of State has been somewhat helpful with his response and has clarified some of our concerns. The point he is making is that there will be consultation with local authorities. If I understand what he said, local authorities will be asked to submit a plan to Irish Water in respect of the various schemes that may need to be

upgraded or whatever it might be in their area. They would be asked to submit their opinions and to say what is the priority. The difficulty for Irish Water will be how to determine which of the competing plans for schemes coming in from local authorities around the State are most necessary. This is a finite resource and that would be a big job for Irish Water. When it is finished with plans and consultation Irish Water has to decide how it will spend its money. What guidelines will it work from? What hierarchy will it work from?

Deputy Fergus O'Dowd: I do not have all the answers. Policy issues are based on consultation and knowledge. Uisce Éireann will produce its plan and put it out for consultation. The local authority will then see what it wants each county to do, what the priorities are, following consultation. That has to be costed. Then it goes to the regulator who decides what the charge should be, if all the projects are carried out, and what level of charge is sustainable over a period of years. Some plans, such as a major sewage treatment plant, will take four or five years to come to fruition. Multi-million euro developments will not happen tomorrow. This will depend on how they are planned. There will be costs for the design and maybe for consultants to help with the design but health and safety is the absolute priority. The water has to be potable. One has to be able to drink it safely. The question then arises of what is needed to make it safe. I do not know the exact details but the views of the EPA will be paramount in my mind, the Senator's mind and, I am sure, in the mind of Irish Water. It will have to deal with those issues and there will have to be a cost for them.

I am glad that Sinn Féin is raising this issue here. A sustainable water supply has to be paid for sustainably. We have to be able to raise the funding to pay for the improvements that are needed. We have to get more money from commercial rates; get private investment in; the company will have to borrow and there will have to be a charge. The mix of all of those factors will result in the decision about what work will or will not be done. The most important thing that we can all do is identify in our own areas the key priorities and put them into the mix and see what comes out. The consumer will pay but the price must be seen to be fair and acceptable to the consumer. If 42% of all water nationally is unaccounted for and never gets to anybody's taps that is a major issue. There must be physical improvement of the scheme as well as capital improvement. How will it deal with water unaccounted for in Roscommon, where the rate is very high? I think in Kerry it is over 60%. I stand to be corrected on that. All of those issues must be dealt with. If and when they are, we will have a modern, fit-for-purpose water system.

Senator Denis O'Donovan: I put the Minister of State on notice of an issue that I will raise on the next and subsequent sections. He mentioned health and safety and the critical importance of having potable water. One of my concerns, which is perhaps more appropriate to sections 25 and 26, is that we are talking about-----

An Cathaoirleach: We are on section 24.

Senator Denis O'Donovan: I accept that but I want to put the Minister of State on notice. For many years we have been shovelling fluoride into water to make it more potable and kill off bacteria. Is that really the solution? There is a school of thought that we have the worst rate in Europe of adding fluoride to water. Studies in America and internationally have shown that this is not the answer. This was the case with previous governments here. I am deeply concerned about this. There is a growing debate about fluoridation. I live in Bantry and although technically the water is potable I have not drunk water from the mains system in Bantry for 20 years. Many people do not. They buy large containers of water. One man told me that when he poured the water from the tap into whiskey he could not taste the whiskey.

There is a broad issue about quality of water. If Irish Water does not address that it will hit the Minister of State, the Government or the officials responsible like a train. There was a public meeting in Bantry last Friday where very well-heeled people turned out. It is gathering momentum. Putting lots of fluoride into the water is like giving a fellow who has a bad back an injection to kill the pain which wears off after a few hours.

This may be more appropriate to sections 25 and 26 but I am putting the Minister of State on notice that I have deep personal concerns on this issue. We debated it here a few months ago. If we do not address that in this House it will be like a rolling stone coming down the track for the Minister of State for the water services.

Deputy Fergus O'Dowd: This issue arose at a health board meeting I attended many years ago. The present Secretary General of the Department of Health happened to be an official of the health board at the time and said that there had been a significant improvement in dental hygiene and the age cohort of those who retain more of their teeth than ever before. Due to the fluoridation of water children are holding on to their teeth much better, and more people have fuller sets of teeth, for want of a better word, than previous generations had. It definitely does work. The Health (Fluoridation of Water Supplies) Act 1960 and the Fluoridation of Water Supplies Regulations 2007 provide for the making of arrangements by the HSE for the fluoridation of public water supplies and this is the responsibility of the Minister for Health who decides what is or is not competent in the health area. Water fluoridation is the adjustment of the natural concentration of fluoride in drinking water to the optimum recommended levels for the prevention of tooth decay.

As of July 2007 the level of fluoride in drinking water in Ireland has been set at between 0.6 and 0.8 per million equivalent to milligrams per litre. Water fluoridation and the use of appropriate fluorides is a major plank of public health policy in Ireland in the prevention and management of tooth decay. The Irish expert body on fluorides and health, established in 2004, continuously monitors new and emerging issues around fluoride and its effects. It advises that the balance of scientific evidence worldwide confirms that water fluoridation at the optimal level does not cause any ill effects and protects the oral health of the population. That is the point I made earlier. The opinion of the expert body is supported by major international, scientifically validated reviews and the effects of fluoride on health and related matters are kept under constant review. I do not know if that is helpful to the Senator.

Senator Trevor Ó Clochartaigh: What is the position of group water schemes, which at the moment are provided with water from the public system that manages the system from source? Until now, Mayo County Council, in the Cathaoirleach's home county, has had discretionary powers where there has been leakage or overuse of water within the system to grant a write-down on the debts, and in many cases that has maintained the stability of the group water schemes. Where there have been leakages in undeveloped rural areas the schemes probably do not have the money to fix all of the pipes. They may have lodged applications for capital funding and be waiting for support. Will Uisce Éireann under the service level agreements have similar discretionary powers? Will it be able to give a write-down to a group water scheme in rural Mayo which does not have the funding to upgrade the infrastructure or might be waiting for a grant of some sort or capital investment? It might look to Uisce Éireann through the list of priorities about which we spoke a minute ago. It might not be very high on that list of priorities. It will not be sustainable if it has to pay for all the water but it is not responsible if it does not have the capital funding available to fix the pipes where the 34% or 40% leakage is happening. Could the Minister of State explain to us whether Uisce Éireann will have that discretion and

will it use it in the case of group water schemes?

Deputy Fergus O'Dowd: The Senator is talking about group water schemes that have a public water supply, not group water schemes that have their own separate water supply. They would have the same arrangement as they have at present. If they are with the local authority, it can help and work with them. They will be customers of Uisce Éireann so it will have the same responsibility and workmanlike arrangement with them to help to improve matters.

Senator Trevor Ó Clochartaigh: To clarify, what the Minister of State said with regard to the consumer is that the first fix will come free of charge, so if there are any issues of leakage from the consumer's end, it will be fixed for free the first time for an individual homeowner. However, a group water scheme may have an application in for an upgrade of the scheme which has been waiting for five, ten or 15 years. Therefore, it would not have full control over the leakage from its system, which is how I imagine the scheme would have got a writedown from the council for the overuse of water. For example, if there was 30% or 40% leakage through a scheme's pipes, Mayo County Council would come to an arrangement with the scheme over the amount of water used, and give it a writedown so it would remain sustainable. If the group water scheme is still waiting for capital investment which is not forthcoming, will Uisce Éireann do the first fix and fix the system for that scheme before it begins charging for the water, given this is to be compared to a consumer situation where the consumer pays for whatever water is being used?

Deputy Fergus O'Dowd: Capital funding for the group sector remains with the Department so it is not transferring to Irish Water. In other words, it will be a matter for the Department and the group water scheme to work on, but the schemes would be customers of Irish Water as well, given it is supplying them with the water. I can get a further briefing note for the Senator, if that is helpful to him.

Senator Trevor Ó Clochartaigh: It is a very important point to clarify because, obviously, the Department will itself have limited resources as regards capital funding. If Uisce Éireann is to treat each group water scheme as a pure customer and charge it for every drop of water it is using, and if the scheme is losing a lot of water due to a lack of capital investment, this will put the scheme in a very detrimental position and will put a huge burden on the community. My point is that, in the past, the councils have had a discretionary power to write down the cost of this. Will Uisce Éireann have that power? Is it the case that the Minister of State does not know but he might clarify this tomorrow, or that the answer is "No", it does not have that power and it will charge for every drop?

Deputy Fergus O'Dowd: The Senator raises a very important point. The best and most honest thing I can say to him is that I will get him clarification on that for tomorrow. What I understand is that the capital funding for the group sector remains with the Department so it will not be going to Uisce Éireann. The Senator is making the point that they will become customers of Irish Water and he wants to know what that relationship will be. He also alluded to different arrangements or flexibility within arrangements. Obviously, one scheme may be different to another and there may be different ways of operating in different counties, where water comes from a public supply. I will come back to the Senator on that issue.

Question put and declared carried.

SECTION 25

An Cathaoirleach: Amendments Nos. 49, 51 and 53, in the name of Senator Brian Ó Domhnaill, are related and may be discussed together, by agreement. Is that agreed? Agreed.

Senator Diarmuid Wilson: I move amendment No. 49:

In page 18, line 3, after “Commission” to insert “and the Oireachtas”.

This relates to the codes of practice. Senator Ó Domhnaill’s amendments seek that the codes of practice shall make provision for customer service standards, billing, methods of payment, the provision of information to customers of Irish Water and any other matters the Commission deems necessary. What he is providing for in this amendment is that the codes of practice should have an input from both Houses of the Oireachtas - the Dáil and Seanad - during their preparation.

Senator David Cullinane: I support the amendments and I wanted to talk on the section in any case. The section provides for the preparation of codes of practice by Irish Water and it covers many areas. This mainly concerns the user and, while I hate to use the word “consumer” when it comes to water, unfortunately, that is the road we are travelling down. The codes of practice will make provision for customer service standards, billing, methods of payment of water charges and the provision of information to customers of Irish Water, and these codes of practice will be set by the Commission for Energy Regulation.

In some of our previous exchanges, while we genuinely wanted to make sure the Oireachtas would be much more prescriptive than it is and not leave this to any other commission, the Minister of State somehow suggested we were not being fair to the CER and were perhaps somewhat undermining that organisation. That is not at all the point. It does not matter what organisation is coming up with the codes of practice. The core point is that it should be the Oireachtas, the democratically elected representatives, who deal with these issues.

We saw with the household charge and the property tax the problems that arose with, for example, methods of payment and other difficulties. If similar difficulties arise with water charges, it would not be acceptable at that time for the Government to pass the buck on to the CER by saying it has nothing to do with the Government and is a matter for the CER. That would be a mistake on the part of the Government and it would be unfair to put the commission in that position. We should be prescriptive in this regard.

The section also deals with the methods of payment and billing for water. However, we still do not know who is going to set the charge and, in particular, whether the CER will set it. If it does, that is also unfair because, again, this is clearly passing the buck by a Government which is bringing in water charges, saying they are necessary, standing over them and then not being prepared to set the charge itself. Instead, by farming it out to the CER, it will have to take the flak which comes from the public. I have no doubt that when, in time, the full cost of water services is passed on to the customer - I hate using that term but it is the one used in the Bill and is the reality when water charges come in - the Government will say it is not its fault because the rate has been set by the CER, which is fully independent, nothing to do with the Government and all of that. That is not nonsense. The Government is bringing in water charges.

I have a grave difficulty with supporting this section, which simply allows for the CER to set the codes of practice, not the Oireachtas. It is very appropriate that the Oireachtas would be much more prescriptive in all of these areas, particularly in regard to the billing and methods of payment. This will be a big issue for people once it becomes a reality. I believe the Minister

of State will accept, leaving aside the fact he supports water charges and would sell this as a good idea, a view he is entitled to hold, that many people are very concerned about the level of charges coming at them. The Government must not simply attempt to wash its hands. We have seen what happened with the HSE, where Ministers wash their hands of responsibility and say “It is the HSE’s fault, not our fault”. I would hate to see that happen to the CER when this becomes a hot political issue after people get their bills through the door.

I have grave concerns about this section. I agree with the amendment that it should not just be the commission but also the Oireachtas that is part of the preparation of the codes of practice.

An Cathaoirleach: Does Senator O’Donovan wish to speak?

Senator Denis O’Donovan: I will reserve my right to come back in at a later point.

Deputy Fergus O’Dowd: I want to say very clearly, as I pointed out the last day, that the Oireachtas has a very important role and it is for the Members of the Oireachtas to decide they want to play that role. I pointed out that Senators making their comments here is very important. More important is the fact this is a consultative process. In other words, Irish Water makes the plan and it then goes to the regulator, and the regulator then proposes its decision and asks for the views of the Oireachtas Members. I believe the Oireachtas committee should invite in Uisce Éireann and go through its plan, and also invite the regulator to discuss its decision.

The Senators referred to the Oireachtas getting involved in making decisions. I believe the collective wisdom of the Oireachtas would have to be listened to. It is terribly important that Oireachtas Members play an active role in bringing in the regulator and Irish Water to go through the issues with them. That is how they will have their say. It would be wrong for us to set down all the details of the physical code of practice but there is no reason Oireachtas Members could and should not make a comprehensive list to be sent to the regulator in order to outline the views of the Oireachtas prior to the decision coming out.

The approval of the codes of practice is proposed as a statutory role for the regulator. This is a key element of the regulator’s role in providing for protection of customers through the preparation of the codes of practice. The regulator will act in a fully transparent way in discharging its functions relating to the economic regulation of Irish Water. As I said, there is absolutely nothing preventing the Oireachtas from debating all of these matters and the amendments are, therefore, unnecessary. I would urge the Senator to follow up on the points he has made by, for example, putting down a motion in this House. In addition, the Oireachtas committees are extremely important as a forum for accountability and allowing members to express their views. That is how Members can play an active role in this. I am not suggesting that Senator Cullinane is being in any way passive, but there certainly is scope for all Members to take an active approach in asking questions, seeking information and so on.

Senator Denis O’Donovan: Notwithstanding what the Minister of State said in regard to fluoridation, I urge that consideration be given to including that issue in the code of practice. The Minister of State referred to health considerations, but the view is gathering momentum that there might be serious repercussions down the line. I am not convinced by the health argument. I understand the Minister of State’s position that fluoridation has more positives than negatives from a health point of view, but the reason there is so much fluoride in our water is to kill off bacteria that are potentially harmful rather than to protect our teeth. The major issue with teeth when I was a child was that there was no health provision for dental care. People

are far more conscious of their dental health these days and those who look after their teeth, irrespective of fluoride, will ensure they keep them into their old age.

The argument the Minister of State gave was also trotted out by the previous Government, but I am one of a growing number of people who are not convinced by it. We must ask ourselves whether it is appropriate that we should be prepared, for the next 25 years, to ignore the problems with fluoride. Several countries are moving away from the practice of adding fluoride to the water supply. There is certainly an obligation to examine what is happening in the rest of Europe, the United States and Australia.

An Cathaoirleach: Senators are having no difficulty in getting their teeth into this Bill.

Senator David Cullinane: To clarify the point I made, it is not that I see my role or anybody's role in this area as passive. The reality, however, is that we are not being prescriptive in this legislation. The Minister of State is suggesting that the Commission for Energy Regulation will again engage and consult with all stakeholders and that Oireachtas Members can be part of that consultation process. That is fair enough. What I am saying is that we can move from being passive players to active participants in the framing of the codes of practice by being much more prescriptive now. Why should we have to wait until the Bill is passed before framing motions, as the Minister of State suggested, in this House or elsewhere, or making representations to the commission?

My point is that we are dealing here with issues that are of fundamental importance to customers, such as billing, methods of payments and so on. I foresee problems in this regard, whether teething problems or more substantial issues of concern to consumers in terms of what they will have to pay and how they can pay it. I am concerned that when those issues arise, we will see Ministers passing the buck and blaming the commission instead of taking responsibility themselves. I am making the point now, before we pass the Bill, that the Oireachtas should be much more prescriptive. If the Minister or the Government wants to pass the buck, that is up to them. We are arguing strongly that the Oireachtas should be far more prescriptive in all of these areas. We certainly should not be obliged to be passive participants in all of this, with no capacity other than to lobby the commission. The Oireachtas is the body that sets legislation. We make the laws and, in so doing, there are areas where we should be more prescriptive. The codes of practice are one such area.

That is the point I was making - not that I would put myself in a passive role in this but that we are being forced to be passive participants simply because we do not seem to have any role. The responsibility is being farmed out to the commission to come up with the codes of practice, after which we can only make telephone calls, write letters and put down motions. That is not a sufficiently robust arrangement. Moreover, it is not good enough to put public representatives, either Government or Opposition Members, in that position.

Deputy Fergus O'Dowd: I am not an expert on codes of practice but I know what I would like to see included therein, as does the Senator. He has his view on this and I have mine. The CER has a great deal of experience and knowledge in this area. My point is that it is open to Senators to ensure commission members are brought before the committee for a comprehensive engagement. That is far more than making telephones or writing letters. The committee is a public forum where everybody can see and hear what is happening. I hope members of the committee will question the commission members closely on all their plans and proposals. The codes of practice will be presented in the form of a consultative document, and committee

members will have an opportunity to request that a particular issue be addressed therein.

I do not underestimate the importance of the role of the Oireachtas in any of this. The regulator is on the record as wishing to communicate proactively with Members. My concern is to ensure the law in this area is the best it can be. What happens in other jurisdictions is very relevant and we will look at the code of practice in the United Kingdom and so on in that context. That is how we garner collective wisdom and devise better regulation. The Oireachtas has a very constructive role to play in that process.

Amendment put and declared lost.

Senator Sean D. Barrett: I move amendment No. 50:

In page 18, line 3, after “Commission” to insert “and the National Consumer Agency”.

Amendment put and declared lost.

Senator Diarmuid Wilson: I move amendment No. 51:

In page 18, line 15, after “Commission” to insert “or the Oireachtas”.

Amendment put and declared lost.

Senator Diarmuid Wilson: I move amendment No. 52:

In page 18, between lines 16 and 17, to insert the following:

“(h) recognition of the right that County Councillors and Public Representatives have to make representations on behalf of the public.”.

Senator Cáit Keane: This issue was discussed on Second Stage, so I will not dwell on it now other than to say that this is an important amendment. I raised this issue when we met recently with departmental officials and the impression I got was that they were very favourably disposed to the idea that the right of councillors and public representatives to make representations on behalf of the public might be written into the legislation. It is fine to have a gentlemen’s agreement or something of that nature, but there can be no guarantees unless there is specific provision in the Bill. We saw what happened when the health boards were eliminated. Public representatives should be able, possibly by way of a dedicated telephone line, to make representations on behalf of the public, including at the weekend. Councillors are generally the first port of call when people experience these types of problems, not Uisce Éireann or anybody else. That should be written into the legislation.

Senator Denis O’Donovan: It is important that the capacity of councillors and other public representatives to make representation on behalf of the public should be recognised in law. In fact, there should be a requirement that all such representations be answered within 14 days or, at worst, 21 days. Local authorities have had an important role historically in dealing with water services. I met a man in the butcher’s shop last Saturday who was very angry because his water supply had been cut off for three or four days. His first thought was to contact the council, not the CER or anybody else. County councillors and Oireachtas Members should be entitled, where there is a serious water supply issue, to make appropriate representations. This amendment is a fair and reasonable provision and I hope the Minister of State will accept it.

Senator David Cullinane: I support the amendment. It is an issue of balance and we must

be careful with it. Public representatives deal with people on a range of issues. If somebody has a difficulty with a bank or is in mortgage distress or there might be a difficulty with the ESB, and if one contacts the bank or the ESB or the body on behalf of the individual-----

Senator Cáit Keane: The Senator is not elected to the bank.

An Cathaoirleach: Senator Cullinane without interruption.

Senator David Cullinane: I did not get that point. The body one contacts is irrelevant. It could be the ESB or a State body. Some State bodies will not accept a representation from a public representative and say it will only deal with the client or individual, especially if it relates to somebody's account. There are data protection laws around that, which is important. In those circumstances, I always get a letter from the individual to give me permission to talk to the body or bank concerned. I support the amendment but we must be conscious of the data protection element.

It is an important amendment. When Irish Water comes into being people will encounter difficulties in a range of areas. Somebody might get into arrears and although their water might not be fully cut off, some type of penalty or sanction will be imposed. In those situations people will go to their public representatives and we will have to make representations. It is a real concern, especially for councillors. It might be a smaller problem for Members of the Oireachtas, who have direct telephone numbers for most of the State bodies and so forth, but councillors certainly encounter this more often. I would welcome clarification on this from the Minister.

Deputy Fergus O'Dowd: This is a very important issue. I have a commitment from Irish Water or Uisce Éireann and the local authorities that they will establish a local point of contact in each council area. In other words, an employee of the county council will be one of the points of contact specifically for water issues. In keeping with the expectations of elected representatives, the contact point will be a local official who is dealing with the water service. It will be somebody who works for the council. They will know the elected person and will deal with water, so they will know what they are talking about, will understand the nature of the query and will respond quickly. That is very important. For elected representatives who choose to use the Irish Water contact centre, a separate help desk will be established to ensure their queries are dealt with swiftly. That is the hot-line, for want of a better word. Irish Water is currently establishing a network of regional offices which will also provide a point of contact for elected representatives. A team of regional communications managers will be appointed at the appropriate time as well. There will be many links.

In addition to those methods of engagement, Irish Water intends to develop a proactive communication with elected representatives, including SMS alerts on operational activities or incidents in their areas. If something happens in a county, the representative will receive a text. There will be regular briefing information on significant milestones, what the plans are and what will happen, and proactive engagement on the development of major capital infrastructure. That refers back to the points Members were making about what is required in a county or city and what will be done. Irish Water will be proactive. In other words, it will contact the public representatives to find out their views. The metering regional communications team will continue to provide a point of contact on metering and regional briefings for public representatives will be arranged early in the new year.

Amendment, by leave, withdrawn.

Senator Diarmuid Wilson: I move amendment No. 53:

In page 18, line 22, to delete “may” and substitute “or the Oireachtas shall”.

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

Amendment declared lost.

Senator David Cullinane: I move amendment No. 54:

In page 18, between lines 24 and 25, to insert the following:

“(7) Irish Water shall be subject to the Freedom of Information Act 2013.”.

We got some clarification from the Minister on this earlier in the debate on the Bill. The amendment provides that Irish Water shall be subject to the Freedom of Information Act. There was concern about this among members of the public, journalists and non-governmental organisations, NGOs, who contacted and lobbied public representatives. I seek further clarification from the Minister before making a substantial contribution on the amendment. My understanding of what he said is that it is only in the initial establishment of Irish Water that the Freedom of Information Act does not apply but that once it is up and running, it will apply.

Deputy Fergus O’Dowd: It is not a matter for the Minister for the Environment, Community and Local Government, but for the Minister for Public Expenditure and Reform. I understand the inclusion of Irish Water under this legislation will be further considered by that Minister. That is as far as I can go.

Senator David Cullinane: The problem is there is no guarantee. This amendment seeks to ensure that it will be subject to that Act. To be helpful, we will not press the amendment and perhaps table it on Report Stage when the Minister might have had time to consult with the relevant Minister. If that Minister is agreeable to it, the amendment could be accepted on Report Stage.

Deputy Fergus O’Dowd: I will try to get exact clarification of the words that were used for tomorrow.

Amendment, by leave, withdrawn.

Question proposed: “That section 25 stand part of the Bill.”

Senator Sean D. Barrett: The items in this section are all consumer items, as Senator Cullinane said. It deals with the billing, payments, information, complaints, codes of practice and so forth. I sought to involve the National Consumer Agency, but that is not acceptable to the Minister of State. We are not sure of the position with freedom of information.

I was struck by Senator Keane’s remark about writing something in the legislation. There is a wish in the House to have better consumer protection than is in these codes of practice. The Minister of State said we could take it up with the committee, but this body is superior to the committee and we have made no progress in finding out the price of water or the general free allowance. What is the point in telling a House of the Parliament to bring the matter to a committee? This is the decision making body and I seek much better protection for the consumer than is provided here. I want checks and balances, not a larger PR department of the type we already have in the energy sector. Throughout the north midlands people regard consultation

with the electricity industry as a waste of time. It has a view on pylons and it is not listening to anybody. The Government promised to unite the National Consumer Agency and the Competition Authority but it is more than half way through its term and it has not done it.

The consumer is not well served by this section. This reminds me of the era before free legal aid when one said, “We will ask the gardaí to be a bit nicer to him because he has no money”. People need rights, not larger PR and bits of concessions here and there. This will be a very powerful body and I do not believe it is controlled. Some of the reasonable suggestions from this side of the House have not been accepted by the Minister but the codes of practice proposed in section 25 do not protect the consumer. The precedents in energy, health insurance and bus transport all indicate how this will proceed. I read out to the Minister of State what people have written in the literature on regulatory capture. We must protect consumers. There were two examples from the Minister of State’s Department only an hour ago in the House. HomeBond proved to be useless and the construction industry proved to be useless. I give the Department the benefit of the doubt because it thought consumers would be protected in the pyrite case. However, when it looked at it, they were not protected. I wish to ensure it is written in the legislation that the consumers of water will be protected, not just assume it will be done in a committee or that something would not happen. Only this evening we dealt with examples of where, by not putting something in legislation, the rights of people who lived in pyrite houses and the builders who bought material from those quarries proved to be unenforceable.

We must take a stronger consumer line. For that reason, I oppose these codes of practice. They are not radical enough or sufficiently protective of the customer.

Deputy Fergus O’Dowd: What would the Senator include that is not there?

Senator Sean D. Barrett: I tabled an amendment, which the Minister of State rejected. It was to include the National Consumer Agency. Individuals or individual members of committees must have some legal basis on which they can take on these powerful monopolies. That is why I tabled amendment No. 50. I would like there to be some protection for the isolated individuals who will be obliged to face up to this huge monopoly. We have tried to facilitate the bestowing of such protection by having section 25 amended. However, we have not been successful in our efforts and, as a result, I must oppose the section.

Question put:

The Committee divided: Tá, 22; Níl, 13.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Brennan, Terry.	Crown, John.
Burke, Colm.	Cullinane, David.
Clune, Deirdre.	Daly, Mark.
Coghlan, Eamonn.	Leyden, Terry.
Coghlan, Paul.	Mullen, Rónán.
Comiskey, Michael.	Ó Clochartaigh, Trevor.
Conway, Martin.	Ó Murchú, Labhrás.
Cummins, Maurice.	O’Brien, Darragh.
D’Arcy, Jim.	O’Donovan, Denis.

D'Arcy, Michael.	Power, Averil.
Gilroy, John.	Reilly, Kathryn.
Hayden, Aideen.	Wilson, Diarmuid.
Higgins, Lorraine.	
Keane, Cáit.	
Landy, Denis.	
Mullins, Michael.	
Naughton, Hildegarde.	
Noone, Catherine.	
O'Keeffe, Susan.	
O'Neill, Pat.	
van Turnhout, Jillian.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators Trevor Ó Clochar-
taigh and Diarmuid Wilson.

Question declared carried.

10 o'clock

SECTION 26

Question proposed: "That section 26 stand part of the Bill." **Senator David Cullinane:** I accept the logic of having a water services strategic plan and it is good that it will span a long period of 25 years. I also welcome the requirement that the plan have regard to the national spatial strategy, regional planning guidelines, river basin management plans and policy considerations in respect of housing strategies, strategic development zones and water quality plans. To what national spatial strategy will the plan have regard?

Senator Denis O'Donovan: On the quality of drinking water and the national spatial strategy, I earnestly request that the Minister of State convey my deep concerns to the Minister for Health on water fluoridation, an issue that will come to haunt this Government or one of its successors. For the past 30 years, successive Governments have kicked water fluoridation to touch. At some stage, to use rugby parlance, it will be necessary to call in the TMO - television match official - to take a second look at the issue. This may result in our policy on water fluoridation being subject to significant change. I do not intend to speak *ad nauseam* on the issue or repeat my earlier comments. As a layperson, I have deep concerns, as do many others, about water fluoridation. The practice is no longer popular and the excuse offered by the Minister for Health for continuing with it is unsatisfactory. When the issue was debated in the Seanad some months ago many Senators expressed concern about current policy. I ask the Minister of State to convey these concerns to the Minister for Health.

It is not that we are stuck for water but that our management of the water system has been extremely poor historically. It will take at least 30 years to perfect the system, by which point

Dublin, which is running out of water, may have to consider desalination or more drastic options.

Senator Trevor Ó Clochartaigh: The water services strategic plan may cover a period of 25 years. The Minister of State spoke of public private partnerships during our previous discussion. Will he elaborate on the Government's thinking on the role of public private partnerships in the water system? Does it envisage investment in the system by private capital investment companies? Is it possible that such private involvement could give rise to additional charges, similar to the additional tolls levied on motorists as a result of public private partnerships in the roads? Is there a danger that additional costs will arise for consumers in certain areas where capital investment, for example, in a water treatment plant, is provided under a public private partnership or will the cost be borne by Uisce Éireann as a semi-State company? Companies involved in such partnerships expect a return on their investment.

The Minister of State did not answer my question on the projected level of capital investment in the water system. Have projections been done on capital costs? In our discussion on the previous section we heard that €600 million will be needed annually. What level of capital investment is envisaged in the years ahead? Has the Department projected the costs of such investment, including any interest payments that may accrue under public private partnership arrangements?

Senator Averil Power: I concur with Senator O'Donovan's comments on the serious issue of water fluoridation. It is vital that people have confidence in the quality and safety of drinking water. I understand the reasoning behind the decision to add fluoride to the water supply in the past. I have been corresponding with the Minister for Health on this issue for the past year. A number of jurisdictions have discontinued the practice of water fluoridation as a result of health concerns. For this reason, it would be timely to carry out a review of current practice which would examine best international practice, take advice from international agencies and ascertain whether fluoridation is still necessary. Are reasons such as dental hygiene, which were cited in the past for adding fluoride to the water supply, still valid given that most people brush their teeth? I am not an expert or scientist but it is important that people have confidence in the water supply. An independent panel of scientists and experts should be established to examine the issue. Given the growing public concern about water fluoridation, decisions on the issue should not be taken by politicians alone but by independent experts. I support the position taken by Senator O'Donovan on this matter.

Deputy Fergus O'Dowd: I agree with Senators that the issue of water fluoridation needs to be addressed by way of a response from the Department of Health. It is not the job of the Department of the Environment, Community and Local Government to address the issue, however. We accept the recommendations issued by the Department of Health. I will bring the issues Senators have raised to the attention of the Minister for Health and ask him to respond.

The Leader of the House has indicated that the national spatial strategy in this section has the same meaning as it has in the Act of 2000. The strategy essentially provides for joined up thinking for the country. It sets out the locations of growth centres, ancillary centres and areas of development. The plan must be consistent with regional planning guidelines, river basin management plans and must have regard to other policies, including housing policies, that is, where housing will be built, strategic development zones, that is, where industry will be located, and water quality. I do not envisage any issues arising in respect of the plan.

As I indicated, in an ideal world capital expenditure on water should be approximately €600 million per annum.

Senator Trevor Ó Clochartaigh: The Minister of State has not clarified what will be the projected figure.

Deputy Fergus O'Dowd: That is a job for Irish Water. It must consult the local authorities, decide on its strategies, identify priorities and draw up a plan. Once that has been done, the plan must be costed, at which point it will become a public document on which the Oireachtas may comment. It goes then to the Commission for Energy Regulation which proposes a decision on it. We can all comment on it again at that point. There is accountability and communication in relation to that at all stages. That is a fact. Obviously, the amount of capital the Government puts into water services is a key factor in determining what the cost will be. According to a figure I saw earlier, the Minister, Deputy Hogan, is providing €720 million to local authorities for capital and current expenditure on water services this year. That is one end of it. I hope that answers the Senator's question. I think it does.

Senator David Cullinane: No, it does not answer the question I asked about the national spatial strategy. The prompting of Senator Cummins did not deal with the issue either. On page 19 of the Bill-----

Senator Maurice Cummins: The Senator should look at page 20.

Senator David Cullinane: I am speaking to the Minister of State. We address our points to the Minister, not to another Senator, even if he is the Leader of the House.

Senator Maurice Cummins: The Senator should read the whole of the Bill.

An Cathaoirleach: Senator Cullinane, without interruption.

Senator David Cullinane: Section 26(5) provides that "Irish Water shall, when preparing a water services strategic plan ... ensure, as far as practicable, that the plan is consistent with ... the National Spatial Strategy". It refers to "the" national spatial strategy rather than to "a" national spatial strategy. I was not looking for the definition of what a national spatial strategy is. I was asking what national spatial strategy is being looked at. We know the 2002 national spatial strategy was scrapped and that this Government intends to produce some form of new national spatial strategy at some point. The Government is also introducing a fundamental reform of regional and local government. Section 26(5) also refers to "regional planning guidelines". The point I am making is that there will be significant reform in this area, some of which will be good and some of which might not be so good. The reform of regional and local government is coming, as is a new national spatial strategy.

People outside the big urban centres of Dublin, Cork and Galway believe that much of the development that has taken place in recent times, especially since this Government came into office, has been concentrated on the three locations I have mentioned. That is where the Government's strategy is at. That is the Government's notion of a spatial strategy. That raises concerns about other areas that have not benefited from job creation or from State investment generally. Very senior civil servants and local authority personnel in my city of Waterford have expressed genuine concern that the bigger urban centres are getting a disproportionate level of State investment in comparison with cities like Waterford.

We are discussing the development of a long-term strategic plan for water services. Under this Bill, the plan will be based on a national spatial strategy that does not exist and regional planning guidelines which will change in the future. It is quite right for us to raise these issues now. We want to ensure balanced regional development is at the core of all of this. The point I am making is that there must be balance in development right across the board. We know the provision of water is a very important consideration when efforts are being made to attract jobs and investment. As the Leader of the House will know, we are fortunate enough to have first class wastewater infrastructure in Waterford as a result of the forward thinking of the local authorities in the region. I refer especially to the regional authority and to Waterford City Council. There are fears about what will happen when this power is taken from those authorities and given to a central body that will have regard to new plans and new thinking about the development of this country from a spatial strategy perspective. I raised this issue in the context of this genuine concern.

Senator Trevor Ó Clochartaigh: I appreciate that it is difficult to cover everything when so many points are being raised. I asked about a specific aspect of the public private partnership issue.

Deputy Fergus O'Dowd: I can answer that.

Senator Trevor Ó Clochartaigh: The Minister of State has mentioned a figure of €760 million.

Deputy Fergus O'Dowd: Yes.

Senator Trevor Ó Clochartaigh: It seems from my research that there is an indicative figure of approximately €260 million for investment in capital infrastructure for the coming year. As the Minister of State has said, that falls far short of the €600 million figure that was indicated. That is why I am asking about public private partnerships. The Department must have some idea of how much it wants to invest in capital infrastructure next year. Will that investment involve public private partnerships? If so, will there be an extra cost burden that will be of interest to companies that are investing in public private partnerships? If a wastewater treatment system were developed in this way in County Galway, would there be an extra cost for the people using that system because of the fact that it was a public private partnership? Would the entire cost of a public private partnership be borne by Irish Water as a company, with its capital investment taking place in line with its list of priorities? Will the Minister of State clarify whether it is the case that he is talking about public private partnerships?

Does the Minister of State have a figure in mind for how much money he will be looking to raise? I am not looking for specific details regarding the various areas in which it will be spent. The Minister of State must have a ballpark figure. If he has €260 million of Government money to invest, is he looking for matching funding of €100, €200 or €300 million from private sources to help this investment? Surely he will want to front-load that because of the issues we have with our infrastructure. It has been mentioned that there is leakage of 30% to 40% in some areas. The relevant figure in County Kerry is 60%, as the Minister of State has said. He needs to fix the system fairly rapidly. One would imagine the capital investment needs to happen at the front end of the scale. Surely the Minister of State has indicative figures. Surely some research in this regard was done before the Minister of State brought this Bill to the House.

Senator Maurice Cummins: I was glad that Senator Cullinane mentioned the wastewater

treatment plant in Waterford, which is among the best in the country. I am proud to have been a member of the council that voted moneys to repay-----

Senator David Cullinane: Hear, hear.

Senator Maurice Cummins: Some of those who are shouting about future thinking now did not show much future thinking at that time.

An Cathaoirleach: We are on section 26.

Senator Maurice Cummins: I am responding to a point Senator Cullinane made under section 26.

Senator David Cullinane: Senator Cummins might remember that there was no Sinn Féin councillor on the council at the time.

Senator Maurice Cummins: Senator Cullinane has read as far as page 19 of the Bill. I suggest he might read page 20 as well.

Senator David Cullinane: I have read it.

Senator Maurice Cummins: The next page is very important because it looks to the future. Section 26(12) provides that “In this section “National Spatial Strategy” has the same meaning as it has in the Act of 2000”. If the Senator had read as far as page 20, he would have known what national spatial strategy was in question.

Senator David Cullinane: That does not answer the question at all. I thank Senator Cummins for his unhelpful clarification.

Deputy Fergus O’Dowd: As far as I understand - I stand to be corrected by my two colleagues from County Waterford - Waterford County Council supplies the water to Waterford city. I think it comes from outside the city of Waterford.

Senator David Cullinane: It comes from Adamstown in County Wexford.

Senator Maurice Cummins: The wastewater plant is on the other side of the city.

Deputy Fergus O’Dowd: I am talking about the wastewater services that are supplied by the county council.

Senator David Cullinane: That is done at Belview.

Deputy Fergus O’Dowd: That is an example of joined-up thinking. One sees public private partnerships everywhere one goes. There are design, build and operate facilities throughout the country. I understand the major supply for Limerick city comes from a place called Clare Hall just outside the city. I stand to be corrected on that. I do not think there is anybody here from County Limerick. Perhaps I have the wrong location. It is a design, build and operate facility and is managed by a private company. There are many reasons we should have public private partnerships. We should get private money into our infrastructure. They put up the capital. They may design it. They may even run it for us. That is good and very efficient. It works extremely well. The Senator’s real question relates to what happens to the cost of that. All the water infrastructure costs will transfer to Irish Water. In other words, it will not be an extra bill for people in Waterford or Kerry. It will relate to the total charge. It will all be put

together into one pot called Uisce Éireann. There will be one charge for water, regardless of where one lives.

Senator Cullinane also spoke about regional development. In many parts of the country, there are ghost estates of houses that nobody is ever going to live in. These unsuccessful developments took place because councils decided during the boom to give planning permission for houses and other facilities that were impractical and did not make sense. Thousands of acres of land were rezoned to facilitate the planning permissions which were given by county councils. Much of that land has since been dezoned because it is clear the land in question is never going to be developed. There is a responsibility on councils to have regard to their own development plans, to regional plans and to the national spatial strategy. Such joined-up thinking is needed if we are to get our developments right. I hope that answers the Senators' questions.

Senator Trevor Ó Clochartaigh: That raises another issue. If a foreign direct investment company wants to base itself in a town like Castlebar, which has been mentioned to me, the council currently has the power to say this is a very important project and that it wants to ensure the water treatment system and so on is up to scratch. If something like that happens now or if a county council wants to build an estate or develop an area in a town, will the council have to go to Uisce Éireann and get permission to install the water infrastructure as part of its county development plan? Will it be the case that they will not be masters of their own destiny regarding how they want to develop their own areas because it will be up to Uisce Éireann to tell them it is to invest in the infrastructure. If, on the other hand, it says it is not going to make the investment because it has other priorities that county or city council will have to wait or put its plans on hold.

Deputy Fergus O'Dowd: The best example I can give the Deputy is that of Intel. It has given €32 million to the local authorities to provide the water supply it will need for the continuity of its development and projects in Leixlip. Major multinationals are very proactive because they need absolute security of supply and they are making a very significant contribution. It is not that Uisce Éireann will say that it will not let Intel in here or somebody else in there. It is joined-up thinking that works. The other reason we need to have a proper water system is because we will be water-rich compared to other countries. Half of the world will have a water drought in 20 years' time. We must be on top of the process and the facilities. I hope the answers I have given the Senator are helpful. Yes, we want private investment, public-private partnerships, industries to invest and industries like Intel to come with their plans. We would be very happy to facilitate them.

Senator Trevor Ó Clochartaigh: I appreciate that. It is very important that we are able to tease these things out. Certainly, Intel is one example but it is probably the biggest company we have so it will get whatever it needs from an infrastructural perspective. I would be more worried about companies under the auspices of Údarás na Gaeltachta which would be based in a Gaeltacht area. It might be a fish processing plant on the western seaboard where you need a proper wastewater treatment plant. It could normally apply to Galway County Council and it might have been seen as a priority for those areas. I am afraid that under Uisce Éireann, we will have the IDA model of development where everything is based around the big cities and when it comes to something like a peripheral, rural or Gaeltacht area, it will be much harder to get the type of development one is looking for.

Deputy Fergus O'Dowd: I hear what the Senator is saying.

Question put:

The Committee divided: Tá, 22; Níl, 12.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Brennan, Terry.	Crown, John.
Burke, Colm.	Cullinane, David.
Clune, Deirdre.	Daly, Mark.
Coghlan, Eamonn.	Leyden, Terry.
Coghlan, Paul.	Ó Clochartaigh, Trevor.
Comiskey, Michael.	Ó Murchú, Labhrás.
Conway, Martin.	O'Brien, Darragh.
Cummins, Maurice.	O'Donovan, Denis.
D'Arcy, Jim.	Power, Averil.
D'Arcy, Michael.	Reilly, Kathryn.
Gilroy, John.	Wilson, Diarmuid.
Hayden, Aideen.	
Higgins, Lorraine.	
Keane, Cáit.	
Landy, Denis.	
Mullins, Michael.	
Naughton, Hildegard.	
Noone, Catherine.	
O'Keeffe, Susan.	
O'Neill, Pat.	
van Turnhout, Jillian.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators Denis O'Donovan and Trevor Ó Clochartaigh.

Question declared carried.

SECTION 27

Government amendment No. 55:

In page 20, to delete lines 35 to 37 and substitute the following:

“(2) The investment plan first made after the transfer day shall apply in respect of the period commencing on the date of the making of the plan and ending on 31 December 2015.”.

Deputy Fergus O'Dowd: This section provides that Irish Water shall prepare investment

plans setting out where it considers infrastructure is necessary for the effective performance of its functions. In developing the investment plans Irish Water shall take account of the water services strategic plan prepared under section 26 and a range of other policy considerations, including local area plans, regional planning guidelines, strategic development zones. Before preparing an investment plan, Irish Water shall be required to consult with the EPA regional bodies in respect of whose functional area the investment plan is likely apply and each planning authority in respect of whose functional area the investment plan is likely to apply. The first investment plan shall be prepared for two years after the transfer date. Further investment plans shall be for durations to be determined by the CER.

Amendment put and declared carried.

Senator Denis O'Donovan: I move amendment No. 56:

In page 21, between lines 14 and 15, to insert the following:

“(g) each local authority submissions in which the investment plan relates.”.

This amendment relates to giving councils and councillors a statutory role in submitting specific plans to Irish Water for investment proposals in their areas. This will be in addition to Irish Water having to take account of local area plans, development plans and regional planning guidelines. It is a reasonable amendment. The Minister of State has already given a clear commitment to consultation with local councils and the right of representation by public representatives. I await his response.

Senator David Cullinane: I support the amendment. We have had some discussion with the Minister on this point. The section relates to the investment plans and it follows on from the water services strategic long-term plan which will be required. Irish Water will have to have regard to its strategic plan and to local authorities, the Environmental Protection Agency, regional planning guidelines and strategic development zones.

I have a difficulty with all these sections. It is not the level of consultation because consultation with local authorities is a good provision. The Bill provides for the level of consultation when investment plans are being made. It refers to the water services strategic plan, any river basin management plans, any local area plans, any development plans within the meaning of the 2000 Act - which Senator Cummins has pointed out covers the national spatial strategy - any regional planning guidelines, any strategic development zones within the meaning of the Act, each regional body and planning authority. These provisions and the level of consultation are welcome. However, I am still unsure how Irish Water will deal with all that information once it is available to it. Once the information has been collated and the consultations with the local authorities have been concluded and once the local authorities have set out their priorities, the Bill does not determine what guidelines will be followed by Irish Water when deciding which area will be targeted for investment. Is the Minister purposely not being prescriptive and leaving it entirely to Irish Water? Irish Water must determine where investment should be made and what criteria it should follow and also take account of the planning guidelines, spatial strategies and the local government plans. It has to decide where the money and the investment goes. If I read it right I am not sure whether the time period is every two years.

An Cathaoirleach: The amendment is specific and the Senator is speaking outside the scope of this amendment. The Senator is speaking on the section.

Senator David Cullinane: Not really. The amendment deals with local authority plans. My point is that this will determine the investment plan. My reading of the Bill is that the first investment plan will be after the transfer date and will be for a two-year period. Will it be yearly after that or every two years? How will that work out in terms of the investment plan?

Deputy Fergus O'Dowd: The two-year period is the first plan and then I presume it will be reviewed every five years. It will be tied into the river basin management plans. I will speak to the amendment to make the point that the amendment is unnecessary as the provision is contained in the section. Irish Water must consult with local authorities. As such, the amendment is unnecessary.

An Cathaoirleach: Is the amendment being pressed?

Senator Denis O'Donovan: No. I am prepared to accept the Minister of State's good faith, as he clarified the point.

Deputy Fergus O'Dowd: About the fluoridation.

Senator Denis O'Donovan: No, on the consultation with the local authorities.

Deputy Fergus O'Dowd: Very much so.

Senator Denis O'Donovan: The Minister of State gave an assurance.

Deputy Fergus O'Dowd: It would not make sense if Irish Water did not consult. There would be no point in going through this process if it was just going to be thrown in the fire afterwards.

Amendment, by leave, withdrawn.

An Cathaoirleach: Amendments Nos. 57 and 58 are related and may be discussed together by agreement.

Senator Sean D. Barrett: I move amendment No. 57:

In page 21, between lines 14 and 15, to insert the following:

“(g) the published capital project appraisal procedures of the Minister for Finance and the Minister for Public Expenditure and Reform.”.

This week, the Government will publish its medium-term strategy. I hope that one of the strategy's elements will be to secure the proper evaluation of large public capital projects. We have a tradition of not doing so. In fact, we used to boast that our public capital programme was twice the EU average. If one invests in a cavalier approach, one ends up with our debt problem.

The Department of Finance has an evaluation section. We must be able to illustrate to society as a whole, which will be the investor in these capital projects, that we have made some attempt to comply with guidelines and estimate the returns. We have the so-called edifice complex, that is, building in the mistaken view that it is a large multiplier. The Minister for Finance disproved that complex for us last week.

Spending Departments will just keep on spending, but capital guidelines should be observed and adhered to. As it involves the use of public money, my amendment No. 58 would require

the Ministers for Finance and Public Expenditure and Reform to be involved. This is sensible, and we are paying the price for not doing so previously. Large capital projects must be carried out in a way that makes efficient use of resources.

Senator David Cullinane: I do not support these amendments, but they raise an important question about capital projects and investment plans. Perhaps I am wrong and the Minister of State might correct me, but my understanding of commercial water rates is that they pay for the full cost of water in and water out. If it is the case that domestic users must eventually pay for the full cost, will the Government subvention for capital investment be reduced over time? Will there always be some level of Government subvention towards capital funding?

Many issues arise. In a number of our previous discussions with the Minister of State, he discussed the borrowings that Irish Water would undertake. Money will be acquired through various financing streams. Is it envisaged that the Government's investment in capital investment will eventually be reduced or removed and that the full costs will be passed on to others? That would be a concern.

Deputy Fergus O'Dowd: As the capital guidelines set by the Minister for Public Expenditure and Reform already apply to the semi-State sector, Irish Water must comply with them.

Many issues have been raised this evening, but I am not quite clear about how Senator Cullinane's point refers to this Bill specifically.

Senator David Cullinane: I might revert on the section.

Deputy Fergus O'Dowd: That might be better.

Senator Sean D. Barrett: I thank the Minister of State for informing me that he is already in touch with the Minister concerned. It is reassuring and I am indebted to him for his clarification.

An Cathaoirleach: Is the amendment being pressed?

Senator Sean D. Barrett: No. The Minister of State has addressed it adequately.

Amendment, by leave, withdrawn.

Amendment No. 58 not moved.

Question proposed: "That section 27, as amended, stand part of the Bill."

Senator David Cullinane: My point is that the investment plan will be predicated upon whatever Irish Water has at its disposal to invest in capital projects. I will not go over the question of how it will decide which projects get what, but will Irish Water decide how much capital investment to make annually and will it receive a subvention? According to the figures the Minister of State has provided, central government provides approximately €240 million to local authorities for capital investment. I am sure this approach will continue in the early stages following Irish Water's establishment. We are told that the commercial sector pays the full cost for water in, water out and capital investment. Logically, domestic users will inevitably begin paying for that full cost after a time. Is this the logic of setting up Irish Water and giving it control over capital investment? Is it envisaged that the money provided by central government to local authorities for capital investment will be replaced over time by Irish Water charging

domestic and commercial customers and undertaking borrowings? At some point, will central government stop funding Irish Water's capital investment or will there always be an element of central government funding that would then form part of investment plans? A lack of subvention for capital funding would determine the level of charges that customers would need to pay in the long term. I am concerned about where this might be heading.

Senator Trevor Ó Clochartaigh: This issue has been raised with me by the members of various local authorities. We might clarify the situation, as even at this stage with the hand-over imminent there appears to be significant confusion at that level about capital funding.

My understanding is that certain local authorities are charging for commercial water usage through water rates and development levies, whereas their capital funding for the domestic sector is provided by the Exchequer. The Minister of State indicated that service level agreements generally last for 12 years and that he would table amendments on the matter tomorrow. In some cases, however, there could be agreement on making hand-overs sooner. As such, what will be the practical effect on capital investment? How and when will the hand-over of the budget for capital investment in commercial and domestic projects be managed in, for example, County Galway? The situation is unclear. We know that there will be a 12-year service level agreement, possibly from January onwards, but how will this affect projects that are already in train? Having spoken with the directors of services in certain local authorities, I understand that there has been little discussion of this topic and that there is significant confusion about when Uisce Éireann will take over *vis-à-vis* service level agreements from local authorities.

Senator Denis O'Donovan: Not to labour the point, but I will ask about the same issue in a circular fashion. Can I take it that all of the money raised from water metering and charges, both commercially and domestically, will be ring-fenced for the improvement of our water infrastructure? To follow on from the comments of my Sinn Féin Party colleague, does the Minister of State envisage that the Irish Water's income will make it self-sufficient in ten or 20 years' time and that it will not need a buffer from central government?

Deputy Fergus O'Dowd: I do not have all of the answers. No more than anyone else, I do not have a crystal ball. Commercial water rates to local authorities currently amount to approximately €200 million per annum. That is significantly less than the total amount due. Therefore the issue is that as the economy improves and businesses become more sustainable, there will be more and more money coming in. That revenue will naturally increase as businesses improve.

Is it not possible to say what will happen in the future but it is the Government's absolute intention to provide for State support. Section 29 sets out the mechanism for this support to be provided, as it allows for grants to be paid by the Minister. The empowerment is there and it is our intention that will continue.

As regards all the other issues, I am not quite clear what the heads of various local authorities are telling the Senator, but an audit is being conducted of each local authority's water assets. The audit will include the location of the asset and what liabilities are attached, as well as whether there is money and planning permission for improving such assets. All the sums have to be done concerning each local authority's water assets. Notwithstanding the fact that the law will allow for a transfer of the assets from 1 January, they will not be transferred until the Minister signs the order. Therefore there is accountability and transparency about who is responsible, who owns the asset, when it will be transferred and the associated costs. They

will have to work out that operational matter but we will continue to put State capital expenditure into Irish Water. There is no doubt about that and the Act allows that to happen. As the economy improves and more businesses come on stream, money from commercial companies will increase. As the Senator said earlier, Uisce Éireann has the capacity to borrow on private markets. In addition, people can come in and do a DBO if needed, so the system is flexible. I hope that type of investment flexibility will continue.

Senator David Cullinane: I am sorry but I think the Minister's response raises more questions than it answers. If the Minister does not know where this is all going in the long term, then who does? He is introducing the Bill and he is charged with having that long-term vision of how all of this will work out. It is not about having a crystal ball, it is about having a vision and a policy analysis of the long-term logic of introducing water charges and, especially, establishing Irish Water. The only reason we currently have subvention from central Government for the provision of water is because we do not have domestic water charges. If only commercial entities benefited from water there would be no State investment because the full cost of the charge is both in and out and, as I understand it, capital investment is passed on to the commercial user. Is that the logic of this Government? Apart from the conservation arguments put forward for water charges, the Minister of State also keeps telling us that this is a European policy and we are one of the few countries in Europe that does not have such charges.

Deputy Fergus O'Dowd: We are the only OECD country that does not.

Senator David Cullinane: Yes but the Minister of State's point is also that Europe is putting pressure on us to introduce water charges.

Deputy Fergus O'Dowd: The charges have already been agreed.

Senator David Cullinane: I am not disagreeing with any of that, I am just saying that is the logic of it. Their logic is that the full cost should be passed on to what they would see as the consumer and customer. We are trying to establish if the full cost also includes capital investment. The only reason why we have any capital investment from the State at this point in time is because we do not have domestic water charges. We are not asking the Minister of State to produce a crystal ball; we want a straight answer to a straight question. If we bring in water charges - and we will - and both domestic and commercial users are paying for the service, will it be the case over time that any capital investment from central Government will then begin to disappear? Will it be replaced by increased charges and borrowings, or however Irish Water gets the money to invest in water infrastructure? In fact, we will not see very much investment at all from the State. That seems to me to be the logic of where all this is going. I would be even more worried, however, if the Minister of State cannot see that or tell us about it, given that he is introducing the Bill. I do not know if the Minister of State understands the point I am making.

Deputy Fergus O'Dowd: I do understand it.

Senator David Cullinane: Then he might be able to answer the question.

Senator Cáit Keane: I have listened to everything that has been said, but it is such a round-ed question. It was when Senator Cullinane referred to a vision and policy for the management of water that I felt I had to say something about this. This is a planned and programmed vision for water. As the Minister of State said, we are the only country in Europe without water charges, so we are not reinventing the wheel.

16 December 2013

Deputy Fergus O'Dowd: I will bow to the Senator's wisdom.

Senator David Cullinane: The Minister of State did not answer the question I asked.

An Cathaoirleach: Does an tAire Stáit have anything further to offer?

Deputy Fergus O'Dowd: I have nothing further to offer. I think I have answered all the questions.

Senator David Cullinane: The Minister of State has not answered them.

An Cathaoirleach: Is section 27, as amended, agreed to?

Senator David Cullinane: It is not agreed.

Question put:

The Committee divided: Tá, 21; Níl, 11.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Brennan, Terry.	Crown, John.
Burke, Colm.	Cullinane, David.
Clune, Deirdre.	Daly, Mark.
Coghlan, Eamonn.	Leyden, Terry.
Coghlan, Paul.	Ó Clochartaigh, Trevor.
Comiskey, Michael.	Ó Murchú, Labhrás.
Conway, Martin.	O'Brien, Darragh.
Cummins, Maurice.	O'Donovan, Denis.
D'Arcy, Jim.	Power, Averil.
D'Arcy, Michael.	Reilly, Kathryn.
Gilroy, John.	
Hayden, Aideen.	
Higgins, Lorraine.	
Keane, Cáit.	
Landy, Denis.	
Mullins, Michael.	
Naughton, Hildegard.	
Noone, Catherine.	
O'Neill, Pat.	
van Turnhout, Jillian.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators David Cullinane and Trevor Ó Clochartaigh.

Question declared carried.

11 o'clock

SECTION 28

Senator Trevor Ó Clochartaigh: I move amendment No. 59:

In page 21, lines 33 to 35, to delete all words from and including “Minister,” in line 33 down to and including “Reform” in line 35 and substitute “the Houses of the Oireachtas”.

Senator David Cullinane: In the interests of democratic accountability it is of vital importance from our perspective that any decisions concerning Irish Water would go before the Houses of the Oireachtas.

Deputy Fergus O’Dowd: Section 28 as drafted is standard provision in legislation which provides for ministerial approval of borrowing by a semi-State organisation. Accordingly, the borrowings of Irish Water are subject to the consent of the Minister for the Environment, Community and Local Government as the Minister with responsibility for water services and of the Minister for Communications, Energy and Natural Resources, as the Minister with responsibility for Bord Gáis Éireann of which Irish Water is a subsidiary.

Senator David Cullinane: The Bill provides that Irish Water can borrow up to €2 billion. I believe it is important that the Oireachtas would be consulted on something as fundamentally important as this, which is essentially the purpose of the amendment. I assume the Minister of State will not be accepting the amendment and would like to press it.

Amendment put and declared lost.

Acting Chairman (Senator Aideen Hayden): Amendment No. 60 cannot be moved as it involves a potential charge on the Exchequer.

Amendment No. 60 not moved.

Question proposed: “That section 28 stand part of the Bill.”

Senator David Cullinane: While amendment No. 60 was ruled out of order, I wish to deal with the substance of it in discussing the section. Sinn Féin is opposed to the proposal to allow assets to be used as collateral by Irish Water in the event that it wishes to borrow money. In the first instance these are public assets that belong to the people of the State. If Irish Water was to borrow against assets that belonged to the State, those assets would effectively be for sale. We would see this as a stepping-stone to the privatisation of Irish Water, with which we disagree.

I know the Minister of State will say that is not the case. However, we can only point to the example of refuse collection. Local authorities provided that service in the past just as they provide the service of water to households. When refuse-collection charges were first introduced there was a certain subvention from central government. That was reduced over time and eventually the full cost was passed on to the customer. As we know, that service was eventually privatised across all local authorities. We are concerned that the same will happen with Irish Water. If we allow assets that belong to the people to be used as collateral by Irish Water to borrow money, that would be the slippery slope to privatisation. We oppose section 28 on those grounds.

16 December 2013

Deputy Fergus O'Dowd: A later Government amendment clarifies the issue of privatisation.

Senator David Cullinane: What number?

Senator John Gilroy: It is amendment No. 79.

Deputy Fergus O'Dowd: That amendment makes it clear that one share shall be owned by Irish Water and the remaining shares shall be divided between the Departments of the Environment, Community and Local Government, and Communications, Energy and Natural Resources. Neither Minister can dispose of his or her share. We addressed this on Second Stage and I made it clear in a previous debate that there will not be privatisation of Irish Water. The sale of any asset is already prohibited in existing law, but we are putting this into the Bill to copperfasten the view we all hold - Sinn Féin, Fianna Fáil, Fine Gael and Labour - that it cannot and will not be privatised. I would have no worries on that. On that basis I urge the Senator to support our later amendment.

Question put and declared carried.

SECTION 29

Acting Chairman (Senator Aideen Hayden): Amendments Nos. 61 and 62 have been ruled out of order.

Amendments Nos. 61 and 62 not moved.

Senator David Cullinane: I move amendment No. 63:

In page 22, between lines 16 and 17, to insert the following:

“(c) must have support of both Houses of the Oireachtas.”

This is again about democratic oversight and accountability. No money or grants should be provided to Irish Water without the approval of both Houses of the Oireachtas. It is not good governance that the Minister would have sole discretion when it comes to the provision of money or grants. We believe that the democratically elected representatives of both Houses should also have a say. Ultimately this is public money and we are the guardians of money. We should have the final say when public money is being given to Irish Water. Our amendment seeks to strengthen democratic accountability and recognise the role responsibility of Members of the Seanad and Dáil in giving public money to Irish Water.

Deputy Fergus O'Dowd: Section 28 provides that the Minister may provide grants to Irish Water or to the Commission for Energy Regulation. Section 28(1) provides that these grants will be out of money provided by the Oireachtas. The Oireachtas has a vote in the budget so Senators have a direct say. The money cannot be passed if the Oireachtas does not agree to it and the amendment is unnecessary on those grounds.

Amendment put and declared lost.

Amendment No. 64 not moved.

Acting Chairman (Senator Aideen Hayden): Amendment No. 65 has been ruled out of order.

Amendment No. 65 not moved.

Question proposed: "That section 29 stand part of the Bill."

Senator Denis O'Donovan: The issue of water harvesting needs to be considered. I recently saw that a new school building incorporated in its design the notion of water harvesting. In future strategic planning the Minister and Irish Water should be very cognisant of the harvesting of water for schools and hospitals for use in the flushing of toilets etc. - obviously not for drinking. There is great potential in that area. With the way that climate is changing Ireland seems to be getting more intense rainfall and, in this summer in particular, long periods of dry weather. We should not close off any area such as the harvesting of water. It is like the fluoridation debate - we should keep an open mind on it.

We should encourage water harvesting pilot projects even in local authority estates where there is housing for the elderly, etc. Even if we harvested only 20% of rainwater and put it to proper use it would reduce the pressure on, in particular, the cities where we have a big problem. I ask the Minister of State for his views on the matter. I will not push the issue to a vote but it should not be ignored in the broad thrust of saying "this is the way we are going". With climate change we do not know what the future holds. Some experts believe we will get very long periods of drought even in Ireland and then when we get the rainfall it will be very intense. We will need to ensure that when the rain falls it does not just flow into the Irish Sea or the Atlantic Ocean.

Senator Trevor Ó Clochartaigh: The amendment that was ruled out of order deals with an area we have touched upon without going into any detail, which relates to the water conservation measures that could be put in place. If certain schemes are to be introduced, such as support for domestic water harvesting or the replacement of old toilet cisterns with dual function ones, who will give the grant aid towards those? The Bill is predicated on the assumption that water metering should reduce consumption. However, the international data do not necessarily back that up. The UK Environment Agency has highlighted that consumption in England, where water metering has been in place for many years, is at 158 litres per head per day. In Wales it is at 141 litres per head per day. The Dublin water supply report for 2008 indicated consumption at 148 litres per head per day. Consumption even in areas of England where metering has been introduced, is higher than in Dublin where we do not have metering. So there needs to be a focus, as we have contended since the beginning of the debate, on other conservation issues.

Will any of the money that Uisce Éireann will raise through water metering go to grant aid the conservation measures envisaged or will that grant aid come from the Department? If so is it coming from the general Department budget and therefore funded by the general taxation through PAYE, VAT etc.? Is specific grant aid for these measures coming from a separate pot as opposed to the money collected by Uisce Éireann?

Senator David Cullinane: I support Senator Ó Clochartaigh. Regardless of one's view on water charges, we all accept that water conservation is very important. We need to do whatever we can to encourage people to conserve water. Undoubtedly we lose a considerable amount of money on water that is wasted. It is a precious resource that costs money to treat and so on. There are two ways in which one can deal with this, the first of which is to deal with it at planning stage for new builds, whereby one encourages, for example, auto-flush toilets, rain and wastewater harvesting and all the sensible things one should be doing. However, where buildings are already in place, be they business premises, domestic dwellings or whatever, one

should then provide grant aid and assistance to those who wish to conserve water but who may not have the money to invest in upgrading their houses in the case of domestic properties or their business premises with water conservation measures such as rain harvesting, grey water harvesting or other measures one can take within a building, such as auto-flush toilets for taps and so on. It would be useful for the Government to come up with grants and initiatives that would support conservation because this certainly would help the Government to sell this measure, which will be a difficult task as it is. Notwithstanding my opposition to charges, I would support fully any measures the Government might introduce that would help people to conserve water. It would be an act of good faith on the part of the Government were it able to point out, during the passage of this Bill, what type of grant schemes might be available in the future to households to help them to conserve water. I refer in particular to older houses in which it is known system problems exist. If such households upgrade their systems, will grant support be given? I reiterate Senator Ó Clochartaigh's point on the question of who would actually give such grant support and from where would such money come. These are important issues that should be teased out at this point.

Deputy Fergus O'Dowd: Obviously, there are clear environmental and economic benefits that can accrue from reducing demand for water and the subsequent and expensive treatment of raw water for human consumption. Large-scale rainwater harvesting systems, as Members already have mentioned, already are used by some schools, factories and other buildings and have been incorporated into a number of private developments. The Planning and Development (Amendment) Act 2011 amended the planning regulations to facilitate rainwater harvesting in agricultural buildings and so on. There are no grants for rainwater harvesting and nor will there be, given the present economic circumstances. The introduction of water meters and charges based on usage will provide an economic incentive for households to consider investing in a rainwater harvesting system. I studied some of the relevant literature myself last night and it is easy to have rainwater harvesting incorporated into new buildings when one is building. As for retrofitting, one can get a water butt for €40 from Dublin City Council. This means that for €40, a homeowner can buy a rainwater harvesting facility that can store water and which can then be used for different uses in the home.

I have not read the paper to which Senator Ó Clochartaigh referred. However, all the information I have received from all sources indicates the opposite, which is that the introduction of meters significantly reduces the demand for water. Everything I have read everywhere indicates this but if the Senator can share that information with me afterwards, I certainly will check it out.

Senator Trevor Ó Clochartaigh: I will.

Deputy Fergus O'Dowd: It certainly is new information-----

Senator Trevor Ó Clochartaigh: Sinn Féin has very good researchers.

Deputy Fergus O'Dowd: ----- that meters encourage extra use, rather than reducing it. In essence, while there will not be grants for rainwater harvesting, there will be every incentive to reduce one's water consumption because one will be paying for what one uses. Therefore, it makes a great deal of sense to cut back and cut down. The reduction in demand also will have an impact on costs and for capital costs for improvements and so on. As for the averages that I have read in the literature, I have not seen a figure of less than 12% anywhere but I have seen much higher figures. For example, in the west of Ireland, I have seen figures as high as 70%. In

Cavan-Monaghan, group water schemes have conserved approximately the same amount and, consequently, there are significant savings to be made.

Senator Sean D. Barrett: On the section, I wish to express my misgivings about the Minister funding both Irish Water and the commission itself. The section states “The Minister may, for the purposes of this Act and subject to such conditions as he or she may determine, make grants out of moneys provided by the Oireachtas to ... Irish Water, or ... the Commission”. My concern is that the commission is meant to be the referee between an extremely powerful water company and the individual consumer. I wish to avoid a dependency culture in regulatory agencies and the fear that he who pays the piper calls the tune.

Most sectoral regulators funded by the producers’ responsible Ministers do not function very well in Ireland. They tend, as I noted previously, to be captured and a reform that might be considered in the future is that the Minister for Public Expenditure and Reform should become the funding Minister for regulatory agencies. This reform is badly needed as such regulators tend to be captured and do not represent the consumer. If they are funded by the Minister, they become dependent on him or her and will not act independently. This substantially has been their track record and consumers are not protected. While I will not push my opposition to this section, it is worth stating that checks and balances are needed in this regard and the funding by the Minister of a body that is supposed to tell one whether the Minister is being efficient strikes me as not being the way to do this. It has not been a success in so many other fields.

Deputy Fergus O’Dowd: For the Senator’s information, this is purely an interim measure and it is not intended that this will continue for any length of time.

Senator Sean D. Barrett: I thank the Minister of State.

Senator David Cullinane: The Minister of State is being somewhat short-sighted in respect of the availability of grants because the logic of his remarks on water charges is they are being introduced to ensure that - as he would perceive it - people will act more responsibly in how they use water. There is a range of different reasons the Government is introducing water charges but the Minister of State has used the conservation argument as one such reason. People are then, to use the Minister of State’s language, incentivised to be more productive as to how they use water. He then makes the argument that people can save money by investing in rainwater harvesting-----

Senator Cáit Keane: Members have heard this before about 40 times.

Acting Chairman (Senator Jillian van Turnhout): Senator Cullinane, without interruption.

Senator David Cullinane: I do not care how many times the Senator has heard it. However, Members have not received the right answer.

Senator John Gilroy: It does not make any more sense through repetition.

Acting Chairman (Senator Jillian van Turnhout): Can we have Senator Cullinane without interruption?

Senator John Gilroy: It still does not make sense.

Senator David Cullinane: I am sorry if democracy is a bore to the Senator-----

Senator Cáit Keane: The Senator keeps repeating himself.

Senator David Cullinane: ----- but these points have not been raised. I am responding to-----

Senator Cáit Keane: I made that point.

Acting Chairman (Senator Jillian van Turnhout): Can we have Senator Cullinane without interruption?

Senator David Cullinane: First, I do not care what Senator Keane thinks about what I am saying. I am addressing my points to the Minister of State and to him only.

Acting Chairman (Senator Jillian van Turnhout): The Senator should speak to this section of the Bill.

Senator David Cullinane: Absolutely. I will respond again to what the Minister of State said and simply am setting out the logic for his benefit. He states that he wishes to incentivise people to conserve water and use it more appropriately and that charging for it is one mechanism that will do this. This in turn will incentivise people to then invest in technologies, be they automatic taps with sensors, auto-flush toilets, rainwater harvesting and so on. The Minister of State asserts this would be a good thing but he will not provide grant aid to them to do it. My point is that some people would like to be able to invest in such technologies and to avail of the savings but do not have the money to invest. Were grant aid available to them, it would save everyone money because, to follow the logic of the Minister of State's argument, it will save money. However, he is not prepared to help those people who will not be in such a position. Low-income families will be faced with water charges and despite my opposition to the charges, if they are introduced people will be faced with paying them. However, they will be faced with not having the technologies that would help them to conserve water and not having the money to invest in them. It is short-sighted to state this will not be done because the money simply is not there. That is the wrong approach to take and I believe it will have a more negative impact on low-income families.

Deputy Fergus O'Dowd: As I stated-----

Acting Chairman (Senator Jillian van Turnhout): I apologise to the Minister of State but as I hope to wrap it up on this section, I wish to take Senator Ó Clochartaigh.

Senator Trevor Ó Clochartaigh: I will go further by stating I was absolutely astounded by the Minister of State's answer.

Deputy Fergus O'Dowd: The Senator should not be.

Senator Trevor Ó Clochartaigh: Perhaps I should not be, in the knowledge the Government is led by Fine Gael.

Acting Chairman (Senator Jillian van Turnhout): Can we keep the debate to the section?

Senator Trevor Ó Clochartaigh: The Minister has been stating throughout that the issue has been about the conservation of water. However, the Minister of State's comments show this Bill is a complete charade for the purpose of introducing water charges. He is providing a com-

pletely economically illogical argument and I would explain what I mean by this. As outlined by Senator Cullinane, the cost of bringing in water conservation measures surely would save money. Has a cost-benefit analysis been carried out, for example, on an average three-bedroom house that does not have such mechanisms of water harvesting, dual-flush toilets or taps that turn themselves off automatically? Has a cost-benefit analysis been carried out on such a house and how much money would be saved by making the rudimentary small changes that would be needed? I imagine the cost of so doing is quite small. If the Government cannot give a grant would it not make sense, during the initial years, for somebody who is strapped for cash to make the improvements but receive a rebate on his or her water bill instead of paying money to Uisce Éireann? That would improve the cost of the measures. Has the Department carried out a cost benefit analysis of how much money can be saved nationally by implementing such a scheme?

I ask the Minister of State to clarify how much has been spent on installing water meters. It is somewhere in the region of €300 million. Why was €10 million or €15 million of that sum not put aside to grant aid water conservation?

Senator David Cullinane: Hear, hear.

Senator Trevor Ó Clocharthaigh: If the Department had really wanted to conserve water it would avail of the restorative measures and saved a fortune in the first couple of years. We have been told that the Department is not even going to take that route which I find astounding and points to this charade of a Bill. The legislation is not focused on water conservation but generating revenue and collecting money for the Exchequer on top of what is already being paid in the general tax system. I hope to God that the Minister of State will reconsider the section for Report Stage. A small investment could provide restorative measures that make a difference.

Senator David Cullinane: Hear, hear.

Deputy Fergus O'Dowd: Has anybody here ever bought a plastic bottle with a litre of water or drink in it? There is a thing called displacement. One can place a full litre bottle of water or stones in a cistern so that less water is needed to fill it but the toilet can still flush. People can do practical things like that to conserve water. In Ireland each person uses the equivalent of two full baths of water every day. To conserve water one can choose to take a shower instead of a bath. One can also buy a rainwater butt for €40 which will lead to significant savings in terms of water conservation. It is not rocket science and people can take simple steps to reduce their water usage.

Senator Ó Clocharthaigh is right that people can consult websites such as Dublin City Council's section called Tips for Taps. There is a lot of proactive information available and much of it is simple and common sense. It is not rocket science.

Senator David Cullinane: Some of it costs money.

Deputy Fergus O'Dowd: Perhaps one might have to buy a plastic bottle full of water but that is fair enough. I talked about simple measures but the Senator has chosen to make a mountain out of a molehill. Senator Ó Clocharthaigh is right, if we had the best of all worlds we would have the grant system. To put it simply, we do not have the money to do so. I can assure the House that everyone that I have spoken to has confirmed that they will reduce their water usage by a significant amount by using easy, simple and inexpensive activities like the ones I mentioned.

Senator David Cullinane: I am flabbergasted by the Minister of State's response.

Acting Chairman (Senator Jillian van Turnhout): Can we move on and deal with other amendments?

Senator David Cullinane: My party is not talking about the simple practical measures that we are all aware of. We are talking about measures that will involve a cost and require an investment in technologies that save water. If the Minister of State is not prepared to accept that such measures are good then the legislation is not about conservation. He did not mention conserving water, glossed over it and talked about things that do not cost money.

Deputy Fergus O'Dowd: No, I did not.

Senator David Cullinane: With respect, they are not the issues that we raised.

Deputy Fergus O'Dowd: It is.

Senator David Cullinane: No, it is not.

Senator Trevor Ó Clochartaigh: It is not.

Senator David Cullinane: We talked about sensor based taps, the ones that turn on when one waves a hand in front of them. We also mentioned dual flush toilets, automatic flush toilets and rainwater harvesting. Some of those things cost money and technologies will not be free.

Deputy Fergus O'Dowd: They do not have to.

Senator David Cullinane: Is the Minister of State saying that they are not a good thing for somebody to do?

Deputy Fergus O'Dowd: No, let me repeat. I suggest that people keep the water tap switched off when brushing their teeth and turn it on when they wish to rinse. Simple measures like that will make a difference. There are hundreds of tips to conserve water. One can have all of the technology in the world but one does not need gadgets to use commonsense. Enough said.

Acting Chairman (Senator Jillian van Turnhout): Can we move on with the section? I am conscious that we have other amendments to debate.

Senator David Cullinane: I do not want us to move on because the Minister of State has missed the point.

Acting Chairman (Senator Jillian van Turnhout): The section deals with grants and not the Minister of State.

Senator David Cullinane: With respect, the Minister of State has missed the point that there are water saving technologies available.

Deputy Fergus O'Dowd: I have not.

Senator David Cullinane: Most hotels use water saving facilities.

Acting Chairman (Senator Jillian van Turnhout): The Senator has made his point.

Senator David Cullinane: Do hotels use technology just for the fun of it?

Acting Chairman (Senator Jillian van Turnhout): That is repetition.

Senator David Cullinane: No, it is not.

Acting Chairman (Senator Jillian van Turnhout): It is.

Senator David Cullinane: Hotels use such technologies in order to save money. The Minister of State has arrogantly dismissed such technology.

Deputy Fergus O'Dowd: That is not true.

Senator David Cullinane: It is dreadful thing for him to do and tells me that the Bill is not about conservation at all. His dismissive arrogance on the issue is flabbergasting.

Deputy Fergus O'Dowd: The Senator has experienced a rush of blood to the head.

Senator Trevor Ó Clochartaigh: With regard to social economics, it is important to state that the measures mentioned by the Minister of State are practical and can be done. However, the installation of a rainwater harvesting system costs a fair bit of money.

Deputy Fergus O'Dowd: I said that it was expensive to retrofit an existing house.

Senator Trevor Ó Clochartaigh: Yes.

Deputy Fergus O'Dowd: I said that it was much cheaper to install a rainwater harvesting system when building a new house.

(Interruptions).

Senator David Cullinane: What about grant aid?

Senator Trevor Ó Clochartaigh: A certain amount of water will be allocated to each family or household and I am sure that the Minister of State will confirm the amount at some stage, if we ever get around to it. There is an allocation per household.

Deputy Fergus O'Dowd: True.

Senator Trevor Ó Clochartaigh: A household with a rainwater harvesting system has an automatic advantage because it will not use as much water. The Minister of State has said that certain people can pay to install the system if they have money. That means that the people who do not have the money to do so shall be left at a great disadvantage and will have to use more water that is supplied by the public system being developed. That is an example of great inequity and harks back to the earlier debate on a person's ability to pay. People on a lesser income who cannot afford to install the technology will be left at a disadvantage when compared with the people who have money in their back pocket and can pay people to install a system. The latter will not need to use as much water. The Minister of State has been very disingenuous and the Minister and the Government will have to revisit the matter. Perhaps the Minister for Finance will consider introducing tax incentives in his next budget in order to allow people carry out such measures. That is the type of thing that my party has pointed towards.

The Minister of State mentioned school bills. Is the Department in discussion with the Department of Education and Skills about new school builds? Will rainwater harvesting systems

be grant-aided through the grants for extensions, new builds, etc.? The measure would ensure that water conservation is part of new builds in the future. What discussions have been held at departmental level? What discussions are taking place at local level? At present not a great amount of local authority housing is being built but there are plans to do more. Are there ongoing discussions with local authorities to ensure that a rainwater harvesting system and other regulations are in place and to install such technology in new builds?

Acting Chairman (Senator Jillian van Turnhout): Does the Minister of State wish to respond or shall we move on?

Deputy Fergus O'Dowd: I have been advised that the discussions were ongoing but there is no money to pay for what the Senators want. It is much easier to buy a water conserving tap and install a dual flush toilet in a new build and a retrofit is far more expensive. That is the point I made.

There are websites that can provide information on water conservation. There is a vast number of simple measures that everyone can do that cost very little. Most of them do not cost anything but will still reduce water consumption. The people that I spoke to knew exactly what to do and it is not going to cost them anything.

Question put:

The Committee divided: Tá, 20; Níl, 11.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Brennan, Terry.	Crown, John.
Burke, Colm.	Cullinane, David.
Clune, Deirdre.	Daly, Mark.
Coghlan, Eamonn.	Leyden, Terry.
Coghlan, Paul.	O'Brien, Darragh.
Comiskey, Michael.	O'Donovan, Denis.
Conway, Martin.	Ó Clochartaigh, Trevor.
Cummins, Maurice.	Ó Murchú, Labhrás.
D'Arcy, Jim.	Power, Averil.
D'Arcy, Michael.	Reilly, Kathryn.
Gilroy, John.	
Hayden, Aideen.	
Keane, Cáit.	
Landy, Denis.	
Mullins, Michael.	
Naughton, Hildegard.	
Noone, Catherine.	
O'Neill, Pat.	
van Turnhout, Jillian.	

Seanad Éireann

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators David Cullinane and Trevor Ó Clochartaigh.

Question declared carried.

Progressed reported; Committee to sit again.

Business of Seanad

Senator Maurice Cummins: I propose an amendment to the Order of Business, “That proceedings on Committee Stage of the Water Services (No. 2) Bill 2013 shall, if not previously concluded, be brought to a conclusion at 12 a.m. by one question which shall be put by the Chair and which shall, in relation to amendments, include only those amendments set down by the Government.”

An Cathaoirleach: Is that agreed?

Senator David Cullinane: It is not agreed.

Amendment put:

The Seanad divided: Tá, 19; Níl, 12.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Brennan, Terry.	Crown, John.
Burke, Colm.	Cullinane, David.
Clune, Deirdre.	Daly, Mark.
Coghlan, Eamonn.	Leyden, Terry.
Coghlan, Paul.	O’Brien, Darragh.
Comiskey, Michael.	O’Donovan, Denis.
Conway, Martin.	Ó Clochartaigh, Trevor.
Cummins, Maurice.	Ó Murchú, Labhrás.
D’Arcy, Jim.	Power, Averil.
D’Arcy, Michael.	Reilly, Kathryn.
Gilroy, John.	van Turnhout, Jillian.
Hayden, Aideen.	
Keane, Cáit.	
Landy, Denis.	
Mullins, Michael.	
Naughton, Hildegard.	
Noone, Catherine.	

O'Neill, Pat.	
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Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators David Cullinane and Denis O'Donovan.

Amendment declared carried.

0 o'clock

Water Services (No. 2) Bill 2013: Committee Stage (Resumed)

An Cathaoirleach: As it is now past midnight I am required to put the following question, "That the Government amendments undisposed of are hereby made to the Bill. In respect of each of the sections undisposed of, with the exception of section 37, the sections or, as appropriate, the section, as amended, are hereby agreed to in Committee, the Title is hereby agreed to in Committee and the Bill, as amended, is hereby reported to the House."

Question put: "That the proceedings on Committee Stage of the Water Services (No. 2) Bill 2013 shall, if not previously concluded, be brought to a conclusion at midnight by one question which shall be put from the Chair and which shall, in relation to the amendments, include only those amendments set down by the Government."

The Committee divided: Tá, 19; Níl, 12.	
Tá	Níl
Bacik, Ivana.	Barrett, Sean D.
Brennan, Terry.	Crown, John.
Burke, Colm.	Cullinane, David.
Clune, Deirdre.	Daly, Mark.
Coghlan, Eamonn.	Leyden, Terry.
Coghlan, Paul.	O'Brien, Darragh.
Comiskey, Michael.	O'Donovan, Denis.
Conway, Martin.	Ó Clochartaigh, Trevor.
Cummins, Maurice.	Ó Murchú, Labhrás.
D'Arcy, Jim.	Power, Averil.
D'Arcy, Michael.	Reilly, Kathryn.
Gilroy, John.	van Turnhout, Jillian.
Hayden, Aideen.	
Keane, Cáit.	

Landy, Denis.	
Mullins, Michael.	
Naughton, Hildegarde.	
Noone, Catherine.	
O'Neill, Pat.	

Tellers: Tá, Senators Paul Coghlan and Aideen Hayden; Níl, Senators David Cullinane and Denis O'Donovan.

Question declared carried.

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

Senator Maurice Cummins: Today.

Question, "That Report Stage be taken on Tuesday, 17 December 2013", put and declared carried.

Report Stage ordered for Tuesday, 17 December 2013.

An Cathaoirleach: When it proposed to sit again?

Senator Maurice Cummins: At 10.30 a.m. today.

Adjournment Matter

EU Funding

Senator Trevor Ó Clochartaigh: Táim an-bhuíoch don Aire Stáit as an cheist seo a thógaint ar an Athló. Tá a fhios ag an Aire Stáit go bhfuil ceisteanna ardaithe agam le fada anuas sna Títhe maidir le ceist na dteifeach agus mar sin de. Le déanaí, bhí airgead le fáil ó chuid de na cistí Eorpacha maidir le tacú le teifigh agus iad siúd atá ag lorg tearmainn anseo.

Some 250,000 people apply for asylum in the EU each year but the number of applicants is not equally distributed among EU countries. Some countries face larger strains on their reception capacities and asylum systems due to the disproportionately large influxes of asylum seekers into their territories. European solidarity with these EU countries is ensured through practical co-operation, harmonisation of legislation and the European Refugee Fund. The ERF had €630 million over the period from 2008 to 2013 which supported EU countries' efforts in receiving refugees and displaced persons and guaranteeing access to consistent, fair and effective asylum procedures. A new round of the ERF will be announced. The European Integration

Fund supports immigrants who come into the State.

I have been a long-time critic of our direct provision system. That said, it is important we support refugees who come to our shores in any way we can. Under previous Administrations, we saw funding discontinued for groups such as the Galway Refugee Support Group, which meant support services were not in place for these very vulnerable people. The round of funding from the EIF and ERF closed recently.

There are a number of very prominent organisations which support these groups. I have been in contact with a number of them and I have been quite surprised that some of the more active ones have received negative answers from Pobal in regard to the applications they made for funding under the funds.

The reason I raise this is to clarify what criteria have been used by Pobal to determine which groups did or did not get funding under the EIF, or indicative funding under the EIF and the ERF. Which groups got funding and what levels of funding have been granted? I look forward to the Minister of State's reply and thank him again for staying.

Minister of State at the Department of the Environment, Community and Local Government (Deputy Fergus O'Dowd): Tá liosta de na grúpaí a fuair airgead anseo. Tá sé soiléir ón liosta cé hiad na daoine a fuair an t-airgead agus cé mhéid a tugadh dóibh. Glacann an tAire go bhfuil sé tábhachtach an díospóireacht seo a bheith againn.

The European Refugee Fund provides assistance for the reception of asylum seekers and the reception and integration of refugees, persons enjoying subsidiary protection and resettled persons. The European Fund for the Integration of Third-Country Nationals supports the integration of third country nationals other than persons who come within the target groups of the refugee fund.

The office for the promotion of migrant integration in the Department of Justice and Equality is the responsible authority for these funds and Pobal is the delegated authority. This means that Pobal deals with calls for proposals and the appraisal and selection process, among other issues.

A call for applications was advertised by Pobal with a closing date of 20 September. There were 27 applications under the refugee fund and 40 under the integration fund. The appraisal process consisted of an eligibility check followed by a full appraisal of those which came through that check. The eligibility check was to determine if the application related to the appropriate target group for the fund and if it had confirmation of the necessary matching funding. The required matching funding is 30% of the total cost but only 5% for projects addressing certain specific priorities.

The appraisal is carried out by an appraisal officer of Pobal in line with the selection criteria. The appraisal is then considered by an appraisal sub-committee in Pobal. Recommendations are then made to the board of Pobal for approval, following which they are sent to the Department of Justice and Equality.

The criteria were published on the Pobal website when the call was launched. These included capacity of the applicant, need for the project, outcomes for the target group, strategic fit and value for money. Each of these criteria was given equal weight. More detailed information is on the Pobal website.

Additional marks were awarded to applicants which could source matching funding greater than the minimum amounts required. The Minister wishes to stress that the assessment was done by Pobal. The Department accepted Pobal's assessment of the merits of the individual applications. On this basis and having regard to the amount of resources in the subhead D9 of the Department's Vote this year and next year, the Department approved 22 projects, of which 16 are under the European Integration Fund and six under the European Refugee Fund. These were chosen in strict order of merit based on the marks awarded. The total amounts of the grants payable to these projects are €1,039,445 in the case of the integration fund and €442,389 for the refugee fund.

The Minister has made arrangements to put details on the website and have them made available to the Senator. The Minister does not propose to publicise details of unsuccessful projects. By definition, these will not be in receipt of grants and, in these circumstances, it would be considered more appropriate that unsuccessful applicants disclose the fact of their application themselves if they wish to do so in particular in circumstances where they may be seeking funding from other sources.

The level of funding available has meant that choices have had to be made. Also, the fact a project was unsuccessful on this occasion does not mean it cannot succeed in the future. The unsuccessful applicants were informed by Pobal of the outcome of their application and if they have queries, they can contact that body and a member of staff will respond. If there are further concerns at that point, it is possible to seek a review of the decision and this will be carried out by persons who were not involved in the original assessment.

While geographical location was not a selection criterion, it should be noted that 12 of the projects selected are based in Dublin, two in Galway and one each in Carlow, Clare, Cork, Kerry, Limerick, Louth, Mayo and Meath.

Senator Trevor Ó Clochartaigh: I thank the Minister of State for the information. Is there a possibility that funding could still be available if that review is successful?

Deputy Fergus O'Dowd: The answer is in the question. I do not know the specific answer but I will ask the Minister to respond to the Senator on that.

The Seanad adjourned at 12.20 a.m. until 10.30 a.m. on Tuesday, 17 December 2013.