BUSINESS OF THE SEANAD

ORDER OF BUSINESS

NAMA and Irish Bank Resolution Corporation Transparency Bill 2013: First Stage

SITTING ARRANGEMENTS: MOTION

APPROPRIATION BILL 2013: SECOND AND SUBSEQUENT STAGES

APPROPRIATION BILL 2013: MOTION FOR EARLIER SIGNATURE

HEALTH INSURANCE (AMENDMENT) BILL 2013: REPORT AND FINAL STAGES

PROTECTION OF CHILDREN’S HEALTH FROM TOBACCO SMOKE BILL 2012: COMMITTEE STAGE (RESUMED)

LOCAL GOVERNMENT REFORM BILL 2013: COMMITTEE STAGE (RESUMED)

ADJOURNMENT MATTERS

PILOT TRAINING COLLEGES

NAMA OPERATIONS
Déardaoin, 19 Nollaig 2013
Thursday, 19 December 2013

Chuaigh an Cathaoirleach i gceannas ar 10.30 a.m.

Machnamh agus Paidir.
Reflection and Prayer.

Business of Seanad

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

The need for the Minister for Transport, Tourism and Sport to discuss the fact that, since the collapse of the Pilot Training College, PTC, in County Waterford in July 2012, hundreds of privately funded students of the college have been left in a precarious financial position having received no compensation from any source including the Government, the Irish Aviation Authority or PTC itself, which has been in liquidation since September 2012; what he envisages can be done to assist these students; and the safeguards in place to prevent such an occurrence in the education and training system in future.

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

The need for the Minister for Finance to introduce a greater level of political and administrative oversight in regard to the National Asset Management Agency in light of a number of revelations regarding the performance of its functions in the best interests of the taxpayer and, in particular, to investigate the recent revelations that a number of employees are providing confidential information to potential purchasers of NAMA properties.

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

Order of Business

Senator Maurice Cummins: The Order of Business is No. 1, motion re the arrangements for the sitting of the House on Friday, 20 December 2013, to be taken on the conclusion of the
Order of Business, without debate; No. 2, Appropriation Bill 2013 (Certified Money Bill) - all Stages, to be taken on the conclusion of No. 1, without debate; No. 3, earlier signature motion on the Appropriation Bill 2013, to be taken on the conclusion of No. 2, without debate; No. 4, Health Insurance (Amendment) Bill 2013 - Report and Final Stages, to be taken on the conclusion of No. 3, without debate; No. 5, Protection of Children’s Health from Tobacco Smoke Bill 2012 - Committee Stage, to be taken on the conclusion of No. 4 and to be adjourned no later than 1.15 p.m.; and No. 6, Local Government Reform Bill 2013 - Committee Stage (resumed), to be taken at 1.15 p.m. and to be adjourned no later than 3.15 p.m.

**Senator Thomas Byrne:** Will the Leader clarify what is proposed in regard to No. 4, the Health Insurance (Amendment) Bill 2013?

**Senator Maurice Cummins:** No amendments to the Bill are tabled. I should have stated, however, that it will be taken on the conclusion of No. 3 and will conclude no later than 12.15 p.m.

**Senator Thomas Byrne:** That is fine.

As I pointed out last year, the Appropriation Bill is effectively a cheque for €47.5 billion which we are being asked to sign today, just as the Dáil was obliged to sign it yesterday. In the past, however, debate was permitted on the Appropriation Bill, which is a practice that should be restored. It is a dereliction of our duty simply to sign a cheque for €47.5 billion without debate. I realise that the vast majority of the money has already been spent and there is little we can do about it. That is why the Fianna Fáil Party abstained last year when a vote was called by Sinn Féin. That is the reason Fianna Fáil abstained last year when a vote was called by Sinn Féin. We did not wish either to endorse the Government’s spending plans or to take the money back from the people who got it, which would be the effect of a “No” vote. However, it deserves far more scrutiny. The Seanad does not have a great deal of power over the spending of money, but the obligation on it to pass the Appropriation Bill provides us with an opportunity to have an influence on it for the benefit of society. On that basis, I oppose the Order of Business. There should be a formal debate. We will assess the position with regard to the Bill when that vote arises, but I am not inclined to oppose it. Unfortunately, however, I am not inclined to support it either. It is a difficult choice.

The Seanad should have a full debate on the National Asset Management Agency, NAMA, allegations. The Seanad has been central to the statements made, particularly by my colleague, Senator Darragh O’Brien, and, in the past, by Senator Mark Daly and Senator Lorraine Higgins. The allegations Senator Darragh O’Brien made yesterday are so serious that he went to the Garda fraud squad. They also involve a political question which he raised yesterday, so it would be appropriate to invite the Minister to the House to discuss the conduct of the Department of Finance and of NAMA. We should have a full debate on the issue rather than simply pass the buck to the Garda, which has a very important role. I compliment Senator Darragh O’Brien. He received some criticism to the effect that he was just another politician grandstanding but, unlike some politicians who have gone to the Garda in the past, he refused to be accompanied by photographers or the press. Such was the seriousness of his duty he was accompanied by his solicitor. That was the right approach and I compliment him on doing this properly and in the privacy of the Garda station. He did not go to his local Garda station with photographers but went straight to the fraud squad which has *seisin* of this matter.

The main issue that will affect the people of Ireland this Christmas is the HSE service plan.
It is shameful that this fraudulent document is being presented to the Oireachtas immediately before Christmas and is to come into effect in January. It is the same on-the-hoof approach that the Government adopted with the health plan in the budget. The spin doctors have been busy portraying the reduction in the amount of money to be saved from medical card cuts as a huge victory, but the reality is that 100,000 people will lose their medical cards under the service plan. That is a shame and a disgrace. It is a shame that the Labour Party and Fine Gael are vying to claim the credit for that cut.

Senator Martin Conway: We are cleaning up your mess.

Senator Thomas Byrne: You are not. You are cleaning up medical cards by taking them from people.

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

Senator Thomas Byrne: A person in a wheelchair and a cancer sufferer came to my office this week about it. Two weeks ago I met a child who has an illness that will end the child’s life in a few years, and that child had to battle with the Government and the HSE to get a medical card. That is what is happening.

An Cathaoirleach: Do you have a question for the Leader?

Senator Thomas Byrne: The health plan for next year was published yesterday. We are due to have a briefing session in private this afternoon, according to an e-mail we all received from the Minister. We should have the debate and the briefing session in this House so the Irish public can know the full details of it and so the Minister and his officials can be questioned in full view of the public, online or in the news programmes. It is unacceptable that we are to have a meeting about this in the AV room. The Leader is obliged to organise a full debate on this service plan before Christmas so we can get the truth about what is happening. I have not even mentioned the accident and emergency department closures that are promised. I sincerely hope that Navan’s accident and emergency department will not be among the closures that were announced yesterday.

Senator Aideen Hayden: It is admirable that Senator Darragh O’Brien went quietly to the Garda to give the evidence he has, although a cynic might say he should have gone to the fraud squad in the first place.

To give some good news, there has been a reduction in the number of calls to the Samaritans, which they say is because of increased hope in the country. It is worth noting that. We all feel for people who find themselves on the brink of despair and it is good to know we are turning the corner in that regard.

I welcome the announcement that the Taoiseach, Deputy Enda Kenny, and his British counterpart, David Cameron, will visit the Irish war graves in France. It is a particularly welcome announcement given that this year is the centenary of the 1913 Lock-out and next year is the centenary of the start of the war in 1914. Many of the people who went to the front in 1914, particularly people from Dublin, did so because they were living in extreme poverty. Many families were touched by the fact that their loved ones could never receive the acknowledgement they deserved for the role they played in the First World War. Some families changed their names so they would not be targeted when their soldiers returned from the front. The announcement is a very welcome development.
Senator Mary M. White: Has the Senator visited the sites?

Senator Aideen Hayden: I have.

Senator Mary M. White: Good.

Senator Aideen Hayden: We were the first members of our family to visit the grave of a great-uncle.

Senator Mary M. White: Most of my Fianna Fáil colleagues have also visited them, myself included.

An Cathaoirleach: Senator Hayden, without interruption.

Senator Aideen Hayden: It is something we must come to terms with as a nation. Both leaders visiting the graves will be a step in the right direction. Many people from the Dublin tenements found themselves in the British army because of their extreme poverty.

My question for the Leader is about housing. I do not wish to sound like the prophet of doom but I believe that at this time next year we will be tackling one of the most serious housing crises this country has ever experienced, including during the 1930s through to the 1960s. We have just received an assessment of housing need which shows 90,000 families on the housing waiting lists. Numerous organisations, including Threshold, say the number of people presenting as homeless has doubled, due to their inability to access appropriate housing. I ask the Leader to arrange a debate early in the new year on an overall housing strategy to tackle the issues of housing supply and how to protect housing for vulnerable and low-income families.

Senator David Norris: On yesterday’s Order of Business there was reference to the procedures whereby distinguished people are invited to address Seanad Éireann. There are two categories of people - figures of international importance, who largely give an address but might engage in some degree of dialogue, and national figures, who are subjected to a more intense grilling. I have written to the Committee on Procedure and Privileges requesting that it put Pope Francis prominently on this list. This was unanimously supported by all my colleagues. I am an Anglican, one of my colleagues is an atheist and the others are Catholics of various degrees of belief. I ask the Leader to do what he can to advance this possibility and I ask my colleagues to support this in a few words this morning. I know some of the Members who have already spoken support it, as I have spoken to them about it.

Pope Francis is somebody who might engage in dialogue. He would certainly say something fascinating and there would be no cliches from him. It is important at this time to have international figures who give joy and hope. International political figures have unanimously and entirely let us down. They never think of values. This is somebody who is expressing values of economic justice. He is speaking about decentralising the Vatican, attacking power and of going to Lampedusa and celebrating mass on an upturned boat. The language of his document, Evangelii Gaudium, is very interesting. He uses the language of ordinary people. He speaks as a sinner, as he says, and he speaks with Christ-like humility not just to Roman Catholics but to all baptised Christians and the rest of the world. His message is one we should seriously heed, whether we are religious or not, because he speaks about justice. Without justice we will get nowhere. The language is very different. Previous popes always spoke with terms such as “the magisterium” and the like, which bespoke the imperial past of Rome and a type of moral authority that came absolutely from the top. This man speaks to all and has a Christ-like humility.
Would he come? I think he might. Nelson Mandela came to the Mansion House which is scarcely a location of any great international renown. This pope has an unusual background in that he spent several months in Milltown Institute of Theology and Philosophy in Dublin. He knows the country and this city. He also knows the special role Ireland has played throughout history in the development of Christianity and, in particular, the Roman Catholic Church. I hope to table a motion early in the new year to the effect that he should be invited to address the House. I would like all Senators to indicate their support for such a motion today. In fact, I would like it to become an all-party motion. I recognise that what I am suggesting could only be done as part of a State visit because he is both a religious leader and a head of state. He could, of course, enjoy the usual courtesies with the President and the Government but if he spoke in the Seanad, we could open the Distinguished Visitors Gallery to Members of the Dáil. I have represented Seanad Éireann on several occasions at joint meetings-----

An Cathaoirleach: The Senator is way over time.

Senator David Norris: I beg the Chair’s pardon. I will end by stating that the members of the press could do what they always say they do, namely, watch proceedings on the monitors in their offices, and thereby leave the seats in the Distinguished Visitors Gallery free for others to use.

Senator Martin Conway: Senator Norris’s proposal is an excellent one. Pope Francis recently appealed to the Lord to grant us more politicians with integrity and courage in order that we might try to eliminate poverty. That leads me on to the request I made yesterday that the House should engage in a debate on poverty, particularly in view of the fact that this is a difficult time of year for many people. In that context, I wish to encourage and support the Samaritans on the work they do. The Samaritans have left an indelible mark on the hearts of the people. Indeed, they have helped thousands of Irish citizens. The care branch of the Samaritans is probably one of the busiest parts of the organisation in the context of the work it does. It is one of the branches selected to role out the new pan-European Samaritans freephone service. I wish the Samaritans well in this endeavour and I take this opportunity to congratulate the volunteers in the Clare branch who do wonderful work in providing a 24-7 service.

This will be the final Order of Business of the current session. It is always important to end on a positive note. In that context, I wish all of the people who help us and work with us - the staff, the ushers and so on - a very happy Christmas. We have a great deal to be thankful for as 2013 draws to a close. Significant progress has occurred during the past 12 months and the Taoiseach has provided the country with very strong and courageous leadership. He has outlined what we have achieved and his vision for the future in his state of the nation address on Sunday night last. That address went down exceptionally well. The Gathering was one of the highlights of 2013 and it led to an increase in the number of tourists who visited Ireland. What has been achieved is significant. Many more people came to the country during the The Gathering than was originally envisaged. I am of the view that what is going to happen in 2014 will be even better. I would like a significant proportion of the €1.1 billion obtained through the sale of Bord Gáis to be invested in winter and summer tourism projects, such as those involving the provision of greenways.

An Cathaoirleach: The Senator is way over time. I call Senator Quinn.

Senator Martin Conway: Some €7 million has already been invested in greenways and I would like this to be increased to €25 million or €30 million next year.
Senator Feargal Quinn: I support Senator Norris’s wonderful proposal and congratulate him on coming up with it. I am delighted the Committee on Procedure and Privileges also supports the proposal. I urge all Senators to indicate their enthusiastic support for it. Even just issuing an invitation would greatly increase the stature of the House. That stature is in our hands to a very large extent. Last evening, Senator Crown introduced the Protection of the Public Interest from Tobacco Lobbying Bill 2013. We had a very good debate on this legislation and I am of the view that the reputation of the House was enhanced as a result. A meeting took place with the Taoiseach yesterday in order to obtain his views on Seanad reform. I got the impression that the reform he has in mind is very limited in nature. There is an onus on us to ensure that any reform that comes about will not just be limited to changes relating to the university Senators’ seats.

Senator David Norris: Hear, hear.

Senator Feargal Quinn: That is all we have heard at this stage. It is our responsibility to ensure that the Taoiseach, the Government and the Lower House understand that we cannot do everything ourselves and that we need the State to be able to support us. If we are going to support reform, then it must be real and must not be limited solely to the areas suggested by the Taoiseach yesterday. I get the impression that there is no enthusiasm on the Taoiseach’s part to hold another referendum. I understand why that is the case, particularly after the wallop he received on the previous occasion. There is a great deal that can be done in the context of legislation-----

Senator Paul Coghlan: The Taoiseach does not want to be ambushed by the Senator a second time.

Senator Feargal Quinn: -----in order to enhance the reputation of this House and of the Oireachtas as a whole.

Senator Lorraine Higgins: On foot of the revelations in recent days with regard to NAMA’s activities-----

Senator Paul Coghlan: Allegations, please.

Senator Lorraine Higgins: -----it is clear that much of what has happened was facilitated by the veil of secrecy surrounding the agency’s operations. It must be remembered that the previous Fianna Fáil Government created NAMA at a cost of billions to Irish taxpayers and yet did not require any transparency or accountability from it.

Senator Mark Daly: The Senator was not here for yesterday’s vote.

Senator Lorraine Higgins: These are the facts.

Senator Mark Daly: The Senator will have an opportunity on the NAMA and Irish Bank Resolution Corporation Transparency Bill.

An Cathaoirleach: Senator Higgins, without interruption.

Senator Lorraine Higgins: The National Asset Management Agency Act, which governs the activities of the agency, is severely limited in scope and has helped to create this monster which is being run in a way that is contrary to the public interest. We do not know what deals are being done and nor do we know the identities of those who are buying properties from the
agency. It is not right to vest control over private sector assets to a body which could be subject to influence in the absence of accountability.

NAMA has a critical role to play in Ireland’s economic recovery. We urgently need to restore confidence in the agency. We could outline any number of allegations during the coming days but we need to do something constructive. We must begin by reviewing the draconian powers the agency possesses. In addition, we need to consider amending the NAMA Act in order to make the agency more accountable and transparent to the Irish people. We cannot have unsavoury practices continue and we must strive for better standards from the agency. For that reason, I request that the Ministers for Finance and Minister for Justice and Equality come before the House early in the new year in order to debate the possibility of amending the legislation to allow for accountability. The latter was not done when Fianna Fáil was in government.

Senator Thomas Byrne: We had a vote on that.

Senator Mary M. White: Senator Higgins should stand up and be counted.

Senator Lorraine Higgins: If we fail to do as I have outlined, we will have learnt nothing.

Senator Mary M. White: The Senator should stand up and be counted.

Senator Lorraine Higgins: I raised this matter last week and no one in Fianna Fáil supported me at that stage.

An Cathaoirleach: With the permission of Senator Daly, I will allow Senator Crown, who is in a hurry and needs to be elsewhere, to make his contribution now.

Senator John Crown: I am not in a rush. I just want to ensure that I will have an opportunity to contribute.

An Cathaoirleach: The Senator will have that opportunity.

Senator Mark Daly: Senator Higgins will be delighted to hear that the NAMA and Irish Bank Resolution Corporation Transparency Bill is on the Order Paper. In that context, I request that - by leave of the House - No. 17 be taken before No. 1. I would welcome a debate on NAMA and perhaps the House could take the Bill to which I refer tomorrow, the Second Stage debate relating to which was taken last year.

Senator Paul Coghlan: The allegations made by those oppose were unfounded. They did not substantiate a single one.

(Interruptions).

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

Senator Mark Daly: Yes.

An Cathaoirleach: What is the amendment?

Senator Mark Daly: I wish to propose that No. 17 be taken before No. 1 in order to allow for publication of the NAMA and Irish Bank Resolution Corporation Transparency Bill. I am sure Senator Higgins and others who are seeking transparency in NAMA will support the Bill, which allows for all the properties being sold by or on behalf of the agency to be listed
on a website. In the past notifications have been placed in the newspapers in respect of properties that were sold. However, nobody knew that these were for sale. How is that good for the taxpayer? I used to be an auctioneer and I am aware that there are various ways of selling property. Doing so by way of backroom deals is not really in the interests of the taxpayer. If Senator Higgins wants to peruse the Bill to which I refer, she will discover that it clearly states that NAMA should sell all assets in an open and transparent manner and in the same way that State assets are disposed of.

II o’clock

Whether they are loans or property, they should be sold as if they are State assets. The Office of Public Works sells all State assets by tender or public auction. The banks, which manage loan books on behalf of the National Asset Management Agency, should sell these assets in the same manner at the OPW as that would create full confidence in NAMA and its activities.

I support Senator Norris’s call to invite the Pope to visit Ireland. He is a living example of the church he leads. He not only speaks about how people should act but acts in accordance with his words.

Senator Hildegarde Naughton: The House will soon rise for Christmas. I, like other Senators, find it important to be aware that Christmas can be a lonely time, rather than a time of celebration, for many people who are experiencing difficulties. I refer to the launch yesterday of the Samaritans Impact report. I am especially conscious of elderly people who have fallen victim to elder abuse. The House should send out a message to alert people that supports are available. We heard yesterday from representatives of the Samaritans that the organisation’s hotline is extremely busy between the hours of 6 p.m. until 6 a.m. when other support services are closed. If people are in distress, anxious or need to speak to someone, the Samaritans are available 24 hours per day, 365 days of the year. It is important that people ask neighbours and local communities to be vigilant on behalf of older people who may be experiencing a difficult time or in distress. People are often too embarrassed to speak about elder abuse, which can take various forms, from physical and verbal abuse to subtle intimidation. It is important that support services are available for people experiencing this problem. In Galway alone, the Samaritans received 33,000 telephone calls in the past 12 months. The increase in the number of adolescents calling the Samaritans indicates that the problem extends across society. I commend the work of the Samaritans.

Senator Trevor Ó Clochartaigh: I also support the call made by Senator Norris to issue an invitation to Pope Francis to visit the House. As a party that is not represented on the Committee on Procedure and Privileges, it is important that I indicate Sinn Féin’s support for the Senator’s call.

I was interested to hear a number of contributions made by Government Senators. We should be cognisant that many of the difficulties with housing people are experiencing are the result of budgetary decisions made by the Government.

Senator Aideen Hayden: Do they have nothing to do with Fianna Fáil and the construction and banking crises?

Senator Trevor Ó Clochartaigh: It is easy to wring one’s hands in the House or describe the problem as terrible in the media. I am aware from interactions with many Government agencies that most of the problems people are experiencing are the result of cutbacks in services. I
agree with previous speakers that a serious debate is needed on housing. It is astounding that 90,000 people are on housing waiting lists. I do not lay the blame entirely at this Government’s door as the housing crisis started a long time ago. A process of privatisation has been under way in the housing sector for some time and the sector has been subjected to serious cutbacks. Since 2008, for example, €1 billion has been cut from housing budgets. This is in addition to cuts in basic social welfare and rent supplement payments. The housing stock is also in rag order as local authorities do not have the funds needed to carry out repairs. Waiting times for housing are the longest in recent memory. As such, when Government Senators vote in favour of budgetary cuts they should bear in mind that this is what they are voting for. Let us not kid ourselves in that regard.

A survey by EUROSTAT, the European statistics agency, has found that only 67% of Irish households had a broadband connection in the second quarter of 2013 compared to a European Union average of 76%. In response, industry spokespersons noted that when one includes satellite broadband and 3G services, the figures are worse. Moreover, some 3G and satellite broadband services are barely fast enough to book a flight. We have a serious problem with broadband, which must be addressed if we are serious about creating jobs, especially in rural areas. The Government lags behind its European counterparts on this issue. A debate on broadband in the early new year would be welcome.

**Senator Paul Coghlan:** I am fully supportive of Senator Norris’s proposal that the Committee on Procedure and Privileges invite Pope Francis to the House. We will have further discussion on this matter.

**Senator Diarmuid Wilson:** What about the closure of our embassy to the Vatican?

**Senator Paul Coghlan:** I congratulate the Minister for Finance, Deputy Michael Noonan, on decisions taken at yesterday’s ECOFIN meeting on bank resolution measures, banking union, security of deposits and so forth.

I understand the nature of politicians as much as anyone else does. In that context, I refer to serious allegations made about the National Asset Management Agency. Nothing has been proven and much of what has been alleged may be unfounded. We are not judges. The Garda Bureau of Fraud Investigation, which is independent of Parliament, is involved in this matter, which is also one for the Director of Public Prosecutions. Senators should not say anything.

**Senator Lorraine Higgins:** This is a democracy.

**Senator Paul Coghlan:** Of course it is.

**Senator Lorraine Higgins:** We introduced legislation on whistleblowers. We should listen to them.

**An Cathaoirlech:** Please allow Senator Coghlan to continue without interruption.

**Senator Paul Coghlan:** As a lawyer, Senator Higgins is well aware that this is a democracy based on law and we are all governed by the law. As citizens, we have a duty to report information of which we become aware.

**Senator David Norris:** Senator Darragh O’Brien went to the Garda.

**Senator Paul Coghlan:** I congratulated the Senator on doing so yesterday. Other than that,
the milking of this issue we have seen for publicity purposes is a form of Ballymagash politics.

Senator Lorraine Higgins: That is a cynical view. There is a real threat to the taxpayer.

Senator Paul Coghlan: We must disapprove of that type of politics.

(Interruptions).

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

Senator Paul Coghlan: I welcomed the publication of Senator Daly’s Bill, which we will study. Serious matters are at issue, as all Senators will accept, and they are under investigation. Our policy should be one of shut mouths.

Senator Paschal Mooney: In recent days, a report from the Referendum Commission was referred to in the other House. It would be useful if the Leader were to arrange a debate on this matter. The Referendum Commission has a statutory obligation to publish a report after each referendum and its report on the Seanad referendum contains a number of interesting recommendations. One of the most interesting findings related to the reasons people voted in the referendum or chose not to vote. The commission expressed concern that younger people did not turn out in significant numbers and referred to confusion concerning the ballot paper. It made the interesting point that 13% of those who voted to abolish the Seanad wanted to retain it, while 6% of those who voted to retain it wanted to abolish it. There was, therefore, considerable confusion surrounding the ballot paper on which universal best practice does not appear to have been applied. It may be of interest to the Leader to arrange statements on the Referendum Commission’s report at some point in the new year. Perhaps the matter comes within the ambit of the Department of the Taoiseach. Such a debate would give Senators an opportunity to obtain an insight into Government thinking on the report and the wider issue of Seanad reform.

I endorse the unique proposal made by Senator Norris to invite his Holiness, Pope Francis, to address Seanad Éireann. It is an innovative and interesting idea which has garnered cross-party support and should be pursued by the Committee on Procedure and Privileges in the context of a State visit.

Senator Cáit Keane: I have not heard of any decisions being taken on Seanad reform. I have heard, however, that the large number of reports on Seanad reform will be studied by the relevant group. Everything is open for discussion, provided it falls within current constitutional parameters and does not require a further referendum. The Constitutional Convention has proposed that graduates of Queens University Belfast should be included in the electorate for university seats. This could be done without a referendum. I would like to put that on the record of the House. That would be a request of mine. That was one of the proposals in one of those reports in 2003 when a presentation was made by the National University of Ireland to the Sub-Committee on Seanad Reform and when Senator Maurice Hayes was in the House. Mary O’Rourke might have been Chairman of the committee at the time.

Senator David Norris: It included an enlarged university constituency.

Senator Mary M. White: And the University of Ulster at Coleraine.

Senator Cáit Keane: It included the University of Ulster at Coleraine. I wanted to ask the Leader a question I raised here previously concerning the clocking of cars. I watched a television programme last night and discovered that 10% of the cars sold are clocked. It is not an
offence to clock a car in this country but it is an offence to sell a clocked car. How does one find them? I know the Minister for Transport, Tourism and Sport made some changes with the NCT so that every time one goes for an NCT, the mileage is registered. However, one can come out from the NCT, buy a hand-held computer, put it on the top of the car, clock one’s car and sell it the following day. It is that easy to do it. I would like to see clocking a car made a crime. I would also like spot checks and a national register of mileage on cars. They have them in other countries and it is the only way to go. With all the computer technology available, it is possible to do that. I hope and look forward to something like that.

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

**Senator Cáit Keane:** This is important because one could be driving-----

**An Cathaoirleach:** They are all important issues in the morning.

**Senator Cáit Keane:** One could be driving a clocked car and not know it. If one’s car’s battery goes down and you jump-start it, the clock can go wrong so one could be a criminal by default.

**Senator John Crown:** I make this statement with somewhat of a heavy heart but I would like in the first instance to express my support for the Committee of Public Accounts in its investigation into the activities of State-funded institutions, including my own hospital, St. Vincent’s Hospital Group. It is a matter of record that I have long been troubled on many fronts by the way in which the boards of hospitals, and the board of my hospital in particular, do their business. I would like to personally dissociate myself, and any research organisations I have the privilege of running, from any connection with St. Vincent’s Hospital Group or the St. Vincent’s Hospital Foundation. It will become apparent that the board of St. Vincent’s Hospital does not enjoy my confidence.

This began in 2002 when I discovered that members of staff of the hospital had been deliberately and fraudulently charging private health insurers in respect of cancer drugs which had been provided to that institution for free. I notified the relevant authority - the Irish Medicines Board - at the time. An investigation began, inexplicably stopped and was reformatted several days later. Documents have recently come into my possession which I am quite happy to discuss and share with the Minister for Health, because they refer to money that was fraudulently taken from the VHI, of which the Minister is the sole shareholder, and from other private health insurers. The documents would show conclusively that there was a cover-up conducted by the management and board of St. Vincent’s Hospital in respect of this. Substantial intimidation was brought to bear at the time that the whistle was blown on this ten years ago but I believe in light of these new documents coming my way, and the increased scrutiny by the Committee of Public Accounts, that it is now time for this matter to be further investigated. I am asking the Leader to bring this to the attention of the Minister.

**Senator John Kelly:** I want to respond to Senator Ó Clochartaigh’s concerns about rural broadband. Eircom is investing €400 million in delivering fibre-optic broadband to 1.2 million homes. It recently announced that it is extending that to 1.4 million homes - an extra 200,000 homes. It will be extended to 562 communities around the country. An extra 22 communities in my county of Roscommon are included, including Ballaghadarreen from where I come. That is being rolled out in 2015 and 2016 and possibly earlier if Eircom can deliver on the 1.2 million homes first. I advise Senator Ó Clochartaigh to look up the Eircom website where all those
19 December 2013
towns and villages are listed, including all the Galway ones.

Senator Trevor Ó Clochartaigh: Will we still be behind in 2016?

Senator John Kelly: The Senator should have a look at the website.

Senator Trevor Ó Clochartaigh: Senator Kelly is fooling nobody.

Senator Diarmuid Wilson: I second Senator Daly’s amendment to the Order of Business. In respect of NAMA, for a Member of this House of the stature of the Government Chief Whip to suggest that somebody raises a matter of national importance that is in the public interest merely to milk it for publicity, is outrageous. He should withdraw that remark, which is outrageous.

Senator Paul Coghlan: I think the Senator understands me.

Senator Diarmuid Wilson: Senator Coghlan is in danger of inheriting the name of “NAMA Coghlan” if he is not very careful.

Senator Paul Coghlan: The Senator knows I have great respect for him.

Senator Diarmuid Wilson: I genuinely support Senator Norris’s request that Pope Francis be invited to address this House. He is a world leader as well as leader of the Catholic Church to which I belong. In the short time since he became pope, he has been a breath of fresh air to many people throughout the world, not just Catholics, and I wholeheartedly support the suggestion by Senator Norris that he be invited to address this House.

Senator Michael Mullins: The information Senator Crown brought before the House this morning is deeply troubling. It indicates that there is much cleaning up to be done in many institutions in this State so the Government will have a busy schedule in 2014. I join in supporting the call by Senator Norris that an invitation be extended to Pope Francis, a man of justice who is promoting peace and equality. Given the fact that he spent some time in Dublin, it would be nice to extend that invitation. It would be particularly nice if his visit could coincide with the re-opening of the Irish embassy to the Vatican.

Many of my colleagues here this morning have spoken about the Samaritans and the wonderful work it does, but it is appropriate that we pay tribute to all volunteers - the many people who give very generously of their time, efforts and resources to help those who are less fortunate. The Samaritans is a case in point. All of its members are volunteers. They get very minimal support from the HSE and depend totally on voluntary subscriptions and people helping them. It is a similar case with the Society of St. Vincent de Paul and organisations like that. They are people who are doing an amazing job. I ask the Irish people not to take it out on those organisations because of what happened in the Central Remedial Clinic and urge them to be generous over the Christmas period in supporting those wonderful organisations that do so much for those who are less fortunate. That is the message we would like to get out from here today.

Senator Sean D. Barrett: I note that the Referendum Commission’s report referred to by Senator Mooney shows that the majority in favour of the retention of this House was larger than was shown in the poll because of the confusing nature of the way the question was put. Support for the House is stronger. If, as I requested, the commission had included in its literature the fact that this was an invitation for people in the Republic of Ireland to deprive people in
Northern Ireland of a vote, the margin would have been larger. The fact that this opinion poll conducted by the commission shows the result we welcome again calls into question the role of opinion polls before the referendum, which showed that on the Monday before the referendum, only 27% of people favoured the retention of this House. It came in at 52% and now it is even larger.

The Referendum Commission should look at how the opinion polls were conducted because the unfortunate aspect is that the newspapers commissioning the polls then feel obliged to have their political correspondents write articles supporting the polls. They could have seriously demoralised those of us in the “No” campaign and distorted the result. Given that the “No” people were out-spent by about 1,000:1, that spending limit should be examined by the Referendum Commission. The fact that 140 Deputies in Fine Gael, the Labour Party, Sinn Féin and People Before Profit campaigned to abolish this House shows that they are out of touch. One of the aspects people voted against when they voted for us was the way the whip system is applied. It is a shame on the House that the Whip system was applied last night to vindicate the rights of spin doctors for a very evil industry.

**Senator Colm Burke:** I have come from a meeting of the health committee at which the Minister for Children and Youth Affairs, Deputy Frances Fitzgerald announced that the Family Support Agency will commence its work in January. This is a welcome development. More than 4,000 staff will transfer to the agency. The establishment of the agency is a significant child care reform, considering that the annual birth rate is 75,000.

I have raised on other occasions the matter of funding to agencies and organisations in the health sector. It is time to debate the system of governance in these agencies. Senator Crown raised a very important point about the boards of agencies and to whom they are answerable. The Department is funding eight of these organisations amounting to more than €1.69 billion but that Department does not have any nominees on those boards. It is time we debated this matter and it is time to consider restructuring these boards to ensure that they are directly accountable to the HSE and to the Department and ultimately to this House. Those boards are not directly accountable to the Houses of the Oireachtas or to the committees. We should debate the fact that 25% of the health budget is going to agencies whose boards do not have departmental or HSE representation.

**Senator Mary M. White:** As there is no Order of Business tomorrow I wish to compliment from the bottom of my heart the Minister, Deputy Frances Fitzgerald for her courage, conviction and compassion in introducing the Adoption (Amendment) Bill 2013 tomorrow. Senator Quinn and I raised many times the issue of these families who had been guaranteed babies from Russia but the arrangements had been disrupted by the Russian legislation. The Minister is a real politician. I know Frances for many years. I spoke to her on this issue two weeks ago. I said, “Frances, your name will be carved in stone as a politician who changes things”. We are not here to talk, waffle and spin; we are here to make changes in society. I wish to declare my regard for the Minister, whom I have known for many years.

I support my the proposal by my colleague, Senator David Norris regarding an invitation to the Pope. On Tuesday of this week, Pope Francis celebrated his 77th birthday in his humble guest house rather than in the palatial rooms of the Vatican. He is exemplary in his compassion and his breadth of vision and is an inspiration for the 1.5 billion Catholics in the world. In July this year when he was asked by a journalist for his views on gay priests, he replied, “Who am I to judge?”. He is a human being of 77 years of age and he is an example of the wisdom of
older people who can cease to be judgmental. Their experience tells them that but for the grace of God, go I.

Senator Maurice Cummins: Senator Thomas Byrne questioned why the Appropriation Bill is being taken without debate. This has been the procedure in this House and in the other House for quite some time. I have requested the Department of Public Expenditure and Reform to send somebody. I will try to have the Bill debated today but I understand the Minister is away. The Department is looking for a substitute and we will have a debate if possible. On a point of clarification, there was some confusion about No. 4 on the Order of Business, the Health Insurance (Amendment) Bill 2013 - Report and Final Stages, to be taken on the conclusion of No. 3 and to conclude no later than 12.15 p.m.

Senator Byrne also asked about the health service plan. I am sure we will have a comprehensive debate on that Bill in January. Senator Hayden asked about the visit by the Taoiseach and the British Prime Minister to the Irish war graves. This visit is to be welcomed. As she rightly pointed out, many people from Dublin joined the British Army at that time because of poverty or perhaps in a sense of adventure and to fight for the rights of small nations. People in many parts of the country joined that war, in particular, from my city. It is only right and fitting that the Taoiseach and the British Prime Minister would visit the Irish war graves.

Senator Sean D. Barrett: Hear, hear.

Senator Maurice Cummins: Senator Hayden also raised the matter of the housing crisis, as did Senator Ó Clochartaigh. I have requested the Minister of State, Deputy Jan O’Sullivan, to come to the House in January for a comprehensive debate on housing.

Several Senators supported Senator Norris’s request to invite Pope Francis to address this House. That matter will come before the Committee on Procedure and Privileges. Pope Francis is a man whose humility and humanity resonates with people all over the world. I would welcome such an invitation although protocol may require it to be a State visit. I am sure this matter will be discussed at length at the Committee on Procedure and Privileges. Senator Norris can be assured of my full support on that matter.

Senator Conway asked for a debate on poverty which other Senators have also sought previously. Senators Conway, Naughton and Mullins complimented the work of the Samaritans in particular. We must support organisations such as the Samaritans who do such wonderful work throughout the country. It would be regrettable if charities and organisations such as the Samaritans and the Society of St. Vincent de Paul, were to suffer in any way because of the activities of other charities which are under scrutiny.

Senator Quinn asked for a debate on Seanad reform. I am sure all aspects will be discussed in the new year such as procedures for upgrading Standing Orders if necessary, for example, which the Committee on Procedure and Privileges will debate in the new year. I do not think there is an appetite for another referendum but I agree that aspects of Seanad reform possible under legislation should be investigated.

Senator Higgins asked for a debate on a review of the powers of NAMA and the need for transparency in its procedures.

That takes me on to Senator Daly, who has proposed an amendment to the Order of Business to the effect that No. 17 would be taken before No. 1. This relates to NAMA’s transparency. I
Seanad Éireann

am agreeable to leave being given to print the Bill. I am acceding to Senator Daly’s proposed amendment to the Order of Business.

Senator Ó Clochartaigh called for debates on housing, a matter to which I have referred, and broadband coverage, a matter to which Senator Kelly also referred. They noted the more than €400 million to be invested by Eircom in fibre-optic broadband during the coming year.

Senator Paul Coghlan raised the issue of NAMA. I note his points in that regard.

Senator Mooney discussed the report of the Referendum Commission. I take his point and we may debate the report. Senator Barrett also referred to it and the role of opinion polls. I do not propose to repeat last evening’s business.

Senator Crown expressed concerns about the workings of certain hospital boards and an alleged cover-up at his own hospital regarding certain practices. I will bring the matter to the attention of the Minister. If the Senator wishes to provide me with paperwork or the like, I will furnish it to the Minister.

Senator Burke referred to the systems of governance in organisations funded by the State and called for greater accountability and a debate on the subject. He has raised this matter three times in recent weeks. I will certainly request the Minister’s attendance for a debate.

Senator White raised the issue of the Adoption (Amendment) Bill a number of times, as did Senator Quinn. When doubts were expressed and the Minister was castigated in the House, I always had faith in her and expressed the sentiment that she was doing everything possible to address this matter. It is to be hoped it will be brought to a satisfactory conclusion tomorrow through the Bill’s introduction.

In light of Senator Byrne’s request, I propose an amendment to the Order of Business to the effect that at 3.15 p.m., we will debate the Appropriation Bill 2013 for 30 minutes. Speaking times will be five minutes for each Senator, with the Minister of State, Deputy Brian Hayes, to respond after 25 minutes. We will debate the Bill as requested.

An Cathaoirleach: Senator Daly has proposed an amendment to the Order of Business: “That No. 17 be taken before No. 1.” The Leader has indicated that he is prepared to accept the amendment.

Amendment agreed to.

An Cathaoirleach: The Leader has proposed an amendment to the Order of Business, “That the Appropriation Bill 2013 be taken for 30 minutes after the Order of Business.”

Amendment agreed to.

Order of Business, as amended, agreed to.

Nama and Irish Bank Resolution Corporation Transparency Bill 2013: First Stage

Senator Mark Daly: I move:
19 December 2013

That leave be granted to introduce a Bill entitled an Act to provide that, in the interests of transparency, all relevant details of loans, properties, or other assets offered for sale by or with the approval of NAMA or the Irish Bank Resolution Corporation be available to the public by means of publication on a website.

Question put and agreed to.

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

Senator Mark Daly: Tomorrow, 20 December 2013.

An Cathaoirleach: Is that agreed? Agreed.

Second Stage ordered for Friday, 20 December 2013.

Sitting Arrangements: Motion

Senator Maurice Cummins: I move:

That, notwithstanding anything in the Standing Orders relative to Public Business, on Friday, 20th December, 2013, the Seanad shall meet at 10.00 a.m. and the following arrangements shall apply:

(a) Standing Orders 29 and 30 shall stand suspended;

(b) there shall be no Order of Business; and

(c) the business to be taken shall be confined to –

(i) all Stages of the Adoption (Amendment) Bill 2013 the debate on which shall be brought to a conclusion at 11.30 a.m., if not previously concluded, by the putting of one question from the Chair which shall, in relation to amendments include only those amendments set down by the Government and with the contributions of each Group Spokesperson on the Second Stage debate not to exceed 8 minutes and of every other Senator not to exceed 5 minutes; and

(ii) the resumed debate on Committee Stage of the Local Government Reform Bill 2013 which shall be taken at the conclusion of the Adoption (Amendment) Bill 2013, and which shall, if not previously concluded, be brought to a conclusion at 3.30 p.m. by the putting of one question from the Chair which shall, in relation to amendments include only those amendments set down by the Government,

No other business shall be taken unless the Seanad shall otherwise order on motion made by the Leader of the House or such other Senator as he may authorise in that behalf.

Question put and agreed to.
Seanad Éireann

Appropriation Bill 2013: Second and Subsequent Stages

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

Minister of State at the Department of Public Expenditure and Reform (Deputy Brian Hayes): As colleagues will be aware, the main purpose of the Bill is to give statutory effect and authority to the Estimates approved by the Dáil this year. It also forms the basis for the statement of authorised issues, which sets out the amounts authorised to issue from the Exchequer from the beginning of 2014. The Bill also provides for the capital carryover from 2013 to 2014, which is listed by Vote. It also provides for repayable advances from the Central Fund to the Paymaster General’s supply account to facilitate payment by electronic funds transfer, EFT, of particular liabilities on 2 January 2014. I commend the Bill to the House.

Senator Thomas Byrne: I express my deep appreciation to the Leader for setting the important precedent of debating this Bill. He will understand that none of us expected him to grant our request, but I am grateful to him. It is the Seanad’s only opportunity this year to debate the expending of public money. The Estimates are solely in the purview of the Dáil, and rightly so. I presume the Appropriation Bill is a certified money Bill.

Deputy Brian Hayes: Yes.

Senator Thomas Byrne: The Seanad has a limited function in this matter, but it is important we scrutinise it. For future years, I suggest the Seanad examine certain aspects of spending ahead of the debate. This year, we are particularly concerned about the amount of money granted to the health budget and whether we have achieved the best value for money. Indeed, the Committee of Public Accounts is debating that matter now.

The amount of money being agreed for all services provided by the Government is €475 billion. As the Bill could be described as a cheque, it is important that it not go undebated. In future, the Seanad could examine those aspects of spending that do not get the headlines. I would not criticise the Committee of Public Accounts for much, but one criticism is that it seems to take on those issues that are popular with the media. In fairness, those issues are usually important and need to be discussed, but other important issues of spending also need to be discussed. The Seanad, in terms of its purview and approval of the Appropriation Bill, could discuss in detail what is being spent and identify areas where there is waste, although not as a rival of the Committee of Public Accounts in terms of its powers in this area. There are many areas in respect of which there are inefficiencies in terms of spend, although I accept that the Government is trying to reduce these inefficiencies, in particular in the area of procurement of services and spend on capital projects.

On the deferred surrender, as I understand it this is money not spent this year that can be spent next year. In regard to the €132.5 million capital surrender, can the Minister of State confirm if this relates to capital expenditure on roads that could have been but were not built this year? If so, that is a pity. Spend of that €132.5 million would have given a large boost to the economy during the year and might, perhaps, have resulted in the creation of some jobs.

Despite that this debate has taken place at short notice, Fianna Fáil will not, if a vote is called, support either side. I do not believe there is any credibility to be gained by voting against this Bill because the vast majority of the money has been already spent. We should look in the future to the Committee on Procedure and Privileges in terms of how best we deal with
this matter given the precedent now set by the Leader, for which I am grateful to him.

**Senator Maurice Cummins:** I thank the Minister of State for coming to the House at short notice to address the Bill. As explained by the Minister of State, this Bill, in terms of content and purpose, is technical in nature. I urge all Members of the House to support it. I again thank the Minister of State for bringing the Bill before the Seanad and assure him of our support for it.

**Senator Sean D. Barrett:** I echo Senator Byrne’s sentiments of our debt to the Leader for organising this debate and the instant appearance here of the Minister of State. He is always very helpful to this House and his appearance here at short notice is a startling illustration of this.

Part of the reform agenda must be that we remain vigilant of our public finances. Post exit the bailout we must plan our affairs to ensure we do not end up in difficulties again. Had there been time to do so I would have located my dog-eared copy of John Bruton’s publication, A Better Way to Plan the Nation’s Finances, which he wrote during a period of crisis when he was attempting to get our finances in order. In regard to inviting people to the Seanad to address us, this issue was tackled in the most interesting reforms proposed by him at that time.

As stated by Senator Byrne, we need effective measures of accountability. While up to now accountability has been mostly good in that not much has been stolen from the Exchequer, there is always concern in regard to whether money is being spent in the most efficient manner possible. While the Comptroller and Auditor General does tremendous work in this area, issues are always identified after the event. Perhaps the Oireachtas could be alerted by way of an early warning system from the Comptroller and Auditor General of areas in respect of which things are starting to go wrong. The Committee of Public Accounts has been chaired by many distinguished people in recent years. I understand it was chaired for some time by Deputy Noonan, the current Minister for Finance. Deputy John McGuinness is not behind the door in dealing with issues. While that committee also provides an extremely valuable public service, it might be better if we were not made aware of issues post event.

Former President Carter attempted to introduce programmed budgeting which included more reviews, appraisals and analyses. The process lasted for only a couple of years. The obstacles it encountered were those faced by current bureaucracies, namely, people do not like having their outputs questioned, in particular by politicians. There was also concern that the additional layer of analysts would add to the budget. Given most countries now have debt-GDP levels which are unacceptable, we need to ensure value for money. Traditionally, much of the attention in terms of public finances was on the taxation side, with little attention on asking the fundamental questions we now have to ask, including whether the health service or chunks of it makes anybody any healthier. There is also a problem in the context of Departments acting as independent republics and preventing the Department of Finance having a say in how they are doing. Newspapers, rather than report on what a Department is spending money on, frequently report X Minister as being a really good Minister because he gets more money from the Department of Finance for his Department. Traditional speeches on the opening up a new bridge and so on would be to the effect that a particular Government spent more on bridges than did all other Governments combined. However, what is never considered is whether the target of that Government in terms of the construction of more bridges and roads than any previous Government was a pointless exercise. We need to examine our bureaucracy and to scrutinise how allocations are made. I wonder if the case can be made for a government economic service to address these issues, including whether Departments should be allowed to operate as inde-
pendent republics, such that when all the Estimates are totalled the Department of Finance is on budget day harassed in terms of increases in taxes or borrowings to finance them.

The Bill provides for spend of astonishing amounts of money, including €740 million under Vote 32. On days when there is little legislation before the Seanad, we could have a discussion on particular items related to this spend, at which time we might come up with ideas that would be useful to the Minister of State in the context of his reporting back to the Department of Finance. The amounts being provided in terms of magnitude are astonishing. It was once said that to divert attention in capital appraisal from the big items one should include an item on the bicycle shed, which item would be the focus of discussion by everybody while millions of expenditure went through on the nod. I am sure that is not a model we would want to apply in this Parliament.

In the recent past, we have had, necessarily, to reduce capital expenditure. It was pointed out by an bord snip nua that because of what happened in the past number of years GDP in 2014 will be approximately 40% less than projected. Therefore, one should not invest in a capital programme for GDP that will be lower than anticipated. More importantly, this allows us to put in place criteria, which I believe should be published in advance, in regard to capital investments, including any alternatives. This will allow us to consider which projects are worthwhile. We now have an opportunity to put capital investment appraisal on a new footing at breathing space from the actual expenditures.

I appreciate the short notice at which the Minister of State has come to the House to deal with this important legislation. In the context of the future role of the Seanad, we could, perhaps, as stated by Senator Byrne, make this a precedent and have discussions here on the large amounts of money provided for in this legislation. We are happy to assist the Minister in any way we can in ensuring value for money is achieved. I again thank the Minister of State for coming here at short notice and the Leader for allowing this debate.

Senator Aideen Hayden: Like other speakers, I thank the Minister of State for coming to the House at short notice. I also thank the Leader for acceding to Senator Byrne’s reasonable request, which perhaps will set a precedent for future years.

While the powers of the Seanad in respect of financial matters are limited, this Bill is more interesting than it appears on first reading. Senator Byrne referred earlier to the amount of capital moneys being deferred to the 2014 budget. Unlike the Senator I am surprised by the small amounts being carried over-----

Senator Thomas Byrne: I was too.

Senator Aideen Hayden: -----given that the overall appropriation amount for supply of services is almost €44 billion. In the past Departments had a tradition of handing out the remaining moneys like snuff at a wake. Moneys were not being properly spent because they were trying to get it out the door before the end of the year.

I agree with the comments made on the headline figures, some of which surprised me. Just like the tool shed, bicycle shed or whatever shed Senator Barrett mentioned, I was not aware we had a secret service.

Deputy Brian Hayes: It comes up every year.
Senator Aideen Hayden: I am shocked that we are only spending €1 million on it. I would have thought in this day and age any decent respectable secret service would need more money than that.

Deputy Brian Hayes: It is a shared service.

Senator Aideen Hayden: I am also surprised that the Property Registration Authority is being voted some €32 million. I would like to see a cost-benefit analysis on the amounts being spent on each of these subheads against the amounts of money being taken in. Similarly it would be quite interesting to see a cost-benefit analysis on the Revenue Commissioners which cost us almost €323 million.

As the Leader said, this is a technical Bill to all intents and purposes, but there is value in bringing it before the House for comment and scrutiny. It was a good move and I appreciate the Minister of State coming in at such short notice to take it.

Acting Chairman (Senator Paschal Mooney): Senator Walsh is offering, but I have been advised that only group leaders may contribute. I call the Minister of State.

Senator Jim Walsh: On a point of order-----

Acting Chairman (Senator Paschal Mooney): A point of order.

Senator Jim Walsh: It has been stated that this is an unprecedented step and a new initiative. The Appropriation Bill was discussed in this House in my early years in the House, as the Acting Chairman well knows. It was discussed for a considerable length of time and all Members were allowed to participate. It gave a good opportunity to contribute in general on the expenditure of moneys. I believe we should go back to that. The closing of business in both of these Houses over the past three years has been nothing short of regrettable. The Government came into power with an agenda of openness and transparency.

Senator A: Is this on this Bill?

Senator Jim Walsh: I believe the Government should institute that particular ethos in these Houses. I would like to say certain things on this Bill and it is wrong that I, as a Member of the House, should be deprived from doing that. It is symptomatic of how debates in this House have been closed. It was a remarkable decision in view of the way debate has been curtailed in this House and the Lower House. I am only interested in what is happening in this House.

Acting Chairman (Senator Paschal Mooney): As a point of information, traditionally the Bill was always passed prior to the Christmas recess but then a motion, to which I believe the Senator is referring, was debated subsequently and all Members of the House were able to make a contribution. That was the practice. That will be a matter for the Leader to reflect on.

I call the Minister of State.

Minister of State at the Department of Public Expenditure and Reform (Deputy Brian Hayes): I confirm the Acting Chairman’s view. I have been around these Houses for a few years and that is exactly what happened traditionally. The Bill was passed but remained on the Order Paper of both Houses for a period of time so that people could debate it. I agree with Senator Walsh and others. I congratulate the Senators who sought a debate on this matter today. I was in the Dáil yesterday for all Stages of this Bill and no one turned up. It is good to debate
I also agree with Senator Byrne’s remark. While, obviously, the work of the Committee of Public Accounts is of crucial importance, there is a wider remit for both Houses and committees of both Houses to scrutinise vast sums of money that are voted upon by both Houses of the Oireachtas each year. From the perspective of the Minister for Public Expenditure and Reform, Deputy Howlin, and the Minister for Finance, Deputy Noonan, any space that can be found to scrutinise public expenditure is welcome. We congratulate the Senators on demanding a debate today and ensuring that the Bill, which is a technical Bill, is debated. In my first five years here, we traditionally had that debate and it would be good to have it in future.

Senator Byrne asked about deferred surrender. That is the €132.6 million in savings on the capital side. The carryover into 2013 from last year was €107 million, so it is slightly ahead of last year, but it is broadly neutral because in each given year there will always be an amount to be carried over on capital expenditure. We do not want a glut of expenditure between October and December simply for the purposes of having the expenditure. That does not provide good value for money. So in every year provision is always made to allow capital expenditure on key projects to take place the following year so that we get a spread of expenditure rather than putting pressure on the system to spend money willy-nilly in November or December every year. That is exactly what we are doing. The €132.6 million is a small amount in the global sense, but it is an important amount because it demands much greater rigour in terms of those projects that need to be funded by central government funds.

Senators Hayden, Cummins and Barrett spoke on the issue of vigilance. Some of the reforms we have introduced since coming into office have shone a light on public expenditure that did not exist previously. The most fundamental change was the separation of the Department of Public Expenditure and Reform from the old Department of Finance. The objective was to have the Departments spending the money allied to the reform of the process. It has been positive having two separate Departments, one on the financial side and the other on the expenditure side.

As Senators will be aware, we have introduced multiannual financial frameworks. Departments now have expenditure profiles over a three or four-year period and must live within those envelopes. That gives certainty to the Departments and their agencies. It also gives the Departments some latitude in how that expenditure is to be used.

On the other point Senator Barrett raised, we have now established a cost-benefit unit in the Department of Public Expenditure and Reform. Every item of public expenditure goes through the Department of Public Expenditure and Reform. Some people might regard it as a bit to Stalinist in its approach. I am sure some of my ministerial colleagues have a view of the Department of Public Expenditure and Reform which is all-embracing. However, we now have a very rigorous cost-benefit analysis system. A cost-benefit analysis signed off by the Department of Public Expenditure and Reform forms part of any memorandum a Cabinet Minister will bring to Government. Part of that is a rigorous economic analysis of the patterns of expenditure.

Traditionally only three Departments had output statements outlining the output for the money they were given. We are now rolling this out to every Department. I am not sure if we are there yet, but we are certainly in the process of getting every Department to produce an output statement. This means that each of the relevant Oireachtas committees can now assess expenditure patterns and ask considerably more questions about the expenditure profiles - a point these issues.
Senator Byrne mentioned. It will take some time for committee members to get into the frame of mind to look for output on the expenditure we are proposing. It will also put more pressure on Ministers to defend why they are spending the amounts being spent on particular schemes.

Those are four reforms we have introduced. Can we do more? Of course we can. We are in a deficit position. Next year we will spend €53 billion and take in €44 on the tax side. Therefore it is inevitable that we need to keep a very firm view on public expenditure. It will take some time before we come into an absolute surplus - although next year we will have a primary surplus when the cost of the national debt is stripped out. The intention of the Government in the publication of the medium-term economic review we announced earlier this week was to have a budget surplus by 2018. Given the chasm of public expenditure to tax in recent years, that is an ambitious but valid target for us to attain.

I very much welcome the debate. I have no difficulty in coming back to the House next year to have a fuller debate on the various subheads Senators might wish to raise.

12 o’clock

I commend Senators on seeking this debate and having at least some public scrutiny of what effectively is a technical Bill.

Question put and agreed to.

Bill reported without recommendation, received for final consideration and passed.

**Appropriation Bill 2013: Motion for Earlier Signature**

**Senator Maurice Cummins:** I move:

That, pursuant to subsection 2° of section 2 of Article 25 of the Constitution, Seanad Éireann concurs with the Government in a request to the President to sign the Appropriation Bill 2013 on a date which is earlier than the fifth day after the date on which the Bill shall have been presented to him.

Question put and agreed to.

**Health Insurance (Amendment) Bill 2013: Report and Final Stages**

Bill received for final consideration and passed.

**Protection of Children’s Health from Tobacco Smoke Bill 2012: Committee Stage**

SECTION 1
Senator Jillian van Turnhout: We know the Minister supports the legislation. Senators Crown, Daly and I put forward the Bill and we debated it in the House in May 2012, 19 months ago. It was a constructive debate that was supported by all and I felt we were going places. We have met since and I can catalogue the meetings and the contact back and forth, but we have not made progress.

I thank the Leader for allowing us as Members time to table amendments following queries raised by other Departments through the Department of Health. We tabled amendments in an effort to progress the Bill. I believe this is a simple measure. Of course we must examine issues like the presumption of age and the rebuttable presumption. As I said to the Minister’s officials, I have prepared a paper on the issue of presumption of age. The matter can be dealt with by the inclusion of a rebuttable presumption and that is what we are trying to do. There are several instances of it in law such as section 32 of the Child Care Act 1991 and section 53(1) of the Children Act 2001. The provision exists in legislation so why can we not progress the Bill? I have questions. As Senator Crown has joined us, I offer him the floor and I will rejoin the debate later.

Acting Chairman (Senator Paschal Mooney): We are debating section 1. Is section 1 agreed?

Senator John Crown: I ask the House for a 90 second sos. I misread the Order of Business and thought that we were not debating the legislation. I need to have a quick chat with Senator van Turnhout. May I have one minute? Is my request in order?

Acting Chairman (Senator Paschal Mooney): Senator Barrett wishes to make a contribution.

Senator John Crown: If my request is not in order, I will continue.

Acting Chairman (Senator Paschal Mooney): The Senator can debate the section after Senator Barrett.

Senator Sean D. Barrett: I welcome the Minister and his interest in the affairs of the Seanad is appreciated. Senator Crown is the expert on health in the House but I will make a few observations from the transport point of view. Let us examine the penalty points system and the use of mobile telephones. Mobile telephone usage is the single most important element. Quite rightly, the authorities and the Garda Síochána, view people on mobile telephones as a major transport hazard. It is a major source of penalty points and fines for those involved due to a fear that people will be distracted from driving. From the transport point of view, somebody opening a packet of cigarettes, finding matches or a lighter to light them, flicking ashes and discarding the contents, typically out of the window, is much more damaging in traffic terms than encounters with a mobile telephone. Smoking involves many extra transactions. We take seriously the use of a mobile telephone in a car because we want to prevent accidents. As a result, we have reduced the number of fatalities on Irish roads from 650 down to about 160 last year but, unfortunately, there will be more. The Minister and Senator Crown are the experts on health but I am a transport economist and think there is a strong case for the control of people smoking in cars. Smoking is more dangerous than using a mobile telephone in a vehicle, of which the Garda, the Minister for Justice and Equality and others take a dim view. Penalty points have proved successful as a preventative measure in reducing fatalities, especially the
deaths of young men under 35 for whom car accidents used to be the major source of ill health and death. The number has been reduced dramatically. Is tobacco smoking in cars not a danger in terms of safety and health promotion? All Senators are keen to have more safety and health promotion.

I will hand over to Senator Crown and will allow him to speak. The transport aspects of the legislation are very good and I lend them my support.

Senator John Crown: I thank the Acting Chairman and the Minister. I apologise to the Minister for my apparent inattention. I meant no disrespect by my late arrival. I misunderstood the Order of Business and thought we would debate the health insurance Bill for longer. I had wanted to make a contribution on that legislation too, but more anon.

As sponsors of the Bill, we have taken the unusual step of bringing forward Committee Stage amendments that reflect two issues. First, we are cognisant of the public and welcome the support the Minister gave us when we debated the legislation on Second Stage. It gave us a great boost to our morale, as legislators, that the Government accepted back bench Opposition legislation on merit, a procedure that is somewhat unusual in this Parliament. I am truly very grateful to the Minister for doing so. We wanted the opportunity to debate it again with him and that is one of the reasons for advancing amendments at this stage. Our interaction with the rest of the health service has been less productive in respect of the Bill in the 20-odd months since we first proposed the legislation on First and Second Stages in the House, back in May 2012.

I could go through a turgid recitation of the various meetings that have taken place. There have been many but I will just bring one to the Minister’s attention. The most recent formal meeting took place a year ago and was with the most senior authorities in the Department of Health. At that time we were promised we would have what they called the heads of the Bill, which I believe was their way of tabling Committee Stage amendments, by the end of January 2013. That was almost one year ago and nothing has happened. Since then it has been indicated that the Minister’s very welcome plain packaging Bill has a higher priority. He will find strong support from me and I suspect across the House for his legislation. However, there was not a great degree of resources or attention put into passing our legislation. We believe the Protection of Children’s Health from Tobacco Smoke Bill is relatively simple legislation that would give the Minister a quick win in terms of passing a law to advance tobacco control.

The Minister mentioned concerns in his Second Stage speech in the House about what he described as serious flaws in the Bill, but we were delighted that he was prepared to advance the legislation to Committee Stage in order that we could avail of the expertise in the various Departments to correct, amend and strengthen the Bill and ensure it was passed. When we first met after the Second Stage in May 2012 with several of the Minister’s colleagues with responsibility for tobacco control, concerns were expressed about constitutional issues, such as whether one could smoke in a private place and things like that, although that concern seems to have been dismissed fairly quickly. There was a substantial amount of technical comment on issues related to how the Garda would enforce the Bill because, ultimately, it is its members who must enforce the legislation. Our amendments today address that by incorporating a reference to the Bill in the Road Traffic Act and allowing the Minister for Transport, Tourism and Sport to introduce fixed charges as she or he sees fit in terms of the enforcement of the Bill. We also needed to go into some detail about fines and how they would be codified, and that is dealt with in our amendments. There was a question that perhaps the European technical standards directive would be invoked, but the opinion is that it would not. There was a feeling that the Bill, once
passed, could be commenced relatively quickly. I am not getting at the Minister about this but I want to give him a brief time line, and I will not name names.

May 3: Publication, introduction.

May 9: Second Stage.

May 18: Meeting with senior Department of Health officials.

May 25: Telephone call with senior Department of Health officials.

May 29: Meeting with senior Department of Health officials.

June 2012: Meeting with senior Department of Health officials.

E-mails sent on July 16 with proposed amendments not answered.

E-mails sent on August 22. No answer, no voice mail left.

August 22: Further e-mail sent to relevant official.

August 12: Telephone call. No answer. Left voice mail.

August 27: Telephone calls. No answer.

October 4: E-mail finally received, again with a commitment to expeditious processing.

November 1: Further e-mail from me to the Minister outlining my concern over the delays.

November 2: Response from official; still nothing happening.

November 21: E-mail from official to one of my co-sponsors; again no particular action happening.

December 12: E-mail back confirming that the Department of Justice and Equality had made observations.

December 21, almost one year ago: Meeting in Hawkins House with very senior officials of the Department of Health. Told the Bill is a priority and we would see action by 30 January 2013. Nothing.

March 26: E-mails seeking clarification. March 26: E-mail back; will reply once the AG considers it in detail.

April 8: further advice being sought from AG.

April 10: An attempt to set up another meeting. Three months after the deadline I wish we would be told that we had the guidelines available to us.

April 24: Further meeting.

June 25: E-mail sent. Telephone call to official - no answer. Left voice mail.

June 27: E-mail from official later; would contact AG’s office at some unspecified date.
19 December 2013

July 1: E-mail from official, AG’s office. Will update her later that week.

July 17: More feedback required from AG.

September 17: At this stage we are getting up to a real-time account of it.

I believe that with a little action by the Executive the Minister has the status, clout, authority and the interest to make this happen.

We are proposing a number of amendments on Committee Stage we believe address many of the technical concerns the Minister described as constituting serious flaws with the Bill. Some of us are new to this business but we are prepared to take on board any of the advice the Minister has to offer to strengthen the Bill.

It was the intent when the Bill was proposed that the summer of 2012 would be a time when children, legislatively, would have been protected during the summer holiday period from the consequences of adults smoking in cars with them. That did not happen. I then hoped it would happen in time for the summer of 2013; it has not. Let us please not delay it any further than this.

If I may I will turgidly recite some of the reasons for that because in the aftermath of last night’s events, the right wing, pseudo-libertarian, pseudo-free speech lobby are in full thunder crowing and gloating over their victory for free speech and against the nanny state. I am not a great believer in the nanny state but I will make a few comments on why the nanny state is important in this regard. It is beyond controversy that there is an increase in the incidence of asthma and bronchitis as a result of second-hand smoke. It is well understood that there is a unique peril associated with the level of tobacco smoke and its chemical constituent in the small confines of a car. The data are clear that when one cigarette is smoked the level of particulates is 30 times higher for a child in a car than the level the Environmental Protection Agency would be ringing sirens telling people to get off the streets, go into their houses and close the windows. It is 30 times higher yet it is still legally possible for a child to be subjected to that.

The exposure after one hour in a car with smokers is the same as that which a fire woman or fireman would experience in four to eight hours of fighting a bush fire. The emissions are five times higher from a cigarette smoked in the car than from the tail pipe of the car during the period in which smoking one cigarette would take place. One hour spent in a smoky car produces the same occupational exposure as eight hours in a smoky pub which, thankfully, only a few of us have memories of due to the inspired action of one of the Minister’s predecessors, the then Minister, Deputy Micheál Martin, action we hope the Minister will emulate with a series of innovative anti-smoking measures.

The question has arisen as to whether this problem exists. The advocacy groups, the pseudo-civil libertarians who envelope themselves in the cloak of libertarianism, state that sensible, responsible parents will not do this anyway and therefore the nanny state does not need to legislate. The evidence is all around us that sadly, parents do it although they do not do it very often.

The real reason for this Bill is its educational value. It has had an educational value because I personally cannot recall any public debate ever taking place in this country on the scale of the Second Stage debate on the issue of smoking in cars with children. Suddenly, it was an issue people discussed, and it gives that powerful bully pulpit to children themselves because they hear the arguments and they say, “Mammy, don’t be smoking” or “Daddy, don’t be smoking”.

865
For all these reasons it is critically important that we deal with this small, tight, focused Bill. We have done the heavy lifting for the Departments of Health and Justice and Equality. We introduced the amendments. Can we get a commitment that we will get this Bill passed quickly? We can then join in a full embrace with the Minister in his other great anti-smoking initiatives we would like to support.

After three years of this Government the score card in terms of anti-smoking legislation - this is not a dig at anybody - is as follows: considered four Bills, rejected one last night, promise of another one - the plain packaging Bill - next year. We are still turgidly gluing the smoking in cars Bill through a treacly bureaucracy nearly two years later, and the only Bill that has been passed is the one that makes it easier to sell cheap cigarettes to children and other adults. I know that is not something the Minister wanted; it was enforced on him by inappropriate actions of external agencies from without the State that put him under judicial and commercial pressure to do this but. Sadly, however, that is the track record. Let us start by fixing it today.

I am not sure if we will have an opportunity to speak as we go through the Bill.

**Acting Chairman (Senator Paschal Mooney):** Yes. I call Senator Burke.

**Senator Colm Burke:** I thank the Minister for coming into the House for a second time this week. I welcome the amendments tabled by the proposers of the Bill and for the work they have done in preparing them and in preparing the Bill, which is very detailed.

On the issue of banning smoking in cars with passengers under 18, in fairness, the amendments deal with the issue of producing evidence to prove someone is over 18 but would it be an easier way of dealing with the issue if smoking in cars carrying any passengers was banned completely? From a Garda implementation point of view, that may be an easier way of doing it. I put that forward as an idea to consider from the point of view of enforcement. What Senator Crown has brought forward will protect children but from the point of view of enforcement, an easier way of processing this would be to ban smoking in cars. I do not know whether that is worth looking at once the legislation is passed. The Minister might examine that issue also.

**Senator Mark Daly:** I welcome the Minister back to the House. My Seanad colleagues have outlined the time-line on this issue but this is a more fundamental criticism of the system that has allowed it to continue for so long. In other areas where I am dealing with Departments I am told by officials that unless the Minister tells them to do it, it does not happen. We call ourselves legislators but because the officials will not let things happen and things do not happen, we are not able or allowed to legislate. When I spoke to Senator Crown’s Bill last night I referred to the piece of paper that is in every Department on why something cannot be done. When there are things that should be done for the most obvious reasons, such as those that Senator Crown has outlined, for example, that a child inhaling cigarette fumes in a car is the equivalent of a firefighter working for eight hours in a forest fire, one has to ask why we would not bring in legislation. Here it is, two years on, yet there are eight more Stages to go. When it is passed in this House it has to go to the other House.

Senator Quinn introduced the Construction Contracts Bill. It made sense. Of course subcontractors should not be left high and dry when the main contractor goes bust. That is not a criticism of this Government because that started under the previous Government. It is the system. This economy and this country have just gone through one of the most fundamental changes in the past five years but the system has not changed. We know this because it has
taken two years to get to the third stage in a ten stage process. I hope that the Minister will put his weight behind this. I know that he is working on this issue.

The problem is not the Minister or his concern for this issue. We have met with officials, gardaí, the Department of Health and civil servants but the Attorney General is like the Wizard of Oz, all-seeing and all-knowing yet we can never find out what the Attorney General is actually doing behind the curtain. The Attorney General is not the legislator. She should have a view but every now and then we hear that the Attorney General cannot give an opinion. When there was a question about recalling the Seanad, however, there was no problem circulating the Attorney General’s view on the merits and effect of the recall of the Seanad. The Attorney General should be able to talk to a legislator and identify a person from her office to liaise with the legislator. That is how legislation works. It is not cloak and dagger stuff such that Members of the Opposition or Government cannot speak to the all-seeing and all-knowing Attorney General. I do not care who speaks to the Attorney General but she should sit down and engage in the process.

It is because the process has failed that we are here now, with eight more Stages to go. Will we do it in the lifetime of this Government? I hope that the Government serves every hour of its five years so that we can say, “Yes we can and we did do it”. I do not want to see this going into the next Government as Senator Quinn’s Bill did. It is a failure of the process. I am not blaming the Minister or the Department. It is a failure of previous governments that allowed the system to drag its heels for so long that a Bill that so obviously should be ratified and implemented has sat there without moving. If we were not having this debate it could wait another five years.

Senator Averil Power: I strongly support this legislation. The last it was discussed in the House the Minister expressed several concerns about making it workable. I understand that Senators have been going back and forth - indeed Senator Crown has catalogued all the correspondence over that period - with a view to trying to reach agreement on this issue. The amendments before us today present a scheme that is workable. It is perfectly reasonable to insert provisions whereby there is a presumption that somebody is under age unless they show otherwise as Senator van Turnhout detailed earlier. The penalties scheme is also workable because it is based on a fixed charge, which we know works. All we need is leadership on this. When we discussed other smoking legislation yesterday evening Members on all sides of the House stated that nobody doubts the Minister’s bona fides on this broad issue but we need to see measures being taken rather than simply talk about them.

The Minister has been quoted in The Irish Times as saying that he is personally in favour of banning smoking in cars but he thinks that the public needs persuading on the issue. That is a chicken and egg situation. There was huge opposition to the workplace smoking ban when it was mooted. Vintners and other powerful lobby groups ran a big campaign to try to get the Government to back down but it did not because our current party leader, in his then position as Minister for Health, stuck with it and said it was right. Whether people realise it yet, or not, it is right. We have seen a huge change in mind-set on smoking in the workplace over the past few years. Most people now understand that it is completely unacceptable, and it has caused them to think more about smoking in front of other people.

It is very unfortunate that we have to debate legislation about people smoking in front of children in their cars. Personally, I think it is disgusting. It is incredibly unfair, particularly for a small child to be locked in a tiny space. Senator Crown has already detailed some of the health impacts, but the figures are far worse than a firefighter dealing with a wild fire, or 23
times more toxic than being subjected to passive smoking in a house. I cannot fathom the idea that anybody would think it is acceptable to smoke in front of their children in such a confined environment but unfortunately it does happen. It is up to us as the legislature to put in place legislation to protect the most vulnerable people in our society from such health impacts. It is our job to put in place legislation to protect children from passive smoking. We know how dangerous it is and what impact it has on their health not just in the short term but the long term too. We know the rates for respiratory problems and for asthma caused by passive smoking.

This legislation is very reasonable and deserves the Minister’s support. It works in other countries. There are several states in Australia, Canada and the United States of America that have bans on smoking in cars where children are present, and in several other countries too. I urge the Minister to show leadership on this and support and push through this legislation. If he has problems with the amendments before us, let us hear them and tease them out. If we have to adjourn Committee Stage today and come back within a set time-frame to have agreement on the final wording of the Bill then so be it. I ask the Minister please to get behind this legislation and let us all work on a cross-party basis to deal with this issue. It is one small part of the picture of protecting people from tobacco-related harm in this country but it is important because it protects people who have little choice for themselves, children. They cannot make that decision. We have talked about packaging of cigarettes and health warnings and so on, to protect adults from the harm they do to themselves with tobacco. It is our job to protect children.

**Senator Marie Moloney:** I too welcome the Minister back to the House. Every time someone puts forward an idea here we stand up and thank and congratulate that Senator. I genuinely thank the Senators involved for bringing this forward because although this is a simple Bill it is one of the best I have seen here. We need to reform the process whereby when the Opposition comes up with a good idea, a good Bill or suggestion, we accept and study it for what it is, rather than turn it down just because it comes from the Opposition.

Thirty years ago, when I was driving my car with my father-in-law and my son, who was four at the time, my son piped up from the back seat to say, “Grandad, please stop smoking in the car. It is horrible”. Out of the mouth of babes, as they say. To this day nobody has ever smoked in our car because I decided he was right. I had not the courage to say it. From that day, however, we have had the courage to say that we do not want people smoking in the car or we do not allow it. Over 30 years ago my son realised that it was not nice to be sitting in a car with smoke in it. Today he is in the same profession as Senator Crown, albeit at a much lower level. He is a general practitioner. He cannot abide smoking. He thinks that it is one of the worst things a person can do for their health.

This is an excellent Bill. I urge the Minister not to let it sit but to move on it and pass it. Sometimes the simplest things are overlooked. We have made it compulsory to wear seat belts in cars, banned speaking on mobile telephones while driving, and introduced seats for children. Why can we not bring in this ban? It is easy enough to police. If gardaí when they stop us at night can put their heads into the car to check for the smell of alcohol they can certainly smell smoke too. Whatever about banning it completely, which may be a good idea, at least adults can say, “Please do not smoke in my car”, whereas children sitting in the back cannot very well say that. I ask the Minister to please not leave this parked for too long and to bring forward whatever amendments he must as quickly as possible to get this Bill initiated.

**Senator Jillian van Turnhout:** On going through my notes, I came across mention of Fionn O’Callaghan from County Wexford, whom the Minister will remember. He was seven
when we started this process and he is now nine, and I hope he will not be an adult when we bring this in. He took it on himself to write to the Taoiseach, asking him to use his good offices to introduce legislation to enforce a smoking ban where children are present in a car. His belief in us, as legislators, is something we have to live up to.

The Minister challenged us to raise public awareness. I have done considerable media work in the past 19 months on this issue, particularly with local media, and I have been asked how many cases we are talking about. Since we started this process, this has got me looking at cars and, increasingly, I see people smoking in cars with children. Today in the Dáil and tomorrow in the Seanad, we are going to, appropriately, rush through legislation, the Adoption (Amendment) Bill. Just 23 families are affected by that legislation, yet we will rush it through in two days. Therefore, even if we are only talking about a handful in the case of smoking in cars, it is enough. We are talking about public education. What has been shown by this process is that where there is a will, there is a way for us to do this. However, to have taken 19 months is not acceptable.

The Bill is not unprecedented. Cyprus, for example, has banned smoking in cars with children present, various jurisdictions across North America have done so and many more jurisdictions are in the process of doing so. Several Canadian provinces, a number of Australian states and other individual jurisdictions have come down on the side of introducing legislation. This is not a civil liberties or a left versus right issue, rather it is a public health issue that garners public favour.

Children face particular additional risks associated with passive smoking as they breathe more rapidly than adults and, therefore, take more breaths per minute. As a result, they have a greater level of internal exposure to any environmental toxin in the air they breathe. Furthermore, owing to their small size and the efficiency with which gas exchange occurs in their lungs, they have a higher level of tissue exposure per molecule of poisonous chemical in the atmosphere than adults. It is beyond doubt that children who are exposed to second-hand smoke run additional risks, especially in the areas of infection, bronchitis, asthma and, very worryingly, meningitis, which is often a sequel of other respiratory infections. Sadly, there is conclusive evidence that sudden infant death syndrome is more common in infants who are exposed to second-hand smoke.

Within one minute of a cigarette being lit in an enclosed car, the occupational concentration of dangerous particulates in smoke is, as Senator Crown said, 30 times higher than the level at which the Environmental Protection Agency in the United States advocates that people flee the streets and close the windows in their homes to escape environmental smoke. The exposure after one hour in a car with smokers is the same as that which a firefighter experiences in four to eight hours of fighting a brush fire. Tellingly, the emissions are five times higher from a ciga-
No one has a right to expose a child to cigarette smoke. Senator Colm Burke raised the question of a complete ban on smoking in cars, but I believe we may fall foul of constitutional provisions in regard to property rights. To be fair, we did look at that but we want to stay within the remit of the Constitution.

To deal directly with the Bill, we believe it is a minor amendment but it will extend the list of specified places in the Public Health (Tobacco) Act 2002 to include “a mechanically propelled vehicle in which a person under the age of 18 is present”. The Bill also deals with the question of locations to ensure any person who smokes in prescribed places is breaking the law. As Senator Crown said, we want this as a public education measure. It is not about acting zealously. It is not a road safety issue but, rather, a public health issue.

The figures are staggering. As I said, the Adoption (Amendment) Bill is going through the Dáil in 90 minutes or less today and through the Seanad in 90 minutes or less tomorrow. In that case, 23 families are praying and waiting, yet in this case, while nobody knows the figure, I can guarantee parents are smoking in more than 23 cars in Ireland. On that point, parents come to me in support of this because their children get lifts to school from other parents and, while they feel very comfortable saying to other parents, “Have a seat belt on my child”, they do not feel as comfortable, as Senator Moloney noted, about saying it about smoking. While we might say parents should have the courage to speak out, we all like to keep others happy and conform. By putting this into law, we will empower parents and children to say: “Do not smoke in this car. My health is at risk.”

Minister for Health (Deputy James Reilly): I am very pleased to speak on the Bill. In reply to Senator Barrett, I always get very nervous when anybody calls me an expert on anything. I assure the House I am not opposing this and I do not intend to submit any amendments to the Bill today, although I will bring amendments at a later stage in the legislative process and I will explain these as I go through the Bill.

I want to put my position on the Bill into context. Last year, I supported the principle of the Bill but indicated that amendments were required for it to operate effectively. I went to Government on this matter and the drafting of amendments to the Bill was approved. Since then, my Department has worked in consultation with the Senators, the Department of Justice and Equality, the Garda Síochána and the Office of the Attorney General on progressing the legislation. The Senators are aware that a number of key legal issues arose during this time. I am very happy to confirm that some of these issues have been resolved, and I thank the Senators for that. Other issues, however, are still under examination and subject to ongoing communication between my Department and the Office of the Attorney General.

I acknowledge and fully understand the Senators are frustrated with the perceived lack of progress on the Bill and that the Senators decided to go ahead today in the absence of amendments drafted by the Attorney General’s office and submitted to my Department. My new tobacco policy, Tobacco Free Ireland, includes a commitment to develop and introduce legislation prohibiting smoking in cars where children are present. I would like to reassure the Senators again that I am interested in results, not ownership of those results, and I am very happy to support the Senators’ Bill. However, I want to make sure it is a Bill that will stick and there are a
number of issues that still have to be addressed in it. I do not want to delay Committee Stage today in any way.

The overall aim of the Bill is the protection of children from the harm caused by second-hand smoke in an enclosed place, and I do not need to repeat what Senators Crown and van Turnhout have told us in regard to the damage that exposure to second-hand smoke causes to children. The World Health Organization has stated that there is no safe level of second-hand smoke. Recent reviews carried out for my Department by the Health Research Board on smoking in cars underscores the extent of the harm caused. All of the evidence emphasises the importance of protecting children from such exposure. Children are most exposed to second-hand smoke in the home and thereafter in motor vehicles. On previous occasions I have drawn the image of a child strapped into a car, with no way of escaping, as the vehicle fills with smoke from the cigarette of the adult who has lit up in the front seat or, even worse, right beside the child in the back seat. That is what we are talking about here.

Senators should be assured that there is no question of any diminution in my commitment to this matter. On the contrary, I have remained committed to progressing these measures as quickly as possible in legislation and supporting the Senators in that regard. I hope we can progress our amendments when outstanding issues have been addressed and that the final Bill will be another in a series of effective legislative controls to protect children from the harm of tobacco products. I ask Senators to join me in sending a strong message to the tobacco industry that we will not weaken in our resolve to protect citizens and, in particular, our children from their killer product. Rather, we grow stronger day by day and will not rest until we have achieved our goal of a tobacco-free Ireland by 2025 at the latest, if not before.

**Senator Jillian van Turnhout:** I absolutely take the Minister at his word on this matter. However, with Senator Crown’s reference to timelines in mind, will the Minister tell us when he will be in a position to bring forward the amendments he has indicated? It would help to inform our thinking if we had that information, bearing in mind that we all know how timelines can slip. We are ready to work with the Minister, but we need to know when exactly his proposals will be brought forward.

**Deputy James Reilly:** I would love to be able to give the Senator an answer to her question, but I cannot do so. As Harold Macmillan once said when asked about how a particular issue might progress: “Events, dear boy, events.” We have a huge amount of legislation to get through and our progress was held up to some extent by all of the troika-related legislation we had to bring through, even in the area of health. I hope Senators do not take it the wrong way when I point out that the process they have experienced in seeking to progress these particular measures highlights the general difficulties that arise in terms of bringing any Bill through the Oireachtas. It is why I opted on a range of issues in the Health Service Executive plan, which we are not discussing today, to seek progress through administrative structures, such as the proposed patient safety agency and other reform initiatives. There is no getting away from the fact that the legislative process is slow. As Senator Daly pointed out, there is a problem within our system in that it is very difficult to get legislation through in a timely fashion. Other jurisdictions seem to manage it in a much more efficient way. There are several factors which contribute to this slow progress, which I will go into in more detail as we move through the amendments. One of them is the need to engage with other Departments in terms of consultation and so on.

Senator Crown made an interesting point regarding the libertarian view and so forth. I abso-
Seanad Éireann

lutely agree that this Bill cannot be construed as representing an advance by the nanny state. In short, it is about protecting children. Adults can choose to smoke - it is their own business - but they cannot harm others when they do so, even if they choose to harm themselves.

Senator John Crown: I beg the understanding of my more experienced parliamentary colleagues and acknowledge a certain naivete on my own part when it comes to parliamentary procedures. Am I correct in understanding that the Government does not propose to oppose the amendments and will allow the Bill to pass Committee Stage?

Senator Colm Burke: Yes, we have no objection to the amendments.

Senator John Crown: I appreciate the clarification.

Senator Mark Daly: We are all aware of the importance of seeking to lead on these issues as opposed to follow. In a survey conducted by AA Ireland in 2011, some 74.6% of respondents were in complete agreement with the idea of a ban on smoking in cars where there is a child passenger, with a further 10.5% offering a slightly less emphatic endorsement. We can be confident that the public is with us on this issue.

In terms of the difficulties presented by the legislative process, I would suggest that it is not illegal for legislators and departmental officials to sit down with whomever is in possession of the file in question in the Attorney General’s office. That engagement could take place in the first week of January and should also include a representative of Garda headquarters. Getting everybody around the same table would allow us to review what has already been done and consider what changes should be introduced on Report Stage. It could all be hammered out quickly if we could meet with the person in the Office of the Attorney General with whom it has only been possible thus far to communicate via e-mail. That type of engagement would see us ready to proceed to Report Stage in the spring.

Senator Sean D. Barrett: I received some interesting information from the Department of Transport, Tourism and Sport which could help to illuminate our discussion today. In 2012, the Garda Síochána apprehended 240,000 motorists, 184,000 of them for speeding, 25,000 for the telephone offences to which I referred earlier and 219 for failing to heed a stop sign. Gardaí are already tackling motoring offences - the numbers involved would fill three Croke Parks - and we would only be asking them to monitor one additional practice. It might well turn out that there is very little extra work involved; the successful operation of the ban on smoking in the workplace does not require gardaí to go into pubs and restaurants on a regular basis to see whether anybody is smoking. The Minister’s leadership and advocacy on this issue may very well persuade people to comply without much need for enforcement. Gardaí are already doing a splendid job in the area of road traffic law enforcement 240,000 times a year; it would not require a huge additional different, when a motorist has been stopped, to look for evidence of smoking where there is a child passenger. All that is required is the taking on of a single additional duty.

Senator Martin Conway: Following on from Senator Barrett’s point, I see these provisions as being very much cost neutral in the sense that the policing is already taking place. In fact, if one takes into consideration the numbers of motorists who are stopped and cautioned, we can probably add another 100,000 to the Senator’s figure of 240,000. These proposals are absolutely sensible. I totally agree that when it comes to this particular issue, we have the wherewithal to set international best practice and be world leaders. In fact, I would go further
and ban smoking in cars outright on the basis that a vehicle might, for example, be shared between adults, one of whom smokes. In such cases, children could be subjected to residual second-hand smoke on a regular basis, even if neither adult smokes when the children are actually in the car.

The Minister’s decision not to oppose these amendments is very positive and demonstrates the goodwill and leadership of the Government on this issue. While things did not go the way everyone would have liked yesterday, it is clear today that we are all singing from the same hymn sheet, even though we might not be singing the same verses at the same time.

**Deputy James Reilly:** To be absolutely clear, I am 100% supportive of this Bill and of the banning of smoking in cars where children are present. There is irrefutable evidence for such a prohibition, as I have indicated. In fact, I am strongly in favour of banning it in cars altogether not only because of possible scenarios such as that referred to by Senator Conway, but because I see a health and safety issue in terms of driving with a lit cigarette in one’s hand. That cigarette could fall and cause all types of problems, as Senator Norris so colourfully described last night, and there is the distractibility aspect of lighting up and so on.

*I o’clock*

There is an argument to be made for that and there is an appetite for it, but this Bill does not address that nor should we expect it to or delay it by adding it in.

Make no mistake, I wish to have this Bill passed as quickly as possible. Like the Senator, I suffer tremendous frustration when Bills take so long to be passed. When I was in opposition I introduced a Bill on medical indemnity insurance to ensure that no doctor could be registered unless they were already insured, rather than permit them the temptation of failing to have insurance. I know some have done that. That Bill is published but it is sitting on the A list. That is due to the volume of business we must get through. There is no malign intent my part or on the part of the Department. It is due to the structure we have. Senator Daly is correct. We must review how legislation is made and passed through the Houses with a view to expediting it, because it is certainly causing problems for me and my Department. That is the reason I have looked to the administrative process for the HSE service plan to try to expedite some of the reforms which I believe are essential to get our health service to where it should be.

Question put and agreed to.

**NEW SECTION**

**Acting Chairman (Senator Michael Mullins):** Amendments Nos. 1, 3 and 4 are related and may be discussed together. Is that agreed? Agreed.

**Senator Jillian van Turnhout:** I move amendment No. 1:

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

2.—The Principal Act is amended by inserting, after section 6, the following:

   “6A.—(1) Summary proceedings in respect of the contravention of the requirements of section 47(8)(j) may be brought and prosecuted by a member of the Garda Síochána.

   (2) In respect of prosecutions relating to the alleged contravention of the require-
ments of section 47(8)(j)—

(a) it shall be presumed until the contrary is shown that a child who is a passenger in a mechanically propelled vehicle at the time of the commissioning of the alleged offence has not attained 18 years of age, and

(b) evidence of the age of a child at the time of the commissioning of the alleged offence shall be discharged by the production of an original birth certificate or passport in respect of the child.

(3) A member of the Garda Síochána who suspects that a person has contravened the requirements of section 47(8)(j) may—

(a) direct the driver of the mechanically propelled vehicle concerned to stop the vehicle,

(b) require the driver of the mechanically propelled vehicle to—

(i) state his or her name and home address,

(ii) state the names of all passengers in the vehicle, and

(iii) produce his or her driver licence, or learner permit,

(c) require a passenger in the mechanically propelled vehicle, who the member of the Garda Síochána reasonably suspects has contravened the requirements of section 47(8)(j), to state his or her name and home address.

(4) A person who fails to comply with the direction of a member of the Garda Síochána, who is exercising powers under subsection (3), is guilty of an offence.

(5) Notwithstanding any other part of this Act, a person who is the sole occupant of a mechanically propelled vehicle shall not be in breach of the requirements of section 47(8)(j).

(6) In this section—

‘learner permit’ has the meaning assigned to it by section 35 of the Road Traffic Act 1961;

‘driving licence’ has the meaning assigned to it by section 22 of the Road Traffic Act 1961;

‘mechanically propelled vehicle’ has the meaning assigned to it by section 3 of the Road Traffic Act 1961;

‘child’ means any person under the age of eighteen.

6B.—(1) Where a person is alleged to have acted in contravention of the a fixed charge notice, which may be declared by the Minister of Transport by regulations, stating that—

(a) the person is alleged to have committed the offence,
(b) the person may, during the period of 21 days beginning on the date of the notice, make to the Garda Síochána at the address specified in the notice a payment of the prescribed amount (‘fixed charge’) specified in the notice, and

(c) a prosecution in respect of an alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) Where a fixed charge notice is given under subsection (1)—

(a) the person to whom the notice applies may, during the period specified in the notice, make to the Garda Síochána at the address specified in the notice the payment specified in the notice accompanied by the notice,

(b) the Garda Síochána may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it, and

(c) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In a prosecution for an offence referred to in subsection (1) the onus of proving that a payment pursuant to a notice under this section has been made shall lie on the defendant.

(4) The Minister for Transport may by regulations, and in consultation with the Minister for Health prescribe the amount of a fixed charge and may prescribe different amounts in relation to—

(a) the number of persons in the mechanically propelled vehicle who have acted in contravention of the requirements of section 47(8)(j),

(b) the number of passengers in the mechanically propelled vehicle, and,

(c) the ages of the passengers in the mechanically propelled vehicle.

(5) In this section, ‘mechanically propelled vehicle’ has the meaning assigned to it by section 3 of the Road Traffic Act 1961.”.

Deputy James Reilly: I am not opposing the amendment. I am trying to be helpful because I want this Bill to succeed and to be implemented as quickly as possible.

The intention of the original Bill’s provisions and amendment No. 1 relates to the offence of smoking in a car where children are present. It is intended to give power to An Garda Síochána in respect of this offence. I agree with the comments made by people that the Garda is well positioned to do this and it is not a particularly onerous extra duty for gardaí. The amendment and the original Bill’s provisions on the matter are deemed unacceptable in their current form for two reasons. First, section 47 of the Public Health (Tobacco) Act relates to prohibiting smoking in the workplace. The provisions relating to this are enforced by the environmental health officers of the HSE. It is not appropriate in the Department’s view, which is supported by legal advice, that the provisions to prohibit smoking in cars, which is mainly a private space although
some people have work space cars, should be made in section 47, which specifically relates to
the workplace. The provisions relating to banning smoking in cars where children are present
should be contained in a separate provision within the Public Health (Tobacco) Acts.

In addition, as this new provision has An Garda Síochána as enforcer, it is important that
there is no legal confusion regarding the roles of An Garda Síochána and the HSE in respect
of tobacco control matters. Therefore, it requires a separate section of the Act. This is not an
insurmountable problem, but I am simply flagging it for the Senator.

Senator Jillian van Turnhout: It is good to know that.

Deputy James Reilly: The ban on smoking in the workplace was a sea change. I commend
Deputy Micheál Martin on introducing it.

Section 47(8) of the Public Health (Tobacco) Act 2002, as amended, sets out the defini-
tions of specified places, that is, a place of work, schools and so forth. These are the specified
places where smoking is currently prohibited. The amendment states that An Garda Síochána
can bring a prosecution in respect of section 47(8)(j), but that is just a definition provision, not
a requirement provision. The Senators have amended a definition provision but have not made
an explicit reference to the offence provision, that is, it does not state, in its current form, that
smoking in a car with a child present is prohibited. This is a significant drafting issue but, again,
it is not insurmountable. While I note the Senators have taken on board discussions between
health and justice officials regarding inserting powers for An Garda Síochána, this amendment
cannot be enforced for the reasons already outlined.

Amendment No. 3 relates to an offence provision under section 5 of the Public Health (To-
Bacco) Act. The amendment provides for the addition of the provision 6A. However, this new
provision refers to a contravention of section 47(8)(j), which is not a requirement provision as
it only relates to the definition of a specified place.

Amendment No. 4 also incorporates this fundamental provision problem. This amendment
relates to the amendment of the Road Traffic Act, which is under the responsibility of the Min-
ister for Transport, Tourism and Sport. Amendment No. 1 also makes reference to the “Minister
for Transport”. I understand that these provisions have not been examined by that Minister and
his Department. On this basis, the amendment would require further examination. Without
speaking out of turn, my colleague in the Department of Transport, Tourism and Sport is also a
doctor and GP and I have no doubt his support and co-operation would be forthcoming.

I accept the principle of amendment No. 2, which is to make the driver liable for a passenger
smoking in the presence of a child. As drafted, this amendment is not acceptable as it includes
drivers of a private vehicle in a list of owners and managers of workplaces. I reiterate the point
that this provision relating to smoking in cars should be a stand alone provision within the
Public Health (Tobacco) Acts and not included-----

Acting Chairman (Senator Michael Mullins): We are not dealing with amendment No.
2. Amendments Nos. 1, 3 and 4 are grouped together.

Deputy James Reilly: My apologies.

In short, none of these problems is insurmountable. They just have to be worked on. To
return to the previous point about how long it takes to get legislation through, another Bill that
springs to mind is the sunbed legislation which was introduced by my predecessor in 2010. It has just come back from Europe. I fully support that legislation and see no need to alter or interfere with it. The process is the process. Senators might say the Government should examine it and I agree that we should review how legislation is dealt with and passed. It breaks everyone’s heart at times that it takes so long to get legislation through the system.

Amendment agreed to.

Section 2 deleted.

Section 3 agreed to.

NEW SECTION

Senator John Crown: I move amendment No. 2:

2. In page 4, before section 4, to insert the following new section:

4.—The Principal Act is amended in subsection (3) of section 47, by substituting for “the occupier, manager and any other person for the time being in charge of the specified place” the following “the occupier, manager, the driver of a mechanically propelled vehicle, and any other person for the time being in charge of the specified place”.

Deputy James Reilly: As drafted, this amendment is not acceptable as it includes drivers of a private vehicle in a list of owners and managers of workplaces. The provision relating to smoking in cars should be a stand alone provision within the Public Health (Tobacco) Acts and not included in the current workplace smoking ban. In addition, the liability of the non-smoking driver is one of the issues raised by the Attorney General’s office and we have responded to it. Conclusive legal opinion on this issue has yet to be finalised. I accept the principle of it and these are not insurmountable problems.

Senator John Crown: We would be delighted to look positively at any amendments the Minister offers on Report Stage to deal with any technical issues with either the original Bill or these amendments.

Senator Jillian van Turnhout: I realise the Minister cannot give a commitment on dates, but can he give a commitment that we will all work together so when we reach Report Stage we will have the Bill correct, so it could go through the Dáil quickly? If we could get a commitment that the Bill that is passed by this House should be able to go through the Dáil quickly, I would be happy with that.

Senator Sean D. Barrett: The Minister has referred to all the problems, difficulties and frustrations. I believe his anti-smoking campaign will work. It is going well. The road safety campaign has been a spectacular success, and we compliment the Garda, the Minister, Deputy Vardkar, and all concerned. There might be a slight increase in the number of deaths this year but it is a remarkable reduction, so let us move forward. This is a good story about optimism for a healthier and safer Ireland. I commend amendment No. 4.

Senator Colm Burke: I do not wish to delay but I have a question about an outright ban on smoking in cars. I do not want to delay the progress of the legislation but I wonder if this matter could be examined.
Senator Martin Conway: That is the very point I was about to make. I had intended to suggest that if there was a way it could be incorporated in the Bill - I am sure the Minister could discuss the matter with its promoters and with the Minister for Transport, Tourism and Sport, Deputy Varadkar, who is also a GP - then that should be done.

Acting Chairman (Senator Michael Mullins): I presume the matter can be examined prior to Report Stage.

Amendment agreed to.

Section 4 deleted.

NEW SECTIONS

Senator Jillian van Turnhout: I move amendment No. 3:

In page 4, before section 5, to insert the following new section:

5.—The Principal Act is amended in subsection (2) of section 5 by substituting for “section 37(13)” the following “section 6A, 7(13)”.

Amendment agreed to.

Senator Jillian van Turnhout: I move amendment No. 4:

In page 4, before section 5, to insert the following new section:

6.—Section 103(1) of the Road Traffic Act 1961, as amended by section 14 of the Road Traffic Act 2006, is amended by replacing the text:

“and an offence standing so declared under paragraph (a) or (b) and each of the offences referred to in paragraphs (c), (d) and (e) are referred to in this section as a fixed charge offence.”,

with the following:

“(f) an offence under section 47(8)(j), or section 6A, of the Public Health (Tobacco) Act of 2002, as amended, may be declared by the Minister by regulations, made after consultation with the Minister for Health to be fixed charge offences of a form described by section 6B of the Public Health (Tobacco) Act 2002, as inserted by the Protection of Children’s Health from Tobacco Smoke Act 2013, and an offence standing so declared under paragraph (a) or (b) and each of the offences referred to in paragraphs (c), (d), (e) and (f) are referred to in this section as a fixed charge offence.”.”.

Amendment agreed to.

SECTION 5

Senator John Crown: I move amendment No. 5:

In page 4, after line 10, to insert the following subsection:
“(2) This Act comes into operation on such day or days, as the Minister may by order appoint.”.

I want the record to reflect what I stated on the Order of Business this morning and what I wanted to say in respect of the Health Insurance (Amendment) Bill 2013. In that context, I wish to bring to the attention of the Minister documentation that has recently come into my possession which corroborates a suspicion I reported to the statutory authorities 11 years ago to the effect that deliberate financial fraud took place at St. Vincent’s University Hospital and that said fraud was covered up by elements of the management and board of the hospital.

Amendment agreed to.

Section 5, as amended, agreed to.

Title agreed to.

Bill reported with amendments.

Acting Chairman (Senator Michael Mullins): When is it proposed to take Report Stage?

Senator John Crown: We would like it to be taken in January 2014.

Senator Martin Conway: It will be taken on the first sitting day in 2014.


Local Government Reform Bill 2013: Committee Stage (Resumed)

SECTION 1

Debate resumed on Government amendment No. 6:

In page 13, line 29, to delete “section 28 and” and substitute the following:

“section 28, section 51 (in so far as it relates to the insertion of section 149A into the Principal Act) and”.

Acting Chairman (Senator Michael Mullins): I welcome the Minister, Deputy Hogan, and call Senator Walsh, who was in possession.

Senator Jim Walsh: The Minister responded, not particularly satisfactorily I am afraid, to-----

Minister for the Environment, Community and Local Government (Deputy Phil Hogan): The Senator is very negative.

Senator Jim Walsh: -----the points we made in respect of this matter. I would appreciate it if the Minister would indicate whether I am wrong but-----

Deputy Phil Hogan: The Senator does not want to hear what I have to say.
Senator Jim Walsh: In my opinion local government is about the principle of subsidiarity. It revolves around delivering and administering services and ensuring that there is oversight in respect of them at the lowest level at which their delivery is effective. Another issue arises in the context of the transfer of executive powers and reserved functions to councils. I do not concur with the point the Minister made to the effect that councils are only there to make policy decisions and that they have no role in the delivery of services at local level.

Deputy Phil Hogan: They are employees.

Senator Jim Walsh: I do not know of any councillor who would inform his or her constituents that remedial works in respect of water services or repairs to potholes in roads - which are quite common these days - are not functions of councils and that these are matters with which the executives must deal. The Minister for Health was just in the House and I am sure he would never state that huge hospital waiting lists are of no concern to him. In light of the fact that the administration of services is not up to the standard that citizens would expect, I am of the view that there is a role for local elected representatives to play. The latter is particularly true in cases where the delivery of services is seen to be deficient. I would not agree with the fine distinction which states that councils are merely responsible for making policy decisions.

A report published in 1975 indicates that, at that time, the administration of government in this country was more centralised than was the case in communist China. There is a need to devolve powers from the centre to local areas, particularly those units which can deliver on the most cost-efficient basis. In general, the latter occurs at the point of service. This Bill does not address any of the elements that go to the core of having real local empowerment and democracy. What we have is local administration with councillors who have a highly restricted and constrained role. This underpins my thinking on the issue of reform of local government.

Previous attempts to reform local government have been abandoned. This Bill provides for a directly elected mayor of Dublin. While Dublin is the capital and largest centre of population, why does Kilkenny, for example, not have an elected mayor who would be the political supremo in the county? Why do people in County Kilkenny not have a right to decide which person should be accountable to them through the normal democratic process.

Currently, we have all-powerful county managers, some of whom are very good, while others are very poor. When I was actively involved in the local government scene I did surveys with various organisations which showed that fewer than half of the county managers were regarded as top class performers. We have seen the manner in which some of them secure their positions. The Bill does not include measures to address deficiencies in the Civil Service and Local Appointments Commission, under which people tend to be appointed on the basis of seniority, who they know or how well they are personally regarded by those in the system. Radical change is required in that regard. People outside the local government system must be involved in the appointment process.

These are the principles I would like enshrined in a proper local government reform Bill. The Title of the Bill before us another of the misnomers that have become a feature of most of the Bills introduced by the Government.

Acting Chairman (Senator Michael Mullins): I ask the Senator to stick to the amendment and avoid making a Second Stage speech.

Senator Jim Walsh: I am trying to give the Minister some food for thought so as to widen
his vision of local government of reform.

Senator Diarmuid Wilson: I do not wish to detain the Minister given that we must dispose of a large number of amendments by tomorrow. I concur with Senator Jim Walsh’s comments on the current position and the circumstances that will prevail if this Bill is passed. The word in the Title on which I propose to concentrate is “Local”. As a result of the Bill, County Cavan, the county with which I am most familiar, will lose seven county councillors, despite the previous census showing an increase in population of almost 18%. The reduction in the number of county councillors will leave the county with three scattered electoral areas.

Deputy Phil Hogan: What does this have to do with shared services?

Senator Diarmuid Wilson: It is related to local administration.

Senator David Cullinane: On a point of order, Senators should not make Second Stage speeches when we have more than 100 amendments to deal with.

Acting Chairman (Senator Michael Mullins): I will rule on such matters.

Senator David Cullinane: I am merely making an observation.

Acting Chairman (Senator Michael Mullins): I ask Senators to confine their contributions to the amendments under discussion.

Senator Diarmuid Wilson: Some colleagues who are newcomers to democracy may have a difficulty with freedom of speech. I will not take lectures from Senator Cullinane on whether this is a Second Stage speech or Committee Stage contribution on an amendment. While the Senator may not like listening to me and may get upset with my contribution, I will insist on making my point if he does not mind.

Senator David Cullinane: I do not mind if it is pertinent to the amendment.

Senator Diarmuid Wilson: We are discussing a Bill that allegedly reforms local government. It is not a local government Bill because when it becomes law, the elections that will be held will not be local. Under the proposed Cavan-Belturbet electoral area, people from Blacklion, a village in the west of the county on the Leitrim border, will vote in the same electoral area as people 40 miles away in Cavan town. Are such elections local or part of local administration? The answer is “No”. The legislation will deprive people, particularly in rural areas, of democratic representation. There should be positive discrimination towards rural areas. This Bill will cut the number of councillors in rural areas and increase the number of councillors in the east coast by the same number. That is not acceptable.

The Title of the Bill is-----

An Cathaoirleach: The Senator has strayed from the content of the amendment.

Senator Diarmuid Wilson: I may be straying slightly.

An Cathaoirleach: We had a full debate on the amendment yesterday.

Senator Diarmuid Wilson: I will conclude on a final point, which may give Senators a clue as to the reason Senator Cullinane appears to favour the legislation. The document known as Putting People First, which was meant to put the Labour Party first, will put Sinn Féin first
in the east of the country because of the unpopularity of the Labour Party.

**An Cathaoirleach:** None of these matters is mentioned in the amendments.

**Senator Diarmuid Wilson:** I congratulate the Minister and his party colleagues on providing for the demise of the Labour Party. As a result, the vote of other parties, including Senator Cullinane’s party, will increase. That may give a clue as to the reason the Senator is in favour of the Bill and wants to stifle debate.

**An Cathaoirleach:** Senator Norris appeared to indicate.

**Senator David Norris:** No, I said what I wanted to say. I support local government. As with the Garda Síochána, post offices and so forth, we should maximise support for rural communities and in that regard I support my Fianna Fáil colleagues on the amendment. The abolition of local councils in historical places such as Kilkenny, from where the Minister comes, Waterford and Cashel is a pity. I will not delay the House as we must dispose of the amendments as quickly as possible.

Amendment put and declared carried.

Government amendment No. 7:

In page 13, line 31, to delete “fixed” and substitute “appointed”.

Amendment put and declared carried.

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

**SECTION 2**

**Senator David Norris:** I move amendment No. 8:

In page 14, to delete lines 8 to 16.

With the indulgence of the House, I will read out the paragraph I propose to have deleted before analysing the reasons I am so very much against it. The paragraph reads as follows:

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, but no regulations shall be made under this section in relation to any provision of this Act after the expiration of 3 years commencing on the day on which the provision comes into operation.

This provision gives swingeing powers to the Government. These types of provisions are emerging as a frequent phenomenon in legislation. I object to them because they concentrate excessive power in the hands of Ministers. The first part of the paragraph refers to the removal of difficulties.

I do not think it is a particularly good idea to remove difficulties. One does not just bulldoze one’s way through them and flatten them out. The best practice is to examine them, see why
they exist, address the situation and cure the difficulty. There is a little too much of the Den-ning judgment - the appalling vista - that we must sweep things under the carpet. This seems to me to give the Minister or any Minister - it is not particular to the current, Minister, Deputy Hogan - a very big sweeping brush for shoving things under the carpet if he or she wishes. I would prefer the difficulties to be confronted and addressed rather than removed. The language is sinister, although it is becoming standard. I want to fight against the fact that this kind of language is becoming standard.

Turning to the phrase “Also necessary or expedient”, in politics, expediency has an unsa-voury ring to it. Expedient could mean that it is in the interests not particularly of the people but of the parties in government. That is expedient. I do not like that word either and it occurs no less than twice.

The paragraph ends by saying that no regulations will be made after three years but by that stage it will be done and dusted so that is no huge concession. Section 3 states that where regulations are proposed to be made under this section, a draft regulation should be laid before each House of the Oireachtas and the regulation shall not be made until a resolution approving the draft has been passed by each House. My first concern is this needs careful management because sometimes these kinds of regulations slither through on the nod. People have to be watchful or this can happen. I would be concerned that not enough attention would be paid to the fact that these things, which could have some requirement to be teased out in the House, would go through on the nod. I hope that will not happen. The Seanad has been recharged and revitalised by its recent endorsement by the people but at the same time I would be concerned.

On another point, this is still a very whipped House. In Senator Hayden and Senator Coghlan, the Government has the Mr. and Ms Whippy of this Chamber, because they are extraordinarily good at it. There is no suggestion whatever that accidents are likely to happen. We had a classic example last night when we almost got a Bill to stalemate, at least, but the Whip on the other side was very good - that is their job and they do it. I hope that the reforms of this House will mean that it resumes its role which has been, for the majority of my tenure here, the situation that it is much less confrontational than the Dáil. This Chamber should not be a Chamber to be set in confrontation with the Dáil; it should be less whipped. We should have more expertise in it and we should be prepared to advise rather than confront the Government. This is all part of my reservation. To give such very swingeing powers on the grounds of need-ing to remove any difficulty instead of confronting it, the use of the term, “expediency” and the Whip together, make it clear to me that whatever answer is produced will give such power to the Minister. I am not impugning the character of this Minister nor am I saying he would be likely to give in to these venal party impulses. I have always found him to be a decent man. Anyone who is on the side of Laois must have a good heart. However, I do not like this in legislation at all and I want to register a protest against this kind of clause. I will be voting against it.

**Senator Cáit Keane:** It is amazing how two people read the same words and take a differ-ent meaning from it. I read that part of the Bill as being a provision for providing that if any difficulty arises in a Bill, that the Minister will be able to correct it and bring into law what is actually in the Bill, not to bring anything new into law, but only what is provided for under the provisions we are discussing. Does the Senator not wish the Minister to be able to implement the Bill if an unintended consequence may arise? In my view, section 3 is very good, for the simple reason that we always complain about documents being laid in the Oireachtas Library without Members seeing sight or light of them. This section provides that a draft of the regu-lations shall be laid before each House of the Oireachtas and shall be passed by each House. That
is a good provision. I do not understand what Senator Norris is talking about.

**Senator David Norris:** I am sorry to hear it.

**Deputy Phil Hogan:** I fully understand Senator Norris’s position with regard to the wording of this section. It has been a relatively standard provision in this type of legislation for almost 100 years. It is designed as a very seldom-used provision to provide a mechanism for dealing with any unforeseen difficulty that might arise in the short term with the implementation of this type of administrative legislation. The Local Government Reform Bill will give effect to a number of structures, functions and new means of governance. It involves significant amendments of the existing local government code. Much of the change goes back to 1898. In order to ensure that there is no unintended consequence, this is the type of mechanism we use. The use of this provision is subject to a number of restrictions. As Senator Norris pointed out, it requires the positive resolution of both Houses of the Oireachtas - a worthwhile provision; it is time-bound at three years; the making of regulations under this provision would be subject to the most rigorous supervision by the Attorney General. It is a triple-lock against any Minister who might try to engage in some nefarious practice in the future. I am satisfied that the provision is necessary to deal with unintended consequences that may arise in the implementation of the legislation but it does not change the spirit of the legislation. It is merely to implement what is intended in the legislation. It is in line with practice elsewhere and is limited in its scope to avoid any unintended use. For that reason I cannot accept the amendment.

**Senator David Norris:** I thank the Minister for his almost plausible explanation. He says that this has been standard practice and that some form of this section has been in legislation for about 100 years. However, that is the exact reverse of the argument he made yesterday in this House when he said that this was not 1874 but rather 2014 and we have to cope with 2014. If we even provoked the Minister into taking back to his colleagues the fact that at the very least the language of this section should be looked at and words like, “expediency”, removed, then that might be fair enough.

Senator Keane had a difficulty with understanding where I was coming from and she read the section very differently. That is completely legitimate and she made some good points. However, Senator Keane will remember on so many occasions we have had regulations passed by this House without debate. This worries me. Could a provision be included to say that regulations should be debated by the House? I accept the Minister’s bona fides but I do not like the idea of expediency nor do I like the idea of removing difficulties. I want to confront difficulties. I would like the term, “expediency” to be removed. The ordinary citizens complain that politicians do what is most expedient for themselves.

**An Cathaoirleach:** Senator Norris, the House, not the Minister, decides what it will debate. The Minister has indicated he might be of some help to the Senator.

**Senator David Norris:** I thank the Minister.

**Deputy Phil Hogan:** I am prepared to look at the wording, in particular, the use of the word, “expediency”, on Report Stage.

**Senator David Norris:** I am grateful to the Minister. I may concoct an amendment for Report Stage. I very much welcome the Minister’s agreeable and flexible attitude to this.

Amendment, by leave, withdrawn.
Section 2 agreed to.
Sections 3 to 7, inclusive, agreed to.

**An Cathaoirleach:** Amendments Nos. 9 and 10 are out of order.
Amendments Nos. 9 and 10 not moved.

SECTION 8

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

**Senator David Cullinane:** I oppose this section. I tabled a number of amendments which were ruled out of order but I want to speak to the section. It concerns the amalgamation of the local authorities in Limerick, Tipperary and Waterford. I see all these issues as an issue of balance. I hope the Minister would agree that strong views were expressed on both sides of the argument regarding the pros and cons of amalgamation and the mergers of local authorities. While there are undoubtedly advantages and positives in mergers and amalgamations, there are also fears, risks and challenges which those local authorities will face. People must make up their own minds and I know there are different opinions in Waterford. I cannot speak to the same extent for Limerick and Tipperary but the Minister will know there were very strong opinions expressed by some in Waterford, even within local government, that the merger of the two local authorities would not be good in the long term for the county and city, particularly the city. I took a decision that I was against the merger but only on balance because I share some of the concerns. I see some of the positives. While I will make the arguments against it, I assume the Minister will press ahead with his plans. When he does, we need to ensure the merged authority works in the best interests of the people of Waterford city and county, which is what we will all do.

There is no doubt that what we are seeing are wholesale cuts to layers of local government in respect of abolishing town councils and merging some authorities. Waterford city, as the Minister knows, is the country’s oldest city. It is 1,100 years old next year. It is an historic city and it is only right and proper that a city of its size would have its own local authority and autonomy. We are not going to see Galway, Cork or Dublin lose their city councils and their autonomy. If we look at what has happened with job creation across the State and in the regions over the past five years in particular, we see there is a concentration of jobs in the larger urban centres of Cork, Dublin and Galway. We have not seen that in the regions. I can give the Minister the figures in terms of the IDA and Enterprise Ireland breakdown. The region I share with the Minister - the south east - has the highest level of unemployment in the country and is well above the national average of 14%. There is a very real concern that not having autonomy and the ability to expand, grow and develop with its own structures and autonomy distinct from the county could hamper economic development in the future.

The Minister spoke about shared services. The logic behind his argument is that the mergers and amalgamation will save money. He talks a lot about the savings that can be made but the reality is that some of those savings could have been made through greater collaboration between the two local authorities without having to merge them in the first place. That would make sense to me. I see the sense in people who live in Passage East, Cheekpoint or Dunmore paying their motor tax or bills in the city rather than having to go to Dungarvan in County Waterford. Some of that makes sense but it could have been done through shared services.
The Bill provides for the holding of a plebiscite in Dublin on the issue of a directly elected mayor, yet the Minister is, in essence, going to disband two local authorities and force them to amalgamate without asking for the consent of the people who live in those areas. I think this was a wrong move on his part. It is a mistake to change fundamentally the structures of local government in a city as historic and large as Waterford without asking the people for their consent. This is why I tabled an amendment in this regard.

The Minister might also give me his view on the expansion of Waterford city. If the city is to expand, it needs to expand northwards and we have the issue of the boundary extension of Waterford city into parts of south Kilkenny, which would be beneficial to all the people who live in that part of Waterford and Kilkenny. I know that might be a hot political issue but if the Minister is genuinely interested in the development of the south east, he must agree that Waterford city needs to be the economic driver. It needs to be the hub, capital, key economic driver, engine and heart of the region. For that to happen, it needs to have its own autonomy and to be able to expand naturally outwards without restrictions relating to boundaries and local government. That is why I agree with Fine Gael and Labour’s position before they entered Government when they supported the extension of the boundary into parts of south Kilkenny and looking at shared services between the local authorities as a better fix than forcing the amalgamation of the local authorities.

I want to come back to the issue of costs. I am sticking to Waterford. The Minister makes many positive arguments relating to the merger of the local authorities, which I accept. I have said it is an issue of balance but one of the core arguments the Minister makes concerns costs. He outlines the savings but he does not give us the corresponding figures for how much it will cost to amalgamate the local authorities. Despite requests for those costs from many people in Waterford, we have not been given the figures. Like many other things this Minister is doing in respect of water services, he is asking us to take a leap of faith without giving us the real information.

I have made my point on the amalgamation. I believe it should be a matter for the people who should have had their say. If the people of Waterford city and county believe merging the two local authorities is a good thing, and we had the arguments for and against, that is the way we should have proceeded. If the Minister proceeds with the amalgamations, we all must work as best we can to ensure we do the very best for Waterford city and county and get the development we need. I hope the Minister will accept that what has happened economically in the south east and in Waterford presents problems and challenges. We have a big problem with unemployment, which is 20% in Waterford city. Those challenges must be met. Whatever our views on the amalgamation, local government structures must be fit for purpose to meet the challenge facing the people living in those areas. I hope the Minister will take on board the comments I have made in a constructive way and see them as constructive. I look forward to his response.

Senator Jim Walsh: I support what has been said by Senator Cullinane. Looking at the shape of the local government system subsequent to this Bill, we will have regional city centres in many of the other regions, for example, Cork, Galway and Dublin. All economic indicators show the south east lagging behind the other regions. Unemployment is consistently high across the region. There is a need for greater attention from State agencies, particularly the IDA, which has neglected the south east, in particular some of its counties, including my own. We have had only a small number of visits from overseas companies in recent years - no more than one per year over the past four or five years. In some years, we have had none. In respect
of the removal of Waterford as an administrative centre in its own right, it is the largest city in the region and, as such, could be a focal point which would benefit the region economically and from a developmental point of view. I do not understand the reason for absorbing it into a county structure, no more than I can understand why Kilkenny would be absorbed. We will deal with this when we come to the dissolution of town councils. Will the Minister give the rationale for this? I see it as being fundamentally disadvantageous to the region. There are often tends to be rivalry between various towns and counties in the region. The administrative elected body of the capital of the region, namely Waterford City Council, has traditions and heritage, is involved in development, and promotes itself and in doing so indirectly promotes the region. If we do not have regional focus and Waterford City Council is removed there will be a loss in the area.

Even though the amendments have been ruled out of order I wonder whether the Minister would be minded to re-examine this matter and include it. There may well be a similar argument for Limerick but I am not sure. I do not have a major difficulty with North Riding and South Riding in Tipperary being amalgamated as it may make a certain amount of sense. The idea behind having a plebiscite in the areas to make the decision is something I will discuss with regard to town councils. This is a good principle and was enshrined in local government in the 2001 Act, if I remember correctly. The councils themselves can initiate a referendum where the people wish to make a particular decision on an issue of importance to them.

I certainly support the sentiments expressed and I genuinely feel the Bill is going in the wrong direction in this regard. Some Senators have spoken about areas losing seats. Wexford has gained 13 extra local authority seats. It is not something for which anybody on any of the councils on which I served in Wexford would wish. Every time a review of local government took place during the 25 years I was a member of the council it made a unanimous submission stating that membership of the council should not increased. This was because there is an appropriate size of membership which facilitates constructive interaction, debate and decision making. Once it goes beyond a certain number it becomes a talking forum rather than a focused decision-making body which holds the administration to account. This is a concern not only of mine but of many people who have taken an interest in local government.

**Senator Maurice Cummins**: I was mayor of Waterford city in 1995 and 1996 and when I hear it spoken about I certainly must speak about it also. Waterford city is the hub and gateway city in the south-east and drives the region. I agree that for this role to be fulfilled greater support for the region is necessary from the Government, particularly with regard to job creation. The region and city have been hit more than most. In saying this, I must also point out that since the Government came to office 3,000 extra people have been employed in the south-east, which is something that should not be forgotten. I am the first to stand up and shout, and will continue to do so, that Waterford city and the region should get its fair share of job creation and employment.

I want assurance from the Minister - which I have received previously, but I would like to have it on the record of the House - with regard to the mayorality of Waterford city. I want assurance from the Minister that the mayor will retain all the historic offices and ceremonial duties which have been held for 1,100 years. In 2014 Waterford city will celebrate its 1,100th anniversary. It is the oldest city in the country. I certainly would not support anything, irrespective of what party it came from, if I felt it was not of benefit to the city and was detrimental to the growth of the city. Naturally we would all like to see everything stay as it is, but things move on. Given the increased population in the metropolitan district of more than 65,000, I see the
amalgamation as being of benefit to Waterford city and county. It will give us a greater critical mass to put in place the structures necessary for any gateway city to operate.

I compliment the Minister on financing a number of projects through local government in Waterford in recent months. We had been waiting ten or 15 years for a new fire station and it is now under construction. When the old fire station is knocked down we will have an extension of six new courtrooms in the courthouse, also funded by the Government. I understand that tomorrow more significant funding will be announced with regard to housing. The Minister is certainly playing his part in the region and I can testify to this.

The big driving factor for the region, which all bodies and counties in the region realise will be highly significant and will help the region, is the university. Its development is in the programme for Government and Carlow and Waterford Institutes of Technology will be amalgamated to obtain university status. When this happens - it is not a question of if but when, and I hope it will be sooner rather than later - it will drive Waterford city and county and help us develop the new local authority structure to be put in place. It will unite the city and county.

Many people would like to see the city council remain because of the ceremonial duties in particular, but I will wait for the Minister’s response on this. I support the amalgamation process on the basis that it will be good for Waterford City Council and the inhabitants because of the critical mass which will be created in the metropolitan district and the energy which I am sure will flow as a result.

Deputy Phil Hogan: I thank the Senators for their contributions. I understand this is a very important issue for the structures of local government, but there is no such thing as business as usual for Waterford city. The economic situation in Waterford city has not been good for some time, particularly in the centre of the city. Waterford County Council developed commercial facilities close to the boundary of Waterford city which, unfortunately from a planning point of view, were allowed. Many of the businesses in the centre of Waterford city went into decline. This is the type of irresponsible planning which has happened in Waterford and which was replicated in several other places. The rows at local level about boundary extensions pale into insignificance when one sees what neighbouring authorities in the same county have done to each other.

2 o’clock

I am surprised that Senator Cullinane is concerned about reducing the number of local authorities when his own party in Northern Ireland has proposed a reduction from 28 councils to seven. He is not consistent with his party’s policy of local government reform in Northern Ireland, but that is not unusual.

Significant savings of €6 million will accrue from the merger of Waterford city and county. These will be used for essential services, including implementing the people’s business. There will be a one-off establishment cost for any merger. The same position will apply in Limerick. These figures have been verified, not by me, but by Grant Thornton, a reputable accountancy firm in this city that, before the decisions were made, we asked to determine what the financial benefits for the city and county of Waterford would be.

Senator Cullinane has to raise the hare about county boundaries and Ferrybank, but he can see that I am not neglecting Ferrybank. I opened and provided the necessary finance for the library facility, which the Senator never sought. I do not believe that anyone else sought
it either, but we provided an essential service for the people of south Kilkenny in Ferrybank. Senator Walsh must put up with the fact that most of his businesses are in the jurisdiction of the planning authority of Kilkenny County Council rather than New Ross, but it is a thriving business because it is in the area with the lowest commercial rates in the country. He would not move out of Kilkenny unless it was of significant advantage to his business, even though he loves New Ross.

This is the way business is. People are not sentimental about where they go in business. They go somewhere because of the bottom line. Businesses must survive. I am sure that Senator Wilson would agree as regards Clones and the far side of the Border. Indeed, Border areas are the best examples. We must view structures differently in the 21st century, but I am a county colours person.

**Senator David Cullinane:** The Minister can say that again.

**Deputy Phil Hogan:** I wish the Senator was as well. I believe in co-ordination. The co-operation between Waterford and Kilkenny has not been the best over the years. I remember a city manager, Mr. Doody, during whose time we had excellent co-operation. I was a member of Kilkenny County Council and regularly attended meetings between Waterford City Council and Kilkenny County Council. It is a pity that this co-operation lapsed over differences of opinion on various matters, but we have co-operated a great deal in terms of infrastructural development. For example, the major wastewater facilities for Waterford are based in Kilkenny. Waterford Port, where Senator Cummins used to work, is a major area of employment opportunity and a state-of-the-art facility that is now beginning to develop with Glanbia and SmartPly, expansions and further opportunities on the way. There is scope for co-operation. The previous Government classified Waterford as a gateway, but then forgot about it.

**Senator Jim Walsh:** I do not think so.

**Deputy Phil Hogan:** The results speak for themselves. The Senator mentioned the high level of unemployment. I compliment the former Minister, Mr. Martin Cullen, on ensuring that we had a motorway between Dublin and Waterford. Were it not for his presence as the Minister for Transport, that would not have happened. The money would probably have been diverted to the Dublin-Sligo route by other Cabinet members. He played a major role in the facility, which has opened up opportunities in the south east that would not have existed otherwise.

Senator Cummins is right, in that Waterford city has seen significant levels of investment in recent weeks, for example, €6.5 million for upgrading water services, a further €12.5 million to be announced tomorrow for housing and a €5 million surplus that I have guaranteed to Waterford city councillors as regards rates. Come the city’s budget time, I look forward to Senator Cullinane and his party supporting Fine Gael’s councillors in passing estimates that reduce commercial rates for small businesses, towards which his party seems to have adopted a new attitude, and give them a chance to survive and prosper in this difficult climate, taking on more employees in the process.

I assure Senator Cummins that the history of and traditions associated with the 1,100 years of the mayoralty of Waterford will continue under this legislation. The metropolitan district will have a mayor of Waterford who will be empowered with the same level of history, cultures, traditions, civic responsibilities and duties. I also assure him that the technological university of the south east project is making progress. Legislation will be published in 2014 to allow
for the merger of entities like Waterford Institute of Technology and Institute of Technology, Carlow. That merged entity could then apply for university status as a technological university for the south east. This is important for the future development of the south east, which is the only region without a university. I am delighted to be a part of a Government that included this matter in a programme for Government for the first time ever. This will provide equality of opportunity and access to families and individuals in the south east, in that a technological education at university level will be supplied as close as possible to where they reside.

Senator David Cullinane: My comments were constructive. It is unfortunate that the Minister has strayed somewhat, but I will keep my comments in line with a constructive debate.

I agree with everything that Senator Cummins stated, including his comments on the recent announcements of investments for Waterford, which are to be welcomed. No one would accuse him or anyone from his party of not doing the right thing by Waterford as they see it. That is not the charge that I have made. People make up their own minds about what they believe is best for the cities and counties they represent.

There are issues of balance. I have made up my mind on the basis of my genuine concerns, which are shared by Fianna Fáil Members and people who live in the city and county. We will just have to wait and see how they play out. If the merger proceeds, I will be constructive and work with the new local authority to the best of my ability. Of that, the Minister can have no doubt.

No one is arguing for the status quo. We need to change. If we are to be honest, the spatial strategy did not work for the south east because Waterford city did not perform as a gateway city to the extent that it should have. I am sure the Minister will agree that, if the south east is to grow, develop and improve economically, it must have a capital, a hub, an engine. That is Waterford city. As Senator Cummins stated, we need more investment and, critically, jobs. It is in the latter respect that the enterprise agencies will play a large role. There are some positive aspects to local government taking on more responsibility for economic development. There is something good in what the Minister is doing.

The Minister referred to irresponsible planning in Waterford. I do not accept that was the case in Waterford city. In fact, it was criticised for holding the line throughout the madness of the Celtic tiger years while other local authorities did not. As the Minister knows, we encountered difficulties with the neighbouring authorities. This issue could and should have been addressed through regional development, which I accept the Minister stated. The regional development process could have had more responsibility for integrated regional spatial strategies, retail strategies, etc.

This is not a question of sentimentality about boundaries or the expansion of Waterford city. I would not support anything based on sentiment. It must be what is best for the people living in an area. Waterford city is the economic engine. A city needs to expand naturally, but it is being prevented from doing so, in that it will not be able to manage some of the services in a number of areas in south Kilkenny. I know it is difficult for the Minister to accept this given that, as he said, he represents Kilkenny and is a county colours man. I proudly wear the Waterford jersey and the Minister proudly wears the Kilkenny jersey but I also think regionally. It is important for us to think regionally. I agree with the Minister that there has not been the level of cooperation in the south east that there should have been. The Minister might be aware that when I took up my position as a member of the Joint Committee on Jobs, Enterprise and Innovation
I drafted a report on economic development for the south east.

An Cathaoirleach: We are not discussing that report today.

Senator David Cullinane: I know that and I do not intend to discuss it. I am speaking about the amalgamation of the local authorities, economic development and responding to a charge made by the Minister. When drawing up my report, I consulted stakeholders in every county in the south east, including Kilkenny. I not only think locally, I also think regionally. That is what all of us across the Houses should be doing. Key to whether this proposal will be good or bad for the region will be if it allows Waterford city to grow and develop.

The Minister glossed over the core argument made by Senator Walsh and me in relation to allowing the people to decide this matter. We all have different views on this. I am not in any way calling into question the integrity of the views of Senator Cummins or anybody else who defends the amalgamation. They are perfectly entitled to do so and there are valid arguments in favour of it, but we should have had the debate on amalgamation of the local authorities and let the people decide if it was the right thing to do. Why was this not considered in the context of the decision to hold a plebiscite on the issue of a directly elected mayor? The Minister also did not address the issue of the cost of the amalgamation. Perhaps he will clarify the issues I have raised.

While the Minister has given a general overview of the reason the proposal is a good one, he did not address the core issues I put to him, namely, the holding of a plebiscite on this issue and the cost of the amalgamation. The Minister spoke of the savings that can be achieved in this regard but the city manager in Waterford has stated he does not believe those savings can be achieved. I would welcome if the Minister could set out the figures in respect of the expected savings.

Senator Jim Walsh: I listened carefully to what the Minister said. I agree with him that this is an important Bill. However, the changes being made in this Bill are not reform but a dismantling of local government. While some people believe it will have a positive impact on local government, I believe that impact will be negative, particularly in my region in that it will no longer have a focal point. I agree with Senator Cullinane that every region, in terms of economic, cultural and administrative progress, needs a capital and a focal point. As I said yesterday, Waterford is a prime example of a council that takes pride and a genuine interest in its city. I have met people prior to their going abroad to promote the interests of Waterford city, which was indirectly of assistance to the region. This focus will now be part of a wider agenda for the county as a whole. The alignment of the interests of the city and county do not always coincide. We are losing something, therefore, in terms of what is being done.

The Minister was generous to point out the progress made by former Minister, Martin Cullen, with support from the then Government and in respect of which there was a great deal of lobbying by Kilkenny County Council in ensuring construction of the motorway went ahead. It not only benefits Waterford but Kilkenny and Carlow. It undoubtedly was the foundation stone upon which economic growth in the region began. Five years into this recession, approximately €50 billion has been allocated in next year’s budget for current expenditure. Nothing has really changed since the current crisis began. In the past, the allocation for current expenditure was somewhere between €50 billion and €60 billion. It has been clipped a little since while capital expenditure has been cut by €3.3 billion, which is significantly more than half in the same period. I have made this criticism previously. The Minister’s comment in regard to former
Minister, Martin Cullen, raises the question of what the Ministers, Deputy Hogan, and Deputy Howlin, will have to show for their tenure in government with regard to the south east. What achievements can we point to?

**Deputy Phil Hogan:** What about the university?

**Senator Jim Walsh:** The university has been on the agenda for a long time.

**Deputy Phil Hogan:** Nobody has ever done anything about it.

**Senator Jim Walsh:** I would welcome it. I campaigned with others from the region for the designation of Waterford Institute of Technology as a university. I believe that will be pivotal to the region. I am mindful that our third level education system has been deprived of the necessary resources to ensure its educational structures produce graduates that will be of a quality on which we can build our future economic growth. Since this Government took office, there has been a decline in the ranking of our universities in the international league tables. This has to be of concern to us all. My recollection is that the only university in the top 100 is Trinity College Dublin and it, too, has slipped down the ranks during the past seven years. There is no point in having a university in Waterford unless it is not properly resourced. The Minister referred to the library in Ferrybank for the people of south Kilkenny. While developments such as this are necessary, particularly in a county where unemployment is high, we need to offer people more than library books. We need to provide them with jobs. That is where I would like to see the emphasis.

I know from my own county that the local government system has been pivotal in ensuring the interests of counties, towns and cities have been highlighted internationally. This has been done by way of trade, commercial and other promotions of areas, particularly in the Waterford region because of the failure of the IDA to provide any support to the region. Senator Cummins referred to the 3,000 new jobs in Waterford, which are to be welcomed. Anybody would welcome them. What the Senator failed to mention was that the number of job losses in the area equate to the number of jobs created.

**Senator Maurice Cummins:** They are net jobs in the region.

**An Cathaoirleach:** Senator Walsh is straying from the section.

**Senator Jim Walsh:** I am not. The section deals with the removal of the administrative centre of Waterford city, which is the capital of the region. That, to me, is a downgrading of the region.

**Deputy Phil Hogan:** The Senator is talking nonsense.

**Senator Jim Walsh:** This means city councils will be working directly on behalf of the cities. If there is growth in Dublin, the whole hinterland of Dublin benefits. Likewise, Cork and Galway. The south east is being deprived of a centre, which causes me concern. I believe the scope within the local government system to attract major industries into particular towns and cities is being removed by this Bill. This is not a move in the right direction.

**Senator Cáit Keane:** The Minister referred earlier to his being a county man. He is a great man.

**Senator Jim Walsh:** The Senator should elaborate on that.
Senator Cáit Keane: Waterford is well represented here by Senator Cummins and others. As far as the county mayor is concerned, Waterford and Kilkenny are being well looked after. I would like to speak on behalf of all the other counties not mentioned thus far. The 2001 Act provided for directly elected mayors. We could end up with a case where a district in a county with 20,000 people would have a mayor but the county, with a larger population, would not. They could be ruled by two different people in opposition etc. I am a great county woman and every county would hold its pride. Many counties do not want to use the term “mayor” and prefer the term “cathaoirleach”. The Minister might reconsider the issue.

Senator Denis Landy: We are speaking about the south east and it is my duty to represent Tipperary. I concur completely with the Minister about Waterford city. I know it very well as I worked in the city for 13 years from 1987 to 2000; that was on Broad Street in the middle of the city, which was the hub at the time. It saddens me to see the centre of the city run down in the way that it has been. Major outlets moved out for business reasons, as the Minister correctly said. That was facilitated by politicians who decided to rezone lands on the fringes of the city, causing the demise of the centre. I probably go to Waterford city more than any other town because I have many links there and I know it is fighting back. For the Christmas period there is Winterval, a fantastic event that goes on right over the Christmas period.

I do not accept the Government is not doing anything for the south east. Much infrastructure has been put in the south east and in my town, for the first time since 1977, a new educational facility in the form of a school is being provided. There is also a new primary health care centre, and that is the first time anything has been done for 30 years with regard to health care. To say the south east is not getting infrastructure is incorrect. I commend the Minister and his ministerial colleagues on the effort they are making for the south east. It is an uphill struggle but we started from a very low base, and the damage to the south east was done during previous Administrations.

I commend a former Minister and Deputy, Mr. Martin Cullen, who was mentioned earlier, for his work in providing a motorway in the area. When I leave my house to come to Dublin, I am on the motorway in 15 minutes and it goes straight to Dublin.

Senator Cáit Keane: We say a prayer for Martin every day.

Senator Thomas Byrne: He never got such compliments when he was in Government.

Senator Denis Landy: That piece of infrastructure is critical, as is the bridge that was built to take the pressure from Waterford city and make it more attractive as a retail centre. I would not like the claim to go unchallenged that the south east is not fighting back, because it is. It is an uphill battle because we started from a very low base that was left by the previous Administration.

An Cathaoirleach: Is section 8 agreed?

Senator Jim Walsh: A serious question was put to the Minister as to why he did not consider undertaking a plebiscite. It would be interesting for him to put a reply to that question on the record. That would seem to be a sensible approach, given that his disposition was to demolish all town councils, and he might have given consideration to the people being given the decision rather than the Minister.

Deputy Phil Hogan: I considered everything and anything with regard to local govern-
ment reform and decided not to have a plebiscite.

Question put:

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

Question declared carried.

SECTION 9

Question proposed: “That section 9 stand part of the Bill.”
An Cathaoirleach: We discussed this section with the last one, but Senators Wilson and Cullinane have indicated that they oppose it.

Senator Paschal Mooney: You are right, a Chathaoirligh. In fact, I thought we were debating section 9 rather than section 8, such was the variety of the contributions. I am interested in the practicalities of the city and counties operating in Limerick and Waterford. That they are losing out in a sense has been very well aired. Galway will retain its council status, while Limerick and Waterford do not due to the amalgamation. In practical terms, I am somewhat concerned about the references to city and county in the legislation.

I do not have any experience of a borough or town council because County Leitrim never had the population to generate one, but there was always a tension between the rural and the urban. There was always a certain tension between Carrick-on-Shannon, as the county town, and the rest of the county when it came to council initiatives. How does the Minister envisage this working in practice? Will there be an equality or parity of esteem between the city and the county? Legislatively, they are referred to as city and county. Presumably, the councillors who will form the bulk of the municipal area will elect a mayor, although perhaps the Minister will clarify this.

I presume that those who represent the city borough or electoral area will elect a mayor. What relationship will the mayor have with the county mayor or cathaoirleach? What relationship does the Minister see developing between the councillors who, I think, mentally will continue to operate as city councillors rather than county councillors? How does he see that relationship work? Does he think it will be an advantage? I am somewhat reluctant to enthusiastically embrace getting rid of the county or city councils and amalgamating them because, in practical terms, an enlarged council will lead to continued tensions between the urban and rural areas. I also suggest that it will be detrimental to the cities of Limerick and Waterford but not for Galway and the major centres in the country. The proposal will have a negative impact rather than a positive one.

Senator David Cullinane: I do not want to rehearse the arguments.

Deputy Phil Hogan: It is allowable in this case.

Senator David Cullinane: We had a good decision on section 8 which dealt with the amalgamation of Waterford City and County Councils. I thank Senators Cummins and Landy for their positive contributions on Waterford city.

I wish to comment on the Minister’s one line response to the question on the core issue of whether a plebiscite was considered. He said that all things had been considered but I am being constructive when I say that we deserve more of an answer. He must accept that there are some concerns. It would have been wiser to let the people decide.

I ask him to explain why a decision was taken to amalgamate some cities and counties but not others. Let me take Galway and Waterford as an example. Why was Waterford not considered for amalgamation? Why was Galway considered for amalgamation? What criteria was used to judge whether an amalgamation was in the best interest of the people of Waterford city and county but not in the best interest of the people of Galway city and county? What principle, logic and criteria were applied? I would like to hear his views on the matter because it might explain his decision to amalgamate some local authorities and not others.
Deputy Phil Hogan: Senator Mooney was worried about the tensions between rural and urban councils. There are no town councils in County Limerick. There was Limerick City County and Limerick County Council so we did not have a tradition of tension between urban and rural in that sense. That did not stop Limerick County Council from approaching the boundaries of Limerick City Council to zone lands and, like Waterford, sucked the economic centre out of Limerick city. The bad practice and planning had a detrimental effect on the town and city centres of Limerick and Waterford. The State should not have provided infrastructural investment but it did and we now see the difficulties that the Government must reverse in the future in order to strengthen the city centres in both Limerick and Waterford.

The municipal district councillors are elected for their municipal district area but they are the same councillors who go to the plenary session of Leitrim County Council. They can argue their point in both places. They can seek resources to take care of needs and priorities for their area at municipal district level and then they can argue their point with the other 18 councillors in Leitrim.

As Senator Mooney will know, I made an exception for the counties of Longford, Leitrim and Roscommon which have a low population in order to ensure that they had a critical mass of 18 councillors. They can co-operate together in order to ensure that they have the necessary needs and that is based on the fact that they will now have more discretion at local level to raise and spend their moneys at local level.

With regard to Waterford, I am surprised that Senator Cullinane tabled an amendment seeking 18 councillors to be in the city and county of Waterford, rather than 32 councillors.

Senator David Cullinane: No, the Minister has not read my amendment correctly.

Deputy Phil Hogan: I have read the Schedule.

Senator David Cullinane: No, he did not.

Deputy Phil Hogan: The Senator said Waterford.

Senator David Cullinane: No, there are two amendments.

Deputy Phil Hogan: No, there is not.

Senator David Cullinane: The Minister did not read the second amendment.

Deputy Phil Hogan: No, I read it.

Senator David Cullinane: No.

Deputy Phil Hogan: I have read it very carefully.

Senator David Cullinane: No, he did not.

Deputy Phil Hogan: Obviously it was a mindset that the Senator had which is similar to what is happening in Northern Ireland, that is, reducing the number of councils from 28 down to seven.

Senator David Cullinane: We will deal with the amendments when we reach them.

Deputy Phil Hogan: The people of Coleraine or Maghera did not have an opportunity to
avail of a plebiscite to make a decision but the Senator’s party made the decision. I have looked at every situation in terms of a plebiscite for various areas. I thought that the most appropriate place, where there was a strong case for a directly elected mayor originally, was the Dublin region. We looked at the four local authorities.

Senator Jim Walsh: Like Dev, the Minister looked into his heart.

Deputy Phil Hogan: I did.

Senator Jim Walsh: The Minister has spoken for the people.

Deputy Phil Hogan: I did. Senator Walsh is very glad that we did in Kilkenny because he makes a living in the city.

Population and geographical factors were taken into account and Waterford city and county will now have a population of 115,000; Limerick city and county has a population of 184,000; and Galway city and county has a population of 250,000. Senator Ó Clochartaigh will know about Galway city and geographical distances between it and other locations. For example, from Clifden to Portumna, they are greatly different and at variance in population and geographical terms than Limerick and Waterford.

Senator David Cullinane: I do not accept that statement from the Minister. As somebody who has driven from Youghal bridge to Passage East in Waterford on many occasions, I know that the journey is a fair distance. I do not think that he can-----

Deputy Phil Hogan: What is the mileage?

Senator David Cullinane: I do not know. I shall look it up on the AA route planner and get back to him with the information in a few minutes.

Deputy Phil Hogan: Then the Senator can confer with his colleagues.

Senator David Cullinane: For example, Tallow town in County Waterford is a fair distance away from Passage East.

Deputy Phil Hogan: It is 50 miles from Clifden to Galway.

Senator David Cullinane: The distance is greater from Youghal bridge to Passage East in Waterford.

Deputy Phil Hogan: It is only over the road.

Senator David Cullinane: That is not a good enough reason to say that it is healthy, good and positive to amalgamate Waterford city and county councils and base it on population figures and distances between one part of the county and another.

Deputy Phil Hogan: The 18 councillors would have a long way to travel to meet their people.

An Cathaoirleach: The Senator please, without interruption.

Senator David Cullinane: The Minister wants to discuss amendments that we have not yet reached. There are two amendments, one for Waterford city and one for Waterford county.
Deputy Phil Hogan: A mistake.

Senator David Cullinane: It may be difficult for him to read Bills and amendments.

Deputy Phil Hogan: I read them all.

An Cathaoirleach: I ask the Senator to debate the section.

Senator David Cullinane: I am more than happy to help the Minister understand the amendments and that is why we are here. I do not accept his logic.

Deputy Phil Hogan: Will Sinn Féin have a plebiscite in Coleraine?

Senator David Cullinane: He would know a lot about Coleraine and that is all that I can say.

Deputy Phil Hogan: The Senator would be surprised.

Senator David Cullinane: I do not accept his logic that amalgamation is good for Waterford but not for Galway and it does not make sense to base his decision on population figures.

Senator Paschal Mooney: I raised the issue of tension between urban and rural, regarding Limerick and Waterford, because both of the cities have councils that focus on their respective cities and on all aspects of city life. They will now form a larger block that will be a county council so when decisions are taken it can be out voted. I means that the city councillors who want something that is in the interest of the city will be outvoted.

Deputy Phil Hogan: That is democracy.

Senator Paschal Mooney: I know that it is democracy.

Deputy Phil Hogan: Yes.

Senator Paschal Mooney: It seems like he has used a hammer to crack a nut here. He gave the impression that the move was positive but the jury is out on whether that is the case.

With regard to the question of retention, the Minister used a variety of adjectives to define the mayoralty of Waterford when we discussed the matter. Liverpool has a mayor and chief executive officer. I remember talking to its CEO during a visit to the city. I learned that the mayoral role is largely ceremonial and that he or she has no other function whatsoever. I suggest, in the case of Waterford and Limerick, that even though municipal councillors can nominate and elect a mayor, the position will gradually lose its profile and be less effective simply due to being part of a larger voting block that represents the entire county of Limerick and the entire county of Waterford. That is the only reason I raised the question of tension between the two regions.

I know that the Minister is not going to change his mind on the matter. The jury is out on whether the development is positive and it may be detrimental in the long term to the interests of both of the cities of Limerick and Waterford.

Senator Trevor Ó Clochartaigh: The Minister has raised an issue that I wished to raise, namely, how he chose the different local authorities. It has been argued in Connemara for a long time that Connemara should have its own county council because of its size and geographical area. The local members of Galway County Council would argue that because there are seven
councillors from Connemara and 23 councillors from east of the----

**Deputy Phil Hogan:** I am surprised that Sinn Féin is bringing that up.

**Senator Trevor Ó Clochartaigh:** I am just looking at how the Minister came to make his decisions and asking whether this issue was taken on board during that process. The area involved is huge. It has often been said that Connemara is larger than counties such as Leitrim, Roscommon and Louth in terms of population or geographical area. Was that taken into consideration? As the Minister said, the distance from Clifden to Portumna is absolutely massive. It is very hard for the members of Galway County Council to cover such a distance. The city councillors have the advantage of having their remit confined to the area within the environs of the city. It is a genuine issue. We feel that the way Galway County Council is structured means there is a bias towards the east of the county. There is a bias in favour of east Galway when decisions are being made because most of the councillors - 23 of them at present - come from east Galway. The best example I can give in that regard relates to the fire brigade service, which is the subject of much debate at present. As the Minister will be aware, there are seven or eight fire stations in the east of the county, but the station in Clifden is the only one in the west of the county. A strong case has been made to the effect that the traditional structure of the county council is part of the reason for that. There has tended to be a bias towards the east side of the county in the allocation of resources. I know the Minister has looked at all of the options. During his deliberations, did he consider the establishment of a separate county council for Connemara?

**Deputy Phil Hogan:** I considered the establishment of a single local authority for the county and city of Galway. I decided to retain the city and county councils on the basis of the reasons outlined by the Senator.

Question put and declared carried.

SECTION 10

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

**Senator David Cullinane:** Section 10 deals with the boundaries of the new local government areas of Limerick, Tipperary and Waterford. I would like to revisit our earlier discussion on the natural expansion of Waterford city. Does the Minister agree with the strong case that has been made consistently by Waterford City Council for the natural extension of Waterford city into parts of the south Kilkenny area? Why was that not considered as part of the new boundary changes? Would it not be in the best interests of the people who live in some of those areas if they were to come under the new metropolitan district of Waterford? Notwithstanding one’s allegiance to one’s county colours, I think it would have been a positive move and an act of good faith on the part of the Minister in relation to Waterford city. I wonder why that was not considered in the context of the fundamental reforms we are seeing, such as the establishment of the new metropolitan district, the implementation of boundary changes and the amalgamation of the councils. Why was this issue not addressed? Waterford City Council made an application for a boundary change a number of years ago.

**Deputy Phil Hogan:** It was turned down.

**Senator David Cullinane:** Yes. Did the Minister consider the matter? Did he study the report? Did he not agree with some of the recommendations in the report? Can he not see the
sense and the logic underpinning those recommendations? Does he agree that these changes would be positive and good for the development of Waterford city?

Deputy Phil Hogan: I did not look at that. I think everybody knows perfectly well my views on the boundaries in south Kilkenny, or indeed in Rosbercon or anywhere else. I did not have to look at it because I have a very fixed view on the matter. The people of Ferrybank and south Kilkenny are well served by Kilkenny County Council in the same way as I am sure the people of Waterford city are well served by Waterford City Council.

Question put and declared carried.

Question, “That section 11 stand part of the Bill,” put and declared carried.

Question, “That section 12 stand part of the Bill,” put and declared carried.

Question, “That section 13 stand part of the Bill,” put and declared carried.

Question, “That section 14 stand part of the Bill,” put and declared carried.

SECTION 15

An Cathaoirleach: Amendments Nos. 11 and 12 have been ruled out of order.

Amendments Nos. 11 and 12 not moved.

Question proposed: “That section 15 stand part of the Bill.”

Senator David Cullinane: I want to speak on this section for clarification purposes because our amendments were ruled out of order. I would like to be helpful to the Minister because he raised an issue about these amendments. Amendment No. 11 proposed that the Waterford county area should have 18 councillors. Amendment No. 12 separately proposed that the Waterford city area should also have 18 councillors. Therefore, we were proposing that County Waterford as a whole should have 36 councillors, as opposed to the 32 councillors currently provided for. I would like to make a point about the number of councillors in response to what the Minister said about the position in the North in this regard. He often speaks about the North when he comes into this House. We were proposing that this State should have a minimum of 1,165 councillors. That would bring us into line with the number of councillors in the North. The Minister’s approach takes us-----

Deputy Phil Hogan: How many councillors was Sinn Féin proposing to have in the Republic?

Senator David Cullinane: The figure in our proposal is 1,165, whereas the figure in the Bill is 949. To be helpful and constructive, we suggested a more appropriate figure in the case of each of the cities and counties. We are not criticising and opposing the Minister for the sake of it. We are trying to ensure there is adequate elected representation across the board. We want to make sure the issue of subsidiarity is taken on board. I am sure the Minister will agree that it is difficult to put one’s name forward on a ballot paper seeking to be elected to represent one’s city or county on a local authority. It is a demanding job. More demands than ever are now being made of local authority members. It is important that we have a sufficient number of local authority members across the State. If one examines any of the reports that compare the local government figures in this State to the equivalent figures in other states, including the OECD
reports, one will find that we have the lowest number of councillors of any of the European countries. That problem will be exacerbated by the passing of this section of the Bill, which will see a significant reduction in the number of councillors.

That is one of the fundamental reasons I oppose the Minister’s entire approach. He is reducing the number of councillors, but he is not giving local authorities any powers of substance. He is tinkering at the edges. He is making some minor changes here and there. He is providing for no new fundamental powers. This Bill does not devolve power from any Department to local government. It is not in the Bill because the Minister is not interested in it. He is interested in introducing minimalist piecemeal reform, saving money and reducing the number of councillors and councillors. It is all about reducing numbers. It is not about reform at all. A big opportunity is being missed. The Minister had a big opportunity to reform local government properly, but he has not done so. I will oppose this section on the basis that I do not accept the figures proposed by the Minister as he tries to reduce the number of councillors. It is important that we take an all-island approach. We should be consistent across the island. We should have a sufficient number of elected representatives in this State and-----

Deputy Phil Hogan: The Senator has a brass neck.

Senator David Cullinane: -----it should correspond with the number of councillors we have in the North as well. It is important that we have a consistent all-island approach on these issues.

Senator Jim Walsh: This section sets out how many members each municipal council will have. Having gone through the Bill, the only changes I see are name changes. This is a superficial approach to improving local government. As I mentioned earlier, the number of county councillors in my own area will increase from 21 to 34. I suggest there is an optimum number of councillors that makes a council effective. For that reason, the numbers set out in this Bill for the vast majority of councils are probably too large. As a consequence, the effectiveness of local government will be nullified. There are other reasons for that. The approach we are taking is disparate and centralised. Senator Cullinane is absolutely correct when he compares the position here with that in other countries.

3 o’clock

The Irish system of local government is probably the most centralised in the OECD. It is controlled from the centre, which is probably the reason it lacks cost-effectiveness, efficiency and accountability.

I fully concur with the Minister on out-of-town shopping centres and developments. While he is correct in that regard, the responsibility for this trend lies not with local authority members but officials who were probably working to guidelines issued by the Department. We must recognise where the deficiencies and failures in the system lie. Given his long involvement in local government, I am surprised at the Minister's approach. He has worked with some good county managers in County Kilkenny and will have observed the modus operandi of local government. For this reason, I expected him to show greater empathy in terms of what needs to be done. Unfortunately, what we see here and in all changes to local government and many other areas is the retention of as much power as possible by the centre, in particular the bureaucracy. This is regrettable because the Bill presented an opportunity to build on the work done in 2001, which did not deliver the anticipated outcome and has threatened the democratic functions and
empowerment of local authorities. Once the principle of subsidiarity has been abrogated, as has been done in a dramatic fashion in this Bill, it is difficult to put in place an effective system.

I recall discussion on proposals to abolish town councils and replace them with area or district councils and abolish county councils and have area councils report to regional councils or authorities. The Bill appears to move by stealth in that direction. If that is the route being taken, let us have a debate on it but we should be informed. Have discussions taken place in that regard? Is this Bill a step towards local government becoming regional, with district areas reporting to a regional authority? Such an approach would avoid some of the duplication that occurs.

An Cathaoirleach: The Senator may raise that issue in the subsequent section.

Senator Jim Walsh: I do not wish to contribute to every section. I am trying to facilitate the passage of the Bill.

An Cathaoirleach: The Senator seems to be contributing on every section.

Senator Jim Walsh: This legislation is a missed opportunity. The Minister could have reduced the number of town councillors rather than abolish town councils as the latter option will result in practically no savings being made. Current staff will be subsumed into county councils and no one will lose his or her employment. Town councillors are very cost-effective as they are paid a pittance for the work they do. They provide leadership, which is an issue to which I will return when we reach the section on the dissolution of town councils. The Minister has lost sight of these facts.

Streamlining the membership of the councils will be a step in the right direction. I was a member of my area council, which currently has four members, when it had five members. The decision to increase the number to eight members will not improve outputs.

Senator Diarmuid Wilson: As Senator Cullinane pointed out, Ireland is the most under-represented nation in Europe. I share Senator Walsh’s disappointment in the Minister, who spent 20 years as a distinguished member of Kilkenny County Council.

Deputy Phil Hogan: I am reducing the number of members on Kilkenny County Council.

Senator Diarmuid Wilson: As the Minister stated, he wore his county colours with pride while a councillor and fair dues to him for continuing to do so. Unfortunately, he has taken the advice of officials because this legislation is an officials’ charter.

Deputy Phil Hogan: I take full responsibility for my actions, unlike others.

Senator Diarmuid Wilson: It is proposed to reduce the number of councillors in all county councils and abolish town councils. People in County Cavan will have 34 fewer public representatives as a result of the Bill.

Deputy Phil Hogan: It is to be hoped things will be better.

Senator Diarmuid Wilson: The winners will be the officials because, as the Minister is clearly aware, while it is easy for officials to fob off members of the public, they cannot easily fob off public representatives. I feel sorry for the Minister because officials have been trying for decades to achieve this outcome but previous Ministers did not fall for it. Unfortunately, the
Minister has fallen for it in its entirety.

**Deputy Phil Hogan:** They got the idea from the former Minister, Noel Dempsey.

**Senator Diarmuid Wilson:** I am disappointed because I hold the Minister in high personal regard. He is an excellent Minister, albeit one who has made some serious mistakes which we do not have time to discuss. The winners in this process are the officials and the losers are the citizens.

**Senator Cáit Keane:** If Senator Walsh believes there are too many councillors in one area and not enough in another, he should table an amendment on Report Stage to have their number reduced in County Wexford and increased in County Galway. I am from Clifden and we are halfway to Dublin when we reach Ballinasloe.

I listened carefully to Senator Walsh because he usually speaks sense. In this case, he did not speak sense for the simple reason that he was wrong to suggest the Bill provides for nothing more than a change of name. Some 44 functions are being devolved to the district, all of which had been held by county councils, and 24 other functions will be devolved provided the councillors agree to do so. This means 68 new functions will transfer to district councils. This legislation means much more than a change in name for a county.

Councillors will have the power to vary rates on vacant premises as they see fit. This is a good provision. As the Minister indicated, district councillors will sit on county councils and will be able to speak up for their areas and make a case in respect of vacant premises in their area. Functions are being devolved. I accept it will make it harder for local councillors because there will be a strong lobby but one cannot have gain without pain. If one wants the devolution of functions to proceed, one must be prepared to take the pain that comes with the gain. I will speak on the other positive changes in the Bill when we reach them.

**Deputy Phil Hogan:** I do not know what to say on these matters. I will bring with me tomorrow a policy document in which I have no doubt Senator Jim Walsh was involved alongside the former Minister, Mr. Noel Dempsey. I will outline for the Senator what Fianna Fáil Party policy on municipal districts and authorities was some years ago.

**An Cathaoirleach:** There is no point in the Minister outlining today a policy he proposes to outline again tomorrow.

**Deputy Phil Hogan:** The Cathaoirleach is correct. I am giving Senator Walsh a little teaser on the metropolitan authorities proposed by Fianna Fáil. We will see tomorrow how his party policy equates with the rhetoric I have listened to for the past two hours.

**Question put:**

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Coghlan, Paul.
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Gilroy, John.
Hayden, Aideen.
Higgins, Lorraine.
Keane, Cáit.
Kelly, John.
Landy, Denis.
Moloney, Marie.
Moran, Mary.
Mullins, Michael.
Noone, Catherine.
O’Neill, Pat.
Quinn, Feargal.
Whelan, John.

MacSharry, Marc.
Mooney, Paschal.
Mullen, Rónán.
Norris, David.
Ó Clochartaigh, Trevor.
Ó Murchú, Labhrás.
O’Sullivan, Ned.
Power, Averil.
Reilly, Kathryn.
van Turnhout, Jillian.
Walsh, Jim.
Wilson, Diarmuid.
Zappone, Katherine.

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

Question declared carried.

Progress reported; Committee to sit again.

Adjournment Matters

Pilot Training Colleges

Senator Cáit Keane: I think the Minister is familiar with this matter. It concerns the pilot training college that went into liquidation. There are still many students who have huge bank loans which they cannot afford to pay. Some had to give up their training; some had to borrow again to re-train. They thought that as the Government was involved in granting the licence to the training college it should take some responsibility to establish if there is any way to work this through to the satisfaction of the students and their parents. Through no fault of their own
some had to come back from America, which involved extra flights and expense. We have seen what can be done, and was rightly done for those who suffered from having pyrite in their homes, through no fault of their own.

I would like the Minister to look sympathetically on this case. It was raised at the Oireachtas Joint Committee on Transport and Communications but as I am not a member of that committee I am not aware of what happened. At the time the committee said that it would conduct a forensic examination of what happened, why, who was responsible and what could be done. I do not think, however, that the committee carried out that examination. I do not know why. The Minister may not know either but I would like to know if the committee did proceed with that examination and publish its findings. I look forward to hearing the Minister’s response and what he can do about this matter.

Minister for Transport, Tourism and Sport (Deputy Leo Varadkar): I thank the Senator for raising this issue. The situation that arose with regard to the Pilot Training College, PTC, Waterford, in July 2012 was most regrettable and came about from the failure of PTC, a privately-owned and operated flight training school, that reneged on its contractual obligations to its client students in respect of the completion of their training in Florida. I met with some of the representatives of the students on 20 July 2012 and I fully appreciate the frustration felt by the students involved and their families, and I sympathise with their plight. Unfortunately, in the current economic climate, many businesses have failed, leaving their suppliers, etc., out of pocket, including businesses where a State body has a regulatory role.

It is important, however, that the role of the Irish Aviation Authority, IAA, with regard to the oversight of pilot training colleges is properly understood. The IAA appeared before the Oireachtas Joint Committee on 24 October 2012 to discuss the issue of PTC among other topics and the committee received a very full account from the IAA of its role and the actions it had taken in so far as its statutory responsibilities were concerned. The IAA has responsibility for approving and overseeing flight training organisations in Ireland. The authority’s primary functions in this regard are the oversight of the safety, quality and standard of the training being delivered, the conduct of examinations and flight tests. It considers whether the company has sufficient resources to safely provide the training required to the internationally determined standards. It has no involvement in, or responsibility for, the contractual arrangements between PTC and its students or for overseeing the financial viability of the company. The IAA’s role in the approval and oversight of flight training organisations is based on European rules. Unfortunately, PTC is not an isolated example. There have been examples of failures of similar organisations in other countries in the past decade as well, for example, in the United Kingdom where the UK Civil Aviation Authority approves the operation of flight training organisations, a number of flying schools ceased operations with students suffering losses.

The question has been raised as to whether such companies should be bonded. This is not common practice in other jurisdictions and to introduce such a scheme in Ireland would be likely to result in schools leaving this jurisdiction to set up elsewhere where there are no bonding requirements. That is, however, still under consideration. When it appeared before the committee in October, 2012, the IAA outlined the very significant steps it had taken in an attempt to help the students involved.

When the IAA was notified on 26 June 2012 that the Florida Institute of Technology was ceasing all training activities due to non-payment for services delivered, including room and board and that the matter had been referred to the institute’s attorneys, the IAA immediately
sent a representative to Florida to liaise with the students and offer assistance where possible. The IAA secured the training records of all the students and all flight and ground training carried out in California up to then was credited towards the students’ final qualifications where possible. The IAA also worked successfully with other flight training centres to explore how the students involved might complete their training elsewhere at as reasonable a cost as possible. Furthermore, with my agreement, the IAA funded the flight costs of those self-financing students in Florida who had an existing contract with PTC and who wished to leave the United States of America. The offer was made as a gesture of goodwill and without prejudice. I understand that some 65 students availed of this flight home at the time.

The IAA completed several audits on PTC in 2011 and 2012. During these various inspections it was clear that PTC complied with all EU and international requirements as a flight training organisation. There was no indication of any deficiencies. Those EU and international requirements state clearly that the financial evaluation carried out as part of the approval and oversight process is not intended to be a consumer protection provision. It focuses purely on safety resources requirements that staff are suitably qualified and the proper internationally determined standards of training are being delivered. PTC’s accounts were signed off on 29 August 2011 by professional auditors and were not qualified in any way. The accountants were satisfied that the group, including PTC would continue as a going concern.

Regrettably, as I said to the representative group on 20 July neither the Government nor the IAA will be able to compensate them for moneys lost and we have no liability in this regard. While we have great sympathy for the students and their families, it was not possible to isolate them from other PTC creditors, foreign or Irish, nor to offer compensation funded by taxpayers to such a group. In July 2012, the High Court appointed an examiner to handle the affairs of PTC. The IAA worked with the examiner in assessing the options available but on 28 September 2012 the examiner advised the High Court that the final potential investor had withdrawn and the court authorised the liquidation of PTC. The examiner advised the High Court that the final potential investor had withdrawn and the court authorised the liquidation of PTC. The IAA revoked the approval of PTC Florida on 20 August 2012 and the approval of PTC Waterford when the company was being wound up. I understand that the liquidation of PTC is ongoing in accordance with company law. Any alleged breach of company law is a matter for the Office of the Director of Corporate Enforcement.

Senator Cáit Keane: I thank the Minister. I suppose he means there is nothing he can do. The matter of the liquidation of the company has been referred to the Office of the Director of Corporate Enforcement. I do not know what will happen in that regard. It has also been referred to the Garda Bureau of Fraud Investigation. If an arm of the State is licensing any educational body or a private company in particular, the Department should make careful inquiries. I do not mean to infer that this body was set up as a money-collecting machine but it can happen where money is collected from students and then the company is liquidated after two years, leaving students stranded. There will need to be safeguards. I believe this company was taking bookings from students in the knowledge that the company was not viable. I look forward to the report of the Director of Corporate Enforcement. I ask the Minister to consider my suggestion.

Deputy Leo Varadkar: The difficulty in this case was the amount of money lost by the students. Many of them paid their fees up front and lost a significant amount of money. It is the case that businesses fail. For example, driving schools are licensed by the State and if they fail we do not compensate everyone who did not receive the lessons they paid for. Shops,
restaurants, hotels, are all licensed by the State and people are not compensated when these go out of business, nor do they seek compensation. What is different in this case is the amount of money. Even if the IAA determined at a certain point that PTC was financially unsound, all it could have done would be to shut it down. The students would still have lost their money. In my view the only solution in the long term is either an insurance or a bonding scheme or what is now much more the practice whereby people pay fees monthly or quarterly. Very few schools, if any, demand fees up front.

**NAMA Operations**

**An Cathaoirleach:** I welcome the Minister for Finance, Deputy Noonan, to the House.

**Senator Lorraine Higgins:** I thank the Minister for his attendance to discuss and debate the very serious revelations which have emerged over the past number of days about the activities at NAMA. The allegations of unsavoury practices engaged in by some servants and-or agents of the agency is most worrying to the taxpayers of Ireland. Last May and June I raised issues pertaining to NAMA and employment contracts and the need for non-compete clauses to be included in them. I also raised the fact there was evidence of data protection breaches, contrary to the Act, and indeed the possibility of employees having breached section 221 of the Act which forbids lobbying by third parties. These are all very serious matters.

However, this matter arose during the course of this week with complaints to the Garda Síochána, a court action and now a former employee turned whistleblower coming forward to disclose wrongdoing in the agency. I understand the matter is now with the Garda fraud squad. I look forward to learning the outcome of these investigations in the near future.

In early summer this year I warned that these communications could leave the State and the taxpayer exposed to a potential claim for damages of millions of euro in circumstances where it is quite clear to me that NAMA, its servants and-or agents did not act in the best interest of its customers and indirectly, the taxpayer. That NAMA has been leaking confidential information is clearly placing the interests of personal gain ahead of the best interests of the taxpayer. It is clear to me that much of what appears to have been happening was facilitated by the veil of secrecy surrounding the agency’s operations. The previous Fianna Fáil Government created NAMA, at a cost of billions of euro to the Irish taxpayer, yet there is no transparency or accountability required from the agency. This is baffling in a modern democracy. We are in a legislative headlock because the legislation governing the agency, the NAMA Act, is severely limited in scope. This has helped to create these recent problems and revelations which are contrary to the public interest.

We do not know what deals are being done nor do we know the identity of those buying property from the agency. It is not right to put private sector assets into a body which could be subject to influence because of the lack of accountability.

In the past I have referred in this House to an individual who left NAMA and immediately became partner of another property company in the UK, all made possible because there is no non-compete clause of significant duration existing in employee contracts. No regard is being given to the sensitive information relating to valuations, loan amounts and to the amount NAMA would be willing to accept for properties. This is information which was known to this individual. At a time when property prices are on the rise - Dublin property prices have risen
by 16% - this issue is of great concern. Today’s whistleblower admitted that he has had communication with third parties, along with other employees of NAMA, in respect of a customer’s loans. This was and is highly prejudicial to the NAMA customer in question and will undoubtedly lead to copious legal cases being taken against the agency.

Suspect behaviour seems to be tolerated in NAMA. An Internet search showed that in August 2012 the Irish Independent reported how an existing employee made himself a preferential creditor in dubious circumstances while working with Irish Nationwide, a bank which is now within the remit and ownership of NAMA. He was an employee of the debtor’s sister company before taking up employment with Irish Nationwide. I ask if NAMA investigated Peter Malbasha at this time-----

An Cathaoirleach: Senator Higgins, you are out of order for mentioning individuals by name under the privilege of the House.

Senator Lorraine Higgins: This man nearly earns the same salary as the Taoiseach and yet there is no oversight when it comes to his activities. It is recorded on public record in a national newspaper.

An Cathaoirleach: It does not matter if it is recorded on the public record.

Senator Lorraine Higgins: What is happening here is very worrying.

An Cathaoirleach: You are speaking under privilege.

Senator Lorraine Higgins: NAMA has a critical role to play in Ireland’s economic recovery and we urgently need to restore confidence in the agency. We need to start by reviewing the draconian powers of the agency and to consider amending the NAMA Act to make it more accountable and transparent, so that what happened this week will not be repeated. We cannot allow unsavoury practices to continue and we must strive for better standards. For that reason I request the Minister to liaise with the Minister for Justice and Equality to consider tabling amendments to the NAMA Act to allow for accountability, otherwise we will have learned nothing from recent events.

Minister for Finance (Deputy Michael Noonan): I will make an important preliminary point. This Adjournment matter refers to revelations. A number of allegations have been made and these are currently the subject of two Garda investigations. It cannot be said yet whether there will be revelations. I wish to assure the Senator that the NAMA board and I are taking these matters very seriously. The chairman, Frank Daly, has informed me that the NAMA board met this morning on the allegations. It indicated to the Committee of Public Accounts that it is anxious to be afforded a public opportunity to address these claims.

The PAC has now extended an invitation and the chairman and chief executive of NAMA will attend a meeting of the committee at 11 a.m. tomorrow morning. Indeed, NAMA issued a statement earlier today welcoming the opportunity afforded to it by the PAC to address allegations made against the agency in recent days, stating that it considers the PAC to be the most appropriate forum to address these matters.

As has been highlighted in recent days if any individual has information which suggests that wrongdoing has occurred, I would expect that he or she would bring such information to the immediate attention of the Garda Síochána, as legally obliged under section 19 of the Criminal
19 December 2013

Justice Act 2011. It is a matter for the Garda Síochána to investigate any wrongdoing.

I am informed that NAMA has referred two complaints about former employees of the agency to An Garda Síochána, pursuant to section 202 of the NAMA Act, which deals with unauthorised disclosure of information. Contrary to some reports, the second referral occurred in the first quarter of this year and not in recent days. Given that these matters are currently under active investigation by the Garda Síochána, I cannot make any further comment on the specific details of these cases.

I am also informed that NAMA has not been provided with any detail relating to recent statements made in the Seanad about alleged impropriety by NAMA staff. It may be that these recent statements refer to a case that has already been referred by NAMA to An Garda Síochána but NAMA does not have enough information to confirm this.

With regard to the level of political and administrative oversight, NAMA is subject to a high level of public accountability compared with other commercial semi-State bodies. This is reflective of its function in managing a significant financial exposure on behalf of the Irish taxpayer. The National Asset Management Agency Act 2009 makes the agency accountable in a number of ways, including by laying its annual report and audited financial statements before the Houses of the Oireachtas. The chairman and chief executive officer are accountable to the Committee of Public Accounts and other Oireachtas committees and give evidence to those committees whenever required to do so. In addition to its annual accounts, NAMA is required to submit to me an annual statement setting out its proposed objectives for the following year, the scope of activities to be undertaken, its strategies and policies, and its proposed use of resources. The agency is also required to report to me on a quarterly basis giving detailed information on its loans, financing arrangements and income and expenditure. I, in turn, am obliged to lay all such reports before the Oireachtas.

I am advised that NAMA’s accounts are comprehensively audited by the Comptroller and Auditor General, who has a permanent team of officers based in the agency with unrestricted access to all its records and files. In addition to conducting annual financial audits of NAMA’s accounts, the Comptroller and Auditor General’s office has produced special reports regarding NAMA’s acquisition of bank assets and management of loans. The process of loan valuation and acquisition is also being audited by the European Commission. An overarching review of NAMA is subject to a special report of the Comptroller and Auditor General which will be published early in 2014. As provided under the Act, I may also request ad hoc reports in such form as I require.

It is clear, therefore, that NAMA is subject to a very high level of accountability, both in the legislation and in practice. I confirm that the oversight arrangements are continually kept under review to ensure the agency acts in the best interests of the taxpayer. I will fully consider the outcome of the Garda investigations and the views of the Committee of Public Accounts in seeking to protect the taxpayer. The outcomes of these matters, as well as the reports of the Comptroller and Auditor General, will be considered in the NAMA review my Department is undertaking next year, as required under the 2009 Act.

**Senator Lorraine Higgins:** I thank the Minister for his response. The decision to bring NAMA representatives before the Committee of Public Accounts tomorrow is welcome. It is regrettable, however, that they did not make a full public statement earlier this week regarding the issues that have emerged.
Seanad Éireann

I take this opportunity to confirm that I have given evidence of wrongdoing to the Garda Síochána. In respect of any dealings with the individual I named in the course of my submission today, I ask that NAMA be mindful of subsections 43(2) and 43(3)(d) of the Act. I will give the Minister a copy of the newspaper report on this issue immediately following this debate. I welcome his undertaking to consider the outcome of the Garda investigation and the views of the Committee of Public Accounts. I remain of the view, however, that an amendment is required to the legislation to take account of these issues.

Deputy Michael Noonan: I thank Senator Higgins for her supplementary information and will be glad to receive the newspaper cutting to which she referred. It is helpful that she has put on record her action in making reports to the Garda Síochána regarding the situation she raised in the House earlier this year.

The Seanad adjourned at 3.45 p.m. until 10 a.m. on Friday, 20 December 2013.