



DÍOSPÓIREACHTAÍ PARLAIMINTE  
PARLIAMENTARY DEBATES

**SEANAD ÉIREANN**

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

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# SEANAD ÉIREANN

*Dé hAoine, 15 Iúil 2016*

*Friday, 15 July 2016*

Chuaigh an Cathaoirleach i gceannas ar 10 a.m.

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*Machnamh agus Paidir.  
Reflection and Prayer.*

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## Water Services (Amendment) Bill 2016: Second Stage

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

**An Cathaoirleach:** I welcome the Minister of State.

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Damien English):** I am glad to be in the Seanad again. If I was to seek honorary membership, I am sure I could get it by now. It has been one of those weeks.

**Senator Mark Daly:** As long as the Minister of State does not apply for permanent membership, he will be fine.

**Deputy Damien English:** I thought I might honour the Seanad for a couple of months. It is nice to be here.

**Senator Mark Daly:** The Minister of State could be here for a couple of months.

**Deputy Damien English:** It is looking that way.

**Senator Kevin Humphreys:** Is that on the record of the House?

**Deputy Damien English:** I mean in respect of this Bill.

**An Cathaoirleach:** As it will be a long day, please allow the Minister of State to proceed.

**Deputy Damien English:** I am pleased to present the Water Services (Amendment) Bill 2016 to the Seanad. I look forward to our constructive debate on the Bill and the delivery and funding of public water services. The need for an informed, balanced and rational debate on the funding of domestic water services that is respectful of all positions is the context of this legislation on suspending domestic water charges for nine months. Quality public water supplies and the ongoing investment required are critical for public health, social and economic development and environmental protection. We have important decisions to make in the coming nine months as to how we fund water services to meet these needs.

Before I outline the Bill’s contents, it is important to remind the House of the legacy of

under-investment and diseconomies of scale that left us with so many problems with public water and wastewater systems. When Irish Water assumed responsibility for water services in January 2014, 945,000 people were dependent on drinking water supplies that required remedial action. Data indicated that 49% of all water produced was lost in leakage. Dublin, our capital city, which should have had a spare capacity of 10% to 15% like most European capital cities, had a spare capacity of only 1% to 4%. Major drinking water schemes were in need of significant modernising and more than 44 urban areas throughout Ireland saw untreated sewage going into rivers and seas, posing a major risk to public health and the environment.

Put simply, we have these problems because we are guilty of having underinvested in water infrastructure and services for decades. That is a fact. The capital allocations for vital water and wastewater projects and upgrades competed with and more often than not lost to other more pressing and tangible investment requirements such as those for roads, schools and hospitals. We had these problems because 34 local authorities provided services and infrastructure on a subnational basis, defined as they were by county boundaries and diseconomies of scale in procurement and network and asset management. These problems emerged despite the dedication, commitment and professionalism of local authority staff in often financially constrained circumstances. Most Senators have served on a county council at some stage and will recall the negotiations with neighbouring authorities on water and sewerage services at the county boundaries. It was lunacy.

A new approach was needed. For this reason, the previous Government established a single national utility to deliver water services and infrastructure, a utility that could plan and invest on a whole-of-asset and national basis funded by sustainable revenue sources in order that Ireland would be able to meet the water challenges of an increasing population, a growing economy and a changing climate.

Since Irish Water became the national water utility in January 2014, it has made good progress in addressing some of the problems that I have outlined. By the end of 2015, Irish Water had delivered 20 new water treatment plants and 49 new wastewater treatment plants. Some 500 km of piping has been repaired or replaced. The number of people dependent on water supplies listed on the EPA's action list of works requiring remediation has reduced significantly. From 945,000 two years ago, it now stands at 804,000. Last year, through Irish Water and the local authority's work, 17,300 people in Roscommon no longer had to boil water coming out of their taps. Dublin's spare water capacity has increased to approximately 10%, a welcome move towards Irish Water's 15% target. If our capital city is to compete with other capitals in its offerings in tourism, jobs, investment and so on, it must have this capacity. We remember what happened during that one week a number of years ago when the supply dropped so low.

Through the more than 844,000 meters installed by the utility, Irish Water has been able to identify customer-side leakage and offer householders repairs under the first fix free repair scheme. By the end of March this year, approximately 48.5 million litres of water per day had been saved through this scheme and domestic customers' repairs arising from leakage detection through metering. This is the equivalent of the daily water needs of 150,000 homes. The largest leak identified through the first fix free scheme saw leakage at a property in Galway of 77,000 litres of water per day, enough to supply the daily requirement of 235 homes.

The metering programme has also been crucial in the identification of possible lead piping in householders' properties. Irish Water has written to approximately 34,000 households informing them of the likely presence of lead piping in their properties and provided them with

customer advice on dealing with the issue, including public health advice from the HSE. This response would be much more difficult to achieve or co-ordinate if we did not have a single national utility.

Some of the progress that I have outlined arises from the innovation and national approach adopted by the public utility. However, increased investment is also critical. This year, Irish Water expects to invest €550 million in the network. This represents an 83% increase in investment on three years ago.

Having outlined the fundamental facts of why reform and greater investment are needed and the difference that reform is making, I will set out the steps that the Government will take to facilitate a comprehensive and deliberative process on the future funding of domestic water services. In parallel with the progression of the Bill through the Oireachtas, my colleague, the Minister for Housing, Planning, Community and Local Government, Deputy Simon Coveney, established an expert commission to examine and make recommendations on the sustainable long-term funding model for the delivery of domestic water and wastewater services by Irish Water. The commission is chaired by the former chairperson of the Labour Court, Mr. Kevin Duffy, who has a distinguished track record of public service and will bring a wealth of experience in addressing complex issues. The other members of the commission were announced by the Minister on 29 June and comprise a number of international and national experts. The commission will be independent of the Government and supported by an independent secretariat through the Institute of Public Administration.

In line with the confidence and supply arrangement agreed between the Government and Fianna Fáil, the terms of reference require the commission to make recommendations on the funding of domestic water services and improvements in water quality, taking into account the maintenance and investment needs of the water and wastewater systems on short, medium and long-term bases, proposals on how the national utility in State ownership would be able to borrow to invest in water infrastructure, the need to encourage water conservation, including through reviewing information campaigns on water conservation in other countries, Ireland's domestic and international environmental standards and obligations, the role of the economic regulator, the Commission for Energy Regulation, and submissions from all interested parties. This expert commission will endeavour to report back within five months. A special Oireachtas committee on the funding of domestic water services will debate the commission's recommendations and endeavour to put its own recommendations before the Oireachtas, I understand within approximately three months. The Houses will then consider and decide on the future funding model. This process should take no longer than nine months from the end of June this year.

Notwithstanding our debate on the future of domestic water charges and the funding of same, we recognise the need to improve Irish Water's transparency and accountability, both to the Oireachtas and the public it serves. To achieve these objectives, it is the Government's intention to introduce legislation in the autumn to establish an external advisory body for Irish Water. The body will be tasked with publishing advice for the Government and giving quarterly reports to an Oireachtas committee on Irish Water's performance in the implementation of its business plan. The board will play an important role in enhancing public confidence in the utility and ensuring it continues to deliver on its business plan and build trust.

Suspending charges will have implications for households that are not customers of Irish Water. In line with the supply and confidence arrangement, the Minister intends to restore State

funding to group water schemes to pre-2015 levels for the nine-month period of suspension of domestic water charges. This will restore parity of approach towards group water scheme members and Irish Water customers. The Minister also intends to revise the grant levels to new group water schemes and the refurbishment of private wells.

This is a short Bill with the specific purpose of suspending domestic water charges to allow for the deliberative process that I have outlined to be undertaken. I will detail the sections of the Bill.

Section 1 sets out the definitions for terms used in the Bill.

Section 2 provides for the suspension of domestic water charges, except for connection charges, for a period of nine months, commencing on 1 July 2016. Irish Water cannot bill customers in the period of suspension of water charges. The section also provides for a prohibition on Irish Water billing domestic customers for water services used during quarter two of 2016, for which bills would be due now, until after the period of suspension.

The section also provides that the Minister for Housing, Planning, Community and Local Government can extend the nine-month period of suspension by way of ministerial order for a further period if an Oireachtas committee, established to examine the issue of funding of domestic public water services, informs him or her, or if he or she is otherwise satisfied, that it will not complete its work on or before 31 March 2017. In both cases the Minister must be satisfied that the extension is required solely to allow the committee to complete its work and the extension will only be for a period that he or she deems necessary to allow the work to be completed. The Minister may further extend the period of suspension, by order, to enable the Government to consider the recommendations of the said Oireachtas committee.

The section also provides that Irish Water shall not include the period of suspension of domestic water charges in calculating the time period of unpaid water charges, for which a late payment charge applies. I believe this to be a reasonable approach that will allow for the extensive deliberation process to be undertaken without further intervention.

Section 3 is a standard provision to provide for the Short Title of the Bill which is to be cited as the Water Services (Amendment) Act 2016.

The Bill is to suspend domestic water charges for a nine-month period to provide space for a reasoned debate on the future funding of public domestic water services. We need to use the opportunity to ensure questions on the source and investment requirements are answered once and for all. We need to use the time to have a genuine debate both in this House, on the airwaves and with the public to look at this issue and talk about it in a reasonable manner. We had this conservation in the Dáil when debating a motion earlier in the year. We must genuinely try to see if we can all put our best thoughts together on the issue to reach some agreement on what is best for the country. We all want the same ends. We demand high quality water services for all and that these services remain in public ownership. We all want a public water system that will sustain the economy and communities into the future. The Bill lends us an opportunity to debate openly and frankly how we will achieve these ends. I commend it to the House.

**Senator Jennifer Murnane O'Connor:** I welcome this important Bill and will seek clarification on some aspects from the Minister of State in due course. Fianna Fáil supports the Bill which sets out a clear route to end failed water charges. The measure is the first step in ending water charges. Under the new Bill water charges will be suspended immediately. Irish Water

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will be subject to a new oversight body and remain in public ownership, which is crucial. This will keep down costs and help to ensure greater efficiency.

As I said to the Minister of State the other day, the role of a local authority is important in this regard. No one seems to be taking responsibility for manholes in backyards and front gardens, particularly in old housing estates. I ask the Minister of State to revert to me on this matter because we need confirmation of who is responsible.

**Deputy Damien English:** I will.

**Senator Jennifer Murnane O'Connor:** I thank the Minister of State. Local authorities need to know what role they are expected to play.

In 2015 only 53% of all revenue due to Irish Water was paid. The recent collapse in payment rates for bills sent in April and May only added to the pre-existing trend. When all costs are factored in, it constitutes a massive amount of money, as follows: €540 million spent on water meters; €172 million expended in setting up Irish Water, and €46 million spent in running it. The Government's creation of Irish Water will leave the taxpayer €758 million worse off this year than if it had not been established at all.

The failure to meet the EUROSTAT test completely undermines the reason behind the current water charges system. It is time to draw a line under this fiasco and end the water charges regime. We now have a path forward. The Bill is the first step towards ending them. When we were out canvassing on doorsteps, we were aware of the hurt people felt as a result of property and other taxes. They cannot afford a system that is inadequate. There are many problems with water meters and manholes, but who will take responsibility for solving them? Fianna Fáil supports the Bill, but we must have clarification of who will play each role.

**Senator Trevor Ó Clochartaigh:** Tá céad fáilte roimh an Aire Stáit. Ba mhaith liom mo chomhbhrón a dhéanamh le muintir na Fraince agus leo siúd a fuair bás agus a ghortaíodh san ionsaí uafásach i Nice aréir. Bhí sé aisteach toisc go rabhamar ag an ambasáid aréir agus bhí ceiliúradh mór ansin ar lá speisialta na Fraince. Ansin, tharla an t-uafás sin aréir agus téann ár gcomhbhrón anonn chucu ar fad.

Cuireann Sinn Féin fáilte roimh an mBille seo toisc go bhfuileamar i bhfábhar aon rud a chuireann stop le na táillí uisce. Ba bhreá linn dá gcuirfí deireadh leo ar fad. Má bhreathnaíonn muid ar an méid a thit amach maidir le táillí dramhaíola, bheadh muid buartha nach bhfuil ann anseo ach cur i gcéill. Tá sé tábhachtach go dtuigeann daoine nach bhfuil ann anseo ach tállí curtha ar fionraí.

While Sinn Féin sees the Bill as essentially a fudge, we will be supporting it. When we get to the end of the road in a year's time, we will find a lot of cans.

**Deputy Damien English:** Cans of water.

**Senator Trevor Ó Clochartaigh:** However, it is only fair that we be clear with the public, including the many people to whom Fianna Fáil made a range of promises in the run-up to the general election, that there is merely a suspension of water charges from April to December. It is one of the results of the cosy-up deal between Fianna Fáil and Fine Gael, known as the confidence and supply deal. It should be renamed the supplicate and comply deal from Fine Gael's point of view.

We are told bin charges will be suspended for one year, that water charges have been suspended for one year and that Fianna Fáil will be happy to support legislation on banded hours contracts in a year's time. It seems to be the party for next year. From my experience around the country but particularly in west Galway and south Mayo, I know that people simply cannot wait for a year. They are wracked by uncertainty. This is not fair on those who want to plan for the future. The reality is that Fianna Fáil does not care about people's futures. It only cares about doing the bare minimum to get it over the line in the next general election. On the issue of water charges, it has changed its position so many times that it is hard to keep track.

The reason we are discussing the Bill today is not the new politics or the practical or pragmatic implementation of the manifestos of the Government parties of Fianna Fáil and Fine Gael but that in recent years hundreds of thousands of people have marched, boycotted and voted on this issue. They forced Fianna Fáil, in particular, from its position of supporting the creation of Irish Water and introducing water charges to its current fudge position which still confuses me every time I hear its members speak about the matter. It should be clear to Seanadóirí on all sides of the House that there is still this movement which is watching carefully what is happening in this House today and will continue to do so. There will be a huge electoral cost for any politician who in the last general election advocated the abolition of Irish Water and water charges and who breaks his or her word when these issues are finally voted on in the Houses.

The most recent Fianna Fáil-Fine Gael deal involved the proposed suspension, for 12 months, of the pay-by-weight waste disposal system. There was utter chaos in my area of Connemara where people were forced to sign up to contracts with the local waste company. Some of them were good responsible recyclers who only needed a bag or a tag on the odd occasion. I welcome the climbdown on the issue and the Minister's eleventh hour intervention when put under pressure in the House to do so. It was only after pressure was exerted by me and my colleagues in Sinn Féin and others in the community that the Government finally listened. It took Fianna Fáil Members quite a while to make up their minds on the matter also. They considered they could not support our motion to repeal the statutory instrument and end the pay-by-weight system. However, they changed their tune when they saw pressure being exerted in communities.

I take the opportunity to clarify Sinn Féin's position on water charges. I want to do this because the debate on the Bill in the Dáil was replete with the usual formulaic nonsense from Fianna Fáil about our position on taxing water services. Mr. Chris Hazzard, the Sinn Féin Minister for Infrastructure, has suspended the installation of water meters across the Six Counties. Before him, Mr. Conor Murphy, as Regional Development Minister, ruled out water charges and totally stopped their imposition. He also blocked any move to privatise water supply provision. We want an end to domestic water charges. We want public ownership of water and waste services enshrined in the Constitution. We want water services to be delivered by a democratic and accountable public body. We want water to be supplied on the basis of need, not the ability to pay. We will not rest until these objectives are achieved. The alternative to the failed water policy of Fianna Fáil, Fine Gael and the Labour Party has been outlined by the Right2Water movement: provide water on the basis of need, not ability to pay; fund it through general taxation; deliver it through a democratically accountable and transparent body working with the river basin management groups and local authorities; focus investment in the first instance on reducing the more than 40% wastage in the system; implement an ambitious capital programme to upgrade the water and sewerage system; meet the broad objectives of the water framework directive; and, crucially, remain the only OECD country with zero water poverty.

I agree with the Minister of State on the issues surrounding the transparency of Irish Water.

We have had a boil water notice in Carraroe in Connemara for the past while. We finally hear, after much pressure, that Irish Water is carrying out an upgrade to the system there, but we have asked for months for detailed information on what upgrade it is carrying out in the plant there. However, it has refused to give it to us. If the Minister of State speaks to somebody in Irish Water, he might ask him or her to tell us finally what exact type of upgrade it is carrying out to the system in Carraroe in order that we can check that it is future-proofed.

There are also very small issues that make people very angry. There is an area in Connemara, a village called Teach Mór, where the local council wanted to do up the road. It cannot do so until Irish Water buries a water pipe. This has been ongoing for a year and Irish Water will not tell us when it will do it. When there are things like that happening with Irish Water and when it will not give us basic information and do such small jobs on the ground, people have very little faith in the company.

We have concerns about the terms of reference of the commission in the Bill. References to conservation in the terms of reference are minimal. This is not a comprehensive commission to consider the future of water and sanitation services. It is simply a ruse designed to deliver a pre-determined outcome which was showed by the resignation of Joe O'Toole. Sinn Féin's view, as I am sure the Minister of State knows, is that these terms of reference should be expanded and the commission should be tasked to consider the funding and delivery of all water and sanitation services. It should be asked to examine issues of water poverty and poverty-proof any proposals it makes to the Oireachtas. It should have a greater remit for outlining recommendations for water conservation. It should have an input from professionals with regulatory, operational, management and environmental expertise from water and other utilities. It should have economic and academic expertise, expertise on workers' rights and consumer interest, as well as anti-poverty advocacy and policy expertise.

Nuir a cuireadh na táillí uisce orainn ar dtús, bhí an Rialtas ag maíomh go ndéanfaí an soláthar uisce a chosaint agus a chaomhnú, ach ní fheicim móráin tagairtí do sin sa Bhille atá romhainn. Táimid ag tacú leis an mBille seo, ar an mhórchuid, ach beimid ag breathnú go géar ar an méid a bheidh ag teacht ag deireadh na tréimhse fionraí agus cuirfimid ár bpolasaí féin - sé sin, go bhfuil sé de cheart ag daoine soláthar uisce a bheith acu - chun cinn i gcónai. Beimid ag díriú ar na gealltanais a rinne Fianna Fáil roimh an toghchán seo caite. Níl sé féarailte ar dhaoine nuair a deirtear rud amháin leo le linn aimsir an toghcháin, ach déantar rud eile ar fad ina dhiaidh sin.

I have been getting reports on the ground in the past two weeks that the water meter fairies have reappeared in Connemara, installing water meters. I think the people of Connemara, in particular, would much prefer them to fix the holes in the pipes, bury the pipes, do the remedial works that need to be done, etc., before they come back to put in the water meters. The Minister of State might also raise that issue with the people in Irish Water with whom he is dealing. I know we had clinics here on a regular basis but they were a joke. Senior executives from Irish Water would come in and we would ask questions of them. They would take plenty of notes and a very well paid PR executive would send us back an answer that they were looking into the issue but really when it came down to the nitty-gritty and the substantial answers that we were looking for, we did not get them. It is simply not good enough, especially when nearly €1 billion has been spent on this company since it was set up.

**Senator Paudie Coffey:** I, too, welcome the Minister of State for this debate which I think should be open, honest and frank. If we are all honest with ourselves, this is a regrettable day

because it is a huge backwards step in terms of investment in what are essential water networks required for the future of the country and citizens. We are essentially postponing the day. It is a classic kick-to-touch and I say this as a Government Senator. It is happening simply because Fianna Fáil over-promised on water during the last general election and this legislation is to facilitate Government formation with the agreement of Fianna Fáil. However, I think it will rue the day when the commission finishes its report because I predict that either Fianna Fáil will do one of the biggest U-turns and climbdowns in the history of the State or we will have another general election. The stance of the Fianna Fáil Senator I heard speak this morning is a hypocritical. The facts are there. Fianna Fáil signed the country up to water charges when it signed the memorandum of understanding with the troika a number of years ago. That is a fact.

**Senator Jennifer Murnane O'Connor:** That is not true.

**Senator Paudie Coffey:** It is a fact.

**Senator Jennifer Murnane O'Connor:** No, it is not.

**Senator Paudie Coffey:** Fianna Fáil might like to try to deny that, but it did a U-turn to buy votes during the recent general election because it was getting outflanked by other Opposition parties. Sinn Féin is not consistent on this matter either. I know that this is a divisive issue and a very political issue, but if we want to be open, honest and frank, let us be at least consistent. Sinn Féin at the outset encouraged people to pay their water charges.

**Senator Trevor Ó Clochartaigh:** Nonsense.

**Senator Paudie Coffey:** Deputy Gerry Adams publicly said people should pay their water charges, as did other Sinn Féin public representatives.

**Senator Trevor Ó Clochartaigh:** No, he said he might personally consider it. Our policy has been clear from day one.

**Senator Paudie Coffey:** Then - this is also a fact - the by-election in Tallaght happened and Sinn Féin got outflanked by the left. It lost a seat that it thought was its to win.

**Senator Trevor Ó Clochartaigh:** Nonsense.

**Senator Paudie Coffey:** It was outflanked and changed its position and then became out-right in its opposition to water charges.

**Senator Trevor Ó Clochartaigh:** The Senator should check our record in the Seanad on it.

**Senator Paudie Coffey:** The funny thing about all this is that in the North of Ireland where Sinn Féin is in authority-----

**Senator Jennifer Murnane O'Connor:** There is too much leakage and there are too many problems with the system.

**Senator Paudie Coffey:** -----35,000 water meters have been installed and Sinn Féin is preparing for the day when it will introduce water charges in Northern Ireland also.

**Senator Trevor Ó Clochartaigh:** I just told the Senator that Chris Hazzard has stopped them.

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**Senator Paudie Coffey:** This is on top of the local authority charges which are at least €1,000 per household in the North of Ireland. Then it comes into the South in its divisive way and opposes what I believe to be a minimal charge for investment in public services such as water-----

**Senator Trevor Ó Clochartaigh:** The Senator needs to go up to the Six Counties a little more often.

**Senator Paudie Coffey:** I was never a populist. Anybody who knows me knows that as long as I have been involved in politics, I have not been a populist. I believe we need water charges in this country in order that we can invest in quality water services to service our future, our children and society. The Minister of State has referred to some of the serious issues. Senator Trevor Ó Clochartaigh spoke about the problems in Connemara, including cryptosporidium in the water. It happened in my own town, where there were boil water notices for a number of months. People could not bathe their children because of it. This is so serious that if we do not address it and grasp the nettle, we will regret this day. We will have failed, as public representatives and so-called leaders, future generations-----

**Senator Trevor Ó Clochartaigh:** The Senator has failed.

**Senator Paudie Coffey:** -----unless we stand up to do what is right by the country-----

**Senator Trevor Ó Clochartaigh:** The Senator was in government.

**Senator Paudie Coffey:** -----not what is right by our parties, which is what is happening. Let us be honest about that.

I worked for the ESB for 20 years and that company which I think is well respected globally is a semi-State company that manages national electricity assets. It invests in them. The ESB undertook a network renewal programme during the 1990s and the 2000s whereby it invested almost €7 billion in electricity networks. If that had not been done in this modern economy, of which we are all so proud now that it is growing, we would not have that quality network and service for business, farms and our homes to enjoy. I compare this to the water networks. If we do not have a network renewal programme and if we do not manage water assets in a coherent and maintained way with proper investment, we will regret this day. I do not blame the Minister because Fine Gael was literally forced into this by the over-promising, which I mentioned, that Fianna Fáil engaged in during the recent elections.

**Senator Trevor Ó Clochartaigh:** Tweedledee and Tweedledum.

**Senator Paudie Coffey:** We have not changed our position. Ours is the one party that has been consistent on water charges from start to finish and we are standing up for what is right on this issue. In fairness to the Labour Party which probably took the biggest electoral hit of all, it stood by the country. My Labour Party colleagues, one of whom is here, and the former Minister, Deputy Alan Kelly, stood by this country also. They are not populists. Those in Sinn Féin are populists. They change by the day. They are the chameleons of Irish politics and Fianna Fáil is being outflanked by them.

**Senator Trevor Ó Clochartaigh:** That is nonsense.

**Senator Paudie Coffey:** That is why they are changing also.

**Senator Trevor Ó Clochartaigh:** The pipes should have been fixed first.

**Senator Paudie Coffey:** They might not like it, but that is the truth of the matter.

**Senator Jennifer Murnane O'Connor:** The Government spent €172 million in setting up Irish Water.

**Senator Paudie Coffey:** They will regret the day. They are kicking to touch a thorny issue that they introduced in the first place when they signed the memorandum of understanding that tied the country's hands in terms of water charges.

**An Cathaoirleach:** Contributions should be made through the Chair.

**Senator Paudie Coffey:** Regarding some of the investments, it is a fact that since Irish Water was established, 34 new treatment plants, including 26 for wastewater and eight for drinking water, have been installed around the country. In my county the seven village sewerage scheme has ensured we now have blue flag beaches right across the coast of County Waterford because we do not have raw sewage going out into the sea waters of the coast. That is what this is about. It is about installing infrastructure that will secure quality services and clean, environmental, sustainable services for the future of our country. Furthermore, more than 47 water conservation projects have been completed and 452 km of mains pipe has been remediated by Irish Water. Close to 800,000 water meters have been installed. We need a fair system, which is why the former Minister, Deputy Alan Kelly, and I introduced the capped charge system. Two out of five households that were metered were beating the capped charge. That is a fact.

**Senator Jennifer Murnane O'Connor:** No one takes responsibility, neither local authorities nor Irish Water.

**Senator Paudie Coffey:** People were beginning to conserve water. If we are open, frank and honest, as we wish to be in this era of new politics, it is essential that we look to the future and do what is right for the children and people of the future.

I regret that this legislation is before the House. It is a backward step, but I understand that it is in the interests of facilitating Government formation and to satisfy a promise Fianna Fáil made in the recent general election campaign. I believe the country and society will regret it, but I will support the legislation in that context. However, I will watch the work of the commission closely. The commission is independent and its members will examine this matter in a factual, scientific and environmental way, which is welcome and appropriate. As politicians, however, if we are honest with ourselves and the people, we should do what is right and have a system for investment in water services on which we can rely into the future. We cannot afford to have public water systems close due to contamination, to have 50% of water leaking into the ground from leaking pipes or to have our capital city and a growing economy with serious capacity issues in providing water. We cannot afford to have cities such as Galway being almost closed down, as happened a number of years ago due to cryptosporidium in the water and as a result of which it lost its tourism and business trade. These issues are not sustainable. If we continue with the broken system we have had up to now, we will all regret it and we will have done the country a disservice.

**Senator Gerard P. Craughwell:** I welcome the Minister of State. Unusually, I find myself somewhat in agreement with Senator Paudie Coffey.

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**Senator Trevor Ó Clochartaigh:** That is not unusual.

**Senator Gerard P. Craughwell:** I have always supported the idea that water must be paid for, but I have never supported Irish Water. Much of what Senator Paudie Coffey said was true. In fact, I am quite baffled at the fact that water meters are still being installed throughout the country while we are going through this farce of suspending the charges until a commission ultimately reports back that water must be paid for. That report will be put before an Oireachtas committee and we will knock lumps out of each other as we sit in a committee room and water will still have to be paid for. It is such a ham-fisted approach to anything that is done in this country that Irish Water has become the *de facto* bible of how to get things wrong.

**Senator Jennifer Murnane O'Connor:** That is 100% right.

**Senator Gerard P. Craughwell:** The previous Government introduced property taxes and got away with it. Then it introduced the incremental charges, one of which was water charges. I am from Galway city and most of my family is involved in the tourism industry there. When cryptosporidium arrived in Galway, it devastated them. They had to buy gallons of bottled water every day. There is no getting away from the fact that we must pay for water in this country. We - by "we" I mean the collective political influences in this country - have allowed the water systems to fall into a state of dilapidation which is not just regrettable but disgraceful. We are still working with Victorian pipes. There are still lead pipes running through back gardens in Tralee, Dublin and in other cities and towns throughout the country and there is no way we can replace them under the current system. We do not have the money to do it.

**Senator Jennifer Murnane O'Connor:** Nobody will take responsibility for it.

**Senator Gerard P. Craughwell:** I hold the Minister of State in the highest esteem, but this sham of a Bill is exactly what Senator Paudie Coffey described. It is a hodgepodge that was put together to secure an agreement to form a Government. The charges are suspended for nine months. In nine months' time, now that over 45% of people who were paying their bills have stopped paying, is anybody seriously telling me that they will start paying again once we agree on a payment method? We have had Lisbon treaty two and any other two one cares to think about and now we will have "water two" in the not too distant future. We will have to find a nice new way of packaging the water problem and getting people to pay for it. That is what we will have to do regardless of which part of the political divide one is on and regardless of what stick I will take on social media tonight.

What has happened is a disaster. Irish Water was a disaster from day one. Everything about the establishment of the organisation was a disaster. Those who were involved with its establishment, both on the political and administrative side, have ridden off over the hill with their large salaries or pensions and have left a disaster behind. I agree with Senator Paudie Coffey that the Labour Party took the greatest hit for Irish Water. I had much respect for the former Minister, Deputy Alan Kelly. He tried his damnedest to run this thing through. Senator Paudie Coffey was with him in that, but perhaps they should have rolled back on the nights when we were in this Chamber until 3.30 a.m. pointing out that this was going to end in tears.

**Senator Jennifer Murnane O'Connor:** Exactly.

**Senator Gerard P. Craughwell:** It is a disaster.

**Senator Jennifer Murnane O'Connor:** It is.

**Senator Gerard P. Craughwell:** The problem is that I am not sure how a minority Government will get what is required to get water charges up and running. I do not believe it will happen. I believe this will probably ultimately lead to an election, in which all sides will again promise a utopian State where nobody will pay for anything, we will all have a great time and everybody will be happy. Afterwards, somebody will be elected into government and they will have to fix the damage that has been done. We must wake up. We must recognise that water was being paid for through general taxation and we must adjust the general taxation system to take account of the new taxation methodologies being used. One cannot keep piling stuff on people. They do not have it.

The bottom line is that I believe everybody should pay. Nobody should be exempt from paying for water. However, the Irish Water model is a failed identity. The Government should scrap it, go back to the drawing board and come up with a system of local taxation, which includes property and water, at a rate that is affordable for people. Ultimately, the European Union will make a decision for us. We will probably find ourselves spending millions of euro defending the decisions that will be made as a result of this Bill. It is with some regret that I will support the Bill. I look forward, with great interest, to seeing where we go from here. I agree with Senator Paudie Coffey that we will be back sitting around a table knocking lumps out of each other again over what ultimately must happen. One must fund water systems. I have seen Galway and Roscommon brought to their knees because of the water system.

We must get this Bill through now, but I cannot see how the Minister of State will get the 45% who have opted out ever to return to the system. However, we will worry about that when the time comes.

**Senator Frances Black:** Thousands of ordinary households are willing us to pass this Bill to suspend water charges formally, but it does not end there. We must scrap them entirely. Let us face the fact that they have been suspended in the hearts and minds of people, as can be seen in the reduction in payments made to Irish Water.

Water charges were the straw that broke the camel's back. People took to the streets to give elected representatives the clear message that they oppose these charges. People, families and communities have their backs to the wall when it comes to disposable income and it was a crying shame that the previous Government introduced an extra charge when people clearly could not afford it. We have seen the cost of sending children to primary and secondary education escalate. On top of that, we seek to charge them for water, the most vital element to sustain human life. What we must do is educate people on the conservation of water and support them in doing so.

We must find a way to use the funds currently available to make up for the under-investment by previous Governments. We must seek opportunities to reduce waste across the public services, reduce our reliance on outside consultants and agencies and provide a water service that citizens deserve. It is also of the utmost importance that a referendum is held to ensure water remains in public ownership and is not privatised. We charged people for it in the past through central taxation; therefore, we have a duty to deliver it to them. I hope the water commission will find an alternative to the current regime. However, I look forward to the day when there is a vote on water charges because I will stand with thousands of families throughout the country and oppose them. It is in that context that I am supporting this Water Services (Amendment) Bill.

**Senator Kevin Humphreys:** I am so disappointed with the level of dishonesty in this debate, especially the dishonesty of Fianna Fáil on this issue. Fianna Fáil adopted the river basin management plan in July 2010, which Marian Harkin, MEP, confirmed. It was confirmed by Deputy Eamon Ryan in the Dáil a couple of weeks ago that it was agreed at Cabinet level when the Green Party was in coalition with Fianna Fáil to introduce water charges. Deputy Barry Cowen likes to forget conveniently everything that was agreed, but those things were agreed. That is a fact. It was agreed by the Cabinet.

**Senator Jennifer Murnane O'Connor:** It did not set up Irish Water.

**An Cathaoirleach:** Please do not interrupt.

**Senator Kevin Humphreys:** That is the thing about Fianna Fáil members. When one says something they do not like, they are ready to jump in. They are not challenging facts, but those are the facts. They signed the memorandum of understanding. All three things are fact. That is what Fianna Fáil does. They got scared about Sinn Féin and rushed to be popular rather than to do the right thing by the country. The last time I saw legislation when we were running down this path, I was a mere councillor and Fianna Fáil bankrupted the country.

I am deeply disappointed about Fine Gael. I have the utmost respect for Senator Paudie Coffey and the Minister of State, Deputy Damien English, but I am reminded that it is not the Minister but the Minister of State who comes to the Seanad to take the kicking. I do not intend to give the Minister of State a kicking because we no longer have a Government. What we have are office holders. We are not getting real decisions and leadership. “Repeal the Eighth” has been kicked to the Citizens’ Assembly. Water charges have been sent to a water commission. Legislation on school admissions has been kicked to a Dáil committee for a year. The Cas-sells report on education has been kicked to another committee for a year. That is so it can all be kicked further and further down past the next election. Fianna Fáil and Fine Gael have just been elected and it is a coalition Government in that Fine Gael cannot bring legislation through the House without the support of Fianna Fáil. The idea that water charges, once suspended, will come back before the House before the next election is a joke. Nobody is talking about the 340,000 rural people who pay every day for their water. No one is marching on the streets about them and not one speaker here has referred to those people who have wells and those in group water schemes who have paid since the foundation of the State for their water. Nobody seems to care about them. Urban people get looked after because it means an extra seat for Fianna Fáil or Fine Gael but because the 340,000 rural people have paid for their water and their wells all along, we can forget about them, aside from giving them an extra grant to keep them quiet. Sure they have always paid.

Since I was a child, Fine Gael has been considered a party of law and order. Will the Minister of State confirm whether legal advice has been taken from the Attorney General as to whether the Bill is legal? The former Minister, Deputy Alan Kelly, sought legal advice from the Attorney General prior to exiting the Government. Has the Cabinet sought the Attorney General’s advice? Commissioner Vella has been very clear about it. Once the Bill is passed, a letter will wing its way to the Minister asking him to explain. The pilot letter will arrive and our fines will start to grow. I hope the Minister, Deputy Simon Coveney, and the shadow Minister, Deputy Barry Cowen, realise that they are building up a substantial debt for the country. We cannot manage to deal with water, the repeal of the eighth amendment, the schools admissions legislation or the funding of education. How on earth are we going to deal with legislation on climate change? Climate change is going to be costly. Are we going to kick that further down

the road? Are we going to forget about the 2020, 2030 and 2050 targets, about which so many Members have spoken so passionately, because it will not be cheap to do so? It is going to cost money. Will we kick that down again and cause more fines? Shortly, we will be paying more fines than we will be paying interest on our loans. That is where we are heading.

Officeholders are refusing to make decisions, which is inexcusable. One can see Fianna Fáil's hidden hand pulling the strings of the Government. All I can do is warn. The former Minister of State, Senator Paudie Coffey, knows well the pain this country had to go through to reverse its bankruptcy. He knows the 15% unemployment rate and the number of people who had to emigrate because Fianna Fáil would not take unpopular decisions, would not regulate and would not provide funding for regulators when tiny numbers were put into offices. Do not go down that road. We have to stop repeating history. Get away from Fianna Fáil. They will bankrupt us again. They bankrupted us in the past and they will do it again. Do not be their willing partner in running this country down. We have huge challenges but they are minor compared to modernising water services. Dublin city is on a knife edge. Sinn Féin, Fianna Fáil and Fine Gael can knock on doors in four years time and talk to the person who comes out and says that no water has come out of the tap for the last three weeks and that they are fed up of buying water at the supermarket. Why, when that person turns on the tap, will water not come out? It will be because we failed to invest in water services. There is no clarity on the investment plan for Irish Water and how it is going to replace its income. Are we going to pull the money away from the HSE, education or the house building programme? Where on earth is the money going to come from to invest in water?

I have two direct questions for the Minister of State. Has the Cabinet taken the advice of the Attorney General on the Bill? What fines are expected after the legislation is passed and what consultation has taken place with the Commissioner with regard to rowing back on what was signed up to three times by Fianna Fáil in government?

**Senator Jerry Buttiner:** I welcome the Minister of State, Deputy Damien English. I start on a discordant note with Senator Trevor Ó Clochartaigh. We had very good Irish Water clinics in the last Oireachtas. My experience was 100% positive in that regard.

**Senator Trevor Ó Clochartaigh:** They gave us plenty of information.

**Senator Jerry Buttiner:** Today is a very important day because it is the beginning of new politics. It is Fianna Fáil reinventing itself as the catch-all populist party. It is welcome that we are to have a commission.

**Senator Jennifer Murnane O'Connor:** It is Fianna Fáil doing the right thing.

**An Leas-Chathaoirleach:** No interruptions, please.

**Senator Jerry Buttiner:** Fianna Fáil has never done the right thing.

**Senator Jennifer Murnane O'Connor:** We have done the right thing. People cannot afford it.

**An Leas-Chathaoirleach:** The Senator may not speak. She has had her turn.

**Senator Jerry Buttiner:** I welcome the commission because we can have a real debate about water, the payment of charges and the funding of the network, system and services. I challenge anyone in the House to show me the colour of his or her money. The Irish Water list

of projects for Cork is going to require investment. That means money. As Sinn Féin becomes more mainstream, as it has done in the North, it will discover that government requires making decisions. One cannot come into this Chamber or any local authority chamber and be all things to all people. It requires making decisions. That is why Senator Paudie Coffey has said the most consistent party on the issue of water charges has been Fine Gael. I would happily go to the country on the issue if I had to. I did it in the last election and was intimidated by people in my constituency. I will stand up to all of them.

*11 o'clock*

However, I will not be populist like the Fianna Fáil Party leader was in the case of Cork.

**An Leas-Chathaoirleach:** Please address the Chair.

**Senator Jerry Buttiner:** The memorandum of understanding is clear, as Senators Gerard P.Craughwell, Kevin Humphreys and Paudie Coffey said. We are opening ourselves to daily fines from the European Union if we do not continue to charge for water. These will cost the taxpayer more and more money and that will mean less investment.

The memorandum of understanding was signed by Fianna Fáil in government. The leader of Fianna Fáil was in the Cabinet and signed up to it, whether he likes it. He cannot do a Bobby Ewing and turn off the shower, come out and say that he was never there.

**Senator Jennifer Murnane O'Connor:** Fianna Fáil did not set up Irish Water.

**Senator Jerry Buttiner:** He cannot do that. Moreover, Deputy Barry Cowen cannot promise everything and deliver nothing in terms of investment.

**Senator Gerard P. Craughwell:** Why?

**An Leas-Chathaoirleach:** Order, please.

**Senator Jerry Buttiner:** What we are doing today with this Bill is to provide for the setting up of the commission. I believe the bona fides of the Minister of State, Deputy Damien English, and the Minister, Deputy Simon Coveney.

The energy regulator has been sidelined. The regulator is the independent authority that approved the pricing structure for water and other utilities. Let us remember that under the memorandum of understanding and the Fianna Fáil plan, the cost was far more than what the last Government proposed.

**Senator Kevin Humphreys:** It had suggested €700 per year.

**Senator Jerry Buttiner:** If we want a debate about water charges, let us have it.

There is another concerning aspect that no one here has addressed. Last week, Professor Seamus Coffey from UCC referred to the revelation of the significant drop in the number of people who had paid bills by the end of the last billing quarter. There has been a 50% drop. The company is looking to collect approximately €260 million. That amounts to €65 million per quarter, a significant amount of money.

I was not in the Cabinet. I am not privy to the Attorney General's advice. I do not really mind about all of that. What I am concerned about is the need for us as politicians from Conne-

*Seanad Éireann*

mara, Waterford, Carlow, Cork or wherever to go back to the people. I want to go back to the people of the lower harbour, Carrigaline, Ringaskiddy and Monkstown in Cork and tell them that we are going to bring in the Cork lower harbour drainage project and give them clean drinking water. I want to tell them that we are going to invest in the water treatment plant and in the lower harbour in Cork. However, we cannot do it unless we have the resources and the money to do it. Fianna Fáil has no plan to do it. Sinn Féin wants to increase all taxes.

**Senator Trevor Ó Clochartaigh:** That is nonsense.

**Senator Jerry Buttimer:** If we are to have investment in the water network and system, let us allow the commission to produce its report.

**Senator Trevor Ó Clochartaigh:** Fine Gael should stop wasting it on the meters and put it into the system.

**Senator Jerry Buttimer:** If the commission makes a recommendation as part of the final outcome, I will accept it as a democrat. We can talk about new politics, but that does not mean we can be a catch-all for everyone. Let us remember 1977. The Leas-Chathaoirleach was an active member at the time.

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

**Senator Jerry Buttimer:** I will finish on this point. That was the beginning of the end of local government funding. We then had a gargantuan U-turn by one political party and are going to see another one now on this question. I welcome the commission. I hope it will be a success and I will await its outcome. I very much regret the fact that Joe O'Toole had to resign. He was forced out. This is important legislation and I hope it will be able to do its work and present a report within five months.

**Senator Rose Conway-Walsh:** I had not intended to speak on Irish Water, but I was upstairs and heard Senator Paudie Coffey chatting away and felt a responsibility to come down and respond.

First, I wish to comment on the North and water charges. Let us be absolutely clear because Senator Paudie Coffey seems to be a little confused about this. There are no water charges in the North. There are no water charges-----

**Senator Paudie Coffey:** I am not confused.

**Senator Rose Conway-Walsh:** Perhaps the Senator might give me a chance to speak. There are no water charges in the North because the Sinn Féin Minister with responsibility for regional development, Conor Murphy, stopped water charges being brought in and stopped the privatisation of Northern Ireland Water.

Senator Paudie Coffey rightly refers to the fact that some metering has been done. Again, the reason-----

**Senator Gerard P. Craughwell:** They are still doing it here.

**Senator Rose Conway-Walsh:** Metering has been done in the North because there was a change of ministry to a Unionist ministry. We lost that ministry and they brought in metering as they had intended, a little like what Fine Gael is doing here and what Fianna Fáil did originally.

I want to refer to the Fianna Fáil position. Certainly Senator Jerry Buttmer is right to say it was a Fianna Fáil baby originally. Maybe Fianna Fáil people were there at the conception. Fianna Fáil representatives are right to say the party did not make Irish Water. They did not have the final say on the outcome of the baby. However, we can only go on their record or the members of the family who were born before that. We had Eircom and then privatisation of that company. We then had waste management service privatisation. We also had centralisation of the hospital services and then privatisation. One would be forgiven for thinking that they had the same thing in mind for Irish Water.

Sinn Féin never told people to pay bills.

**Senator Paudie Coffey:** it did.

**Senator Rose Conway-Walsh:** We have always said - we are absolutely consistent in all of this - we would never tell anyone to pay a bill or not to pay a bill. We have always said that people should decide for themselves. We have faith in the capacity of individual human beings to make decisions around whether they pay bills. We would not have the responsibility of someone not paying a bill and subsequently incurring interest charges or anything else. It would be an irresponsible stance to tell someone not to pay a bill, in the same way as I would not expect anyone to tell me not to pay a bill. I am glad to have the opportunity to clear that up.

The problem is that people are not paying for water when they are paying water charges. They are paying for the likes of what happened around Siteserv and the deals that were done. That is the problem people have with it. We know 50% of water is being wasted. People are refusing to pay for poisonous lead pipes that have not been fixed. Those pipes were not fixed during the boom when the country was awash with money and when so many things were being done to sort out bonuses and jobs for the boys and extra money here, there and everywhere. Instead of investing that money in water services, it was used to line the pockets of people in the golden circle and people around that circle. It is as plain as that. Irish people are not stupid and they see that. Therefore, when they are told that they have to pay for water, that is what they see.

My party believes water is a basic human right. I am one of the people to whom Senator Kevin Humphreys referred. I have paid for water delivered through a water scheme all my life and do not have a problem with it. I do not have a problem with it because I know every cent I pay goes into a local community group. Every cent is used to produce water of better quality. We have control over the quality of that water. I do not have to pay for vast bonuses for anyone and do not have to pay for anything else. In other words, it is targeted at the water. I thank the Senator for considering me in all of this.

I wish to discuss what is being done with the sewerage schemes because sometimes when we talk about water, we think only of drinking water. Sewerage schemes are being developed throughout County Mayo. Let us consider the Belmullet sewerage scheme, for which we have waited 40 years. It is finally being delivered because of an imposition from Europe to the effect that we must have a sewerage scheme. The original cost of the sewerage scheme was predicted to be €13.5 million. The cost is now down to approximately €7 million. The capacity of the treatment plant has been reduced to the extent that we cannot now attract new industries to the area. I call on the Minister of State to seriously consider this in the context of the network and collective responsibility.

Both Fianna Fáil and Fine Gael must take responsibility for creating the monster of Irish Water. They cannot hide behind Europe or European directives. They have to take responsibility. The people are not stupid when it comes to water. That is why hundreds of thousands come out onto the streets. It is not that they do not want to pay for things. They do not mind paying for the things they get, but they will not be paying for the nonsense of Irish Water.

**Minister of State at the Department of Jobs, Enterprise and Innovation (Deputy Damien English):** I will answer some of the questions asked and respond to comments made by Senators.

People do not mind paying their water charge when they can see exactly what they are getting for it. A major reason for setting up the commission is to analyse methods of payment, how people are paying and if people can follow their charge to see how it is being spent and to build that analysis into the system. I believe in the concept of paying for water services and will defend it until the cows come home. I have no problem with that concept whatsoever, but I acknowledge that it was not very well explained, the business case was not always well sold and there were issues around transparency and concerns over bonuses, etc. Most of the concerns, if one analyses them, can be addressed but headlines in the media and commentary from politicians of all parties do not help that discussion. The bonus issue was not what people thought it was at all. As with most businesses, the bonus was built into the basic pay. My background is in business and the scheme which was put in place for the Irish Water bonuses was actually logical in order to generate activity and staff efficiency. However, I accept that it was never fully explained.

I totally agree that the majority of people are quite happy. Although people do not like paying for anything, they understand certain things such as electricity and telephone services have to be paid for. People like to know they are getting value for money, are not getting ripped off and are getting a good service. It is part of what we are aiming to do in building confidence. If that argument is not won in nine or ten months time, this and the other House might vote to get rid of water charges. If the argument is not won to bring people on board - I include Senators and Deputies in this - decision-makers will have to decide over those months what the future is regarding the funding of water services. The question must be asked as to whether a system can be built in which people have confidence. That is a decision for Senators and Deputies.

We must be honest. Senator Kevin Humphreys mentioned dishonesty in this situation. One way or another, water has to be paid for by somebody, somewhere and sometime in the State. It is becoming quite expensive to provide water. I understand Senator Frances Black's comments about people who could not afford more charges at the time. I understand it. Trust me when I say that if this could have been prevented, it would have been. Fine Gael and the Labour Party do not like being unpopular and we do not introduce these measures for fun. We would have avoided it if we could have. Perhaps we could have tried to work around it but decisions were made by the previous Government which forced the timing of the introduction of water charges. We acknowledge that the timing was wrong. However, even if the State could avoid water charges, the expansion of water services had to be paid for at some time and taxpayers' money would have been used anyway. The cost would still be the same for the State one way or another. It may not have manifested itself as water charges but rather as other taxes. There would be a cost as it was not going to go away. This is what must be discussed and decided on by decision-makers, Senators, Deputies and the public. In the next nine or ten months, I hope people will come with us on the journey of exploration. People might still decide at the end that they do not like water charges. If that is what they decide, that will be fair enough. However,

let us look at it. Has everybody read the business case behind Irish Water? I do not believe he or she has. I doubt it, but I will not pick on-----

**Senator Jennifer Murnane O'Connor:** We have.

**Deputy Damien English:** I did not say "we". I asked if everybody in this and the other House, decision-makers and the public which has an interest in this had. I know that everybody is busy but I would recommend taking some time out to read the original business case for setting up a single water utility. Let us put aside what happened after it and look at the business plan and the improvements. Then let us put them together to see if it is working. I totally believe in the concept of a single water utility. Questions around transparency and so on are a different concept, but I believe in the business case.

Reference was made to the cost of setting up the utility. It is correct that it will cost €750 million over a couple of years. The business case examines all of those figures and they were set out at the very start, which was two or three years before the final vote in the Dáil. The business case analysed the figures and stated what the set-up cost would be. There were no hidden figures, although it may have been more expensive in some areas. It was an average costing at the time of €120 million, but it cost €170 million. The business case went through the fact that it would cost money. However, if one did not go through all those set up costs, the utility could not now borrow money. The whole idea is that Irish Water owns all the assets and can borrow money separate from us, which will help to fund investment in water services. That was why part of the money was spent.

If one analyses what it cost to run 34 separate water utilities, one can see what the savings are. It was very clear that it was not going to pay for itself in one, two or three years. It will take eight to ten years by the time there is a payback for the State. It is built into the contract that Irish water must bring in efficiencies and savings. As people have not had time to read the business case, I suggest they read it and we could then discuss it more. I do not believe we discussed this enough. People said the debate was guillotined, but the Bill was debated in this House for two or three years before it came to use of a guillotine. On the night, there was a guillotine, but there was two or three years discussion before that. However, not everyone got into the debate, including the media and the public. During this period when charges are parked, I urge everyone to look at the business case and the choices. Should we have water charges or not? If there are no water charges, do we use more taxpayers' money? If we do so, there is either more tax to be collected or there are cuts in other services. That is the reality because we have no choice but to invest the guts of €10 billion in water services for the years ahead.

Senator Gerard P. Craughwell referred to the lunacy of continuing the metering programme. I do not agree with him. Metering is the best way to achieve conservation and educate all of us about the logic of saving water and not wasting it. One of my first trips outside of the State as a Deputy was to Geneva on a global water shortage conference. We are lucky to have plenty of rain in Ireland but other countries do not have it. We have a duty to conserve water and to build that into the mindsets of all, both young and old. Metering helps to focus us on not wasting water. The best example of metering is that it saves leakage. As I said, the truth of the matter is that because of metering, we have saved 48,000 million tonnes of water which, in brass tacks, is the equivalent of 150,000 houses' water usage each year. People must understand this. Apart from the merits of water conservation and not wasting it, if we can reduce the leakage through any method, it reduces what must be spent on building infrastructure in the first place. It costs a lot of money to build a water treatment plant. If leaks continue in the system, more treatment

plants and facilities would need to be built to flush the system. It costs so much to treat water and make it safe for drinking that the leaking water is equivalent to Ballygowan water. That is the cost of it and metering should enable a reduction in the rates of leakage. It will not catch all leaks but it will stop many of them. This continuing work is required, whether water charges are in place.

I will now return to the matter of the water charges. This is a discussion people must have in the coming months and decisions will need to be made. I will not hide the fact that I believe in water charges at the right price and with the right value. I accept that, but this is a collective decision and it is not just about my view or that of Senators-----

**Senator Gerard P. Craughwell:** We should suspend everything.

**Deputy Damien English:** I do not agree with the Senator. Metering is important and contracts have also been signed. The contract will be finished by August or September and the second phase is being reviewed. A decision might be made to wait and it might be best practice to do that. However, I believe this phase should finish what was started in the next couple of months. However, we will, I hope, have a decision once and for all in eight to nine months' time.

Senator Trevor Ó Clochartaigh raised the issue of questions not being answered. That is disgraceful. I will try to get it addressed. If they are silly questions, it is just tough luck, but if they are objective questions which should be answered, they should be.

Reference was made to Galway County Council waiting one year for an answer. If that is true, it is disgraceful. I would not stand over it and will have it addressed. I have seen before where the council needs to dig up the road and it is left waiting for two years for an answer from Eircom or another utility about when it is putting pipes in. It is not a good way to do business. We are aiming for joined up thinking with all Departments and I will certainly check that matter out as that situation is not good enough. We have spoken about this previously and I will not dwell on it today. It was an oversight at the time and it needs to be addressed because people cannot be left wondering. If a person is 95 years of age, he or she cannot be expected to live at home with a serious blockage that is not in his or her boundary. I accept that we have to try to find a way to address that. I cannot say we will have an answer tomorrow but we are working in the Department with Irish Water. Some county councils such as Westmeath County Council have taken the lead on these kinds of issues.

I totally agree that people living in rural areas are already paying for water. Apart from water schemes, they are paying for wells which require massive costs for installation in the first place. It can cost thousands of euro. It also costs money to run and maintain a well each year. Septic tanks and bio-cycle units cost thousands of euro to install, sometimes €4,000 or €5,000. These also require servicing each year and have to be discharged, which costs a couple of hundred of euro on top of electricity running charges. The people concerned, with more than 300,000 people on schemes, are also paying tax like everybody else; therefore, it is not exactly very fair. This is another reason for bringing in the single water utility and water charges. These are all matters for analysis and decision on what is right, fair and best for the State. I have no doubt that this will be done in the months ahead.

I will now deal with some other issues. We have dealt with blockages. I will address the subvention. With all the different changes and the things that have been done for this year in

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respect of the conservation grant and switching money from subvention to working capital, the net cost of this decision for the months ahead will be in the region of €20 million to €30 million. It will get more expensive in the years ahead and the opportunity to spend money elsewhere, whether on education or services for people of all ages will be an issue. That cost has to be taken into account also.

Let me give the official position on fines. The Commission can instigate infringement proceedings leading to a referral to the European Court of Justice, where it is considered that a member state is not complying with an EU directive. This can lead to the imposition of fines until such time as compliance is demonstrated. The Commission has refused to comment on hypothetical questions and will only assess compliance based on the specifics of any change to the current system.

As Members know, the Minister for Housing, Planning, Community and Local Government, Deputy Simon Coveney, met the Commissioner recently to outline developments regarding the deliberative process on the future funding of domestic water charges and to discuss its broader implementation. The Minister has explained to the Commissioner what we are trying to do. We understand the implications of this because of previous Government decisions back in 2010. The Attorney General has advised that we believe it is okay to temporarily suspend the charges to have this discussion.

There is an issue and there is legal advice that we used during the negotiations on the programme for Government and in the agreement with other parties. Let me put it out there that it is a minority Government and we need the consensus of the Houses of the Oireachtas to do this. This is regarded as the best approach to give us some time and space to have this conversation in a calm and fair way for everybody and we will see where we go from that. We hope the Commission will understand where we are during these nine months. It might get more complicated thereafter, but that is where it is at. We do not have a cost of what the fines will be for this month or next month.

In respect of metering, there are 840,000 meters installed and another 30,000 to 40,000 will be installed in the months ahead. I believe we should continue with that programme for other reasons, apart from the funding issue. I know that people do not like that this is continuing. I accept that view, but a lot of the concern is about the trust in the system. At the start of the work, the people I met who marched were genuinely afraid that the metering of water usage would take off and would cost them €1,000 year. That happened during the electrification programme and people did not take up the offer to bring electricity into their homes because they were afraid they would be faced with bills they could not afford from the meter in the corner.

**Senator Gerard P. Craughwell:** I think they were more annoyed about the cost.

**An Leas-Chathaoirleach:** Order, please.

**Deputy Damien English:** There were many reasons, but one of the reasons I came across was the actual fear that a meter could show that their usage would mean a bill of €1,000. This was a genuine concern because they did not have the money and could not afford to have it. People were afraid of having a meter. That is the logic of introducing a cap on the cost of water in order that the supply would not cost more than €260 or €280 a year. A person could get used to looking at his or her meter and use of water and try to monitor usage. That is the idea behind putting a cap on the charges. In an ideal world a cap should have been introduced at the start

in order to give people time to see how to work out their consumption and build trust in the system. I totally agree that this has to be done.

Let us bear in mind that before the suspension of charges, up to 75% of people had started to pay for water. From meeting people at the door, my judgment is that nobody likes to have a bill but most people kind of agree somewhere along the way that this has to be done if it can be done fairly. Let me reiterate that I said “most people,” I am not saying everybody. Even when I meet people at the door they tell me: “You made a bags of bringing it in but we understand the logic of it.” That is the type of comment I got, but I was also eaten out of it and ran from doors over it too. Most people said there is a logic but do not like the way it happened. That is what we have to tease out also.

I have spoken about the costs already and we can deal with it afterwards, if need be.

Do I have more time?

**An Leas-Chathaoirleach:** The Minister of State can have a few more minutes.

**Deputy Damien English:** Let me reassure the House that Irish Water will remain in public ownership as long as the Government is in office. Given the strong views of most parties and the Independents on this issue, I would be very surprised if any future Administration adopted an alternative policy. However, people think it could be privatised tomorrow. It actually cannot and will not be. I can assure Members of that and will set out the reasons.

**Senator Gerard P. Craughwell:** There could be a referendum on the issue.

**Deputy Damien English:** The public has consistently espoused the notion that public water services and indeed the national utilities should remain in public ownership. The Government agrees with this. Water is an essential national resource. There is no question of putting at risk people’s very access to their basic needs in terms of water services. This is why the previous Government introduced safeguards in the area and carefully considered the question of the holding of a referendum on the ownership of Irish Water, as the Senator was saying. The various categories of ownership of water services included infrastructure that is State-owned, State-funded but operated by private group schemes and boreholes located on privately-owned lands. Seeking to enshrine such matters in public ownership through a constitutional referendum could have unintended consequences and could impinge on an individual’s constitutional right to private property. That is the reason for the decision not to hold a referendum. Previous experiences of constitutional referendums have shown that it is extremely complex in trying to get the wording of the amendments right. We have all seen that, but it does not mean it cannot be done. It is very complicated and does not give the result that one wants or would genuinely like to achieve.

The approach adopted in the Water Services Act 2014 is much clearer and straightforward. No legislation to change the public ownership of Irish Water can be initiated unless three specific conditions are met. I know that Senator Paudie Coffey is probably sick of hearing this as he has dealt with this also.

The first condition is where a Government proposes to initiate legislation that would change the ownership of Irish Water it must obtain a resolution from both Houses in favour of the legislation, both the Seanad and the Dáil have to pass it. Second, subject to such resolutions being obtained, the Government would then hold a plebiscite of the people; therefore, the public

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would be consulted and get to vote on it. It is not too far off a referendum, but a referendum is for a change to the Constitution. The plebiscite is quite common in every other country. In Switzerland there is a plebiscite nearly every week.

**Senator Trevor Ó Clochartaigh:** A referendum.

**Deputy Damien English:** The people are being consulted. What more does the Senator want the Government to do?

**An Leas-Chathaoirleach:** Please allow the Minister of State to conclude.

**Senator Trevor Ó Clochartaigh:** It is very different from a referendum in terms of its legal status.

**Deputy Damien English:** It is subject to the people.

Third, only with the approval of a majority of voters in a plebiscite, that is the people will have a choice and will decide on the proposal that both Houses of the Oireachtas could pass a resolution to privatise Irish Water or dispose of any share held by the Government.

That is the truth. People should bear that in mind. Members can advocate for a referendum if they like, but I would like people to say that by the way, in law it cannot happen without a vote of the public.

**Senator Paudie Coffey:** It is the truth.

**An Leas-Chathaoirleach:** Order, please.

**Deputy Damien English:** If we are to be responsible in the Houses of the Oireachtas, we have to deal with the truth and the facts. That does not always happen in all our parties. That is not acceptable. I will always try to put the facts out there. Even last week, I do not think people liked me putting out the facts on the Seanad reform Bill. It was the truth and I was stating the facts. If we are to progress the debate, we can only deal with facts and truths. I do not do flowery. I just do facts and figures. I hope people realise that. That is what we need to do for the good of the country. We need to do the right thing.

My colleague, the Minister for Housing, Planning, Community and Local Government, has clearly stated he is open to looking at the question of further reassurance on this issue, if required.

There has been some discussion of late about Ireland's obligation under the water framework directive. I wish to make a few points on that issue. A key component of the directive, as Senator Paudie Coffey mentioned, is the polluter pays principle and the cost recovery of water services. Article 9(4) provided a derogation that could be used where charging was not an established practice and the objectives of the directive could still be met. Ireland did not use this derogation in its first river basin management plans in 2012. Senator Kevin Humphreys made the same point. Those plans stated domestic charging would be introduced as a means of complying with the directive. That is three Governments ago, to be clear about this issue.

**Senator Paudie Coffey:** From 2004.

**Deputy Damien English:** I am not going to go there, but it is a fact.

The Commission in response to a recent question submitted by two Irish MEPs has stated the current practices that apply in Ireland mean that the Article 9(4) provision, the so-called Irish derogation, is no longer an option. Earlier this month the Minister met the European Commissioner for Environment, Maritime Affairs and Fisheries to outline the process under way in relation to the suspension of domestic water charges and to deliver the process of the long-term funding model for the delivery of domestic public water services. Again, the Minister set out the terms of reference of the expert commission which, among other things, will have to take cognisance of our obligations under the water framework directive in their examination of the issues. The Minister also set out the role of the Oireachtas as part of this process. It is not a pre-determined outcome. The decision on this matter will be in the hands of both Houses of the Oireachtas, which includes the committees. It will be well informed and there will be no hiding.

**An Leas-Chathaoirleach:** I must apologise to the Minister of State. I misread the time; he has more time.

**Deputy Damien English:** It is a collective decision, from which there is no hiding. The commission is there to advise, implement and deal with the facts and the truth, not opinions or ideas. It will come down to choices. With every choice, there is an opportunity cost. My background is accountancy and opportunity cost can get very expensive when one goes looking for money for something else.

The logic of having conservation, meters and charges is to try to reduce the amount of money we need to spend on water in the first place. We could then spend the money elsewhere. The cost of building a water or wastewater treatment plant is substantial and I would prefer if this money were spent elsewhere. We should, therefore, try to reduce consumption and the capacity we require. The best way to achieve this is through metering and, in my personal opinion, charging, but the decision in the matter will be one for both Houses to make. I thank Senators for their time.

**Senator Jennifer Murnane O'Connor:** On a point of order, we discussed local authorities and mix-ups with Irish Water and the Minister of State indicated he would revert to me on the issue.

**An Leas-Chathaoirleach:** That is not a point of order. Points of order must concern procedure or clarification.

**Senator Jennifer Murnane O'Connor:** It is a point of order because the matter relates to the manifesto to which the Minister of State referred.

**An Leas-Chathaoirleach:** I am sorry to correct the Senator, but that is not a point of order. A point of order can only deal with procedure or clarification. The Senator wants to ask another question, having already made her contribution to the debate.

**Senator Jennifer Murnane O'Connor:** May I seek clarification on the manifesto about which the Minister of State spoke?

**An Leas-Chathaoirleach:** No. That is not a point of order.

**Senator Jennifer Murnane O'Connor:** May I ask a specific question?

**An Leas-Chathaoirleach:** No, the Senator may raise the matter with the Minister of State

afterwards.

**Senator Jennifer Murnane O'Connor:** I am very disappointed as this is a serious issue.

**An Leas-Chathaoirleach:** I am sorry, but it is not a point of order.

**Senator Jennifer Murnane O'Connor:** I am disappointed that is the case. I will speak to the Minister of State when the debate concludes.

Question put and agreed to.

**An Leas-Chathaoirleach:** When is it proposed to take Committee Stage?

**Senator Paudie Coffey:** Next Tuesday.

Committee Stage ordered for Tuesday, 19 July 2016.

*Sitting suspended at 11.35 a.m. and resumed at 1 p.m.*

### **Citizens' Assembly: Motion**

**Senator Jerry Buttimer:** I move:

That Seanad Éireann:

approves the calling of a Citizens' Assembly to consider the following matters and to make such recommendations as it sees fit and report to the Houses of the Oireachtas:

- (i) the eighth amendment of the Constitution;
- (ii) how we best respond to the challenges and opportunities of an ageing population;
- (iii) fixed term parliaments; and
- (iv) the manner in which referenda are held; and
- (v) how the State can make Ireland a leader in tackling climate change; and

notes that:

- membership of the assembly will consist of 100 persons as follows:
- a chairperson to be appointed by the Government; and
- 99 citizens entitled to vote at a referendum, randomly selected so as to be broadly representative of Irish society;
- substitutes may be appointed, subject to the selection criteria above, who will be entitled to contribute to the proceedings and vote in their own name;
- the assembly will agree its own rules of procedure for the effective conduct of its business in as economical a manner as possible;
- the assembly will first make a report and recommendation on the matter set out at (i)

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above to the Houses of the Oireachtas which on receipt will refer the report for consideration to a committee of both Houses which will, in turn, bring its conclusions to the Houses for debate;

- the assembly will report and make recommendations to the Houses of the Oireachtas on each remaining matter as soon as it has completed its deliberations but in any event not later than one year from the date of the first assembly meeting;
- the assembly will also be asked to consider such other matters as may be referred to it;
- an expert advisory group will be established to assist the work of the assembly in terms of preparing information and advice;
- the assembly may invite and accept submissions from interested bodies and will seek such expert advice as it considers desirable;
- all matters before the assembly will be determined by a majority of the votes of members present and voting, other than the chairperson who will have a casting vote in the case of an equality of votes; and
- the Government will provide in the Houses of the Oireachtas a response to each recommendation of the assembly and, if accepting the recommendation, will indicate the time-frame it envisages for the holding of any related referendum.

**Acting Chairman (Senator Diarmuid Wilson):** I welcome the Minister of State, Deputy Damien English.

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Damien English):** As it is a long time since I was last here, I am glad to get a chance to address the House again.

**Senator Mark Daly:** The 61st Member of the Seanad.

**Deputy Damien English:** It is all about Seanad reform.

I am grateful to the Acting Chairman and the Members of Seanad Éireann for giving me the opportunity to speak to the resolution before us about the proposed Citizens' Assembly. The resolution deals with the setting up of a citizens' assembly. We had this debate in the Dáil during the week also.

If the Members agree, I will refer to the events that took place last night. Given the proud record of France in the development of the rights of citizens, I express my revulsion at what happened in Nice last night and my sympathy and that of the Government which I am sure is shared by every Member to the government and people of that great country and the families of those killed and injured. What happened was atrocious and it is important that we mention it today.

A Programme for a Partnership Government promises that the Government will establish a citizens' assembly with a mandate to look at a limited number of key issues over an extended time period. As the programme states, these issues will not be limited to those directly pertaining to the Constitution and may include issues such as, for example, how we as a nation best respond to the challenges and opportunities of an ageing population. That said, the Citizens'

Assembly will be asked to make recommendations to the Dáil on further constitutional changes, including on the eighth amendment, fixed term parliaments, the manner in which referenda are held - for example, should super referendum days, whereby a significant number of referendums take place on the same day, be held - and how the State can make Ireland a leader in tackling climate change.

The Citizens' Assembly will be very similar to the Convention on the Constitution. Senators will be aware, especially those who may have served on it, that the convention was an important and imaginative exercise in the direct involvement of citizens which worked very well and with which everybody was happy. A number of significant measures have been accepted on foot of recommendations made by the convention, for example, that the Ceann Comhairle be elected by secret ballot, that provision be made for the proportionate allocation of committee chairs using the d'Hondt system and that an electoral commission be established. In addition, two referendums were held on foot of recommendations from the convention, most significantly, the referendum on marriage equality. As the House is aware, that referendum was passed by a decisive majority, the first occasion on which a proposal for constitutional change put forward by a constitutional convention resulted in actual constitutional change. It was also the first time that marriage equality was carried by popular vote anywhere in the world.

I have mentioned that the Citizens' Assembly will be very similar to the Convention on the Constitution. Despite some scepticism about the convention at the beginning, the convention model worked very well. Like the convention, therefore, the Citizens' Assembly will be independent of the Government. As with the convention, resolutions of both Houses of the Oireachtas will approve its establishment and it will report back directly to the Oireachtas.

The resolution before the House is closely modelled on the resolution approving establishment of the convention; it is a very similar process. The assembly will comprise 99 citizens and an independent chairperson. A polling company will be engaged to select 99 people entitled to vote in a referendum to be members of the assembly. They will be randomly selected and will be broadly representative of Irish society. In order for the electoral register to be used in the selection process, legislation is required. The Electoral (Amendment) (No. 2) Bill 2016 is before the House later today and I am grateful to the Members of the House for agreeing to discuss it on the same day as the resolution. A similar process was followed in the Dáil during the week.

One difference from the convention is that politicians will not be members of the assembly; this is so as to allow for as broad a representation as possible from the general public. The citizens will have ownership of the process and I appeal to anyone who is contacted to take the opportunity to participate in this initiative. Politicians will have the opportunity to give their views as each assembly report comes before the Oireachtas.

As in the case of the Convention on the Constitution, the chairperson will be independent and will be key to the success of the assembly. The Taoiseach has already promised to consult the Government and Opposition leaders on potential candidates for chairperson.

The topics the assembly will consider are set out in the resolution. The assembly will be asked to consider the eighth amendment of the Constitution; how we best respond to the challenges and opportunities of an ageing population; fixed term parliaments; and the manner in which referenda are held. It will also consider how the State can make Ireland a leader in tackling climate change, a suggestion made by Senator Grace O'Sullivan's colleagues, Deputies Eamon Ryan and Catherine Martin, in the other House. The assembly will also be asked to

consider such other matters as may be referred to it in due course.

One point I want to make clear is that the resolution specifically states the first item the assembly will consider is the eighth amendment of the Constitution. When completed, the assembly's report on the eighth amendment will be sent to a committee of both Houses of the Oireachtas, which will in turn bring its conclusions to the Houses for debate. As that first part is finished, the report will come here and the assembly will then continue its work in the other areas. When the assembly's report on the eighth amendment is completed, but not until then, the assembly will turn its attention to the other items listed in the resolution. I know there are concerns here, but I want to be clear that the process will be one at a time; the report will be sent here while the assembly continues its work in the other areas.

It is intended that the assembly will hold its first meeting in October. The resolution gives it a 12-month deadline from its establishment to complete work on all its items. As I mentioned, consideration of the remaining topics will start only when the assembly has completed its consideration of the eighth amendment.

The Government will provide a response in the Oireachtas to each recommendation of the assembly. We will arrange for a debate in the Oireachtas in each case and, in the event that the Government accepts a recommendation that the Constitution be amended, the Government's public response will include a timeframe for the holding of any such referendum.

The Convention on the Constitution benefited from the use of experts; that was a key feature of the way it worked. Likewise, the assembly members will presumably wish to have expert advice available to them about the assembly's work. For this purpose, an expert advisory group will be established to assist the work of the assembly. The composition of this group will be a matter for the chair. The expert group's membership may change at different stages of the assembly process to reflect the particular issue under consideration.

In carrying out their work, the chairperson and members of the assembly will no doubt be anxious to hear a wide variety of viewpoints. Following the convention model, interest groups can be invited, at the discretion of the chairperson, to present their views when topics relevant to them are being discussed. The general public, with interest groups, will be able to make written submissions for consideration by the assembly. I commend the resolution to the House. I am sure it will join me in wishing the assembly well in its work in the months ahead.

**Senator Jennifer Murnane O'Connor:** The Fianna Fáil Party will abstain on the vote to set up the establishment of the Citizens' Assembly. We believe the issue is of such sensitivity and complexity that it cannot be adequately dealt with by putting together 100 citizens.

Fianna Fáil favours a judge-led commission which would be able to call and listen to various interested groups. It could provide a coherent report carrying the weight of members of the superior courts. A citizens' assembly will not be as effective. A report produced by a judge in respect of the issue would be intellectually coherent and allow us to examine the options and choose one. That is the view of the Fianna Fáil Party.

**Acting Chairman (Senator Diarmuid Wilson):** Senator Michael McDowell is speaking on behalf of the Independent Group which has been allocated eight minutes. Senator Rónán Mullen has indicated that he wishes to speak also, but I can only allocate eight minutes by order of the House.

**Senator Michael McDowell:** We will share time.

I want to indicate in a personal capacity that I am totally opposed to the establishment of a citizens' assembly along these lines. I regard it as a pointless exercise and demeaning in a democracy of our kind, in which we have a Parliament established by the people the function of which is to consider such topics. The notion of assembling 100 persons at random using a polling company and superimposing a so-called independent chairman, with an advisory service attached on top of that whose staff are in effect chosen by the chairman, means that the chairman's agenda will effectively run the assembly.

The eighth amendment is one issue, but the other issues such as how we respond to the challenges and opportunities of an ageing population are the business of this and the other House. They are not the business of an *ad hoc* assembly of 100 persons convened to consider that subject. They are in no better position than 100 persons chosen at a football match or anything else to consider these issues and the suggestion there is some authenticity or authoritative character put on them by reason of the fact that they are assembled at the behest of the Houses of the Oireachtas is false.

We have a Constitution. We do not need fixed-term parliaments. We want it to be the case that when Deputies in Dáil Éireann decide they no longer have confidence in the Government, it goes, no questions asked. The Taoiseach of the day is obliged to resign if he or she has lost the confidence of a majority of the Dáil. That is a sacrosanct principle of the Constitution. This is a half-thought-out proposition that has no basis in public opinion. I have never seen coherent articles written in the newspapers by authoritative persons stating we should have fixed-term parliaments and scrap the right of Dáil Éireann to have an election when necessary. The manner in which referendums are held seems to be code for an underlying Government agenda to revisit the jurisprudence of the Supreme Court to the effect that there should be no use of public funds to influence the result. The people of Ireland vote in referendums. They understand what the issues are. They use their votes intelligently and we do not need a change in our constitutional approach to these issues. We do not need the views of 100 persons assembled for this purpose.

Climate change is hugely important, but 100 persons assembled at random are in no better position than 200 persons elected by the people to make decisions on these subjects in these Houses through discussion with expert persons brought before committees, considering reports and considering all of these issues. This assembly is a sham. It should not be accepted for what it is. If, as the previous speaker stated, there is a desire to examine in depth the problems arising from the eighth amendment and how it should be dealt with, that is a one-off issue to be dealt with in a sensible way and not through a ridiculous sham of an assembly convened on the basis of a polling company's random sample of persons.

There is no such thing as a random assembly of this kind for the simple reason that the persons who can take time off to participate in it are a different subset from those who must go to work every day. They are a different subset from the self-employed, including me, if I were not in this House, who could not possibly agree to participate in this kind of arrangement. They knock out those who have family obligations and caring obligations. Persons of that kind all are swept aside and it is a self-selecting group.

I am wholly opposed to this idea. It is an exercise in political cowardice by a Government that is in office but not in power.

**Acting Chairman (Senator Diarmuid Wilson):** I welcome Deputy Jim O'Callaghan and his guest to the Visitors Gallery.

**Senator Rónán Mullen:** I agree with every word Senator Michael McDowell said. It is no wonder people have such little respect for politicians when we show such little respect for ourselves. We are the citizens' assembly. We are the persons who have been given a mandate to tease through all sorts of issues, difficult and less difficult.

One of the most serious issues of our time, one of the most difficult and neuralgic social issues, although at least the people have been given an opportunity to speak on it at various times, unlike those in other countries, is now to be put to a randomly chosen group of persons. The deficiencies in that process have been eloquently described by Senator Michael McDowell. It is also reasonable to suspect that this is really about giving an appearance of public legitimacy to the demand for some kind of initiative. When one hears people such as the Minister of State, Deputy Regina Doherty, already speculating about the outcome of the deliberations and looking forward to the eventual legislative and constitutional initiatives that will follow, that gives the game away. The cat is out of the bag. It is a put-up job. It is about pretending there is some kind of public demand for something for which there may or may not be a public demand, which should at least be discussed here and nowhere else before being put to the people.

The Minister of State, Deputy Damien English, stated the previous convention model worked well. He was not well briefed. If there were to be an examination as to how persons came to be on the convention and the number of former and present party hacks who were on it, I believe it would show there were a couple who found themselves on the convention, which is, to say the least, mathematically surprising. Some who were involved in the organisation of that convention and its activities would be embarrassed. I believe there were persons on the inside who asked awkward questions and it caused a certain measure of embarrassment, although the issue never really took off in the public mind.

I would like to know whether we will be entitled to know the precise history of how each person in the assembly gets to be on it. If, as Senator Michael McDowell advises us, there will be all sorts of situations in which people, when contacted, simply refuse to participate, how long will it be before the organisers start to ask for suggestions? Is that not what will happen? There will be this self-selecting and mutually recommending activity going on. Will we be allowed to find out? Will we be allowed to have a tracker to see how each and every person who ends up on this assembly actually gets on it?

It should not come to this. Whatever one's views on the issues that are being discussed, we should have more respect for ourselves, as the Oireachtas. For that reason, we should not support the motion.

**Senator Jerry Buttiner:** I wish to share time with Senator James Reilly. I welcome the Minister of State, Deputy Damien English.

Notwithstanding the remarks of Senator Michael McDowell, with some of which I agree, I very much welcome the composition and creation of the Citizens' Assembly. It is a good idea, not least because the decision-making rests in the Houses of the Oireachtas and with the people. Ultimately, the people will decide what happens emerging from the reports of the assembly.

Unlike Senator Rónán Mullen, I was a member of the previous Constitutional Convention and missed no meeting. It was an extraordinary success, given the number of people involved.

There were self-employed, working people and unemployed and they were young, old, gay, straight or whatever else. As for this notion that persons of different subsets could not participate, they were all there in the *pot pourri* of Irish life. I must disagree with Senator Michael McDowell in this regard. The chairman of the Constitutional Convention, Mr. Tom Arnold, was an impeccable chairman and the agenda of the chair did not drive anything. Where I agree with Senator Michael McDowell is on fixed-term parliaments. Personally, I would not like to see that happening. However, there was no agenda from the chairperson at the Constitutional Convention. The panel of experts were from all sides of life - academic and wherever else. They were absolutely impartial and worked to arrive at decisions. I contend that one could find no fault with the enthusiasm, commitment, knowledge and participation of the citizen members in the last Constitutional Convention. Senator Rónán Mullen suggested different types of people were involved. He was right when he spoke about the transparency of the process. I have no problem with that. There were people with different viewpoints at the convention. That never changed. People came in with open minds and participated in a debate. I could go a step further by mentioning the groupthink that existed on one side of the House. I do not think that should happen on this occasion, as it would undermine the role of the Citizens' Assembly. We should welcome the assembly with open arms. We should allow this motion to pass. I agree with Senator Michael McDowell that we should make decisions. We will do so, but the people will make the final decision when they are asked to participate in a ballot, if they are asked to do so.

Senator Rónán Mullen spoke about the Chief Whip. I remind him that she was referring to an outcome that could happen, just as outcomes happened previously on foot of the work of the Constitutional Convention.

**Senator Rónán Mullen:** It was pre-emptive.

**Senator Jerry Buttimer:** There was no pre-emption, in fairness. I believe the only downside of the Constitutional Convention was that the Government failed to come back in a timely manner with a report on the proceedings of the convention. I say that as one of just two politicians who did not miss any of the days of the Constitutional Convention. I travelled to various events as part of the convention. Notwithstanding the remarks of the two Senators who have said changes need to be made to this proposal, I think it is a good idea and I believe the Constitutional Convention model was a wonderful one. People from other countries are coming here not to ask politicians about this process, but to ask academics such as Professor David Farrell, Dr. Jane Suiter and Dr. Conor O'Mahony about it. Those academics are not political people at all. They cannot be described as liberal, conservative, Fine Gael or Fianna Fáil. I also mention the chairman and secretary of the convention, Mr. Tom Arnold and Mr. Art O'Leary, who were impartial and beyond reproach. I hope the model we are providing for in this case will be as good as that. While I regret that there are no politicians on the Citizens' Assembly - I had hoped we would be represented - I understand the Government's reasons for that decision.

**Acting Chairman (Senator Diarmuid Wilson):** I would appreciate it if Senators would not mention people who are not present in the House or Members of the House.

**Senator James Reilly:** I am sure those who have been mentioned in a positive light will not object. I welcome the Minister of State to the Chamber and the resolution. When I spoke on this matter last year, I did not ask for this specific approach to be taken, but I did call for a forum to be established to allow people to discuss a sensitive issue that has divided this country for decades. People need to be given time to discuss and consider these matters in a non-pressurised environment.

I do not accept what Senator Michael McDowell said about ordinary Irish citizens. He seems to have very little faith in them. It has already been made very clear that the Citizens' Assembly will send a report to the Oireachtas, which will consider what it will do and decide what to put before the people. In such circumstances, the people will make a decision. There is no question whatsoever of democracy being undermined. I do not want to be overly critical when I respond to the contention that people who have to work or who are self-employed will somehow be excluded from this process by saying I would have thought that Senator Michael McDowell, as a former Attorney General and a practising senior barrister, would have faith in this country's jury system. The exigencies being provided for here apply to each and every juror who attends-----

**Senator Michael McDowell:** They are obliged to turn up when summoned. The people concerned will not have such an obligation.

**Senator James Reilly:** They will be encouraged to do so. I hope those who are called on will take the opportunity to participate. If they do not, they will be leaving it to others to do so. That is a valid point to make. I will be interested to hear what those who speak after me have to say. I may have overheard heated conversations among some of them in the Members' bar earlier when people were having coffee. Some of them will have opposed this-----

**Acting Chairman (Senator Diarmuid Wilson):** I remind the Senator that what happens in the bar remains in it.

**Senator James Reilly:** I know. I am merely anticipating that the argument that will be made by some of those who speak after me, in setting out why they oppose the motion, will differ completely from the type of argument that might be made by Senator Rónán Mullen.

The point I am trying to make is that this is a reasonable middle-ground position to take. We are allowing for a reasoned debate to take place, following which there will be a situation where we will further examine and consider an issue that is hugely controversial but on which I stand firm. As I have said previously, it is unconscionable that women in this country should have to leave their families and loved ones, at a time when they most need support and are at their most vulnerable, to terminate a pregnancy that has absolutely no hope of resulting in a surviving child. It is a wrong that we cannot allow to continue. I appeal to those who oppose this proposal because they want to do something more quickly, or because they feel there is a better way, not to let the perfect get in the way of the good. I ask them not to delay this. They should allow the assembly to be formed and to get on with its business in order that it can get back to us and let us get on with legislating for these circumstances, which is what the people have elected us to do, as Senator Michael McDowell pointed out. At that point, the sovereign people of Ireland will be able to decide what should happen.

**Senator Máire Devine:** I welcome the Minister of State. I am pleased to have the opportunity to speak to the motion which relates to the proposed Citizens' Assembly. I want to begin by saying any and all mechanisms that afford citizens further opportunities to participate in the democratic process are to be welcomed and commended. We have had witnessed a number of successful endeavours of this type in Ireland. The Government's proposal clearly models itself on the 2011 We the Citizens initiative, which was particularly successful. Citizens' assemblies have proved successful in many other countries, including Canada. I have no doubt that a similar proposal in this State would prove useful. Having said that, we have an example of a deliberative assembly that has worked very well. I refer to the Constitutional Convention

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which sat between December 2012 and March 2014. I believe that rather than trying to reinvent the wheel for various reasons, we should seek to replicate the Constitutional Convention model. If it is not broken, why fix it? The convention, its secretariat, its chair and especially the citizens who participated in it did an excellent job and produced a series of first-class reports and recommendations.

The Sinn Féin representatives who played their part in the Constitutional Convention felt this democratic process was an uplifting and enjoyable experience. Sinn Féin would prefer it if the convention were reconvened and re-established with a new remit. In addition to the issues set out by the Government, a re-established convention should examine the issues affecting the entire island in the aftermath of the Brexit referendum. This is the most important matter facing the country in the coming years. Consideration should also be given to the outstanding recommendations of the previous convention and other issues, including political reform. Sinn Féin made its position clear to the Taoiseach when Teachta Gerry Adams wrote to him just before he went to the Cabinet with a memo on the current proposal. I am disappointed that the Taoiseach has not taken those suggestions on board. Teachta Gerry Adams encouraged him to consider the appointment of elected representatives, as was done in the previous convention. One of the reasons the convention worked so well was that political representatives worked together with citizens in a holistic way to arrive at positive and worthwhile conclusions. The all-Ireland structure of the convention, involving Members of the Oireachtas and the Northern Ireland Assembly, was also very positive. It is particularly regrettable in the aftermath of the Brexit vote that this is being abandoned in the Taoiseach's current proposal. It is important to acknowledge the contributions of other Deputies in recent weeks with respect to the inclusion of residents who are not entitled to vote in referendums. We would like this matter to be discussed in any future convention or assembly. Sinn Féin is of the view that there is a broad consensus in the Dáil and within our citizenship that the eighth amendment needs to be repealed.

**Senator Fintan Warfield:** Hear, hear.

**Senator Máire Devine:** Many polls have shown that more than 87% of citizens are in favour of repealing the eighth amendment. It needs to be repealed. We do not believe there should be a further delay in dealing with such an urgent issue. For that reason, we are supporting amendment No. 1, in the names of Senators Lynn Ruane and Alice-Mary Higgins, which calls for a report and a recommendation on the eighth amendment to be returned to the Houses of the Oireachtas within three months of the date of the assembly's first sitting. Such a report and recommendation would probably be received by Christmas. Any further delay would be unacceptable. This is clear from public opinion on the matter. We can no longer continue to kick this extremely important social issue down the road. It is worth reminding ourselves that the Government has thus far failed to implement many of the other recommendations of the previous convention. It proposed a range of constitutional changes, including extending voting rights to citizens in the North and the diaspora for presidential elections. I am aware that the Minister of State, Deputy Joe McHugh, made remarks in recent days indicating a referendum on voting rights may be held next year with respect to the diaspora, but there was no specific reference to the citizens from the North. There were also proposals for other referenda, including, for example, to amend the Constitution to remove the reference to blasphemy and to provide a constitutional right to housing. There was also a proposal on the article that refers, laughingly, to women's life within the home. A new convention should be allowed to give its view on when such questions should be put to the people. As the previous Constitutional Convention worked well, why change it?

I urge all Senators to support amendment No. 1 which proposes a return with a recommendation on the eighth amendment within three months of the first sitting. Society, including women, needs this issue to be dealt with once and for all. We will be supporting the proposal on climate change.

**Senator Lynn Ruane:** I move amendment No. 1:

To delete all words after “in as economical a manner as possible;” down to and including “from the date of the first assembly meeting;” and substitute the following:

- the assembly will first make a report and recommendation on the matter set out at paragraph (i) above to the Houses of the Oireachtas within three months from the date of the assembly’s first sitting;
- on receipt of the report and recommendation on the matter set out at paragraph (i), the Houses will refer the report for consideration to a committee of both Houses which will, in turn, bring its conclusions to the Houses for debate;
- the timeframe for the process whereby the report and recommendation set out at paragraph (i) is made to the Houses of the Oireachtas, its referral to a committee of both Houses and its conclusions to the Houses for debate shall be no longer than three months in duration.

I would like to have acknowledged my anger and disgust at the fact that we have 60 minutes in which to discuss the very important issue of a citizens’ assembly. Three hours were allowed for a water services debate this morning in which absolutely no amendments were being proposed. There are three on the Citizens’ Assembly, yet we have but 60 minutes. It is an absolute disgrace.

I am proposing this amendment to the motion on the creation of the Citizens’ Assembly because I do not believe action on the eighth amendment can wait any longer. While I welcome the inclusion of a reference to dealing with the eighth amendment in A Programme for a Partnership Government, I argue that the consideration of this issue by a citizens’ assembly should be permitted only if there is a clear timeline for the delivery of its report and recommendations, and eventual action on them by the Government.

The motion, in its current form, does not provide that clear timeline. It currently states a citizens’ assembly is not required to deliver a report and recommendation on the eighth amendment until one year after its first sitting. It then states that if the assembly recommends the holding of a referendum, the Government will set a timeframe in which such a referendum will be held, without any reference to whether this would involve weeks, months or years. The Government has indicated the assembly will be up and running in October. This means it could be 2018 before we even have a referendum on the eighth amendment, if one is recommended by the assembly at all. This is absolutely unacceptable.

I do not believe there is a person in this room who is not aware of the impact of the eighth amendment on women in this country. We have all seen, heard and read the bravely recounted accounts of women who were forced to leave Ireland because what they needed could not be legally provided here. We have read the heartbreaking accounts of women who were delivered diagnoses of a fatal foetal abnormality and who could not be helped by a country that exported dealing with their devastation to other jurisdictions. Laws that have been criticised by Amnesty

International and the United Nations for violating our international human rights obligations and even by our own Minister for Health are completely unacceptable. Some 160,000 women have been forced to travel out of Ireland for an abortion since the passage of the eighth amendment in 1983. Every year, 4,000 still travel. Every day that we put off addressing the eighth amendment is another on which 12 women will travel abroad because their country forces them to do so. If we wait two years for a referendum on the eighth amendment, 8,000 more women will have travelled. We do them and all the women in this State a disservice by not acting decisively to help them. That is why I am pushing this amendment today.

A six-month timeframe would allow for an assembly to deliberate on the many complex issues surrounding the eighth amendment and ample time for us, as legislators, to act on these recommendations. We cannot allow this issue to be kicked to touch any longer. If we are going to allow an assembly of citizens to decide how to make progress on the eighth amendment, let us ensure we get a well considered but timely decision and that we can act on that decision. I call on all parties to recognise the public wants a say on this issue and we should allow it that. I call on everyone present to consider supporting this amendment and dispel criticism that the Citizens' Assembly is a delaying tactic.

Had we more time today, I would elaborate on the expert group that will advise the assembly. Who will decide on its membership? How will it be constituted? Will there be legal experts or medical experts? Will it draw on international best practice? Ultimately, it will be the experts that frame the discussion of the assembly. These issues are extremely important. I will be voting against a citizens' assembly if our amendment is not accepted.

**Senator Alice-Mary Higgins:** I am very delighted to second the amendment moved by Lynn Senator Ruane and I will be proposing an additional one. Both are constructive and reasonable and seek to tighten the timeframe and focus of the Citizens' Assembly.

It is important to note that while a citizens' assembly may have value as one part of a national conversation on and response to the issue of the repeal of the eighth amendment, it must not bracket or confine that conversation and it is not sufficient. A citizens' assembly is not sufficient to answer Ireland's obligations under UN law. When the Government presents on the universal periodic review in September and responds to the UN ruling on the case bravely taken by Amanda Mellet, it cannot hide behind the Citizens' Assembly. It will be asked for a much more comprehensive response and it will not be sufficient. Neither is the citizens' assembly sufficient to respond to the urgent public demand for action to repeal the eighth amendment. It will not be sufficient to address the urgency felt by the thousands of women who will travel abroad this year, or even those couples who are considering starting a family but with the shadow of fear over them in regard to the issue of fatal foetal abnormalities and the cases we have sadly seen paraded through the courts. It is owing to this urgency that I am seconding the amendment tabled by Senator Lynn Ruane to ensure a tighter, clearer timeline for the delivery of recommendations and for responding to those recommendations within the committee system.

I will be tabling an amendment on the focus of the Citizens' Assembly. A specific issue requires a specific discussion and a special mechanism and it should not be diluted. I propose the removal of paragraphs (ii), (iii) and (iv). Beside the facts that the issues referred to in these paragraphs are effectively apples and oranges and that they are completely different issues thrown together without a clear case being made as to how or why they were chosen, there is genuine concern that they could serve to delay the further delivery of action. Given the prevarication and the failure acknowledged by the Government to respond in a timely manner to the

recommendations of the Constitutional Convention, anything that will bundle or widen the discussion and lead to an excuse for further delay must be scrutinised. I am particularly concerned that the imperative to hold a referendum should not be delayed further by a discussion on how referendums should be held. I can see how this could serve as an excuse for an additional three months, six months or year. We cannot risk that happening.

The discussion of the challenges and opportunities resulting from an ageing population would be laudable if we had not already had this conversation. With Older and Bolder, I had the privilege of working with over 1,000 older people across the country who participated in a consultation on the national positive ageing strategy. They contributed their ideas on delivering what is recognised as a blueprint for addressing the challenges and opportunities facing them. They are concerned. I have spoken to people from Active Retirement, for example, who are extremely concerned that this assembly will be used as an opportunity to delay the implementation of the plan to which they devoted energy as citizens and to which they made a contribution. I do not understand how moving that issue back to the drawing board, with 99 new people, in any way serves the older people of the country. In fact, it is an act of disrespect. I ask that older people be respected, in addition to the women who are making difficult decisions and counting the days, weeks and months. That is why I am asking the Minister to remove these items and support my amendment.

Out of respect for the fact that the climate change provision was put through by the Lower House, I am not proposing its removal, although the assembly may not be the best place to discuss it.

**Acting Chairman (Senator Diarmuid Wilson):** The Senator's time is up.

**Senator Alice-Mary Higgins:** The time constraints have been unacceptable. There are those who will get a call from a polling company who will have had an abortion and who will not feel free to participate in this assembly.

**Acting Chairman (Senator Diarmuid Wilson):** Excuse me. Will the Senator, please, respect the Chair?

**Senator Alice-Mary Higgins:** I apologise.

**Acting Chairman (Senator Diarmuid Wilson):** Every other Senator stuck to his or her time. I ask the Senator to do the same.

**Senator Alice-Mary Higgins:** The time allowed is not sufficient.

**Acting Chairman (Senator Diarmuid Wilson):** The time was allocated by order of the House.

**Senator Alice-Mary Higgins:** I am sorry.

**Acting Chairman (Senator Diarmuid Wilson):** The Chair must implement the order of the House. I ask the Senator to respect it.

**Senator Ivana Bacik:** I welcome the Minister of State and, like all of us, join him in expressing my revulsion at the horrific attacks in Nice last night.

On behalf of the Labour Party group, I wish to speak against the motion to establish a citi-

zens' assembly. We will be opposing it in the Seanad as we did in the Dáil. Our primary reason is that, as a pro-choice party, we are against the establishment of any mechanism that would delay the holding of a referendum to repeal the eighth amendment. We want that referendum and placed this issue in our manifesto. We in the Labour Women group published legislation that the Oireachtas should put in the place of any text in the Constitution. The Constitution is no place to regulate as complex and sensitive an issue as abortion.

We are concerned that no timeframe is provided for the deliberations of the assembly on the first issue listed, that of the eighth amendment. The motion provides that when the assembly reports, that report will go first to a committee of both Houses and only then will be brought to the Houses themselves for debate. This could significantly delay the holding of a referendum on repeal of the eighth amendment. For 33 years, which is too long, we, as legislators, have shirked our duty to repeal that amendment and legislate on this issue. We should not need to kick the can down the road any further. However, we will of course work with any process that brings about the holding of a repeal referendum. For this reason, we will support the sensible amendment proposed by Senators Lynn Ruane and Alice-Mary Higgins providing for a tight timeframe within which the assembly should report on the eighth amendment.

We also support the sensible suggestions proposed by the Irish Council for Civil Liberties, ICCL, in its blueprint for a citizens' assembly. We are concerned that, as constructed, the motion does not provide for the tight timeframe required. That said, the Citizens' Assembly is a better model than the judge-led commission that Fianna Fáil is proposing. I see no need for it.

**Senator Jerry Buttiner:** Hear, hear.

**Senator Ivana Bacik:** I echo the words of Senator Jerry Buttiner and my colleagues in Sinn Féin who were positive about the Constitutional Convention. As someone who not only participated in it but led the Labour Party delegation, I viewed it as a positive process. Its recommendation on marriage equality paved the way for the holding of the relevant referendum in 2015, among other changes. The model proposal in this motion differs in three significant ways from the Constitutional Convention, however, and that is why we are opposing it. I have with me the motion on the convention that we passed in 2012.

First, much tighter timeframes were provided for in the convention model. In particular, the convention had to report to the Oireachtas within two months on the first matters for deliberation.

Second and significantly, the convention included 66 citizens and 33 politicians chosen from north and south of the Border. Therefore, its recommendations did not need to be taken back to Oireachtas committees for deliberation before being acted upon. I have expressed concern about the anti-politician tenor of the proposed assembly. The Constitutional Convention was a different creature.

Third, the first issue proposed for this assembly is different. The eighth amendment has been in place since 1983 and we have been dealing with its implications ever since. We have held four further referendums on the issue along with a flurry of constitutional cases, a series of tragic cases and the recent passage of protection of life during pregnancy legislation. I was one of a number of Trinity and other students union leaders threatened with jail and bankruptcy in a 1989 case taken under the referendum seeking to restrain the provision of information by us to women in crisis pregnancies. Although I have been personally affected, I was too young

to have voted in 1983. The eighth amendment has cast a blight on my generation. Many of us have daughters of our own, as I do, and we are anxious to ensure the eighth amendment will not blight their lives as it has those of so many women down the years.

Let us be clear in that the effect of the eighth amendment has been negative and, in some cases, devastating. It has not prevented one crisis pregnancy, as we know that more than 160,000 women have travelled from Ireland to England to terminate pregnancies since the amendment was passed. It has compounded the crisis of pregnancy, particularly for those women for whom the journey to seek abortion abroad is particularly difficult - young women, women in poverty and asylum seekers. It symbolically portrays women as vessels, equating our lives to those of the “unborn”. Above all, it has endangered women’s lives by having a “chilling effect” on the practice of obstetrics in Ireland. We heard compelling testimony from doctors to that effect during the excellent debates in this Chamber that were held by the health committee and chaired by Senator Jerry Buttiner on the Protection of Life During Pregnancy Bill, which is another indication that we, as legislators, should be able to deal with this issue without the need for further assembly or delay mechanisms.

Calls for repeal have grown strong in recent years, in particular, since the tragic death of Savita Halappanavar in 2012, the prolonging of life support for a pregnant young woman against her family’s wishes in a midlands hospital in December 2014 and the recent case of Ms Amanda Mellet before the UN Human Rights Committee. We have heard tragic testimony from couples and individuals in the Terminations for Medical Reasons group, TFMR, more and more groups have joined the Coalition to Repeal the Eighth Amendment and we have heard powerful testimony, like that made for Amnesty International by Graham and Helen Linehan last year based on their own experience of fatal foetal abnormality. We know by now that there is a need to repeal the eighth amendment. This is accepted by most right-thinking people. For this reason, we, as legislators, must take on our responsibility to debate and pass a Bill to hold a referendum on the eighth amendment. We should put that referendum to the people without further delay. We must take the initiative.

Labour Women has published framework legislation that we believe should replace any constitutional text. It would allow abortion on four medically certified grounds: risk to life; risk to health; rape; and fatal foetal abnormality. Our sensible legislation is the sort of legislative framework that we in these Houses are best placed to debate. We need to put the referendum on repealing the eighth amendment to the people without further delay. There is a groundswell of public support for this. Let us achieve repeal and end the chill for our daughters and future generations.

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Damien English):** I will try to answer some of the questions asked and address the two amendments. I welcome everyone’s views on this motion. That we still have time left proves that enough was set aside, but that decision was not mine. The issues picked for the assembly reflect the programme for Government and the partnership arrangement. Others can be added in due course, but the concern might be that too many would be picked. If the work is carried out quickly, we can refer more issues to the assembly. For example, climate change was added for discussion during the Dáil debate. At the end of this process, people can decide whether the citizens’ assembly or the Constitutional Convention works best.

I am conscious of Senator Michael McDowell’s concerns with the assembly, but he will not be prevented from discussing the same issues in the Chamber. He can discuss them all day.

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**Senator Michael McDowell:** Only for four minutes today.

**Deputy Damien English:** No. That is-----

**Senator Michael McDowell:** “All day.”

**Deputy Damien English:** The Senator is being unfair to citizens. This is a citizens' assembly and it will not stop Senator Michael McDowell or any other Member from discussing the same issues. The assembly will be brought together. Most people would accept that the convention process worked and got results. Senator Michael McDowell might not like it, but other people did. This is not all about him. He is being unfair. It is his strong view that we do not need a fixed-term Parliament. I might share his view, but this is not about him or me. This is a citizens' assembly in which they can give their views. There is nothing wrong with that. There is no harm in having an assembly. I am not sure as to why he is so set against it, and it is fair enough that he is, but plenty of time can be arranged by the Houses to discuss the issues in question and feed those discussions into the Government.

Senator Ivana Bacik stated the Constitutional Convention originally had a two-month time-frame. The issues were probably not as complex. The first session was on lowering the voting age and shortening the term of President. I am glad that the convention did not decide to do the latter, because we have a great President. We set aside two months, but that deadline was not met; it took four months, given that the session occurred over the Christmas period. The convention first met in December and its first report arrived in March. This is a complex issue and there are reasons for it. I will address the motion directly in that regard.

I was asked whether the chairperson would be independent. The Taoiseach has made it clear that he will consult and try to achieve the agreement of all Members on this point. I hope we will find a chairperson who is independent, but I accept the Senator's concern about a chairperson rolling in and taking control. It happens in other environments, but I assume that the assembly's 99 other members will not let it happen in this case. I cannot guarantee it, but if I were picked and spent my weekends travelling to attend a citizens' assembly, I would not let the chairperson dictate to me. I would not do that in any part of my life and I presume that the Senator would not either. I hope the 99 people will be strong willed and not be dictated to by the chairperson. A good chair facilitates debate and brings everyone on board. The convention had a good chair.

Senator Lynn Ruane asked about the expert advice and who would or would not be picked. The assembly will be totally independent of the Government. We will not tell it who it can or cannot consult as experts. The chairperson, with the 99 members of the assembly, will decide what expertise they need and whether they need to bring in former Attorneys General who are now Senators to give them advice. That will be their choice. They can bring in anyone they want for advice, opinion and direction and there will be a budget provided for this. It will be open to anybody to communicate with the assembly and make submissions and the assembly can invite in groups to make submissions. It will be a similar process to that for the Constitutional Convention. There is no diktat on who the experts will be or regarding what side they will be on. I hope that is helpful.

With regard to amendment No. 1, I appreciate that Senator Alice-Mary Higgins and others wish to have the report of the Citizens' Assembly on the eighth amendment as soon as possible and have the subsequent Oireachtas committee conclude and send its report to the House within

a short timeframe. We do not think it is a good idea to put these time limit requirements into the resolution. The assembly has not yet been established and the eighth amendment is not a simple issue, as I stated earlier. Other issues are more simple to approach. This can be quite complicated. While one might say the majority want it removed, there does not seem to be consensus on what should or should not go in and there is much to be teased out. That is why there is no time limit. It is the Senator's opinion that it is not complicated but others find it complicated and think it might need-----

**Senator Alice-Mary Higgins:** To correct the Minister of State, it is not my opinion that it is not complicated.

**Deputy Damien English:** That is fine. The Senator was shaking her head. Everyone agrees that it can be a complicated issue; therefore, it would be unfair to impose a short time limit on the assembly's consideration of the eighth amendment which will clearly need careful consideration. Nothing in the resolution states it cannot come back after a month. If the work is completed in a month the report will come here and nothing will stop this. We are just saying we will not state it must report within three months. There is a limit of 12 months and priority is given to the eighth amendment. It must be dealt with first. This is the only request. There is no effort to put it down to a line or make sure something else takes its place. There is no reason for the work to be delayed when the assembly comes together.

When completed, the assembly's report on the eighth amendment will be sent to the committee of both Houses of the Oireachtas which, in turn, will bring its conclusions to the Houses for consideration. The amendment also proposes putting a time limit on this. The committee of the Houses can decide on this in due course. There is no reason to decide it now. Perhaps the Senator is right with regard to three months when it comes to the committee, or perhaps it will be a shorter timeframe, but it is probably a decision for that stage.

With regard to the follow-on report by the Government, there is criticism that previous Governments did not react quickly enough to other recommendations. Because of the minority Government and the make-up of both Houses, there will be much joint decision making. A decision on when a referendum would be held will not just be made by the Government. Both Houses will have influence on and a fair say in this. There is no reason it would be left sitting there for three or four years. I doubt either House would let that happen. It is not something in my control or in the control of the Government. Because of the make up of both Houses, there should not be a fear that it will be left to sit there. I suppose that remains to be seen.

The effect of amendment No. 2 would be to remove from the agenda of the Citizens' Assembly all other items apart from the eighth amendment. However, the topics the assembly will consider are detailed in the programme for Government. They were agreed by-----

**Senator Alice-Mary Higgins:** On a point of information, it is all other items except-----

**Acting Chairman (Senator Diarmuid Wilson):** The Minister of State to continue, without interruption.

**Senator Alice-Mary Higgins:** On a point of order-----

**Acting Chairman (Senator Diarmuid Wilson):** Does the Senator have a point of order?

**Deputy Damien English:** The amendment is to remove all items apart from the eighth

amendment.

**Senator Alice-Mary Higgins:** And climate change.

**Deputy Damien English:** It does not read that way in the amendment. I understand this is what the Senator said and I accept that. To be clear, climate change was added in by a Dáil decision. The other issues were picked by the partnership arrangement. Those who wanted to form a Government came together and made decisions on a range of issues and put them in a programme for Government. This generally dictates what a Government tries to do.

The Senator might appreciate it was by agreement and consultation among the people who formed the Government and others who are supporting it that those issues were picked. It would not be right or proper to take them out again. That is what a partnership Government is there for and that is why we have a programme for Government, to set an agenda. That is what it is doing. I assume the Senator's concern is that having other issues included will distract the assembly from the eighth amendment, but I want to make it very clear it is the first issue to be discussed and this is set out in both resolutions and was set out during discussions in the Dáil this week. I do not think this will happen.

It is specifically stated the assembly will consider the eighth amendment first and that when the report is finished, it will be brought the House immediately. It does not have to wait for all of the other reports. The House will then decide how it progresses from there. I hope this brings clarity. I know the Senator has concerns and that she might want to press the amendments, but I am not sure if they would achieve anything on the timeframes. I do not know whether they would delay it. I urge the Senator to understand there is a genuine effort to consult the Citizens' Assembly in a process in what we think is quite a reasonable timeframe. To be clear, it does not need to take 12 months.

I thank the House for its time.

Amendment put:

The Seanad divided: Tá, 16; Níl, 19.	
Tá	Níl
Bacik, Ivana.	Boyhan, Victor.
Black, Frances.	Burke, Colm.
Conway-Walsh, Rose.	Burke, Paddy.
Craughwell, Gerard P.	Butler, Ray.
Devine, Máire.	Buttimer, Jerry.
Dolan, John.	Byrne, Maria.
Higgins, Alice-Mary.	Coffey, Paudie.
Humphreys, Kevin.	Coghlan, Paul.
McDowell, Michael.	Conway, Martin.
Nash, Gerald.	Feighan, Frank.
Ó Céidigh, Pádraig.	Hopkins, Maura.
Ó Clochartaigh, Trevor.	Lombard, Tim.
Ó Donnghaile, Niall.	McFadden, Gabrielle.
O'Sullivan, Grace.	Mullen, Rónán.

*Seanad Éireann*

Ruane, Lynn.	Noone, Catherine.
Warfield, Fintan.	O'Donnell, Marie-Louise.
	O'Mahony, John.
	O'Reilly, Joe.
	Reilly, James.

Tellers: Tá, Senators Alice-Mary Higgins and Lynn Ruane; Níl, Senators Maria Byrne and Gabrielle McFadden.

Amendment declared lost.

*2 o'clock*

**Senator Alice-Mary Higgins:** I move amendment No. 2:

To delete all words after “(i) the eighth amendment of the Constitution;” down to and including “(iv) the manner in which referenda are held;”.

Amendment put:

The Seanad divided: Tá, 9; Níl, 20.	
Tá	Níl
Bacik, Ivana.	Boyan, Victor.
Black, Frances.	Burke, Colm.
Dolan, John.	Burke, Paddy.
Higgins, Alice-Mary.	Butler, Ray.
Humphreys, Kevin.	Buttimer, Jerry.
McDowell, Michael.	Byrne, Maria.
Nash, Gerald.	Coffey, Paudie.
O'Sullivan, Grace.	Coghlan, Paul.
Ruane, Lynn.	Conway, Martin.
	Craughwell, Gerard P.
	Feighan, Frank.
	Hopkins, Maura.
	Lombard, Tim.
	McFadden, Gabrielle.
	Mullen, Rónán.
	Noone, Catherine.
	O'Donnell, Marie-Louise.
	O'Mahony, John.
	O'Reilly, Joe.

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	Reilly, James.
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Tellers: Tá, Senators Alice-Mary Higgins and Lynn Ruane; Níl, Senators Maria Byrne and Gabrielle McFadden.

Amendment declared lost.

Question put: "That the motion be agreed to."

The Seanad divided: Tá, 19; Níl, 16.	
Tá	Níl
Burke, Colm.	Bacik, Ivana.
Burke, Paddy.	Black, Frances.
Butler, Ray.	Boohan, Victor.
Buttimer, Jerry.	Conway-Walsh, Rose.
Byrne, Maria.	Devine, Máire.
Coffey, Paudie.	Dolan, John.
Coghlan, Paul.	Higgins, Alice-Mary.
Conway, Martin.	Humphreys, Kevin.
Craughwell, Gerard P.	McDowell, Michael.
Feighan, Frank.	Mullen, Rónán.
Hopkins, Maura.	Nash, Gerald.
Lombard, Tim.	Ó Céidigh, Pádraig.
McFadden, Gabrielle.	Ó Clochartaigh, Trevor.
Noone, Catherine.	Ó Donnghaile, Niall.
O'Donnell, Marie-Louise.	Ruane, Lynn.
O'Mahony, John.	Warfield, Fintan.
O'Reilly, Joe.	
O'Sullivan, Grace.	
Reilly, James.	

Tellers: Tá, Senators Maria Byrne and Gabrielle McFadden; Níl, Senators Rose Conway-Walsh and Máire Devine.

Question declared carried.

#### **Electoral (Amendment) (No. 2) Bill 2016: Second and Subsequent Stages**

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

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Damien English):** The purpose of the Electoral (Amendment) (No. 2) Bill 2016 which I am commending to the House is to enable the register of electors to be used for selecting members of the Citizens’ Assembly. The provisions of the Bill are along the lines of the Electoral (Amendment) Act 2012 passed by the Oireachtas when arrangements were being made for the membership of the then proposed Convention on the Constitution.

When consideration was being given to the establishment of the Citizens’ Assembly, the Government decided that it should have a membership of 100 citizens, including the chairperson. As set out in the resolution approving the calling of the assembly that has just been passed in the House, the Government will appoint a chairperson. The balance of the membership will consist of “99 citizens entitled to vote at a referendum, randomly selected so as to be broadly representative of Irish society”.

As the Citizens’ Assembly is not established by statute, it is necessary to provide in the Electoral Act 1992 for the use of the register of electors in the selection of the members of the assembly. Section 13A of the Electoral Act 1992 provides that it is an offence to use information in the register other than for electoral or other statutory purposes. Such a statutory purpose is provided, for example, in the Juries Act for the selection of members of juries. As I said, provision was made in the Electoral (Amendment) Act 2012 for use of the register in the selection of members of the Convention on the Constitution.

There is in place an edited register of electors which could have been used in the selection of citizens to serve on the Citizens’ Assembly. That register includes some 320,000 voters who have opted to have their names included on it. However, that is a relatively small percentage of the total electorate of some 3.2 million from which citizens may be selected on the enactment of the Bill.

As for the selection process, a polling company will be commissioned for this purpose. Its brief will be the selection of a representative sample of the electorate in terms of gender, age and regional spread. The selection process will be overseen by the independent chairperson of the assembly.

I will now outline the detail of the Bill for the House. Section 1 amends section 13A of the Electoral Act 1992 by inserting a new subsection into it. This will provide that information in the electoral register may be used for the purpose of selecting citizens of Ireland to participate in the assembly. Section 2 contains standard provisions dealing with the Title, citation and construction of the Bill.

In summary, the sole purpose of this Bill is to provide in statute for the use of the electoral register in the selection of members of the Citizens’ Assembly. The Bill is required to facilitate the establishment of the assembly, the calling of which has been approved now by resolution of both Houses of the Oireachtas. I commend the Bill to the House.

**Senator Brian Ó Domhnaill:** I acknowledge the Minister of State’s presence. The Bill supersedes the previous motion and is closely linked with the debate on the establishment of a citizens’ assembly. Like other speakers, I was very disappointed that additional speaking time was not allocated because there are Members who wished to participate in the debate on the motion to which I refer but who were not afforded the opportunity to do so. I appreciate that it

was agreed on the Order of Business, but if we are debating an issue such as a citizens' assembly, we should give the motion the respect it deserves by allowing all speakers to participate if they so wish and not dilute or constrain it, as happened in this instance.

The Bill before us relates to the use of the electoral register and the selection of the participants in the Citizens' Assembly but, unfortunately, it does not clarify the selection procedure to be used and the research methodology to be adopted. I am not sure whether that has been decided on, but will the Minister of State clarify the position because there are various methods that could be used by any research company to select participants to participate in a citizens' referendum?

I very much agree with Senator Michael McDowell's comments earlier about the Citizens' Assembly. I agree that a citizens' assembly will do little to progress clear thinking on any issue because, ultimately, it is being established with very clear objectives, which, of their nature, are very rigid in the context of the work programme. If one looks at academic investigations into the establishment of citizens' assemblies in Australia and in British Columbia in Canada, there are varying views as to the usefulness of such assemblies in progressing issues, particularly where the work programme is established by the government or the executive and where it is refined in nature, as is the case in this instance. We are establishing a citizens' assembly, but we have already made the conclusions ourselves. I was joking with someone in the cafeteria yesterday about the Citizens' Assembly and I called it the "kicking to touch" assembly because, in theory, that is what this involves. We are kicking issues down the road that should be debated in the Houses of the Oireachtas by the people who are elected to represent the citizens. This is duplicating the role. I disagreed with the previous Citizens' Assembly at the time also. Why should Members who are elected by the people to this House be sitting on a citizens' assembly as well as others? It is not clear how these people will be selected. I am not going to cast aspersions on whatever company will be appointed following the tendering process, but questions are being raised in the academic sphere on the usefulness of such assemblies. Those questions have not been answered by anything I heard earlier or while listening to the Minister during debate in the Dáil yesterday.

I would like clarification on the method of selection. All politicians, including me, are quick to validate a referendum as the best means of deriving a result with regard to what the people really think. Let us examine the results of the recent referendum across the water. I know there was no independent referendum commission, it was both sides, for and against, which I think was a mistake. Notwithstanding that, only 71% of the registered electorate in the United Kingdom turned out to vote. One is not dealing with 50% of the British electorate, but a percentage of the turnout who voted to leave. There are arguments one can make on both sides. Why do people not vote? Was there a lack of engagement?

There are issues around referendums that should be debated and discussed in this House before we rush down a path of trying to find solutions to very delicate issues which are facing our society. There is a very strong lobby around particular issues of a sensitive social nature. Such issues deserve to be the subject of thorough and measured debates. There is a rush to repeal the eighth amendment and that will be one part of the work of the Citizens' Assembly. There are many pressing issues facing the people. I refer, for example, to those who are seeking the right to a job or a home and individuals who are being evicted from their homes by banks. We saw the case in County Monaghan of a farmer whose animals were shot by the Army. There are other issues that could be deliberated on. If, as the Government wishes, we are establishing a citizen's assembly, are we not undermining it by prescribing a dedicated and very narrow work

programme for it? If we had confidence in the assembly, would we not allow its members to determine the work programme?

I do not agree with the methodology being used. I have reservations about a third party - a private company - being given access to the electoral register in order that it might decide the membership of the assembly. I have reservations about the latter. They may be valid or otherwise, but my reservations relate to the methodologies being used. Both Houses of the Oireachtas deserve to know what are the methodologies.

**Senator Michael McDowell:** I welcome the opportunity to speak to the Bill. To some extent, it follows on from the decision made by the House that if there is to be a citizens' assembly, it must be composed in some particular way. We are dealing with a Bill, not simply a resolution. We have not at any stage been afforded the courtesy normally extended to Members of these Houses, namely, the provision of a financial estimate of the cost involved in establishing a citizens' assembly. Resolutions do not have to be the subject of such a provision. However, when I was a Member of the Dáil - I presume this is a general rule - it was regarded as a courtesy to Members that should a proposal involve necessary expenditure on the part of the taxpayer, some estimate of the cost should be given to those voting on the issue before they made their decision.

The proposed Citizens' Assembly will be obliged to deal with hugely disparate topics. The only reason I mention that - I do not want to be out of order on this - is, by any standard, if it does its work at all competently and carefully, the assembly will be in operation for a number of years. If it is to operate on the same basis as the previous convention did in Malahide, it will cost a great deal of taxpayers' money. The money that will be spent on the Citizens' Assembly could be spent in the health service on providing home help for people who are currently having that service curtailed. It could be spent on housing the homeless and on other issues. The question we must ask ourselves, in this and the other House when a proposal is put before us, is whether it represents value for money. Are we going to assemble 99 randomly chosen citizens who, as I said, are not randomly chosen because the great majority of people will not be in a position to commit to the time involved when they are approached to participate in this process? It will be a self-selecting group to some extent. Are we in a position to work out if what they will do over a two-year extended period on disparate topics such as, at the one end, global warming to, on the other, fixed term parliaments and the other utterly vapid proposal as to how we deal with referendums in this society represents value for money?

It seems the Government in proposing the resolution this morning and this legislation this afternoon has not told us what this will cost us. It has not told us how many people will be deprived of home care as a result of the establishment of this institution. Those are basic things we should know about when we make decisions. I do not know whether the Minister of State has been given those figures; I do not know whether he has an estimate of the cost. We should be able to extrapolate it from the Constitutional Convention but we have to move outwards from that and ask how long this process will take. How long will the assembly spend considering climate change? If it is going to consider it over a few months, the people involved might as well stay in their homes and not bother checking into the Malahide hotel or wherever they will be sent. If they are going to consider the way in which referenda are conducted, whatever that means, or whatever it is the code for, they will have to spend some time on it. Expert advice will have to be arranged for them. Who will pay for all of that? With the greatest of respect, the Minister of State coming in here to amend the electoral law in order to allow the register to be used in this process is a bit rich when we do not know what is the cost of it.

To return to a point that was made in this morning's proceedings, the process of engaging with people to determine whether they are willing to participate in this assembly will involve selection criteria. Will a questionnaire be sent to the people concerned? Will they be asked about their availability? Will they be asked about their interest in any of these topics or will they be convened, regardless of whether they are completely bored by the idea of spending two years, or whatever period, talking about this disparate group of topics? Will we be told about the number of people who were approached and refused? Will we be told about the exact criteria that were used to send those people out a request to participate in the first place? What geographical spread will be put in place? It is deeply unsatisfactory that we should be kept in the dark about all of those matters. However, above all, the cost of the process is something that should be known to us now. I know it cannot be estimated to the exact euro or cent in advance, but I would like to have a view as to how much has been provided for this process and over how long. Clearly, we will have a view about how long it is intended that this assembly will sit if we know how much money is being provided for it. If we do not know how much money is being provided for it, then we are being kept in the dark about the timeframe that lies at the back of the decision. I assume there was a memorandum for Government to approve these two resolutions and I assume that memorandum stated how much the assembly was projected to cost and how long it was projected to remain in existence. I believe we are entitled to know those things before we agree to them in this House.

**Senator Jerry Buttimer:** I agree with Senator Michael McDowell that there is a need for transparency on the selection process. I do not subscribe to the theory that it will come down to self-selection or that the selection process is open to manipulations being put forward by others. I refer to my experience of the Constitutional Convention. I found it hard to listen to the contribution of Senator Brian Ó Domhnaill, whom I like, because Fianna Fáil did not participate in the debate. That party wanted to have a judge-led commission which would involve a much longer period than the assembly being put forward. This is not about the eighth amendment and that is the point. The establishment of the Citizens' Assembly was part of the programme for Government discussions which the Senator's party facilitated in the formation of a Government. We need a representative, fair and balanced citizen selection process. Senator Rónán Mullen and I may have disagreed on certain aspects of the Constitutional Convention, but the one matter on which we should agree is the genuineness of the participants at that convention-----

**Senator Rónán Mullen:** What does that mean?

**Senator Jerry Buttimer:** -----and the level of research and preparation they undertook in their participatory role in the convention. The academic panels put with those were, to be fair, balanced and unbiased and they brought forward clear papers for everybody.

Senator Michael McDowell referred to the cost of the assembly, but we can argue that we should not have any Minister of State or that we should abolish the Seanad-----

**Senator Michael McDowell:** The Senator's party argued for that and it failed on that one.

**An Leas-Chathaoirleach:** Order, please. That question was settled.

**Senator Jerry Buttimer:** -----or - dare we try - that we should reduce legal fees which would save taxpayers' money

**Senator Michael McDowell:** That is a good idea and I did something about it.

**Senator Jerry Buttimer:** We can argue about the exigencies of costs until the cows come home-----

**Senator Rónán Mullen:** Allowances for Seanad officeholders.

**Senator Jerry Buttimer:** I have no problem with that either, or Independent Senators not taking the leaders' allowance. We can argue the point.

**Senator Rónán Mullen:** We are the only ones giving leadership here.

**Senator Jerry Buttimer:** I was sceptical at the beginning of the Constitutional Convention, but it was breathtaking. Cynicism does not do any good. I accept Senator Michael McDowell's fundamental point that it is us and the people who will decide and that will be the final part of the process. Nothing will change that, but if we want to have broader participation in how the country is run and governed, then this is a welcome initiative. The Constitutional Convention served us well and this assembly will too. Ultimately, the people will make the decision. The debate we had earlier in no way changes what is happening here. This is about a polling company being given access to the electoral record to pick people.

I ask Members to read the Irish Council for Civil Liberties blueprint for a citizens' assembly document. It is a good one. It calls for the assembly to be resourced, to have a structure and composition, access to information and expertise and to have a clear programme of work. One of the most important paragraphs in the ICCL's document which I read prior to today is that participants should also have access to experts, including practitioners from other countries, who can provide insight into models of international best practice and experience from other comparable jurisdictions of engaging with the issues being considered by the assembly. The last point it makes in that paragraph goes back to the mechanism of selection in terms of the experts - this holds equally for the citizen member - which should be transparent, open to scrutiny and verifiably independent. I have no argument with that. I know that some people are sceptical and had a viewpoint on the Constitutional Convention, but I would go back to the citizen members who were beyond reproach. They researched, participated, changed their minds in some cases - not once or twice - and engaged. People like Mr. David Farrell who have written on this issue should be listened to.

Senator Michael McDowell referenced the cost factor, but we could use that argument to do nothing about many matters. A commitment has been given to the effect that the assembly will be established. The assembly should be resourced. I passionately believe the previous model worked. In hindsight, we should not have changed it but we have done so and that is the Government's decision. Let us not start the process by being cynical. Let us allow the assembly to be resourced adequately in order that it might carry out its work in a timely and efficient manner and let us put in place a timeline from the Government to respond to its findings. Some people have missed the point that the Government, as is its prerogative, was not obliged to accept the recommendations made by the Constitutional Convention. That will also be the case with the assembly. Ultimately, it is the Houses of the Oireachtas and the people who will decide on any recommendations put to them.

**Senator Trevor Ó Clochartaigh:** Tá cuid mhaith cainte ar shaoránaigh i láthair na huaire agus, más féidir liom, ba mhaith liom comhghairdeas a dhéanamh le saoránaithe na Gaillimhe atá tar éis scéal a fháil ar maidin go bhfuil Gaillimh roghnaithe mar Phríomchathair Eorpach an Chultúir 2020. Iarracht ollmhór a bhí i gceist agus táim cinnte gur oibrigh na réigiúin agus

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ceantair eile an-chrua. Tá a fhios agam go raibh iarracht ollmhór pobail ar bun leis an rud a fháil i nGaillimh. The citizens of Galway are elated today because their city has been awarded the European Capital of Culture 2020. A huge cross-community effort was put into the bid and I congratulate everybody involved. Winning is a wonderful achievement.

I commiserate with the other areas that competed because I know they put in a huge effort also. Beidh lá eile ag an bPaorach, le cúnamh dé.

Sinn Féin opposes the Bill. Our main point of opposition relates to the method that will be used for selecting the citizens, namely, the electoral register. In our opinion, the latter is the wrong data source to use and the company that will be appointed is the wrong organisation to oversee the selection process. The difficulty with using the electoral register is that 5% of the adult population of the State is not included in it. This means that approximately 200,000 people are automatically excluded. Generally, those not on the register are likely to be young people, individuals on low incomes, people with literacy difficulties, Travellers and those who do not have citizenship or residency rights. All of them have a right to be involved in any constituent or citizens' assembly, irrespective of whether individual parties agree or disagree with such an assembly or the issues it will consider. It is a mistake to use a data source that excludes those people from the outset.

Tá Bille curtha síos ag mo chomhghleacáí, an Seanadóir Fintan Warfield, chun an vótá a thabhairt do shaoránaigh a bhfuil 16 slánaithe acu. Ba cheart, mar sin, dar linne, go gcuirfí san áireamh iad sin agus muid ag dul ag roghnú daoine don tionól seo. We believe it would be important. My colleague, Senator Fintan Warfield, will table a Bill calling for voting rights to be extended to people over 16 years of age. The latter are the citizens of the future. Whatever decisions are made by the assembly will have a huge impact on their lives. We believe the register that will be used must take them into consideration.

We do not think that using a private polling company is right either. A major factor in the success of such an assembly will be that the public has confidence in it. Private companies were not explicitly referred to in the Bill but it does not prohibit their use. Public confidence could be tightened by using the CSO, for example. If the CSO used its census data - few people question its legitimacy - then public confidence in the process could be nailed down from the start.

At a time when the Government is coming around to Sinn Féin's position to provide voting rights for Irish citizens in the Six Counties and the diaspora, it is disappointing that this legislation ignores them completely. It would not have taken much extra work or imagination to include them in this plan.

There is also the issue of those who are in direct provision centres or the asylum process. I know from my work on this issue that some people have lived in direct provision accommodation for up to 15 years. It is outrageous that someone can spend so long in this country and yet not be deemed to be worthy of expressing his or her opinion on an issue of such national importance. Is mar gheall ar sin agus ar na cùinsí atá luaite agam anseo go mbeimid ag cur i gcoinne an Bhille seo tráthnóna.

**Senator Alice-Mary Higgins:** I join Senator Trevor Ó Clochartaigh in congratulating Galway on being selected to be European Capital of Culture in 2020. Galway is my home town and I am delighted with its success. I congratulate Limerick's bid and the Three Sisters bid of Waterford, Wexford and Kilkenny for also putting forward visions of what a society embedded

in and deeply engaged with culture could look like.

Time was constrained in the previous debate and perhaps the Minister of State did not have time to address some of the concerns that were raised. I hope he will address them when he responds to this debate. I specifically refer to the concerns of older people that this process will not serve to further delay the implementation of the national positive ageing strategy in any sense or form. Reassurance is needed for all citizens and, as has been emphasised previously, a repeal of the eighth amendment will be the first issue considered by the citizens' assembly. Will the Minister of State assure us that the Government will act on the recommendations that will emerge with regard to the repeal of the eighth amendment and that there will be no delay on the basis of waiting for recommendations to be put forward in respect of the other areas set out? Reassurance is also needed to the effect that when it makes its presentations to the United Nations in September and November, the Government will not put forward the Citizens' Assembly as being, in itself, an adequate response to the rulings made by the United Nations in the context of the inhumane treatment of women in Ireland.

I wish to discuss the construction of the Citizens' Assembly mentioned in the Bill. I echo some of the concerns expressed by Senator Trevor Ó Clochartaigh about the people who, by their very nature, will not be present. I refer to migrants who are living in direct provision accommodation. We have heard some heartbreaking cases that illustrate the impact the eighth amendment has had on people's lives, including those of Miss Y and the late Ms Savita Halappanavar. These cases have shown us the brutal impact that the eighth amendment has had on all women in Ireland who undergo pregnancy. It is important that the voices and experiences of migrants and people who are not on the electoral register be represented when it comes to the constitution of the assembly. There is the wider question of expertise. Will expertise include the experience of migrants and people not on the electoral register? Will it contemplate international practice? We need to consider what happens in other countries. Sierra Leone has recently changed its legislation in this area and reframed it from a human rights perspective. There are numerous examples of countries which have grappled with this issue and which have found solutions. I urge that international, human rights, medical and legal expertise should be contemplated within the membership of the assembly.

We have talked about people who might not be able to afford the time. People with serious concerns have been silenced in this debate. This debate will have to happen again after the eighth amendment has been repealed because there are women in Ireland who have been silenced. They cannot speak about their experiences because the threat of being criminalised hangs over them. There are medical professionals who cannot speak openly and honestly about the issue because the law, as it stands, does not allow them to do so. They cannot speak of their experiences and about what they know. I remind the House and the Government that we will have an ongoing conversation on this matter. I hope that when the shadow of the eighth amendment is removed, we will emerge with a society in which all people can participate in a compassionate and nuanced discussion on how to legislate in this area.

The Bill seeks permission for access to the electoral register to be granted. I urge the Government to use the electoral register for its true purpose, that is, to allow people to vote and exercise their electoral mandate in order to repeal the eighth amendment and have a referendum. That is the true and ultimate purpose of an electoral register. In 1992, I first protested against the eighth amendment. At the time I was a teenager and was shocked and worried by what happened to another teenager in the X case. Thousands of women have since travelled, many of whom were not even born in 1992. Many of them are on the electoral register. Many of them

may not feel confident to join a citizens' assembly should they receive that telephone call but all of them should be afforded an opportunity to express their opinions and use the ballot box.

**Senator Ivana Bacik:** I welcome the Minister of State back to the House. Clearly, this debate is linked with the earlier one on the motion that was passed. The Labour Party opposes this legislation for the same reasons that it opposed the motion to establish the Citizens' Assembly. We are concerned that the mechanism of the assembly will be used to delay the holding of a referendum to repeal the eighth amendment, a referendum that my party has committed to holding.

*3 o'clock*

As I said, we cannot see why the new model of the Citizens' Assembly is being put forward when we had a tried and tested model with the Constitutional Convention, as Senator Jerry Buttmer has acknowledged. All of us who were part of the convention had positive experiences of it.

I am conscious that the Electoral (Amendment) Bill under discussion now is similar to that passed in 2012 to facilitate the holding of the Constitutional Convention. However, as I said, there are three key differences between this model of the Citizens' Assembly and the model of the Constitutional Convention some years ago. First, the Citizens' Assembly will be made up of 100 citizens, with 99 to be chosen from the electoral register, as well as one chairperson, whereas there were 66 citizens and 33 politicians in the earlier model. The earlier model had a tighter timeframe. In his response to me earlier, the Minister of State said the timeframe had not been adhered to in respect of the first two matters with which the Constitutional Convention dealt. Senator Jerry Buttmer was right to say the real problem with delay was the Government's responses to the recommendations of the convention. Again, there is a difference. The terms of reference for this model do not have the same tight timeframe provided for the Government response that we had for the Constitutional Convention. Even then, there was slippage which I acknowledge, but the Constitutional Convention worked in a timely and efficient way. I pay tribute to Tom Arnold, the chairperson, as well as Art O'Leary and the secretariat who were so efficient in running the convention and in the respectful way they dealt with it.

Senator Michael McDowell raised issues about the cost of the convention. Those in the secretariat were in the habit of telling us that it was being run on a shoestring of €5. Clearly, that was a joke, but it was run in a cost-efficient manner. We might be pleasantly surprised to look back at how little it cost in the broader scheme of things. The hotel in Malahide has been mentioned. There was a tender process and hotels were invited to tender. The convention was run at a time that facilitated people's working lives and home commitments. There were a number of differences, but now that the motion has been passed, I hope we will see the Citizens' Assembly operate in a similarly efficient and timely manner. Unfortunately, the amendment to prescribe a tighter timeframe was defeated, but I hope the Government will take on board the concern expressed, as well as the fact that the focus was so narrow, with a view to ensuring the first issue to be dealt with, that of the eighth amendment, is dealt with in a timely fashion and that we see a recommendation being brought forward swiftly.

That brings me to the third difference with the Citizens' Assembly. It deals specifically, among other issues, with the eighth amendment. That this issue is the first issue to be considered is of particular concern to most of us. This issue will be similar to the marriage equality issue dealt with by the Constitutional Convention. When the convention was being set up, the then Labour Party leader, Eamon Gilmore, referred to marriage equality as the civil liberties

issue of that generation. Clearly, the eighth amendment and its repeal is the civil liberties issue of this generation and of my daughter's generation, those who are now coming up and who may not yet be able to vote, just as, with others, I was unable to vote in 1983, yet we have lived with it all our lives.

As I said, this issue should need no further deliberation by an assembly, a judge-led convention or any other mechanism of that sort. It is time for us, as legislators, to debate the necessity of holding a referendum. This is something on which the Labour Party has led. In particular, Labour Women have led on this by bringing forward a draft of the legislation we would like to see replace any text in the Constitution on this matter.

At the time of the convention, there was some debate about which aspect of the electoral register would be used. Ultimately, it was decided that only those on the electoral register eligible to vote in referendums and presidential elections, that is, Irish citizens, would be included, rather than those on the broader register for local elections. I presume that model will be used in this case too.

We were provided with an interesting breakdown of the way citizens were chosen in terms of their reflection of the overall demographic make-up of the Irish population. Of the 66 citizen members of the convention, 33 were male and 33 were female. There were six men under 24 years of age from the eastern region and so on. There was geographical and class breakdown, as well as gender and age breakdown.

We are opposing the Bill because we believe in the need for the holding of a referendum without further delay on the repeal of the eighth amendment. However, now that the creation of the assembly has been passed by motion, we are keen to see it working effectively and efficiently to deliver a recommendation for the repeal of the eighth amendment and we hope to see that referendum being brought forward without further delay.

**Senator Rónán Mullen:** Some people already need to be reminded that the Citizens' Assembly is not being called to consider the repeal of the eighth amendment but to consider the eighth amendment. I presume this will mean equal time will be given to the side that holds the view that we should see how the eighth amendment should be kept, what measures are needed to give proper effect to it - for example, should our pregnancy counselling be far more proactive in discouraging abortion - as a human rights issue to protect everyone's right to life in the country and so on. This is about looking at the issues from all sides. The fact that some of us do not know whether we should be discussing the Citizens' Assembly or the abortion issue is indicative of precisely why we ought to be discussing this issue here. One way or the other, we will have to come back to a full discussion of all of the dimensions of this complex issue in these Houses.

I expressed certain concerns to the Minister of State earlier, but he did not respond to any of the concerns I had expressed. They included the conduct of selection of members of the Constitutional Convention last time around, what steps would be taken to ensure that it is not a self-selecting situation and the need to ensure transparency. It is important that the means by which each member of the assembly is to be sourced, invited and selected can be known in a transparent fashion.

Senator Jerry Buttmer had much to say about how genuine people were at the Constitutional Convention. I have no problem saying they were all nice people. I have no problem in saying

they were all out to consider the issues as best they could. Certainly, I would recommend the Grand Hotel in Malahide to anyone - one could not imagine a better facility. However, the fact is that this was a very expensive non-representative sample of people, an expensive opinion poll among a non-representative sample of people. That is what the assembly is going to be also. The only mitigating factor was that a certain amount of consideration and debate about the issues took place with certain experts.

Senator Jerry Buttiner said, wrongly, that everyone was happy with the content of the academic panels. There were disputes about the alleged tendentious nature of some of the papers put before us. There was a major issue about how little time was given to discussion of some serious issues. I tried to get certain amendments put to the floor and the chairman simply ruled them out. Whether that was him acting in good faith or simply his whim, no one can ever know. The fact is it was not possible to discuss issues in any depth. We have not been told what kind of depth is going to be given to discussion of the issues of the Citizens' Assembly, how many times it is going to meet, how long it is going to meet for, how frequently those meetings will take place and whether there will be more meetings than the number of meetings of the Constitutional Convention. That is why Senator Michael McDowell's questions about the cost, as well as everything else, are so apposite. There were major problems with the Constitutional Convention.

Senator Jerry Buttiner referred rather selectively to the Irish Council for Civil Liberties, ICCL, and its blueprint. The ICCL is certainly an organisation with skin in the game in that it seeks to advance abortion. It has a distorted concept of human rights. Senator Jerry Buttiner did not refer to the fact those involved in the council are seeking, as part of their agenda, for any recommendation from the Citizens' Assembly to be automatically put to the people. Obviously, they have no interest in any deliberation taking place.

**Senator Jerry Buttiner:** It was clear in my remarks that I was not referring to the subject matter. I was referring to the document about the conduct of the meeting. The Senator is being suggestive in his remarks.

**Senator Rónán Mullen:** The bottom line is - I mention it only in passing - that we should not be in awe of blueprints from bodies which claim to articulate human rights concerns but have, in fact, a debilitated notion of human rights and would seek to exclude whole sections of the human community from the protection of the law.

No detail has been given today about how often people are going to meet and for how long. As nice as the people were and as diligent as they were in the Constitutional Convention, it was not a thorough searching of the issues. The food was good. The drink was good. The accommodation was nice.

**Senator Jerry Buttiner:** That is unfair.

**Senator Rónán Mullen:** It was a wasteful process. We need to know, for example, how many secretarial assistants from Leinster House found themselves on the convention as participating members, how many former Labour Party councillors were there and how many people were couples. How the hell could we have 66 people chosen, supposedly representative of the country, and actually have one couple among them? That is a remarkably strange concatenation of events.

**Senator Jerry Buttiner:** That is unfair of the Senator.

**Senator Ivana Bacik:** On a point of order-----

**Senator Rónán Mullen:** By the way, Senator Ivana Bacik's points of orders are never points of order. I just wanted to alert the Acting Chairman to that fact because he is relatively new.

**Senator Ivana Bacik:** The Senator has not heard it yet. On a point of order-----

*(Interruptions).*

**Senator Ivana Bacik:** On a point of order, there is a rule in the House about not denigrating people who are not present. There is a denigration of the citizen members of the convention who were highly engaged and involved.

**Senator Rónán Mullen:** There certainly was not.

**Acting Chairman (Senator Tim Lombard):** An individual was not named.

**Senator Jerry Buttimer:** Were there enough people of Senator Rónán Mullen's own persuasion there?

**Senator Rónán Mullen:** Senator Ivana Bacik-----

**Acting Chairman (Senator Tim Lombard):** Will the Senator, please, resume his seat? He has finished.

**Senator Rónán Mullen:** In conclusion-----

**Acting Chairman (Senator Tim Lombard):** No. The Senator has gone way over time.

**Senator Rónán Mullen:** Okay. Will the Minister of State provide the answers to the questions I posed about transparency and frequency of meetings?

**Senator Jerry Buttimer:** The Senator had enough people of a similar mindset to his there also.

**Senator Rónán Mullen:** One can never have enough of them.

**Senator Ivana Bacik:** They do not exist.

**Minister of State at the Department of the Environment, Community and Local Government (Deputy Damien English):** Where does one go after that? I must visit Malahide and see what is happening there. I apologise if I missed the Senator's question. I did not mean to do so. I must have been living on a different planet, as I did not hear any complaint about how people were picked for the convention, but I will check for the Senator. I would have no problem with doing that and I will revert to him. If he has some concerns, he might tell me of them privately.

**Senator Rónán Mullen:** I thank the Minister of State.

**Deputy Damien English:** I am glad to hear that a couple was picked. That proves that it worked.

**Senator Rónán Mullen:** Really.

**Deputy Damien English:** One could not have designed that to happen.

**Senator Jerry Buttiner:** How were they afterwards?

**Deputy Damien English:** I do not know. I hope they were on the same side and agreed everything. To me, it proves that the selection process worked and was independent. A polling company, using polling data, will be commissioned to do this work. There will be a tender process. The independent chairperson who will be appointed will oversee that. Like all polling companies' decisions, this company's decision will be based on gender, age and regional spread. People have concerns about using a private polling company, but I am not aware of a public polling company. Perhaps there might be one, but I do not know. If there is, the Senator might let me know.

**Senator Trevor Ó Clochartaigh:** There should be.

**Deputy Damien English:** Most people will accept that polling companies have expertise in selection criteria. I am sure that it will be checked. As the Senator has doubts about the last process, I will see if there is any evidence. In terms of what happened at the convention, I was not there and am sorry that I missed it, but the Senator's version of what happened and Senator Jerry Buttiner's version are completely different. I do not know whether there was more than one convention, but we will check it out to see what happened. Most people were satisfied that the process worked.

**Senator Rónán Mullen:** A convention with no power.

**Deputy Damien English:** I have no doubt that the assembly will work also.

Senator Michael McDowell raised valid questions about the cost, although they were probably more pertinent to the previous discussion and should have been mentioned then also. Some €200,000 has been set aside from the Vote of the Department of the Taoiseach this year and a further €400,000 is being allowed for next year. That is approximately the cost. It is not a two-year process, but a 12-month one, as per the resolution. I do not foresee it becoming a two-year process, as we all just voted for the 12-month timeframe included in the resolution. The cost is quite low.

I understand the cost of the Constitutional Convention was less than €1 million, which was good value. This work is costly, but democracy costs money, as the Senator appreciates. The more democratic we get, the more costly it will be. Given the composition of the Houses, we will probably have more democratic decisions, although they will be slower and cost more money in the long run. Some €600,000 is good value for an assembly.

I am sorry, but it was €1.37 million. I was slightly wrong in my figures. I said €1 million; therefore, I welcome the correction. I believe the convention got good value from the hotel and many experts gave of their time for free. If any Senator wishes to offer his or her services as an expert for free, I am sure they would be gratefully received. Other experts might have charged, but I do not know. The website was free and the staff costs accounted for less than half. There was good value, but it cost money. There is no denying that. It was a fair question to ask.

Regarding the exclusion of non-citizens who will be picked and what register will be used, no matter what the register or how we pick from among the public, people will have concerns and different opinions on the matter. The same criteria will be used as were used to pick the

members of the Constitutional Convention. The same register will be used, although who is on it might have changed slightly. People have said that the register does not include non-Irish people, but 90,000 non-Irish people became citizens of this country in recent years. They are entitled to vote in a referendum and to be on the register, although I do not know whether they are on it. I understand that, at the ceremonies where people become citizens, they are handed leaflets and given an explanation as to how to join the register and get a vote. That is great.

**Senator Alice-Mary Higgins:** Particular obstacles are faced by those who do not have that status.

**Acting Chairman (Senator Tim Lombard):** Please allow the Minister of State to continue.

**Deputy Damien English:** I am not saying it is perfect. I agree with the Senator in that regard. We must examine the register in general, not just in respect of today's discussion, to bring it up to date and include people automatically when they become citizens. No matter what model of selection one uses, we will not satisfy everyone's concerns, but this will be independent of the Government, the chairperson will oversee it and it should, on balance, give us a proper representation. I accept that Senator Rónán Mullen has doubts, but I would have to check what happened with the convention. I am generally confident in using a polling company to do this work.

**Senator Rónán Mullen:** Guarantees will suffice this time.

**Deputy Damien English:** I cannot guarantee that. The process should provide an assembly with a proper composition.

I want to ensure I am addressing all of the concerns raised. Have I missed anyone's questions? I believe I have covered most of them.

**Senator Alice-Mary Higgins:** The Minister of State was going to give assurances as to the immediate action without waiting for recommendations on the other issues. He was also looking to give-----

**Deputy Damien English:** The Older and Bolder campaign. The assembly should not delay any decision. It might enhance the work. My understanding is a very long-term view will be taken. Great work was done by the Older and Bolder campaign and its discussion but - the Senator can correct me if I am wrong - that was generally an assembly of older people. The assembly will comprise people of all ages. It is a decision to spend taxpayers' money.

**Senator Alice-Mary Higgins:** It was an intergenerational consultation of 1,000 individuals.

**Deputy Damien English:** Okay. This should enhance it and it certainly should not delay any work or spending of money in the meantime. As we are discussing a 12-month period, I do not believe there will be a delay.

**Senator Alice-Mary Higgins:** A the national positive ageing strategy is two years overdue, action needs to be taken this year.

**Deputy Damien English:** The assembly should not delay it. If the strategy is overdue, I cannot answer for that. I will try to get it moving as it should, but the assembly should not delay

it. I cannot see how it would.

As to what will happen when the Ministers attend the United Nations, I will ask the Tánaiste to revert to the Senator. I do not know what she plans to say. She has been straightforward and frank in the discussions so far. As she has never hidden behind anything, I doubt that she will hide behind the assembly. She is not that type. I will ask her to correspond directly with the Senator on the matter, as I accept that there is a concern that the assembly could be used to delay, although I do not believe that will happen.

We have covered most of the issues raised.

**Senator Alice-Mary Higgins:** The last question was-----

**Senator Trevor Ó Clochartaigh:** About the 16 to 18 year olds.

**Senator Alice-Mary Higgins:** I am sorry.

**Senator Trevor Ó Clochartaigh:** Has the Minister of State an opinion on that issue?

**Deputy Damien English:** It was discussed by the convention.

**Senator Alice-Mary Higgins:** Will actions on item No. 1 of the assembly's business given to it by the Government-----

**Acting Chairman (Senator Tim Lombard):** The Minister of State to continue, without interruption, please.

**Senator Alice-Mary Higgins:** -----be able to proceed without waiting for recommendations on item Nos. 2, 3 and 4?

**Deputy Damien English:** I am sorry, but I have missed-----

**Acting Chairman (Senator Tim Lombard):** The Senator should not interrupt while the Minister of State is speaking.

**Senator Alice-Mary Higgins:** Will the Government be able to act on the recommendations on No. 1 of the assembly's business without waiting for recommendations on items Nos. 2, 3 and 4?

**Acting Chairman (Senator Tim Lombard):** I am sorry, Senator, but we cannot have the debate again. The Minister of State is concluding.

**Senator Alice-Mary Higgins:** He asked whether there were other issues.

**Deputy Damien English:** I did. I missed that question and do not want to leave anyone's question unanswered. To be clear, there is no reason that each report that is laid before the Houses and is not affected by the reports that remain due cannot be decided on by them. It will not have to wait for another report. There is a concern that there may be a super-referendum day, but that should not cause a delay either. That decision is to be made. Generally, people believe it is okay to have a number of referendums on a single day, but it should not delay anything. I sense that Senator Michael McDowell has conspiracy theories. I cannot get into his head, but we can analyse them at some stage. I hope they are not behind his concerns. I do not believe they are, but I understand people always have theories on these matters.

I hope I have covered everything.

**Senator Trevor Ó Clochartaigh:** The issue of 16 to 18 year olds.

**Deputy Damien English:** It will not be addressed as part of this discussion.

**Acting Chairman (Senator Tim Lombard):** It is to be dealt with in a separate Bill.

**Deputy Damien English:** The question of whether we will give them a vote is a project that will start in November. I am in favour of it. The convention discussed it and a recommendation was made. Some party leaders, including Fianna Fáil's leader, believe the discussion was a waste of time. It was not, as I agree with Senator Trevor Ó Clochartaigh that it would encourage more people to vote. Some choose not to vote no matter their age, but nowadays 16 year olds are well informed and living in their communities. When people reach 17 or 18 years of age, they generally leave their communities to attend college or go to work or travel abroad. They might lose their voting patterns. The sooner people get into the habit of voting, the better for democracy. I am in favour of it, but we cannot deal with the matter as part of this discussion.

Question put:

The Seanad divided: Tá, 17; Níl, 13.	
Tá	Níl
Burke, Colm.	Bacik, Ivana.
Burke, Paddy.	Conway-Walsh, Rose.
Butler, Ray.	Devine, Máire.
Buttimer, Jerry.	Higgins, Alice-Mary.
Byrne, Maria.	Humphreys, Kevin.
Coffey, Paudie.	McDowell, Michael.
Coghlan, Paul.	Mullen, Rónán.
Conway, Martin.	Nash, Gerald.
Craughwell, Gerard P.	Ó Clochartaigh, Trevor.
Feighan, Frank.	Ó Donnghaile, Niall.
Hopkins, Maura.	Ó Ríordáin, Aodhán.
Lombard, Tim.	Ruane, Lynn.
McFadden, Gabrielle.	Warfield, Fintan.
O'Donnell, Marie-Louise.	
O'Mahony, John.	
O'Reilly, Joe.	
O'Sullivan, Grace.	

Tellers: Tá, Senators Maria Byrne and Gabrielle McFadden; Níl, Senators Michael McDowell and Rónán Mullen.

Question declared carried.

Question put: “That sections 1 and 2 and the Title are hereby agreed to in Committee; that the Bill is, accordingly, reported to the House without amendment; that Fourth Stage is hereby completed; that the Bill is hereby received for final consideration; and that the Bill is hereby passed.”

The Seanad divided: Tá, 18; Níl, 9.	
Tá	Níl
Burke, Colm.	Bacik, Ivana.
Burke, Paddy.	Conway-Walsh, Rose.
Butler, Ray.	Devine, Máire.
Buttimer, Jerry.	Humphreys, Kevin.
Byrne, Maria.	Mullen, Rónán.
Coffey, Paudie.	Nash, Gerald.
Coghlan, Paul.	Ó Clochartaigh, Trevor.
Conway, Martin.	Ó Donnghaile, Niall.
Craughwell, Gerard P.	Warfield, Fintan.
Feighan, Frank.	
Hopkins, Maura.	
Lombard, Tim.	
McFadden, Gabrielle.	
O'Donnell, Marie-Louise.	
O'Mahony, John.	
O'Reilly, Joe.	
O'Sullivan, Grace.	
Reilly, James.	

Tellers: Tá, Senators Maria Byrne and Gabrielle McFadden; Níl, Senators Rónán Mullen and Trevor Ó Clochartaigh.

Question declared carried.

### Paternity Leave and Benefit Bill 2016: Second Stage

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

**Minister of State at the Department of Justice and Equality (Deputy David Stanton):**

I am delighted to be here to take Second Stage of the Paternity Leave and Benefit Bill 2016. I know that I can expect valuable and incisive contributions from Senators to the debate and I am looking forward to their support during our discussions on what we are trying to achieve with the Bill.

The purpose of the Bill is to give effect to the decision in budget 2016 to provide for two weeks' paternity leave and an associated social welfare benefit, known as paternity benefit. While the idea behind the introduction of two weeks paternity leave is simple, the legislation required to execute the proposal has been complex and intricate. For instance, there were complicated issues regarding the interplay with maternity and adoptive leave that had to be resolved. In addition, other legislation had to be updated through this Bill, including the Workplace Relations Act 2015 and the Social Welfare Consolidation Act 2005.

We made a large number of amendments in the Lower House. The high number of amendments on Committee and Report Stages reflects the complexity of the Bill and its interaction with the other legislation I mentioned. On Committee Stage, there were 22 individual amendments, mainly technical. The most significant group of amendments made related to the broadening of the definition of sole male adopter to ensure that self-employed fathers are covered in the Bill. This was the intention from the outset, but we needed to make adjustments to the Bill as published to make sure we achieved this objective.

On Report Stage, there were 28 individual amendments. Here we made three key changes. First, we carved out a right to paternity leave for male same-sex couples who adopt. The intention was always to provide for such couples on the same basis as other couples, but the execution of that idea required quite a few amendments to resolve consequential and cross-referencing issues that the core amendments give rise to in the Bill. It also threw up a more substantive anomaly in that adoptive leave is not yet available to same-sex male couples who will adopt in the future. This is because leave is available to "an adopting mother" only under the Adoptive Leave Act 1995. Unfortunately, it is not possible to resolve the larger anomaly in the time available to us for this Bill.

My Department has consulted the Department of Children and Youth Affairs and the Adoption Authority of Ireland which have informed us that there have been no sole male domestic adopters in the past three years and that there are currently no domestic adoptions by a same-sex male couple in the assessment process and that it is unlikely, therefore, that there will be any in the next 12 to 18 months. There is a possibility of same-sex couples registering a foreign adoption here and subsequently moving to Ireland, but it seems clear the number of male same-sex couples who will adopt in the coming years is, at most, very small. Nevertheless, the anomaly needs to be fixed. In the circumstances and as it is essential to have the Bill enacted very soon to allow paternity leave and benefit to come into being in September, we will bring forward amendments to the Adoptive Leave Acts when we have finished the examination of the adoptive leave and social welfare legislation provisions that will need to be amended. We will do so in other legislation as soon as possible and not later than the end of the year, possibly in the Bill that will be published in the next session to allow ratification of the UN Convention on the Rights of Persons with Disabilities.

We brought forward the commencement date from 30 September to 1 September. The reason we could not commit to a start date of 1 September before publication of the Bill was that there had been a significant question mark over whether the complex operational arrangements required in the Department of Social Protection could be completed in time for the earlier September go live date. Following a review, we decided that the earlier date would be achievable. This change will enable approximately 6,000 more fathers to be able to access paternity benefit and the cost is already covered in the Department of Social Protection Vote.

We strengthened the provisions that protect employees from penalisation and-or dismissal

as a consequence of exercising their right to paternity leave. These amendments brought the Bill into line with other employment protection legislation enacted recently.

There were also a number of technical amendments that dealt with stylistic and linguistic issues, or ensured consistency in the language used in the Bill. These amendments were introduced on the advice of the Office of Parliamentary Counsel. Also, many of the technical amendments were consequential on the substantive amendments. This explains why we made a total of 50 amendments to achieve, as I set out, four main changes.

Instinctively, I have long been an advocate of a fairer sharing of family responsibilities, but even viewed purely objectively, the increased participation of men in child-rearing responsibilities is unequivocally positive. Evidence from countries such as Norway shows that when fathers take a more significant and meaningful share in the parenting of their children, the individual family benefits, as does wider society. It is in a child's best interests to benefit from the care and attention of both parents in his or her early years. As we all know, investing in a child's early years leads to better outcomes for both the child and wider society. Furthermore, evidence shows that fathers want to spend time caring for and bonding with their children. Research confirms that children benefit most from parental care in the first year, but, as things stand, in order to take time off around the birth of their child, or later on in the first year, fathers have to use other existing leave arrangements.

Parents want choice and flexibility. The Bill gives parents the flexibility to choose when they take the time off to care for their young child. When enacted, the legislation will allow new fathers, including fathers of adopted children, to start the combined package of paternity leave and paternity benefit at any time within the first six months following birth. In the case of adoption, the father can take leave within 26 weeks of the day of placement. The State can and should support families as they deal with all the different pressures they face. For this scheme, the Department of Social Protection will provide a minimum of paid paternity benefit of €230 per week for the two weeks' paternity leave. This means the State now offers a total of 28 weeks of paid support to parents upon the birth of their child.

The provision of family-related leave is one of the important areas to create a balance between family and working life. I am pleased this legislation is another important step in supporting families in the workplace. Research indicates that mothers who are supported at home in the weeks following their child's birth tend to be healthier and to have lower incidences of post-natal depression. Co-parenting habits that are established in the first few months of a child's life continue to benefit the home for years to come. Simply put, the more time that fathers can spend with their babies, the better. It is good for fathers, families and society.

I am also very happy that the 256,000 self-employed men in Ireland will be able to avail of paternity benefit. Given that they are self-employed, they can already take leave, but most do not do so owing to loss of income or business. Becoming a new parent is a huge undertaking and for parents who are forced to take unpaid family leave, the situation becomes infinitely more challenging. This measure of two weeks' paid paternity leave will give them a guaranteed income, which will make it a little easier for them to combine parenting with the responsibility of running a business.

The legislation we are asking the Seanad to approve is worthwhile, progressive and, in the Irish context, groundbreaking. Unlike many EU member states, we have no provision for paternity leave, a situation that sets us out of step with the changed and more active role that

fathers play in raising their children in most comparable societies. This combined package of paternity leave and paternity benefit will help to ensure fathers in Ireland have entitlements that are similar to those of fathers in other EU countries.

It is very difficult to estimate accurately what the actual take up will be. The Department of Social Protection estimates that 30,000 to 40,000 fathers might choose to apply for paternity benefit in a full year, at a cost of €20 million. This year, 2016, the payment is expected to cost the Exchequer €5 million. Fathers will normally have to give four weeks' notice before taking the leave, but there is provision in the Bill for the paid paternity leave to be taken at short notice, should a baby be born early.

We all know that a child's early years are crucial. So often they define the child's prospects as an adult. We owe it to our children to give them the best start in life. Enabling them to be cherished and nurtured by both parents in their first months will provide a vital foundation for their future lives. It will support the child. It will support fathers by giving them the chance to bond with their children at a key stage of development. It will support mothers and promote gender equality by enabling that essential caring role to be shared. It will support families at a time when the pressures of nurturing a new life can be daunting and stressful. This legislation is good news for parents and children and I hope the Bill will be enacted with the support of the House as quickly as possible.

**Senator Mark Daly:** I welcome the Minister of State and thank him for outlining-----

**An Leas-Chathaoirleach:** The Senator has eight minutes, but he may not need all of them.

**Senator Mark Daly:** No, I will not.

**An Leas-Chathaoirleach:** I tried to let him down gently.

**Senator Mark Daly:** The Minister of State has outlined the Bill, its benefits, the fact we are behind our European colleagues when it comes to parental leave and the importance and benefits of parental leave for wider society. Traditionally, the role was that the woman would look after the child and the father's responsibilities were fairly limited. This is a great opportunity to allow for this to expand and, in general, have a more positive effect on wider society.

The Minister of State also outlined the amendments which were made in the Dáil. He explained many of them were technical but some very substantive amendments were made. I note the amendment on the more complex issue of same-sex couples and adoption. I know that the timeline is important, but I take into account it is not possible to cover all of the bases on this occasion. Considering where we are starting from and what we are trying to achieve by September, it is important that we make a big leap forward at this stage and try to cover any anomalies subsequently. I know that best practice is behind the Bill, with regard to the study and the Norwegian model on which it is based, from which we can learn much including the benefits to society of the participation of the father in child-rearing at a very early stage. This is important to take note of and, learning from it, bring the Bill forward and try to get it passed through the House.

Flexibility is important and I note this is provided for with regard to a child coming early. It will cost €20 million, which is no small amount of money in the grand scheme of things. We will look at it in terms of amendments and issues that could strengthen the Bill. It is all about making it work for everybody and as such we do not have any issues. I welcome the concept

and the implementation of the legislation.

**Senator Martin Conway:** I welcome the Minister of State. He is becoming a regular visitor and his contributions are always very welcome, including his words on this very important Bill. I see the legislation as Ireland maturing as a society in embracing an equal role for mothers and fathers in rearing children. For many years, it was usually the primary responsibility of the mother while the father got off very easily. This is changing. In modern Ireland parenting is very much a partnership and both partners, whether same-sex or heterosexual, play an equal role in rearing small children and bringing them up through their formative years.

The Bill is a recognition by the State of the important role that fathers play. Two weeks' paid paternity leave is an important incremental step in the right direction. I would like to see it extended if we were in a financial position to do so and I would certainly like to see it extended in future legislation.

*4 o'clock*

If a family decided it wanted to split in half the six months' maternity leave women get when they have children and if Mam and Dad wanted to take three months each, we should facilitate that. I was struck by the Minister of State's comments about the position in Norway because one of my neighbours is from there. People in Norway has the right attitude to the rearing of children. As the Minister of State rightly pointed out, society benefits when fathers have an increased role. It is all very positive. It is groundbreaking legislation and I am delighted it is coming through the House and that there is no opposition because it is absolutely appropriate. I again thank the Minister of State and look forward to listening to other contributions. Let us hope we can get this over the line.

**Senator Niall Ó Donnghaile:** Gabhaim buíochas leis an Aire. Tá an ceart ag an gcainteoir deireanach go mbíonn an tAire Stáit istigh anseo linn go minic. The Minister of State is very dedicated in that he has come in to see us at this time on a Friday, for which I will give him due credit and regard. His contribution is positive and welcoming in terms of some of the anomalies he addressed. There is a willingness and commitment from the Minister of State to address some of the anomalies for same-sex couples. While there may not be a huge body presenting itself, I am sure that as Ireland matures and progresses, this will be something with which we will be faced. It is right and proper that we reflect that legislatively and it is encouraging to hear the Minister of State's commitment to doing this. He will be glad to hear that my contribution will be brief but it will probably share many of the sentiments expressed by him.

There is a compelling body of evidence which demonstrates that children do better if they spend their first year with a parent. We also know that the early years of children's lives are crucial in their growth to being teenagers and civic-minded adults; therefore, the context in which we are debating the Paternity Leave and Benefit Bill has to be governed by what is best for the child or children in respect of time spent with the parent.

The Bill is essentially about future generations and their welfare and well-being, as well as workers' rights in the here and now. Caring leave entitlements and child care policies must be set in terms of what kind of society we want to create. Statutory rights to flexible work arrangements can play a key role in enabling workers to balance work with family and family related responsibilities. In this country, North and South, more needs to be done to bring parental leave and other workers' rights into line with those in the rest of Europe. Under the current law in

the State, if a man wants to take time off following the birth of his child, he must do so out of current annual leave entitlements or leave without pay. This is unfair because it favours high-income workers. It is of no value to low-income families for whom it would be punitive to forgo income for the duration of the leave.

In Norway new fathers are entitled to up to ten weeks' leave. Many other jurisdictions having generous leave entitlements for fathers to ensure it is not just women who are solely responsible for child care. Further to this, the Government should work to extend maternity benefit by six weeks and allow that portion to be taken by either parent at the end of the current 28 weeks' maternity leave, as well as introducing 52 weeks of paid maternity or paternity leave. Sinn Féin has long campaigned for at least two weeks' paid paternity leave for fathers when their child is born. It is our clear view that this should eventually be increased to four weeks of paid paternity leave.

The absence of paid paternity leave to date has been a stain on the record of successive Governments' parental policy. I also ask the Minister of State to look at the so-called right to request policy which many European countries provide for workers where parents with young children have an actual entitlement to reduced working hours. The Bill and the introduction of two weeks' paid paternity leave are crucial in developing parental leave practices. The National Women's Council of Ireland, Start Strong, and ICTU have called for this for years. It is our view that the Bill should be welcomed and viewed as a starting point for the development of a better child care and parental leave system, including flexible work arrangements for parents. I am heartened, encouraged and hopeful this is what the Bill will achieve, given the Minister of State's remarks and his sincere commitment.

**Senator Aodhán Ó Ríordáin:** I welcome the Minister of State who will have to get used to spending time here as this is what happens on a Friday when one has this level of responsibility. It is great that legislation such as this has come before this House with support from right across the House and that it will be enacted in time to be ready by early September, which is a great achievement by the Minister of State. Given the delay in the formation of the Government, there was a suggestion or fear that it might not be ready in time, but the Minister of State has prioritised it and made it happen, on which he should be congratulated.

In respect of public policy, we often talk a lot about children but previous Governments have not necessarily invested and drilled down into what can make family life easier in providing real supports to make parenting better, as said by a previous speaker. If one looks at the European mainstream, certainly the Scandinavian mainstream, one would see that we would certainly be a long way behind it, but that does not mean that we should not start somewhere. This is a positive start. As has been mentioned, it was campaigning groups like Start Strong, ICTU and the National Women's Council that first proposed that two weeks' paid paternity leave would be a good start. The Minister of State and I attended a conference 18 months ago where this case was made quite strongly. I congratulate the Minister of State on the work he has done and offer the full support of my Labour Party colleagues.

We should not take this in isolation from other issues in the child care area that need to be addressed. I am sure these issues are outside the Minister of State's remit, but I know that he will be having conversations because this comes as a gender equality measure. Deputy David Stanton is the Minister of State with responsibility for equality, which includes gender equality, and this measure is trying to promote equality in parenting. As we look at those crucial early years, it is remarkable how one can see the power parenting can have. I had a conversation this

morning with Preparing for Life in Darndale. It has statistics regarding what intervention can do. The empowerment of parents is key to driving change. I often quote the 1995 report from Betty Hart and Todd Risley. As it is a US report, some of the language is a bit Americanised but the authors say that the average three year old from a welfare dependent family has one third the oral language capacity of a three year old from a professional family. A three year old from a poor family has about 400 words, while a three year old from a rich family has about 1,200. This is before they come anywhere near school. When we talk about early intervention, we often think that this is where school comes in, but the key intervention is family-based - the empowerment of the family and parents to have the skills to employ them in the family setting to ensure dietary, oral language and literacy skills are there from day one. This type of measure gives space and time for the family to concentrate on family matters. Employment matters and bill pressures can be so crushing that having the capacity to spend time with one's family in those early years is key.

I know that the Government is pursuing two years' free child care provision, which is a great initiative. In respect of child care, much of the conversation from different parties and interest groups has been about the idea of a tax credit. I would warn against this. I do not believe the tax credit is a solution to the child care issue in Ireland. The international experience shows that tax credits do not do anything for standards and prices. When intervening in the child care area to make it more affordable for families, we should consider other options as laid out by the National Women's Council and Start Strong, which I understand is winding up or has been wound up. I pay tribute to those involved in that organisation, which was very much an evidence-based organisation that tried to provide evidence-based material for policy-makers to consider when driving forward interventions in the early years sphere. Start Strong has come to the end of its existence, which is a shame, but its input can be seen all over this legislation.

In congratulating the Minister of State and what he has achieved, I suggest we could have further conversations about the nature of employment as an equality tool. Many of the groups with which the Minister of State is dealing say employment is a key indicator of equality. In fact, discrimination happens most readily in the workplace. Among the groups which the Minister of State will be dealing with are the Traveller organisations which often state the only place a Traveller can get a job is in the Traveller lobby group. He will also be dealing with the disabilities organisations which are determined to ensure the comprehensive employment strategy for people with disabilities is followed through and the LGBT people who want to work in LGBT-friendly environments. There should be no barrier in the workplace to women or mothers playing their full role. We must always be minded of the power of employment as an equality measure. It gives a great sense of self and identity. One of the first questions we ask people when we first meet them is, "Where are you from and what do you do?" If within the identity we have as workers we have legislation that can defend our rights as family people, surely then the productivity of the workers and the workplace will improve. Multinational corporations are often criticised but when one drills down into how they organise their workforce, many of these measures are very generous and not because the multinationals want to be generous but because they have realised that their workers will be more productive if they are adequately catered for in terms of leave and workplace rights. This Bill is a small step in that direction.

I thank the Minister of State and his officials for bringing this legislation to this point and assure him he will have the support of the Labour Party in his endeavours. As I said, this legislation will work best in conjunction with the suite of other measures that I know that the Department will be working on, including in the area of child care. We need to understand em-

ployment as an equality measure and to be minded that the power of parenting and the ability to enjoy the period of parenting is crucial. The Government's recognition of that through this Bill is welcome.

**Senator Maria Byrne:** I welcome the Minister of State and his officials. I also welcome the positive move to have this legislation in place by 1 September.

The Bill sends a positive message in terms of gender equality. I agree with most of what has been said already but I would like to make a few additional points. The Bill provides a number of guidelines for dealing with the abuse of the paternity Bill, which is welcome given past experience in terms of abuse of payments and so on. I welcome that this legislation is also applicable to self-employed persons. We all know farmers, electricians and sole traders who up to now, if out of work, would not have had payments. It is positive that for the first time the self-employed are being thought about.

Section 38 provides that an employee has the right to return to the job he or she held immediately prior to the period of paternity leave and that such a person should not be disqualified from applying for promotional opportunities which arose during the period he or she was on paternity leave. In Britain a father is entitled to take time off to accompany the partner or surrogate mother to two antenatal appointments. Is it proposed to include such a provision in this Bill? If not, is it something that could be considered? The lead-up to the arrival of the child can be a stressful time. I support the inclusion of any measure that would ensure support for the expectant mother.

I would like clarification from the Minister of State on whether the individual taking paternity leave could be someone other than the biological father. For example, in Britain the husband of an expectant mother is also entitled to take the leave. The definition of "relevant parent" in section 2 of the Bill may well provide for this situation. Perhaps, the Minister of State might clarify if that is the case.

**Senator Tim Lombard:** I welcome this important Bill. It is hoped the legislation will be enacted by September. In that regard, I acknowledge the efforts of the Minister of State, Deputy David Stanton, and his officials on the timely presentation of the Bill before the House. This is groundbreaking legislation that provides for parental leave for fathers, which is important when one takes into consideration what has happened in the European model. While we are slightly behind the European model, this legislation will move us into that European space, which is important.

The big issue will be uptake. In that regard, a review of the legislation in the context of whether fathers are taking up the initiative will be necessary. We know from what happened in the United Kingdom and other places that it takes time for buy-in to happen. I am an expectant father of twins due to be born in a few weeks time. Issues such as whether it would be best to stay in the house or to get out of it will determine the level of buy-in from the male population.

As I said, this is groundbreaking legislation. I thank the Minister of State for its timely delivery. It is legislation of this type that will make our communities and society stronger. This is important legislation.

**Minister of State at the Department of Justice and Equality (Deputy David Stanton):** I thank Senators from all sides of the House for their valuable contributions to this Second Stage debate and for their broad support for the Paternity Leave and Benefit Bill 2016.

We all want what is best for children. All the evidence shows that in parenting what is best for children is the involvement of their fathers in their practical care and day-to-day lives. Even a short amount of paternity leave can equip new fathers with the skills and confidence that are instrumental in providing that care. Fathers who take paternity leave are more likely to take an active role in child care tasks as the child grows. Evidence also shows that paternity leave has longer-term benefits for a child's development and learning abilities. The benefits that paternity leave delivers to the whole family extend well beyond the few weeks the father spends with his new baby.

Paternity leave promotes equality for women. While it is ostensibly a measure that supports working fathers, it also promotes and supports higher levels of female participation in the labour force. When child care responsibilities fall mainly on mothers, the effect is to reduce women's salaries. Time away from work can deprive women of experience and promotions. When men share more of the child care, the effect is lessened.

The Bill, through its introduction of a combined package of leave and paternity benefit, promotes increased involvement of fathers in a thoroughly practical way. The Department of Social Protection will provide a minimum of paid paternity benefit of €230 per week for the two weeks of paternity leave. A father can commence paternity leave up to the end of the 26th week after the child's birth, which allows a significant amount of flexibility and recognises that families might have different child care needs.

The Government is acutely aware of the pressures on young families and wants to implement measures to support them. As the Tánaiste said, this legislation will bring the number of weeks of paid support to parents upon the birth of their child to 28. We hope we will be in a position to extend this provision further in the years ahead. A Programme for a Partnership Government also contains a commitment to increase parental leave significantly over the next five years, with an initial focus on increasing paid parental leave in the first year of birth.

I would like at this point to address some of the points made. Farmers are covered by this legislation. In regard to the question on antenatal care for fathers, we will look at that issue in the context of the family leave Bill. I thank the Senator for that very good suggestion. I agree with Senator Aodhán Ó Ríordáin that employment should be seen as an equality tool. I will be promoting that view at my meeting with the business community. The Senator also spoke about the need to open up employment opportunities for Travellers, which issue will be prioritised in the context of the strategy that will be developed later in the year. The definition of relevant parent covers the family in all forms and will cover all spouses with the exception of the adoptive leave issue which I mentioned. This means that paternity leave is available to males in same-sex couples but not yet for adoptive leave.

The Government is also cognisant of limiting potential costs of family leave to businesses. In this regard, the Bill ensures there will be no statutory obligation on an employer to continue to pay the normal salary during paternity leave. There will also be no change to employers' PRSI to fund this proposal.

I thank the House for its support and positive suggestions. I look forward to further engagement on the next Stages of the Bill, as well as on other progressive legislation we will be introducing in the time ahead.

Question put and agreed to.

**An Leas-Chathaoirleach:** When is it proposed to take Committee Stage?

**Senator Martin Conway:** Next Tuesday.

Committee Stage ordered for Tuesday, 19 July 2016.

**An Leas-Chathaoirleach:** When is it proposed to sit again?

**Senator Martin Conway:** At 10.30 a.m. next Tuesday.

The Seanad adjourned at 4.25 p.m. until 10.30 a.m. on Tuesday, 19 July 2016.